WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1935

\[ \text{ENROLLED} \]

SENATE BILL No. 24

(By Mr. Fleming)

PASSED March 5, 1935

In Effect upon Passage
AN ACT to amend chapter seventeen of the code of West Virginia one thousand nine hundred thirty-one, by adding thereto article twenty, relating to the protection of the public against reckless and irresponsible persons on public highways, the operation of motor vehicles on public highways and the financial responsibility of owners and operators of motor vehicles for damages caused by such operation and providing penalties.

Be it enacted by the Legislature of West Virginia:

That chapter seventeen of the code of West Virginia, one thou-
sand nine hundred thirty-one, be amended by the addition thereto of article twenty, to read as follows:

Section 1. This article shall in no respect be considered as a repeal of any law relating to motor vehicles and their operation but shall be considered as supplemental thereto, and, in the event there is a conflict between any penalty provided in this article and any other penalty provided by law for the same offense, the greater penalty shall be enforced.

Sec. 2. The motor vehicle learner's permit, operator's and/or chauffeur's license, all of the certificates of registration and the registration plates of any person shall be suspended by the state road commissioner, hereinafter called the commissioner, if such person shall, by a final order or judgment, have been convicted of, or shall have pleaded guilty to, or shall have forfeited any bond or collateral deposited to secure his appearance for trial as defendant (where such forfeiture shall not have been vacated) for any of the following offenses hereafter committed:

(a) Operating a motor vehicle while under the influence of intoxicating liquor, drugs or narcotics in violation of any law of this state;
(b) Homicide or assault arising out of the operation of a motor vehicle;
(c) Reckless driving, resulting in bodily injury or damage to property;
(d) Leaving the scene of an automobile accident without making identity known, in violation of the provisions of article eight of this chapter and of the acts amendatory thereof and supplemental thereto;
(e) Operating a motor vehicle on any road or highway of this state without being licensed therefor, in violation of any of the provisions of article six of this chapter and of the acts amendatory thereof and supplemental thereto;
(f) Such other violations of the laws as require suspension or revocation of permits and/or licenses in this state;
(g) An offense in any other state or in any province of the Dominion of Canada which, if committed in this state, would be in violation, as aforesaid, of any of the above specified provisions of law in this state.

Such permit, license, certificate and plates, so suspended by the commissioner, shall remain so suspended and shall not at any time thereafter be renewed or used, nor...
shall any such permit or license be thereafter issued to such person, nor shall any motor vehicle be thereafter registered in the name of such person, until he shall have given proof of his ability to respond in damages for any liability thereafter incurred, resulting from the ownership, maintenance, use or operation thereof of a motor vehicle, for bodily injury to or death of any one person in the amount of at least five thousand dollars, and, subject to the aforesaid limit for any one person injured or killed, of at least ten thousand dollars for bodily injury to or the death of two or more persons in any one accident, and for damage to property in the amount of at least one thousand dollars resulting from any one accident: Provided, however, That the certificate of registration and the registration plates issued for any motor vehicle registered in the name of such person as owner shall not be so suspended in the event such person has previously given or shall immediately give and thereafter maintain, for a period of three years, proof of his ability to respond in damages according to the provisions of this article, with respect to each and every motor vehicle owned and registered by such person. Such proof in said amounts shall be furnished for each motor
vehicle registered by such person. If such person shall not be a resident of this state, he shall not operate any motor vehicle in this state nor shall any motor vehicle owned by him be operated within this state by any person, and no learner's permit or operator's or chauffeur's license shall be issued to such person and no motor vehicle shall be registered in his name, until he shall have given proof as aforesaid.

