

1 **ENROLLED**

2 COMMITTEE SUBSTITUTE

3 FOR

4 **Senate Bill No. 427**

5 (SENATOR BEACH, *original sponsor*)

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7 [Passed March 8, 2014; in effect ninety days from passage.]  
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10  
11 AN ACT 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20 insurance has been canceled; removing an outdated reporting  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 three, article  
20 two-a of this chapter, with the exception of motor vehicles owned  
21 by the state, any of its political subdivisions or by the federal  
22 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 does not apply to commercial vehicles  
4 insured under commercial auto coverage; however, insurers of such  
5 vehicles may participate on a voluntary basis.

6 **§17D-2A-5. Minimum policy term.**

7 No policy of motor vehicle liability insurance issued or  
8 delivered for issuance in this state shall be contracted for a  
9 period of less than ninety days: *Provided*, That the Insurance  
10 Commissioner may establish exceptions thereto by rules proposed for  
11 legislative approval pursuant to chapter twenty-nine-a of this  
12 code.

13 **§17D-2A-7. Suspension or revocation of license, registration;  
14 reinstatement.**

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

21 (1) For the first offense, the commissioner shall suspend the  
22 driver's license for thirty days and until such time as he or she  
23 presents current proof of insurance on all currently registered  
24 vehicles: *Provided*, That if an owner complies with this

1 subdivision, and pays a penalty fee of \$200 before the effective  
2 date, the driver's license suspension of thirty days may not be  
3 imposed and the vehicle registration revocation may not be imposed  
4 and no reinstatement fees are required. Any fees collected under  
5 the provisions of this subsection shall be deposited in the Motor  
6 Vehicle Fees Fund established in accordance with section twenty-  
7 one, article two, chapter seventeen-a of this code.

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

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

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

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

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

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

1 revocation or other penalty commences to run.

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

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

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

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

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