

No. 1400

RECEIVED

MAR 13 11 34 AM '84

OFFICE OF THE GOVERNOR

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1984

— ● —

ENROLLED

Com. Sub. for
HOUSE BILL No. 1400

(By Mr. Speaker, Mr. Lee, by request
of the Executive)

— ● —

Passed March 8, 1984

In Effect From Passage



ENROLLED
COMMITTEE SUBSTITUTE
FOR

H. B. 1400

(By MR. SPEAKER, MR. SEE, by request of the Executive)

[Passed March 8, 1984; in effect from passage.]

AN ACT to amend and reenact section three, article three, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact sections four, five and six, article two-a, chapter seventeen-d of said code; and to amend and reenact section five, article three, chapter seventeen-d of said code, all relating to motor vehicle liability insurance or other security; making application for registration; requiring proof of insurance or security; requiring insurer to notify commissioner only if insurance is not in effect; enhancing provisions of company issued certificates of insurance; certificate of insurance must be presented at time of motor vehicle inspection; providing criminal penalties for false statements of insurance; providing procedures for suspension of motor vehicle registration; requiring department of motor vehicles to prepare annual motor vehicle insurance report to the Legislature; and directing law-enforcement officers to require proof of insurance when vehicles are involved in traffic offenses.

Be it enacted by the Legislature of West Virginia:

That section three, article three, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended,

be amended and reenacted; that sections four, five and six, article two-a, chapter seventeen-d of said code be amended and reenacted; and that section five, article three, chapter seventeen-d of said code be amended and reenacted, all to read as follows:

**CHAPTER 17A. MOTOR VEHICLE ADMINISTRATION,
REGISTRATION, CERTIFICATE OF TITLE, AND
ANTITHEFT PROVISIONS.**

**ARTICLE 3. ORIGINAL AND RENEWAL OF REGISTRATION; IS-
SUANCE OF CERTIFICATES OF TITLE.**

**§17A-3-3. Application for registration; statement of insurance or
other proof of security to accompany application;
criminal penalties; fees; special revolving fund.**

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

7 (1) The name, bona fide residence and mailing address of
8 the owner, the county in which he resides, or business address
9 of the owner if a firm, association or corporation.

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

15 (3) In the event a motor vehicle is designed, constructed,
16 converted or rebuilt for the transportation of property, the
17 application shall include a statement of its declared gross
18 weight if such motor vehicle is to be used alone, or if such
19 motor vehicle is to be used in combination with other vehicles,
20 the application for registration of such motor vehicle shall
21 include a statement of the combined declared gross weight of
22 such motor vehicle and the vehicles to be drawn by such motor
23 vehicle; declared gross weight being the weight declared by the
24 owner to be the actual combined weight of the vehicle or
25 combination of vehicles and load when carrying the maximum

26 load which the owner intends to place thereon; and the appli-
27 cation for registration of each such vehicle shall also include
28 a statement of the distance between the first and last axles of
29 that vehicle or combination of vehicles. The declared gross
30 weight stated in the application shall not exceed the permis-
31 sible gross weight for the axle spacing listed therein as deter-
32 mined by the table of permissible gross weights contained in
33 chapter seventeen-c of this code; and any vehicle registered for
34 a declared gross weight as stated in the application shall be
35 subject to the single-axle load limit set forth in chapter seven-
36 teen-c of this code.

37 (4) Each such applicant shall state whether such vehicle
38 is or is not to be used in the public transportation of passen-
39 gers or property, or both, for compensation, and if so used,
40 or to be used, the applicants shall so certify, and shall, as a
41 condition precedent to the registration of such vehicle, obtain a
42 certificate of convenience, or permit from the public service
43 commission.

