

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #4

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: Division of Motor Vehicles TITLE NUMBER: 91CSR13

CITE AUTHORITY West Virginia Code 17A-2-9, 17D-2A-8

AMENDMENT TO AN EXISTING RULE: YES NO

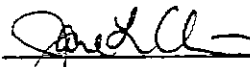
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 13

TITLE OF RULE BEING AMENDED: Compulsory Motor Vehicle Insurance

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE PROPOSED LEGISLATIVE RULE, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.



Jane L. Cline
Commissioner

(D3)

(PROPOSED)
LEGISLATIVE RULES
DIVISION OF MOTOR VEHICLE
91 CSR 13

FILED

OCT 28 3 37 PM '96

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Title: Compulsory Motor Vehicle Liability Insurance

§91-13-1 General

1.1. Scope- This rule establishes guidelines and forms for insurers and insureds with respect to motor vehicle liability insurance required under the provisions of West Virginia Code §§17A-3-3 and 17D-2A-1 et. seq.

1.2. Authority- West Virginia Code §§17A-2-9 and 17D-2A-8

1.3. Filing Date-

1.4. Effective Date- ..

1.5. Repeal of Former Rule- This legislative rule repeals and replaces Division of Motor Vehicles Rule WV 91CSR13 "Regulations pertaining to Compulsory Motor Vehicle Liability Insurance" WV 91CSR13 filed April 30, 1985 and effective April 30, 1985.

1.6. Application and Enforcement- This legislative rule applies to all owners and operators of motor vehicles subject to registration and subject to the mandatory security upon motor vehicles provisions of West Virginia Code §17D-2A-1 et. seq. This legislative rule also applies to insurance companies and their agents authorized to issue motor vehicle liability insurance in this state. Enforcement of this rule is vested with the Commissioner of Motor Vehicles and the Insurance Commissioner or a their lawful designees.

§91-13-2 Definitions

2.1. Abstract of Conviction- Means the report of conviction or findings required to be submitted to the Division pursuant to the provisions of West Virginia Code §§17B-3-4 and 17D-2A-6.

2.2. Accident Report- Means the accident report completed by the investigating officer in accordance with West Virginia Code §17C-4-7(c).

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

2.4. ~~Code- Means the Code of West Virginia of 1931, as amended. Commissioner- means the chief executive officer of the Division of Motor Vehicles appointed in accordance with the provisions of West Virginia Code §17A-2-2.~~

2.5. Division- Means the Division of Motor Vehicles.

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

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

2.8. Hearing - Means the administrative procedures conducted by the Commissioner pursuant to West Virginia Code §17D-2A-7 and this rule arising out of the enforcement of administrative suspensions and revocations provided for in West Virginia Code §§ 17A- 3-3 and 17D-2A-1 et sec.

2.9. Liability Insurance- Means an insurance policy or contract as provided in West Virginia Code §§17D-2A-3 and 33-1 et. seq. for a motor vehicle.

2.10. Notice of Insurance Cancellation - Means any notice provided by the owner of a motor vehicle having a valid vehicle registration upon canceling insurance for any reason other than periodic or seasonal use. The notice of insurance cancellation shall include the surrender of the registration plate or, in the event of a lost registration plate, a written document advising the Division of Motor Vehicles of the reason the registration plate could not be surrendered.

2.11. Owner - Means the person or persons responsible for the registration of a motor vehicle.

2.12. Owner's Notice of Insurance Cancellation - Means the form, designated as WV-4C, shall be used by the vehicle owner to provide notice to the Division that the required liability insurance upon a registered vehicle has been removed and that the ~~said~~ vehicle will not be operated upon the roads and highways of West Virginia until liability insurance has been obtained.

2.13. Owner's Statement of Insurance - Means the form prescribed by the Commissioner pursuant to West Virginia Code §17A-3-3.

2.14. Owner's Statement of Seasonal Insurance - Means the form prescribed by the Commissioner pursuant to West Virginia Code §17A-3-3 on which the motor vehicle owner supplies liability insurance information as required on the Owner's Statement of Insurance. 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.

2.15. Proof of Insurance- Means a certificate of insurance, an insurance policy or a certificate of self insurance.

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

2.17. Verification of Insurance- Means the process by which the Division of Motor Vehicles verifies insurance information submitted by motor vehicle registrants or drivers with the insurance company to determine whether or not the policy is or was in effect at a certain time.

