

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 2718

**FISCAL
NOTE**

BY DELEGATES MALLOW, FORSHT, BRUCE, CONLEY AND

WAMSLEY

[Introduced February 24, 2021; 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
 2 to amend and reenact §33-6-31g of said code, all relating to requiring the commissioner
 3 of Motor Vehicles to develop and implement an electronic insurance verification
 4 program; and requiring the Insurance Commissioner to propose rules necessary to
 5 implement 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.

§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 §17C-4-1 *et seq.*
 3 of this code, reports or citations from law-enforcement agencies, citations or abstracts of
 4 conviction from courts, inquiries from law-enforcement agencies, or from information from an
 5 online electronic insurance verification program.

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

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

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

14 (1) Be able to verify, on an on-demand basis minus reasonable down time for system
 15 maintenance as agreed upon by the division or its agent and the insurance carrier, the liability
 16 insurance status as of the time of the inquiry or at other times not exceeding six months prior

17 unless otherwise agreed upon by the division or its agent and the insurance carrier or via other
18 similar electronic system that is consistent with insurance industry and Insurance Industry
19 Committee on Motor Vehicle Administration (IICMVA) recommendations and the specifications
20 and standards of the IICMVA model;

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

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

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

32 (e) ~~if~~ When the commissioner develops and implements an online insurance verification
33 program, each insurer shall:

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

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

39 (3) Maintain the internet web service, pursuant to the requirements established under the
40 online insurance verification program, through which online insurance verification can take place
41 that includes the ability to respond to authorized inquiries on whether the vehicle is insured or the
42 policy in effect on the requested date through the insurer's National Insurance Commissioners

43 Association code, vehicle identification number, insurance policy number or other data key or
44 keys as otherwise agreed to by the division or its agent and the insurer;

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

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

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

53 (f) ~~If~~ When the commissioner develops and implements an online insurance verification
54 program, the Division of Motor Vehicles, or its agent as applicable shall:

55 (1) Consult and cooperate with insurers in establishing and operating the online insurance
56 verification system;

57 (2) Designate and maintain a contact person for insurers during the establishment and
58 implementation of the online insurance verification system;

59 (3) Conduct a pilot project to test the insurance verification system no less than 18 months
60 prior to final implementation;

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

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

68 (6) Be responsible for keeping all interested state agencies informed on the

69 implementation status, functionality, and planned or unplanned service interruptions; and

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

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

78 (h) Not more than two years after the establishment of an online insurance verification
79 program, the Division of Motor Vehicles, after consultation with insurers, shall report to the
80 Legislature as to the costs of the program incurred by the division, insurers and the public and
81 the 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~~ §17D-2A-6a of this code, any insurance
3 company that issues or delivers in this state a policy or contract of bodily injury liability insurance
4 or of property damage liability insurance covering liability arising from the ownership, maintenance
5 or use of any motor vehicle, or upon any motor vehicle for which a certificate of title has been
6 issued by the Division of Motor Vehicles of this state, shall comply with the requirements of the
7 program.

8 (b) The insurance commissioner ~~may~~ shall propose rules for legislative approval in
9 accordance with ~~the provisions of~~ §29A-3-1 *et seq.* of this code as necessary to implement the

10 provisions of this section, and may initially promulgate emergency rules pursuant to ~~the provisions~~
11 ~~of §29A-3-15 of this code. Such The~~ rules may prescribe penalties, including fines and other
12 administrative sanctions, that may be imposed by the commissioner for a company's failure to
13 comply with 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.