Whenever there is a conviction, plea or forfeiture, as aforesaid, in any court of record, or in a justice's court, or in the police court of any incorporated municipality, the clerk of such court of record, or the justice of a justice's court, or the clerk or recorder of the municipality in which is such police court, as the case may be, in which any such judgment is rendered or order is entered or other such action taken, shall forward immediately to the commissioner a certified copy thereof, to which copy shall be appended a certificate showing the nature of the offense upon which the conviction was had. A certified copy of the judgment, order or record of other action of the court or justice shall be prima facie evidence of the conviction, plea, forfeiture or other action therein stated. In the event that the person so shown to have been
76 convicted, pleaded guilty or forfeited bond or collateral appears to be a nonresident of this state, the commissioner shall
77 transmit a copy of such certified copy, certified to by him, to
78 the officer in charge of the issuance of motor vehicle operators'
80 and/or chauffeurs' licenses and registration certificates of
81 the state or province of which such person appears to be a
82 resident.
83 If it shall be duly established to the satisfaction of the com-
84 missioner and the commissioner shall so find (a) that any
85 person, whether a resident or nonresident of this state, who
86 shall have been convicted, pleaded guilty or forfeited bond
87 or collateral, as aforesaid, was, upon the occasion of the offense
88 upon which such conviction, plea or forfeiture was based, a
89 chauffeur or motor vehicle operator, however designated, in
90 the employ of the owner of the motor vehicle involved in such
91 offense or a member of the immediate family or household of
92 the owner of such motor vehicle, and (b) that there was not,
93 at the time of such offense or subsequent thereto, up to the
94 date of such finding, any motor vehicle registered in this
95 state, (or if a nonresident, in the state of his residence) in
96 the name of the person who so has been convicted, pleaded
97 guilty or forfeited bond or collateral, as aforesaid, then and
98 in that event, if the person in whose name such motor vehicle
99 is registered shall give proof of ability to respond in damages
100 according to the provisions of this article (and the commis-
101 sioner is hereby authorized to accept such proof from such
102 person) such chauffeur or other person, as aforesaid, shall be
103 relieved of the necessity of giving such proof in his own behalf,
104 so long as such chauffeur or other person is operating a motor
105 vehicle for which the owner has given proof as herein pro-
106 vided. The commissioner shall designate the restrictions im-
107 posed by this section on the face of such person’s operator’s
108 or chauffeur’s license: Provided, however, That such chauffeur
109 or other person shall furnish proof of ability to respond in
110 damages, as herein required, for all motor vehicles registered
111 in the name of such chauffeur or other person: Provided
112 further, That no such license shall be reinstated or any new
113 license issued until otherwise permitted under the laws of
114 this state.

Sec. 3. In the event of the failure of any person, within thirty
2 days thereafter, to satisfy any judgment, which shall have be-
3 come final by expiration, without appeal, of the time within
which appeal might have been perfected, or by final affirmance
on appeal rendered against him by a court of competent juris-
diction in this state or in any other state or the District of Co-
lumbia, or in any district court of the United States, or by a
court of competent jurisdiction in any province of the Dominion
of Canada, for damages on account of bodily injury, including
death, or damage to property in excess of fifty dollars,
resulting from the ownership, maintenance, use or operation
hereafter of a motor vehicle, the learner’s permit, operator’s
and/or chauffeur’s license, every certificate of registration and
the registration plates of such person shall be forthwith sus-
pended by the commissioner upon receiving a certified copy of
such final judgment from the court in which or the justice by
whom the same was rendered, together with a certificate from
such court or justice that such judgment is final and still un-
satisfied and that more than thirty days have elapsed since the
same became final, as aforesaid, and shall remain so suspended
and shall not be renewed nor shall any motor vehicle be there-
after registered in the name of such person while any such
judgment remains unstayed, unsatisfied and subsisting, nor
until every such judgment is satisfied or discharged, except by
24 a discharge in bankruptcy, and until such person gives proof
25 of his ability to respond in damages as required in section two
26 of this article for future accidents. If such person who has
27 failed to satisfy within thirty days any final judgment, as
28 aforesaid, shall not be a resident of this state, he shall not
29 operate any motor vehicle in this state, nor shall any motor
30 vehicle owned by him be operated in this state by any person,
31 nor shall any operator’s or chauffeur’s license be issued to such
32 person or any motor vehicle be registered in his name, until
33 every such judgment shall be stayed, satisfied or discharged as
34 herein provided, and until such person shall have given proof
35 of his ability to respond in damages for future accidents as re-
36 quired in section two of this article. The clerk of the court of
37 record in which, or the justice by whom, any such judgment
38 is rendered, shall forward immediately, after the expiration of
39 said thirty days, as aforesaid, to the commissioner, a certified
40 copy of such judgment as aforesaid. In the event the defendant
41 is a nonresident, the commissioner shall transmit to the com-
42 missioner of motor vehicles or other officer or body in charge
43 of the issuance of operators’ licenses and registration certificates
44 of the state or province of which the defendant is a resident, a
certified copy of such judgment. If after such proof has been given, any other such judgment shall be recovered against such person for an event occurring before such proof was given but after this article shall take effect, such permit, license or licenses and certificate or certificates and plates shall again be and remain suspended, and no other such permit, license, certificate or plates shall be issued to such person while any such judgment remains unstayed, unsatisfied and subsisting, as aforesaid: Provided, however, That, (a) When five thousand dollars has been credited upon any judgment or judgments rendered in excess of that amount for bodily injury to or death of one person as the result of any one accident; or
(b) When, subject to the limit of five thousand dollars as to one person, the sum of ten thousand dollars has been credited upon any judgment or judgments rendered in excess of that amount for bodily injury to or the death of more than one person as the result of any one accident; or
(c) When one thousand dollars has been credited upon any judgment or judgments rendered in excess of that amount for damage to property of others as a result of any one accident, resulting from the ownership, maintenance, use or operation
of a motor vehicle, credit for such amounts shall be deemed a
satisfaction of such judgment or judgments in excess of said
amounts for the purposes of this article only.

