STATE OF NEW YORK

4871--B

2021-2022 Regular Sessions

IN SENATE

February 17, 2021

Introduced by Sens. BRESLIN, GAUGHRAN -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Transportation in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the vehicle and traffic law, in relation to establishing an online insurance verification system for proof of insurance; to establish an online insurance verification advisory council; and to repeal certain provisions of such law relating to motor vehicle insurance and funds for a certain pilot database system

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Short title. This act shall be known and may be cited as the "New York state fairness for drivers act".

§ 2. Paragraphs (a), (b), (c) and (d) of subdivision 2 and paragraphs (a), (b), (c), (d), (f), (g), (h) and (i) of subdivision 4 of section 313 of the vehicle and traffic law are REPEALED.

§ 3. Paragraph (d) of subdivision 3 of section 317 of the vehicle and traffic law is REPEALED.

§ 4. The vehicle and traffic law is amended by adding a new section 312-b to read as follows:

§ 312-b. Online insurance verification system of motor vehicle insurance. 1. The commissioner shall establish a system for the online verification of insurance. Information available in the online insurance verification system shall be provided by motor vehicle insurers pursuant to section three hundred twelve-c of this article. Notwithstanding any other provision of law or regulation to the contrary, the online insurance verification system shall be the only verification system used to verify evidence of mandatory vehicle insurance as required by section

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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three hundred twelve of this article. The commissioner shall consult with representatives of the insurance industry and private service providers in determining the objectives, details and deadlines related to the online insurance verification system.

2. The online insurance verification system shall include, at a minimum, the ability to:

(a) send requests to insurers for verification of evidence of insurance via web services established by the insurers, through the internet, or a similar proprietary or common carrier electronic system, in compliance with the specifications and standards of the insurance industry committee on motor vehicle administration;

(b) include appropriate provisions to secure data against unauthorized access and the department shall maintain a historical record of the system data for six to twelve months from the date of all requests and responses;

(c) be utilized for verification of the evidence of mandatory liability insurance coverage as prescribed by the laws of the state and shall be accessible to authorized personnel of the department, the courts, law enforcement, and any other entities authorized by the state as permitted by any state or federal privacy laws, and the online insurance verification system shall be interfaced, wherever appropriate, with existing state systems;

(d) include information which shall enable the department to make inquiries to insurers for evidence of insurance that is consistent with the insurance industry committee on motor vehicle administration recommendations, including specifications and standards that utilize multiple data elements for greater matching accuracy from the national association of insurance commissioners, vehicle identification numbers, policy numbers, or as described in the specifications and standards of the insurance industry committee on motor vehicle administration; and

(e) respond to each request for insurance information within a reasonable amount of time which shall be determined by the commissioner and the online insurance verification system shall be capable of responding within the time established.

3. The commissioner, in conjunction with the superintendent of state police and local law enforcement officials, shall formulate a means to allow the online insurance verification system to be easily accessible to on-duty law enforcement personnel in the performance of their official duties for the purpose of verifying whether an operator of a motor vehicle maintains proper insurance coverage and to increase compliance with the motor vehicle financial security laws under this article and article eight of this title.

4. (a) The commissioner shall develop a computer bar code system that can be imprinted on a vehicle registration sticker or on a sticker to be affixed to the insured's license plate either simultaneously or after the online insurance verification system has been established.

(b) Such computer bar code shall enable authorized persons in the performance of their official duties to access information such as the registrant's name, vehicle identification number, name of insurer, current status of premium payment, driver's license number, vehicle registration number and other information that the commissioner deems necessary to implement the provisions of this section. The commissioner in developing such bar code system shall enable authorized persons in the performance of their official duties to access only such information that is necessary to detect uninsured motor vehicles or accomplish other goals clearly established and authorized by law. Such system shall be

designed to protect the personal privacy interests of motorists, and shall at a minimum include security features used in PDF417 technology or greater.

5. (a) Nothing in this section shall prohibit the commissioner from contracting with a private service provider or providers who have successfully implemented similar online insurance verification systems in other states or to assist in establishing and maintaining such system in this state.

(b) The commissioner and any private service provider shall each separately maintain a contact person for insurers during the establishment, implementation and operation of the online insurance verification system.

6. The commissioner shall publish for comment and then post a detailed guide of the online insurance verification system on the department's website.

7. Within two years after the online insurance verification system is installed and fully operational, the commissioner, after consultation with insurers, shall prepare and submit to the governor, the temporary president of the senate, the speaker of the assembly, the minority leader of the senate and the minority leader of the assembly a report containing the costs of the online insurance verification system incurred by the department, insurers and the public and the effectiveness of the such system in reducing the number of uninsured motor vehicles.

8. The online insurance verification system shall be installed and fully operational within eighteen months after the effective date of this section and shall undergo an appropriate testing and pilot period of not less than nine months. Until the successful completion of the testing and pilot period, no enforcement action shall be taken based on the online insurance verification system.

9. Notwithstanding any other provision of law or regulation to the contrary, the provisions to secure data against unauthorized access required pursuant to paragraph (b) of subdivision two of this section shall require the following:

(a) The information obtained by the department pursuant to this section shall be deemed confidential and proprietary information and shall not be deemed to be a public record subject to disclosure pursuant to the public officers law.

(i) Such information shall not be used, sold, accessed, utilized in any manner or released by the department to any person, corporation, or state and local agency, unless explicitly authorized to be released to parties that are entitled to such information pursuant to this section.

(ii) Such information may be released to another state or local agency or other persons if the department, insurer and attorney general all consent to the release of a certain type, class or classification of information.

