

**WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION**

Form #4

Do Not Mark In This Box

2011 OCT 20 PM 1:05

OFFICE OF THE SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: West Virginia Division of Motor Vehicles TITLE NUMBER: 91

CITE AUTHORITY: WV Code §17A-2-9, §17D-2A-8

AMENDMENT TO AN EXISTING RULE: YES NO

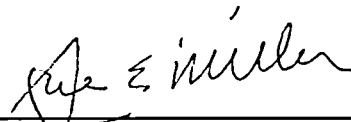
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 13

TITLE OF RULE BEING AMENDED: Compulsory Motor Vehicle Liability Insurance

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE PROPOSED LEGISLATIVE RULES, 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.



Authorized Signature



WEST VIRGINIA
DEPARTMENT OF TRANSPORTATION
1900 Kanawha Boulevard East • Building Five • Room 109
Charleston, West Virginia 25305-0440 • 304/558-0444

October 19, 2011

The Honorable Natalie Tennant
Secretary of State
State Capitol Building
Charleston, WV 25305

Dear Madam Secretary:

The Commissioner of Motor Vehicles is hereby authorized to file the agency modified 91 CSR 13 Compulsory Motor Vehicle Liability Insurance. The rule passed the Legislative Rule-Making Review Committee as modified by the Division of Motor Vehicles.

Comments and concerns about the contents of this rule should be directed to the Commissioner of Motor Vehicles. Thank you for your assistance in this matter.

Sincerely

A handwritten signature in cursive script that reads "Paul A. Mattox, Jr.".

Paul A. Mattox, Jr., P.E.
Secretary of Transportation\
Commissioner of Highways

PAM:sd
Enclosure

FILED
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WEST VIRGINIA
SECRETARY OF STATE

**TITLE 91
LEGISLATIVE RULE
DIVISION OF MOTOR VEHICLE**

PROPOSED

**SERIES 13
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 W. Va. Code §17A-3-3 and §17D-1 et seq.

1.2. Authority. -- W. Va. 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 Compulsory Motor Vehicle Liability Insurance 91CSR13 filed May 12, 1997 and effective May 13, 1997.

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 W. Va. Code 17D-1et 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 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 W. Va. Code §17B-3-4 and §17D-2A-6.

2.2. Certificate of Insurance - means a form issued in duplicate by an insurer to an insured which meets the requirements of W.Va. Code §17D-2A-4 and as specified in Appendix A of this rule, which has been approved by the Commissioner.

2.3. Commercial Auto Coverage – means any motor vehicle liability coverage provided to an insured, regardless of the number of vehicles or entity covered, under a commercial coverage form and rated from a commercial manual approved by the Insurance Commissioner.

2.4. Commissioner- means the chief executive officer of the Division of Motor Vehicles appointed in accordance with the provisions of W. Va. Code §17A-2-2.

2.5. Crash Report- means the crash report completed by the investigating officer in accordance with W.Va. Code §17C-4-7.

2.6. Division- means the Division of Motor Vehicles.

2.7. Firmed Up - means when the thirty day notice required by W. Va. 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.

2.8. Hearing - means the administrative procedures conducted by the Office of Administrative Hearings pursuant to W. Va. Code §17C-5C-1 et seq. and this rule arising out of the enforcement of an administrative suspension of a driver's license or revocation of a motor vehicle registration provided for in W. Va. Code §17A- 3-3 and §17D-1 et seq.

2.9. Insurance Company Notice of Cancellation – means the notice submitted to the Division either on paper or electronically when an insurance company issues a cancellation of coverage pursuant to the requirements of W. Va. Code §17D-2A-5 and W. Va. Code §33-6A-1 as specified in

Appendix B of this rule, which has been approved by the Commissioner.

2.10. Liability Insurance- means an insurance policy or contract as provided in W. Va. Code §17D-2A-3 and W. Va. Code §33-1 et seq. providing liability coverage for a motor vehicle.

2.11. NAIC Number – means the number issued by the National Association of Insurance Commissioners to identify insurance companies.