44 (5) A statement under penalty of false swearing that lia-
45 bility insurance is in effect within limits which shall be no
46 less than the requirement of section two, article four, chapter
47 seventeen-d of this code, which statement shall contain the
48 name of the applicant's insurer, the name of the agent or
49 agency which issued the policy and the effective date of the
50 policy, and such other information as may be required by the
51 commissioner of motor vehicles, or that the applicant has
52 qualified as a selfinsurer meeting the requirements of section
53 two, article six, chapter seventeen-d of the code and that as a
54 selfinsurer he has complied with the minimum security re-
55 quirements as established in section two, article four of said
56 chapter seventeen-d, or that such applicant has submitted
57 bond or other security approved by the commissioner of motor
58 vehicles which shall provide the equivalent of the policy of
59 insurance herein specified, or that the applicant has submitted
60 the required cash or other securities with the state treasurer
61 as set forth in the provisions of section sixteen, article four
62 of said chapter seventeen-d of this code.

63 In the case of a periodic use or seasonal vehicle, as defined

64 in section three, article two-a, chapter seventeen-d, the owner
65 may provide, in lieu of other statements required by this sec-
66 tion, a statement, under penalty of false swearing, that
67 liability insurance is in effect during the portion of the year
68 the vehicle is in actual use, within limits which shall be no
69 less than the requirements of section two, article four, chapter
70 seventeen-d of this code, and other information relating to the
71 seasonal use, on a form designed and provided by the depart-
72 ment.

73 The department shall periodically select for verification, on a
74 random sample basis, not fewer than one percent of the state-
75 ments of liability insurance required by this section. When a
76 statement is selected for verification, the department shall for-
77 ward the information provided on the statement to the listed in-
78 surer. The insurer shall notify the department, by such form as
79 the commissioner may require, within thirty calendar days if
80 the liability insurance is not in effect, as required by this section.

81 The department may select for verification any statement of
82 liability insurance submitted by a person who has previously
83 been convicted of violating the provisions of section three,
84 article two-a, chapter seventeen-d of this code, or whose state-
85 ments of liability insurance have previously been found to be
86 correct. The department may also determine the correctness
87 of information relating to proof of other security satisfying
88 the requirements of this section.

89 If the department determines through the verification pro-
90 cess that there is no liability insurance in effect, then within
91 fifteen days of receipt of notice from the insurer, the commis-
92 sioner of motor vehicles shall inform the registrant that the
93 department of motor vehicles has received the notice from
94 the insurer. This information shall be sent by regular mail and
95 shall request verification of insurance or a statement from the
96 registrant, under penalty of false swearing, that cancellation
97 will not result in the operation of an uninsured vehicle upon
98 the highways of this state, and this verification shall be re-
99 turned to the commissioner within twenty days of the date of
100 mailing. Following the twenty-day period, if the registrant has
101 not responded, then the commissioner shall send a notice of

102 pending suspension to the registrant by certified mail. The
103 notice of pending suspension shall grant the registrant an
104 additional twenty days from the date of the mailing to provide
105 verification of insurance or other requested information to
106 the commissioner. Following this twenty-day period, an order
107 of suspension shall be directed to the superintendent by the
108 commissioner as provided in section seven, article nine, chapter
109 seventeen-a of this code: *Provided*, That whenever the com-
110 missioner determines that the vehicle was actually insured
111 despite the receipt of a notice from the insurer, and the
112 registrant, under penalty of false swearing produces a state-
113 ment that cancellation will not result in the operation of an
114 uninsured vehicle upon the highways of this state, or produces
115 verification of insurance, suspension shall be withdrawn and
116 any fees collected by the state shall be returned. The registrant
117 shall be given notice and afforded an opportunity for hearing
118 and judicial review thereof in accordance with the provisions of
119 subsection (c), section seven, article two, chapter seventeen-
120 d of this code.

121 If any person making an application required under the pro-
122 vision of this section, therein knowingly provides false infor-
123 mation, false proof of security or a false statement of insur-
124 ance, or if any person, including an applicant's insurance agent,
125 knowingly counsels, advises, aids or abets another in provid-
126 ing false information, false proof of security, or a false state-
127 ment of insurance in such application, he is guilty of a misde-
128 meanor, and, upon conviction thereof, shall be fined not more
129 than five hundred dollars, or be imprisoned in the county jail
130 for a period not to exceed fifteen days, or both fined and im-
131 prisoned, and in addition to such fine or imprisonment shall
132 have his operator's or chauffeur's license and vehicle registra-
133 tion suspended for a period of six months.

