WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1984

ENROLLED

Comm. Sub. for
HOUSE BILL No. 1400...

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

Passed

March 8, 1984

In Effect

From Passage

OFFICE OF THE GOVERNOR
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; ISSUANCE 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.

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

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

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

(3) In the event a motor vehicle is designed, constructed,
converted or rebuilt for the transportation of property, the
application shall include a statement of its declared gross
weight if such motor vehicle is to be used alone, or if such
motor vehicle is to be used in combination with other vehicles,
the application for registration of such motor vehicle shall
include a statement of the combined declared gross weight of
such motor vehicle and the vehicles to be drawn by such motor
vehicle; declared gross weight being the weight declared by the
owner to be the actual combined weight of the vehicle or
combination of vehicles and load when carrying the maximum
load which the owner intends to place thereon; and the application for registration of each such vehicle shall also include a statement of the distance between the first and last axles of that vehicle or combination of vehicles. The declared gross weight stated in the application shall not exceed the permissible gross weight for the axle spacing listed therein as determined by the table of permissible gross weights contained in chapter seventeen-c of this code; and any vehicle registered for a declared gross weight as stated in the application shall be subject to the single-axle load limit set forth in chapter seventeen-c of this code.

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

(5) A statement under penalty of false swearing that liability insurance is in effect within limits which shall be no less than the requirement of section two, article four, chapter seventeen-d of this code, which statement shall contain the name of the applicant's insurer, the name of the agent or agency which issued the policy and the effective date of the policy, and such other information as may be required by the commissioner of motor vehicles, or that the applicant has qualified as a selfinsurer meeting the requirements of section two, article six, chapter seventeen-d of the code and that as a selfinsurer he has complied with the minimum security requirements as established in section two, article four of said chapter seventeen-d, or that such applicant has submitted bond or other security approved by the commissioner of motor vehicles which shall provide the equivalent of the policy of insurance herein specified, or that the applicant has submitted the required cash or other securities with the state treasurer as set forth in the provisions of section sixteen, article four of said chapter seventeen-d of this code.

In the case of a periodic use or seasonal vehicle, as defined
in section three, article two-a, chapter seventeen-d, the owner may provide, in lieu of other statements required by this section, a statement, under penalty of false swearing, that liability insurance is in effect during the portion of the year the vehicle is in actual use, within limits which shall be no less than the requirements of section two, article four, chapter seventeen-d of this code, and other information relating to the seasonal use, on a form designed and provided by the department.

The department shall periodically select for verification, on a random sample basis, not fewer than one percent of the statements of liability insurance required by this section. When a statement is selected for verification, the department shall forward the information provided on the statement to the listed insurer. The insurer shall notify the department, by such form as the commissioner may require, within thirty calendar days if the liability insurance is not in effect, as required by this section.

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

If the department determines through the verification process that there is no liability insurance in effect, then within fifteen days of receipt of notice from the insurer, the commissioner of motor vehicles shall inform the registrant that the department of motor vehicles has received the notice from the insurer. This information shall be sent by regular mail and shall request verification of insurance or a statement from the registrant, under penalty of false swearing, that cancellation will not result in the operation of an uninsured vehicle upon the highways of this state, and this verification shall be returned to the commissioner within twenty days of the date of mailing. Following the twenty-day period, if the registrant has not responded, then the commissioner shall send a notice of
pending suspension to the registrant by certified mail. The notice of pending suspension shall grant the registrant an additional twenty days from the date of the mailing to provide verification of insurance or other requested information to the commissioner. Following this twenty-day period, an order of suspension shall be directed to the superintendent by the commissioner as provided in section seven, article nine, chapter seventeen-a of this code: Provided, That whenever the commissioner determines that the vehicle was actually insured despite the receipt of a notice from the insurer, and the registrant, under penalty of false swearing produces a statement that cancellation will not result in the operation of an uninsured vehicle upon the highways of this state, or produces verification of insurance, suspension shall be withdrawn and any fees collected by the state shall be returned. The registrant shall be given notice and afforded an opportunity for hearing and judicial review thereof in accordance with the provisions of subsection (c), section seven, article two, chapter seventeen-d of this code.

