

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

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

Form #6

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE**

AGENCY: Division of Motor Vehicles TITLE NUMBER: 91

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 RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) House Bill 4206

SECTION WV Code §64-8-2, PASSED ON February 29, 2012

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE
FOLLOWING DATE: July 1, 2012



Authorized Signature



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

Earl Ray Tomblin
Governor

Paul A. Mattox, Jr., P. E.
Cabinet Secretary

May 2, 2012

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 Legislative Rule 91 CSR 13 Compulsory Motor Vehicle Liability Insurance. House Bill 4206 authorizes the promulgation of this rule.

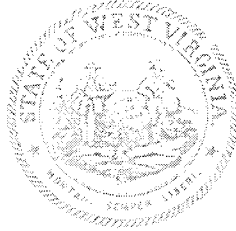
Comments and concerns about the contents of this rule should be directed to the Commissioner of Motor Vehicles. Thank you for your assistance in this matter.

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



Natalie E. Tennant

Secretary of State
State of West Virginia

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Charleston, WV 25305

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April 25, 2012

Steve Dale
Motor Vehicles
5707 MacCorkle Av SE
PO Box 17300
Charleston WV 25317

HB 4206 passed the Legislature on _ and is awaiting the Governor's signature authorizing **Title 91, Series 13, Compulsory Motor Vehicle Liability Insurance.** *We will notify you after the Governor signs this bill.*

You have sixty (60) days after the Legislature passed **HB 4206** to final file the legislative rule with the Secretary of State's office. To final file your legislative rule, fill in the blanks on form #6, "Final Filing", and file the form with your rule in our office. For your convenience, the forms are now available on the Internet at <http://www.sos.wv.gov/administrative-law/formsandformats/Documents/al6.pdf>. You may fill out the form online and print it. Authorization for your legislative rule is cited in **HB 4206, Section §64-8-2**. The effective date of the legislative rule may be set from the date it is final filed up to ninety (90) days from the date the legislative rule is final filed with the Secretary of State's office. Please have an authorized signature on the bottom line.

*****IMPORTANT:** When your agency completes the legislative rule in word or wordperfect compatible format, **you must submit a clean copy with all underlines and strike-throughs removed** to our office when final filing the rule. Remember, the text of the electronically filed rule **must be** identical word for word, comma for comma, as the paper copy authorized by the legislature. **Notice: All electronic filings not complying with this will be rejected and sent back to the agency to be resubmitted!**

After the final rule is entered into the database, the rule will be sent back to the agency for review and proofing. The agency has ten (10) working days to send a confirmation or corrections to the Secretary of State. **If the agency fails to return this within ten (10) working days, the rule WILL be filed in the database with a disclaimer attached stating that the agency failed to review the rule.** Following confirmation, corrections or failure to review, as the case may be, the Secretary of State shall submit to the agency a final version of the rule for their records.

If you have any questions or need any assistance, please do not hesitate to contact our office.

Thank you,
Administrative Law Division

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

OFFICE WEST VIRGINIA
SECRETARY OF STATE

**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. -- April 25, 2012

1.4. Effective Date. -- July 1, 2012

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-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 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, which has been approved by the Commissioner.

2.3. Commercial Auto Coverage – Means motor vehicle liability coverage extended to a vehicle owner 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 administrative driver's license suspensions and motor vehicles registration revocations 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 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 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 must 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, the NAIC number, policy number and the policy 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 owner 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 will develop and implement an electronic insurance verification program for motor vehicles. 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 will verify insurance coverage by any means available including electronic access. The electronic verification will 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 provide an opportunity for any motor vehicle registrant 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 must 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 must complete a WV-4S form and indicate the disposition of the registration plate to accompany the notice of owner's cancellation of insurance. The Division shall 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 there was no insurance at the time of the crash, the Division shall issue notices of suspension by certified mail to the driver and owner or owners of the vehicle in question. The notice shall allow a 30-day notice period before the suspension effective date. 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 driver and the owner or owners of the motor vehicle 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 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. Reinstatements of driver's licenses or driving privileges and vehicle registration are contingent upon payment of all fees assessed by the Division of Motor Vehicles.

