

# WEST VIRGINIA LEGISLATURE

## 2024 REGULAR SESSION

Introduced

### House Bill 4374

FISCAL  
NOTE

By Delegate Mallow

[Introduced January 10, 2024 ; Referred  
to the Committee on Banking and Insurance then  
Government Organization]

1 A BILL to amend and reenact §17D-2A-6a of the Code of West Virginia, 1931, as amended; and to  
 2 amend and reenact §33-6-31g of said code, all relating to requiring the commissioner of  
 3 Motor Vehicles to develop and implement an electronic insurance verification program;  
 4 and requiring the Insurance Commissioner to propose rules necessary to implement  
 5 requirements of the electronic insurance verification program.

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

**CHAPTER 17D. MOTOR VEHICLE SAFETY RESPONSIBILITY**

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

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

**§17D-2A-6a. Determining if required security is in effect.**

1 (a) The commissioner may make a determination that the required security on a motor  
 2 vehicle is not in effect based upon crash reports required under the provisions of ~~article four,~~  
 3 ~~chapter seventeen-e~~ §17C-4-1 et seq. of this code, reports or citations from law-enforcement  
 4 agencies, citations or abstracts of conviction from courts, inquiries from law-enforcement  
 5 agencies, or from information from an on-line electronic insurance verification program.

6 (b) The commissioner ~~is authorized to~~ shall develop and implement an electronic  
 7 insurance verification program based upon a model established by the Insurance Industry  
 8 Committee on Motor Vehicle Administration to electronically verify evidence of insurance  
 9 coverage with insurance companies.

10 (c) The commissioner may contract with a third party vendor to act as his or her agent to  
 11 develop the program, conduct the electronic verification process with insurance companies and to  
 12 operate the program.

13 (d) If When developed and implemented by the commissioner, the on-line insurance  
 14 verification program shall:

15 (1) Be able to verify, on an on-demand basis minus reasonable down time for system

16 maintenance as agreed upon by the division or its agent and the insurance carrier, the liability  
17 insurance status as of the time of the inquiry or at other times not exceeding six months prior  
18 unless otherwise agreed upon by the division or its agent and the insurance carrier or via other  
19 similar electronic system that is consistent with insurance industry and Insurance Industry  
20 Committee on Motor Vehicle Administration (IICMVA) recommendations and the specifications  
21 and standards of the IICMVA model;

22 (2) Be able to make insurance verification inquiries to insurers by using multiple data  
23 elements for greater matching accuracy including: National Association of Insurance  
24 Commissioner's Commissioners (NAIC) code specific to each licensed insurance company,  
25 vehicle identification numbers and policy number or other data elements as otherwise agreed to by  
26 the division or its agent and the insurer.

27 (3) Provide sufficient measures for the security and integrity of data including a  
28 requirement that the information obtained through the operation of the program be only used for  
29 the sole use of the Division of Motor Vehicles or its agent, law enforcement and the judiciary to  
30 effectuate the provisions of this article; and

31 (4) Utilize open and agreed upon data and data transmission standards and standard SML  
32 extensible markup language schema.

33 (e) If When the commissioner develops and implements an on-line insurance verification  
34 program, each insurer shall:

35 (1) Cooperate with the Division of Motor Vehicles, or its agent in establishing and operating  
36 the program;

37 (2) Maintain the data necessary to verify the existence of mandatory liability insurance  
38 coverage provided to its customers pursuant to the required time period established for the on-line  
39 insurance verification program;

40 (3) Maintain the internet web service, pursuant to the requirements established under the  
41 online insurance verification program, through which online insurance verification can take place

42 that includes the ability to respond to authorized inquiries on whether the vehicle is insured or the  
43 policy in effect on the requested date through the insurer's national insurance commissioners  
44 association code, vehicle identification number, insurance policy number or other data key or keys  
45 as otherwise agreed to by the division or its agent and the insurer;

46 (4) Provide security consistent with accepted insurance industry and United States motor  
47 vehicle agency standards pertinent to the transmission of personal data;

48 (5) Be immune from civil and administrative liability for good faith efforts to comply with the  
49 terms of the verification program; and

50 (6) As a condition of writing motor vehicle liability insurance in this state, insurance carriers  
51 shall cooperate with the division or its agent and the insurance commission in establishing and  
52 maintaining an insurance verification system. Nothing prohibits an insurer from using the services  
53 of a third party vendor for facilitating the insurance verification program required by this section.

