

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1955

ENROLLED

SENATE BILL NO. 88

(By Mr. *Fuchs*)

PASSED *Feb 24* 1955

In Effect *90 days from* Passage



Filed in the Office of the Secretary of State
of West Virginia MAR 3 1955

D. PITT O'BRIEN
SECRETARY OF STATE

ENROLLED

Senate Bill No. 88

(By Mr. Amos)

(By request of the State Insurance Commissioner)

[Passed February 24, 1955; in effect ninety days from passage.]

AN ACT to amend article eleven, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by repealing sections ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, and twenty-two, and to enact eighteen new sections, to be designated sections ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-six and twenty-seven, of said article, and to amend and reenact

section five, article thirteen, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to provisions to be contained in accident and health insurance policies.

Be it enacted by the Legislature of West Virginia:

That article eleven, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by repealing sections ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one and twenty-two, and by enacting eighteen new sections, to be designated sections ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-six and twenty-seven, of said article, and that section five, article thirteen, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

Article 11. Accident and Health Insurance.

Section 10. *Definition of Accident and Sickness Insurance Policy.*—The term “policy of accident and sickness insurance” as used herein includes any policy or contract

4 covering the kind or kinds of insurance described in sec-
5 tion nine of this article.

Sec. 11. *Statement to be Contained in, and Form of*
2 *Policy.*—No policy of accident and sickness insurance
3 shall be delivered or issued for delivery to any person in
4 this state unless:

5 (a) the entire money and other considerations there-
6 for are expressed therein; and

7 (b) the time at which the insurance takes effect and
8 terminates is expressed therein; and

9 (c) it purports to insure only one person, except that
10 a policy may insure, originally or by subsequent amend-
11 ment, upon the application of an adult member of a fam-
12 ily who shall be deemed the policyholder, any two or
13 more eligible members of that family, including husband,
14 wife, dependent children or any children under a specified
15 age which shall not exceed nineteen years and any other
16 person dependent upon the policyholder; and

17 (d) the style, arrangement and over-all appearance of
18 the policy give no undue prominence to any portion of
19 the text, and unless every printed portion of the text of

20 the policy and of any endorsements or attached papers is
21 plainly printed in light-faced type of a style in general
22 use, the size of which shall be uniform and not less than
23 ten-point with a lower-case unspaced alphabet length not
24 less than one hundred and twenty-point (the "text" shall
25 include all printed matter except the name and address
26 of the insurer, name or title of the policy, the brief de-
27 scription, if any, and captions and subcaptions), the policy
28 shall clearly indicate on the first page its cancellable or
29 optionally renewable nature; and

30 (e) the exceptions and reductions of indemnity are set
31 forth in the policy and, except those which are set forth
32 in sections thirteen and fourteen of this article, are
33 printed, at the insurer's option, either included with
34 the benefit provision to which they apply, or under an
35 appropriate caption such as "EXCEPTIONS", or "EXCEP-
36 TIONS AND REDUCTIONS": *Provided*, That if an ex-
37 ception or reduction specifically applies only to a par-
38 ticular benefit of the policy, a statement of such exception
39 or reduction shall be included with the benefit provision
40 to which it applies; and

41 (f) each such form, including riders and endorsements,
42 shall be identified by a form number in the lower left-
43 hand corner of the first part thereof; and

44 (g) it contains no provision purporting to make any
45 portion of the charter, rules, constitution, or by-laws of
46 the insurer a part of the policy unless such portion is set
47 forth in full in the policy, except in the case of the in-
48 corporation of, or reference to, a statement of rates or
49 classification of risks, or short-rate table filed with the
50 commissioner.

Sec. 12. *Policies Delivered to Non-Residents; Approval*
2 *by Insurance Commissioner.*—If any policy is issued by
3 an insurer domiciled in this state for delivery to a person
4 residing in another state, and if the official having re-
5 sponsibility for the administration of the insurance laws
6 of such other state shall have advised the commissioner
7 that any such policy is not subject to approval or dis-
8 approval by such official, the commissioner may by ruling
9 require that such policy meets the standards set forth in
10 this article.

