

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 427**

4 (By Senator Beach)

5 _____
6 [Originating in the Committee on the Judiciary;

7 reported February 14, 2014.]

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11 A BILL to amend and reenact §17D-2A-2, §17D-2A-5 and §17D-2A-7 of
12 the Code of West Virginia, 1931, as amended, all relating to
13 requiring a certificate of insurance to be in effect during
14 the entire term of the vehicle registration period; permitting
15 a discretionary electronic acknowledgment exception;
16 clarifying that certain security provisions do not apply to
17 commercial vehicles insured under commercial auto coverage;
18 removing the requirement that insurance companies must notify
19 the Division of Motor Vehicles when a policyholder's vehicle
20 insurance has been canceled; removing an outdated reporting
21 requirement; clarifying and increasing the penalties for
22 vehicle owners who do not have the required security in
23 effect; replacing the driver's license suspension penalty of
24 a person who knowingly operates a vehicle without the required

1 security with a provision stating that a person who is not the
2 vehicle owner and who is convicted of operating a motor
3 vehicle that does not have the required security shall have
4 the conviction placed on the driver's license record;
5 directing that fees collected for reinstatement of a driver's
6 license be deposited in the Motor Vehicle Fees Fund; and
7 prohibiting the Division of Motor Vehicles from taking action
8 against a person cited for driving without insurance if the
9 citation is received by the division more than one year from
10 the date of the offense.

11 *Be it enacted by the Legislature of West Virginia:*

12 That §17D-2A-2, §17D-2A-5 and §17D-2A-7 of the Code of West
13 Virginia, 1931, as amended, be amended and reenacted, all to read
14 as follows:

15 **ARTICLE 2A. SECURITY UPON MOTOR VEHICLES.**

16 **§17D-2A-2. Scope of article.**

17 This article applies to the operation of all motor vehicles
18 required to be registered or operated on the roads and highways to
19 have the security in effect, as provided in section ~~two~~ three,
20 article ~~two~~ two-a of this chapter, with the exception of motor
21 vehicles owned by the state, any of its political subdivisions or
22 by the federal government.

23 For the purposes of this article, "commercial auto coverage"
24 is defined as any coverage provided to an insured, regardless of

1 number of vehicles or entity covered, under a commercial coverage
2 form and rated from a commercial manual approved by the Department
3 of Insurance. This article ~~shall~~ does not apply to commercial
4 vehicles insured under commercial auto coverage; however, insurers
5 of such vehicles may participate on a voluntary basis.

6 **§17D-2A-5. Minimum policy term.**

7 ~~(a) An insurance company shall provide the Division of Motor
8 Vehicles with a cancellation notice within ten days of the
9 effective date of cancellation whenever the company issues or
10 causes to be issued a cancellation under the provisions of
11 subsections (b) through (e), section one, article six-a, chapter
12 thirty-three of this code. Unless the Division of Motor Vehicles
13 by legislative rule allows for an alternative to suspension, the
14 division shall then suspend the driver license of the owner of such
15 vehicle for a period of thirty days and shall suspend the motor
16 vehicle registration until proof of insurance is presented to the
17 division. If, within the thirty-day period a license or
18 registration is suspended, the owner shows proof of insurance, the
19 owner's license and registration shall be immediately removed from
20 suspension. If a license or registration is not suspended as
21 result of the cancellation of insurance, the owner of the motor
22 vehicle shall submit a statement under penalty of false swearing,
23 that the cancellation will not result in the operation of an
24 uninsured motor vehicle upon the highways of this state, and this~~

1 ~~verification shall be sent to the commissioner within twenty days~~
2 ~~of the notice of cancellation.~~

3 ~~(b) On or before January 15, 1985, the Commissioner of Motor~~
4 ~~Vehicles shall report to the Legislature upon proceedings pursuant~~
5 ~~to this section. The report shall include the total number of~~
6 ~~statements selected for verification as required by section three,~~
7 ~~article three, chapter seventeen-a, the total number of notices~~
8 ~~received from insurers, the total number of notices of pending~~
9 ~~suspensions issued and the total number of cases in which~~
10 ~~cancellation was found to have resulted in a lapse of coverage upon~~
11 ~~a vehicle operated upon the highways of this state during the prior~~
12 ~~year.~~

13 ~~(c) No policy of motor vehicle liability insurance issued or~~
14 ~~delivered for issuance in this state shall be contracted for a~~
15 ~~period of less than ninety days: *Provided*, That the Insurance~~
16 ~~Commissioner may establish exceptions thereto by rules ~~and~~~~
17 ~~regulations proposed for legislative approval pursuant to chapter~~
18 ~~twenty-nine-a of this code.~~

19 **§17D-2A-7. Suspension or revocation of license, registration;**
20 **reinstatement.**

21 (a) Any owner of a motor vehicle, subject to ~~the provisions of~~
22 this article, who fails to have the required security in effect at
23 the time such vehicle is registered or being operated upon the
24 roads or highways shall have his or her driver's license suspended

1 by the Commissioner of the Division of Motor Vehicles and shall
2 have his or her motor vehicle registration revoked as follows:

3 (1) For the first offense, the commissioner shall suspend the
4 driver's license for thirty days and shall revoke the owner's
5 vehicle registration until such time as he or she presents current
6 proof of insurance on all currently registered vehicles: *Provided,*
7 That if an owner complies with ~~the provisions of~~ this subdivision,
8 and pays a penalty fee of \$200 before the effective date, the
9 driver's license suspension of thirty days ~~shall~~ may not be imposed
10 and the vehicle registration revocation ~~shall be~~ may not be imposed
11 and no reinstatement fees are required. Any fees collected under
12 the provisions of this subsection shall be deposited in the Motor
13 Vehicle Fees Fund established in accordance with section twenty-
14 one, article two, chapter seventeen-a of this code.

