

H. B. 2990

(By Delegate Staggers)

(By Request of the Division of Motor Vehicles)

[Introduced March 20, 2013; referred to the
Committee on Roads and Transportation then the
Judiciary.]

A BILL to amend and reenact §17A-3-3 of the Code of West Virginia,
1931, as amended; and to amend and reenact §17D-2A-2,
§17D-2A-5 and §17D-2A-7 of said code, all relating to
insurance or other security required for registration or
operation of a motor vehicle; permitting electronic
acknowledgment of insurance at the time of registration;
clarifying that vehicle security requirements do not apply to
commercial motor vehicles that are insured under commercial
auto coverage; removing the requirement that insurance
companies must provide notices of cancellation to the Division
of Motor Vehicles; removing annual reporting requirement by
the Division of Motor Vehicles on the number cancellation
notices and suspensions; clarifying the penalties for first
and subsequent violations of operating a motor vehicle without
required insurance or security; replacing the driver's license

1 suspension penalty of a person who knowingly operates a
 2 vehicle without the required security with a provision stating
 3 that a person who is not the vehicle owner and who is
 4 convicted of operating a motor vehicle that does not have the
 5 required security shall have the conviction placed on the
 6 driver's license record; and prohibiting the Division of Motor
 7 Vehicles from suspending or revoking the license of a vehicle
 8 owner if the citation is received by the agency more than one
 9 year from the date of the offense.

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

11 That §17A-3-3 of the Code of West Virginia, 1931, as amended,
 12 be amended and reenacted; and that §17D-2A-2, §17D-2A-5 and
 13 §17D-2A-7 of said code be amended and reenacted, all to read as
 14 follows:

15 **CHAPTER 17A. MOTOR VEHICLE ADMINISTRATION, REGISTRATION,**

16 **CERTIFICATE OF TITLE, AND ANTITHEFT PROVISIONS.**

17 **ARTICLE 3. ORIGINAL AND RENEWAL OF REGISTRATION; ISSUANCE OF**

18 **CERTIFICATES OF TITLE.**

19 **§17A-3-3. Application for registration; statement of insurance or**
 20 **other proof of security to accompany application;**
 21 **criminal penalties; fees; special revolving fund.**

22 Every owner of a vehicle subject to registration under this
 23 article shall make application to the division for the registration

1 of the vehicle upon the appropriate form or forms furnished by the
2 division and every application shall bear the signature of the
3 owner or his or her authorized agent, written with pen and ink, and
4 the application shall contain:

5 (a) The name, bona fide residence and mailing address of the
6 owner, the county in which he or she resides or business address of
7 the owner if a firm, association or corporation.

8 (b) A description of the vehicle including, insofar as the
9 data specified in this section may exist with respect to a given
10 vehicle, the make, model, type of body, the manufacturer's serial
11 or identification number or other number as determined by the
12 commissioner.

13 (c) In the event a motor vehicle is designed, constructed,
14 converted or rebuilt for the transportation of property, the
15 application shall include a statement of its declared gross weight
16 if the motor vehicle is to be used alone, or if the motor vehicle
17 is to be used in combination with other vehicles, the application
18 for registration of the motor vehicle shall include a statement of
19 the combined declared gross weight of the motor vehicle and the
20 vehicles to be drawn by the motor vehicle; declared gross weight
21 being the weight declared by the owner to be the actual combined
22 weight of the vehicle or combination of vehicles and load when
23 carrying the maximum load which the owner intends to place on the
24 vehicle; and the application for registration of each vehicle shall

1 also include a statement of the distance between the first and last
2 axles of that vehicle or combination of vehicles.

3 The declared gross weight stated in the application may not
4 exceed the permissible gross weight for the axle spacing listed in
5 the application as determined by the table of permissible gross
6 weights contained in chapter seventeen-c of this code; and any
7 vehicle registered for a declared gross weight as stated in the
8 application is subject to the single-axle load limit set forth in
9 that chapter.

10 (d) Each applicant shall state whether the vehicle is or is
11 not to be used in the public transportation of passengers or
12 property, or both, for compensation and if used for compensation,
13 or to be used, the applicants shall certify that the vehicle is
14 used for compensation and shall, as a condition precedent to the
15 registration of the vehicle, obtain a certificate of convenience or
16 permit from the Public Service Commission unless otherwise exempt
17 from this requirement in accordance with chapter twenty-four-a of
18 this code.

19 (e) A statement or electronic acknowledgment under penalty of
20 false swearing that liability insurance is in effect and will
21 continue to be in effect through the entire term of the vehicle
22 registration period within limits which may not be less than the
23 requirement of section two, article four, chapter seventeen-d of
24 this code, which shall contain the name and National Association of

1 Insurance Commissioners assigned code of the applicant's insurer,
2 the policy number, and any other information required by the
3 Commissioner of Motor Vehicles or proof that the applicant has
4 qualified as a self-insurer meeting the requirements of section
5 two, article six of said chapter and that as a self-insurer he or
6 she has complied with the minimum security requirements as
7 established in section two, article four of that chapter. If the
8 commissioner determines that the required security is not or was
9 not in effect, he or she shall suspend the vehicle owner's driver's
10 license and revoke the vehicle registration in accordance with the
11 provisions of article two-a, chapter seventeen-d of this code.