(iii) The department shall institute appropriate measures to ensure that only authorized persons are permitted to access such information for the purposes specified by this section.

(b) Persons who knowingly release or disclose information from the online insurance verification system for a purpose other than those described as authorized by this section or to a person not entitled to receive it shall be guilty of a misdemeanor for each such release or disclosure.

(c) The department shall continue to release information that it currently discloses to the public such as motor vehicle registration and

title abstracts, other reports concerning a motor vehicle operators' driving history and insurance claims history, and information to a person or persons suffering a loss or injury due to a motor vehicle accident in which an insured individual was involved.

§ 5. The vehicle and traffic law is amended by adding a new section 312-c to read as follows:

§ 312-c. Insurer responsibilities for the online insurance verification system. 1. (a) Insurers shall coordinate with the commissioner in establishing and maintaining the online insurance verification system established pursuant to section three hundred twelve-b of this article, and shall provide access to motor vehicle insurance policy status information as provided by any rules and regulations promulgated by the commissioner.

(b) Every insurer that is licensed to issue motor vehicle insurance policies or is authorized to do business in the state shall comply with this section and section three hundred twelve-b of this article for verification of evidence of vehicle insurance for every vehicle insured by that insurer in the state as required by the rules and regulations promulgated by the commissioner.

(c) Insurers shall maintain a historical record of the online insurance verification system data for a maximum period of six months from the date any request and response is made.

(d) Insurers shall respond to requests from the online insurance verification system within the time period prescribed by the specifications and standards set by the insurance industry committee on motor vehicle administration.

2. (a) Insurers shall provide commercial automobile customers with documentation that the vehicle is insured under a commercial auto policy. Documentation shall be an insurance identification card clearly marked in the title with the following, "Commercial Auto Insurance Identification Card".

(b) For the purposes of this subdivision, "commercial auto coverage" shall be defined as any coverage provided to an insured, regardless of the number of vehicles or entity covered under the commercial auto coverage and rated from a commercial manual approved by the department of financial services.

3. Nothing in this section shall prohibit an insurer from using the services of a third-party vendor or provider in order to comply with the online insurance verification system required by sections three hundred twelve and three hundred twelve-b of this article.

4. The commissioner may promulgate any rules and regulations necessary to accommodate insurers that write a limited number of policies in the state and such insurers that would be unduly burdened by this section.

§ 6. a. There is hereby established an online insurance verification advisory council. It shall consist of 14 voting members to be appointed as follows: the commissioner of the department of motor vehicles or his or her duly designated representative, the superintendent of financial services or his or her duly designated representative, the superintendent of the New York State Police or his or her duly designated representative; and eleven at-large members, of which, two members shall be appointed by the governor, two members shall be appointed by the temporary president of the senate, two members shall be appointed by the speaker of the assembly, one member shall be appointed by the minority leader of the senate, one member shall be appointed by the minority leader of the assembly, as well as three insurance company representatives, one appointed by the New York Insurance Association, one

appointed by the American Property and Casualty Insurance Association, and one appointed by the National Association of Mutual Insurance Companies. The commissioner of the department of motor vehicles, or his or her duly designated representative, shall serve as chairperson of the advisory council. The eleven appointed members shall serve at the pleasure of the appointing official or organization. Vacancies shall be filled in the manner provided for original appointments.

b. The members of the advisory council shall receive no compensation for their services.

c. Notwithstanding any inconsistent provision of any general, special or local law, ordinance, resolution or charter, no officer, member or employee of the state or of any public corporation shall forfeit his or her office or employment by reason of his or her acceptance of appointment as a member of the advisory council, nor shall service as such council member be deemed incompatible or in conflict with such office or employment.

d. The advisory council is charged with the following duties:

(1) Facilitate the implementation of the online insurance verification system;

(2) Develop a guide for insurers providing data and other information necessary for compliance along with other necessary regulations;

(3) Coordinate and conduct a testing phase;

(4) Identify necessary changes during the testing phase; and

(5) Issue recommendations based on periodic reviews of the online insurance verification system.

e. The advisory council may request and shall receive from any subdivision, department, board, commission, office, agency, or other instrumentality of the state or of any political subdivision thereof such facilities, assistance and data as it deems necessary or desirable for the proper execution of its powers and duties and to effectuate the purposes set forth in this act.

§ 7. Subdivision 1 of section 312 of the vehicle and traffic law is amended by adding a new paragraph (c) to read as follows:

(c) When the department has evidence that a motor vehicle has been or is currently being operated without insurance, the owner's vehicle registration may be suspended or revoked. The current registration shall not be reinstated and new registration shall not be issued unless evidence of insurance has been provided to the department and any applicable reinstatement fees as prescribed by the department have been paid. Any applicable fees are in addition to any other fines, penalties and fees required by law.

§ 8. Subdivision 1 of section 312-a of the vehicle and traffic law, as amended by chapter 781 of the laws of 1983, is amended to read as follows:

1. Upon issuance of an owner's policy of liability insurance or other financial security required by this chapter, an insurer shall issue proof of insurance in accordance with the regulations promulgated by the commissioner pursuant to [~~paragraph (b) of subdivision two of section~~] **sections** three hundred [~~thirteen~~] **twelve-b and three hundred twelve-c** of this article.

§ 9 This act shall take effect immediately; provided, however, sections two and three of this act shall take effect when the online insurance verification system is installed and fully operational pursuant to subdivision 8 of section 312-b of the vehicle and traffic law, as added by section four of this act; and provided further, sections four, five, seven and eight of this act shall take effect one year after it

shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made on or before such date.