

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 4376

BY DELEGATES WESTFALL, MCCUSKEY, B. WHITE,

STANSBURY AND WELD

[Introduced February 3, 2016; Referred
to the Committee on Banking and Insurance then the
Judiciary.]

1 A BILL to amend and reenact §33-6A-1 of the Code of West Virginia, 1931, as amended, relating
 2 to requiring automobile liability insurance providers must give a policyholder a ten day
 3 notice of an intent to cancel the policy if the reason for cancellation is nonpayment of a
 4 premium.

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.

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

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

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

9 ~~(d)~~ (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 ~~(4)~~ (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 ~~(2)~~ (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;

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

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

26 ~~(3)~~ (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 ~~(4)~~ (D) Leaving the scene of a motor vehicle accident in which the insured is involved
30 without reporting it as required by law;

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

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

33 ~~(7)~~ (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) Notwithstanding any of the provisions of this section to the contrary, no insurer may
40 cancel a policy of automobile liability insurance without first giving the insured thirty days' notice
41 of its intention to cancel: Provided, That if the reason for the cancellation is that the named insured
42 fails to make premium payments for the policy or any installment of the premium when due
43 pursuant to subdivision (1), subsection (a) of this section, then the insurer shall first give the

44 insured ten day notice of its intent to cancel: *Provided further,* That the insurance policy is
45 voidable from the effective date and time of the policy issued by the insurer if the insurer cancels
46 the policy for failure of consideration to be paid by the insured upon initial issuance of the
47 insurance policy and provides written notice to the insured of the cancellation within ten days of
48 receipt of notice of the failure of consideration and consideration has not otherwise been provided
49 within ten days of the notice of cancellation. Notice of cancellation for nonpayment of
50 consideration shall be delivered to the named insured or sent by first class mail to the named
51 insured at the address supplied on the application for insurance and shall state the effective date
52 of the cancellation and shall be accompanied by a written explanation of the specific reason for
53 the cancellation. If the insurer fails to provide such written notice to the insured, then the
54 cancellation of the policy for failure of consideration is effective upon the expiration of ten days'
55 notice of cancellation to the insured.

NOTE: The purpose of this bill is to require automobile liability insurance providers must give a policyholder a ten day 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 a heading or the present law and underscoring indicates new language that would be added.