



OFFICE OF THE SECRETARY OF STATE

A. JAMES MANCHIN
CHARLESTON 25305

THE STATE CAPITOL

STATE REGISTER FILING

ROBERT W. JACKSON
DEPUTY SECRETARY OF STATE
CORPORATE AFFAIRS

I, L. W. Bechtold, Commissioner
Title or Position

Department of Motor Vehicles, hereby submit to records in
the State Register on 8 1/2 x 11" two (2) copies of

- () proposed rules and regulations concerning topics of material not covered by existing rules and regulations;
- () proposed rules and regulations superseding rules and regulations already on file;
- () notice of hearing;
- () findings and determinations;
- (X) Emergency rules and regulations extension
- () Legislative () Procedural () Interpretive regulations
- () other - specify _____

This filing pertains to

CHAPTER 17A ARTICLE 2 SECTION 9 of the
West Virginia Code, 1931, as amended.

SERIES 111, SECTION 3.00 PAGE NO. 3, 4 of the
Administrative Code.

April 1, 1985
Date Submitted

L. W. Bechtold

Signature of Person Authorizing
this Filing



DEPARTMENT OF MOTOR VEHICLES

STATE OFFICE BUILDING
CHARLESTON, W. VA.
25317

FILED

1985 APR -1 AM 11:34

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

L. W. BECHTOLD
~~THOMAS J. STEVENS~~
Commissioner

ARCH A. MOORE, JR.
~~JOHN D. ROCKEFELLER IV~~
Governor

April 1, 1985

The Honorable Ken Hechler
Secretary of State
State Capitol Complex
Charleston, West Virginia

Dear Secretary Hechler:

Please be advised that this letter constitutes notice that the Department is extending the effective period of emergency legislative rules pertaining to Titling a Motor Vehicle pursuant to §29A-3-15(b). The rule is designated Series III, Section 3 and was filed October 9, 1984.

The Department has complied with §29-3-15(b)(2) by filing the proposed rule on October 15, 1984, conducting a public hearing on November 16, 1984, and filing with the Legislative Rule Making Review Committee on November 20, 1984.

Please find attached two copies of these extended emergency rules.

Very truly yours,


L. W. Bechtold
Commissioner

LWB:SOD/br

attachments

Emergency

EMERGENCY
WEST VIRGINIA LEGISLATIVE RULES
DEPARTMENT OF MOTOR VEHICLES

Chapter 17A-2
Series XIII
1984 amended

FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE

THIS DATE June 14, 1984
Administrative Law Division

Subject: Regulations Relating to Compulsory Motor Vehicle Liability Insurance

Section 1. General

1.01. Scope - These legislative rules establish certain guidelines and forms for insurers and the insureds with respect to motor vehicles subject to registration under Chapter 17A, Article 3, Section 2 of the Code of West Virginia of 1931, as amended, and subject to the required security under Chapter 17D, Article 2A, Section 3 of the Code of West Virginia of 1931, as amended.

1.02. Authority - These legislative rules are issued under the authority of Chapter 17A, Article 2, Section 9, and Chapter 17D, Article 2A, Section 8, of the Code of West Virginia of 1931, as amended.

1.03. Filing Date - These emergency legislative rules were promulgated on June 14, 1984, and were filed on June 14, 1984 in the Office of the Secretary of State.

1.04. Effective Date - These legislative rules become effective on June 14, 1984

Section 2. Application and Enforcement

2.01. Application - These legislative rules apply to all owners and operators of motor vehicles subject to registration under Chapter 17A, Article 3, Section 2 of the Code of West Virginia of 1931, as amended and subject to the

required security under Chapter 17D, Article 2A, Section 3 of the Code of West Virginia of 1931, as amended. These legislative rules also apply to insurance companies and their agents authorized to issue motor vehicle liability insurance in this state.

2.02. Enforcement - Enforcement of these legislative rules is vested with the Commissioner of Motor Vehicles or a lawful designee of such officer.

