WEST VIRGINIA LEGISLATURE
SEVENTY-NINTH LEGISLATURE
REGULAR SESSION, 2009

ENROLLED
COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 631

(Senators Minard and Plymale, original sponsors)

[Passed April 11, 2009; in effect ninety days from passage.]
AN ACT to amend and reenact §33-6A-1 of the Code of West Virginia, 1931, as amended, relating to the cancellation of an automobile liability insurance policy for failure of consideration to be paid by the insured upon initial issuance of the insurance policy; requiring written notice to insured; and exceptions.

Be it enacted by the Legislature of West Virginia:

That §33-6A-1 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 6A. CANCELLATION OR NONRENEWAL OF AUTOMOBILE LIABILITY POLICIES.

§33-6A-1. Cancellation prohibited except for specified reasons; notice.
No insurer once having issued or delivered a policy providing automobile liability insurance for a private passenger automobile may, 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 reasons specified in this section:

(a) The named insured fails to make payments of premium for the policy or any installment of the premium when due;

(b) The policy is 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 residing in the same household or who customarily operates an automobile insured under the policy:

(1) Has had his or her operator's license suspended or revoked during the policy period including suspension or revocation for failure to comply with the provisions of article five-a, chapter seventeen-c of this code, regarding consent for a chemical test for intoxication: Provided, that when a license is suspended for sixty days by the Commissioner of the Division of Motor Vehicles because a person drove a motor vehicle while under the age of twenty-one years with an alcohol concentration in his or her blood of two hundredths of one percent or more, by weight, but less than eight hundredths of one percent, by weight, pursuant to subsection (l), section two of said article, the suspension may not be grounds for cancellation; or

(2) Is or becomes subject to epilepsy or heart attacks and the individual cannot produce a certificate from a
(e) The named insured or any other operator, either residing in the same household or who customarily operates an automobile insured under such policy, is convicted of or forfeits bail during the policy period for any of the following reasons:

(1) Any felony or assault involving the use of a motor vehicle;

(2) Negligent homicide arising out of the operation of a motor vehicle;

(3) Operating a motor vehicle while under the influence of alcohol or of any controlled substance or while having an alcohol concentration in his or her blood of eight hundredths of one percent or more, by weight;

(4) Leaving the scene of a motor vehicle accident in which the insured is involved without reporting it as required 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) Three or more moving traffic violations committed within a period of twelve months, each of which results in three or more points being assessed on the driver's record by the Division of Motor Vehicles, whether or not the insurer renewed the policy without knowledge of all such violations. Notice of any cancellation made pursuant to this subsection shall be mailed to the named insured either during the current policy period or during the first full policy period following the date that the third moving
traffic violation is recorded by the Division of Motor Vehicles.

Notwithstanding any of the provisions of this section to the contrary, no insurer may cancel a policy of automobile liability insurance without first giving the insured thirty days' notice of its intention to cancel: Provided, That the insurance policy is voidable from the effective date and time of the policy issued by the insurer if the insurer cancels the policy for failure of consideration to be paid by the insured upon initial issuance of the insurance policy and provides written notice to the insured of the cancellation within fifteen days of receipt of notice of the failure of consideration and consideration has not otherwise been provided within ten days of the notice of cancellation. Notice of cancellation for nonpayment of consideration shall be delivered to the named insured or sent by first class mail to the named insured at the address supplied on the application for insurance and shall state the effective date of the cancellation and shall be accompanied by a written explanation of the specific reason for the cancellation. If the insurer fails to provide such written notice to the insured, then the cancellation of the policy for failure of consideration is effective upon the expiration of ten days' notice of cancellation to the insured.
The Joint Committee on Enrolled Bills hereby certifies that
the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 62
Day of May, 2009.

Governor