

RECEIVED

1991 APR -2 AM 9:53

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1991



ENROLLED

Committee Substitute for
SENATE BILL NO. 143

(By Senator *Burdette, Mr. President, et al*)



PASSED March 9, 1991

In Effect 90 days from Passage

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 143

(BY SENATORS BURDETTE, MR. PRESIDENT, AND BOLEY,

BY REQUEST OF THE EXECUTIVE)

[Passed March 9, 1991; in effect ninety days from passage.]

AN ACT to amend article six, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto two new sections, designated sections five-a and eleven-b, relating to insurance; requiring certain signatures on life or accident and sickness insurance applications; exemptions; and policy provisions providing the insured a ten-day free examination of policy.

Be it enacted by the Legislature of West Virginia:

That article six, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto two new sections, designated sections five-a and eleven-b, to read as follows:

ARTICLE 6. THE INSURANCE POLICY.

§33-6-5a. Application for life or accident and sickness insurance; signatures required; exemptions; right of insured to return policy.

- 1 (a) All applications for life or accident and sickness
- 2 insurance, as defined in section ten, article one of this

3 chapter, to be issued in this state shall:

4 (1) If application is made by the proposed insured,
5 include the signature of both the proposed insured and
6 the agent;

7 (2) If application is made by the proposed insured, be
8 completed by a licensed and appointed agent in the
9 presence of the proposed insured;

10 (3) If application is made by a spouse upon the other
11 spouse, include the signature of the spouse procuring
12 the insurance and the agent; or

13 (4) If application is made by any person having an
14 insurable interest in the life of a minor, or any person
15 upon whom a minor is dependent for support and
16 maintenance, include the signature of the person
17 procuring the insurance and the agent.

18 (b) Upon the hand delivery of a policy of life or
19 accident and sickness insurance, a delivery receipt
20 must be signed and dated by the insured and returned
21 to the insurer for filing.

22 If the delivery of a policy of life or accident and
23 sickness insurance is by mail, it shall either: (1) Be
24 sent by certified mail from the insurer, return receipt
25 requested, and the date of receipt noted thereon shall
26 be considered the date of receipt for the purposes of
27 section eleven-b of this article; or (2) the insurer shall
28 prepare a certificate of mailing. For the purposes of
29 this section, a certificate of mailing means a record
30 prepared and retained in accordance with general
31 business practices indicating the date that the policy
32 was mailed to the insured, and it shall be presumed
33 that the policy was received by the insured twenty
34 days from the date of mailing.

35 (c) Any amendments to the application after it is
36 originally signed by the proposed insured shall be
37 expressly disclosed in writing to the proposed insured
38 and his or her signature is obtained to verify agree-
39 ment with the changes: *Provided*, That the failure of
40 the insurer to notify the insured of any change, or the
41 failure of the insured to execute such signature, shall

42 not invalidate the existence of insurance coverage.

43 (d) The following shall be exempt from the require-
44 ments of subdivisions (1), (2), (3) and (4) of subsection
45 (a) herein:

46 (1) Group life or group accident and sickness insur-
47 ance applications if the insurer will accept all prospec-
48 tive principal insureds with no underwriting restric-
49 tions on the individual proposed insureds;

50 (2) Group life or group accident and sickness insur-
51 ance applications if there is underwriting as to the
52 individual proposed insureds and the applications are
53 completed without a licensed and appointed agent
54 present, but the insurer verifies the information on
55 the application by telephone with the proposed insured;

56 (3) Applications for life or accident and sickness
57 insurance if the insurance is solely mass marketed and
58 the only contact with the insured is by mail, mass
59 media or telephone; and

60 (4) Applications for life or accident and sickness
61 insurance if the insurer is an underwriter for supple-
62 mental retirement plans and additional retirement
63 plans provided to eligible employees of the governing
64 boards of state institutions of higher education pursu-
65 ant to the provisions of section four-a, article twenty-
66 three, chapter eighteen of this code.

**§33-6-11b. Right to return life or accident and sickness
insurance policy, certificate or contract.**

1 All life or sickness and accident insurance policies,
2 certificates or contracts issued to persons in this state
3 shall have a notice prominently printed on the first
4 page of the policy, certificate or contract stating in
5 substance that the insured person or person obtaining
6 the policy shall have the right to return the policy
7 within ten days of its receipt and to have the premium
8 refunded if, after examination of the policy, certificate
9 or contract, the person obtaining the insurance is not
10 satisfied for any reason.

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

Homer Heck
.....
Chairman Senate Committee

Ormus C. Moore
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Darrell E. Atkins
.....
Clerk of the Senate

Donald L. Kapp
.....
Clerk of the House of Delegates

Keith Sandlett
.....
President of the Senate

Bob Hall
.....
Speaker House of Delegates

The within ~~enrolled~~ this the ~~2nd~~.....
day of ~~April~~....., 1991.

Gaston Caperton
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/28/91

Time 10:00 am