

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1951

ENROLLED

SENATE BILL NO. 112

(By Mr. Bean)

PASSED February 16, 1951

In Effect July 1, 1951 Passage



112

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AN ACT to repeal article twenty, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to amend said code by adding thereto a new chapter to be designated chapter seventeen-d, relating to financial responsibility of owners and operators of motor vehicles, and prescribing penalties for the violation of the provisions thereof.

Be it enacted by the Legislature of West Virginia:

That article twenty, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed, and that said code be amended by adding thereto a new chapter to be designated chapter seventeen-d, to read as follows:

CHAPTER 17-D. MOTOR VEHICLE SAFETY
RESPONSIBILITY LAW

Article 1. Words and Phrases Defined.

Section 1. *Definitions.*—The following words and
2 phrases when used in this chapter shall, for the purpose
3 of this chapter, have the meanings respectively ascribed
4 to them in this article.

Sec. 2. *Commissioner.*—The commissioner of motor
2 vehicles of this state.

Sec. 3. *Person.*—Every natural person, firm, copart-
2 nership, association or corporation.

Sec. 4. *Driver.*—Every person who drives or is in actual
2 physical control of a vehicle.

Sec. 5. *Operator.*—Every person, other than a chauf-
2 feur, who drives or is in actual physical control of a motor
3 vehicle upon a highway or who is exercising control over
4 or steering a vehicle being towed by a motor vehicle.

Sec. 6. *Chauffeur.*—Every person who is employed by
2 another for the principal purpose of driving a motor
3 vehicle and every person who drives a school bus trans-
4 porting school children or any other motor vehicle when

5 in use for the transportation of persons or property for
6 compensation.

Sec. 7. *Owner*.—A person who holds the legal title of a
2 vehicle, or in the event a vehicle is the subject of an agree-
3 ment for the conditional sale or lease thereof with the
4 right of purchase upon performance of the conditions
5 stated in the agreement and with an immediate right of
6 possession vested in the conditional vendee or lessee, or
7 in the event a mortgagor of a vehicle is entitled to posses-
8 sion, then such conditional vendee or lessee or mortgagor
9 shall be deemed the owner for the purposes of this
10 chapter.

Sec. 8. *Nonresident*.—Every person who is not a resi-
2 dent of this state.

Sec. 9. *Vehicle*.—Every device in, upon, or by which
2 any person or property is or may be transported or drawn
3 upon a highway, except devices moved by human power
4 or used exclusively upon stationary rails or tracks.

Sec. 10. *Motor Vehicle*.—Every vehicle which is self-
2 propelled and every vehicle which is propelled by electric
3 power obtained from overhead trolley wires, but not
4 operated upon rails.

Sec. 11. *Trailer*.—Every vehicle with or without motive power designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

Sec. 12. *Semitrailer*.—Every vehicle with or without motive power designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.

Article 2. Administration of Law.

Section 1. *Commissioner to Administer Chapter*.—The commissioner shall administer and enforce the provisions of this chapter and shall make rules and regulations necessary for its administration, including provisions for hearings by the commissioner or his representative upon request of persons aggrieved by any orders or acts by the commissioner, but the granting of any such hearings shall not operate to prevent or delay any action by the commissioner which is mandatory under the provisions of this chapter.

Sec. 2. *Commissioner to Furnish Operating Record*.—

2 The commissioner shall upon request furnish any person
3 a certified abstract of the operating record of any person
4 subject to the provisions of this chapter, which abstract
5 shall fully designate the vehicles, if any, registered in the
6 name of such person, and if there shall be no record of
7 any conviction of such person of a violation of any law
8 relating to the operation of a motor vehicle or of any
9 injury or damage caused by such person the commissioner
10 shall so certify. The commissioner shall collect for each
11 abstract one dollar.

Article 3. Security Following Accident.

Section 1. *Application of Article Three.*—The provi-
2 sions of this article shall apply to the driver and owner
3 of any vehicle of a type subject to registration under the
4 motor vehicle laws of this state which is in any manner
5 involved in an accident upon any street or highway within
6 this state which accident has resulted in damage to the
7 property of any one person in excess of one hundred
8 dollars or in bodily injury to or in the death of any person
9 in respect to which accident report must be made to the
10 commissioner under the laws of this state.

Sec. 2. *Commissioner to Determine Amount of Security Required; Notices.*—(a) The commissioner within
2 not less than thirty nor more than ninety days after
3 receipt of a report of an accident as described in section
4 one of this article shall take action as provided in this
5 section. The commissioner shall determine the amount
6 of security which he deems sufficient to satisfy any
7 judgment or judgments for damages resulting from such
8 accident as may be recovered against each driver or
9 owner involved in such accident. The commissioner shall
10 determine the amount of security deposit upon the basis
11 of the reports or other evidence relative to such accident
12 transmitted to him. The commissioner shall thereupon
13 give written notice to every such person that he is re-
14 quired to deposit security in an amount and within the
15 time specified in such notice, which time shall be not less
16 than ten days after the giving of such notice, or that upon
17 the expiration of said time an order of suspension as stated
18 therein will become effective unless the person receiving
19 said notice deposits such security or establishes his
20 exemption under other provisions of this chapter.
21

22 . (b) The security required under this article shall be
23 in the form of money or its equivalent and in such amount
24 as the commissioner may require but, in no case, in excess
25 of the limits specified in section five of this article in
26 reference to the acceptable limits of a policy or bond.

27 (c) The commissioner shall not take action as required
28 in this section in respect to drivers or owners who estab-
29 lish exemption under succeeding sections of this chapter
30 from the requirements as to security and suspension.