Section 3. - Definitions - The following definitions shall apply in the interpretation and enforcement of these legislative rules.

3.01. Code - Means the Code of West Virginia of 1931, as amended.

3.02. Certificate of Insurance - Means the form issued in duplicate by an insurer to an insured which meets the requirements of §17D-2A-4 of the Code and which has been approved for use by the Commissioner.

3.03. Commissioner - Means the executive officer of the Department of Motor Vehicles appointed by the Governor pursuant to §17A-2-2 of the Code, or a designated representative of such officer.

3.04. Firmed up - Means when the thirty day notice required by §33-6A-1 and any additional grace period provided by the insurer has expired and the policy will not be continued or reinstated to maintain coverage continuously in force.

3.05. Fleet Owner - Means any person in whose name more than twenty-five vehicles are registered in this state.

3.06. Liability Insurance - Means an insurance policy or contract as provided in Chapters 17D and 33 of the Code containing recoverable damages which shall be no less than the requirements of §17D-4-2 of the Code.

3.07. Notice of Cancellation or Termination of Policy - Means the form issued by an insurer to the Commissioner pursuant to §17D-2A-5 of the Code and which has been approved for use by the Commissioner.

3.08. Owner - Means the person responsible for the registration of a motor vehicle.

3.09. Owner's Statement of Insurance - Means the form prescribed by the Commissioner pursuant to §17A-3-3 of the Code. The Commissioner may also require the disclosure of the motor vehicle license number and insurance policy number on the form.

3.10. Owner's Statement of Seasonal Insurance - Means the form prescribed by the Commissioner pursuant to §17D-3-3 of the Code on which the motor vehicle owner supplies liability insurance information as required on the Owner's Statement of Insurance (3.09.). In addition, the owner shall certify that the liability insurance is in effect during the portion of the year in which the vehicle is in actual use.

3.11. Self-Insurer - Means a motor vehicle owner meeting the requirements of §17D-6-2 of the Code.

Section 4. Forms and Procedures Pertaining to the Insured

4.01. Verification of Insurance - Verification of motor vehicle liability insurance may be required to be provided to the Commissioner by the owner. A copy of the certificate of insurance, the insurance policy, or a copy of the insurance policy will meet the verification requirements; provided, that the liability insurance was in effect as demonstrated on the Owner's Statement of Insurance or Owner's Statement of Seasonal Insurance.

4.02. Owner's Statement of Insurance - An Owner's Statement of Insurance is required for each registered motor vehicle. An Owner's Statement of Insurance form is not required to be submitted on vehicles defined in §17A-10-1 of the Code as Class C, L, R, S, and T vehicles. Any other application for motor vehicle registration must include the completion of an Owner's Statement of Insurance by

the owner of the motor vehicle. Application forms for renewal of motor vehicle registrations will include the Owner's Statement of Insurance on the reverse side.

Motor vehicle owners who provide security by means of qualifying as a self-insurer pursuant to §17D-6-2 of the Code, shall enter on each Owner's Statement of Insurance the words "Self-Insured" and the number of the Certificate of Self Insurance issued by the Commissioner in the space provided for identification of the insurance company.

Motor vehicle owners who provide security pursuant to §17D-4-16 of the Code, shall enter on each Owner's Statement of Insurance the words "Certificate of State Treasurer" and the number of the certificate issued by the State Treasurer in the space provided for the identification of the insurance company. The motor vehicle owner shall provide the Commissioner with a copy of such certificate.

4.03. Owner's Statement of Seasonal Insurance - Motor vehicle owners who wish to operate a motor vehicle only part of the year shall submit an Owner's Statement of Seasonal Insurance to the Commissioner. If and when the owner allows liability insurance coverage to lapse due to the seasonal or periodic nature of its use, the owner shall notify the insurance company in writing that the lapse of coverage will not result in an uninsured motor vehicle being operated upon the roads or highways of this state.