§91-13-3 Verification of Insurance

3.1. Verification Sample - In accordance with the provisions of West Virginia Code §17A-3-3(e), the Division shall select owners of active motor vehicle registrations to verify current insurance status. The Division shall conduct this sample on a monthly basis. The selection of an owner for a random sample request for current insurance status shall not preclude the owner from being selected again in any subsequent month.

3.2. Request for verification- The Division shall, by regular mail request the motor vehicle owner to return to the Division within twenty (20) days of the date of the notice, current proof of insurance on the selected vehicle as of the date of the notice.

3.2.a. Failure to Respond- If the motor vehicle owner does not respond to the request for verification of insurance, the Division ~~will~~ shall send by certified mail, notice that current proof of insurance as of the date of the initial notice of request is required, and that failure to provide ~~such~~ proof of current insurance within twenty (20) days ~~will~~ shall result in suspension ~~in suspension~~ of the motor vehicle registration and suspension of the vehicle owner's driver's license.

3.2.b. Failure to Show Current Proof of Insurance- If the motor vehicle owner does not respond to the request for verification of insurance with current or acceptable proof of insurance, the Division ~~will~~ shall send by certified mail, to the address of record, that current proof of insurance as of the date of the initial notice of request is required and that failure to provide ~~such~~ proof of insurance within twenty (20) days ~~will~~ shall result in suspension of the motor vehicle registration and suspension of the vehicle owner's driver's license.

3.3. Verification From Insurance Company- The Division shall forward the proof of insurance information to the listed insurance company for verification. The insurance company shall, pursuant to West Virginia Code §17A-3-3(e)(2) within twenty (20) days, respond in the

following manner;

3.3.a. Confirmation- If the insurance company determines that the information submitted by the motor vehicle owner is correct, the insurance company shall ~~so~~ indicate the correctness of the information on the form provided (WV-4V) for confirmation of insurance coverage.

3.3.b. No Confirmation of Insurance Coverage- If the insurance company determines that the information submitted by the motor vehicle owner ~~in~~ is incorrect and that the insurance company can not verify that the motor vehicle in question was covered by a policy issued by the company, the company shall, in letter formate on the company's letterhead, state that the vehicle in question was not covered by a policy issued by the company on the date in question.

3.4. Certified Notice of Suspension- Upon notice from the insurance company as provided in section 3.2.b, that insurance coverage as indicated by the motor vehicle owner was not in effect, or upon the failure of the motor vehicle owner to either provide acceptable current proof of insurance, ~~or failure to respond~~, the Division shall notify the motor vehicle owner by certified mail to the address of record that the motor vehicle registration will be suspended in twenty (20) days and that the motor vehicle owner's drivers license will be suspended in twenty (20) days . ~~Such~~ The suspension of the motor vehicle registration and motor vehicle owner's driver's license will go into effect unless the motor vehicle owner:

3.4.a. Provides current proof of insurance as of the date of the initial request for insurance verification;

3.4.b. Provides a satisfactory explanation that the vehicle was not being operated on the roads and highways of this state, and that the license plate was surrendered to the Division in accordance with Section 4 of this rule, or that the vehicle was operated on a seasonal basis; or

3.4.c. Requests an administrative hearing under the provisions of Section 8 of this rule which will stay any suspension action until ~~such~~ the appeal is exhausted.

3.5. In accordance with the provisions of West Virginia Code §17A-3-3(e) the Division shall suspend the vehicle registration until current proof of insurance is received by the Division and suspend the vehicle owner or owners driver's license for a period of ninety (90) days. The Division shall not reinstate a ~~No~~ driver's license or vehicle registration ~~shall be reinstated~~ until the fees required under the provisions of West Virginia Code §§17A-9-7 and 17B-3-9 are paid. Provided, that whenever the Commissioner makes a determination that the vehicle was actually insured despite notice to the contrary from the insurer, or the license plate was surrendered to the Division upon cancellation of coverage, or the motor vehicle owner complied with the intentional lapse of coverage reporting provisions, the Division shall withdraw the suspension of both the owner's driver's licenses and the vehicle registration ~~shall be~~

withdrawn and any fees collected by the State as a result of the suspension shall be returned.