Sec. 3. *Failure to Deposit Security; Suspensions.*—

2 In the event that any person required to deposit security
3 under this article fails to deposit such security within the
4 time specified in the notice hereinbefore required which
5 shall afford at least ten days notice of such required
6 deposit the commissioner shall thereupon make the order
7 of suspension effective. Such suspension shall apply to:

- 8 (1) The license of each driver in any manner involved
9 in the accident;
- 10 (2) The registrations of all vehicles owned by the
11 owner of each motor vehicle, trailer or semitrailer in-
12 volved in such accident;

13 (3) The privilege of operating a motor vehicle within
14 this state if the driver is a nonresident;

15 (4) If such owner is a nonresident, the privilege of
16 such owner to operate or permit the operation within this
17 state of any motor vehicle, trailer or semitrailer owned
18 by him.

19 Such suspensions shall be made in respect to persons
20 required by the commissioner to deposit security who fail
21 to deposit such security, except as otherwise provided
22 under succeeding sections of this chapter.

Sec. 4. *Exceptions to Requirement of Security.*—(a)

2 The requirements as to security and suspension in this
3 article shall not apply:

4 (1) To the driver or owner if the owner had in effect
5 at the time of the accident an automobile liability policy
6 or bond with respect to the driver or the vehicle involved
7 in the accident. Unless otherwise covered by insurance a
8 driver shall not be exempt from the requirements as to
9 security in the event it is established to the satisfaction of
10 the commissioner that at the time of the accident the
11 vehicle was being operated without the owner's permis-
12 sion, expressed or implied, or was parked by a driver who

13 had been operating such vehicle without such permission.

14 (2) To the driver, if not the owner of the vehicle in-
15 volved in the accident, if there was in effect at the time
16 of the accident, an automobile liability policy or bond
17 with respect to his driving of vehicles not owned by him.

18 (3) To a driver or owner whose liability for damages
19 resulting from the accident is, in the judgment of the
20 commissioner, covered by any other form of liability in-
21 surance policy or bond.

22 (4) To the owner or driver in the event that such lia-
23 bility as may arise from the drivers operation of the ve-
24 hicle involved in the accident is, in the judgment of the
25 commissioner, covered by some form of liability insurance
26 or bond which complies with the requirements set forth
27 under section five of this article.

28 (5) To any person qualifying as a self-insurer under
29 section two, article six of this chapter, or to any person
30 operating a vehicle for such self-insurer.

31 (6) To any person under the jurisdiction of the public
32 service commission who has qualified as a self insurer.

33 (b) When erroneous information is given the commis-

34 sioner with respect to the matters set forth in paragraphs
35 (1), (2), (3), or (4) of subdivision (a) of this section,
36 he shall take appropriate action as hereinbefore provided
37 in sections two and three of this article within fifty days
38 after receipt by him of correct information with respect
39 to said matters.

Sec. 5. *Requirements as to Policy or Bond.*—(a) No
2 policy or bond shall be effective under section four of this
3 article unless issued by an insurance company or surety
4 company authorized to do business in this state, except as
5 provided in subdivision (b) of this section, nor unless
6 such policy or bond is subject, if the accident has resulted
7 in bodily injury or death, to a limit, exclusive of interest
8 and costs, of not less than five thousand dollars because of
9 bodily injury to or death of one person in any one acci-
10 dent, and, subject to said limit for one person, to a limit
11 of not less than ten thousand dollars because of bodily
12 injury to or death of two or more persons in any one
13 accident, and, if the accident has resulted in injury to, or
14 destruction of property, to a limit of not less than one
15 thousand dollars because of injury to or destruction of
16 property of others in any one accident.

17 (b) No policy or bond shall be effective under section
18 four of this article with respect to any vehicle which was
19 not registered in this state or was a vehicle which was
20 registered elsewhere than in this state at the effective date
21 of the policy or bond or the most recent renewal thereof,
22 unless the insurance company or surety company issuing
23 such policy or bond is authorized to do business in this
24 state, or if said company is not authorized to do business
25 in this state, unless it shall execute a power of attorney
26 authorizing the commissioner to accept service on its
27 behalf of notice or process in any action upon such policy
28 or bond arising out of such accident.

29 (c) Upon receipt of notice of such accident from the
30 commissioner, the insurance company or surety company
31 named in such notice shall notify the commissioner in
32 such manner as he may require in case such a policy or
33 bond was not in effect at the time of such accident.

Sec. 6. *Further Exceptions to Requirement of Security.*—The requirements as to security and suspension in
2 this article shall not apply:
3

4 (1) To the driver or the owner of a vehicle involved
5 in an accident wherein no injury or damage was caused

6 to the person or property of anyone other than such driver
7 or owner;

8 (2) To the driver or owner of a vehicle which at the
9 time of the accident was parked, unless such vehicle was
10 parked at a place where parking was at the time of the
11 accident prohibited under any applicable law or ordi-
12 nance;

13 (3) To the owner of a vehicle if at the time of the
14 accident the vehicle was being operated without his per-
15 mission, expressed or implied, or was parked by a person
16 who had been operating such vehicle without such per-
17 mission.

Sec. 7. Effect of Release or Judgment of Non-liability.—

2 (a) In the event any person who may be or has been
3 required to deposit security under this article is released
4 from liability or has been finally adjudicated not to be
5 liable in respect to such accident evidence of either such
6 fact may be filed with the commissioner. A covenant
7 not to sue or its equivalent shall relieve the parties there-
8 to as to each other from the security requirements of
9 this chapter. The commissioner may accept for the pur-

10 poses of this article only, evidence of a release from
11 liability executed by a natural guardian or a legal
12 guardian on behalf of a minor without the approval of
13 any court or judge.

14 (b) The commissioner, if satisfied as to the validity of
15 such evidence, shall not require the deposit of security
16 by the person so released or adjudged not liable and
17 shall terminate any prior order of suspension in respect
18 to such person, or if security has previously been de-
19 posited by such person, the commissioner shall immedi-
20 ately return such deposit to such person or to his per-
21 sonal representative.

