

APPROVED AND SIGNED BY THE GOVERNOR

Date 4-29-81

Time _____

No. 386

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1981



ENROLLED

Committee Substitute for

SENATE BILL NO. 386
386

(By Mr. Huffman)



PASSED April 10, 1981

In Effect ninty days from Passage

OFFICE
SECY. OF STATE

81 MAY 1 12:14

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COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 386

(Mr. HUFFMAN, *original sponsor*)

[Passed April 10, 1981; in effect ninety days from passage.]

AN ACT to amend and reenact sections three and seven, article three, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend chapter seventeen-d of said code by adding thereto a new article, designated article two-a; and to amend and reenact section one, article six-a, chapter thirty-three of said code, all relating to requirement of minimum level of security for registration and operation of a motor vehicle in this state; application for registration; application contents; presentation of proof of security; penalties for providing false information or proof of security; fee required of applicant; special revolving fund for operation of program; additional grounds for refusing registration or certificate of title; security requirements; types of security permitted; application as to certain vehicles; exceptions; certificate of insurance; obligations of insurer and insured in regard thereto; notice of cancellation or nonrenewal of insurance policy; minimum term of such policy; investigation of accident to include inquiry regarding security; notice to department of motor vehicles; suspension, revocation and impoundment of operator's license and/or vehicle registration; notice; hearing; judicial review; reinstatement of license; reissuance of registration; conditions; criminal penalties.

Be it enacted by the Legislature of West Virginia:

That sections three and seven, article three, chapter seventeen-a of the code of West Virginia, one thousand nine hundred

thirty-one, as amended, be amended and reenacted; that chapter seventeen-d of the code be amended by adding thereto a new article, designated article two-a; and that section one, article six-a, chapter thirty-three of the code be amended and reenacted, all to read as follows:

**CHAPTER 17A. MOTOR VEHICLE ADMINISTRATION,
REGISTRATION, CERTIFICATE OF TITLE, AND ANTI-
THEFT PROVISIONS.**

**ARTICLE 3. ORIGINAL AND RENEWAL OF REGISTRATION;
ISSUANCE OF CERTIFICATE OF TITLE.**

**§17A-3-3. Application for registration; certificate of insurance
or other proof of security to accompany applica-
tion; fee; special revolving fund; criminal penal-
ties.**

1 (a) Every owner of a vehicle subject to registration
2 hereunder shall make application to the department for
3 the registration thereof upon the appropriate form or
4 forms furnished by the department and every such ap-
5 plication shall bear the signature of the owner or his
6 authorized agent, written with pen and ink, and said
7 application shall contain:

8 (1) The name, bona fide residence and mailing address
9 of the owner, the county in which he resides, or busi-
10 ness address of the owner if a firm, association, or corp-
11 oration.

12 (2) A description of the vehicle including, insofar as
13 the hereinafter specified data may exist with respect to
14 a given vehicle, the make, model, type of body, the
15 manufacturer's serial or identification number or other
16 number as determined by the commissioner.

17 (3) In the event a motor vehicle is designated, con-
18 structed, converted, or rebuilt for the transportation of
19 property, the application shall include a statement of its
20 declared gross weight if such motor vehicle is to be used
21 alone, or if such motor vehicle is to be used in combin-
22 ation with other vehicles the application for registration
23 of such motor vehicle shall include a statement of the
24 combined declared gross weight of such motor vehicle
25 and the vehicles to be drawn by such motor vehicle;
26 declared gross weight being the weight declared by the

27 owner to be the actual combined weight of the vehicle
28 or combination of vehicles and load when carrying the
29 maximum load which the owner intends to place thereon;
30 and the application for registration of each such vehicle
31 shall also include a statement of the distance between
32 the first and last axles of that vehicle or combination of
33 vehicles. The declared gross weight stated in the ap-
34 plication shall not exceed the permissible gross weight
35 for the axle spacing listed therein as determined by the
36 table of permissible gross weights contained in chapter
37 seventeen-c of this code; and any vehicle registered
38 for a declared gross weight as stated in the application
39 shall be subject to the single-axle load limit set forth in
40 chapter seventeen-c of this code.

