

SB 631

FILED

2009 MAY -6 PM 1:28

WEST VIRGINIA LEGISLATURE

OFFICE OF WEST VIRGINIA  
CLERK OF STATE

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.]

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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.**

1 No insurer once having issued or delivered a policy  
2 providing automobile liability insurance for a private  
3 passenger automobile may, after the policy has been in  
4 effect for sixty days, or in case of renewal effective  
5 immediately, issue or cause to issue a notice of cancella-  
6 tion during the term of the policy except for one or more  
7 of the reasons specified in this section:

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

11 (b) The policy is obtained through material misrepre-  
12 sentation;

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

15 (d) The named insured or any other operator, either  
16 residing in the same household or who customarily  
17 operates an automobile insured under the policy:

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

32 (2) Is or becomes subject to epilepsy or heart attacks  
33 and the individual cannot produce a certificate from a

34 physician testifying to his or her ability to operate a motor  
35 vehicle;

36 (e) The named insured or any other operator, either  
37 residing in the same household or who customarily  
38 operates an automobile insured under such policy, is  
39 convicted of or forfeits bail during the policy period for  
40 any of the following reasons:

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

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

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

49 (4) Leaving the scene of a motor vehicle accident in  
50 which the insured is involved without reporting it as  
51 required by law;

52 (5) Theft of a motor vehicle or the unlawful taking of a  
53 motor vehicle;

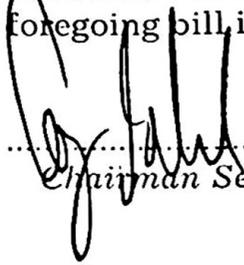
54 (6) Making false statements in an application for a  
55 motor vehicle operator's license;

56 (7) Three or more moving traffic violations committed  
57 within a period of twelve months, each of which results in  
58 three or more points being assessed on the driver's record  
59 by the Division of Motor Vehicles, whether or not the  
60 insurer renewed the policy without knowledge of all such  
61 violations. Notice of any cancellation made pursuant to  
62 this subsection shall be mailed to the named insured either  
63 during the current policy period or during the first full  
64 policy period following the date that the third moving

65 traffic violation is recorded by the Division of Motor  
66 Vehicles.

67 Notwithstanding any of the provisions of this section to  
68 the contrary, no insurer may cancel a policy of automobile  
69 liability insurance without first giving the insured thirty  
70 days' notice of its intention to cancel: *Provided*, That the  
71 insurance policy is voidable from the effective date and  
72 time of the policy issued by the insurer if the insurer  
73 cancels the policy for failure of consideration to be paid by  
74 the insured upon initial issuance of the insurance policy  
75 and provides written notice to the insured of the cancella-  
76 tion within fifteen days of receipt of notice of the failure  
77 of consideration and consideration has not otherwise been  
78 provided within ten days of the notice of cancellation.  
79 Notice of cancellation for nonpayment of consideration  
80 shall be delivered to the named insured or sent by first  
81 class mail to the named insured at the address supplied on  
82 the application for insurance and shall state the effective  
83 date of the cancellation and shall be accompanied by a  
84 written explanation of the specific reason for the cancella-  
85 tion. If the insurer fails to provide such written notice to  
86 the insured, then the cancellation of the policy for failure  
87 of consideration is effective upon the expiration of ten  
88 days' notice of cancellation to the insured.

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

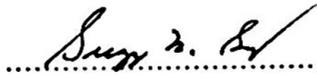
  
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Chairman Senate Committee

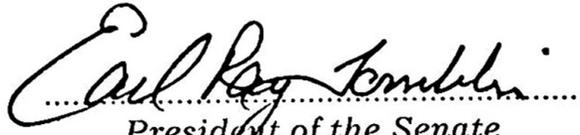
  
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Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

  
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Clerk of the Senate

  
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Clerk of the House of Delegates

  
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President of the Senate

  
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Speaker House of Delegates

The within is approved this the 6<sup>th</sup>  
Day of May, 2009.

  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

MAY 1 2009

Time 2:50 pm