

# STATE OF NEW YORK

5120

2023-2024 Regular Sessions

## IN ASSEMBLY

March 2, 2023

Introduced by M. of A. GUNTHER, HUNTER, D. ROSENTHAL -- read once and referred to the Committee on Transportation

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5 313 of the vehicle and traffic law are REPEALED.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7 traffic law is REPEALED.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  
18 three hundred twelve of this article. The commissioner shall consult  
19 with representatives of the insurance industry and private service  
20 providers in determining the objectives, details and deadlines related  
21 to the online insurance verification system.

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

24 (a) send requests to insurers for verification of evidence of insur-  
25 ance via web services established by the insurers, through the internet,

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

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1 or a similar proprietary or common carrier electronic system, in compli-  
2 ance with the specifications and standards of the insurance industry  
3 committee on motor vehicle administration;

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

8 (c) be utilized for verification of the evidence of mandatory liabil-  
9 ity insurance coverage as prescribed by the laws of the state and shall  
10 be accessible to authorized personnel of the department, the courts, law  
11 enforcement, and any other entities authorized by the state as permitted  
12 by any state or federal privacy laws, and the online insurance verifica-  
13 tion system shall be interfaced, wherever appropriate, with existing  
14 state systems;

15 (d) include information which shall enable the department to make  
16 inquiries to insurers for evidence of insurance that is consistent with  
17 the insurance industry committee on motor vehicle administration recom-  
18 mendations, including specifications and standards that utilize multiple  
19 data elements for greater matching accuracy from the national associ-  
20 ation of insurance commissioners, vehicle identification numbers, policy  
21 numbers, or as described in the specifications and standards of the  
22 insurance industry committee on motor vehicle administration; and

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

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

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

39 (b) Such computer bar code shall enable authorized persons in the  
40 performance of their official duties to access information such as the  
41 registrant's name, vehicle identification number, name of insurer,  
42 current status of premium payment, driver's license number, vehicle  
43 registration number and other information that the commissioner deems  
44 necessary to implement the provisions of this section. The commissioner  
45 in developing such bar code system shall enable authorized persons in  
46 the performance of their official duties to access only such information  
47 that is necessary to detect uninsured motor vehicles or accomplish other  
48 goals clearly established and authorized by law. Such system shall be  
49 designed to protect the personal privacy interests of motorists, and  
50 shall at a minimum include security features used in PDF417 technology  
51 or greater.

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

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

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

8 7. Within two years after the online insurance verification system is  
9 installed and fully operational, the commissioner, after consultation  
10 with insurers, shall prepare and submit to the governor, the temporary  
11 president of the senate, the speaker of the assembly, the minority lead-  
12 er of the senate and the minority leader of the assembly a report  
13 containing the costs of the online insurance verification system  
14 incurred by the department, insurers and the public and the effective-  
15 ness of the such system in reducing the number of uninsured motor vehi-  
16 cles.

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

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

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

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

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

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

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

47 (c) The department shall continue to release information that it  
48 currently discloses to the public such as motor vehicle registration and  
49 title abstracts, other reports concerning a motor vehicle operators'  
50 driving history and insurance claims history, and information to a  
51 person or persons suffering a loss or injury due to a motor vehicle  
52 accident in which an insured individual was involved.

53 § 5. The vehicle and traffic law is amended by adding a new section  
54 312-c to read as follows:

55 § 312-c. Insurer responsibilities for the online insurance verifica-  
56 tion system. 1. (a) Insurers shall coordinate with the commissioner in

1 establishing and maintaining the online insurance verification system  
2 established pursuant to section three hundred twelve-b of this article,  
3 and shall provide access to motor vehicle insurance policy status infor-  
4 mation as provided by any rules and regulations promulgated by the  
5 commissioner.

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

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

15 (d) Insurers shall respond to requests from the online insurance  
16 verification system within the time period prescribed by the specifica-  
17 tions and standards set by the insurance industry committee on motor  
18 vehicle administration.

19 2. (a) Insurers shall provide commercial automobile customers with  
20 documentation that the vehicle is insured under a commercial auto poli-  
21 cy. Documentation shall be an insurance identification card clearly  
22 marked in the title with the following, "Commercial Auto Insurance Iden-  
23 tification Card".

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

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

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

36 § 6. a. There is hereby established an online insurance verification  
37 advisory council. It shall consist of 14 voting members to be appointed  
38 as follows: the commissioner of the department of motor vehicles or his  
39 or her duly designated representative, the superintendent of financial  
40 services or his or her duly designated representative, the superinten-  
41 dent of the New York State Police or his or her duly designated repre-  
42 sentative; and eleven at-large members, of which, two members shall be  
43 appointed by the governor, two members shall be appointed by the tempo-  
44 rary president of the senate, two members shall be appointed by the  
45 speaker of the assembly, one member shall be appointed by the minority  
46 leader of the senate, one member shall be appointed by the minority  
47 leader of the assembly, as well as three insurance company represen-  
48 tatives, one appointed by the New York Insurance Association, one  
49 appointed by the American Property and Casualty Insurance Association,  
50 and one appointed by the National Association of Mutual Insurance Compa-  
51 nies. The commissioner of the department of motor vehicles, or his or  
52 her duly designated representative, shall serve as chairperson of the  
53 advisory council. The eleven appointed members shall serve at the pleas-  
54 ure of the appointing official or organization. Vacancies shall be  
55 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.