STATE OF NEW YORK

7535--A

2023-2024 Regular Sessions

IN ASSEMBLY

May 25, 2023

Introduced by M. of A. GUNTHER, WEPRIN, BUTTENSCHON, ZEBROWSKI, STECK, McDONALD, STERN, THIELE, DINOWITZ, FAHY, HUNTER, WOERNER, McMAHON, JACKSON, RIVERA, BENEDETTO, WALLACE, STIRPE, J. A. GIGLIO, JONES, ZACCARO, DE LOS SANTOS, BURKE, BERGER -- Multi-Sponsored by -- M. of A. SIMON -- read once and referred to the Committee on Transportation -- recommitted to the Committee on Transportation in accordance with Assembly Rule 3, sec. 2 -- 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 motor vehicle insurance

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

Section 1. Subdivisions 2, 3 and 4 of section 313 of the vehicle and traffic law, subdivision 2 as amended by chapter 678 of the laws of 1997, paragraphs (a), (b) and (d) of subdivision 2 and subdivision 4 as amended by chapter 509 of the laws of 1998, paragraph (b) of subdivision 4 as amended by chapter 161 of the laws of 2004, paragraph (d) of subdivision 4 as further amended by section 104 of part A of chapter 62 of the laws of 2011, subdivision 3 as amended by chapter 781 of the laws of 1983, are amended to read as follows:

2. (a) [~~Upon~~] **Except as otherwise provided in sections three hundred twelve-b and three hundred twelve-c of this article,** the termination of an owner's policy of liability insurance, other than an owner's policy of liability insurance for a motorcycle, at the request of the insured or by cancellation by the insurer, the insurer shall file a notice of termination with reference to such policy, as opposed to any insured vehicle or vehicles under such policy, with the commissioner not later than thirty days following the effective date of such cancellation or other termination, in accordance with the regulations required by paragraph (c) of this subdivision. An insurer shall not file a notice of termination with the commissioner except as required by this subdivision.

(b) [~~Upon~~] **Except as otherwise provided in sections three hundred twelve-b and three hundred twelve-c of this article, upon** the issuance

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

LBD10946-04-4

of an owner's policy of liability insurance the insurer shall file a notice or confirmation of issuance with reference to such policy not later than fourteen days following the effective date of such issuance, and not later than seven days following the effective date for policies issued after January first, two thousand one, in accordance with the regulations required by paragraph (c) of this subdivision.

(c) The commissioner shall promulgate regulations establishing procedures for issuance of proof of insurance and**, except as otherwise provided in sections three hundred twelve-b and three hundred twelve-c of this article,** for reporting by insurers of notices of termination and policy issuance, either electronically or by paper copy, at the option of the department. Such reporting **or, if required pursuant to sections three hundred twelve-b and three hundred twelve-c of this article, such online verification** shall be required for every cancellation or termination which is effective on or after July first, nineteen hundred eighty-four and for every policy issuance which is effective on or after January first, two thousand[**~~; provided, however, that should the commissioner find, after testing of reporting procedures, that it would be feasible to require reporting for policy cancellations, terminations or issuances effective on an earlier date, he may by regulation so require reporting on such earlier date, but in no event shall reporting be required for cancellations or terminations effective prior to February first, nineteen hundred eighty-four nor for policy issuances effective prior to September first, nineteen hundred ninety-nine. Insurers shall cooperate fully with the commissioner in any such testing of reporting procedures~~**].

(d) Upon application by an insurer, the commissioner may extend the period for filing of notices of termination by such insurer **pursuant to paragraph (c) of this subdivision** for up to fifteen days, and for seven days for policies issued by an insurer. Extensions shall not be granted unless the insurer demonstrates to the satisfaction of the commissioner that compliance with the notice period would result in substantial hardship to the insurer. The commissioner shall maintain a list of extensions granted pursuant to this paragraph.

(e) Notwithstanding the provisions of paragraphs (b), (c) and (d) of this subdivision, the commissioner may, in lieu of promulgating regulations for reporting by insurers to the department of notices of termination and policy issuance either electronically or by paper copy pursuant to such paragraphs, promulgate regulations pursuant to sections three hundred twelve-b and three hundred twelve-c of this article establishing procedures for online verification by motor vehicle insurers of motor vehicle owners' policies of liability insurance to the department.