41 (4) Each such applicant shall state whether such
42 vehicle is or is not to be used in the public transporta-
43 tion of passengers or property, or both, for compensa-
44 tion, and if so used, or to be used, the applicants shall so
45 certify, and shall, as a condition precedent to the regis-
46 tration of such vehicle, obtain a certificate of convenience,
47 or permit from the public service commission.

48 (5) A statement that liability insurance is in effect
49 within limits which shall be no less than the require-
50 ment of section two, article four, chapter seventeen-d
51 of this code, or that the applicant has qualified as a self-
52 insurer meeting the requirements of section two, article
53 six, chapter seventeen-d of the code and that as a self-
54 insurer he has complied with the minimum security re-
55 quirements as established in section two, article four, of
56 said chapter seventeen-d, or that such applicant has
57 submitted bond or other security approved by the com-
58 missioner of motor vehicles which shall provide the
59 equivalent of the policy of insurance herein specified,
60 or that the applicant has submitted the required cash
61 or other securities with the state treasurer as set forth
62 in the provisions of section sixteen, article four, of said
63 chapter seventeen-d of this code.

64 The department shall make random periodic checks
65 of the applications required by this section to enforce
66 the requirements hereof.

67 If any person making an application required under

68 the provision of this section, therein knowingly provides
69 false information, or if any person knowingly counsels,
70 advises, aids or abets another in providing false informa-
71 tion in such application, he is guilty of a misdemeanor,
72 and, upon conviction thereof, shall be fined not more than
73 one hundred dollars, or be imprisoned in the county jail
74 for a period not to exceed thirty days, and shall have his
75 operator's or chauffeur's license and vehicle registration
76 suspended for a period of six months in addition to either
77 of the aforesaid penalties.

78 (6) Such further information as may reasonably be
79 required by the department to enable it to determine
80 whether the vehicle is lawfully entitled to registration.

81 (7) Each such application for registration shall be
82 accompanied by the fees hereafter provided.

83 (b) Every applicant for registration of a motor vehicle
84 under the provisions of this article shall, at the time of
85 making application for registration required by this sec-
86 tion, submit the following:

87 (1) A certificate of insurance obtained by the applicant
88 pursuant to the provisions of section three, article two-a,
89 chapter seventeen-d of the code, or

90 (2) Proof of other security provided by the applicant
91 pursuant to the provisions of section three, article two-a,
92 chapter seventeen-d of the code, and

93 (3) A fee of two dollars for each motor vehicle for
94 which the applicant seeks registration, such fee to be
95 deposited in a special revolving fund for the operation
96 by the department of its functions established by the
97 provisions of article two-a, chapter seventeen-d of the
98 code.

99 Any applicant knowingly submitting false proof of
100 security in making application required by this section
101 is guilty of a misdemeanor, and, upon conviction thereof,
102 shall be fined not more than one hundred dollars, or be
103 imprisoned in the county jail not to exceed thirty days,
104 or both fined and imprisoned, and in addition to such
105 fine and/or imprisonment, such person shall have his oper-
106 ator's or chauffeur's license and vehicle registration sus-
107 pended for a period of six months.

§17A-3-7. Grounds for refusing registration or certificate of title.

1 The department shall refuse registration or issuance of
2 a certificate of title or any transfer of registration upon
3 any of the following grounds:

4 (1) That the application contains any false or fraudu-
5 lent statement or that the applicant has failed to furnish
6 required information or reasonable additional information
7 requested by the department or that the applicant is not
8 entitled to the issuance of a certificate of title or registra-
9 tion of the vehicle under this chapter;

10 (2) That the applicant fails to present a certificate of
11 insurance or proof of other security as required pursuant
12 to the provisions of section three of this article;

13 (3) That the vehicle is mechanically unfit or unsafe to
14 be operated or moved upon the highways;

15 (4) That the department has reasonable grounds to be-
16 lieve that the vehicle is a stolen or embezzled vehicle or
17 that the granting of registration or the issuance of cer-
18 tificate of title would constitute a fraud against the right-
19 ful owner or other person having a valid lien upon such
20 vehicle;

21 (5) That the registration of the vehicle stands sus-
22 pended or revoked for any reason as provided in the
23 motor vehicle laws of this state;

24 (6) That the required fees have not been paid.