§91-13-4 Owner Cancellation of Insurance

4.1 Notice Required- When the owner of a motor vehicle with a valid registration cancels insurance for any reason other than for reasons of seasonal or periodic use, the owner shall surrender to the Division the registration plate and registration card assigned to the vehicle. The owner shall also complete the prescribed form, WV-4C, or provide a written statement concerning the cancellation to accompany the surrendered registration plate and registration card. The Owner's notice of cancellation must include a statement that the liability insurance on the motor vehicle in question was canceled and that the motor vehicle will not be operated upon the roads or highways of this state .

4.2. Plate Lost or Destroyed- The notice of owner's cancellation of insurance shall not be considered complete unless the actual registration plate is surrendered. However in the event that the registration plate is lost or destroyed, the owner shall indicate the disposition of the registration plate in a written statement accompanying the notice of owner's cancellation of insurance. The Division ~~will~~ shall only consider the fact that the registration plate was lost, stolen or destroyed as valid reasons for failure to surrender the registration plate at the time of the owner's notice of insurance cancellation.

§91-13-5 Company Cancellation of Insurance

5.1 Notice of Cancellation of Policy- The form designated by the Commissioner in ~~appendix B~~ as WV-2B when printed as specified and completed in full, ~~shall meet~~ meets the requirements of West Virginia Code §17D-2A-4 for ~~issuance by~~ the insurance company to notify the Division of company cancellations issued under the provisions of West Virginia Code §33-6A-1(b), (c), (d), or (e) when the cancellation has been firmed up by the insurance company. In cases ~~that~~ where the vehicle owner is different from the policy holder, the cancellation notice shall list both the policy holder and the vehicle owner. The notice shall make specific reference to the reason or reasons for the company cancellation as reason b,c,d, and or e as designated in West Virginia Code §33-6A-1. In accordance with the provisions of West Virginia Code §17D-2A-5(a), an insurance company shall not notify the Division of any company cancellations for any reason related to when a named insured fails to discharge when due any of his or her obligations in connection with the payment of the premium for such the policy or any installment thereof payment for the policy

5.2 The Division shall notify the vehicle owner by regular mail that the Division has received a notice of cancellation from the vehicle owner's insurance company. The notice shall give the vehicle owner twenty (20) days to :

5.2.a. Provide the Division notarized documents explaining that the vehicle has

been disposed of and surrender the registration plate;

5.2.b. Show proof that the registration plate has been transferred to another vehicle along with current proof of insurance on the replacement vehicle, or

5.2.c. Provide a notarized statement that the cancellation of the insurance policy will not result in the operation of an uninsured motor vehicle along with the surrender of the registration plate.

5.3 If the vehicle owner does not respond to the regular mail request, the Division shall notify the vehicle owner by certified mail that if the information referenced in Section 5.2 of this rule is not provided within twenty (20) days, that the vehicle owner or owner's driver's license will be suspended for a period of thirty (30) days and the vehicle registration suspended until current proof of insurance is received.

5.4. The Division shall send the notices of Pending Suspension ~~shall be sent~~ certified, return receipt requested, to the last address provided the Division of Motor Vehicles by the person being noticed.

5.5. The Division shall suspend the ~~Failure to provide the insurance information in the time requested will result in driver's license of the driver of the motor vehicle and/or the motor vehicle's owner for a period of thirty (30) days if the vehicle owner fails to provide the insurance information in the time requested. being suspended.~~ The Division shall also suspend the registration of the motor vehicle until current proof of insurance is received.

5.6. The Division will verify insurance information with the listed company to determine if the policy is in effect.

5.7. If the Division determines that the owner or driver of the vehicle has been previously suspended for an offense described in West Virginia Code §17D-2A-1 et seq, the period of the driver's license suspension is ninety (90) days.

5.8. All reinstatements of driving privileges and vehicle registrations are contingent upon payment of all fees assessed by the Division of Motor Vehicles.

§91-13-6. Traffic Accident Reports

6.1. Upon receipt of a West Virginia Uniform Traffic Accident Report, the Division ~~will~~ shall review the report to determine if the motor vehicle or motor vehicles involved in the traffic accident were able to show proof of insurance at the time of the accident.

6.2. The Division ~~will~~ shall take no further action if the report indicates that the motor vehicle or motor vehicles involved in the traffic accident showed proof of insurance at the time

of the accident. However, the Division may verify insurance information with the listed insurance company in cases where there is reasonable doubt regarding the validity of the insurance information provided at the time of the accident. Reasonable doubt of validity includes, but is not limited to; an unknown insurance company; a policy number that in not in accord with the policy numbering system of the insurance company listed or registration information not matching the vehicle cited on the accident report or insurance policy information.

