

SB 427

**WEST VIRGINIA LEGISLATURE**  
**EIGHTY-FIRST LEGISLATURE**  
**REGULAR SESSION, 2014**



**ENROLLED**

COMMITTEE SUBSTITUTE  
FOR

**Senate Bill No. 427**

(SENATOR BEACH, *ORIGINAL SPONSOR*)

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

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

2014 MAR 28 P 4: 07

FILED

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**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must notify the Division of Motor Vehicles when a policyholder's vehicle insurance has been canceled; removing an outdated reporting requirement; clarifying and increasing the penalties for vehicle owners who do not have the required security in effect; replacing the driver's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.

*[Handwritten Signature]*

Chairman Senate Committee

*[Handwritten Signature]*

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*[Handwritten Signature]*  
Clerk of the Senate

*[Handwritten Signature]*  
Clerk of the House of Delegates

*[Handwritten Signature]*  
President of the Senate

*[Handwritten Signature]*  
Speaker of the House of Delegates

The within *is approved* this  
the *28th* Day of *March*, 2014.

*[Handwritten Signature]*  
Governor

PRESENTED TO THE GOVERNOR

MAR 17 2014

Time 1:20 pm