CHAPTER 17D. MOTOR VEHICLE SAFETY RESPONSIBILITY LAW.

ARTICLE 2A. SECURITY UPON MOTOR VEHICLES.

§17D-2A-1. Purpose of article.

1 The purpose of this article is to promote the public
2 welfare by requiring every owner or registrant of a motor
3 vehicle licensed in this state to maintain certain security
4 during the registration period for such vehicle.

§17D-2A-2. Scope of article.

1 This article applies to the operation of all motor ve-
2 hicles required to be registered pursuant to article three
3 of chapter seventeen-a of this code, with the exception of

4 motor vehicles owned by the state, any of its political
5 subdivisions or by the federal government.

§17D-2A-3. Required security; exceptions.

1 Every owner or registrant of a motor vehicle required
2 to be registered and licensed in this state shall maintain
3 security as hereinafter provided in effect continuously
4 throughout the registration or licensing period.

5 Every nonresident owner or registrant of a motor ve-
6 hicle, which is operated upon any road or highway of this
7 state, and which has been physically present within this
8 state for more than thirty days during the preceding three
9 hundred sixty-five days, shall thereafter maintain secur-
10 ity as hereinafter provided in effect continuously through-
11 out the period such motor vehicle remains within this
12 state.

13 No person shall knowingly drive or operate upon any
14 road or highway in this state any motor vehicle upon
15 which security is required by the provisions of this article
16 unless such security is in effect.

17 Such security shall be provided by one of the following
18 methods:

19 (a) By an insurance policy delivered or issued for the
20 delivery in this state by an insurance company authorized
21 to issue vehicle liability and property insurance policies
22 in this state within limits which shall be no less than the
23 requirements of section two, article four, and section five,
24 article three of chapter seventeen-d of this code, or

25 (b) By any other method approved by the commis-
26 sioner of the department of motor vehicles of this state as
27 affording security equivalent to that offered by a policy
28 of insurance, including qualification as a self-insurer un-
29 der the provisions of section two, article six, chapter sev-
30 enteen-d, or

31 (c) By depositing with the state treasurer such cash or
32 other securities in the manner set forth in section sixteen,
33 article four, chapter seventeen-d of this code.

34 The requirements of this section apply to every regis-
35 tered and licensed vehicle upon the next application for
36 renewal of license following the effective date of this

37 section: *Provided*, That this article shall not apply to any
38 motor vehicle owned by the state or by a political subdi-
39 vision of this state, nor to any motor vehicle owned by the
40 federal government.

§17D-2A-4. Certificate of insurance.

1 (a) All insurance carriers transacting insurance in this
2 state, shall supply a certificate to the insured or to any
3 person subject to the registration provisions of article
4 three, chapter seventeen-a of this code, certifying that
5 there is in effect a motor vehicle liability policy upon such
6 motor vehicle in accordance with the provisions of article
7 three of chapter seventeen-a of this code. The certificate
8 shall give its effective date and the effective date of the
9 policy and, unless the policy is issued to a person who is
10 not the owner of a motor vehicle, must designate by ex-
11 plicit description, in such detail as the commissioner of
12 the department of motor vehicles shall by rule require
13 all motor vehicles covered and all replacement vehicles
14 of similar classification. The certificate must specify for
15 each vehicle listed therein, that there is a minimum lia-
16 bility insurance coverage not less than the requirements of
17 section two, article four, and section five, article three of
18 chapter seventeen-d of this code.

19 (b) The certificate of insurance provided pursuant to
20 the provisions of this section shall be submitted to the
21 commissioner of motor vehicles prior to the issuance of
22 any certificate of registration or renewal or registration of
23 any motor vehicle or registration plates pursuant to arti-
24 cle three of chapter seventeen-a of this code.