Section 5. Forms and Procedures Pertaining to the Insurer

5.01. Certificate of Insurance - The form designated in Appendix A as WV-1B when printed as specified and completed in full, shall meet the requirements of §17D-2A-4 of the Code for issuance by the insurer to the insured. The certificate shall be accepted by the Commissioner and all law enforcement agencies as proof of insurance.

A Certificate of Insurance shall be provided by the insurer to the insured in duplicate for each policy term or upon request by the insured for each motor vehicle covered by a liability insurance policy.

In cases of motor vehicle owners qualifying as fleet owners, the word "fleet" may be used on each certificate in lieu of a motor vehicle description.

The certificate shall list the effective dates of the policy term by including both the commencement date and the expiration date of the policy term. The date that the certificate was issued shall also be listed.

In cases where the vehicle owner is different from the policy holder, the certificate shall list both the policy holder and the vehicle owner.

Motor vehicles bearing dealer or financial institution registration are not required to carry a certificate of insurance.

5.02. Notice of Cancellation or Termination of Policy - The form designated in Appendix B as WV-2B when printed as specified and completed in full, shall meet the requirements of §17D-2A-5 of the Code for issuance by the insurer to notify the Commissioner of company cancellations issued under the provisions of §33-6A-1(b), (c), (d), or (e) when it has been firmed up by the insurer. Such notice to the Commissioner is not to be given when the action on the policy is the result of the failure of the insured to discharge when due any of his obligations in connection with the payment of premium or any installment thereof or any reason other than those described in §33-6A-1(b), (c), (d), or (e).

In cases where the vehicle owner is different from the policy holder the cancellation notice shall list both the policy holder and the vehicle owner.

Such notice shall also make specific reference to the reasons for the

company cancellation by designating the category of cancellation as b,c,d, or e.

Failure to designate the category of the cancellation (§33-6A-1 b,c,d, or e) on the cancellation notice will result in the notice being returned to the issuing company for the required information. Continued failure of the insurance company to either provide the department with notices pertaining only to §33-6A-1 b,c,d, or e; or listing the required information, will result in sanctions being imposed on the company by the Insurance Commissioner of West Virginia.

When the Department receives a cancellation notice pursuant to §17D-2A-5, it is required to suspend the motor vehicle operating privileges of the vehicle owner for a period of ninety days. The Department is also required to suspend the vehicle owner's registration until current proof of insurance is provided.

Upon receipt of the cancellation notice, the Commissioner shall within fifteen days, send by regular mail, notice to the vehicle owner that the Department has received a cancellation notice from the insurer. The notice shall request that the vehicle owner provide the Commissioner with a new certificate of insurance showing that:

(1) The cancellation notice was in error and that a new certificate of insurance was issued after the insurance company sent a cancellation notice to the Department, or

(2) coverage was subsequently obtained from a different company.

If the vehicle owner does not respond within twenty days, the Commissioner shall send a notice of pending suspension of operating privileges and motor vehicle registration by certified mail. The notice shall grant the vehicle owner an additional twenty days to provide the requested information.

If the vehicle owner does not respond within twenty days from the date of the notice sent by certified mail, a suspension of the motor vehicle operating

privileges and motor vehicle registration shall be entered and an order directed to the Superintendent of Public Safety pursuant to §17A-9-7 and §17B-3-9.

However, if the Commissioner subsequently makes a determination that the vehicle was insured, the suspension entered against the motor vehicle operating privileges and motor vehicle registration shall be withdrawn and any fees collected by the state shall be returned. Such determination shall be based on the motor vehicle owner providing the Commissioner with a certificate of insurance, showing effective dates which would indicate that had the certificate been received during the notice period, it would have been proof that the vehicle was insured.