3. A cancellation or termination for which notice is required to be filed with the commissioner pursuant to subdivision two of this section **or which must be verified online pursuant to sections three hundred twelve-b and three hundred twelve-c of this article** shall not be effective with respect to persons other than the named insured and members of the insured's household until the insurer has filed a notice thereof with the commissioner **or verified such cancellation or termination online, as applicable,** or until another insurance policy covering the same risk has been procured, except that a notice filed with the commissioner, in the format prescribed by the commissioner, within the period prescribed in subdivision two of this section**, or a verification made online in compliance with sections three hundred twelve-b and three hundred twelve-c of this article,** shall be effective as of the date certified therein, regardless of whether a suspension order is issued

pursuant to section three hundred eighteen of this article. A receipt from the department stating that a notice of termination has been filed shall be deemed conclusive evidence of such filing. An insurer shall cooperate with the commissioner in attempting to identify persons not in compliance with this article in cases where the information reported by the insurer does not correspond with records maintained by the department.

4. Notwithstanding any other provision of this article to the contrary, the commissioner shall establish a [~~pilot~~] program to maintain an up-to-date insured vehicle identification database to assist in identifying uninsured motor vehicles. Such [~~databases~~] **database** shall be implemented by the department pursuant to standards prescribed by the commissioner or an agent designated by the commissioner which shall seek technical assistance from affected insurers and the New York Automobile Insurance Plan. This program shall utilize all information collected pursuant to this section **or pursuant to sections three hundred twelve-b and three hundred twelve-c of this article** and shall also include the following elements:

(a) In addition to and in conjunction with **either** the provisions of subdivision two of this section **or the provisions of sections three hundred twelve-b and three hundred twelve-c of this article**, insurers that write private passenger or commercial motor vehicle insurance in this state shall also submit to the department, either electronically [~~or~~]**,** by paper copy **or**, **if established pursuant to the provisions of section three hundred twelve-b of this article, by online verification,** at the option of the department, information that identifies those policies that have been cancelled, terminated or non-renewed and all policies that have been issued, the date when such insurance lapses, and any other information that the commissioner deems necessary to efficiently identify and track uninsured vehicles in this state such as a policyholder's address, policy number, vehicle registration number, and vehicle identification number. The department may exempt from such [~~pilot~~] program the transfer of information on certain classifications of vehicles that are in the opinion of the department generally insured and which it is difficult to identify uninsured vehicles within such classification, such as large commercial vehicle fleets;

(b) [~~The~~] **Except as otherwise provided in section three hundred twelve-b of this article, the** department shall forward to each motor vehicle insurer, at such times as deemed necessary and appropriate by the commissioner, a listing of all the registrants the department has on file as insured with that insurer. Such insurer shall then review the listing within thirty days of receipt of the listing and report to the department which of the registrants the insurer does not insure;

(c) The commissioner shall, in conjunction with the superintendent of state police and local law enforcement officials formulate a means to allow such database **established pursuant to this subdivision** 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 maintains proper insurance coverage and to increase compliance with the motor vehicle financial security laws under this article and article eight of this title;

(d) In developing the mechanism to electronically transfer information to the department **pursuant to this section or, at the department's option, pursuant to sections three hundred twelve-b and three hundred twelve-c of this article**, the commissioner shall consult with the superintendent of financial services and insurers to adopt a standardized

system of organizing, recording and transferring such information so as to minimize insurer administrative expenses. The commissioner shall to the maximum extent possible utilize nationally recognized electronic data information systems such as those developed by the American National Standards Institute or the American Association of Motor Vehicle Administrators;

(e)(1) Either simultaneously or after the up-dated database system has been established, the commissioner shall develop a computer indicator that can be imprinted on a vehicle registration sticker or on a sticker to be affixed to the insured's license plate. Such indicator system shall enable law enforcement personnel and other authorized persons when acting in the course of their official duties to access the department's database so that such persons can ascertain whether a vehicle is properly insured or not insured;

(2) Such computer indicator system 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 insurance, vehicle registration number and other information that the commissioner deems necessary to implement the provisions of this section **or section three hundred twelve-b of this article**. The commissioner in developing such computer indicator 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 computer indicator system shall be designed to protect the personal privacy interests of motorists;

(f) The commissioner shall maintain [~~an~~] **the** insured vehicle database system [~~that is accurate to within a period of fourteen days~~] **established pursuant to this subdivision** and a computer indicator system described in paragraph (e) of this subdivision [~~within twenty-four months of the effective date of this subdivision and~~] **that are accurate** to within seven days [~~by January first, two thousand one. The commissioner shall submit to the legislature a report within eighteen months from the date this subdivision takes effect which outlines the progress being made to implement such database and computer indicator system. After such database and computer indicator system is established and put into operation, the commissioner shall make recommendations to the legislature to alter, minimize or eliminate the need for the issuance of insurance identification cards, simplify the requirements to demonstrate proof of financial security and certificate of insurance currently required by this article, eliminate the requirement for production of proof of financial security to accompany applications for registrations or renewals thereof provided that such database indicates that the registrant is insured, and the repeal or modification of section three hundred twelve-a of this article. The commissioner shall also make recommendations to the legislature to streamline and shorten the notice termination requirements of subdivisions one, two and three of this section and section three hundred eighteen of this article. Such report shall be submitted to the legislature within twelve months from the date such database and indicator system has been implemented~~];

