1   **H. B. 2540**

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3   (By Delegates Westfall, Walters, B. White, Ashley, Frich
4   and E. Nelson)
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6   [Introduced February 2, 2015; referred to the

7   Committee on Banking and Insurance then the Judiciary.]

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10 A BILL to amend and reenact §33-6A-1 of the Code of West Virginia, 1931, as amended, relating

11   to requiring automobile liability insurance providers must give a policyholder fourteen days

12   notice of an intent to cancel the policy if the reason for cancellation is nonpayment of a

13   premium.

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

15   That §33-6A-1 of the Code of West Virginia, 1931, as amended, be amended and reenacted

16 to read as follows:

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

18   **POLICIES.**

19 **§33-6A-1. Cancellation prohibited except for specified reasons; notice.**

20   (a) No insurer once having issued or delivered a policy providing automobile liability

21 insurance for a private passenger automobile may, after the policy has been in effect for sixty days,

22 or in case of renewal effective immediately, issue or cause to issue a notice of cancellation during

23 the term of the policy except for one or more of the reasons specified in this section:

1   (a) (1) The named insured fails to make payments of premium for the policy or any

2   installment of the premium when due;

3   (b) (2) The policy is obtained through material misrepresentation;

4   (c) (3) The insured violates any of the material terms and conditions of the policy;

5   (d) (4) The named insured or any other operator, either residing in the same household or who

6   customarily operates an automobile insured under the policy:

7   (1) (A) Has had his or her operator's license suspended or revoked during the policy period

8   including suspension or revocation for failure to comply with the provisions of article five-a, chapter

9   seventeen-c of this code, regarding consent for a chemical test for intoxication: *Provided,* That when

10   a license is suspended for sixty days by the Commissioner of the Division of Motor Vehicles because

11   a person drove a motor vehicle while under the age of twenty-one years with an alcohol

12   concentration in his or her blood of two hundredths of one percent or more, by weight, but less than

13   eight hundredths of one percent, by weight, pursuant to subsection (l), section two of said article, the

14   suspension may not be grounds for cancellation; or

15   (2) (B) Is or becomes subject to epilepsy or heart attacks and the individual cannot produce

16   a certificate from a physician testifying to his or her ability to operate a motor vehicle;

17   (e) (5) The named insured or any other operator, either residing in the same household or who

18   customarily operates an automobile insured under such policy, is convicted of or forfeits bail during

19   the policy period for any of the following reasons:

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

21   (2) (B) Negligent homicide arising out of the operation of a motor vehicle;

22   (3) (C) Operating a motor vehicle while under the influence of alcohol or of any controlled

1 substance or while having an alcohol concentration in his or her blood of eight hundredths of one

2 percent or more, by weight;

3   (4) (D) Leaving the scene of a motor vehicle accident in which the insured is involved

4 without reporting it as required by law;

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

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

7   (7) (G) Three or more moving traffic violations committed within a period of twelve months,

8 each of which results in three or more points being assessed on the driver's record by the Division

9 of Motor Vehicles, whether or not the insurer renewed the policy without knowledge of all such

10 violations. Notice of any cancellation made pursuant to this subsection shall be mailed to the named

11 insured either during the current policy period or during the first full policy period following the date

12 that the third moving traffic violation is recorded by the Division of Motor Vehicles.

13   (b) Notwithstanding any of the provisions of this section to the contrary, no insurer may

14 cancel a policy of automobile liability insurance without first giving the insured thirty days' notice

15 of its intention to cancel, except that if the reason for the cancellation is that the named insured fails

16 to make premium payments for the policy or any installment of the premium when due pursuant to

17 subdivision (1), subsection (a) of this section, then the insurer shall first give the insured fourteen

18 days notice of its intent to cancel. Provided, That However, the insurance policy is voidable from

19 the effective date and time of the policy issued by the insurer if the insurer cancels the policy for

20 failure of consideration to be paid by the insured upon initial issuance of the insurance policy and

21 provides written notice to the insured of the cancellation within fifteen days of receipt of notice of

22 the failure of consideration and consideration has not otherwise been provided within ten days of the

1 notice of cancellation. Notice of cancellation for nonpayment of consideration shall be delivered to

2 the named insured or sent by first class mail to the named insured at the address supplied on the

3 application for insurance and shall state the effective date of the cancellation and shall be

4 accompanied by a written explanation of the specific reason for the cancellation. If the insurer fails

5 to provide such written notice to the insured, then the cancellation of the policy for failure of

6 consideration is effective upon the expiration of ten days' notice of cancellation to the insured.

      NOTE: The purpose of this bill is to require automobile liability insurance providers must give a policyholder fourteen days notice of an intent to cancel the policy if the reason for cancellation is nonpayment of a premium.

      Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.