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SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1993



ENROLLED

HOUSE BILL No. 2580

(By ~~Delegate~~ Ms. Speaker, Ms. Chambers and
Delegates Ashley, Stator, Rowe, Phillips
and Michael)

Passed April 10, 1993

In Effect from Passage



ENROLLED
H. B. 2580

(By MR. SPEAKER, MR. CHAMBERS, AND DELEGATES ASHLEY,
STATON, ROWE, PHILLIPS AND MICHAEL)

[Passed April 10, 1993; in effect 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 a new section, designated section thirty-one-c; and to amend article twelve of said chapter by adding thereto a new section, designated section thirty, all relating to uninsured and underinsured insurance coverage.

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 a new section, designated section thirty-one-c; and that article twelve of said chapter be amended by adding thereto a new section, designated section thirty, all to read as follows:

ARTICLE 6. THE INSURANCE POLICY.

§33-6-31c. Form for making offer of optional uninsured and underinsured coverage.

- 1 (a) Optional limits of uninsured motor vehicle cover-
- 2 age and underinsured motor vehicle coverage required
- 3 by section thirty-one of this article shall be made
- 4 available to the named insured at the time of initial
- 5 application for liability coverage and upon any request
- 6 of the named insured on a form prepared and made
- 7 available by the insurance commissioner. The contents

8 of the form shall be as prescribed by the commissioner
9 and shall specifically inform the named insured of the
10 coverage offered and the rate calculation therefor,
11 including, but not limited to, all levels and amounts of
12 such coverage available and the number of vehicles
13 which will be subject to the coverage. The form shall
14 be made available for use on or before the effective date
15 of this section. The form shall allow any named insured
16 to waive any or all of the coverage offered.

17 (b) Any insurer who issues a motor vehicle insurance
18 policy in this state shall provide the form to each person
19 who applies for the issuance of such policy by delivering
20 the form to the applicant or by mailing the form to the
21 applicant together with the applicant's initial premium
22 notice. The applicant shall complete, date and sign the
23 form and return the form to the insurer within thirty
24 days after receipt thereof. No insurer or agent thereof
25 is liable for payment of any damages applicable under
26 any optional uninsured or underinsured coverage
27 authorized by section thirty-one of this article for any
28 incident which occurs from the date the form was
29 mailed or delivered to the applicant until the insurer
30 receives the form and accepts payment of the appropriate
31 premium for the coverage requested therein from the
32 applicant: *Provided*, That if prior to the insurer's
33 receipt of the executed form the insurer issues a policy
34 to the applicant which provides for such optional
35 uninsured or underinsured coverage, the insurer shall
36 be liable for payment of claims against such optional
37 coverage up to the limits provided therefor in such
38 policy. The contents of a form described in this section
39 which has been signed by an applicant shall create a
40 presumption that such applicant and all named insureds
41 received an effective offer of the optional coverages
42 described in this section and that such applicant
43 exercised a knowing and intelligent election or rejection,
44 as the case may be, of such offer as specified in the form.
45 Such election or rejection shall be binding on all persons
46 insured under the policy.

47 (c) Any insurer who has issued a motor vehicle
48 insurance policy in this state which is in effect on the

49 effective date of this section shall mail or otherwise
50 deliver the form to any person who is designated in the
51 policy as a named insured. A named insured shall
52 complete, date and sign the form and return the form
53 to the insurer within thirty days after receipt thereof.
54 No insurer or agent thereof is liable for payment of any
55 damages in any amount greater than any limits of such
56 coverage, if any, provided by the policy in effect on the
57 date the form was mailed or delivered to such named
58 insured for any incident which occurs from the date the
59 form was mailed or delivered to such named insured
60 until the insurer receives the form and accepts payment
61 of the appropriate premium for the coverage requested
62 therein from the applicant. The contents of a form
63 described in this section which has been signed by any
64 named insured shall create a presumption that all
65 named insureds under the policy received an effective
66 offer of the optional coverages described in this section
67 and that all such named insured exercised a knowing
68 and intelligent election or rejection, as the case may be,
69 of such offer as specified in the form. Such election or
70 rejection is binding on all persons insured under the
71 policy.

72 (d) Failure of the applicant or a named insured to
73 return the form described in this section to the insurer
74 as required by this section within the time periods
75 specified in this section creates a presumption that such
76 person received an effective offer of the optional
77 coverages described in this section and that such person
78 exercised a knowing and intelligent rejection of such
79 offer. Such rejection is binding on all persons insured
80 under the policy.

81 (e) The insurer shall make such forms available to any
82 named insured who requests different coverage limits
83 on or after the effective date of this section. No insurer
84 is required to make such form available or notify any
85 person of the availability of such optional coverages
86 authorized by this section except as required by this
87 section.

ARTICLE 12. AGENTS, BROKERS, SOLICITORS AND EXCESS
LINE.

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§33-12-~~3~~. Termination of contractual relationship
prohibited.

1 No insurance company may cancel, refuse to renew or
2 otherwise terminate a written contractual relationship
3 with any insurance agent who has been employed or
4 appointed pursuant to that written contract by such
5 insurance company as a result of any analysis of a loss
6 ratio resulting from claims paid under the provisions of
7 an endorsement for uninsured and underinsured motor
8 vehicle coverage issued pursuant to the provisions of
9 section thirty-one, article six of this chapter, nor may
10 any provision of that contract, including the provisions
11 for compensation therein, operate to deter or discourage
12 the insurance agent from selling and writing endorse-
13 ments for optional uninsured or underinsured motor
14 vehicle coverage.

15

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

[Handwritten Signature]
.....
Chairman Senate Committee

Ernest C. Moore
.....
Chairman House Committee

Originating in the House.

Takes effect from passage.

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

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

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

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

The within *is* approved this the *12th*
day of *May* 1993.

[Handwritten Signature]
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 4/29/93

Time 11:27am