54 (f) If When the commissioner develops and implements an on-line insurance verification  
55 program, the Division of Motor Vehicles or its agent as applicable shall:

56 (1) Consult and cooperate with insurers in establishing and operating the on-line insurance  
57 verification system;

58 (2) Designate and maintain a contact person for insurers during the establishment and  
59 implementation of the on-line insurance verification system;

60 (3) Conduct a pilot project to test the insurance verification system no less than eighteen  
61 months prior to final implementation;

62 (4) Establish and maintain the systems necessary to make verification requests to insurers  
63 using the data elements that the Division of Motor Vehicles or its agent and the insurer have  
64 agreed upon and are necessary to receive accurate responses from insurers;

65 (5) For all information transmitted and received, implement and maintain strict system and  
66 data security measures consistent with applicable standards. Data secured via the reporting  
67 system by either the division or its agent may not be shared with any party other than those

68 permitted by state or federal privacy laws;

69 (6) Be responsible for keeping all interested state agencies informed on the  
70 implementation status, functionality, and planned or unplanned service interruptions; and

71 (7) Provide alternative methods of reporting for small insurers writing less than 500 non-  
72 commercial motor vehicle policies in the state as determined by the Division of Motor Vehicles or  
73 its agent;

74 (g) Any information obtained by the division or its agent under the provisions of an  
75 electronic insurance system is for the sole use of the Division of Motor Vehicles or its agent, law  
76 enforcement and the judiciary to effectuate the provisions of this article and is exempt from  
77 disclosure under ~~the provisions of article one, chapter twenty-nine-b~~ the provisions of §29B-1-1 et  
78 seq. and may not be considered a public record as defined in ~~section two, article one, chapter~~  
79 ~~twenty-nine-b~~ §29B-1-2 of this code.

80 (h) Not more than two years after the establishment of an on-line insurance verification  
81 program, the Division of Motor Vehicles, after consultation with insurers, shall report to the  
82 Legislature as to the costs of the program incurred by the division, insurers and the public and the  
83 effectiveness of the program in reducing the number of uninsured motor vehicles.

## CHAPTER 33. INSURANCE.

### ARTICLE 6. THE INSURANCE POLICY.

#### §33-6-31g. Electronic insurance verification program; insurer's duty to cooperate.

1 (a) ~~If~~ When the Division of Motor Vehicles establishes an electronic insurance verification  
2 program in accordance with ~~the provisions of section six-a, article two-a, chapter seventeen-d~~  
3 §17D-2A-6a of this code, any insurance company that issues or delivers in this state a policy or  
4 contract of bodily injury liability insurance or of property damage liability insurance covering liability  
5 arising from the ownership, maintenance or use of any motor vehicle, or upon any motor vehicle  
6 for which a certificate of title has been issued by the Division of Motor Vehicles of this state, shall

7 comply with the requirements of the program.

8 (b) The insurance commissioner ~~may~~ shall propose rules for legislative approval in  
9 accordance with ~~the provisions of article three, chapter twenty-nine-a §29A-3-1 et seq.~~ of this code  
10 as necessary to implement the provisions of this section, and may initially promulgate emergency  
11 rules pursuant to ~~the provisions of section fifteen, article three, chapter twenty-nine-a §29A-3-15~~ of  
12 this code. ~~Such~~ The rules may prescribe penalties, including fines and other administrative  
13 sanctions, that may be imposed by the commissioner for a company's failure to comply with  
14 requirements of the electronic insurance verification program.

NOTE: The purpose of this bill is to require the commissioner of Motor Vehicles to develop and implement an electronic insurance verification program; and to require the Insurance Commissioner to propose rules necessary to implement requirements of the electronic insurance verification program.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.