15 (2) For the second or subsequent offense within five years,
16 the commissioner shall suspend the owner's driver's license for a
17 period of ~~thirty~~ ninety days and shall revoke the owner's vehicle
18 registration until he or she presents to the Division of Motor
19 Vehicles the proof of security required by this article.

20 ~~(3) For the third or subsequent offense within five years, the~~
21 ~~commissioner shall suspend the owner's driver's license for a~~
22 ~~period of ninety days and revoke the vehicle registration until~~
23 ~~such time as he or she presents current proof of insurance.~~

24 ~~(4)~~ (3) If the motor vehicle is titled and registered in more

1 than one name, the commissioner shall suspend the driver's license
2 of only one of the owners.

3 (b) Any person who ~~knowingly operates~~ is not the vehicle owner
4 and is convicted of operating a motor vehicle upon the roads or
5 highways of this state which does not have the security required by
6 ~~the provisions of~~ this article shall have the conviction placed on
7 his or her driver's license ~~suspended by the commissioner subject~~
8 ~~to the following:~~ record.

9 ~~(1) For the first offense, the commissioner shall suspend the~~
10 ~~driver's license until such time as he or she presents current~~
11 ~~proof of insurance on all currently registered vehicles: Provided,~~
12 ~~That if a driver complies with the provisions of this section and~~
13 ~~pays a penalty fee of \$200 before the effective date of the~~
14 ~~driver's license suspension, the thirty day driver's license~~
15 ~~suspension shall not be imposed and no reinstatement fees are~~
16 ~~required.~~

17 ~~(2) For the second offense within five years, the commissioner~~
18 ~~shall suspend the driver's license for a period of thirty days.~~

19 ~~(3) For the third or subsequent offense within five years, the~~
20 ~~commissioner shall suspend the person's driver's license for a~~
21 ~~period of ninety days.~~

22 ~~(c) A person's driver's license shall be suspended in~~
23 ~~accordance with subsection (b) of this section if the person is~~
24 ~~operating a motor vehicle designated for off-highway use upon the~~

1 ~~roads and highways of this state without the required security in~~
2 ~~effect.~~

3 (c) The division may not suspend or revoke a driver's license
4 under this article for any citation of driving without insurance
5 that is received by the division from a court that is more than one
6 year from the date of the offense.

7 (d) The commissioner may withdraw a suspension of a driver's
8 license or revocation of a motor vehicle registration and refund
9 any penalty or reinstatement fees at any time provided that the
10 commissioner is satisfied that there was not a violation of the
11 provisions of required security related to operation of a motor
12 vehicle upon the roads or highways of this state by such person.
13 The commissioner may request additional information as needed in
14 order to make such determination.

15 (e) A person may not have his or her driver's license
16 suspended or motor vehicle registration revoked under ~~any~~
17 ~~provisions of~~ this section unless he or she and any lienholder
18 noted on the certificate of title ~~shall is~~ are first given written
19 notice of such suspension or revocation sent by certified mail, at
20 least thirty days prior to the effective date of such suspension or
21 revocation, and upon that person's written request, he or she shall
22 be afforded an opportunity for a hearing thereupon as well as a
23 stay of the commissioner's order of suspension or revocation and an
24 opportunity for judicial review of such hearing. The request for

1 a hearing shall be made within ten days from the date of receipt of
2 the notice of driver's license suspension or motor vehicle
3 registration revocation. The scope of the hearing is limited to
4 questions of identity or whether or not there was insurance in
5 effect at the time of the event causing the commissioner's action.
6 Upon affirmation of the commissioner's order, the period of
7 suspension, revocation or other penalty commences to run.

8 (f) A suspended driver's license is reinstated following the
9 period of suspension upon compliance with the conditions set forth
10 in this article and a revoked motor vehicle registration is
11 reissued only upon lawful compliance with ~~the provisions of this~~
12 article.

13 (g) Revocation of a motor vehicle registration pursuant to
14 this section does not affect the perfection or priority of a lien
15 or security interest attaching to the motor vehicle that is noted
16 on the certificate of title to the motor vehicle.

17 (h) Any owner or driver of a motor vehicle determined by an
18 electronic insurance verification program to be uninsured shall be
19 assessed the same criminal and administrative sanctions prescribed
20 in this chapter subject to the following:

21 (1) Any person who is assessed a penalty prescribed by this
22 section has the same procedural due process provided by this
23 chapter or by rules promulgated by the division to show that there
24 was not a violation and provide for the exoneration of any

1 penalties or records; and

2 (2) The commissioner may accept a binder, an identification
3 card or a declaration page from a policy as evidence of insurance
4 pending electronic verification to stay a pending administrative
5 sanction.

(NOTE: The purpose of this bill is to update current insurance verification and penalties to reflect the electronic insurance verification program authorized previously by the Legislature. The bill permits a discretionary electronic acknowledgment exception. Clarifies that certain security provisions do not apply to commercial vehicles insured under commercial auto coverage removes the requirement that insurance companies must notify the division when insurance has been canceled. The bill removes an outdated reporting requirement. The bill clarifies and increases the penalties for owners who do not have the required security in effect. The bill prohibits the Division of Motor Vehicles from taking action against a person cited for driving without insurance if the citation is received by the division more than one year from the date of the offense. The bill also provides that the fee charged in lieu of suspension be deposited in a special revenue account previously authorized to pay for the electronic verification program.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.)