

**Senate Bill No. 9**

(By Senators Jenkins and McCabe)

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[Introduced February 13, 2013; referred to the Committee on  
Banking and Insurance; and then to the Committee on the  
Judiciary.]  
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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.**

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~~ an 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~~ subsection (n), section two, article five-a,  
3 chapter seventeen-c of this code, the suspension may not be grounds  
4 for cancellation; or

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

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

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

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

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

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

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

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

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

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

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

NOTE: The purpose of this bill is to amend portions of the current statute to permit the nonrenewable 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.