Whenever payment has been made in settlement of any
claims for bodily injury, death, or property damage arising
from a motor vehicle accident resulting in injury, death, or prop-
erty damage to two or more persons in such accident, any such
payment shall be credited in reduction of the amounts provided
for in this section.

Sec. 4. A judgment debtor to whom this article applies may,
for the sole purpose of giving authority to the commissioner
to authorize such judgment debtor to operate a motor vehicle
thereafter, after five days’ notice to the judgment creditor,
apply to the court in which or the justice before whom the
judgment was obtained for the privilege of paying such judg-
ment in installments, and the court or justice, without prejudice
to any other legal remedies which the judgment creditor may
have, may so order, fixing the amounts and times of payment of
the installments. While the judgment debtor is not in default
in payment of such installments, the commissioner, upon his
giving proof of ability to respond in damages for future acci-
dents, as hereinbefore provided, may, in his discretion, restore
or refrain from suspending his permit, license and/or certificate
or certificates of registration and registration plates, but such
permit, license and/or certificate or certificates and plates shall
be suspended as hereinbefore provided, if and when the com-
mis ssioner is satisfied that the judgment debtor has failed to
comply with the terms of the order of such court or justice.

Sec. 5. Proof of ability to respond in damages, when re-
quired by this article, may be evidenced by either of the
following:
(a) By filing with the commissioner the written certificate
or certificates of any insurance carrier, duly authorized to
do business within this state, that it has issued to, or for
the benefit of, the person furnishing such proof and named
as the insured, a motor vehicle liability policy or policies, or
in certain events an operator's policy, in the form hereinafter
prescribed, which, at the date of the certificate or certificates
is or are in full force and effect, and designating therein by
explicit description or by other adequate reference, all motor
vehicles to which the policy or policies apply, unless the policy
or policies are issued to a person who is not the owner of a
motor vehicle. The commissioner shall not accept any cer-
tificate or certificates unless the same shall cover all motor
vehicles then registered in the name of the person furnishing
such proof as owner. An additional certificate or certificates,
as aforesaid, shall be required as a condition precedent to the
registration of any additional motor vehicle or motor vehicles
in the name of such person furnishing such proof as owner.
Such certificate or certificates shall certify that the motor
vehicle liability policy or policies therein cited shall not be
canceled or expire except as hereinafter provided.
When a certificate is filed showing that a policy or policies
have been issued covering all motor vehicles owned by the
insured but not insuring such person when operating any
motor vehicle not owned by him, it shall be unlawful for such
person to operate any motor vehicle not owned by him or not
covered by such certificate. In such event the commissioner
shall designate the above restriction upon the operator’s or
chauffeur’s license of such person. In the event the owner of
a motor vehicle or motor vehicles desires to be relieved of such
restriction and to be permitted to drive any other motor
vehicle he may have such restriction removed upon filing a
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36 certificate showing that there has been issued to him a policy
37 of insurance insuring him as insured against liability imposed
38 by law upon such insured for bodily injury to or death of
39 any person or damage to property to the amounts and limits
40 as provided under section two of this article with respect to
41 any motor vehicle operated by him and which otherwise com-
42 plies with the requirements of this article with respect to
43 such type of policy. Such policy is hereinafter referred to as
44 an operator’s policy. When the person required to give proof
45 of ability to respond in damages is not the owner of a motor
46 vehicle, then an operator’s policy of the type and coverage
47 described in this paragraph shall be sufficient under this
48 article.