(g) [~~To minimize the cost of this program, the commissioner, if he deems it necessary and prudent, can initially limit the scope of this project to a select number of vehicle classifications or insurers;~~

~~(h)~~] Notwithstanding any other provision of law, information obtained by the department pursuant to this section **and sections three hundred twelve-b and three hundred twelve-c of this article** shall not be

disclosed, used, sold, accessed, utilized in any manner or released by the department to any person, corporation, or state and local agency, except in response to a specific, individual request for such information authorized pursuant to the federal driver's privacy protection act (18 U.S.C. 2721 et.seq.). The department shall institute measures to ensure that only authorized persons are permitted to access such information for the purposes specified by this section **and section three hundred twelve-b of this article**. Persons who knowingly release or disclose information from such database 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[~~; and~~

~~(i) The commissioner may postpone implementation of such pilot database and computer indicator system for a period of time not to exceed eighteen months if he or she determines that the program is not ready for implementation. Should the commissioner determine that such system cannot be implemented during the eighteen months extension, then the commissioner shall report to the legislature the reasons why such program cannot be implemented and request that the law be amended to delay its implementation date~~].

§ 2. 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 may establish a system for the online verification of motor vehicle owners' policies of liability insurance. Information available in the online insurance verification system shall be provided to the commissioner by motor vehicle insurers pursuant to rules and regulations promulgated by the commissioner, if the commissioner determines establishment of such system would further the purposes of this article as set forth in subdivision two of section three hundred ten of this article.

2. Where the commissioner establishes a system for the online verification of owners' policies of liability insurance pursuant to this section, the commissioner shall verify motor vehicle owners' policies of liability insurance and maintain such system of online verification of owners' policies of liability insurance that is accurate to within a period of no less than seven days, and shall develop, implement, and maintain security features to protect the security, confidentiality, and integrity of such system's information and data and provide safeguards necessary or appropriate to preclude unauthorized access to such information and data.

3. The online insurance verification system shall, at a minimum, have the ability:

(a) for the department to send requests to motor vehicle insurers for verification of evidence of a motor vehicle owner's policy of liability insurance as prescribed by this chapter via web services, through the internet, or a similar proprietary or common carrier electronic system, as well as to receive from motor vehicle insurers verification of evidence of a motor vehicle owner's policy of liability insurance in a form and manner as determined by the commissioner;

(b) to be utilized by the commissioner for verification of mandatory motor vehicle liability insurance coverage as prescribed by this chapter;

(c) to enable the commissioner to make inquiries to motor vehicle insurers for evidence of motor vehicle owners' policies of liability insurance including, but not limited to, policyholders' addresses, poli-

cy numbers, vehicle registration numbers, and vehicle identification numbers;

(d) to respond to each request by the commissioner for motor vehicle liability insurance information within an amount of time determined by the commissioner; and

(e) to respond within the time established.

4. If the commissioner implements an online insurance verification system pursuant to this section, such system (a) shall not be accessible except to the commissioner and to insurers to the extent necessary to comply with the provisions of this section and section three hundred twelve-c of this article, and (b) shall undergo an appropriate testing and pilot period of not less than one year after which, should the commissioner determine to proceed with such online insurance verification system, the commissioner shall certify in writing to the governor, the temporary president of the senate, and the speaker of the assembly that such system is fully operational.

§ 3. 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. Where an online insurance verification system is established pursuant to section three hundred twelve-b of this article:

1. every motor vehicle insurer shall provide the commissioner with access to its motor vehicle liability insurance policy status information as provided by, and consistent with any time frames established by, any rules and regulations promulgated by the commissioner; and

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

§ 4. Paragraph (d) of subdivision 3 of section 317 of the vehicle and traffic law, as added by chapter 678 of the laws of 1997, is amended to read as follows:

(d) To fully fund such [~~pilot~~] database system and bar code program established pursuant to subdivision four of section three hundred thirteen of this article and, where established pursuant to section three hundred twelve-b of this article, such online insurance verification system, the commissioner shall utilize the following three sources of revenue: (1) twenty-five percent of all civil penalties imposed upon persons fined pursuant to paragraph (b) of subdivision one-a of section three hundred eighteen of this article, (2) monies obtained from grants that may be awarded to the commissioner from the motor vehicle theft and insurance fraud prevention fund, and (3) pro rata assessments upon all insurance carriers subject to the provisions of this section in proportion to the premium estimates filed by such carriers.

§ 5. This act shall take effect on the one hundred twentieth day 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 are authorized to be made and completed on or before such effective date.