Sec. 8. *Agreements for Payment of Damages.*—(a) The
2 persons involved in or affected by an accident as de-
3 scribed in section one of this article may at any time
4 enter into a written agreement for the payment of an
5 agreed amount with respect to all claims for bodily in-
6 jury to or death of any person or property damage aris-
7 ing from such accident which may provide for payment
8 in installments and may file a signed copy of such agree-
9 ment with the commissioner.

10 (b) The commissioner, upon the filing with him of
11 any such written agreement, shall not require the de-
12 posit of security by any party to said agreement and
13 shall terminate any prior order of suspension in reference
14 to such persons or if security has previously been de-
15 posited by any said person the commissioner shall im-
16 mediately return such deposit to such person or his per-
17 sonal representative.

18 (c) In the event the commissioner receives evidence
19 satisfactory to him that any person obligated to make
20 payment under any such agreement has defaulted in
21 any such payment, the commissioner shall thereupon
22 issue an order of suspension in respect to such person
23 as provided in this article. Such order of suspension
24 shall remain in effect (1) until security is deposited by
25 the person to whom such suspension applies in such
26 amount as the commissioner may then determine, or
27 (2) until the commissioner receives evidence satisfac-
28 tory to him that the entire obligation has been paid
29 or released, or (3), until a period of one year has elapsed
30 following the breach of such agreement and evidence

31 satisfactory to the commissioner is filed with him that
32 no action has been instituted on such agreement during
33 such period.

Sec. 9. *Application to Nonresidents, Unlicensed Drivers
2 and Unregistered Vehicles.*—In case the driver or the
3 owner of a vehicle involved in an accident within this
4 state has no license or registration in this state, then
5 such driver shall not be allowed a license, nor shall such
6 owner be allowed to register any vehicle in this state,
7 until he has complied with the requirements of this ar-
8 ticle to the same extent that would be necessary if at the
9 time of the accident he had held a license or been the
10 owner of a vehicle registered in this state.

Sec. 10. *Authority of Commissioner to Decrease
2 Amount of Security.*—The commissioner may reduce the
3 amount of security ordered in any case within six months
4 after the date of the accident if, in his judgment, the
5 amount ordered is excessive. In case the security
6 originally ordered has been deposited, the excess de-
7 posit over the reduced amount ordered shall be returned
8 to the depositor or his personal representative forth-

9 with, notwithstanding the provisions of section eleven
10 of this article.

Sec. 11. *Duration of Suspension.*—Unless a suspension
2 is terminated under other provisions of this article, any
3 order of suspension by the commissioner under this ar-
4 ticle shall remain in effect and no license shall be re-
5 newed for or issued to any person whose license is so
6 suspended and no registration shall be renewed for or
7 issued to any person whose vehicle registration is so
8 suspended until:

9 (1) Such person shall deposit or there shall be de-
10 posited on his behalf the security required under this
11 article, or

12 (2) One year shall have elapsed following the date
13 of such suspension and evidence satisfactory to the com-
14 missioner has been filed with him that during such
15 period no action for damages arising out of the accident
16 resulting in such suspension has been instituted.

Sec. 12. *Custody and Disposition of Security.*—(a) The
2 commissioner shall place any security deposited with
3 him under this article in the custody of the state treas-
4 urer.

5 (b) Such security shall be applicable only to the pay-
6 ment of a judgment or judgments rendered against the
7 driver or owner on whose behalf the deposit was made,
8 for damages arising out of the accident in question in an
9 action at law, begun not later than one year after the
10 date of deposit of such security or upon assignment by
11 the person making such deposit to the settlement of a
12 claim or claims arising out of such accident.

13 (c) Every distribution of funds from the security de-
14 posit shall be subject to the limits of the evaluation de-
15 termined by the commissioner on behalf of a claimant and
16 not in excess of the amounts required in section five of
17 this article in respect to a policy or bond covering liability
18 for bodily injury, death or for property damage.

Sec. 13. *Return of Deposit.*—Unless the commissioner
2 has previously made a return of any security deposited
3 with him under other provisions of this article, any such
4 deposit or any balance thereof remaining after distri-
5 bution pursuant to this article shall be returned to the
6 depositor or his personal representative after the ex-
7 piration of one year from the date of deposit of such

8 security if evidence satisfactory to the commissioner
9 has been filed with him (1) that no action for damages
10 arising out of the accident for which deposit was made
11 is pending against any person on whose behalf the de-
12 posit was made, and (2) that there does not exist any
13 unpaid judgment rendered against any such person in
14 such an action.

Sec. 14. *Matters Not to be Evidence in Civil Suits.*—The
2 report required following an accident, the action taken
3 by the commissioner pursuant to this article, the find-
4 ings, if any, of the commissioner upon which such action
5 is based, and the security filed as provided in this article,
6 shall not be referred to in any way, and shall not be any
7 evidence of the negligence or due care of either party,
8 at the trial of any action at law to recover damages.

Article 4. Proof of Financial Responsibility for the Future.

Section 1. *Proof Required upon Certain Convictions.*—

2 (a) Whenever the commissioner, under any law of this
3 state, suspends or revokes the license of any person
4 upon receiving record of a conviction of or forfeiture
5 of bail by such person, the commissioner shall also

6 suspend the registration of all vehicles registered in the
7 name of such person as the owner except that the com-
8 missioner shall not suspend such registration unless
9 otherwise required by law in the event such owner has
10 previously given or shall immediately give and there-
11 after maintain proof of financial responsibility with re-
12 spect to all such vehicles registered by such person as
13 the owner.

14 (b) The suspension or revocation hereinbefore required
15 shall remain in effect and the commissioner shall not
16 issue to such person any new or renewal of license or
17 register or reregister in the name of such person as owner
18 any such vehicle until permitted under the motor vehicle
19 laws of this state, and not then unless and until such
20 person shall give and thereafter maintain proof of finan-
21 cial responsibility.

