

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Enrolled

Committee Substitute

for

Senate Bill 330

BY SENATORS GAUNCH AND BOSO, *original sponsors*

[Passed March 10, 2016; in effect 90 days from passage]

1 AN ACT to amend and reenact §33-6A-1 of the Code of West Virginia, 1931, as amended, relating
2 to cancellation or nonrenewal of automobile liability policies; providing restrictions on
3 cancellation of automobile liability insurance policy that has been in effect for sixty days;
4 excepting cancellations in the case of renewals; specifying when an insurer may cancel
5 an automobile liability policy that has been in effect for sixty days; providing for notice to
6 insureds for certain cancellations or voiding of automobile insurance policies; specifying
7 allowable methods of sending notices and content thereof; providing for thirty days' notice
8 to cancel automobile liability policy for certain reasons; providing exception to requirement
9 of thirty days' notice for nonpayment of premiums or installments of premiums; requiring
10 fourteen days' notice for cancellations due to nonpayment of premiums or installments of
11 premiums; specifying when notice period begins to run and when payment deemed
12 accomplished for purposes of making payment during fourteen day notice period for
13 cancellation due to nonpayment of premiums or installments of premiums; providing for
14 voidability of automobile liability insurance policy if initial payments of premiums or initial
15 installments of premiums not made; and providing for ten-day notice that policy will be
16 voided absent payment of amounts due under terms of policy when initial payment of
17 premiums or initial installments of premiums not made.

Be it enacted by the Legislature of West Virginia:

1 That §33-6A-1 of the Code of West Virginia, 1931, as amended, be amended and
2 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 (a) No insurer once having issued or delivered a policy providing automobile liability
2 insurance for a private passenger automobile may, after the policy has been in effect for sixty

3 days, or in case of renewal effective immediately, issue or cause to issue a notice of cancellation
4 during the term of the policy except for one or more of the reasons specified in this section:

5 (1) The named insured fails to make payments of premium for the policy or any installment
6 of the premium when due;

7 (2) The policy is obtained through material misrepresentation;

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

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

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

19 (B) Is or becomes subject to epilepsy or heart attacks and the individual cannot produce
20 a certificate from a physician testifying to his or her ability to operate a motor vehicle; or

21 (5) The named insured or any other operator, either residing in the same household or
22 who customarily operates an automobile insured under such policy, is convicted of or forfeits bail
23 during the policy period for any of the following reasons:

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

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

26 (C) Operating a motor vehicle while under the influence of alcohol or of any controlled
27 substance or while having an alcohol concentration in his or her blood of eight hundredths of one
28 percent or more, by weight;

29 (D) Leaving the scene of a motor vehicle accident in which the insured is involved without
30 reporting it as required by law;

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

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

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

39 (b) Except as provided in subsections (c) and (d), no insurer may cancel a policy of
40 automobile liability insurance without first giving the insured thirty days' notice of its intention to
41 cancel. Notice of cancellation shall either be sent by first class mail to the named insured at the
42 address supplied on the application for insurance, or by email or other electronic means if at the
43 request of the policyholder in accordance with the Uniform Electronic Transactions Act as codified
44 in chapter thirty-nine-a of this code, and shall state the effective date of the cancellation and
45 provide a written explanation of the specific reason for the cancellation.

46 (c) If, pursuant to subsection (a) of this section, an insurer cancels a policy of automobile
47 liability insurance for the failure of the named insured to make payments of premium for the policy
48 or any installment of the premium when due, then the insurer shall first give the insured at least
49 fourteen days' notice of its intention to cancel. Notice of cancellation shall be sent by first class
50 mail to the named insured at the address supplied on the application for insurance, or by email or
51 other electronic means if at the request of the policyholder in accordance with the Uniform
52 Electronic Transactions Act as codified in chapter thirty-nine-a of this code, and shall state the
53 effective date of the cancellation and provide a written explanation of the specific reason for the
54 cancellation. The notice period provided herein shall begin to run on the date mailed and payment

55 shall be deemed accomplished by depositing in first class mail valid payment on or before the
56 expiration date of the fourteen day notice period.

57 (d) If a named insured fails to make the initial payment of premium or any initial installment
58 of the premium after the initial issuance of an automobile liability insurance policy, the insurance
59 policy is voidable from the effective date and time the policy was issued: *Provided*, That the
60 insurer shall send the insured written notice that the policy will be voided absent payment within
61 ten days of any amounts due under the terms of the policy. Such notice shall either be sent by
62 first class mail to the named insured at the address supplied on the application for insurance, or
63 by email or other electronic means if at the request of the policyholder in accordance with the
64 Uniform Electronic Transactions Act as codified in chapter thirty-nine-a of this code, and shall
65 explain the specific reason for the voidance.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

.....
Chairman, Senate Committee

.....
Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.

.....
Clerk of the Senate

.....
Clerk of the House of Delegates

.....
President of the Senate

.....
Speaker of the House of Delegates

The within this the.....
Day of, 2016.

.....
Governor