134 (6) Such further information as may reasonably be required
135 by the department to enable it to determine whether the ve-
136 hicle is lawfully entitled to registration.

137 (7) Each such application for registration shall be accom-
138 panied by the fees hereafter provided, and an additional fee
139 of one dollar for each motor vehicle for which the applicant

140 seeks registration, such fee to be deposited in a special re-
141 volving fund for the operation by the department of its func-
142 tions established by the provisions of article two-a, chapter
143 seventeen-d of this code: *Provided*, That July one, one thou-
144 sand nine hundred eighty-five the additional fee will reduce
145 to and remain at fifty cents.

**CHAPTER 17D. MOTOR VEHICLE SAFETY
RESPONSIBILITY LAW.**

ARTICLE 2A. SECURITY UPON MOTOR VEHICLES.

§17D-2A-4. Certificate of insurance.

1 (a) All insurance carriers transacting insurance in this state
2 shall supply a certificate of insurance to the insured or to any
3 person subject to the registration provisions of article three,
4 chapter seventeen-a of this code, certifying that there is in
5 effect a motor vehicle liability policy upon such motor vehicle
6 in accordance with the provisions of article three, chapter
7 seventeen-a of this code. The certificate shall give its effective
8 date and the effective date of the policy and, unless the policy
9 is issued to a person who is not the owner of a motor vehicle,
10 must designate by explicit description, in such detail as the
11 commissioner of the department of motor vehicles shall by
12 rule require, all motor vehicles covered and all replacement
13 vehicles of similar classification: *Provided*, That, on and after
14 the first day of July, one thousand nine hundred eighty-four,
15 insurance companies shall supply a certificate of insurance in
16 duplicate for each policy term and for each vehicle included
17 in a policy, except for those listed in a fleet policy. Each such
18 certificate of insurance shall list the name of the policyholder
19 and the name of the vehicle owner if different from the policy-
20 holder.

21 The certificate must specify for each vehicle listed therein,
22 that there is a minimum liability insurance coverage not less
23 than the requirements of section two, article four, and section
24 five, article three, chapter seventeen-d of this code.

25 (b) The certificate provided pursuant to the provisions of
26 this section or other proof of insurance shall be carried by the
27 insured in the appropriate vehicle for use as proof of security,

28 and must be presented at the time of vehicle inspection as re-
 29 quired by article sixteen, chapter seventeen-c of this code:
 30 *Provided*, That an insured shall not be guilty of a violation of
 31 this subsection (b) if he furnishes proof that such insurance
 32 was in effect within seven days of being cited for not carrying
 33 such certificate or other proof in such vehicle. As used in this
 34 section, proof of insurance means a certificate of insurance, an
 35 insurance policy, a mechanically reproduced copy of an in-
 36 surance policy or a certificate of self insurance.

**§17D-2A-5. Cancellation of insurance policy; suspension of regis-
 tration; minimum policy term.**

1 (a) An insurance company shall provide the department
 2 of motor vehicles with a cancellation notice within ten days
 3 of the effective date of cancellation whenever the company
 4 issues or causes to be issued a cancellation under the pro-
 5 visions of subsections (b) through (e), section one, article
 6 six-a, chapter thirty-three of this code. The department shall
 7 then suspend the operator's or chauffeur's license of the own-
 8 er of such vehicle for a period of ninety days and shall
 9 suspend the motor vehicle registration until proof of insur-
 10 ance is presented to the department.

