

H. B. 2790

(By Delegates Westfall, Waxman, Shott and Frich)

[Introduced February 17, 2015; referred to the
Committee on Banking and Insurance then the Judiciary.]

A BILL to amend and reenact §17D-4-2, §17D-4-7 and §17D-4-12 of the Code of West Virginia, 1931, as amended; to amend and reenact §33-6-31 and §31-6-31d of said code; and to amend said code by adding thereto a new section, designated §33-6-31h, all relating to minimum responsibility limits of car insurance and insurance coverage required under the provisions of a restrictive endorsement for an excluded driver.

Be it enacted by the Legislature of West Virginia:

That §17D-4-2, §17D-4-7 and §17D-4-12 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §33-6-31 and §33-6-31d of said code be amended and reenacted; and that said code be amended by adding thereto a new section, designated §33-6-31h, all to read as follows:

CHAPTER 17D. MOTOR VEHICLE SAFETY RESPONSIBILITY LAW.

ARTICLE 4. PROOF OF FINANCIAL RESPONSIBILITY FOR THE FUTURE.

§17D-4-2. "Proof of financial responsibility" defined.

1 The term "proof of financial responsibility" as used in this chapter ~~shall mean~~ means: Proof
 2 of ability to respond in damages for liability, on account of accident occurring subsequent to the
 3 effective date of ~~said~~ the proof, arising out of the ownership, operation, maintenance or use of a
 4 motor vehicle, trailer or semitrailer in the amount of ~~\$20,000~~ \$25,000 because of bodily injury to or
 5 death of one person in any one accident, and, subject to ~~said~~ the limit for one person, in the amount
 6 of ~~\$40,000~~ \$50,000 because of bodily injury to or death of two or more persons in any one accident,
 7 and in the amount of ~~\$10,000~~ \$25,000 because of injury to or destruction of property of others in any
 8 one accident. The proof of financial responsibility amounts established in this section by the Acts
 9 of the Legislature during its 2015 regular session, apply to any insurance policy issued or renewed
 10 on or after January 1, 2016.

11 **§17D-4-7. Payments sufficient to satisfy requirements.**

12 (a) Judgments herein referred to shall, for the purpose of this chapter only, be deemed
 13 satisfied:

14 (1) When \$20,000 has been credited upon any judgment or judgments rendered in excess of
 15 that amount because of bodily injury to or death of one person as the result of any one accident; or

16 (2) When, subject to such limit of \$20,000 because of bodily injury to or death of one person,
 17 the sum of \$40,000 has been credited upon any judgment or judgments rendered in excess of that
 18 amount because of bodily injury to or death of two or more persons as the result of any one accident;

19 or

20 (3) When \$10,000 has been credited upon any judgment or judgments rendered in excess of
 21 that amount because of injury to or destruction of property of others as a result of any one accident.

22 (b) ~~Provided, however, that~~ Payments made in settlement of any claims because of bodily

1 injury, death or property damage arising from such accident shall be credited in reduction of the
2 amounts provided for in this section.

3 (c) The dollar amounts set forth in subsection (a) of this section shall reflect the minimum
4 limits of financial responsibility in section two of this article.

5 **§17D-4-12. "Motor vehicle liability policy" defined; scope and provisions of policy.**

6 (a) A "motor vehicle liability policy" as ~~said~~ the term is used in this chapter means an
7 "owner's policy" or an "operator's policy" of liability insurance certified as provided in section ten
8 or section eleven of this article as proof of financial responsibility, and issued, except as otherwise
9 provided in section eleven, by an insurance carrier duly authorized to transact business in this state,
10 to or for the benefit of the person named therein as insured.

11 (b) Such owner's policy of liability insurance:

12 (1) Shall designate by explicit description or by appropriate reference all vehicles with
13 respect to which coverage is thereby to be granted; and

14 (2) Shall insure the person named therein and any other person, as insured, using any such
15 vehicle or vehicles with the express or implied permission of such named insured, against loss from
16 the liability imposed by law for damages arising out of the ownership, operation, maintenance or use
17 of such vehicle or vehicles within the United States of America or the Dominion of Canada, subject
18 to limits exclusive of interest and costs, with respect to each such vehicle, ~~as follows: Twenty~~
19 ~~thousand dollars because of bodily injury to or death of one person in any one accident and, subject~~
20 ~~to said limit for one person, \$40,000 because of bodily injury to or death of two or more persons in~~
21 ~~any one accident, and \$10,000 because of injury to or destruction of property of others in any one~~
22 ~~accident~~ in such amounts as are required by section two of this article.