Sec. 13. *Required Accident and Sickness Policy Provi-*
2 *sions.*—Except as provided in section fifteen of this article,
3 each such policy delivered or issued for delivery to any
4 person in this state shall contain the provisions specified
5 in this section in the words in which the same appear in
6 this section: *Provided, however,* That the insurer may, at
7 its option, substitute for one or more of such provisions
8 corresponding provisions of the different wording ap-
9 proved by the commissioner which are in each instance
10 not less favorable in any respect to the insured or the
11 beneficiary. Such provisions shall be preceded individu-
12 ally by the caption appearing in this section or, at the
13 option of the insurer, by such appropriate individual or
14 group captions or subcaptions as the commissioner may
15 approve.

16 (a) A provision as follows:

17 “ENTIRE CONTRACT; CHANGES: This policy, in-
18 cluding the endorsements and the attached papers, if any,
19 constitutes the entire contract of insurance. No change
20 in this policy shall be valid until approved by an execu-
21 tive officer of the insurer and unless such approval be

22 endorsed hereon or attached hereto. No agent has author-
23 ity to change this policy or to waive any of its provisions.”

24 (b) A provision as follows:

25 “TIME LIMIT ON CERTAIN DEFENSES”; (1) “After
26 two years from the date of issue of this policy no mis-
27 statements, except fraudulent misstatements, made by
28 the applicant in the application for such policy shall be
29 used to void the policy or to deny a claim for loss in-
30 curred or disability (as defined in the policy) commenc-
31 ing after the expiration of such two year period.”

32 The foregoing policy provision shall not be so construed
33 as to affect any legal requirement for avoidance of a
34 policy or denial of a claim during such initial two year
35 period, nor to limit the application of clauses (a), (b),
36 (c), (d) and (e) of section fourteen of this article in the
37 event of misstatement with respect to age or occupation
38 or other insurance. A policy which the insured has the
39 right to continue in force subject to its terms by the timely
40 payment of premium (i) until at least age fifty, or (ii)
41 in the case of a policy issued after age forty-four, for at
42 least five years from its date of issue, may contain in lieu

43 of the foregoing the following provision (from which the
44 clause in parentheses may be omitted at the insurer's
45 option) under the caption "INCONTESTABLE":

46 "After this policy has been in force for a period of two
47 years during the lifetime of the insured (excluding any
48 period during which the insured is disabled), it shall be-
49 come incontestable as to the statements contained in the
50 application."

51 (2) "No claim for loss incurred or disability (as de-
52 fined in the policy) commencing after two years from the
53 date of issue of this policy shall be reduced or denied on
54 the ground that a disease or physical condition not ex-
55 cluded from coverage by name or specific description
56 effective on the date of loss had existed prior to the effec-
57 tive date of coverage of this policy."

58 (c) A provision as follows:

59 "GRACE PERIOD: A grace period of . . . (insert a
60 number not less than "7" for weekly premium policies,
61 "10" for monthly premium policies and "31" for all other
62 policies) days will be granted for the payment of each
63 premium falling due after the first premium, during

64 which grace period the policy shall continue in force.”

65 A policy which contains a cancellation provision may
66 add, at the end of the above provision, “subject to the
67 right of the insurer to cancel in accordance with the can-
68 cellation provision hereof.”

69 A policy in which the insurer reserves the right to re-
70 fuse any renewal shall have at the beginning of the above
71 provision, “Unless not less than five days prior to the
72 premium due date the insurer has delivered to the in-
73 sured or has mailed to his last address as shown by the
74 records of the insurer written notice of its intention not
75 to renew this policy beyond the period for which the
76 premium has been accepted,”—.

77 (d) A provision as follows:

78 “REINSTATEMENT: If any renewal premium be not
79 paid within the time granted the insured for payment, a
80 subsequent acceptance of premium by the insurer or by
81 any agent duly authorized by the insurer to accept such
82 premium, without requiring in connection therewith an
83 application for reinstatement, shall reinstate the policy:
84 *Provided, however,* That if the insurer or such agent

85 requires an application for reinstatement and issues a
86 conditional receipt for the premium tendered, the policy
87 will be reinstated upon approval of such application by
88 the insurer or, lacking such approval, upon the forty-fifth
89 day following the date of such conditional receipt unless
90 the insurer has previously notified the insured in writing
91 of its disapproval of such application. The reinstated
92 policy shall cover only loss resulting from such accidental
93 injury as may be sustained after the date of reinstatement
94 and loss due to such sickness as may begin more than
95 ten days after such date. In all other respects the insured
96 and insurer shall have the same rights thereunder as they
97 had under the policy immediately before the due date of
98 the defaulted premium, subject to any provisions en-
99 dorsed hereon or attached hereto in connection with the
100 reinstatement. Any premium accepted in connection with
101 a reinstatement shall be applied to a period for which
102 premium has not been previously paid, but not to any
103 period more than sixty days prior to the date of re-
104 instatement.”

