

Senate Bill No. 584

(By Senator Jenkins)

[Introduced February 21, 2011; referred to the Committee on
Banking and Insurance; and then to the Committee on the
Judiciary.]

A BILL to amend and reenact §33-6A-1 of the Code of West Virginia, 1931, as amended, relating to automobile liability insurance policies; cancellation prohibited except for specified reasons; and providing for nonrenewal for failure of consideration.

Be it enacted by the Legislature of West Virginia:

That §33-6A-1 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 6A. CANCELLATION OR NONRENEWAL OF AUTOMOBILE LIABILITY POLICIES.

§33-6A-1. Cancellation prohibited except for specified reasons; notice.

No insurer once having issued or delivered a policy providing automobile liability insurance for a private passenger automobile may, after the policy has been in effect for sixty days, or in case of renewal effective immediately, issue or cause to issue a notice

1 of cancellation during the term of the policy except for one or
2 more of the reasons specified in this section:

3 (a) The named insured fails to make payments of premium for
4 the policy or any installment of the premium when due;

5 (b) The policy is obtained through material misrepresentation;

6 (c) The insured violates any of the material terms and
7 conditions of the policy;

8 (d) The named insured or any other operator, either residing
9 in the same household or who customarily operates an automobile
10 insured under the policy:

11 (1) Has had his or her operator's license suspended or revoked
12 during the policy period including suspension or revocation for
13 failure to comply with the provisions of article five-a, chapter
14 seventeen-c of this code, regarding consent for a chemical test for
15 intoxication: *Provided*, That when a license is suspended for sixty
16 days by the Commissioner of the Division of Motor Vehicles because
17 a person drove a motor vehicle while under the age of twenty-one
18 years with an alcohol concentration in his or her blood of two
19 hundredths of one percent or more, by weight, but less than eight
20 hundredths of one percent, by weight, pursuant to subsection (1),
21 section two of said article, the suspension may not be grounds for
22 cancellation; or

23 (2) Is or becomes subject to epilepsy or heart attacks and the
24 individual cannot produce a certificate from a physician testifying
25 to his or her ability to operate a motor vehicle;

26 (e) The named insured or any other operator, either residing

1 in the same household or who customarily operates an automobile
2 insured under such policy, is convicted of or forfeits bail during
3 the policy period for any of the following reasons:

4 (1) Any felony or assault involving the use of a motor
5 vehicle;

6 (2) Negligent homicide arising out of the operation of a motor
7 vehicle;

8 (3) Operating a motor vehicle while under the influence of
9 alcohol or of any controlled substance or while having an alcohol
10 concentration in his or her blood of eight hundredths of one
11 percent or more, by weight;

12 (4) Leaving the scene of a motor vehicle accident in which the
13 insured is involved without reporting it as required by law;

14 (5) Theft of a motor vehicle or the unlawful taking of a motor
15 vehicle;

16 (6) Making false statements in an application for a motor
17 vehicle operator's license;

18 (7) Three or more moving traffic violations committed within
19 a period of twelve months, each of which results in three or more
20 points being assessed on the driver's record by the Division of
21 Motor Vehicles, whether or not the insurer renewed the policy
22 without knowledge of all such violations. Notice of any
23 cancellation made pursuant to this subsection shall be mailed to
24 the named insured either during the current policy period or during
25 the first full policy period following the date that the third
26 moving traffic violation is recorded by the Division of Motor

1 Vehicles.

2 Notwithstanding any of the provisions of this section to the
3 contrary, no insurer may cancel a policy of automobile liability
4 insurance without first giving the insured thirty days' notice of
5 its intention to cancel: *Provided*, That the insurance policy is
6 voidable from the effective date and time of the policy issued or
7 renewed by the insurer if the insurer cancels the policy for
8 failure of consideration to be paid by the insured upon ~~initial~~
9 issuance or renewal of the insurance policy and provides written
10 notice to the insured of the cancellation within fifteen days of
11 receipt of notice of the failure of consideration and consideration
12 has not otherwise been provided within ten days of the notice of
13 cancellation. Notice of cancellation for nonpayment of
14 consideration shall be delivered to the named insured or sent by
15 first class mail to the named insured at the address supplied on
16 the application for insurance and shall state the effective date of
17 the cancellation and shall be accompanied by a written explanation
18 of the specific reason for the cancellation. If the insurer fails
19 to provide such written notice to the insured, then the
20 cancellation of the policy for failure of consideration is
21 effective upon the expiration of ten days' notice of cancellation
22 to the insured.

NOTE: The purpose of this bill is to amend portions of the current statute to permit the nonrenewal of an automobile liability insurance policy for failure of consideration.

Strike-throughs indicate language that would be stricken from

the present law, and underscoring indicates new language that would be added.