22 (c) If a person has no license, but by final order or
23 judgment is convicted of or forfeits any bail or collateral
24 deposited to secure an appearance for trial for any of-
25 fense requiring the suspension or revocation of license,
26 or for driving a motor vehicle upon the highways

27 without being licensed to do so, or for driving an un-
28 registered vehicle upon the highways, no license shall
29 be thereafter issued to such person and no such vehicle
30 shall continue to be registered or thereafter be registered
31 in the name of such person as owner unless he shall
32 give and thereafter maintain proof of financial responsi-
33 bility.

34 (d) Whenever the commissioner suspends or revokes
35 a nonresident's operating privilege by reason of a con-
36 viction or forfeiture of bail, such privilege shall remain
37 so suspended or revoked unless such person shall have
38 previously given or shall immediately give and there-
39 after maintain proof of financial responsibility.

Sec. 2. Meaning of Proof of Financial Responsibility.—

2 The term "proof of financial responsibility" as used in
3 this chapter shall mean: Proof of ability to respond in
4 damages for liability, on account of accident occurring
5 subsequent to the effective date of said proof, arising out
6 of the ownership, operation, maintenance, or use of a
7 motor vehicle, trailer or semitrailer in the amount of
8 five thousand dollars because of bodily injury to or

9 death of one person in any one accident, and, subject
10 to said limit for one person, in the amount of ten thou-
11 sand dollars because of bodily injury to or death of two
12 or more persons in any one accident, and in the amount
13 of one thousand dollars because of injury to or destruction
14 of property of others in any one accident.

Sec. 3. *Meaning of Judgment and Other Terms Used*
2 *in This Chapter.*—The following words and phrases when
3 used in this chapter shall, for the purpose of this chap-
4 ter, have the meanings respectively ascribed to them
5 in this section. (a) The term “judgment” shall mean:
6 Any judgment which shall have become final by ex-
7 piration without appeal of the time within which an
8 appeal might have been perfected, or by final affirma-
9 tion on appeal, rendered by a court of competent juris-
10 diction of any state or of the United States, upon a
11 cause of action arising out of the ownership, operation,
12 maintenance, or use of any motor vehicle, trailer or
13 semitrailer for damages, including damages for care
14 and loss of services, because of bodily injury to or death
15 of any person, or for damages because of injury to or

16 destruction of property, including the loss of use thereof,
17 or upon a cause of action on an agreement of settlement
18 for such damages.

19 (b) The term "license" shall mean: Any license,
20 temporary instruction permit, or temporary license is-
21 sued under the laws of this state pertaining to the
22 licensing of persons to operate motor vehicles.

23 (c) The term "nonresident operating privilege" shall
24 mean: The privilege conferred upon a nonresident by
25 the laws of this state pertaining to the operation by
26 him of a motor vehicle, or the use of a vehicle owned
27 by him, in this state.

28 (d) The term "registration" shall mean: The regis-
29 tration certificate or certificates and registration plates
30 issued under the laws of this state pertaining to the
31 registration of vehicles.

32 (e) The term "state" shall mean: Any state, territory,
33 or possession of the United States, the District of Colum-
34 bia, or any province of the Dominion of Canada.

Sec. 4. *When Courts to Report Nonpayment of Judg-*
2 *ments.*—Whenever any person fails within thirty days

3 to satisfy any judgment, then upon the written request
4 of the judgment creditor or his attorney it shall be the
5 duty of the clerk of the court, or of the judge of a court
6 which has no clerk, in which any such judgment is
7 rendered within this state to forward to the commis-
8 sioner immediately upon such request a certified copy
9 of such judgment.

10 If the defendant named in any certified copy of a
11 judgment reported to the commissioner is a nonresi-
12 dent, the commissioner shall transmit a certified copy
13 of the judgment to the official in charge of the issuance
14 of licenses and registrations of the state of which the
15 defendant is a resident.

Sec. 5. *Suspension for Nonpayment of Judgments;*

2 *Exceptions.*—(a) The commissioner upon receipt of a
3 certified copy of a judgment, shall forthwith suspend
4 the license and registration and any nonresident's op-
5 erating privilege of any person against whom such judg-
6 ment was rendered, except as hereinafter otherwise
7 provided in this section and in section eight of this ar-
8 ticle.

9 (b) If the judgment creditor consents in writing, in
10 such form as the commissioner may prescribe, that the
11 judgment debtor be allowed license and registration or
12 nonresident's operating privilege, the same may be al-
13 lowed by the commissioner, in his discretion, for six
14 months from the date of such consent and thereafter
15 until such consent is revoked in writing, notwithstand-
16 ing default in the payment of such judgment, or of
17 any installments thereof prescribed in section eight of
18 this article, provided the judgment debtor furnishes
19 proof of financial responsibility.

20 (c) The commissioner shall not, however, suspend a
21 license, registration, or nonresident's operating privilege
22 of any person if the insurance applicable to such person
23 or the vehicle being operated by him was with a com-
24 pany which was authorized to transact business in this
25 state and which, subsequent to an accident involving
26 the owner or driver and prior to settlement of the claim
27 therefor went into liquidation so that no benefit ac-
28 crued to the owner or driver by reason of having pro-
29 vided such insurance.

Sec. 6. *Suspension to Continue until Judgments Paid*

2 *and Proof Given.*—(a) Such license, registration and
3 nonresident's operating privileges shall remain so sus-
4 pended and shall not be renewed, nor shall any such
5 license or registration be thereafter issued in the name
6 of such person, including any person not previously
7 licensed, unless and until every such judgment is stayed,
8 satisfied in full or to the extent hereinafter provided
9 and until the said person gives proof of financial re-
10 sponsibility subject to the exemptions stated in sections
11 five and eight of this article.

12 (b) A discharge in bankruptcy following the render-
13 ing of any such judgment shall not relieve the judgment
14 debtor from any of the requirements of this article.