105 The last sentence of the above provision may be omitted

106 from any policy which the insured has the right to con-
107 tinue in force subject to its terms by the timely payment
108 of premiums (1) until at least age fifty, or, (2) in the case
109 of a policy issued after age forty-four, for at least five
110 years from its date of issue.

111 (e) A provision as follows:

112 "NOTICE OF CLAIM: Written notice of claim must be
113 given to the insurer within twenty days after the occur-
114 rence or commencement of any loss covered by the policy,
115 or as soon thereafter as is reasonably possible. Notice
116 given by or on behalf of the insured or the beneficiary to
117 the insurer at . . . (insert the location of such office as
118 the insurer may designate for the purpose), or to any
119 authorized agent of the insurer, with information suffi-
120 cient to identify the insured, shall be deemed notice to the
121 insurer."

122 In a policy providing a loss-of-time benefit which may
123 be payable for at least two years, an insurer may at its
124 option insert the following between the first and second
125 sentences of the above provision;

126 "Subject to the qualifications set forth below, if the

127 insured suffers loss of time on account of disability for
128 which indemnity may be payable for at least two years,
129 he shall, at least once in every six months after having
130 given notice of claim give to the insurer notice of con-
131 tinuance of said disability, except in the event of legal
132 incapacity. The period of six months following any filing
133 of proof by the insured or any payment by the insurer
134 on account of such claim or any denial of liability in whole
135 or in part by the insurer shall be excluded in applying
136 this provision. Delay in the giving of such notice shall
137 not impair the insured's right to any indemnity which
138 would otherwise have accrued during the period of six
139 months preceding the date on which such notice is ac-
140 tually given."

141 (f) A provision as follows:

142 "CLAIM FORMS: The insurer, upon receipt of a no-
143 tice of claim, will furnish to the claimant such forms as
144 are usually furnished by it for filing proofs of loss. If
145 such forms are not furnished within fifteen days after
146 the giving of such notice the claimant shall be deemed
147 to have complied with the requirements of this policy as

148 to proof of loss upon submitting, within the time fixed
149 in the policy for filing proofs of loss, written proof cover-
150 ing the occurrence, the character and the extent of the
151 loss for which claim is made.”

152 (g) A provision as follows:

153 “PROOF OF LOSS: Written proof of loss must be fur-
154 nished to the insurer at its said office in case of claim
155 for loss for which this policy provides any periodic pay-
156 ment contingent upon continuing loss within ninety days
157 after the termination of the period for which the insurer
158 is liable and in case of claim for any other loss within
159 ninety days after the date of such loss. Failure to furnish
160 such proof within the time required shall not invalidate
161 nor reduce any claim if it was not reasonably possible
162 to give proof within such time, provided such proof is
163 furnished as soon as reasonably possible and in no event,
164 except in the absence of legal capacity, later than one
165 year from the time proof is otherwise required.”

166 (h) A provision as follows:

167 “TIME OF PAYMENT OF CLAIMS: Indemnities pay-
168 able under this policy for any loss other than loss for

169 which this policy provides any periodic payment will be
170 paid immediately upon receipt of due written proof of
171 such loss. Subject to due written proof of loss, all ac-
172 crued indemnities for loss for which this policy provides
173 periodic payment will be paid . . . (insert period for
174 payment which must not be less frequently than monthly)
175 and any balance remaining unpaid upon the termination
176 of liability will be paid immediately upon receipt of due
177 written proof.”

178 (i) A provision as follows:

179 “PAYMENT OF CLAIMS: Indemnity for loss of life
180 will be payable in accordance with the beneficiary desig-
181 nation and the provisions respecting such payment which
182 may be prescribed herein and effective at the time of
183 payment. If no such designation or provision is then
184 effective, such indemnity shall be payable to the estate
185 of the insured. Any other accrued indemnities unpaid at
186 the insured’s death may, at the option of the insurer, be
187 paid either to such beneficiary or to such estate. All other
188 indemnities will be payable to the insured.”