49 If such person be a nonresident, a certificate, as aforesaid,
50 of an insurance carrier authorized to transact business in the
51 state or province in which the motor vehicle or motor vehicles
52 described in such certificate is or are registered, or if such non-
53 resident does not own a motor vehicle, then in the state or
54 province in which the insured resides, and otherwise conform-
55 ing to the provisions of this article, shall be accepted if such
56 carrier shall, (1) execute a power of attorney authorizing the
57 commissioner to accept service of notice or process in any
58 action arising out of a motor vehicle accident in this state,
59 and (2) duly adopt a resolution which shall be binding on it,
60 declaring that its policies shall be deemed to be varied to
61 comply with the laws of this state relating to the terms of
62 motor vehicle liability policies issued therein, and (3) agree
63 to accept as final and binding any final judgment of any court
64 of competent jurisdiction in this state, duly rendered in any
65 action arising out of a motor vehicle accident: Provided, how-
66 ever, That the provisions of this section shall be operative as
67 to such insurance carriers (organized and existing under the
68 laws of such state or province and not licensed to transact busi-
69 ness in this state) only to the extent and under the same terms
70 and conditions that, under the laws of such state or province
71 where such motor vehicle is registered or in which the insured
72 resides, like recognition, if a law of like effect is in force and
73 effect, is granted to certificates of insurance carriers organized
74 and existing under and by virtue of the laws of this state.
75 If, under the laws of such state or province, in which a law
76 of like effect is in force and effect, certificates of insurance
77 carriers organized and existing under or by virtue of the laws
of this state are not accepted, the certificates of insurance carriers of such state or province shall not be accepted under the provisions of this article: Provided further, That whenever any foreign insurance carrier which has qualified to furnish proof of ability to respond in damages, as hereinbefore required, defaults in any of its undertakings or agreements, the commissioner shall not thereafter accept any certificate of said carrier, whether theretofore filed or thereafter tendered, as such proof of ability to respond in damages, so long as such default continues.

The commissioner shall be notified by the insurance carrier of the cancellation or expiration of any motor vehicle liability policy certified under the provisions of this article at least ten days before the effective date of such cancellation or expiration, and until such notice is duly given, such policy shall continue in full force and effect. The notice of such cancellation or expiration shall be served in the manner provided in section one, article two, chapter fifty-six of the code of West Virginia, one thousand nine hundred thirty-one, or by registered mail, which latter method shall be evidenced by a return receipt.
99 (b) By filing with the commissioner a bond executed by the
100 person giving such proof and by a surety company, duly
101 authorized to transact business in this state, or a bond executed
102 by the person giving such proof and by at least two individual
103 sureties, each owning real estate within the county where such
104 surety resides and having an equity therein in the amount of
105 such bond, which real estate shall be scheduled in the bond
106 and such bond shall be approved by the clerk of a court of
107 record in the county in which such surety resides. Such bond
108 shall be conditioned for the payment of the amounts specified
109 in section two of this article and shall be filed with the com-
110 missioner and shall not be cancellable except after ten days’
111 written notice to said commissioner, served and evidenced in
112 the manner provided in this section as to similar notices re-
113 specting motor vehicle liability policies, but cancellation of
114 such bond shall not prevent recovery thereon with respect to
115 any right or cause of action arising prior to the date of can-
116 cellation. Such restriction as to cancellation only after ten
117 days notice shall be set forth in the bond. Such bond shall
118 constitute a lien in favor of the state upon the real estate so
119 scheduled of any surety, which lien shall exist in favor of any
holder of a final judgment against the person who has filed such proof, on account of damage to property in excess of fifty dollars, or injury to, including death of, a person or persons resulting from the ownership, maintenance, use or operation hereafter of a motor vehicle, upon the filing of a notice to that effect by the commissioner in the office of the clerk of the county court of the county where such real estate is located. Such notice shall contain the name in full of any such surety to be affected by it, the description of the real estate located in such county as scheduled in the bond, and shall be signed by said commissioner and bear an imprint of the official seal of the commission. Such clerk shall indicate on such notice the day and hour when it was received by him, and, upon the payment of a fee of one dollar, he shall immediately record such notice in the place wherein trust deeds of real estate are recorded and shall index such notice in the name of such surety in the same place in which such trust deeds are indexed, treating such surety as a grantor and the state of West Virginia as a grantee, and such clerk shall be subject to the penalties provided in article three of chapter thirty-eight and in article four of chapter fifty-one of the code.
of West Virginia, one thousand nine hundred thirty-one, for the failure to so record and to so index such notice, respectively. A fee of one dollar shall be collected by the commissioner from the person who has filed such proof and shall be paid to such clerk by the commissioner. All liens so created shall relate to the time of filing such notice in such clerk’s office and shall have priority over all liens suffered or created thereafter. Whenever any evidence of proof of ability to respond in damages filed under the provisions of this article no longer fulfills the purpose for which required, the commissioner shall, for the purposes of this article, require other evidence of ability to respond in damages as required by this article and shall suspend the operator’s license, chauffeur’s license, certificate of registration and registration plates of the person concerned pending such proof.