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 by certified mail to the driver and owner or owners of the vehicle in question. The notice shall allow a 30-day notice period before the suspension effective date. Proof of insurance must be provided to the Division and confirmed for the date and time of the citation.

6.2. If the Commissioner determines there was no insurance, the Division shall suspend the driver's license of the driver and owner or owners of the motor vehicle for a period of thirty (30)

days and shall revoke the registration of the motor vehicle until current proof of insurance is received.

6.3. If the Division determines that the owners 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.

6.4. Reinstatements of driver's licenses or driving privileges and vehicle registration are contingent upon payment of all fees assessed by the Division of Motor Vehicles.

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 driver and owner 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 must pay a \$200.00 penalty fee and provide current proof of insurance for any registered vehicles before the suspension 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 30 day driver's license suspension if the first (1st) offense waiver was taken.

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

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

8.1. Certificate of Insurance- The form designated by the Commissioner as WV-1B when printed as specified and completed in full, or such other form approved by the Commissioner, meets the requirements of W. Va. Code §17D-2A-4 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 however, all forms of insurance information are subject to the electronic insurance verification program. The insurance company shall provide the 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 issue date and the NAIC number. In cases where the vehicle owner is different from the policy holder, the company 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 as WV-2B when printed as specified and completed in full, meets the requirements of W. Va. Code §17D-2A-5 for issuance by the insurance company to notify the Division of company cancellations which are issued under the provisions of W. Va. Code §33-6A-1(b), (c), (d), or (e) when the cancellation has been firmed up by the insurance company. The insurance company shall list the notice date, cancellation date, company name, the NAIC number, the year, make, model and vehicle identification number of vehicle, 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 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- An insurance company shall provide the form designated by the Commissioner as WV-2B in accordance with the provisions of W.Va. Code §33-6A-1 (b-e).

9.2 The Division shall notify the owner or owners of the notice of insurance cancellation, by certified mail. The notice shall provide the owner(s) with a 30 day notice period to:

9.2a. Surrender the registration plate or provide current insurance and a copy of registration transfer if applicable.

9.3. Failure to comply will result in the Division suspending the owner(s) driver's license for a thirty (30) day period and the registration plate until current insurance is provided.

9.4. If the Division determines the owner has been previously suspended for no insurance, the period of the driver's license suspension will be ninety (90) days.

9.5. All reinstatements of driving privileges and registration plates are contingent upon payment of all fees assessed by the Division of Motor Vehicles.

§91-13-10. Administrative Due Process.

10.1. Any person adversely affected by an order made and entered by the Commissioner in accordance with the provisions of W.Va. Code §17A-3-3 or W. Va. Code §17D-1 et seq. and this legislative rule, may request a hearing if specifically allowed by W. Va. Code §17D-1 et seq., by filing a written notice with the Office of Administrative Hearings (OAH) 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 W. Va. Code §17A-2-19 apply which provide that the giving of notice is complete upon expiration of four (4) days after

deposit of the notice in the United States mail.

10.2. 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 is limited to whether there was the required liability insurance upon the vehicle on the date in question.

10.3. The motor vehicle owner has the burden of showing 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.

Notice of Cancellation or Termination of Policy

NOTICE OF CANCELLATION OR TERMINATION OF POLICY		Canceled Under Provisions Of West Virginia Code 33-6A-1 marked
NAIC #		
Name of Company		(b) ___
Policy Number		(c) ___
		(d) ___
		(e) ___
Date of Notice	Cancellation Date	TO BE FILED WITH:
Name and Address of Insured		Division of Motor Vehicles PO Box 17020 Charleston, WV 25317
Name and Address of Vehicle Owner if Different		All Driver's License Numbers Listed on Policy must Be Listed
Year - Make or Model	Vehicle Identification Number	1. _____
		2. _____
		3. _____
		4. _____
WV-2B 6/2011		

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

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

APPENDIX B

West Virginia Certificate of Insurance

CERTIFICATE OF INSURANCE - WEST VIRGINIA		VEHICLE OWNER ENTER PLATE NO. NAIC #	
Name of Insurance Company			
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			

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.) 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.

APPENDIX A