189 The following provisions, or either of them, may be

190 included with the foregoing provisions at the option of
191 the insurer:

192 “If any indemnity of this policy shall be payable to the
193 estate of the insured, or to an insured or beneficiary who
194 is a minor or otherwise not competent to give a valid
195 release, the insurer may pay such indemnity, up to an
196 amount not exceeding \$. . . (insert an amount which
197 shall not exceed \$1000), to any relative by blood or con-
198 nection by marriage of the insured or beneficiary who is
199 deemed by the insurer to be equitably entitled thereto.
200 Any payment made by the insurer in good faith pursuant
201 to this provision shall fully discharge the insurer to the
202 extent of such payment.

203 “Subject to any written direction of the insured in the
204 application or otherwise all or a portion of any indemni-
205 ties provided by this policy on account of hospital, nurs-
206 ing, medical, or surgical services may, at the insurer's
207 option and unless the insured requests otherwise in writ-
208 ing not later than the time of filing proofs of such loss,
209 be paid directly to the hospital or person rendering such

210 services; but it is not required that the service be ren-
211 dered by a particular hospital or person.”

212 (j) A provision as follows:

213 “PHYSICAL EXAMINATIONS AND AUTOPSY: The
214 insurer at its own expense shall have the right and op-
215 portunity to examine the person of the insured when and
216 as often as it may reasonably require during the pendency
217 of a claim hereunder and to make an autopsy in case of
218 death where it is not forbidden by law.”

219 (k) A provision as follows:

220 “LEGAL ACTIONS: No action at law or in equity shall
221 be brought to recover on this policy prior to the expira-
222 tion of sixty days after written proof of loss has been
223 furnished in accordance with the requirements of this
224 policy. No such action shall be brought after the expira-
225 tion of three years after the time written proof of loss is
226 required to be furnished.”

227 (l) A provision as follows:

228 “CHANGE OF BENEFICIARY: Unless the insured
229 makes an irrevocable designation of beneficiary, the right
230 to change of beneficiary is reserved to the insured and

231 the consent of the beneficiary or beneficiaries shall not
232 be requisite to surrender or assignment of this policy or
233 to any change of beneficiary or beneficiaries, or to any
234 other changes in this policy.”

235 The first clause of this provision, relating to the irre-
236 vocable designation of beneficiary, may be omitted at the
237 insurer’s option.

Sec. 14. *Optional Policy Provisions.*—Except as pro-
238 vided in section fifteen of this article, no such policy de-
239 livered or issued for delivery to any person in this state
240 shall contain provisions respecting the matters set forth
241 below unless such provisions are in the words in which
242 the same appear in this section: *Provided, however,* That
243 the insurer may, at its option, use in lieu of any such
244 provision a corresponding provision of different wording
245 approved by the commissioner which is not less favorable
246 in any respect to the insured or the beneficiary. Any such
247 provision contained in the policy shall be preceded indi-
248 vidually by the appropriate caption appearing in this
249 section or, at the option of the insurer, by such appropri-
250 ate individual or group captions or subcaptions as the
251 commissioner may approve.

16 (a) A provision as follows:

17 "CHANGE OF OCCUPATION: If the insured be in-
18 jured or contract sickness after having changed his occu-
19 pation to one classified by the insurer as more hazardous
20 than that stated in this policy or while doing for com-
21 pensation anything pertaining to an occupation so classi-
22 fied, the insurer will pay only such portion of the in-
23 demnities provided in this policy as the premium paid
24 would have purchased at the rates and within the limits
25 fixed by the insurer for such more hazardous occupation.
26 If the insured changes his occupation to one classified by
27 the insurer as less hazardous than that stated in this
28 policy, the insurer, upon receipt of proof of such change
29 of occupation, will reduce the premium rate accordingly,
30 and will return the excess pro-rata unearned premium
31 from the date of change of occupation or from the policy
32 anniversary date immediately preceding receipt of such
33 proof, whichever is the more recent. In applying this
34 provision, the classification of occupational risk and the
35 premium rates shall be such as have been last filed by
36 the insurer prior to the occurrence of the loss for which

37 the insurer is liable or prior to date of proof of change
38 in occupation with the state official having supervision
39 of insurance in the state where the insured resided at the
40 time this policy was issued; but if such filing was not
41 required, then the classification of occupational risk and
42 the premium rates shall be those last made effective by
43 the insurer in such state prior to the occurrence of the
44 loss or prior to the date of proof of change in occupation.”