Sec. 6. A bond filed by or on behalf of any person, under the provisions of the preceding section, shall be held by the commissioner to satisfy, in accordance with the provisions of this article, any execution issued against such person on a judgment for damages, as aforesaid, arising out of the ownership, maintenance, use or operation of a motor vehicle as aforesaid.
7 said. If such a judgment rendered against the principal on
8 the surety company or real estate individual bond given under
9 the provisions of this article shall not be satisfied within thirty
days after it has become final, as hereinbefore provided, the
judgment creditor may, for his own use and benefit and at his
sole expense, bring an action or actions in the name of the
state against the company or persons executing such bond and
may enforce by a suit in equity in his own name any lien
existing by virtue of the provisions of this article upon the
real estate of a person who has executed such bond.

Sec. 7. The commissioner shall upon request furnish any
insurance carrier, person or surety a certified abstract of the
operating record on file in the office of said commissioner, of
any person subject to the provisions of this article, which
abstract shall fully designate every motor vehicle (if any)
registered in the name of such person, and if there shall be no
such record of any conviction of such person of a violation of
any provisions of any statute relating to the operating of a
motor vehicle or of any injury or damage caused by such
person as herein provided, the commissioner shall so certify.
The commissioner shall collect for each such certificate the sum
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12 of one dollar. Such record shall not be admissible as evidence
13 in any action for damages or criminal proceeding arising out of
14 a motor vehicle accident.

Sec. 8. The commissioner shall furnish any person who may
2 have been injured in person or property by any motor vehicle,
3 upon written request accompanied by a fee of one dollar, with
4 all information of record in his office pertaining to the evidence
5 of the ability of any operator or owner of any motor vehicle
6 to respond in damages.

Sec. 9. Any operator or any owner, whose learner’s permit,
2 operator’s and/or chauffeur’s license or certificate of registra-
3 tion or registration plates shall have been suspended as in this
4 article provided, or whose policy of insurance or surety bond,
5 when same is required under this article, shall have been can-
6 celed or terminated, or who shall neglect to furnish additional
7 evidence of ability to respond in damages upon request of
8 the commissioner, shall immediately return to the commissioner
9 his learner’s permit, operator’s license, certificate of registra-
10 tion and the registration plates issued under the provisions of
11 this article. If any person shall wilfully fail to return to the
12 commissioner the learner’s permit, operator’s and/or chauffeur’s
license, certificate of registration and the registration plates so
issued as provided herein, the commissioner shall forthwith
notify the superintendent of the department of public safety
who shall, as soon as possible, secure possession thereof and
return same to the commissioner. Said superintendent of the
department of public safety shall make a report in writing
to the commissioner, within two weeks after being so notified
by the commissioner, as to the result of his efforts to secure
the possession and return of such permit, license, certificate of
registration and registration plates. Any person wilfully fail-
ing to return such learner’s permit, operator’s or chauffeur’s
license or such certificate and registration plates shall be guilty
of a misdemeanor and, upon conviction thereof, shall be fined
not more than two hundred dollars, and such penalty shall be
in addition to any penalty imposed for any violation of any of
the motor vehicle laws of this state.

Sec. 10. (a) The commissioner shall, upon the request in
writing of the person on whose behalf such proof of ability
to respond in damages was furnished, cancel any bond or return
any certificate of insurance filed pursuant to this article as
proof of ability to respond in damages, or waive the requirement
of filing proof of ability to respond in damages in any of the following events:

(1) At any time after three years shall have elapsed since the filing of such bond or certificate, if the person has not, during the three year period immediately preceding the request, been convicted of any offense referred to in section two of this article; or

(2) In the event of the death of the person on whose behalf such proof was filed, or the permanent incapacity of such person to operate a motor vehicle; or