1 (c) Such operator's policy of liability insurance shall insure the person named as insured
2 therein against loss from the liability imposed upon him or her by law for damages arising out of the
3 use by him or her of any motor vehicle not owned by him or her, within the same territorial limits
4 and subject to the same limits of liability as are set forth above with respect to an owner's policy of
5 liability insurance.

6 (d) Such motor vehicle liability policy shall state the name and address of the named insured,
7 the coverage afforded by the policy, the premium charged therefor, the policy period, and the limits
8 of liability, and shall contain an agreement or be endorsed that insurance is provided thereunder in
9 accordance with the coverage defined in this chapter as respects bodily injury and death or property
10 damage, or both, and is subject to all the provisions of this chapter.

11 (e) Such motor vehicle liability policy need not insure any liability under any workers'
12 compensation law nor any liability on account of bodily injury to or death of an employee of the
13 insured while engaged in the employment, other than domestic, of the insured, or while engaged in
14 the operation, maintenance or repair of any such vehicle nor any liability for damage to property
15 owned by, rented to, in charge of or transported by the insured.

16 (f) Every motor vehicle liability policy ~~shall be~~ is subject to the following provisions which
17 need not be contained therein:

18 (1) The liability of the insurance carrier with respect to the insurance required by this chapter
19 shall become absolute whenever injury or damage covered by said motor vehicle liability policy
20 occurs; ~~said the~~ the policy may not be canceled or annulled as to such liability by an agreement between
21 the insurance carrier and the insured after the occurrence of the injury or damage; no statement made
22 by the insured or on his or her behalf and no violation of ~~said the~~ the policy ~~shall~~ defeats or voids ~~said~~

1 the policy.

2 (2) The satisfaction by the insured of a judgment for such injury or damage ~~shall~~ is not ~~be~~ a
3 condition precedent to the right or duty of the insurance carrier to make payment on account of such
4 injury or damage.

5 (3) The insurance carrier ~~shall have the right to~~ may settle any claim covered by the policy,
6 and if such settlement is made in good faith, the amount thereof shall be deductible from the limits
7 of liability specified in subdivision (2), subsection (b) of this section.

8 (4) The policy, the written application therefor, if any, and any rider or endorsement which
9 does not conflict with the provisions of this chapter ~~shall~~ constitutes the entire contract between
10 parties.

11 (g) Any policy which grants the coverage required for a motor vehicle liability policy may
12 also grant any lawful coverage in excess of or in addition to the coverage specified for a motor
13 vehicle liability policy and such excess or additional coverage ~~shall~~ is not ~~be~~ subject to the provisions
14 of this chapter. With respect to a policy which grants such excess or additional coverage, the term
15 "motor vehicle liability policy" applies only to that part of the coverage which is required by this
16 section.

17 (h) Any motor vehicle liability policy may provide that the insured shall reimburse the
18 insurance carrier for any payment the insurance carrier would not have been obligated to make under
19 the terms of the policy except for the provisions of this chapter.

20 (i) Any motor vehicle liability policy may provide for the prorating of the insurance
21 thereunder with other valid and collectible insurance.

22 (j) The requirements for a motor vehicle liability policy may be fulfilled by the policies of

1 one or more insurance carriers which policies together meet such requirements.

2 (k) Any binder issued pending the issuance of a motor vehicle policy ~~shall be deemed to~~
3 fulfills the requirements for such a policy.

4 **CHAPTER 33. INSURANCE.**

5 **ARTICLE 6. THE INSURANCE POLICY.**

6 **§33-6-31. Motor vehicle policy; omnibus clause; uninsured and underinsured motorists'**
7 **coverage; conditions for recovery under endorsement; rights and liabilities of**
8 **insurer.**

9 (a) No policy or contract of bodily injury liability insurance, or of property damage liability
10 insurance, covering liability arising from the ownership, maintenance or use of any motor vehicle,
11 ~~shall~~ may be issued or delivered in this state to the owner of such vehicle, or ~~shall~~ may be issued or
12 delivered by any insurer licensed in this state upon any motor vehicle for which a certificate of title
13 has been issued by the Division of Motor Vehicles of this state, unless it ~~shall~~ contains a provision
14 insuring the named insured and any other person, except a bailee for hire and any persons specifically
15 excluded by any restrictive endorsement attached to the policy, responsible for the use of or using
16 the motor vehicle with the consent, expressed or implied, of the named insured or his or her spouse
17 against liability for death or bodily injury sustained or loss or damage occasioned within the coverage
18 of the policy or contract as a result of negligence in the operation or use of such vehicle by the named
19 insured or by such person: *Provided*, That in any such automobile liability insurance policy or
20 contract, or endorsement thereto, if coverage resulting from the use of a nonowned automobile is
21 conditioned upon the consent of the owner of such motor vehicle, the word "owner" shall be
22 construed to include the custodian of such nonowned motor vehicles. Notwithstanding any other

