WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 1993

ENROLLED

HOUSE BILL No. 2580

(By Delegate Mr. Speaker Mr. Chambers and Delegate Ashley Staton, 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 coverage and underinsured motor vehicle coverage required by section thirty-one of this article shall be made available to the named insured at the time of initial application for liability coverage and upon any request of the named insured on a form prepared and made available by the insurance commissioner. The contents
of the form shall be as prescribed by the commissioner and shall specifically inform the named insured of the coverage offered and the rate calculation therefor, including, but not limited to, all levels and amounts of such coverage available and the number of vehicles which will be subject to the coverage. The form shall be made available for use on or before the effective date of this section. The form shall allow any named insured to waive any or all of the coverage offered.

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

(c) Any insurer who has issued a motor vehicle insurance policy in this state which is in effect on the
effective date of this section shall mail or otherwise
deliver the form to any person who is designated in the
policy as a named insured. A named insured shall
complete, date and sign the form and return the form
to the insurer within thirty days after receipt thereof.
No insurer or agent thereof is liable for payment of any
damages in any amount greater than any limits of such
coverage, if any, provided by the policy in effect on the
date the form was mailed or delivered to such named
insured for any incident which occurs from the date the
form was mailed or delivered to such named insured
until the insurer receives the form and accepts payment
of the appropriate premium for the coverage requested
therein from the applicant. The contents of a form
described in this section which has been signed by any
named insured shall create a presumption that all
named insureds under the policy received an effective
offer of the optional coverages described in this section
and that all such named insured exercised a knowing
and intelligent election or rejection, as the case may be,
of such offer as specified in the form. Such election or
rejection is binding on all persons insured under the
policy.

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

(e) The insurer shall make such forms available to any
named insured who requests different coverage limits
on or after the effective date of this section. No insurer
is required to make such form available or notify any
person of the availability of such optional coverages
authorized by this section except as required by this
section.
ARTICLE 12. AGENTS, BROKERS, SOLICITORS AND EXCESS LINE.

§33-12-31. Termination of contractual relationship prohibited.

No insurance company may cancel, refuse to renew or otherwise terminate a written contractual relationship with any insurance agent who has been employed or appointed pursuant to that written contract by such insurance company as a result of any analysis of a loss ratio resulting from claims paid under the provisions of an endorsement for uninsured and underinsured motor vehicle coverage issued pursuant to the provisions of section thirty-one, article six of this chapter, nor may any provision of that contract, including the provisions for compensation therein, operate to deter or discourage the insurance agent from selling and writing endorsements for optional uninsured or underinsured motor vehicle coverage.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

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

Governor
PRESENTED TO THE
GOVERNOR
Date 4/29/93
Time 11:27 AM