45 (b). A provision as follows:

46 “MISSTATEMENT OF AGE: If the age of the insured
47 has been misstated, all amounts payable under this policy
48 shall be such as the premium paid would have purchased
49 at the correct age.”

50 (c) A provision as follows:

51 “OTHER INSURANCE IN THIS INSURER: If an acci-
52 dent or sickness or accident and sickness policy or policies
53 previously issued by the insurer to the insured be in force
54 concurrently herewith, making the aggregate indemnity
55 for . . . (insert type of coverage or coverages) in excess
56 of \$. . . (insert maximum limit of indemnity or indemni-
57 ties) the excess insurance shall be void and all premiums

58 paid for such excess shall be returned to the insured or
59 to his estate.”

60 or, in lieu thereof:

61 “Insurance effective at any one time on the insured
62 under a like policy or policies in this insurer is limited
63 to the one such policy elected by the insured, his bene-
64 ficiary or his estate, as the case may be, and the insurer
65 will return all premiums paid for all other such policies.”

66 Provided that no policy hereafter issued for delivery
67 in this state which provides, with or without other bene-
68 fits, for the payment of benefits or reimbursement for
69 expenses with respect to hospitalization, nursing care,
70 medical or surgical examination or treatment, or ambu-
71 lance transportation shall contain any provision for a re-
72 duction of such benefits or reimbursement, or any pro-
73 vision for avoidance of the policy, on account of other
74 insurance of such nature carried by the same insured with
75 the same or another insurer.

76 (d) A provision as follows:

77 “INSURANCE WITH OTHER INSURERS: If there be
78 other valid coverage, not with this insurer, providing

79 benefits for the same loss on other than an expense in-
80 curred basis and of which this insurer has not been given
81 written notice prior to the occurrence or commencement
82 of loss, the only liability for such benefits under this
83 policy shall be for such proportion of the indemnities
84 otherwise provided hereunder for such loss as the like
85 indemnities of which the insurer had notice (including
86 the indemnities under this policy) bear to the total
87 amount of all like indemnities for such loss, and for the
88 return of such portion of the premium paid as shall ex-
89 ceed the pro-rata portion for the indemnities thus de-
90 termined.”

91 The insurer may, at its option, include in this provision
92 a definition of “other valid coverage”, approved as to form
93 by the commissioner, which definition shall be limited in
94 subject matter to coverage provided by organizations sub-
95 ject to regulation by insurance law or by insurance au-
96 thorities of this or any other state of the United States or
97 any province of Canada, and to any other coverage the
98 inclusion of which may be approved by the commissioner.
99 In the absence of such definition such term shall not in-

100 clude group insurance, or benefits provided by union wel-
101 fare plans or by employer or employee benefit organi-
102 zations. For the purpose of applying the foregoing policy
103 provision with respect to any insured any amount of
104 benefit provided for such insured pursuant to any com-
105 pulsory benefit statute (including any workmen's com-
106 pensation or employer's liability statute) whether pro-
107 vided by a governmental agency or otherwise shall in all
108 cases be deemed to be "other valid coverage" of which
109 the insurer has had notice. In applying the foregoing
110 policy provision no third party liability coverage shall be
111 included as "other valid coverage."

112 (e) A provision as follows:

113 "RELATION OF EARNINGS TO INSURANCE: If the
114 total monthly amount of loss of time benefits promised
115 for the same loss under all valid loss of time cover-
116 age upon the insured, whether payable on a weekly or
117 monthly basis, shall exceed the monthly earning of the
118 insured at the time disability commenced or his average
119 monthly earnings for the period of two years immediately
120 preceding a disability for which claim is made, whichever

121 is the greater, the insurer will be liable only for such
122 proportionate amount of such benefits under this policy
123 as the amount of such monthly earning or such average
124 monthly earnings of the insured bears to the total amount
125 of monthly benefits for the same loss under all such cov-
126 erage upon the insured at the time such disability com-
127 mences and for the return of such part of the premiums
128 paid during such two years as shall exceed the pro-rata
129 amount of the premiums for the benefits actually paid
130 hereunder; but this shall not operate to reduce the total
131 monthly amount of benefits payable under all such cover-
132 age upon the insured below the sum of two hundred
133 dollars or the sum of the monthly benefits specified in
134 such coverages, whichever is the lesser, nor shall it oper-
135 ate to reduce benefits other than those payable for loss
136 of time.”