6.3 If the accident report fails to provide insurance information for a motor vehicle cited in the report or the report indicates that the driver of the vehicle was cited for failure to have the required insurance, the Division ~~will~~ shall send the person cited as the driver of the motor vehicle and to the owner of the motor vehicle, should they not be the same person, a Notice of Pending Suspension. The Notice of Pending Suspension ~~will~~ shall inform the vehicle owner or driver that they must provide proof of insurance upon the motor vehicle mentioned on the accident report for the day of the accident. The vehicle owner and/or driver of the motor vehicle must provide the requested proof of insurance within twenty (20) days of the issuance of the Notice of Pending Suspension. Proof of insurance ~~will be~~ is either a WV-1 Certificate of Insurance or a copy of the insurance policy for a period of time that would include the date of the traffic accident.

6.4. The Division shall send Notices of Pending Suspension ~~shall be sent~~ certified, return receipt requested, to the last address of record. The Division shall make use of both the driver's license record and the vehicle record to determine the correct address for correspondence. Should no record exist for either the individual or the motor vehicle, the Division shall rely upon the address provided in the West Virginia Uniform Traffic Accident Report.

6.5. The Division shall suspend the ~~Failure to provide the insurance information in the time requested will result in driver's license of the driver of the motor vehicle and/or the motor vehicle's owner being suspended for a period of thirty (30) days~~ upon failure to provide the insurance information in the time requested. The Division shall also suspend the registration of the motor vehicle until current proof of insurance is received.

6.6. The Division ~~will~~ shall verify insurance information with the listed company to determine if the policy was actually in effect on the date of the accident.

6.7 If the insurance company indicates that there was no insurance in effect upon the motor vehicle cited in the accident report on the day of the accident, the driver of the vehicle and the vehicle owner's driver's license will be suspended for a period of thirty (30) days, and the vehicle registration suspended until current proof of insurance is received.

6.8. If the Division determines that the owner or driver of the vehicle has been

previously suspended for an offense described in West Virginia Code §17D-2A -1 et seq, the period of the driver's license suspension is ninety (90) days.

6.9. All reinstatements of driving privileges and vehicle registrations are contingent upon payment of all fees assessed by the Division of Motor Vehicles.

§91-13-7 Traffic Citations

7.1. The Division, upon receipt of a notice of a traffic citation or abstract of conviction that cites a person for an offense related to failure to have the required liability insurance on a motor vehicle ~~will~~ shall suspend the cited person's driver's license for a period of thirty (30) days and shall suspend the vehicle registration until current proof of insurance is received.

7.2. The notice of propose suspension ~~will~~ shall provide the person an opportunity to show proof of the required insurance on the date and time of the traffic citation.

7.3. If the traffic citation, or report of court action indicates that the vehicle operator and/or owner was absolved of the charge of failure to maintain the required liability insurance, the Division shall review the insurance information provided by the court. The Division ~~will~~ shall verify the insurance information with the listed insurance company to verify that the insurance was in full force and effect at the time the traffic citation was issued.

7.4. If the insurance company reports that the required insurance was not in full force and effect at the time the traffic citation was issued, the Division shall suspend the drivers licenses of the motor vehicle owner and the driver for a period of thirty (30) days and suspend the vehicle registration until current proof of insurance is received.

~~7.6.7.5.~~ In accordance with the provisions of West Virginia Code §17D-2A-7(g), if the Division determines that the owner or driver of the vehicle has been previously suspended for failing to maintain insurance on a motor vehicle or knowingly operating a vehicle without insurance, the period of the driver's license suspension is ninety (90) days.

~~7.7. 7.6.~~ The Division ~~will~~ shall mail the notice of pending suspension certified, return receipt requested, to the last address of record. The Division shall make use of both the driver's license record and the vehicle registration record to determine the correct address for correspondence. The Division shall rely upon the address provided in the traffic citation or court report if no record exists for either the person or the motor vehicle.

~~7.8. 7.7.~~ Any reinstatement of driving privilege or vehicle registration is contingent upon payment of all fees assessed by the Division of Motor Vehicles.

8.1 Certificate of Insurance- The form designated in ~~Appendix A~~ by the Commissioner as WV-1B when printed as specified and completed in full, or such other form approved by the Commissioner, ~~shall meet~~ meets the requirements of West Virginia Code §17D-2A-4 ~~of the Code~~ for issuance by the insurer to the insured. The certificated 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 registration, financial institution registration, or commercial vehicles registered through the Public Service Commission are not required to carry a certificate of insurance.