2.12. OAH – means the Office of Administrative Hearings, a separate agency within the Department of Transportation responsible for hearing and determining statutorily authorized appeals from decisions or orders issued by the Commissioner of the Division of Motor Vehicles.

2.13. On-line Insurance Verification Program or Electronic Insurance Verification Program – means the electronic insurance verification of continuous insurance coverage while a vehicle has an a valid registration. This program may be used by law enforcement at the time of a traffic stop or crash investigation, by the Division for registration events and verification of continued coverage and by the judicial system.

2.14. Owner - means the person or persons who hold the legal title of a motor vehicle as reflected in the records of the Division.

2.15. Owner's Notice of Insurance Cancellation - means the form, designated as WV-4C, used by the vehicle owner to provide notice to the Division that the required liability insurance upon a registered vehicle as required by W. Va. Code §17D-2A-1 et.seq., has been dropped and that the vehicle will not be operated upon the roads and highways of West Virginia until liability insurance has been obtained. The owner's notice of insurance cancellation shall include the surrender of the registration plate.

2.16. Owner's Notice of Non-Plate Surrender – means the form, designated as WV-4S, used by the vehicle owner or owners to provide notice to the Division that a registration plate has been lost or

destroyed and therefore could not be surrendered as required by W. Va. Code §17D-2A-1 et.seq.

2.17. Owner's Statement of Insurance - means the form prescribed by the Commissioner pursuant to W. Va. Code §17A-3-3 which includes the insurance company name, insurance agent's name, the insurance company's NAIC number, the policy number and the policy's effective date.

2.18. Owner's Statement of Seasonal Insurance - means the form, designated as WV-4B, used to provide notice to the Division that the vehicle is used seasonally as required by W. Va. §17D-2A-1 et seq. In addition, the owner or owners shall certify that the liability insurance is in effect during the portion of the year in which the vehicle is in actual use on the road. An owner is not required to surrender the registration plate under seasonal or periodic use circumstances.

2.19. Proof of Insurance- means a certificate of insurance, an insurance policy or a certificate of self insurance.

2.20. Self-Insurer - means a motor vehicle owner meeting the requirements of W. Va. Code §17D-6-2.

2.21. Verification of Insurance- means the process by which the Division or an agent of the Division verifies insurance information on-line electronically or by any other means available as authorized by statute, with an insurance company to determine whether or not the vehicle is or was covered by a policy at a certain time.

§91-13-3. Verification of Insurance.

3.1. Electronic Insurance Verification Program - In accordance with the provisions of W. Va. Code §17D-2A-6a, the Division is developing an electronic insurance verification program for motor vehicles for implementation. Pursuant to W. Va. Code §17D-2A-2, commercial motor vehicles covered under a commercial policy are excluded from the electronic insurance verification program.

3.2. Insurance Verification - The Division shall verify insurance coverage by any means

available, including electronic access. The electronic verification shall be conducted by using various criteria or established key elements that meet the standards and specifications of the Insurance Industry Committee on Motor Vehicle Administration (IICMVA) model.

3.3. Vehicle Owner and Driver Resolution - The Division or its agent shall allow a motor vehicle owner or driver to correct any false reports of no insurance.

§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 shall 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 is not complete unless the actual registration plate is surrendered. However, in the event that the registration plate is lost or destroyed, the owner shall complete a WV-4S form and indicate the disposition of the registration plate. The owner shall submit form WV-4S and form WV-4C to the Division. The Division may only consider the fact that the registration plate was lost 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. Traffic Crash Reports.

5.1. Upon receipt of a West Virginia Uniform Traffic Crash Report, the Division shall review the

report to determine if the law enforcement officer investigating the crash was able to determine if the motor vehicle or motor vehicles involved in the traffic crash were covered by an insurance policy.

5.2. If the Commissioner determines that there was no insurance in effect at the time of the crash, the Division shall issue notices of suspension of the driver's licenses of the uninsured motor vehicle owner and revocation of the motor vehicle registration by certified mail. The Division shall also issue a notice of suspension the driver's license of the driver of the uninsured motor vehicle if not the same as the motor vehicle owner, by certified mail. The notice shall allow a thirty (30) day notice period before the effective date of the suspension or revocation. Proof of insurance must be provided to the Division and confirmed for the date and time of the crash.

