WEST virginia legislature

2021 regular session

**FISCAL NOTE**

Introduced

House Bill 2718

By Delegates Mallow, Forsht, Bruce, Conley and Wamsley

[Introduced February 24, 2021; Referred to the Committee on Banking and Insurance then Government Organization]

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

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

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

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

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

(1) Be able to verify, on an on-demand basis minus reasonable down time for system maintenance as agreed upon by the division or its agent and the insurance carrier, the liability insurance status as of the time of the inquiry or at other times not exceeding six months prior unless otherwise agreed upon by the division or its agent and the insurance carrier or via other similar electronic system that is consistent with insurance industry and Insurance Industry Committee on Motor Vehicle Administration (IICMVA) recommendations and the specifications and standards of the IICMVA model;

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

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

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

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

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

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

(3) Maintain the internet web service, pursuant to the requirements established under the online insurance verification program, through which online insurance verification can take place that includes the ability to respond to authorized inquiries on whether the vehicle is insured or the policy in effect on the requested date through the insurer’s National Insurance Commissioners Association code, vehicle identification number, insurance policy number or other data key or keys as otherwise agreed to by the division or its agent and the insurer;

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

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

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

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

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

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

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

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

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

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

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

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

(h) Not more than two years after the establishment of an online insurance verification program, the Division of Motor Vehicles, after consultation with insurers, shall report to the Legislature as to the costs of the program incurred by the division, insurers and the public and 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.

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

(b) The insurance commissioner ~~may~~ shall propose rules for legislative approval in accordance with ~~the provisions of~~ §29A-3-1 *et seq.* of this code as necessary to implement the provisions of this section, and may initially promulgate emergency rules pursuant to ~~the provisions of~~ §29A-3-15 of this code. ~~Such~~ The rules may prescribe penalties, including fines and other administrative sanctions, that may be imposed by the commissioner for a company’s failure to 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.