(3) In the event the person who has given proof of ability to respond in damages surrenders his operator’s or chauffeur’s license, every certificate of registration and all registration plates to the commissioner: Provided, however, That in each of the foregoing instances such cancellation or return shall be upon the condition that no action for damages, upon a liability referred to in this article, is pending against such person on whose behalf such proof of ability to respond in damages was furnished, that no judgment upon any such liability against such person is outstanding and unsatisfied, and that no notice has been filed with the commissioner of an acci-
27 dent involving such person, occurring within the three month
28 period immediately preceding such request and resulting from
29 the ownership, maintenance, use or operation of a motor ve-
30 hicle.
31 The affidavit of such person, showing fulfillment of the neces-
32 sary requirements under this section, shall be sufficient proof
33 thereof in the absence of evidence to the contrary in the records
34 of the commissioner.
35 Whenever any person, as to whom such proof has been so
36 canceled or to whom such proof has been so returned, applies
37 for an operator’s or chauffeur’s license or the registration of
38 a motor vehicle within a period of three years from the date
39 proof of ability to respond in damages was originally required,
40 any such application shall be refused unless the applicant shall
41 reestablish such proof for the remainder of such period.
42 (b) The commissioner shall cancel any bond or return any
43 certificate of insurance to the person entitled thereto, upon
44 the substitution and acceptance of other adequate proof of
45 ability to respond in damages pursuant to the provisions of this
46 article.

Sec. 11. If an owner’s certificate of registration has been
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2 suspended under the provisions of this article, such certificate
3 shall not be transferred nor the motor vehicle, in respect of
4 which such certificate was issued, registered in another name,
5 where the commissioner has reasonable grounds to believe that
6 such transfer or registration is proposed for the purpose or will
7 have the effect of defeating the purpose of this article: Pro-
8 vided, however, That nothing in this section contained shall be
9 held to apply to or affect the registration of any motor vehicle
10 sold by a person who, pursuant to the terms or conditions of
11 any written instrument giving a right of repossession, has
12 exercised such right and has repossessed such motor vehicle
13 from a person whose certificate of registration has been sus-
14 pended under the provisions of this article: Provided further,
15 That nothing in this section contained shall prevent the owner
16 of a motor vehicle, the registration of which has been suspended
17 hereunder, from effecting a bona fide sale of such motor vehicle
18 to another person whose rights or privileges are not suspended
19 under this article nor prevent the registration of such motor
20 vehicle by such other person.

Sec. 12. Nothing in this article contained shall be held to
2 apply to or affect policies of automobile insurance against
liability which may now or hereafter be required by any other law of this state, and such policies, if endorsed to conform to the requirements of this article, shall be accepted as proof of ability to respond in damages when required under this article, nor shall anything in this article contained be held to apply to or affect policies insuring solely the insured named in the policy against liability resulting from the maintenance, operation or use by persons in the insured’s employ or in his behalf of motor vehicles not owned by the insured.

Sec. 13. Any person who shall forge, or, without authority, sign any evidence of ability to respond in damages as required by the commissioner in the administration of this article, or utter or attempt to employ as true such forged evidence of ability to respond in damages, knowing the same to be forged, and any person who shall violate any of the provisions of this article for which no penalty is otherwise provided shall be guilty of a misdemeanor, and, upon conviction thereof, be fined not more than one thousand dollars, or imprisoned not more than six months, or both so fined and imprisoned. Any person whose learner’s permit, operator’s or chauffeur’s license or certificate of registration, registration plates and/or other
13 privilege to operate a motor vehicle has been suspended or re-
14 voked and restoration thereof or issuance of a new permit,
15 license or certificate of registration is contingent upon the fur-
16 nishing of proof of ability to respond in damages according
17 to the provisions of this article, and who, during such sus-
18 pension or revocation, or in the absence of full authorization
19 from the commissioner, drives any motor vehicle upon any
20 highway or knowingly permits any motor vehicle owned by him
21 to be operated by another upon any highway, except as per-
22 mitted hereunder, shall be guilty of a misdemeanor, and, upon
23 conviction thereof, be imprisoned for not more than six months
24 or fined not more than five hundred dollars, or both so fined
25 and imprisoned.