Sec. 7. *Payments Sufficient to Satisfy Requirements.*—

2 (a) Judgments herein referred to shall, for the pur-
3 pose of this chapter only, be deemed satisfied:

4 (1) When five thousand dollars has been credited
5 upon any judgment or judgments rendered in excess
6 of that amount because of bodily injury to or death of
7 one person as the result of any one accident; or

8 (2) When, subject to such limit of five thousand dol-

9 lars because of bodily injury to or death of one person,
10 the sum of ten thousand dollars has been credited upon
11 any judgment or judgments rendered in excess of that
12 amount because of bodily injury to or death of two or
13 more persons as the result of any one accident; or

14 (3) When one thousand dollars has been credited
15 upon any judgment or judgments rendered in excess
16 of that amount because of injury to or destruction of
17 property of others as a result of any one accident.

18 (b) *Provided, however,* Payments made in settlement
19 of any claims because of bodily injury, death, or prop-
20 erty damage arising from such accident shall be credited
21 in reduction of the amounts provided for in this section.

Sec. 8. *Installment Payment of Judgments; Default.*—

2 (a) A judgment debtor upon five days notice to the
3 judgment creditor may, for the sole purpose of giving
4 authority to the commissioner to authorize such judg-
5 ment debtor to operate a motor vehicle thereafter, ap-
6 ply to the court in which such judgment was rendered
7 for the privilege of paying such judgment in install-
8 ments and the court, in its discretion and without

9 prejudice to any other legal remedies which the judg-
10 ment creditor may have, may so order and fix the
11 amounts and times of payment of the installments.

12 (b) The commissioner shall not suspend a license,
13 registration, or nonresident's operating privilege, and
14 shall restore any license, registration, or nonresident's
15 operating privilege suspended following nonpayment of
16 a judgment, when the judgment debtor gives proof of
17 financial responsibility and obtains such an order per-
18 mitting the payment of such judgment in installments,
19 and while the payment of any said installment is not
20 in default.

21 (c) In the event the judgment debtor fails to pay
22 any installment as specified by such order, then upon
23 notice of such default, the commissioner shall forth-
24 with suspend the license, registration, or nonresident's
25 operating privilege of the judgment debtor until such
26 judgment is satisfied, as provided in this chapter.

Sec. 9. Proof to Be Furnished for Each Registered

2 *Vehicle; Alternate Methods of Giving Proof.—(a) No*
3 *vehicle shall be or continue to be registered in the name*

4 of any person required to file proof of financial responsi-
5 bility unless such proof shall be furnished for such ve-
6 hicle.

7 (b) Proof of financial responsibility when required
8 under this chapter, with respect to such a vehicle or
9 with respect to a person who is not the owner of such a
10 vehicle, may be given by filing:

11 (1) A certificate of insurance as provided in section
12 ten or section eleven of this article; or

13 (2) A bond as provided in section fifteen of this ar-
14 ticle; or

15 (3) A certificate of deposit of money or securities as
16 provided in section sixteen of this article; or

17 (4) A certificate of self-insurance, as provided in sec-
18 tion two, article six of this chapter, supplemented by
19 an agreement by the self-insurer that, with respect to
20 accidents occurring while the certificate is in force, he
21 will pay the same amounts that an insurer would have
22 been obliged to pay under an owner's motor-vehicle
23 liability policy if it had issued such a policy to said self-
24 insurer.

Sec. 10. *Certificate of Insurance as Proof.*—Proof of
2 financial responsibility may be furnished by filing with
3 the commissioner the written certificate of any insur-
4 ance carrier duly authorized to do business in this state
5 certifying that there is in effect a motor vehicle liability
6 policy for the benefit of the person required to furnish
7 proof of financial responsibility. Such certificate shall
8 give the effective date of such motor vehicle liability
9 policy, which date shall be the same as the effective
10 date of the certificate, and shall designate by explicit
11 description or by appropriate reference all vehicles cov-
12 ered thereby, unless the policy is issued to a person who
13 is not the owner of a motor vehicle.

Sec. 11. *Certificate Furnished by Nonresident as*
2 *Proof.*—(a) A nonresident may give proof of financial
3 responsibility by filing with the commissioner a writ-
4 ten certificate or certificates of an insurance carrier au-
5 thorized to transact business in the state in which the
6 vehicle, or vehicles, owned by such nonresident is regis-
7 tered, or in the state in which such nonresident resides,
8 if he does not own a vehicle, provided such certificate

9 otherwise conforms with the provisions of this chapter
10 and the commissioner shall accept the same upon con-
11 dition that said insurance carrier complies with the fol-
12 lowing provisions with respect to the policies so certi-
13 fied:

14 (1) Said insurance carrier shall execute a power of
15 attorney authorizing the commissioner to accept serv-
16 ice on its behalf of notice or process in any action aris-
17 ing out of a motor vehicle accident in this state;

18 (2) Said insurance carrier shall agree in writing that
19 such policies shall be deemed to conform with the laws
20 of this state relating to the terms of motor vehicle liabil-
21 ity policies issued herein.

22 (b) If any insurance carrier not authorized to transact
23 business in this state, which has qualified to furnish
24 proof of financial responsibility, defaults in any said
25 undertakings or agreements, the commissioner shall not
26 thereafter accept as proof any certificate of said carrier
27 whether theretofore filed or thereafter tendered as proof,
28 so long as such default continues.

Sec. 12. *"Motor Vehicle Liability Policy" Defined.*—

2 (a) A "motor vehicle liability policy" as said term is
3 used in this chapter shall mean an "owner's policy" or an
4 "operator's policy" of liability insurance certified as pro-
5 vided in section ten or section eleven of this article as
6 proof of financial responsibility, and issued, except as
7 otherwise provided in section eleven, by an insurance
8 carrier duly authorized to transact business in this state,
9 to or for the benefit of the person named therein as
10 insured.