137 The foregoing policy provision may be inserted only
138 in a policy which the insured has the right to continue
139 in force subject to its terms by the timely payment of
140 premiums (1) until at least age fifty or, (2) in the case
141 of a policy issued after age forty-four, for at least five

142 years from its date of issue. The insurer may, at its
143 option, include in this provision a definition of "valid loss
144 of time coverage", approved as to form by the commis-
145 sioner, which definition shall be limited in subject matter
146 to coverage provided by governmental agencies or by
147 organizations subject to regulation by insurance law or
148 by insurance authorities of this or any other state of the
149 United States or any province of Canada, or to any other
150 coverage the inclusion of which may be approved by the
151 commissioner or any combination of such coverages. In
152 the absence of such definition such term shall not include
153 any coverage provided for such insured pursuant to any
154 compulsory benefit statute (including any workmen's
155 compensation or employer's liability statute), or benefits
156 provided by union welfare plans or by employer or em-
157 ployee benefit organizations.

158 (f) A provision as follows:

159 "UNPAID PREMIUM: Upon the payment of a claim
160 under this policy, any premiums then due and unpaid or
161 covered by any note or written order may be deducted
162 therefrom."

163 (g) A provision as follows:

164 "CANCELLATION: The insurer may cancel this policy
165 at any time by written notice delivered to the insured
166 or mailed to his last address as shown by the records of
167 the insurer, stating when, not less than five days there-
168 after, such cancellation shall be effective; after the policy
169 has been continued beyond its original term the insured
170 may cancel this policy at any time by written notice
171 delivered or mailed to the insurer, effective upon receipt
172 or on such later date as may be specified in such notice.
173 In the event of cancellation, the insurer will return
174 promptly the unearned portion of any premium paid. If
175 the insured cancels, the earned premium shall be com-
176 puted by the use of the short-rate table last filed with the
177 state official having supervision of insurance in the state
178 where the insured resided when the policy was issued.
179 If the insurer cancels, the earned premium shall be com-
180 puted pro-rata. Cancellation shall be without prejudice
181 to any claim originating prior to the effective date of
182 cancellation."

183 (h) A provision as follows:

184 "CONFORMITY WITH STATE STATUTES: Any pro-
185 vision of this policy which, on its effective date, is in
186 conflict with the statutes of the state in which the insured
187 resides on such date is hereby amended to conform to the
188 minimum requirements of such statutes."

189 (i) A provision as follows:

190 "ILLEGAL OCCUPATION: The insurer shall not be
191 liable for any loss to which a contributing cause was the
192 insured's commission of or attempt to commit a felony or
193 to which a contributing cause was the insured's being
194 engaged in an illegal occupation."

195 (j) A provision as follows:

196 "INTOXICANTS AND NARCOTICS: The insurer shall
197 not be liable for any loss sustained or contracted in con-
198 sequence of the insured's being intoxicated or under the
199 influence of any narcotic unless administered on the ad-
200 vice of a physician."

Sec. 15. Inapplicable or Inconsistent Policy Provisions.

2 —If any provision of this section is in whole or in part
3 inapplicable to or inconsistent with the coverage provided
4 by a particular form of policy the insurer, with the ap-

5 proval of the commissioner, shall omit from such policy
6 any inapplicable provision or part of a provision, and shall
7 modify any inconsistent provision or part of the provision
8 in such manner as to make the provision as contained in
9 the policy consistent with the coverage provided by the
10 policy.

Sec. 16. *Order of Certain Policy Provisions.*—The pro-
2 visions which are the subject of sections thirteen and
3 fourteen of this article or any corresponding provisions
4 which are used in lieu thereof in accordance with such
5 sections, shall be printed in consecutive order of the pro-
6 visions in such sections or, at the option of the insurer,
7 any such provisions may appear as a unit in any part of
8 the policy, with other provisions to which it may be
9 logically related, provided the resulting policy shall not
10 be in whole or in part unintelligible, uncertain, ambigu-
11 ous, abstruse, or likely to mislead a person to whom the
12 policy is offered, delivered or issued.