Sec. 14. "Motor vehicle liability policy," as used in this
2 article, shall be taken to mean any policy of liability insurance
3 issued by an insurance carrier authorized to transact business
4 in this state, or issued by an insurance carrier authorized to
5 transact business in the state or province in which the motor
6 vehicle or motor vehicles therein described is or are registered,
7 or if none be described, then in the state in which the insured
8 resides, to or for the benefit of the person therein named as
9 insured, which policy shall either (a) designate, by explicit
10 description or other adequate reference, every motor vehicle
11 with respect to which coverage is intended to be granted by
12 such policy, and shall insure the insured named therein and
13 any other person using or responsible for the use of any such
14 motor vehicle with the consent, express or implied, of such
15 insured, against loss from the liability imposed by law upon
16 such insured or upon such other person for injury to or
17 death of any person, other than such insured and such person
18 or persons as may be covered as respects such injury or death
19 by any workmen's compensation law, and/or for damage to
20 property, except property of others in charge of the insured
21 or of his employees or other agents, growing out of the owner-
22 ship, maintenance, use or operation of any such motor vehicle
23 within the continental limits of the United States of America
24 or the Dominion of Canada, or which policy shall, in the
25 alternative (b) insure the person therein named as insured
26 against loss from the liability imposed by law upon such
27 insured for bodily injury to or death of any person, other
28 than such insured and such person or persons as may be
29 covered as respects such injury or death by any workmen's
compensation law, and/or for damage to property, except
property of others in charge of the insured or of his employees
or other agents, growing out of the maintenance, operation or
use by such insured of any motor vehicle, except a motor
vehicle registered in the name of such insured, and occurring
while such insured is personally in control, as driver or occu-
pant, of such motor vehicle within the continental limits of
the United States of America or the Dominion of Canada, the
policy in the latter case to be known as an operator's policy;
in either case to the amount or limit of five thousand dollars,
exclusive of interest and costs, on account of bodily injury
to or death of any one person, and, subject to the same limit
as respects bodily injury to or death of any one person, of
ten thousand dollars, exclusive of interest and costs, on ac-
count of any one accident resulting in bodily injury to or
death of more than one person; and of one thousand dollars
for damage to property of others, as herein provided, result-
ing from any one accident; or a binder pending the issuance
of any such policy, or an endorsement to an existing policy,
both as hereinafter provided: Provided, however, That this
section shall not be construed as preventing an insurance
carrier from granting in a motor vehicle liability policy any lawful coverage in excess of or in addition to the coverage herein provided for, or from embodying in such policy any agreements, provisions or stipulations not contrary to the provisions of this article and not otherwise contrary to law:

Provided further, That separate concurrent policies, which together meet the requirements of this article, whether issued by one or several carriers, covering, respectively, (1) personal injury or death, as aforesaid, and (2) property damage, as aforesaid, shall be termed a "motor vehicle liability policy," within the meaning of this article.

Except as in section twelve of this article is provided, no motor vehicle liability policy or operator's policy shall be issued or delivered in this state, pursuant to the provisions of this article, until a copy of the form of policy shall have been on file with the insurance commissioner for at least thirty days, unless sooner approved in writing by said insurance commissioner, nor if within said period of thirty days said insurance commissioner shall have notified the carrier in writing that in his opinion, specifying the reasons therefor, the form of policy does not comply with the provisions of this
72 article. Said insurance commissioner shall approve any form
73 of policy which specifies the name, address and business, if
74 any, of the insured, the coverage afforded by the policy, the
75 premium charged therefor, the policy period, and the limits
76 of liability, and contains an agreement that the insurance
77 thereunder is provided in accordance with the coverage defined
78 in this article, as respects bodily injury and death or property
79 damage or both, and is subject to all the provisions of this
80 article.

81 Every such motor vehicle liability policy and every such
82 operator's policy shall be subject to the following provisions,
83 whether or not contained therein:

84 (a) The liability of the insurance carrier under any such
85 policy shall become absolute whenever loss or damage covered
86 by such policy occurs, and the satisfaction by the insured of
87 a final judgment for such loss or damage shall not be a con-
88 dition precedent to the right or obligation of the carrier to
88-a make payment on account of such loss or damage: Provided,
88-b however, That the insurance carrier shall have the right to
88-c settle any claim covered by the policy and, if such settlement
88-d is made in good faith, the amount thereof shall be deductible
88-e from the limits of liability specified in the policy: No such policy shall be canceled or annulled as respects any loss or damage, by any agreement between the carrier and the insured after the insured has become involved in any accident out of which any liability may arise for such loss or damage, and any such cancellation or annulment shall be void.

The policy may provide that the insured, or any other person covered by the policy, shall reimburse the insurance carrier for any payment made on account of a loss, or damage claim, or suit, involving a breach of the terms, provisions or conditions of the policy; and further, if the policy shall provide for limits in excess of the limits specified in this article, the insurance carrier may plead against any plaintiff, with respect to the amount of such excess limits of liability, any defenses which it may be entitled to plead against the insured, and any such policy may further provide for the prorating of the insurance thereunder with other applicable valid and collectible insurance.