11 (b) Such owner's policy of liability insurance:

12 (1) Shall designate by explicit description or by ap-
13 propriate reference all vehicles with respect to which
14 coverage is thereby to be granted; and

15 (2) Shall insure the person named therein and any
16 other person, as insured, using any such vehicle or ve-
17 hicles with the express or implied permission of such
18 named insured, against loss from the liability imposed
19 by law for damages arising out of the ownership, op-
20 eration, maintenance, or use of such vehicle or vehicles
21 within the United States of America or the Dominion
22 of Canada, subject to limits exclusive of interest and

23 costs, with respect to each such vehicle, as follows:
24 Five thousand dollars because of bodily injury to or
25 death of one person in any one accident and, subject to
26 said limit for one person, ten thousand dollars because of
27 bodily injury to or death of two or more persons in any
28 one accident, and one thousand dollars because of in-
29 jury to or destruction of property of others in any one
30 accident.

31 (c) Such operator's policy of liability insurance shall
32 insure the person named as insured therein against loss
33 from the liability imposed upon him by law for dam-
34 ages arising out of the use by him of any motor vehicle
35 not owned by him, within the same territorial limits and
36 subject to the same limits of liability as are set forth
37 above with respect to an owner's policy of liability in-
38 surance.

39 (d) Such motor vehicle liability policy shall state the
40 name and address of the named insured, the coverage
41 afforded by the policy, the premium charged therefor,
42 the policy period, and the limits of liability, and shall
43 contain an agreement or be endorsed that insurance is

44 provided thereunder in accordance with the coverage
45 defined in this chapter as respects bodily injury and
46 death or property damage, or both, and is subject to all
47 the provisions of this chapter.

48 (e) Such motor vehicle liability policy need not in-
49 sure any liability under any workmen's compensation
50 law nor any liability on account of bodily injury to or
51 death of an employee of the insured while engaged in
52 the employment, other than domestic, of the insured,
53 or while engaged in the operation, maintenance, or re-
54 pair of any such vehicle nor any liability for damage
55 to property owned by, rented to, in charge of, or trans-
56 ported by the insured.

57 (f) Every motor vehicle liability policy shall be sub-
58 ject to the following provisions which need not be con-
59 tained therein:

60 (1) The liability of the insurance carrier with respect
61 to the insurance required by this chapter shall become
62 absolute whenever injury or damage covered by said
63 motor vehicle liability policy occurs; said policy may
64 not be canceled or annulled as to such liability by an

65 agreement between the insurance carrier and the in-
66 sured after the occurrence of the injury or damage; no
67 statement made by the insured or on his behalf and no
68 violation of said policy shall defeat or void said pol-
69 icy.

70 (2) The satisfaction by the insured of a judgment
71 for such injury or damage shall not be a condition
72 precedent to the right or duty of the insurance carrier
73 to make payment on account of such injury or damage.

74 (3) The insurance carrier shall have the right to
75 settle any claim covered by the policy, and if such
76 settlement is made in good faith, the amount thereof
77 shall be deductible from the limits of liability specified
78 in subdivision two of subsection (b) of this section.

79 (4) The policy, the written application therefor, if
80 any, and any rider or endorsement which does not con-
81 flict with the provisions of this chapter shall constitute
82 the entire contract between parties.

83 (g) Any policy which grants the coverage required
84 for a motor vehicle liability policy may also grant any
85 lawful coverage in excess of or in addition to the cover-

86 age specified for a motor vehicle liability policy and such
87 excess or additional coverage shall not be subject to the
88 provisions of this chapter. With respect to a policy
89 which grants such excess or additional coverage the
90 term "motor vehicle liability policy" shall apply only
91 to that part of the coverage which is required by this
92 section.

93 (h) Any motor vehicle liability policy may provide
94 that the insured shall reimburse the insurance carrier
95 for any payment the insurance carrier would not have
96 been obligated to make under the terms of the policy
97 except for the provisions of this chapter.

98 (i) Any motor vehicle liability policy may provide
99 for the prorating of the insurance thereunder with other
100 valid and collectible insurance.

101 (j) The requirements for a motor vehicle liability
102 policy may be fulfilled by the policies of one or more
103 insurance carriers which policies together meet such
104 requirements.

105 (k) Any binder issued pending the issuance of a motor
106 vehicle liability policy shall be deemed to fulfill the re-
107 quirements for such a policy.

Sec. 13. *Notice of Cancellation or Termination of Certified Policy.*—When an insurance carrier has certified a motor vehicle liability policy under section ten or section eleven of this article, the insurance so certified shall not be canceled or terminated until at least ten days after a notice of cancellation or termination of the insurance so certified shall be filed in the office of the commissioner, except that such policy subsequently procured and certified shall, on the effective date of its certification, terminate the insurance previously certified with respect to any vehicle designated in both certificates.

Sec. 14. *Chapter Not to Affect Other Policies.*—(a) This chapter shall not be held to 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 they contain an agreement or are endorsed to conform with the requirements of this chapter, may be certified as proof of financial responsibility under this chapter.

(b) This chapter shall not be held to apply to or affect policies insuring solely the insured named in the policy

11 against liability resulting from the maintenance or use by
12 persons in the insured's employ or on his behalf of ve-
13 hicles not owned by the insured.

Sec. 15. *Bond as Proof.*—(a) Proof of financial re-
2 sponsibility may be evidenced by the bond of a surety
3 company duly authorized to transact business within this
4 state, or a bond with at least two individual sureties each
5 owning real estate within this state, and together having
6 equities equal in value to at least twice the amount of the
7 bond, which real estate shall be scheduled in the bond
8 approved by a judge of a court of record, which said bond
9 shall be conditioned for payment of the amounts specified
10 in section two of this article. Such bond shall be filed
11 with the commissioner and shall not be cancelable except
12 after ten days written notice to the commissioner. Such
13 bond shall constitute a lien in favor of the state upon the
14 real estate so scheduled of any surety, which lien shall
15 exist in favor of any holder of a final judgment against
16 the person who has filed such bond, for damages, includ-
17 ing damages for care and loss of services, because of
18 bodily injury to or death of any person, or for damage

