

WEST VIRGINIA LEGISLATURE
EIGHTY-FIRST LEGISLATURE
REGULAR SESSION, 2014



E N R O L L E D

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 427

(SENATOR BEACH, *ORIGINAL SPONSOR*)

[PASSED MARCH 8, 2014; IN EFFECT NINETY DAYS FROM PASSAGE.]

E N R O L L E D

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 427

(SENATOR BEACH, *original sponsor*)

[Passed March 8, 2014; in effect ninety days from passage.]

AN ACT to amend and reenact §17D-2A-2, §17D-2A-5 and §17D-2A-7 of the Code of West Virginia, 1931, as amended, all relating to requiring a certificate of insurance to be in effect during the entire term of the vehicle registration period; permitting a discretionary electronic acknowledgment exception; clarifying that certain security provisions do not apply to commercial vehicles insured under commercial auto coverage; removing the requirement that insurance companies must notify the Division of Motor Vehicles when a policyholder's vehicle insurance has been canceled; removing an outdated reporting requirement; clarifying and increasing the penalties for vehicle owners who do not have the required security in effect; replacing the driver's license suspension penalty of a person who knowingly operates a vehicle without the required security with a provision stating that a person who is not the vehicle owner and who is convicted of operating a motor vehicle that does not have the required security shall have the conviction placed on the driver's license record; directing that fees collected for reinstatement of a driver's license be deposited in the Motor Vehicle Fees Fund; and

prohibiting 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.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 2A. SECURITY UPON MOTOR VEHICLES.

§17D-2A-2. Scope of article.

1 This article applies to the operation of all motor vehicles
2 required to be registered or operated on the roads and
3 highways to have the security in effect, as provided in section
4 three, article two-a of this chapter, with the exception of
5 motor vehicles owned by the state, any of its political
6 subdivisions or by the federal government.

7 For the purposes of this article, “commercial auto
8 coverage” is defined as any coverage provided to an insured,
9 regardless of number of vehicles or entity covered, under a
10 commercial coverage form and rated from a commercial
11 manual approved by the Department of Insurance. This
12 article does not apply to commercial vehicles insured under
13 commercial auto coverage; however, insurers of such
14 vehicles may participate on a voluntary basis.

§17D-2A-5. Minimum policy term.

1 No policy of motor vehicle liability insurance issued or
2 delivered for issuance in this state shall be contracted for a
3 period of less than ninety days: *Provided*, That the Insurance

4 Commissioner may establish exceptions thereto by rules
5 proposed for legislative approval pursuant to chapter twenty-
6 nine-a of this code.

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

1 (a) Any owner of a motor vehicle, subject to this article,
2 who fails to have the required security in effect at the time such
3 vehicle is registered or being operated upon the roads or
4 highways shall have his or her driver's license suspended by the
5 Commissioner of the Division of Motor Vehicles and shall have
6 his or her motor vehicle registration revoked as follows:

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

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

24 (3) If the motor vehicle is titled and registered in more
25 than one name, the commissioner shall suspend the driver's
26 license of only one of the owners.

27 (b) Any person who is not the vehicle owner and is
28 convicted of operating a motor vehicle upon the roads or
29 highways of this state which does not have the security
30 required by this article shall have the conviction placed on his
31 or her driver's license record.

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

36 (d) The commissioner may withdraw a suspension of a
37 driver's license or revocation of a motor vehicle registration
38 and refund any penalty or reinstatement fees at any time
39 provided that the commissioner is satisfied that there was not
40 a violation of the provisions of required security related to
41 operation of a motor vehicle upon the roads or highways of
42 this state by such person. The commissioner may request
43 additional information as needed in order to make such
44 determination.

45 (e) A person may not have his or her driver's license
46 suspended or motor vehicle registration revoked under this
47 section unless he or she and any lienholder noted on the
48 certificate of title are first given written notice of such
49 suspension or revocation sent by certified mail, at least thirty
50 days prior to the effective date of such suspension or
51 revocation, and upon that person's written request, he or she
52 shall be afforded an opportunity for a hearing thereupon as
53 well as a stay of the commissioner's order of suspension or
54 revocation and an opportunity for judicial review of such
55 hearing. The request for a hearing shall be made within ten
56 days from the date of receipt of the notice of driver's license
57 suspension or motor vehicle registration revocation. The
58 scope of the hearing is limited to questions of identity or
59 whether or not there was insurance in effect at the time of the

60 event causing the commissioner's action. Upon affirmation
61 of the commissioner's order, the period of suspension,
62 revocation or other penalty commences to run.

63 (f) A suspended driver's license is reinstated following
64 the period of suspension upon compliance with the conditions
65 set forth in this article and a revoked motor vehicle
66 registration is reissued only upon lawful compliance with this
67 article.

68 (g) Revocation of a motor vehicle registration pursuant to
69 this section does not affect the perfection or priority of a lien
70 or security interest attaching to the motor vehicle that is noted
71 on the certificate of title to the motor vehicle.

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

76 (1) Any person who is assessed a penalty prescribed by
77 this section has the same procedural due process provided by
78 this chapter or by rules promulgated by the division to show
79 that there was not a violation and provide for the exoneration
80 of any penalties or records; and

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

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

.....
Chairman Senate Committee

.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

.....
Clerk of the Senate

.....
Clerk of the House of Delegates

.....
President of the Senate

.....
Speaker of the House of Delegates

The within this
the..... Day of, 2014.

.....
Governor