8.2 Notice of Cancellation- The form designated ~~by the Commissioner in appendix B~~ as WV-2B when printed as specified and completed in full, ~~shall meet~~ meets the requirements of West Virginia Code §17D-2A-4 for issuance by the insurance company to notify the Division of company cancellations which are issued under the provisions of West Virginia Code §33-6A-1(b), (c), (d), or (e) when the cancellation has been firmed up by the insurance company.

8.3 Response Required for Requests for Verification- In accordance with the provisions of West Virginia Code §17A-3-3(e)(2), the insurance company shall, within twenty (20) days of receipt, respond to the Division's request for verification of insurance on the form designated as WV-4V. When the company can not verify that the vehicle in question was covered, the company shall ~~so state~~ that fact in letter formate on the company's letterhead.

9.1. Any person adversely affected by an order made and entered by the Commissioner in accordance with the provisions of West Virginia Code §17A-3-3 or §17D-2A-1 et seq. and/or this legislative rule, may request a hearing by filing a written notice with the Commissioner in person, or by certified mail, return receipt requested. The person must request a hearing within ten (10) days from the date on which the registered or certified mail receipt for the order of revocation was signed. However, in cases when the registered or certified mail is not signed for, the provisions of West Virginia Code §17A-2-19 apply which provides that the giving of notice is complete upon expiration of four (4) days after deposit of the notice in the United States mail.

9.2. The notice requesting a hearing shall contain a description of the order upon which a hearing is requested, and the grounds upon which it is asserted that the order should be vacated or modified. The scope of the hearing ~~shall be~~ is limited to whether there was the required liability insurance upon the vehicle on the date in question.

9.3. Within twenty (20) days after receipt of a notice requesting a hearing, the Commissioner shall cause a notice of hearing to be served upon the party requesting the hearing by registered or certified mail, return receipt requested. The notice shall specify the time, date and place of the hearing and shall contain a statement of the issues to be considered at the hearing. All parties shall be afforded at least ten (10) days notice of the hearing. The Commissioner may postpone or continue a hearing on his or her own motion. The Commissioner may also grant a continuance on less than five (5) days notice in the event of unexpected personal emergencies. The Commissioner shall hold the hearing in the county of the person requesting the hearing unless another place is agreed upon by all parties.

9.4. The person requesting a hearing may be granted a continuance of a scheduled hearing. The request for continuance shall be in writing, and must be received by the Commissioner at least five (5) days prior to the scheduled hearing date. The request ~~will~~ shall be granted if good cause is shown. Good cause includes, ~~as~~ but is not limited to, reasons such as serious illness, medical appointments, court appearances, or religious holidays of either the person requesting a hearing or his or her attorney.

9.5. The failure of a person requesting a hearing to appear without first obtaining a continuance pursuant to Sections 8.3 or 8.4 of this rule shall result in an automatic reinstatement of the Commissioner's order.

9.6. Any party may request the issuance of subpoenas or subpoenas duces tecum by the Commissioner. The authority for the issuance of subpoenas or subpoenas duces tecum is contained in West Virginia Code §17A-2-18. All parties shall follow the provisions relating to subpoenas and subpoenas duces tecum set forth in ~~paragraph (b) of~~ West Virginia Code §29A-5-1(b).

9.7. The filing of a notice requesting a hearing operates to automatically stay or suspend execution of any order which is the subject matter of the hearing.

9.8. The Commissioner may appoint a hearing examiner to conduct the hearing and to recommend findings of fact and conclusions of the law to the Commissioner. Hearing examiners may exercise all the powers granted by West Virginia Code §29A-5-1(d).

9.9. The party who has requested a hearing may represent himself or herself or be represented by an attorney licensed to practice law in the State of West Virginia. The Division shall be represented by a person designated by the Commissioner. The hearing examiner shall swear in all witnesses offering testimony.

9.10. The Commissioner is not bound by the usual common law or statutory rules of evidence and procedure when conducting the hearing.

9.11. The motor vehicle owner has the burden of proving that insurance coverage was in effect at the time in question and therefore, shall make the initial presentation of evidence. At the conclusion of the vehicle owner's presentation, the Division shall have an opportunity to present evidence. All parties have the right to cross-examine witnesses.

