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help we can get)

STATE OF WEST VIRGINIA
SECRETARY OF STATE

Charleston 25305

PROPOSED RULES

STATE REGISTER FILING

=====

AGENCY Department of Motor Vehicles

CONTACT PERSON Steven O. Dale PHONE 348-3981

TYPE OF RULE Legislative

TITLE OF RULE Compulsory Motor Vehicle Liability Insurance Regulations

CHAPTER 17A ARTICLE 2 SERIES XIII

AUTHORITY 17A-2-9

+++++

CHECK APPLICABLE ITEMS BELOW TO SHOW KIND OF ACTION BEING TAKEN

NEW RULE

NOTICE OF HEARING

AMENDMENTS TO EXISTING RULE

NOTICE OF AGENCY APPROVAL
(legislative rules only)

REPEAL OF EXISTING RULE

NOTICE OF AGENCY ADOPTION
(interpretive & procedural
rules only)

NOTE: ALL FILINGS REQUIRE ONLY
ONE COPY, EXCEPT FINAL
FILING OF RULES WHICH
REQUIRES AN ORIGINAL AND
A COPY.

FINAL FILING

FIRST EMERGENCY FILING

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DEPARTMENT OF MOTOR VEHICLES
STATE OFFICE BUILDING
CHARLESTON, W. VA.
25317

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE L. W. BECHTOLD
Commissioner

ARCH A. MOORE, JR.
Governor

April 30, 1985

*pieces
Series 13*

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

Dear Mr. Secretary:

Please find enclosed one original and one copy of legislative rules which have been authorized by the Legislature pursuant to §29A-3-13.

These rules are entitled "Compulsory Motor Vehicle Liability Regulations," and are designated Series XIII. These rules repeal and replace rules similarly titled and designated.

Also attached pursuant to §29A-2-6(b) is a promulgation history abstract. These rules are being final filed in accordance with your emergency legislative rules relating to size and format.

I certify that the attached constitute the legislative rules in conformity with the provisions of law authorizing and directing their promulgation.

Very truly yours,

L. W. Bechtold
L. W. Bechtold
Commissioner

LWB:SOD/lsk



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DEPARTMENT OF MOTOR VEHICLES
STATE OFFICE BUILDING
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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE L. W. BECHTOLD
Commissioner

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Governor

Promulgation History Abstract

Rule Title: Compulsory Motor Vehicle Insurance Regulations Series XIII

Rule Type: Legislative

Filed Notice for Public Hearing: July 5, 1984

Public Hearing Held: August 15, 1984

Filed Agency Approved Rule: September 10, 1984

Filed Agency Approved Rule with LRMRC: September 10, 1984

Action by LRMRC: Recommended Authority to Promulgate

Legislative Action: Authorized Promulgation

Final Rule Filed with Secretary of State: April 30, 1985

Effective Date: April 30, 1985


L. W. Bechtold
Commissioner

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATIVE RULES
DEPARTMENT OF MOTOR VEHICLES
CHAPTER 17A-2
SERIES XIII

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1985 APR 30 AM 10:23

WEST VIRGINIA LEGISLATIVE RULES
DEPARTMENT OF MOTOR VEHICLES
CHAPTER 17A-2
SERIES XIII

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Subject: Regulations Relating to Compulsory Motor Vehicle Liability Insurance

Section 1. General

1.1 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.

1.2 Authority - §17A-2-9 and §17D-2A-8

1.3 Filing Date - April 30, 1985

1.4 Effective Date - April 30, 1985

1.5 Repeal of Former Rule - These legislative rules repeal West Virginia Legislative Rules "Department of Motor Vehicles, Chapter 17A-2, Series XIII, Compulsory Motor Vehicle Liability Insurance Regulations" filed May 8, 1984.

Section 2. Application and Enforcement

2.1 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.

2.2 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.

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

3.2 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.

3.3 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.

3.4 Firmed Up - Means when the thirty day notice required by §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.

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

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

3.7 Notice of Cancellation 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.

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

3.9 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 (3.9). 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

4.1 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.

4.2 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.

4.2.1 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.

4.2.2 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.

4.2.3 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.

Section 5. Forms And Procedures Pertaining To The Insurer

5.1 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.

5.2 Notice of Cancellation 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 filed 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. 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.

