

# **WEST VIRGINIA LEGISLATURE**

## **2017 REGULAR SESSION**

**Introduced**

### **House Bill 3076**

BY DELEGATE WESTFALL

[Introduced March 14, 2017; Referred  
to the Committee on Banking and Insurance then the  
Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
 2 designated §33-6-31i, relating to immunity from liability to uninsured motorists; providing  
 3 exceptions; and defining terms.

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

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new  
 2 section, designated §33-6-31i, to read as follows:

**ARTICLE 6. THE INSURANCE POLICY.**

**§33-6-31i. Immunity from liability to uninsured motorist with a previous violation.**

1 (a) This section applies to a civil action brought to recover damages for:

2 (1) Injury to or the death of a person resulting from a motor vehicle accident; or

3 (2) Damage to property resulting from a motor vehicle accident.

4 (b) This section does not apply to a civil action brought to recover damages for injury,  
 5 death or property damage that is caused intentionally.

6 (c) Notwithstanding any other provisions of this article, a person may not recover  
 7 noneconomic damages for the person’s bodily injury or property damage from the owner or  
 8 operator of another motor vehicle involved in the motor accident who:

9 (1) Sustained bodily injury or property damage as the result of a motor vehicle accident;  
 10 and

11 (2) Was an uninsured motorist with a previous violation at the time of the motor vehicle  
 12 accident.

13 (d) The personal representative of an individual may not recover noneconomic damages  
 14 for that person’s death from another motor vehicle involved in the motor vehicle accident who:

15 (1) Died as the result of a motor vehicle; and

16 (2) Was an uninsured motorist with a previous violation at the time of the motor vehicle  
 17 accident.

18 (e) As used in section, “uninsured motorist with a previous violation” means an individual

19 who:

20 (1) Owns a motor vehicle:

21 (A) That is involved in an accident; and

22 (B) For which financial responsibility is not in effect as required by section three, article  
23 two-a, chapter seventeen-d of this code; and

24 (2) During the immediately preceding five years, has been required to provide proof of  
25 future financial responsibility for any period under section two, article four, chapter seventeen-d  
26 of this code.

27 (f) As used in section, “noneconomic damages” means costs for the following:

28 (1) Physical and emotional pain and suffering;

29 (2) Physical impairment;

30 (3) Emotional distress;

31 (4) Mental anguish;

32 (5) Loss of enjoyment;

33 (6) Loss of companionship, services and consortium; and

34 (7) Any other nonpecuniary loss proximately caused by a motor vehicle accident.

35 (g) The term “noneconomic damages’ does not include costs for the following:

36 (1) Treatment and rehabilitation;

37 (2) Medical expenses;

38 (3) Loss of economic or educational potential;

39 (4) Loss of productivity;

40 (5) Absenteeism;

41 (6) Support expenses;

42 (7) Accidents or injury; and

43 (8) Any other pecuniary loss proximately caused by a motor vehicle accident.

44 (h) This section does not apply:

45            (1) To a person who was less than eighteen years of age at the time of the motor vehicle  
46 accident;

47            (2) To the personal representative of an individual who was less than eighteen years of  
48 age at the time of the motor vehicle accident; or

49            (3) If a person other than the uninsured motorist with a previous violation:

50            (A) Operates a motor vehicle involved in the accident; and

51            (B) Is convicted of a crime in connection with the accident.

NOTE: The purpose of this bill is to prohibit certain uninsured motorists from recovering noneconomic damages from an insured motorist. The bill provides exceptions and defines terms.

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