9.12. Hearings in progress may be continued from one day to another or adjourned to a later date or a different place by the hearing examiner by making an announcement at the hearing or by appropriate notice to all parties.

9.13. All testimony, evidence, arguments, and rulings on the admissibility of testimony and evidence shall be reported by stenographic notes and characters, sound recording devices or other mechanical means.

9.14. The Division shall transcribe all reported materials ~~shall be transcribed and a copy and furnished a copy~~ to any party to the hearing at his or her expense. The Division shall collect a fee of one dollar and fifty cents (\$1.50) for each page transcribed.

9.15. The Division has the responsibility for making arrangements for the transcription of the reported testimony and for the preparation of the record made before the Division. In the event transcription is required, it shall be accomplished within a reasonable time.

9.16. Upon the motion of the Division or any party assigning error or omission in any part of the transcript, the Division through the Commissioner or the duly appointed hearing examiner, shall settle all differences arising as to whether the transcript truly disclosed what occurred at the hearing and if the Commissioner considers it appropriate, he or she shall direct that the transcript be corrected and revised.

9.17. Every final order entered by the Commissioner, following a hearing conducted pursuant to this rule, shall be made in accordance with the provisions of West Virginia Code §29A-5-3. Any party adversely affected by the final order entered by the Commissioner may petition the appropriate circuit court for judicial review in accordance with West Virginia Code §29A-5-4.

ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: Division of Motor Vehicles

Subject: Compulsory Motor Vehicle Liability Insurance, 91CSR13

PERTINENT DATES

Filed for public comment: July 16, 1996
Public comment period ended: August 20, 1996
Filed following public comment period: August 22, 1996
Filed LRMRC: August 22, 1996
Filed as emergency:

Fiscal Impact: None

ABSTRACT

The proposed rule repeals and replaces a current legislative rule. The following is a section by section synopsis of the proposed rule.

Section 1 is the standard general section, setting forth the scope, authority, filing date and effective date of the proposed rule.

Section 2 defines terms.

Section 3 relates to verification of insurance and basically contains the provisions set forth in the statute.

Section 4 relates to an owners cancellation of insurance. It requires the owner to notify the Division and surrender the registration plate and the registration card.

Section 5 states that a completed form designated in Appendix B meets the requirements of notice by an insurance company of cancellation of insurance coverage. It requires that the notice contain the specific statutory reason for the cancellation.

The Division is to notify the vehicle owner by regular mail of the company's cancellation and give the owner 20 days to respond to the notice. If the owner does not respond, the Division is to give notice by certified mail. The Division is to suspend the driver's license of the driver of the motor vehicle or the vehicle's owner.

Section 6 requires the Division to review traffic accident reports to determine if proof of insurance was presented at the time of the accident. If it was, the Division may still request verification from the insurance company where there is reasonable doubt regarding the validity of the information. If proof was not presented, the Division is to send a Notice of suspension and give the owner of driver of the vehicle 20 days to provide sufficient proof of insurance. Failure to comply will result in a 30 day suspension. The Division is required to verify insurance information with the company which may result in the suspension of a driver's license and vehicle registration.

Section 7 requires the Division to suspend for 30 days, the driver's license of a driver who received a traffic citation or was convicted of an offense related to failure to have the required liability insurance and shall suspend the vehicle registration until current proof of insurance is received.

Section 8 states that the form in Appendix A meets the requirements for a certificate of insurance and is proof of insurance. It requires an insurance company to respond to a request for verification within 20 days of receipt.

Section 9 provides administrative due process procedures for any person adversely affected by an order of the Commissioner.

Appendix A contains the form for a West Virginia Certificate of Insurance.

Appendix B contains the form for Notice of Cancellation or Termination of Policy.

Appendix C contains the form for a Seasonal Statement of Insurance.

Appendix D contains the form for an Owner's notice of Insurance Cancellation.

AUTHORITY

Statutory authority: W.Va. Code, §17A-2-9 & 17D-2A-8.

W.Va Code, §17A-2-9, provides, in part, as follows:

...(b) The commissioner is hereby authorized to adopt and enforce such rules and regulations as may be necessary to carry out the provisions of this chapter and any other laws the enforcement and administration of which are vested in the department...

W.Va Code, §17D-2A-8, provides, in part, as follows:

The commissioner of the department of motor vehicles is hereby authorized to promulgate such rules and regulations, in accordance with chapter twenty-nine-a of this code, as he deems necessary for the administration, operation and enforcement of the provisions of this article.