12 If any person making an application required under the
13 provisions of this section, in the application knowingly provides
14 false information, false proof of security or a false statement of
15 insurance, or if any person, including an applicant's insurance
16 agent, knowingly counsels, advises, aids or abets another in
17 providing false information, false proof of security, or a false
18 statement of insurance in the application he or she is guilty of a
19 misdemeanor and, upon conviction thereof, shall be fined not more
20 than \$500, or be imprisoned in jail for a period not to exceed
21 fifteen days, or both fined and imprisoned and, in addition to the
22 fine or imprisonment, shall have his or her driver's license
23 suspended for a period of ninety days and vehicle registration
24 revoked if applicable.

1 (f) Any further information that is reasonably required by the
2 division to enable it to determine whether the vehicle is lawfully
3 entitled to registration.

4 (g) Each application for registration shall be accompanied by
5 the fees provided in this article and an additional fee of \$.50 for
6 each motor vehicle for which the applicant seeks registration.

7 (h) Revocation of a motor vehicle registration pursuant to
8 this section does not affect the perfection or priority of a lien
9 or security interest attaching to the motor vehicle that is noted
10 on the certificate of title to the motor vehicle.

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

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

13 **§17D-2A-2. Scope of article.**

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

20 For the purposes of this article, commercial auto coverage is
21 defined as any coverage provided to an insured, regardless of
22 number of vehicles or entity covered, under a commercial coverage
23 form and rated from a commercial manual approved by the ~~Department~~
24 ~~of Insurance~~ Commission. This article ~~shall~~ does not apply to

1 commercial vehicles insured under commercial auto coverage;
2 however, insurers of such vehicles may participate on a voluntary
3 basis.

4 **~~§17D-2A-5. Cancellation of Minimum insurance policy; suspension~~**
5 **~~registration; minimum policy term.~~**

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

1 ~~of the notice of cancellation.~~

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

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

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

19 (a) Any owner of a motor vehicle, subject to the provisions of
20 this article, who fails to have the required security in effect at
21 the time such vehicle is registered or being operated upon the
22 roads or highways shall have his or her driver's license suspended
23 by the Commissioner of the Division of Motor Vehicles and shall
24 have his or her motor vehicle registration revoked as follows:

1 (1) For the first offense, the commissioner shall suspend the
2 driver's license for thirty days and shall revoke the owner's
3 vehicle registration until such time as he or she presents current
4 proof of insurance on all currently registered vehicles: *Provided,*
5 That if an owner complies with the provisions of this subdivision,
6 and pays a penalty fee of \$200 before the effective date, the
7 driver's license suspension of thirty days shall not be imposed and
8 the vehicle registration revocation shall be not imposed and no
9 reinstatement fees are required.

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

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

19 ~~(4)~~ (3) If the motor vehicle is titled and registered in more
20 than one name, the commissioner shall suspend the driver's license
21 of only one of the owners.

22 (b) Any person who ~~knowingly operates~~ is not the vehicle owner
23 and is convicted of operating a motor vehicle upon the roads or
24 highways of this state which does not have the security required by

1 the provisions of this article shall have the conviction placed on
2 his or her driver's license record. ~~suspended by the commissioner~~
3 ~~subject to the following:~~

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

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

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

17 ~~(c) A person's driver's license shall be suspended in~~
18 ~~accordance with subsection (b) of this section if the person is~~
19 ~~operating a motor vehicle designated for off-highway use upon the~~
20 ~~roads and highways of this state without the required security in~~
21 ~~effect.~~

22 (c) The division may not suspend or revoke a driver's license
23 under this article for any citation of driving without insurance
24 that is received by the division from a court after one year from

1 the date of the offense.

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

10 (e) A person may not have his or her driver's license
11 suspended or motor vehicle registration revoked under any
12 provisions of this section unless he or she and any lienholder
13 noted on the certificate of title ~~shall~~ is first given written
14 notice of such suspension or revocation sent by certified mail, at
15 least thirty days prior to the effective date of such suspension or
16 revocation, and upon that person's written request, he or she shall
17 be afforded an opportunity for a hearing thereupon as well as a
18 stay of the commissioner's order of suspension or revocation and an
19 opportunity for judicial review of such hearing. The request for
20 a hearing shall be made within ten days from the date of receipt of
21 the notice of driver's license suspension or motor vehicle
22 registration revocation. The scope of the hearing is limited to
23 questions of identity or whether or not there was insurance in
24 effect at the time of the event causing the commissioner's action.

1 Upon affirmation of the commissioner's order, the period of
2 suspension, revocation or other penalty commences to run.

3 (f) A suspended driver's license is reinstated following the
4 period of suspension upon compliance with the conditions set forth
5 in this article and a revoked motor vehicle registration is
6 reissued only upon lawful compliance with the provisions of this
7 article.

8 (g) Revocation of a motor vehicle registration pursuant to
9 this section does not affect the perfection or priority of a lien
10 or security interest attaching to the motor vehicle that is noted
11 on the certificate of title to the motor vehicle.

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

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

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

NOTE: The purpose of this bill is to remove the option for motorists to provide owner's handwritten statements of insurance. The bill eliminates the requirement that companies provide Division of Motor Vehicles with notices of cancellation of insurance policies. The bill permits electronic acknowledgment of insurance at the time of registration. The bill clarifies that vehicle security requirements do not apply to commercial motor vehicles that are insured under commercial auto insurance. The bill removes the requirement that insurance companies must provide notices of cancellation to the Division of Motor Vehicles. The bill removes annual reporting requirement by the Division of Motor Vehicles on the number cancellation notices and suspensions. The bill clarifies the penalties for first and subsequent violations of operating a motor vehicle without required insurance or security. The bill replaces 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. The bill prohibits the Division of Motor Vehicles from suspending or revoking the license a vehicle owner if the citation is received by the agency more than one year from the date of the offense.

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