

# 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:

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

3 § 2. Paragraphs (a), (b), (c) and (d) of subdivision 2 and paragraphs  
4 (a), (b), (c), (d), (f), (g), (h) and (i) of subdivision 4 of section  
5 313 of the vehicle and traffic law are REPEALED.

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7 traffic law is REPEALED.

8 § 4. The vehicle and traffic law is amended by adding a new section  
9 312-b to read as follows:

10 § 312-b. Online insurance verification system of motor vehicle insur-  
11 ance. 1. The commissioner shall establish a system for the online  
12 verification of insurance. Information available in the online insurance  
13 verification system shall be provided by motor vehicle insurers pursuant  
14 to section three hundred twelve-c of this article. Notwithstanding any  
15 other provision of law or regulation to the contrary, the online insur-  
16 ance verification system shall be the only verification system used to  
17 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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1 three hundred twelve of this article. The commissioner shall consult  
2 with representatives of the insurance industry and private service  
3 providers in determining the objectives, details and deadlines related  
4 to the online insurance verification system.

5 2. The online insurance verification system shall include, at a mini-  
6 mum, the ability to:

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

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

16 (c) be utilized for verification of the evidence of mandatory liabil-  
17 ity insurance coverage as prescribed by the laws of the state and shall  
18 be accessible to authorized personnel of the department, the courts, law  
19 enforcement, and any other entities authorized by the state as permitted  
20 by any state or federal privacy laws, and the online insurance verifica-  
21 tion system shall be interfaced, wherever appropriate, with existing  
22 state systems;

23 (d) include information which shall enable the department to make  
24 inquiries to insurers for evidence of insurance that is consistent with  
25 the insurance industry committee on motor vehicle administration recom-  
26 mendations, including specifications and standards that utilize multiple  
27 data elements for greater matching accuracy from the national associ-  
28 ation of insurance commissioners, vehicle identification numbers, policy  
29 numbers, or as described in the specifications and standards of the  
30 insurance industry committee on motor vehicle administration; and

31 (e) respond to each request for insurance information within a reason-  
32 able amount of time which shall be determined by the commissioner and  
33 the online insurance verification system shall be capable of responding  
34 within the time established.

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

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

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

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

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

9 (b) The commissioner and any private service provider shall each sepa-  
10 rately maintain a contact person for insurers during the establishment,  
11 implementation and operation of the online insurance verification  
12 system.

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

16 7. Within two years after the online insurance verification system is  
17 installed and fully operational, the commissioner, after consultation  
18 with insurers, shall prepare and submit to the governor, the temporary  
19 president of the senate, the speaker of the assembly, the minority lead-  
20 er of the senate and the minority leader of the assembly a report  
21 containing the costs of the online insurance verification system  
22 incurred by the department, insurers and the public and the effective-  
23 ness of the such system in reducing the number of uninsured motor vehi-  
24 cles.

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

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

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

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

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

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

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

55 (c) The department shall continue to release information that it  
56 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

1 appointed by the American Property and Casualty Insurance Association,  
2 and one appointed by the National Association of Mutual Insurance Compa-  
3 nies. The commissioner of the department of motor vehicles, or his or  
4 her duly designated representative, shall serve as chairperson of the  
5 advisory council. The eleven appointed members shall serve at the pleas-  
6 ure of the appointing official or organization. Vacancies shall be  
7 filled in the manner provided for original appointments.

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

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

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

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

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

22 (3) Coordinate and conduct a testing phase;

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

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

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

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

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

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

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

51 § 9 This act shall take effect immediately; provided, however,  
52 sections two and three of this act shall take effect when the online  
53 insurance verification system is installed and fully operational pursu-  
54 ant to subdivision 8 of section 312-b of the vehicle and traffic law, as  
55 added by section four of this act; and provided further, sections four,  
56 five, seven and eight of this act shall take effect one year after it

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