ANALYSIS

I. HAS THE AGENCY EXCEEDED THE SCOPE OF ITS STATUTORY AUTHORITY IN APPROVING THE PROPOSED LEGISLATIVE RULE?

No.

II. IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT, EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?

Yes.

III. DOES THE PROPOSED LEGISLATIVE RULE CONFLICT WITH OTHER CODE PROVISIONS OR WITH ANY OTHER RULE ADOPTED BY THE SAME OR A DIFFERENT AGENCY?

No.

IV. IS THE PROPOSED LEGISLATIVE RULE NECESSARY TO FULLY ACCOMPLISH THE OBJECTIVES OF THE STATUTE UNDER WHICH THE PROPOSED RULE WAS PROMULGATED?

Yes.

V. IS THE PROPOSED LEGISLATIVE RULE REASONABLE, ESPECIALLY AS IT AFFECTS THE CONVENIENCE OF THE GENERAL PUBLIC OR OF PERSONS AFFECTED BY IT?

Yes.

VI. CAN THE PROPOSED LEGISLATIVE RULE BE MADE LESS COMPLEX OR MORE READILY UNDERSTANDABLE BY THE GENERAL PUBLIC?

No.

VII. WAS THE PROPOSED LEGISLATIVE RULE PROMULGATED IN COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 29A, ARTICLE 3 AND WITH ANY REQUIREMENTS IMPOSED BY ANY OTHER PROVISION OF THE CODE?

Yes.

VIII. OTHER.

Counsel has minor technical modifications to suggest.



West Virginia Legislature
Legislative Rule-Making Review Committee

Room MB47-State Capitol
Charleston, West Virginia 25305
(304) 347-4840

Senator Mike Ross, Co-Chair
Delegate Vicki Douglas, Co-Chair

October 15, 1996

Debra A. Graham, Counsel
Joe Altizer, Associate Counsel
Marie Nickerson, Adm. Assistant

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: Mr, Steven Dale
Division of Motor Vehicles
Bldg. 3, Capitol Complex
Charleston, WV 25305

FROM: Legislative Rule-Making Review Committee

PROPOSED RULE: Compulsory Motor Vehicle Liability Insurance

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

- 1. Authorize the agency to promulgate the Legislative Rule
 - (a) as originally filed
 - (b) as modified by the agency X
- 2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached. _____
- 3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached. _____
- 4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached. _____
- 5. Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached. _____

Pursuant to Code 29A-3-11(c), this notice has been filed in the State Register and with the agency proposing the rule.

Senate Bill No. 196

1 (By Senator(s) Ross, Anderson, Macnaughtan,
2 Boley and Buckalew)

3 [Introduced March 3, 1997; referred to the
4 Committee on Transportation; and then to the
5 Committee on the Judiciary.]
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10 A BILL to amend and reenact section one, article eight,
11 chapter sixty-four of the code of West Virginia, one
12 thousand nine hundred thirty-one, as amended, relating
13 to authorizing the division of motor vehicles to
14 promulgate a legislative rule relating to compulsory
15 motor vehicle insurance.

16 *Be it enacted by the Legislature of West Virginia:*

17 That section one, article eight, chapter sixty-four of
18 the code of West Virginia, one thousand nine hundred
19 thirty-one, as amended, be amended and reenacted, to read
20 as follows:

21 ARTICLE 8. AUTHORIZATION FOR DEPARTMENT OF TRANSPORTATION

22 TO PROMULGATE LEGISLATIVE RULES.

23 §64-8-1. Division of motor vehicles.

1 (a) The legislative ~~rules~~ rule filed in the state
2 register on the thirty-first day of July, one thousand nine
3 hundred ninety-five, authorized under the authority of
4 section nine, article two, chapter seventeen-a of this
5 code, modified by the division of motor vehicles to meet
6 the objections of the legislative rule-making review
7 committee and refiled in the state register on the
8 nineteenth day of September, one thousand nine hundred
9 ninety-five, relating to the division of motor vehicles
10 (motor vehicle dealers, wreckers/dismantlers/rebuilders,
11 license services, automobile auctions, vehicle leasing
12 companies and administrative due process 91 CSR 6), ~~are~~ is
13 authorized.