**§17D-2A-5. Cancellation of insurance policy; notice; suspen-
sion of registration; minimum term for liability
policy; notice and hearing.**

1 (a) Cancellation or termination of the insurance policy
2 by the insurance carrier is effective only upon the expira-
3 tion of thirty days' notice of cancellation, or forty-five
4 days' notice in the case of nonrenewal, to the commission-
5 er of motor vehicles and to the insured.

6 (b) The commissioner of motor vehicles shall, upon
7 receipt of notice of cancellation or nonrenewal of insur-

8 ance, as provided in this section, suspend the registration
9 of any motor vehicle for which the insurance policy has
10 been cancelled or renewal of which has been refused, un-
11 less the registrant furnishes the commissioner of motor
12 vehicles a new certificate of insurance within applicable
13 notice period as provided in subsection (a) of this section:
14 *Provided*, That the registrant shall be given notice and
15 afforded an opportunity for hearing and judicial review
16 thereof in accordance with the provisions of subsection
17 (c) of section seven of this article.

18 (c) No policy of motor vehicle liability insurance issued
19 or delivered for issuance in this state shall be contracted
20 for a period of less than ninety days: *Provided, however*,
21 That certain exceptions to such ninety-day requirement
22 may be established under regulations of the commissioner
23 of insurance.

**§17D-2A-6. Investigation of motor vehicle accident by duly
authorized law-enforcement officer to include
inquiry regarding required security; notice to
department of motor vehicles.**

1 At the time of investigation of a motor vehicle accident
2 in this state by the department of public safety or other
3 law-enforcement agency, the officer of such agency mak-
4 ing such investigation shall inquire of the operators of
5 any motor vehicles involved and of the department of
6 motor vehicles as to the existence upon such vehicle or
7 vehicles of the security required by the provisions of this
8 article and upon a finding by such law-enforcement agen-
9 cy, officer or agent thereof that the security required by
10 the provisions of this article is not in effect, as to any such
11 vehicle, he shall promptly notify the department of motor
12 vehicles of such finding.

**§17D-2A-7. Revocation of operator's or chauffeur's license and/
or motor vehicle registration; notice; hearing;
judicial review; reinstatement.**

1 (a) Any owner of a motor vehicle, subject to the pro-
2 visions of this article, who fails to have the required
3 security in effect at the time such vehicle is being oper-
4 ated upon the roads or highways of this state, shall have

5 his operator's or chauffeur's license suspended by the
6 commissioner of the department of motor vehicles for a
7 period of ninety days and shall have his motor vehicle
8 registration revoked until such time as he shall present
9 to the department of motor vehicles the proof of security
10 required by this article.

11 (b) Any person who knowingly operates a motor ve-
12 hicle upon the roads or highways of this state, which does
13 not have the security required by the provisions of this
14 article, shall have his operator's or chauffeur's license
15 suspended by the commissioner of the department of
16 motor vehicles for a period of ninety days.

17 (c) No person shall have his operator's or chauffeur's
18 license or motor vehicle registration suspended or re-
19 voked under any provisions of this section unless he shall
20 first be given written notice of such suspension or revo-
21 cation sent by certified mail, at least fifteen days prior to
22 the effective date of such suspension or revocation, and
23 upon such person's written request, sent by certified mail,
24 he shall be afforded an opportunity for a hearing there-
25 upon as well as a stay of the commissioner's order of
26 suspension or revocation and an opportunity for judicial
27 review of such hearing as set forth in the provisions of
28 section fifteen, article three, chapter seventeen-d of this
29 code. Upon affirmation of the commissioner's order, the
30 owner or operator, as the case may be, shall surrender
31 such revoked license and/or registration or have the same
32 impounded in the manner set forth in the provisions of
33 section seven, article nine, chapter seventeen-a of the
34 code.

35 (d) Such suspended operator's or chauffeur's license
36 shall be reinstated following the period of suspension
37 upon compliance with the conditions set forth in this
38 article and such revoked motor vehicle registration shall
39 be reissued only upon lawful compliance with the pro-
40 visions of this article.