5.3. If insurance coverage cannot be confirmed for the date and time of the crash, the Division shall suspend the driver's license of the owner of the motor vehicle and the driver, if different, for a period of thirty (30) days. The Division shall also suspend the registration of the motor vehicle until current proof of insurance is received.

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

5.5. The Division shall not reinstate any driver's licenses or driving privileges and vehicle registration unless all required fees are paid in accordance with W. Va. Code §17B-3-9 and W. Va Code W. Va. Code §17A-9-7.

5.6. The provisions of section seven of this rule applies to first time offenders.

§91-13-6. Traffic Citations.

6.1. Upon receipt of a citation for no insurance, the Division shall issue notices of suspension of

the driver's licenses of the uninsured motor vehicle owner and revocation of the motor vehicle registration by certified mail. The Division shall also issue a notice of suspension the driver's license of the driver of the uninsured motor vehicle if not the same as the motor vehicle owner, by certified mail. The notice shall allow a thirty (30) day notice period before the effective date of the suspension or revocation. The owner or driver shall provide proof of insurance must be provided to the Division and confirmed for the date and time of the citation.

6.2. If insurance coverage cannot be confirmed for the date and time of the citation, the Division shall suspend the driver's license of the owner of the motor vehicle and the driver, if different, for a period of thirty (30) days. The Division shall also suspend the registration of the motor vehicle until current proof of insurance is received.

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

6.4. The Division shall not reinstate any driver's licenses or driving privileges and vehicle registration unless all required fees are paid in accordance with W. Va. Code §17B-3-9 and W. Va Code W. Va. Code §17A-9-7.

6.5. The provisions of section seven of this rule applies to first time offenders.

§91-13-7. Driver's License Suspension.

7.1. Pursuant to the provisions of W.Va. Code §17D-2A-7, the owner or driver may choose to pay a penalty fee in lieu of the driver's license suspension requirement for a first (1st) offense of no insurance for an offense committed on or after June 11, 2010. The offender shall pay a \$200.00 penalty fee and provide current proof of insurance for any registered vehicles before the suspension's effective date. This option applies to any suspension action pursuant to W. Va. Code §17A-3-3- or

§17D-2A-1 et seq.

7.2. A second (2nd) offense for no insurance within five (5) years requires a thirty (30) day driver's license suspension if the first (1st) offense waiver was taken.

7.3. A third (3rd) offense for no insurance within five(5) years requires a ninety (90) day driver's license suspension if the first (1st) offense waiver was taken. Any subsequent offenses require a ninety (90) day suspension of the driving privileges.

7.4. In the case of multiple owners, the Division shall suspend the driver's license of only one owner unless the offense involves false or fraudulent documents. The Division will provide the owners an opportunity to determine which owner will bear the driver's license suspension.

§91-13-8. Company Forms and Procedures.

8.1. Certificate of Insurance- The Commissioner and all law enforcement agencies shall accept a certificate of insurance issued in accordance with this rule as proof of insurance. However, all forms of insurance information are subject to verification under the electronic insurance verification program. The insurance company shall provide a certificate of insurance 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 commercial motor vehicles, the word fleet may be used on each certificate in lieu of a motor vehicle description. The insurance company shall list the effective dates of the policy term by including the commencement date and the expiration date of the policy term, the certificate of insurance issue date and the insurance company's NAIC number. In cases where the vehicle owner is different from the policy holder, the insurance company shall list both the policy holder and the vehicle's 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. Insurance Company Notice of Cancellation- The insurance company shall notify the Division when an insurance policy cancellation has been firmed up by the insurance company. The insurance company shall list the notice date, cancellation date, the insurance company's name, the insurance company's NAIC number, the year, make, model and the vehicle identification number of the vehicle, the type of cancellation and all drivers' license numbers listed on the policy. In cases where the vehicle owner is different from the policy holder, the insurance company shall list both the policy holder and the vehicle owner. An insurance company may submit notification through an electronic format to the division or its agent.

§91-13-9. Company Cancellation of Insurance.