Sec. 17. *Third Party Ownership.*—The word “insured”
2 as used in this act, shall not be construed as preventing
3 a person other than the insured with a proper insurable

4 interest from making application for and owning a policy
5 covering the insured or from being entitled under such a
6 policy to any indemnities, benefits and rights provided
7 therein.

Sec. 18. *Requirements of Other Jurisdictions.*—(a) Any
2 policy of a foreign or alien insurer, when delivered or
3 issued for delivery to any person in this state, may con-
4 tain any provision which is not less favorable to the in-
5 sured or the beneficiary than the provisions of this act and
6 which is prescribed or required by the law of the state
7 under which the insurer is organized.

8 (b) Any policy of a domestic insurer may, when issued
9 for delivery in any other state or country, contain any
10 provision permitted or required by the laws of such other
11 state or country.

Sec. 19. *Procedure in Filing Policies.*—The commis-
2 sioner may make such reasonable rules and regulations
3 concerning the procedure for the filing or submission of
4 policies subject to this act as are necessary, proper or
5 advisable to the administration of this act. This provision
6 shall not abridge any other authority granted the com-
7 missioner by law.

Sec. 20. *Other Policy Provisions.*—No policy provision
2 which is not subject to sections thirteen, fourteen or fif-
3 teen of this act shall make a policy, or any portion thereof,
4 less favorable in any respect to the insured or the bene-
5 ficiary than the provisions thereof which are subject to
6 this act.

Sec. 21. *Policy Conflicting with this Act.*—A policy de-
2 livered or issued for delivery to any person in this state
3 in violation of this act shall be held valid but shall be
4 construed as provided in this act. When any provision in
5 a policy subject to this act is in conflict with any provi-
6 sion of this act, the rights, duties and obligations of the
7 insurer, the insured and the beneficiary shall be governed
8 by the provisions of this act.

Sec. 22. *Application.*—(a) The insured shall not be
2 bound by any statement made in an application for a
3 policy unless a copy of such application is attached to or
4 endorsed on the policy when issued as a part thereof. If
5 any such policy delivered or issued for delivery to any
6 person in this state shall be reinstated or renewed, and
7 the insured or the beneficiary or assignee of such policy

8 shall make written request to the insurer for a copy of
9 the application, if any, for such reinstatement or renewal,
10 the insurer shall within fifteen days after the receipt of
11 such request at its home office or any branch office of the
12 insurer, deliver or mail to the person making such re-
13 quest, a copy of such application. If such copy shall not
14 be so delivered or mailed, the insurer shall be precluded
15 from introducing such application as evidence in any ac-
16 tion or proceeding based upon or involving such policy or
17 its reinstatement or renewal.

18 (b) No alteration of any written application for any
19 such policy shall be made by any person other than the
20 applicant without his written consent, except that inser-
21 tions may be made by the insurer, for administrative
22 purposes only, in such manner as to indicate clearly that
23 such insertions are not to be ascribed to the applicant.
24 The making of any such alterations without the consent
25 of the applicant shall be a misdemeanor. If such alter-
26 ation shall be made by any officer of the insurer, or by
27 any employee of the insurer with the insurer's knowledge
28 or consent, then such act shall be deemed to have been

29 performed by the insurer thereafter issuing the policy
30 upon such altered application. The commissioner may re-
31 voke the license of the insurer for any violation of this
32 section.

33 (c) The falsity of any statement in the application for
34 any policy covered by this act may not bar the right to
35 recovery thereunder unless such false statement materi-
36 ally affected either the acceptance of the risk or the haz-
37 ard assumed by the insurer.

Sec. 23. *Notice, Waiver.*—The acknowledgment by any
2 insurer of the receipt of notice given under any policy
3 covered by this act, or the furnishing of forms for filing
4 proofs of loss, or the acceptance of such proofs, or the
5 investigation of any claim thereunder shall not operate as
6 a waiver of any of the rights of the insurer in defense of
7 any claim arising under such policy.