5.2.1 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 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 coverage was subsequently obtained from a different company.

5.2.2 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.

5.2.3 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.

5.3 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).

5.3.1 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.

5.3.2 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 by certified mail. 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.

5.3.3 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		

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.

APPENDIX A

NOTICE OF CANCELLATION OF POLICY

NOTICE OF CANCELLATION OF POLICY

Cancelled Under Provisions
of §33-6A-1 marked

Name of Company

(b) —

Policy Number

(c) —

Date of Notice

Cancellation Date

(d) —

(e) —

TO BE FILED WITH:

Commissioner of Motor Vehicles
1800 Washington Street East
Charleston, West Virginia 25317

Name and Address of Insured

Name and Address of Vehicle Owner if different

All operator's license
listed on policy must
be listed

Year-Make or Model

Vehicle Identification Number

1.

2.

3.

4.

WV-2B 4/84

SPECIFICATIONS FOR WEST VIRGINIA NOTICE OF CANCELLATION (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)

APPENDIX B

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:

MV 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.)



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DEPARTMENT OF MOTOR VEHICLES, TRAFFIC AND TRANSPORTATION
STATE OFFICE BUILDING
CHARLESTON, W. VA.
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SECRETARY OF STATE

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L. W. BECHTOLD
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April 30, 1985

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

Dear Mr. Secretary:

Please find enclosed one original and one copy of legislative rules which have been authorized by the Legislature pursuant to §29A-3-13.

These rules are entitled "Compulsory Motor Vehicle Liability Regulations," and are designated Series XIII. These rules repeal and replace rules similarly titled and designated.

Also attached pursuant to §29A-2-6(b) is a promulgation history abstract. These rules are being final filed in accordance with your emergency legislative rules relating to size and format.

I certify that the attached constitute the legislative rules in conformity with the provisions of law authorizing and directing their promulgation.

Very truly yours,


L. W. Bechtold
Commissioner

LWB:SOD/lsk

SENATE BILL NO. 376(By Mr. R. Williams)[Introduced March 5, 1985]referred to the Committee on Banking and Insurance; then to
the Committee on the Judiciary]

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

16 Be it enacted by the Legislature of West Virginia:

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

21 ARTICLE 2. EXECUTIVE AGENCY AUTHORIZATION TO PROMULGATE
22 LEGISLATIVE RULES.

23 §64-2-17d(2a)(8). Commissioner of motor vehicles.

24 (a) The legislative rules filed in the state register on
25 the sixteenth day of June, one thousand nine hundred
26 eighty-three, relating to the commissioner of motor vehicles

1 (compulsory insurance) are authorized.

2 (b) The legislative rules filed in the state register on
3 the tenth day of September, one thousand nine hundred
4 eighty-four, modified by the commissioner of motor vehicles
5 to meet the objections of the legislative rule-making review
6 committee and refiled in the state register on the fifth day
7 of October, one thousand nind hundred eighty-four, relating
8 to the commissioner of motor vehicles (compulsory motor
9 vehicle liability insurance) are authorized.

10

11 NOTE: The purpose of this bill is to authorize the
12 commissioner of motor vehicles to promulgate legislative
13 rules relating to compulsory motor vehicle liability
14 insurance.

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

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H. B. 1626

(By Delegate Casey)

(Introduced March 6, 1985; referred to the

Committee on Roads and Transportation with the

direction that it later be referred to
the Committee on the Judiciary.)

A BILL to amend and reenact section seventeen-d (two-a)(eight), article two, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to authorizing the commissioner of motor vehicles to promulgate legislative rules relating to compulsory insurance.

Be it enacted by the Legislature of West Virginia:

That section seventeen-d (two-a)(eight), article two, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 2. EXECUTIVE AGENCY AUTHORIZATION TO PROMULGATE LEGISLATIVE RULES.

§64-2-17d(2a)(8). Commissioner of motor vehicles.

(a) The legislative rules filed in the state register on the sixteenth day of June, one thousand nine hundred eighty-three, relating to the commissioner of motor vehicles

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2 (b) The legislative rules filed in the state register on
3 the tenth day of September, one thousand nine hundred
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5 to meet the objections of the legislative rule-making review
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12 commissioner of motor vehicles to promulgate legislative
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17 language that would be added.