19 because of injury to or destruction of property, including
20 the loss of use thereof, resulting from the ownership,
21 maintenance, use, or operation of a motor vehicle, trailer
22 or semitrailer after such bond was filed, upon the filing of
23 notice to that effect by the commissioner in the office of
24 the clerk of the county court of the county wherein such
25 real estate shall be located. Such notice shall contain the
26 name in full of any such surety to be affected by it, the
27 description of the real estate located in such county as
28 scheduled in the bond, and shall be signed by said com-
29 missioner and bear an imprint of the official seal of the
30 department. Such clerk shall indicate on such notice the
31 day and hour when it was received by him, and, upon the
32 payment of a fee of one dollar, he shall immediately re-
33 cord such notice in the place wherein trust deeds of real
34 estate are recorded and shall index such notice in the
35 name of such surety in the same place in which such trust
36 deeds are indexed, treating such surety as a grantor and
37 the state of West Virginia as a grantee, and such clerk
38 shall be subject to the penalties provided in article three
39 of chapter thirty-eight and in article four of chapter fifty-

40 one of the code of West Virginia, one thousand nine hun-
41 dred thirty-one, as amended, for the failure to so record
42 and to so index such notice, respectively. A fee of one
43 dollar shall be collected by the commissioner from the
44 person who has filed such proof and shall be paid to such
45 clerk by the commissioner. All liens so created shall re-
46 late to the time of filing such notice in such clerk's office
47 and shall have priority over all liens suffered or created
48 thereafter.

49 (b) If such a judgment, rendered against the princi-
50 pal on such bond shall not be satisfied within sixty days
51 after it has become final, the judgment creditor may, for
52 his own use and benefit and at his sole expense, bring an
53 action or actions in the name of the state against the
54 company or persons executing such bond and may en-
55 force by a suit in equity in his own name any lien existing
56 by virtue of the provisions of this chapter upon the real
57 estate of a person who has executed such bond.

Sec. 16. *Money or Securities as Proof.*—(a) Proof of
2 financial responsibility may be evidenced by the certifi-
3 cate of the state treasurer that the person named therein

4 has deposited with him eleven thousand dollars in cash,
5 or securities such as may legally be purchased by savings
6 banks or for trust funds of a market value of eleven thou-
7 sand dollars. The state treasurer shall not accept any
8 such deposit and issue a certificate therefor and the com-
9 missioner shall not accept such certificate unless accom-
10 panied by evidence that there are no unsatisfied judg-
11 ments of any character against the depositor in the county
12 where the depositor resides.

13 (b) Such deposit shall be held by the state treasurer
14 to satisfy, in accordance with the provisions of this chap-
15 ter, any execution on a judgment issued against such
16 person making the deposit, for damages, including dam-
17 ages for care and loss of services, because of bodily injury
18 to or death of any person, or for damages because of in-
19 jury to or destruction of property, including the loss of
20 use thereof, resulting from the ownership, maintenance,
21 use or operation of a motor vehicle, trailer or semitrailer
22 after such deposit was made. Money or securities so
23 deposited shall not be subject to attachment or execution

24 unless such attachment or execution shall arise out of a
25 suit for damages as aforesaid.

Sec. 17. *Owner May Give Proof for Others.*—When-
2 ever any person required to give proof of financial respon-
3 sibility hereunder is or later becomes an employee of any
4 owner, or is or later becomes a member of the immediate
5 family or household of the owner, the commissioner shall
6 accept proof given by such owner in lieu of proof by such
7 other person to permit such other person to operate a
8 motor vehicle for which the owner has given proof as
9 herein provided. The commissioner shall designate the
10 restrictions imposed by this section on the face of such
11 person's license.

Sec. 18. *Substitution of Proof.*—The commissioner
2 shall consent to the cancelation of any bond or certificate
3 of insurance or the commissioner shall direct and the state
4 treasurer shall return any money or securities to the per-
5 son entitled thereto upon the substitution and acceptance
6 of other adequate proof of financial responsibility pur-
7 suant to this chapter.

Sec. 19. *Other Proof May be Required.*—Whenever

2 any proof of financial responsibility filed under the provi-
3 sions of this chapter no longer fulfills the purposes for
4 which required, the commissioner shall for the purpose
5 of this chapter, require other proof as required by this
6 chapter and shall suspend the license and registration or
7 the nonresident's operating privilege pending the filing
8 of such other proof.

Sec. 20. *Duration of Proof; When Proof May be Can-*
2 *celed or Returned.*—(a) The commissioner shall upon
3 request consent to the immediate cancelation of any bond
4 or certificate of insurance, or the commissioner shall di-
5 rect and the state treasurer shall return to the person en-
6 titled thereto any money or securities deposited pursuant
7 to this chapter as proof of financial responsibility, or the
8 commissioner shall waive the requirement of filing proof,
9 in any of the following events:

10 (1) At any time after three years from the date such
11 proof was required when, during the three year period
12 preceding the request, the commissioner has not received
13 record of a conviction or a forfeiture of bail which would
14 require or permit the suspension or revocation of the

15 license, registration, or nonresident's operating privilege
16 of the person by or for whom such proof was furnished;
17 or

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

21 (3) In the event the person who has given proof sur-
22 renders his license and registration to the commissioner;

23 (b) *Provided, however,* That the commissioner shall
24 not consent to the cancelation of any bond or the return
25 of any money or securities in the event any action for
26 damages upon a liability covered by such proof is then
27 pending or any judgment upon any such liability is then
28 unsatisfied, or in the event the person who has filed such
29 bond or deposited such money or securities has within
30 one year immediately preceding such request been in-
31 volved as a driver or owner in any motor vehicle accident
32 resulting in injury or damage to the person or property
33 of others. An affidavit of the applicant as to the non-
34 existence of such facts, or that he has been released from
35 all of his liability, or has been finally adjudicated not to

36 be liable, or that he has received a covenant not to sue or
37 its equivalent, for such injury or damage, shall be suffi-
38 cient evidence thereof in the absence of evidence to the
39 contrary in the records of the commissioner.