11 (b) On or before the fifteenth day of January, one thou-
 12 sand nine hundred eighty-five, the commissioner of motor
 13 vehicles shall report to the Legislature upon proceedings
 14 pursuant to this section. The report shall include the total
 15 number of statements selected for verification as required
 16 by section three, article three, chapter seventeen-a, the total
 17 number of notices received from insurers, the total number
 18 of notices of pending suspensions issued, and the total num-
 19 ber of cases in which cancellation was found to have resulted
 20 in a lapse of coverage upon a vehicle operated upon the high-
 21 ways of this state during the prior year.

22 (c) No policy of motor vehicle liability insurance issued
 23 or delivered for issuance in this state shall be contracted for
 24 a period of less than ninety days: *Provided*, That the insur-
 25 ance commissioner may establish exceptions thereto by rules
 26 and regulations to chapter twenty-nine-a.

§17D-2A-6. Investigation 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 offense or
2 accident in this state by the department of public safety or
3 other law-enforcement agency or when a vehicle is stopped
4 by a law-enforcement officer for reasonable cause, the officer
5 of such agency making such investigation shall inquire of the
6 operators of any motor vehicle involved as to the existence
7 upon such vehicle or vehicles of the proof of insurance or
8 other security required by the provisions of this code and
9 upon a finding by such law-enforcement agency, officer or
10 agent thereof that the security required by the provisions
11 of this article is not in effect, as to any such vehicle, he
12 shall notify the department of motor vehicles of such finding
13 within five days if no citation requiring a court appearance
14 is issued: *Provided*, That such law-enforcement officer or
15 agent shall not stop vehicles solely to inquire as to the certi-
16 ficate of insurance. A defendant, who is charged with a traffic
17 offense that requires an appearance in court, shall present the
18 court at the time of his or her appearance or subsequent ap-
19 pearance with proof that the defendant had security at the time
20 of the traffic offenses as required by this article. If, as a result
21 of the defendant's failure to show proof, the court determines
22 that the defendant has violated this article, it shall notify the
23 department of motor vehicles within five days.

ARTICLE 3. SECURITY FOLLOWING ACCIDENT.

§17D-3-5. Requirements as to policy or bond; criminal penalties.

1 (a) No policy or bond shall be effective under section
2 four of this article unless issued by an insurance company
3 or surety company authorized to do business in this state,
4 except as provided in subsection (b) of this section, nor
5 unless such policy or bond is subject, if the accident has
6 resulted in bodily injury or death, to a limit, exclusive of
7 interest and costs, of not less than twenty thousand dollars
8 because of bodily injury to or death of one person in any
9 one accident, and, subject to said limit for one person, to
10 a limit of not less than forty thousand dollars because of

11 bodily injury to or death of two or more persons in any one
12 accident, and, if the accident has resulted in injury to, or
13 destruction of property, to a limit of not less than ten thou-
14 sand dollars because of injury to or destruction of property
15 of others in any one accident.

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

28 (c) (1) Upon receipt of notice of such accident from the
29 commissioner, the insurance company or surety company
30 named in such notice or the authorized licensed agent or
31 representative of the company shall notify the commissioner,
32 in such manner as he may require, within thirty calendar
33 days that the coverage was not in effect at the time of such
34 accident.

35 (2) Any insurance company, surety company or the agent
36 or representative of such company who fails to provide the
37 notification to the commissioner if coverage was not in effect
38 or provides false information, is guilty of a misdemeanor,
39 and, upon conviction thereof, shall be fined not more than
40 five hundred dollars, or be imprisoned in the county jail
41 for a period not to exceed fifteen days, or both fined and
42 imprisoned.

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

James L. Davis

Chairman Senate Committee

Donald Anello

Chairman House Committee

Originating in the House.

Takes effect from passage.

Judd C. Wells

Clerk of the Senate

Donald J. Slapp

Clerk of the House of Delegates
Warren K. McLean

President of the Senate

Walter M. See, Jr.

Speaker House of Delegates

The within *is approved* this the *30*
day of *March*, 1984.

John R. Rye

Governor

RECEIVED

84 APR 4 P 3 : 49

OFFICE
SECY. OF STATE