1 provision of this code, if the owner of a policy receives a notice of cancellation pursuant to article
2 six-a of this chapter and the reason for the cancellation is a violation of law by a person insured
3 under the policy, said owner may by restrictive endorsement specifically exclude the person who
4 violated the law and the restrictive endorsement shall be effective in regard to the total liability
5 coverage provided under the policy, including coverage provided pursuant to the mandatory liability
6 requirements of section two, article four, chapter seventeen-d of this code, but nothing in such
7 restrictive endorsement ~~shall~~ may be construed to abrogate the "family purpose doctrine".

8 (b) Nor ~~shall~~ may any such policy or contract be so issued or delivered unless it ~~shall~~ contains
9 an endorsement or provisions undertaking to pay the insured all sums which he or she ~~shall be~~ is
10 legally entitled to recover as damages from the owner or operator of an uninsured motor vehicle,
11 within limits which shall be no less than the requirements of section two, article four, chapter
12 seventeen-d of this code, as amended from time to time: *Provided*, That such policy or contract shall
13 provide an option to the insured with appropriately adjusted premiums to pay the insured all sums
14 which he or she shall be legally entitled to recover as damages from the owner or operator of an
15 uninsured motor vehicle up to an amount of \$100,000 because of bodily injury to or death of one
16 person in any one accident and, subject to said limit for one person, in the amount of \$300,000
17 because of bodily injury to or death of two or more persons in any one accident and in the amount
18 of \$50,000 because of injury to or destruction of property of others in any one accident: *Provided*,
19 *however*, That such endorsement or provisions may exclude the first \$300 of property damage
20 resulting from the negligence of an uninsured motorist: *Provided further*, That such policy or
21 contract shall provide an option to the insured with appropriately adjusted premiums to pay the
22 insured all sums which he or she ~~shall~~ is legally ~~be~~ entitled to recover as damages from the owner

1 or operator of an uninsured or underinsured motor vehicle up to an amount not less than limits of
2 bodily injury liability insurance and property damage liability insurance purchased by the insured
3 without set off against the insured's policy or any other policy. Regardless of whether motor vehicle
4 coverage is offered and provided to an insured through a multiple vehicle insurance policy or
5 contract, or in separate single vehicle insurance policies or contracts, no insurer or insurance
6 company providing a bargained for discount for multiple motor vehicles with respect to underinsured
7 motor vehicle coverage ~~shall~~ may be treated differently from any other insurer or insurance company
8 utilizing a single insurance policy or contract for multiple covered vehicles for purposes of
9 determining the total amount of coverage available to an insured. "Underinsured motor vehicle"
10 means a motor vehicle with respect to the ownership, operation or use of which there is liability
11 insurance applicable at the time of the accident, but the limits of that insurance are either: (i) Less
12 than limits the insured carried for underinsured motorists' coverage; or (ii) has been reduced by
13 payments to others injured in the accident to limits less than limits the insured carried for
14 underinsured motorists' coverage. No sums payable as a result of underinsured motorists' coverage
15 ~~shall~~ may be reduced by payments made under the insured's policy or any other policy.

16 (c) As used in this section, the term "bodily injury" ~~shall~~ includes death resulting therefrom
17 and the term "named insured" ~~shall~~ means the person named as such in the declarations of the policy
18 or contract and ~~shall~~ also includes such person's spouse if a resident of the same household and the
19 term "insured" ~~shall~~ means the named insured and, while resident of the same household, the spouse
20 of any such named insured and relatives of either, while in a motor vehicle or otherwise, and any
21 person, except a bailee for hire, who uses, with the consent, expressed or implied, of the named
22 insured, the motor vehicle to which the policy applies or the personal representative of any of the

1 above; and the term "uninsured motor vehicle" ~~shall~~ means a motor vehicle as to which there is no:
 2 (i) Bodily injury liability insurance and property damage liability insurance both in the amounts
 3 specified by section two, article four, chapter seventeen-d of this code, as amended from time to
 4 time; (ii) there is such insurance, but the insurance company writing the same denies coverage
 5 thereunder; or (iii) there is no certificate of self-insurance issued in accordance with the provisions
 6 of said section. A motor vehicle shall be deemed to be uninsured if the owner or operator thereof be
 7 unknown: *Provided*, That recovery under the endorsement or provisions ~~shall be~~ is subject to the
 8 conditions hereinafter set forth.

