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OFFICE OF  
SECRETARY OF STATE  
STATE OF WEST VIRGINIA

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1970

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# ENROLLED

SENATE BILL NO. 5

(By Mr. Kensler)

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PASSED Feb. 7, 1970

In Effect Ninety days from Passage



5

FILED IN THE OFFICE  
JOHN D. ROCKEFELLER, IV  
SECRETARY OF STATE  
THIS DATE 2-12-70

**ENROLLED**  
**Senate Bill No. 5**  
(By MR. KINSOLVING)

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[Passed February 7, 1970; in effect ninety days from passage.]

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AN ACT to amend article one-a, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section three-a, relating to the purchase by the adjutant general of public liability insurance, the defense of governmental immunity and the pleading of such defense; and specifying that a jury shall not be advised directly or indirectly of the existence of any such insurance or of the amount thereof.

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

That article one-a, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be

amended by adding thereto a new section, designated section three-a, to read as follows:

**ARTICLE 1A. ADJUTANT GENERAL.**

**§15-1A-3a. Purchase of automobile liability insurance.**

1 The adjutant general shall purchase, out of any funds  
2 appropriated by the Legislature for such purpose, an ade-  
3 quate public liability insurance covering all members  
4 of the organized militia while operating any land motor  
5 vehicle possessed or maintained by the organized militia:  
6 *Provided*, That no policy or contract of public liability  
7 insurance providing coverage for public liability shall be  
8 purchased as provided herein, unless it shall contain a  
9 provision or endorsement whereby the company issuing  
10 such policy waives, or agrees not to assert as a defense  
11 to any claim covered by the terms of such policy, the  
12 defense of governmental immunity. In any action against  
13 the adjutant general, his officers, agents or employees, in  
14 which there is in effect liability insurance coverage in an  
15 amount equal to or greater than the amount sued for, the  
16 attorney for such adjutant general, the attorney for such  
17 insurance carrier, or any other attorney who may appear

18 on behalf of the adjutant general, his agents, officers  
19 or employees shall not set up the defense of governmental  
20 immunity in any such action. Notwithstanding any other  
21 provision of this section, under no circumstances what-  
22 ever shall the jury in any such action be advised directly  
23 or indirectly of the existence of any such insurance or  
24 of the amount thereof.



The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*William Tongue*

Chairman Senate Committee

*Clayton C. Davidson*

Chairman House Committee

Originated in the Senate.

To take effect 90 days from passage.

*Howard Myers*

Clerk of the Senate

*C. Blankenship*

Clerk of the House of Delegates

*Lloyd J. ...*

President of the Senate

*... Brandy*

Speaker House of Delegates

The within *approved* this the *11th* day of *February*, 1970.

*Arch A. Moore Jr.*

Governor



PRESENTED TO THE  
GOVERNOR

Date 2/11/70

Time 10:30 A.M.