9.1. Notice of Cancellation of Policy- The insurance company shall submit to the Division, the form designated by the Commissioner as WV-2B when the company cancels an insurance policy on a motor vehicle in accordance with the provisions of W.Va. Code §33-6A-1 (b-e).

9.2 The Division shall notify the vehicle owner, by certified mail that the Division has received a notice of insurance cancellation from the insurance company. The notice shall allow a thirty (30) day notice period for the owner to either surrender the registration plate or provide current proof of insurance and a copy of a motor vehicle registration transfer if applicable.

9.3. The Division shall suspend the owner's driver's license for a period of thirty (30) day and the revoke the registration of the motor vehicle if the owner fails to surrender the registration plate or provide current proof of insurance before the effective date of the motor vehicle registration plate revocation.

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

9.5. The Division shall not reinstate any driver's licenses or driving privileges and vehicle registration unless all required fees are paid in accordance with W. Va. Code §17B-3-9 and W. Va. Code W. Va. Code §17A-9-7.

§91-13-10. Administrative Due Process.

10.1. Any person adversely affected by an order made and entered by the Commissioner in accordance with W. Va. Code §17A-3-3, W. Va. Code §17D-2A et seq. or this rule, may request a hearing in accordance with W. Va. Code §17D-2A-7(e) by filing a written notice with the Office of Administrative Hearings (OAH) in person, or by certified mail, return receipt requested.

West Virginia Certificate of Insurance

CERTIFICATE OF INSURANCE - WEST VIRGINIA

Name of Insurance Company

~~Contact Number~~

VEHICLE OWNER ENTER PLATE NO.
NAIC #

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.

Name and Address of Insured

Name and Address of Owner

Policy Number

Date Certificate Issued

Effective Dates of Policy Term

From:

To:

Year

Make

VIN

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 ~~6/2011~~ 6/2011

Specifications

The above specimen form shows the items to be included and the 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 is to be no less than 20 lb.~~
- ~~2.) Size may vary from 3 1/4" x 4" to 3 1/4" x 7".~~

- 1.) 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 date shown.
- 2.) Vehicle Description:
 - The year may be shown as 2 digits.
 - 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.
- 3.) Certificates shall be provided in duplicate for each vehicle insured at each policy term or upon request by the insured.
- 4.) When the insurer does not have a description of the vehicle insured under fleet policy, the word "fleet" may be entered in lieu of vehicle description.
- 5.) A facsimile signature of an authorized representative of the insurer may be preprinted on the certificate if the certificate is field issued, 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.
- 6.) The name of the vehicle owner shall be included if different from the insured.
- 7.) The date that the certificate was issued shall be indicated on the certificate.
- 8.) The certificate shall indicate the commencement date and the expiration date of the policy term.
- 9.) NAIC Number shall appear on certificate in or near upper right hand corner.**

Notice of Cancellation or Termination of Policy

NOTICE OF CANCELLATION OR TERMINATION OF POLICY

NAIC #

Name of Company
Policy Number

Date of Notice

Cancellation Date

Name and Address of Insured

Name and Address of Vehicle Owner if Different

Year - Make or Model

Vehicle Identification Number

WV-2B ~~4/84~~ 6/2011

Canceled Under Provisions
Of West Virginia Code 33-6A-1 marked

(b) ___
(c) ___
(d) ___
(e) ___

TO BE FILED WITH:

Division of Motor Vehicles
PO Box 17020
Charleston, WV 25317

All Driver's License Numbers
Listed on Policy must
Be Listed

1.
2.
3.
4.

Specifications for West Virginia Notice of Termination (WV-2B 6/2011)

~~ONLY ONE VEHICLE MAY BE REPORTED PER 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 and complete VIN of vehicle.
- 8.) All driver's license numbers on policy must be listed.
- 9.) Type of cancellation must be indicated. (Only those outlined in West Virginia Code 33-6A-1, subsections (b) through (e) will be accepted.

10.) NAIC Number

~~Size~~

~~7 7/8" wide x 3 1/2" high.~~

~~Paper~~

~~Not less than 20 lb. white
sulphite bond or equivalent.~~

~~Type~~

~~One Part Form~~