9 (d) Any insured intending to rely on the coverage required by subsection (b) of this section
 10 shall, if any action be instituted against the owner or operator of an uninsured or underinsured motor
 11 vehicle, cause a copy of the summons and a copy of the complaint to be served upon the insurance
 12 company issuing the policy, in the manner prescribed by law, as though such insurance company
 13 were a named party defendant; such company shall thereafter have the right to file pleadings and to
 14 take other action allowable by law in the name of the owner, or operator, or both, of the uninsured
 15 or underinsured motor vehicle or in its own name.

16 Nothing in this subsection ~~shall~~ prevents such owner or operator from employing counsel
 17 of his or her own choice and taking any action in his or her own interest in connection with such
 18 proceeding.

19 (e) If the owner or operator of any motor vehicle which causes bodily injury or property
 20 damage to the insured ~~be~~ is unknown, the insured, or someone in his or her behalf, in order for the
 21 insured to recover under the uninsured motorist endorsement or provision, shall:

22 (†)(1) Within twenty-four hours after the insured discover, and being physically able to report

1 the occurrence of such accident, the insured, or someone in his or her behalf, ~~shall~~ reports the
2 accident to a police, peace or to a judicial officer, unless the accident ~~shall~~ has already ~~have~~ been
3 investigated by a police officer;

4 (ii) (2) Notify the insurance company, within sixty days after such accident, that the insured
5 or his or her legal representative has a cause or causes of action arising out of such accident for
6 damages against a person or persons whose identity is unknown and setting forth the facts in support
7 thereof; and, upon written request of the insurance company communicated to the insured not later
8 than five days after receipt of such statement, ~~shall~~ make available for inspection the motor vehicle
9 which the insured was occupying at the time of the accident; and

10 (iii) (3) Upon trial establish that the motor vehicle, which caused the bodily injury or property
11 damage, whose operator is unknown, was a "hit and run" motor vehicle, meaning a motor vehicle
12 which causes damage to the property of the insured arising out of physical contact of such motor
13 vehicle therewith, or which causes bodily injury to the insured arising out of physical contact of such
14 motor vehicle with the insured or with a motor vehicle which the insured was occupying at the time
15 of the accident. If the owner or operator of any motor vehicle causing bodily injury or property
16 damage be unknown, an action may be instituted against the unknown defendant as "John Doe", in
17 the county in which the accident took place or in any other county in which such action would be
18 proper under the provisions of article one, chapter fifty-six of this code; service of process may be
19 made by delivery of a copy of the complaint and summons or other pleadings to the clerk of the court
20 in which the action is brought, and service upon the insurance company issuing the policy shall be
21 made as prescribed by law as though such insurance company were a party defendant. The insurance
22 company ~~shall have~~ has the right to file pleadings and take other action allowable by law in the name

1 of John Doe.

2 (f) An insurer paying a claim under the endorsement or provisions required by subsection (b)
3 of this section ~~shall be~~ is-subrogated to the rights of the insured to whom such claim was paid against
4 the person causing such injury, death or damage to the extent that payment was made. The bringing
5 of an action against the unknown owner or operator as John Doe or the conclusion of such an action
6 ~~shall~~ does not constitute a bar to the insured, if the identity of the owner or operator who caused the
7 injury or damages complained of, becomes known, from bringing an action against the owner or
8 operator theretofore proceeded against as John Doe. Any recovery against such owner or operator
9 shall be paid to the insurance company to the extent that such insurance company ~~shall have~~ has
10 paid the insured in the action brought against such owner or operator as John Doe, except that such
11 insurance company shall pay its proportionate part of any reasonable costs and expenses incurred in
12 connection therewith, including reasonable attorney's fees. Nothing in an endorsement or provision
13 made under this subsection, nor any other provision of law, ~~shall~~ operates to prevent the joining, in
14 an action against John Doe, of the owner or operator of the motor vehicle causing injury as a party
15 defendant, and such joinder is hereby specifically authorized.