If any person making an application required under the provision of this section, therein knowingly provides false information, false proof of security or a false statement of insurance, or if any person, including an applicant's insurance agent, knowingly counsels, advises, aids or abets another in providing false information, false proof of security, or a false statement of insurance in such application, he is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than five hundred dollars, or be imprisoned in the county jail for a period not to exceed fifteen days, or both fined and imprisoned, and in addition to such fine or imprisonment shall have his operator's or chauffeur's license and vehicle registration suspended for a period of six months.

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

(7) Each such application for registration shall be accompanied by the fees hereafter provided, and an additional fee 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.


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

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

(b) The certificate provided pursuant to the provisions of
this section or other proof of insurance shall be carried by the
insured in the appropriate vehicle for use as proof of security,
and must be presented at the time of vehicle inspection as required by article sixteen, chapter seventeen-c of this code: Provided, That an insured shall not be guilty of a violation of this subsection (b) if he furnishes proof that such insurance was in effect within seven days of being cited for not carrying such certificate or other proof in such vehicle. As used in this section, proof of insurance means a certificate of insurance, an insurance policy, a mechanically reproduced copy of an insurance policy or a certificate of self insurance.

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

(a) An insurance company shall provide the department of motor vehicles with a cancellation notice within ten days of the effective date of cancellation whenever the company issues or causes to be issued a cancellation under the provisions of subsections (b) through (e), section one, article six-a, chapter thirty-three of this code. The department shall then suspend the operator's or chauffeur's license of the owner of such vehicle for a period of ninety days and shall suspend the motor vehicle registration until proof of insurance is presented to the department.

(b) On or before the fifteenth day of January, one thousand nine hundred eighty-five, the commissioner of motor vehicles shall report to the Legislature upon proceedings pursuant to this section. The report shall include the total number of statements selected for verification as required by section three, article three, chapter seventeen-a, the total number of notices received from insurers, the total number of notices of pending suspensions issued, and the total number of cases in which cancellation was found to have resulted in a lapse of coverage upon a vehicle operated upon the highways of this state during the prior year.

(c) No policy of motor vehicle liability insurance issued or delivered for issuance in this state shall be contracted for a period of less than ninety days: Provided, That the insurance commissioner may establish exceptions thereto by rules 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.

At the time of investigation of a motor vehicle offense or accident in this state by the department of public safety or other law-enforcement agency or when a vehicle is stopped by a law-enforcement officer for reasonable cause, the officer of such agency making such investigation shall inquire of the operators of any motor vehicle involved as to the existence upon such vehicle or vehicles of the proof of insurance or other security required by the provisions of this code and upon a finding by such law-enforcement agency, officer or agent thereof that the security required by the provisions of this article is not in effect, as to any such vehicle, he shall notify the department of motor vehicles of such finding within five days if no citation requiring a court appearance is issued: Provided, That such law-enforcement officer or agent shall not stop vehicles solely to inquire as to the certificate of insurance. A defendant, who is charged with a traffic offense that requires an appearance in court, shall present the court at the time of his or her appearance or subsequent appearance with proof that the defendant had security at the time of the traffic offenses as required by this article. If, as a result of the defendant's failure to show proof, the court determines that the defendant has violated this article, it shall notify the department of motor vehicles within five days.

ARTICLE 3. SECURITY FOLLOWING ACCIDENT.

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

(a) No policy or bond shall be effective under section four of this article unless issued by an insurance company or surety company authorized to do business in this state, except as provided in subsection (b) of this section, nor unless such policy or bond is subject, if the accident has resulted in bodily injury or death, to a limit, exclusive of interest and costs, of not less than twenty thousand dollars because of bodily injury to or death of one person in any one accident, and, subject to said limit for one person, to a limit of not less than forty thousand dollars because of
bodily injury to or death of two or more persons in any one accident, and, if the accident has resulted in injury to, or destruction of property, to a limit of not less than ten thousand dollars because of injury to or destruction of property of others in any one accident.

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

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

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

Saul C. Hill
Clerk of the Senate

Donald L. Hargis
Clerk of the House of Delegates

Warren G. Hudgins
President of the Senate

W. M. See Jr.
Speaker House of Delegates

The within happened this the 30th day of March, 1984.

Jack Bogle
Governor