5.03. Verification of Insurance - For the purposes of verification of information provided on the Owner's Statement of Insurance or Owner's Statement of Seasonal Insurance pursuant to §17A-3-3 of the Code, the Commissioner may forward the information provided on the statement to the listed insurer. The insurer shall notify the Commissioner within thirty calendar days if the liability insurance was not in effect as indicated on the Owner's Statement.

If a discrepancy exists, the insurer shall provide the Commissioner with such information as appears in its records concerning that particular verification request.

If, in certain instances the Department has reasonable cause to believe that a false owner's statement of insurance has been filed, it may require the insurer to respond to a verification request whether or not the information is correct.

Upon receipt of notice from the insurance company that there was not liability insurance in effect as indicated on the Owner's Statement of Insurance, the Department shall proceed pursuant to §17A-3-3(5).

The Commissioner shall, by regular mail notify the vehicle registrant that the Department was unable to verify the registrant's Owner's Statement of Insurance with the insurance company indicated on the statement. Such notification shall request

that the registrant provide the Commissioner with a certificate of insurance which substantiates the information the registrant provided on the Owner's Statement of Insurance.

If the registrant fails to respond within twenty days, the Commissioner shall send a notice of pending suspension of the registrant's privilege to operate a motor vehicle and vehicle registration. The notice of pending suspension shall grant the registrant an additional twenty days to provide a certificate of insurance which substantiates the information the registrant provided on the Owner's Statement of Insurance.

Failure to substantiate the registrant's Owner's Statement of Insurance within the provided time period shall result in the suspension of driving privileges for a period of ninety days, and suspension of the motor vehicle registration until current proof of insurance is presented to the Department. Suspensions will be effectuated pursuant to the provisions of §17A-9-7 and §17B-3-9.

However, if the Commissioner subsequently makes a determination that an Owner's Statement of Insurance was not filed in a false manner, the suspension of operating privileges and motor vehicle registration shall be withdrawn and any fees collected by the State shall be returned.

Such determination shall be based on the registrant providing the Commissioner with a certificate of insurance substantiating the registrant's Owner's Statement of Insurance.

WEST VIRGINIA CERTIFICATE OF INSURANCE

CERTIFICATE OF INSURANCE (NAME OF COMPANY OR GROUP)		Vehicle Owner Enter Plate No.
An authorized West Virginia insurer certifies that there is in effect a motor vehicle liability policy upon the described vehicle in accordance with the provisions of the West Virginia Motor Vehicle Code.		
Year	Make	Vehicle Identification Number
Policy Number	Name of Insured	
Date Certificate Issued	Address	
Effective Dates of Policy Term From _____ To _____	Name of Owner Address	
THIS CERTIFICATE MUST BE CARRIED IN THE VEHICLE DESCRIBED ABOVE FOR USE AS PROOF OF INSURANCE. A COPY OF THIS CERTIFICATE MAY BE REQUESTED BY THE COMMISSIONER OF MOTOR VEHICLES.		
Signature of Owner _____		Date _____
WV-1B 4/84		

Specifications Effective January 1, 1985

The above specimen form shows the items to be included and their location on the certificate. Print size may vary. If other wording or arrangement of wording is used, prior approval of the Commissioner of Motor Vehicles is required. A certificate printed in accordance with the specimen form, including the addition of the Company logo if desired, has the prior approval of the Commissioner.

1. One part form on white paper stock. Paper stock no less than 20 pounds.
2. Size may vary from 3½" X 4" to 3½" X 7".
3. On certificates issued on renewal policies, the word "renewal" may be shown along with the policy effective dates to facilitate acceptance of the certificate prior to the date shown.
4. Vehicle description - The year may be shown as two digits and the make may be abbreviated. Model may be shown in lieu of make. The full VIN shall be shown. The plate number shall be entered by the owner.
5. Certificates shall be provided in duplicate for each vehicle insured at each policy term or upon request by the insured.
6. When the insurer does not have a description of the vehicle insured under a fleet policy, the word "fleet" may be entered in lieu of vehicle description.
7. A facsimile signature of an authorized representative of the insurer may be preprinted on the certificate if the certificate is issued directly from the insurer; provided, however, that where a certificate is field issued, the original signature and the agent's license number of a resident agent appointed by the insurer shall appear on the certificate.
8. The name of the vehicle owner shall be included if different from the insured.
9. The certificate shall indicate the commencement date and the expiration date of the policy term.
10. The date that the certificate was issued shall be indicated on the certificate.