§17D-2A-8. Rules and regulations.

1 The commissioners of the departments of motor vehicles
2 and insurance are hereby authorized to promulgate such
3 rules and regulations, in accordance with chapter twenty-

4 nine-a of this code, as each deems necessary for the ad-
5 ministration, operation and enforcement of the provisions
6 of this article.

§17D-2A-9. Criminal penalties.

1 In addition to any other penalty provided for violation
2 of any provision of this article, any person who violates
3 any provision of this article is guilty of a misdemeanor,
4 and, upon conviction, shall be fined not less than one
5 hundred dollars nor more than one thousand dollars, or
6 imprisoned in the county jail not less than ten days nor
7 more than one year, or both fined and imprisoned.

8 The arrest procedures authorized in section four, ar-
9 ticle nineteen, chapter seventeen-c of this code shall ap-
10 ply to the enforcement of the provisions of this article.

CHAPTER 33. INSURANCE.

**ARTICLE 6A. CANCELLATION OR NONRENEWAL OF AUTOMO-
BILE LIABILITY POLICIES.**

**§33-6A-1. Cancellation prohibited except for specified reasons;
notice.**

1 No insurer once having issued or delivered a policy
2 providing automobile liability insurance in this state in-
3 suring a private passenger automobile shall, after the
4 policy has been in effect for sixty days, or in case of re-
5 newal effective immediately, issue or cause to issue a
6 notice of cancellation during the term of the policy except
7 for one or more of the following specified reasons:

8 (a) The named insured fails to discharge when due any
9 of his obligations in connection with the payment of
10 premium for such policy or any installment thereof;

11 (b) The policy was obtained through material mis-
12 representation;

13 (c) The insured violates any of the material terms and
14 conditions of the policy;

15 (d) The named insured or any other operator, either
16 resident in the same household or who customarily oper-
17 ates an automobile insured under such policy:

18 (1) Has had his operator's license suspended or revoked
19 during the policy period including suspension or revoca-
20 tion for failure to comply with the provisions of article

21 five-a, chapter seventeen-c of this code regarding consent
22 for chemical test for intoxication; or

23 (2) Is or becomes subject to epilepsy or heart attacks,
24 and such individual cannot produce a certificate from a
25 physician testifying to his ability to operate a motor ve-
26 hicle.

27 (e) The named insured or any other operator, either
28 resident in the same household or who customarily oper-
29 ates an automobile insured under such policy is con-
30 victed of or forfeits bail during the policy period for any
31 of the following:

32 (1) Any felony or assault involving the use of a motor
33 vehicle;

34 (2) Negligent homicide arising out of the operation of
35 a motor vehicle;

36 (3) Operating a motor vehicle while under the influ-
37 ence of alcohol or of any controlled substance or while
38 having an alcohol concentration in his blood of ten one
39 hundredths of one percent (.10) or more by weight;

40 (4) Leaving the scene of a motor vehicle accident in
41 which the insured is involved without reporting as re-
42 quired by law;

43 (5) Theft of a motor vehicle or the unlawful taking of
44 a motor vehicle;

45 (6) Making false statements in an application for a
46 motor vehicle operator's license;

47 (7) A third violation, committed within a period of
48 twelve months, of any moving traffic violation which con-
49 stitutes a misdemeanor, whether or not the violations were
50 repetitious of the same offense or were different offenses.
51 Notwithstanding any of the provisions of this section to
52 the contrary, no insurance company may cancel a policy
53 of automobile liability insurance without first giving the
54 insured thirty days' notice of its intention to cancel.

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

R. P. Bayle
Chairman Senate Committee

Jony E. Whitlow
Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

Jodd C. Willes
Clerk of the Senate

V. Blankenship
Clerk of the House of Delegates

Wm. R. Brown
President of the Senate

Paul H. Seelye, Jr.
Speaker House of Delegates

The within is approved this the 29

day of April, 1981.

John D. Rye
Governor



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