

1 **Senate Bill No. 614**

2 (By Senator Jenkins)

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4 [Introduced February 16, 2012; referred to the Committee on

5 Banking and Insurance; and then to the Committee on the

6 Judiciary.]

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11 A BILL to amend and reenact §33-6A-1 of the Code of West Virginia,

12 1931, as amended, relating to automobile liability insurance

13 policies; cancellation prohibited except for specified

14 reasons; and providing for nonrenewal for failure of

15 consideration.

16 *Be it enacted by the Legislature of West Virginia:*

17 That §33-6A-1 of the Code of West Virginia, 1931, as amended,

18 be amended and reenacted to read as follows:

19 **ARTICLE 6A. CANCELLATION OR NONRENEWAL OF AUTOMOBILE LIABILITY**

20 **POLICIES.**

21 **§33-6A-1. Cancellation prohibited except for specified reasons;**

22 **notice.**

1 No insurer once having issued or delivered a policy providing
2 automobile liability insurance for a private passenger automobile
3 may, after the policy has been in effect for sixty days, or in case
4 of renewal effective immediately, issue or cause to issue a notice
5 of cancellation during the term of the policy except for one or
6 more of the reasons specified in this section:

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

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

10 (c) The insured violates any of the material terms and
11 conditions of the policy;

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

15 (1) Has had his or her operator's license suspended or revoked
16 during the policy period including suspension or revocation for
17 failure to comply with the provisions of article five-a, chapter
18 seventeen-c of this code, regarding consent for a chemical test for
19 intoxication: *Provided*, That when a license is suspended for sixty
20 days by the Commissioner of the Division of Motor Vehicles because
21 a person drove a motor vehicle while under the age of twenty-one
22 years with an alcohol concentration in his or her blood of two
23 hundredths of one percent or more, by weight, but less than eight

1 hundredths of one percent, by weight, pursuant to subsection (l),
2 section two of said article, the suspension may not be grounds for
3 cancellation; or

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

7 (e) The named insured or any other operator, either residing
8 in the same household or who customarily operates an automobile
9 insured under such policy, is convicted of or forfeits bail during
10 the policy period for any of the following reasons:

11 (1) Any felony or assault involving the use of a motor
12 vehicle;

13 (2) Negligent homicide arising out of the operation of a motor
14 vehicle;

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

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

21 (5) Theft of a motor vehicle or the unlawful taking of a motor
22 vehicle;

23 (6) Making false statements in an application for a motor

1 vehicle operator's license;

2 (7) Three or more moving traffic violations committed within
3 a period of twelve months, each of which results in three or more
4 points being assessed on the driver's record by the Division of
5 Motor Vehicles, whether or not the insurer renewed the policy
6 without knowledge of all such violations. Notice of any
7 cancellation made pursuant to this subsection shall be mailed to
8 the named insured either during the current policy period or during
9 the first full policy period following the date that the third
10 moving traffic violation is recorded by the Division of Motor
11 Vehicles.

12 Notwithstanding any of the provisions of this section to the
13 contrary, no insurer may cancel a policy of automobile liability
14 insurance without first giving the insured thirty days' notice of
15 its intention to cancel: *Provided*, That the insurance policy is
16 voidable from the effective date and time of the policy issued or
17 renewed by the insurer if the insurer cancels the policy for
18 failure of consideration to be paid by the insured upon ~~initial~~
19 issuance or renewal of the insurance policy and provides written
20 notice to the insured of the cancellation within fifteen days of
21 receipt of notice of the failure of consideration and consideration
22 has not otherwise been provided within ten days of the notice of
23 cancellation. Notice of cancellation for nonpayment of

1 consideration shall be delivered to the named insured or sent by
2 first class mail to the named insured at the address supplied on
3 the application for insurance and shall state the effective date of
4 the cancellation and shall be accompanied by a written explanation
5 of the specific reason for the cancellation. If the insurer fails
6 to provide such written notice to the insured, then the
7 cancellation of the policy for failure of consideration is
8 effective upon the expiration of ten days' notice of cancellation
9 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.