16 (g) No such endorsement or provisions ~~shall~~ may contain any provision requiring arbitration
17 of any claim arising under any such endorsement or provision, nor may anything be required of the
18 insured except the establishment of legal liability, nor ~~shall~~ may the insured be restricted or
19 prevented in any manner from employing legal counsel or instituting legal proceedings.

20 (h) The provisions of subsections (a) and (b) of this section ~~shall~~ do not apply to any policy
21 of insurance to the extent that it covers the liability of an employer to his or her employees under any
22 workers' compensation law.

1 (i) The commissioner of insurance shall formulate and require the use of standard policy
2 provisions for the insurance required by this section, but use of such standard policy provisions may
3 be waived by the commissioner in the circumstances set forth in section ten of this article.

4 (j) A motor vehicle ~~shall be deemed to be~~ is uninsured within the meaning of this section,
5 if there has been a valid bodily injury or property damage liability policy issued upon such vehicle,
6 but which policy is uncollectible, in whole or in part, by reason of the insurance company issuing
7 such policy upon such vehicle being insolvent or having been placed in receivership. The right of
8 subrogation granted insurers under the provisions of subsection (f) of this section ~~shall~~ does not
9 apply as against any person or persons who is or becomes an uninsured motorist for the reasons set
10 forth in this subsection.

11 (k) Nothing contained herein ~~shall~~ prevents any insurer from also offering benefits and limits
12 other than those prescribed herein, nor ~~shall~~ does this section ~~be construed as preventing~~ prevent any
13 insurer from incorporating in such terms, conditions and exclusions as may be consistent with the
14 premium charged.

15 (l) The Insurance Commissioner shall review on an annual basis the rate structure for
16 uninsured and underinsured motorists' coverage as set forth in subsection (b) of this section and shall
17 report to the Legislature on said rate structure on or before January 15, 1983, and on or before
18 January 15, of each of the next two succeeding years.

19 (m) For insurance policies in effect on December 31, 2015, including motor vehicle insurance
20 policies and liability policies that are of an excess or umbrella type that cover automobile liability,
21 insurers are not required to make a new offer of coverage on such insurance policy in response to
22 amendments made to the minimum required financial responsibility limits set forth in section two,

1 article four, chapter seventeen-d of this code. Those insurers with policies that carry limits of
2 coverage below the minimum required financial responsibility limits shall increase such limits to an
3 amount equal to or above the new minimum required financial responsibility limits when the policy
4 is renewed but not later than December 31, 2016.

5 **§33-6-31d. Form for making offer of optional uninsured and underinsured coverage.**

6 (a) Optional limits of uninsured motor vehicle coverage and underinsured motor vehicle
7 coverage required by section thirty-one of this article shall be made available to the named insured
8 at the time of initial application for liability coverage and upon any request of the named insured on
9 a form prepared and made available by the Insurance Commissioner. The contents of the form shall
10 be as prescribed by the commissioner and shall specifically inform the named insured of the
11 coverage offered and the rate calculation therefor, including, but not limited to, all levels and
12 amounts of such coverage available and the number of vehicles which will be subject to the
13 coverage. The form shall be made available for use on or before the effective date of this section.
14 The form shall allow any named insured to waive any or all of the coverage offered.

15 (b) Any insurer who issues a motor vehicle insurance policy in this state shall provide the
16 form to each person who applies for the issuance of such policy by delivering the form to the
17 applicant or by mailing the form to the applicant together with the applicant's initial premium notice.
18 The applicant shall complete, date and sign the form and return the form to the insurer within thirty
19 days after receipt thereof. No insurer or agent thereof is liable for payment of any damages applicable
20 under any optional uninsured or underinsured coverage authorized by section thirty-one of this article
21 for any incident which occurs from the date the form was mailed or delivered to the applicant until
22 the insurer receives the form and accepts payment of the appropriate premium for the coverage

1 requested therein from the applicant: *Provided*, That if prior to the insurer's receipt of the executed
2 form the insurer issues a policy to the applicant which provides for such optional uninsured or
3 underinsured coverage, the insurer ~~shall be~~ is liable for payment of claims against such optional
4 coverage up to the limits provided therefor in such policy. The contents of a form described in this
5 section which has been signed by an applicant ~~shall~~ creates a presumption that such applicant and
6 all named insureds received an effective offer of the optional coverages described in this section and
7 that such applicant exercised a knowing and intelligent election or rejection, as the case may be, of
8 such offer as specified in the form. Such election or rejection ~~shall be~~ is binding on all persons
9 insured under the policy.

