WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1967

ENROLLED

SENATE BILL NO. 30

(By Mr. Moreland)

PASSED February 24, 1967
In Effect Ninety days from Passage

FILED IN THE OFFICE
ROBERT D. BAILEY
SECRETARY OF STATE
THIS DATE 3-9-67
AN ACT to amend chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article six-a, relating to the cancellation of automobile liability insurance.

Be it enacted by the Legislature of West Virginia:

That chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article six-a, to read as follows:
ARTICLE 6A. CANCELLATION OF AUTOMOBILE LIABILITY POLICIES.

§33-6A-1. Cancellation of automobile liability policy by insurer prohibited; exceptions.

No insurer once having issued or delivered a policy providing automobile liability insurance in this state insuring a private passenger automobile shall, after the policy has been in effect for sixty days, or in case of renewal effective immediately, issue or cause to issue a notice of cancellation during the term of the policy except for one or more of the following specified reasons:

(a) The named insured fails to discharge when due any of his obligations in connection with the payment of premium for such policy or any installment thereof;

(b) The policy was obtained through material misrepresentation;

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

(d) The named insured or any other operator, either resident in the same household or who customarily operates an automobile insured under such policy:
18   (1) Has had his operator's license suspended or
19   revoked during the policy period; or
20   (2) Is or becomes subject to epilepsy or heart at-
21   tacks, and such individual cannot produce a certificate
22   from a physician testifying to his ability to operate a
23   motor vehicle.
24   (e) The named insured or any other operator, either
25   resident in the same household or who customarily oper-
26   ates an automobile insured under such policy is convicted
27   of or forfeits bail during the policy period for any of the
28   following:
29   (1) Any felony or assault involving the use of a
30   motor vehicle;
31   (2) Negligent homicide, arising out of the opera-
32   tion of a motor vehicle;
33   (3) Operating a motor vehicle while under the
34   influence of intoxicating liquor or of any narcotic drug;
35   (4) Leaving the scene of a motor vehicle accident
36   in which the insured is involved without reporting as re-
37   quired by law;
(5) Theft of a motor vehicle or the unlawful taking of a motor vehicle;
(6) Making false statements in an application for a motor vehicle operator's license;
(7) A third violation, committed within a period of twelve months, of any moving traffic violation which constitutes a misdemeanor, whether or not the violations were repetitions of the same offense or were different offenses.

§33-6A-2. Cancellation for other reasons void.

Any purported cancellation by an insurer of a policy of automobile liability insurance which has been in effect for sixty days and which has been renewed shall be void if such purported cancellation is contrary to section one of this article.

§33-6A-3. Insurer to specify reasons for cancellation; immunity from liability or suit.

In every instance in which a policy or contract of automobile liability insurance which has been in effect sixty days or which has been renewed is cancelled by the insurer, such insurer or its duly authorized agent shall, in
the notice of cancellation or at the written request of the
named insured, specify the reason or reasons relied upon
by such insurer for such cancellation. Such reasons shall
be stated in a written notice and shall, if not provided in
the notice of cancellation, be made within thirty days
after such request: Provided, however, That there shall
be no liability on the part of, and no cause of action shall
arise against, any insurer or its agents or its authorized
investigative sources for any statements made with prob-
able cause by such insurer, agent or investigative source
in such written notice required to be given pursuant to
this section.

§33-6A-4. Renewal.

No insurer shall fail to renew an outstanding automo-
 bile liability insurance policy unless such nonrenewal
is preceded by at least forty-five days of advance notice
to the named insured of such insurer's election not to
renew such policy: Provided, That subject to this sec-
tion, nothing contained in this article shall be construed
so as to prevent an insurer from refusing to issue an auto-
mobile liability policy upon application to such insurer,
nor shall any provision of this article be construed to prevent an insurer from refusing to renew such a policy upon expiration, except as to the notice requirements of this section, and except further as to those applicants lawfully submitted pursuant to the West Virginia assigned risk plan.

§33-6A-5. Right to hearing.

For the implementation of this article and for advising all persons of their rights and privileges under this article, the commissioner, by regulation and in accordance with section thirteen, article two of this chapter, shall establish a procedure whereby any person whose automobile liability insurance policy has been cancelled or whose policy has not been renewed without proper notice being given to such insured, may within forty-five days after the mailing of notice of cancellation or non-renewal appeal such cancellation or non-renewal to the commissioner for hearing and review. The appeal and hearing shall relate to the ground or grounds upon which the insurer's action is based. The commissioner after such hearing may affirm the insurer's cancellation or non-renewal, or may reinstate
the policy and if reinstated such policy shall become effective from the date of cancellation or non-renewal. Either party may appeal the commissioner's ruling to the circuit court of the county in which the applicant or the insured resides in accordance with section fourteen, article two of this chapter.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

William Temper
Chairman Senate Committee

Claytor C. Davidson
Chairman House Committee

Originated in the Senate.

To take effect 90 days from passage.

Julius M. Minges
Clerk of the Senate

A. Blankenship
Clerk of the House of Delegates

Howard Carson
President of the Senate

H. Raban White
Speaker House of Delegates

The within approved this the 8th day of March, 1967.

Herbert C. Smith
Governor
PRESENTED TO THE GOVERNOR

Date  3-4-67
Time   11:10 AM