NOTICE OF CANCELLATION OR TERMINATION OF POLICY

NOTICE OF CANCELLATION OR TERMINATION OF POLICY		Cancelled Under Provisions of §33-6A-1 marked
Name of Company		(b) —
Policy Number		(c) —
Date of Notice	Cancellation Date	(d) —
		(e) —
Name and Address of Insured		TO BE FILED WITH:
Name and Address of Vehicle Owner if different		Commissioner of Motor Vehicles 1800 Washington Street East Charleston, West Virginia 25317
Year-Make or Model	Vehicle Identification Number	All operator's license listed on policy must be listed
		1.
		2.
		3.
		4.
WV-2B 4/84		

SPECIFICATIONS EFFECTIVE JANUARY 1, 1985

SPECIFICATIONS FOR WEST VIRGINIA NOTICE OF TERMINATION (WV-2B 4/84)

Only one vehicle may be reported on a form

Size: 7-3/8 inches wide X 3-1/2 inches high.

Paper: Not less than 20 pound white sulphite bond, or equivalent.

Type: One part form.

Descriptive information required on WV-2B

1. Insurance company name.
2. Policy number.
3. Date of notice.
4. Cancellation date.
5. Name of insured.
6. Name of vehicle owner if different from insured.
7. Year, make & complete VIN of vehicle.
8. All drivers-license numbers listed on policy must be submitted.
9. Type of cancellation must be indicated. (Only those outlined in §33-6A-1, subsections (b) through (e) will be accepted.)

Circumstances when insurance companies are to notify the Department of Motor Vehicles of a company cancellation pursuant to §17D-2A-5(a) and these legislative rules.

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

No insurer once having issued or delivered a policy providing automobile liability insurance in this State insuring a private passenger automobile shall, after the policy has been in effect for sixty days, or in case of renewal effective immediately, issue or cause to issue a notice of cancellation during the term of the policy except for one or more of the following specified reasons:

DMV is not to be notified of reason (a) cancellations.

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

(b) The policy was obtained through material misrepresentation;

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

(d) The named insured or any other operator, either resident in the same household or who customarily operates an automobile insured under such policy:

(1) Has had his operator's license suspended or revoked during the policy period including suspension or revocation for failure to comply with the provisions of article five-A [§ 17C-5A-1 et seq.], chapter seventeen-C of this Code, regarding consent for chemical test for intoxication; or

(2) Is or becomes subject to epilepsy or heart attacks, and such individual cannot produce a certificate from a physician testifying to his ability to operate a motor vehicle.

(e) The named insured or any other operator, either resident in the same household or who customarily operates an automobile insured under such policy is convicted of or forfeits bail during the policy period for any of the following:

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

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

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

(4) Leaving the scene of a motor vehicle accident in which the insured is involved without reporting as required by law;

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

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

(7) A third violation, committed within a period of twelve months, of any moving traffic violation which constitutes a misdemeanor, whether or not the violations were repetitious of the same offense or were different offenses. Notwithstanding any of the provisions of this section to the contrary, no insurance company may cancel a policy of automobile liability insurance without first giving the insured thirty days' notice of its intention to cancel. Provided, that cancellation of the insurance policy by the insurance carrier for failure of consideration to be paid by the insured upon initial issuance of the insurance policy is effective upon the expiration of ten days' notice of cancellation to the insured. (1967, c. 98; 1981, c. 157; 1982, c. 106.)