10 (c) Any insurer who has issued a motor vehicle insurance policy in this state which is in
11 effect on the effective date of this section shall mail or otherwise deliver the form to any person who
12 is designated in the policy as a named insured. A named insured shall complete, date and sign the
13 form and return the form to the insurer within thirty days after receipt thereof. No insurer or agent
14 thereof is liable for payment of any damages in any amount greater than any limits of such coverage,
15 if any, provided by the policy in effect on the date the form was mailed or delivered to such named
16 insured for any incident which occurs from the date the form was mailed or delivered to such named
17 insured until the insurer receives the form and accepts payment of the appropriate premium for the
18 coverage requested therein from the applicant. The contents of a form described in this section which
19 has been signed by any named insured ~~shall~~ creates a presumption that all named insureds under the
20 policy received an effective offer of the optional coverages described in this section and that all such
21 named insured exercised a knowing and intelligent election or rejection, as the case may be, of such
22 offer as specified in the form. Such election or rejection is binding on all persons insured under the

1 policy.

2 (d) Failure of the applicant or a named insured to return the form described in this section
3 to the insurer as required by this section within the time periods specified in this section creates a
4 presumption that such person received an effective offer of the optional coverages described in this
5 section and that such person exercised a knowing and intelligent rejection of such offer. Such
6 rejection is binding on all persons insured under the policy.

7 (e) The insurer shall make such forms available to any named insured who requests different
8 coverage limits on or after the effective date of this section. No insurer is required to make such form
9 available or notify any person of the availability of such optional coverages authorized by this section
10 except as required by this section.

11 (f) Notwithstanding any of the provisions of article six of this chapter to the contrary,
12 including section thirty-one-f, for insurance policies in effect on December 31, 2015, insurers are
13 not required to offer or obtain new uninsured or underinsured motorist coverage offer forms as
14 described in this section on any insurance policy to comply with statutory changes made to the
15 amount of the minimum required financial responsibility limits set forth in section two, article four,
16 chapter seventeen-d of this code. All such offer forms that were executed prior to January 1, 2016,
17 shall remain in full force and effect.

18 **§33-6-31h. Excluded drivers; definitions; legislative findings; restrictive endorsements .**

19 (a) For purposes of this section, the following definitions apply:

20 (1) A "motor vehicle liability policy" means an "owner's policy" or an "operator's policy" of
21 liability insurance certified as provided in section ten or section eleven of article four, chapter
22 seventeen-d of this code as proof of financial responsibility, and issued, except as otherwise provided

1 in section eleven, chapter seventeen-d, by an insurance carrier duly authorized to transact business
2 in this state, to or for the benefit of the person named therein as insured.

3 (2) "Excluded driver" means any driver specifically excluded from coverage under section
4 thirty- one, article six, chapter thirty-three of this code.

5 (3) "Minimum financial responsibility limits" means those limits defined in section four,
6 article twelve, chapter seventeen-d of this code.

7 (b) The Legislature finds the following:

8 (1) The explicit, plain language of a motor vehicle liability policy between an insurer and its
9 insureds should control its effect.

10 (2) Where insurers are required by the common law to provide minimum financial
11 responsibility limits coverage for excluded drivers, consumers not excluded by restrictive
12 endorsement are negatively impacted.

13 (3) The Supreme Court misinterpreted and misapplied the Code of West Virginia, 1931, as
14 amended in its *Jones v. Motorists Mutual Insurance Company*, 177 W. Va. 763 (1987) decision.
15 Specifically, the Supreme Court of Appeals of West Virginia misinterpreted chapter seventeen-d of
16 this code to require insurers to provide minimum financial responsibility limits of coverage to
17 excluded drivers.

18 (c) Where any person is specifically excluded from coverage under the provisions of a motor
19 vehicle liability policy by any restrictive endorsement to the policy, the insurer is not required to
20 provide any coverage for damages arising out of the operation, maintenance or use of any motor
21 vehicle by the excluded driver.

NOTE: The purpose of this bill is to increase the minimum proof of financial responsibility in motor vehicle insurance coverage while minimizing administrative burdens on insurers through the transition. The purpose of this bill is to give effect to the explicit terms of a bargained-for motor vehicle liability policy where certain drivers are excluded from coverage. Specifically, this bill is intended to overturn *Jones v. Motorists Mutual Insurance Company*, 177 W. Va. 763 (1987) and its progeny that require insurers to nevertheless provide minimum financial responsibility limits coverage for drivers who are excluded from coverage under the terms of a motor vehicle liability policy.

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

§33-6-31h is new; therefore, it has been completely underscored.