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2002 MAR 27 P 3:48

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

Regular Session, 2002



ENROLLED

Committee Substitute for

SENATE BILL NO. 459

(By Senators Minard and Kessler)



PASSED March 8, 2002

In Effect ninety days from Passage

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COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 459

(SENATORS MINARD AND KESSLER, *original sponsors*)

[Passed March 8, 2002; in effect ninety days from passage.]

AN ACT to amend and reenact section thirty-one-c, article six, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to imposing a money penalty on insurers who write standard insurance for failing to notify policyholders, under certain circumstances, that they may be eligible for a standard or preferred policy.

Be it enacted by the Legislature of West Virginia:

That section thirty-one-c, article six, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 6. THE INSURANCE POLICY.

§33-6-31c. Substandard risk motor vehicle insurance policies; definitions; required notices and provisions; promulgation of rules; effective date; money penalty for failure to give required notice.

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

3 (1) A "substandard risk" means an applicant for insur-
4 ance who presents a greater exposure to loss than that
5 contemplated by commonly used rate classifications, as
6 evidenced by one or more of the following conditions:

7 (A) A record of traffic accidents;

8 (B) A record of traffic law violations;

9 (C) Undesirable occupational circumstances; or

10 (D) Any other valid underwriting consideration.

11 (2) "Substandard risk rate" means a rate or premium
12 charge that reflects the greater than normal exposure to
13 loss which is assumed by an insurer writing insurance for
14 a substandard risk.

15 (b) Every application for a motor vehicle insurance
16 policy to be issued in this state and written on the basis of
17 a substandard risk rate schedule shall have printed on the
18 application, in bold-faced type in a contrasting color or in
19 reverse print, a statement reading substantially as follows:
20 THE POLICY FOR WHICH YOU ARE APPLYING HAS
21 BEEN RATED IN ACCORDANCE WITH A SPECIAL
22 RATING SCHEDULE FILED WITH THE COMMIS-
23 SIONER OF INSURANCE PROVIDING FOR HIGHER
24 PREMIUM CHARGES THAN THOSE GENERALLY
25 APPLICABLE FOR AVERAGE RISKS. IF THE COVER-
26 AGE OR PREMIUM IS NOT SATISFACTORY, YOU MAY
27 BE ELIGIBLE FOR OTHER INSURANCE. IF THIS
28 COVERAGE OR PREMIUM IS SATISFACTORY, YOU
29 MAY BE ELIGIBLE FOR COVERAGE UNDER A STAN-
30 DARD OR PREFERRED POLICY IF DURING THE NEXT

31 THREE YEARS YOU HAVE NO TRAFFIC VIOLATIONS
32 OR ACCIDENTS AND YOU MAINTAIN CONTINUOUS
33 INSURANCE COVERAGE.

34 (c) Every motor vehicle insurance policy issued in this
35 state and written on the basis of a substandard risk rate
36 schedule shall have printed on the policy, in bold-faced
37 type in a contrasting color or in reverse print, a statement
38 reading substantially as follows: THIS POLICY HAS
39 BEEN RATED IN ACCORDANCE WITH A SPECIAL
40 RATING SCHEDULE FILED WITH THE COMMIS-
41 SIONER OF INSURANCE PROVIDING FOR HIGHER
42 PREMIUM CHARGES THAN THOSE GENERALLY
43 APPLICABLE FOR AVERAGE RISKS. IF THE COVER-
44 AGE OR PREMIUM IS NOT SATISFACTORY, YOU MAY
45 BE ELIGIBLE FOR OTHER INSURANCE. IF THIS
46 COVERAGE OR PREMIUM IS SATISFACTORY, YOU
47 MAY BE ELIGIBLE FOR COVERAGE UNDER A STAN-
48 DARD OR PREFERRED POLICY IF DURING THE NEXT
49 THREE YEARS YOU HAVE NO TRAFFIC VIOLATIONS
50 OR ACCIDENTS AND YOU MAINTAIN CONTINUOUS
51 INSURANCE COVERAGE.

52 (d) All insurers licensed or registered in this state to
53 market or sell substandard risk motor vehicle insurance
54 policies shall submit all applications and policies for
55 substandard risk insurance to the commissioner of insur-
56 ance for approval prior to being used by the insurer.

57 (e) All insurers selling or which have in force substan-
58 dard risk motor vehicle insurance policies shall provide a
59 one-time notice in writing to the policyholders who have
60 maintained continuous insurance coverage for three years,
61 have not been convicted of any moving traffic violations
62 and had no at fault accidents that they may be eligible for
63 coverage under a standard or preferred policy. The
64 commissioner may levy an administrative penalty not to
65 exceed one thousand dollars for each incidence where an
66 insurer fails to give notice in accordance with the provi-
67 sions in this subsection.

68 (f) The commissioner shall promulgate rules in accor-
69 dance with the provisions of article three, chapter
70 twenty-nine-a of this code regarding the format, style,
71 design and approval of substandard risk insurance appli-
72 cations, notices and policies and any other procedures that
73 are required by this section.

74 (g) This section, as amended in the year two thousand
75 two, shall take effect on the first day of July, two thousand
76 two.

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

[Signature]
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

[Signature]
.....
Clerk of the Senate

[Signature]
.....
Clerk of the House of Delegates

[Signature]
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within is approved this the 27th
Day of March, 2002.

[Signature]
.....
Governor

PRESENTED TO THE

GOVERNOR

Date: 3/22/02

Time: 9:55am