40 (c) Whenever any person whose proof has been can-
41 celed or returned under subdivision three of this section
42 applies for a license or registration within a period of
43 three years from the date proof was originally required,
44 any such application shall be refused unless the applicant
45 shall re-establish such proof for the remainder of such
46 three year period.

Article 5. Violation of Provisions of Chapter; Penalties.

Section 1. *Transfer of Registration to Defeat Purpose*
2 *of Chapter Prohibited.*—If an owner's registration has
3 been suspended hereunder, such registration shall not be
4 transferred nor the vehicle in respect to which such regis-
5 tration was issued registered in any other name until the
6 commissioner is satisfied that such transfer of registration
7 is proposed in good faith and not for the purpose or with
8 the effect of defeating the purposes of this chapter. Noth-
9 ing in this section shall in any wise affect the rights of

10 any conditional vendor, chattel mortgagee or lessor of
11 such a vehicle registered in the name of another as owner
12 who becomes subject to the provisions of this chapter.

Sec. 2. *Surrender of License and Registration.*—Any
2 person whose license or registration shall have been sus-
3 pended as herein provided, or whose policy of insurance
4 or bond, when required under this chapter, shall have
5 been canceled or terminated, or who shall neglect to fur-
6 nish other proof upon request of the commissioner shall
7 immediately return his license and registration to the
8 commissioner. If any person shall fail to return to the
9 commissioner the license or registration as provided
10 herein, the commissioner shall forthwith direct any peace
11 officer to secure possession thereof and to return the same
12 to the commissioner.

Sec. 3. *Other Violations; Penalties.*—(a) Any person
2 who forges, or, without authority, signs any evidence or
3 proof of financial responsibility, or who files or offers for
4 filing any such evidence of proof knowing or having
5 reason to believe that it is forged or signed without au-
6 thority, shall be guilty of a misdemeanor and upon con-

7 viction thereof shall be fined not more than one thousand
8 dollars or imprisoned for not more than one year, or both.

9 (b) Any person whose license or registration or non-
10 resident's operating privilege has been suspended or re-
11 voked under this chapter and who, during such suspen-
12 sion or revocation, drives any motor vehicle upon any
13 highway or knowingly permits any motor vehicle, trailer
14 or semitrailer owned by such person to be operated by
15 another upon any highway, except as permitted under
16 this chapter, shall be guilty of a misdemeanor and upon
17 conviction thereof shall be fined not more than five hun-
18 dred dollars or imprisoned not exceeding six months, or
19 both.

20 (c) Any person wilfully failing to return license or
21 registration as required in section two of this article shall
22 be guilty of a misdemeanor and upon conviction shall be
23 fined not more than five hundred dollars or imprisoned
24 not to exceed thirty days, or both.

25 (e) Any person who shall violate any provision of
26 this chapter for which no penalty is otherwise provided
27 shall be guilty of a misdemeanor and upon conviction

28 thereof shall be fined not more than five hundred dollars
29 or imprisoned not more than ninety days, or both.

Article 6. General Provisions.

Section 1. *Exceptions.*—This chapter shall not apply
2 with respect to any vehicle owned by the United States,
3 this state or any political subdivision of this state or
4 any municipality therein.

Sec. 2. *Self-insurers.*—(a) Any person in whose name
2 more than twenty-five vehicles are registered may qualify
3 as a self-insurer by obtaining a certificate of self-in-
4 surance issued by the commissioner as provided in sub-
5 section (b) of this section.

6 (b) The commissioner may, in his discretion, upon
7 the application of such a person, issue a certificate of self-
8 insurance when he is satisfied that such person is pos-
9 sessed and will continue to be possessed of ability to pay
10 judgments obtained against such person.

11 (c) Upon not less than five days' notice and a hear-
12 ing pursuant to such notice, the commissioner may upon
13 reasonable grounds cancel a certificate of self-insurance.
14 Failure to pay any judgment within thirty days after

15 such judgment shall have become final shall constitute
16 a reasonable ground for the cancelation of a certificate
17 of self-insurance.

Sec. 3. *Repeal of Existing Laws.*—This chapter shall in
2 no respect be considered as a repeal of the motor vehicle
3 laws of this state but shall be construed as supplemental
4 thereto.

5 The existing motor vehicle safety responsibility law
6 is hereby repealed except with respect to any accident,
7 or judgment arising therefrom, or violation of the motor
8 vehicle laws of this state, occurring prior to the effective
9 date of this chapter.

Sec. 4. *No Retroactive Effect.*—This chapter shall not
2 have a retroactive effect and shall not apply to any ac-
3 cident, or judgment arising therefrom, or violation of
4 the motor vehicle laws of this state, occurring prior to
5 the effective date of this chapter.

Sec. 5. *Jurisdiction of Crimes by Justices.*—Justices of
2 the peace shall have concurrent jurisdiction with the
3 circuit, criminal and intermediate courts to enforce the
4 misdemeanor penalties prescribed by this chapter.

Sec. 6. *Chapter not to Prevent Other Process.*—Nothing in this chapter shall be construed as preventing the plaintiff in any action at law from relying for relief upon the other processes provided by law.

Sec. 7. *Constitutionality.*—If any part or parts of this chapter shall be held unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this chapter. The legislature hereby declares that it would have passed the remaining parts of this chapter if it had known that such part or parts thereof would be declared unconstitutional.

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

A. R. Winters

Chairman Senate Committee

James W. Loop

Chairman House Committee

Originated in the Senate.

Takes effect July 1, 1951 passage.

Howard Keyes

Clerk of the Senate

J. R. Aliff

Clerk of the House of Delegates

A. Dougherty

President of the Senate

W. E. Harner

Speaker House of Delegates

The within Approved this the 22nd

day of February, 1951.

Okey L. Pillsbury

Governor.



Filed in the Office of the Secretary of State of West Virginia **FEB 22 1951**

D. PITT O'BRIEN,
SECRETARY OF STATE