Sec. 24. *Age Limit.*—If any such policy contains a pro-
2 vision establishing, as an age limit or otherwise, a date
3 after which the coverage provided by the policy will not
4 be effective, and if such date falls within a period for
5 which premium is accepted by the insurer or if the in-

6 surer accepts a premium after such date, the coverage
7 provided by the policy will continue in force subject to
8 any right of cancellation until the end of the period for
9 which premium has been accepted. In the event the age
10 of the insured has been misstated and if, according to the
11 correct age of the insured, the coverage provided by the
12 policy would not have become effective, or would have
13 ceased prior to the acceptance of such premium or pre-
14 miums, then the liability of the insurer shall be limited
15 to the refund, upon request, of all premiums paid for the
16 period not covered by the policy.

Sec. 25. *Discriminations Prohibited.*—Discrimination
2 between individuals of the same class in the amount of
3 premiums or rates charged for any policy of insurance
4 covered by this article, or in the benefits payable thereon,
5 or in any of the terms or conditions of such policy, or in
6 any other manner whatsoever, is prohibited.

Sec. 26. *Penalty for Issuing or Delivering Policy in*
2 *Violation of Article.*—Any insurer, or any officer or agent
3 thereof, who issues or delivers to any person in this state
4 any policy, or alters any written application for insur-

5 ance, in wilful violation of the provisions of this article,
6 shall be guilty of a misdemeanor, and, upon conviction
7 thereof shall be sentenced to pay a fine of not more than
8 three hundred dollars for each offense. The insurance
9 commissioner may revoke the license of any company,
10 corporation, association or other insurer of another state
11 or country, or of the agent thereof, which or who wilfully
12 violates any of said provisions.

Sec. 27. *Application of Article.*—(a) Nothing in this
2 article, however, shall apply to or affect any policy of
3 liability or workmen's compensation insurance.

4 (b) Nothing in this article shall apply to or affect any
5 policy of insurance issued in accordance with article thir-
6 teen of this chapter, except as provided in said article
7 thirteen.

8 (c) Nothing in this article shall apply to nor in any
9 way affect life insurance, endowment or annuity con-
10 tracts or contracts supplemental thereto which contain no
11 provisions relating to accident or health insurance except
12 (i) such as provided additional benefits in case of death
13 by accidental means, and except (ii) such as operate to

14 safeguard such contracts against lapse, or to give a special
15 surrender value, or special benefit, or an annuity, in the
16 event that the insured or annuitant shall become totally
17 and permanently disabled as defined by the contract or
18 supplemental contract.

19 (d) Nothing in this article shall apply to or in any way
20 affect fraternal benefit societies.

21 (e) The provisions of this article contained in clauses
22 (d) and (j) of section thirteen may be omitted from
23 transportation ticket policies.

24 Any policy, rider or endorsement, which could have been
25 lawfully used or delivered or issued for delivery to any
26 person in this state immediately before the effective date
27 of this act may be used or delivered or issued for de-
28 livery to any such person until January first, one thou-
29 sand nine hundred fifty-seven without being subject to
30 the provisions of sections eleven through twenty-one, in-
31 clusive, of this article.

Article 13. Group Accident and Health Insurance.

Section 5. Policies to Provide Expense Reimbursement

2 *Permitted; Provision as to Proof of Loss and Time for*

3 *Suit Prescribed.*—Any policy coming within the classifi-
4 cation of subsection (a) or (b) of section one of this
5 article may provide, in addition to such other indemnities,
6 if any, as are provided in the policy on account of sick-
7 ness or bodily injury or death of insured employees or
8 members by accident, for the payment of benefits or re-
9 imbursement for expenses with respect to any one or
10 more of the following contingencies: Hospitalization,
11 nursing care, medical or surgical examination or treat-
12 ment, or ambulance transportation of insured employees
13 or members, or of their spouses or children, or of de-
14 pendents living with them: *Provided,* That no such policy
15 hereafter issued for delivery in this state shall contain
16 any provision relative to notice or proof of loss or the
17 time for paying benefits or the time within which suit
18 may be brought upon the policy which is less favorable
19 to the insured than would be permitted by the provisions
20 of section thirteen of article eleven.

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.

Takes effect 90 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 approved this the 1
 day of March, 1955.

[Signature]
 Governor.



Filed in the
 of West Virginia

MAR 3 1955

D. PITT O'BRIEN
 SECRETARY OF STATE