14 (b) The legislative ~~rules~~ rule filed in the state
15 register on the twenty-first day of July, one thousand nine
16 hundred ninety-five, authorized under the authority of
17 section three-a, article five-a, chapter seventeen-c of
18 this code, modified by the division of motor vehicles to
19 meet the objections of the legislative rule-making review
20 committee and refiled in the state register on the
21 nineteenth day of September, one thousand nine hundred
22 ninety-five, relating to the division of motor vehicles
23 (motor vehicle alcohol test and lock program, 91 CSR 9),

1 ~~are~~ is authorized.

2 (c) The legislative rule filed in the state register
3 on the twenty-second day of August, one thousand nine
4 hundred ninety-six, authorized under the authority of
5 section nine, article two, chapter seventeen-a, of this
6 code, modified by the division of motor vehicles to meet
7 the objections of the legislative rule-making review
8 committee and refiled in the state register on the twenty-
9 eighth day of October, one thousand nine hundred
10 ninety-six, relating to the division of motor vehicles
11 (compulsory motor vehicle insurance, 91 CSR 13), is
12 authorized.

13

14 NOTE: The purpose of this bill is to authorize the
15 Division of Motor Vehicles to promulgate a legislative rule
16 relating to Compulsory Motor Vehicle Insurance.

17
18 Strike-throughs indicate language that would be
19 stricken from the present law, and underscoring indicates
20 new language that would be added.

6588

H. B. 2359

1 Bill-DMV, Compulsory

(By Delegate(s) Douglas, Hunt, Compton,
Faircloth, Linch and Riggs)

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[Introduced March 3, 1997; referred to the
Committee on Banking and Insurance then the

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Judiciary.]

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10 A BILL to amend and reenact section one, article eight,
11 chapter sixty-four of the code of West Virginia, one
12 thousand nine hundred thirty-one, as amended, relating
13 to authorizing the division of motor vehicles to
14 promulgate a legislative rule relating to compulsory
15 motor vehicle insurance.

16 *Be it enacted by the Legislature of West Virginia:*

17 That section one, article eight, chapter sixty-four of
18 the code of West Virginia, one thousand nine hundred
19 thirty-one, as amended, be amended and reenacted, to read
20 as follows:

21 ARTICLE 8. AUTHORIZATION FOR DEPARTMENT OF TRANSPORTATION
22 TO PROMULGATE LEGISLATIVE RULES.

23 §64-8-1. Division of motor vehicles.

1 (a) The legislative rules rule filed in the state
2 register on the thirty-first day of July, one thousand nine
3 hundred ninety-five, authorized under the authority of
4 section nine, article two, chapter seventeen-a of this
5 code, modified by the division of motor vehicles to meet
6 the objections of the legislative rule-making review
7 committee and refiled in the state register on the
8 nineteenth day of September, one thousand nine hundred
9 ninety-five, relating to the division of motor vehicles
10 (motor vehicle dealers, wreckers/dismantlers/rebuilders,
11 license services, automobile auctions, vehicle leasing
12 companies and administrative due process 91 CSR 6), are is
13 authorized.

14 (b) The legislative rules rule filed in the state
15 register on the twenty-first day of July, one thousand nine
16 hundred ninety-five, authorized under the authority of
17 section three-a, article five-a, chapter seventeen-c of
18 this code, modified by the division of motor vehicles to
19 meet the objections of the legislative rule-making review
20 committee and refiled in the state register on the
21 nineteenth day of September, one thousand nine hundred
22 ninety-five, relating to the division of motor vehicles
23 (motor vehicle alcohol test and lock program, 91 CSR 9),

1 are is authorized.

2 (c) The legislative rule filed in the state register
3 on the twenty-second day of August, one thousand nine
4 hundred ninety-six, authorized under the authority of
5 section nine, article two, chapter seventeen-a, of this
6 code, modified by the division of motor vehicles to meet
7 the objections of the legislative rule-making review
8 committee and refiled in the state register on the twenty-
9 eighth day of October, one thousand nine hundred
10 ninety-six, relating to the division of motor vehicles
11 (compulsory motor vehicle insurance, 91 CSR 13), is
12 authorized.

13

14NOTE: The purpose of this bill is to authorize the
15 Division of Motor Vehicles to promulgate a legislative rule
16 relating to Compulsory Motor Vehicle Insurance.

17
18 .. Strike-throughs indicate language that would be
19 stricken from the present law, and underscoring indicates
20 new language that would be added.