(b) The policy, the written application therefor, if any, and any rider or endorsement which does not conflict with the
provisions of this article shall constitute the entire contract between the parties.

(c) The insurance carrier shall, upon the request of the insured, deliver to the insured for filing, or at the request of the insured shall file direct with the commissioner, an appropriate certificate showing that such policy has been issued, which certificate shall be in conformity with the provisions of section five of this article.

d) Any carrier authorized to issue motor vehicle liability policies may, pending the issuance of such a policy, execute an agreement, to be known as a "binder," or may, in lieu of such a policy, issue an endorsement to an existing policy. Every such binder or endorsement shall be subject to the provisions of this section and shall be construed to provide indemnity or insurance in like manner and to the same extent as a motor vehicle liability policy.

Sec. 15. The operation by a nonresident, or by his duly authorized agent, of a motor vehicle upon a public street or highway of this state, shall be deemed equivalent to an appointment by such nonresident of the commissioner, or his successor in office, to be his true and lawful attorney upon whom may
be served all lawful process in any action or proceeding against
him, growing out of any accident or collision in which such
nonresident may be involved while so operating or so per-
mitting to be operated a motor vehicle on any such street or
highway, and such operation shall be a signification of his
agreement that any such process against him, which is so served,
shall be of the same legal force and validity as if served upon
him personally. Service of such process shall be made by
leaving a copy thereof, with a fee of two dollars, with said
commissioner or in his office, together with a bond conditioned
on the failure of the plaintiff to prevail in the action, in the
sum of five hundred dollars with sureties to be approved by the
commissioner, for the purpose of reimbursing the defendant for
expenses necessarily incurred by him in defending the action
in this state, and such service shall be sufficient service upon
said nonresident, provided that notice of such service and a
copy of the process shall forthwith be sent by registered mail
by said commissioner to the defendant, and the defendant's
return receipt is appended to the original process and filed
therewith in court. The court in which the action is pending
may order such continuances as may be reasonable to afford the
27 defendant opportunity to defend the action. The fee of two
28 dollars, paid by the plaintiff to said commissioner at the time
29 of service, shall be taxed in the costs of the proceeding and said
30 commissioner shall keep a record of all such process, which
31 shall show the day and hour of service, and he shall pay into
32 the state treasury all funds so coming into his hands from such
33 service.

Sec. 16. The following words and phrases, when used in
2 this article, shall, for the purpose of this article and unless a
3 different intent on the part of the legislature be apparent from
4 the context, have the following meanings:
5 (a) "Commissioner" shall mean the state road commissioner
6 of this state.
7 (b) "Person" shall include individuals, partnerships, corpo-
8 rations, receivers, referees, trustees, executors and adminis-
9 trators, and shall also include the owner of any motor vehicle as
10 requisite; but shall not include the state or any political sub-
10-a division thereof.
11 (c) "Motor vehicle" shall mean and include any self-pro-
12 pelled vehicle, including motorcycles and tractors, and trailers,
13 not operated exclusively upon stationary tracks.
(d) "Vehicle" shall mean every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

(e) "Nonresident" shall mean every person who is not a resident of this state.

(f) "Owner" shall mean a person who holds the legal title of a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this article.

(g) "Street," "road" or "highway" shall mean the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular traffic.

(h) "State" shall mean any state of the United States, the District of Columbia, or any province of the Dominion of Canada.
Section 17. The commissioner shall administer and enforce the provisions of this article and he is hereby authorized to adopt and enforce such rules and regulations as may be necessary for the administration of the provisions of this article.

Section 18. Nothing herein shall be construed as preventing the plaintiff in any action at law from relying for security upon the other processes provided by law.

Section 19. If any part, subdivision or section of this article shall be deemed unconstitutional, the validity of its remaining provisions shall not be affected thereby.

Section 20. This act shall not have a retroactive effect and shall not apply to any judgment or cause of action arising out of an accident occurring prior to the effective date of this act.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the...

Takes effect...passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within...this the...

day of..., 1935.

5 hereby repealed.

Governor

Filed in the office of the Secretary of State of West Virginia. MAR 15 1935

Wm. S. O'Brien,
Secretary of State
I certify that the foregoing act, having been presented to the Governor for his approval, and not having been returned by him to the House of the Legislature in which it originated within the time prescribed by the constitution of the state, has become a law without his approval.

This the 15th day of March, 1935.

[Signature]

SECRETARY OF STATE