

LEGISLATIVE BILL 1396

Approved by the Governor April 8, 1972

Introduced by Insurance Interim Study Committee, J. James Waldron, 42nd District, Chairman

AN ACT relating to automobile liability insurance; to prescribe conditions for cancellation and nonrenewal of liability coverages, as specified; to provide definitions; to provide for notice of cancellation and nonrenewal; and to provide immunity.

Be it enacted by the people of the State of Nebraska,

Section 1. As used in this act, unless the context otherwise requires:

(1) Policy shall mean an automobile liability policy providing all or part of the coverage defined in subsection (2) of this section, delivered or issued for delivery in this state, insuring a natural person as named insured or one or more related individuals resident of the same household, and under which the insured vehicles therein designated are of the following types only: (a) A motor vehicle of the private passenger or station wagon type that is not used as a public or livery conveyance for passengers, nor rented to others; or (b) any other four-wheel motor vehicle of the pick-up, panel, or delivery type which is not used in the occupation, profession, or business of the insured; Provided, that this act shall not apply (i) to any policy issued under an automobile assigned risk plan; (ii) to any policy insuring more than four automobiles; (iii) to any policy covering garage, automobile sales agency, repair shop, service station, or public parking place operation hazards; or (iv) to any policy of insurance issued principally to cover personal or premises liability of an insured even though such insurance may also provide some incidental coverage for liability arising out of the ownership, maintenance, or use of a motor vehicle on the premises of such insured or on the way immediately adjoining such premises;

(2) Automobile liability coverage shall include only coverage of bodily injury and property damage liability, medical payments, and uninsured motorists coverage;

(3) Renewal or to renew shall mean the issuance and delivery by an insurer of a policy replacing at the

end of the policy period a policy previously issued and delivered by the same insurer, or the issuance and delivery of a certificate or notice extending the term of a policy beyond its policy period or term; Provided, that any policy with a policy period or term of less than six months shall be considered as if written for a policy period or term of six months; and provided further, that any policy written for a term longer than one year or any policy with no fixed expiration date shall be considered as if written for successive policy periods or terms of one year, and such policy may be terminated at the expiration of any annual period upon giving twenty days' notice of cancellation prior to such anniversary date, and such cancellation shall not be subject to any other provisions of this act; and

(4) Nonpayment of premium shall mean failure of the named insured to discharge when due any of his obligations in connection with the payment of any premium on a policy, or any installment of such premium, whether the premium is payable directly to the insurer or its agent or indirectly under any premium finance plan or extension of credit.

Sec. 2. (1) A notice of cancellation of a policy shall be effective only if it is based on one or more of the following reasons: (a) Nonpayment of premium; (b) fraud or material misrepresentation affecting the policy or in the presentation of a claim thereunder, or violation of any of the terms or conditions of the policy; or (c) the named insured or any operator, either resident in the same household or who customarily operates an automobile insured under the policy, (i) has had his driver's license suspended or revoked pursuant to law; (ii) has been convicted of larceny of an automobile, or theft of an automobile in violation of section 28-521, Revised Statutes Supplement, 1971; (iii) has been convicted of an offense for which such suspension or revocation is mandatory; or (iv) whose driver's license is subject to revocation or suspension pursuant to the provisions of sections 39-7,128 to 39-7,133, Reissue Revised Statutes of Nebraska, 1943, by reason of his driving record as disclosed by the files of the Director of Motor Vehicles during the policy period or, if the policy is a renewal, during its policy period or the one hundred eighty days immediately preceding its effective date.

(2) This section shall not apply to any policy or coverage which has been in effect less than sixty days at the time notice of cancellation is mailed or delivered by the insurer unless it is a renewal policy.

(3) This section shall not apply to nonrenewal.

Sec. 3. (1) No notice of cancellation of a policy to which section 2 of this act applies shall be effective unless mailed or delivered by the insurer to the named insured at least twenty days prior to the effective date of cancellation; Provided, that where cancellation is for nonpayment of premium at least ten days' notice of cancellation accompanied by the reason therefor shall be given. Unless the reason accompanies or is included in the notice of cancellation, the notice of cancellation shall state or be accompanied by a statement that upon written request of the named insured, mailed or delivered to the insurer not less than fifteen days prior to the effective date of cancellation, the insurer will specify the reason for such cancellation.

(2) When the reason for cancellation does not accompany or is not included in the notice of cancellation, the insurer shall, upon written request of the named insured, mailed or delivered to the insurer not less than fifteen days prior to the effective date of cancellation, specify in writing the reason for such cancellation. Such reason shall be mailed or delivered to the named insured within five days after receipt of such request.

(3) This section shall not apply to nonrenewal.

Sec. 4. No insurer shall refuse to renew a policy unless such insurer or its agent shall mail or deliver to the named insured, at the address shown in the policy, at least twenty days' advance notice of its intention not to renew. This section shall not apply: (1) If the insurer has manifested its willingness to renew; nor (2) in case of nonpayment of premium; Provided, notwithstanding the failure of an insurer to comply with this section, the policy shall terminate on the effective date of any other insurance policy with respect to any automobile designated in both policies.

Renewal of a policy shall not constitute a waiver or estoppel with respect to grounds for cancellation which existed before the effective date of such renewal.

Sec. 5. If an insurer shall refuse to renew a policy, as provided for in section 4 of this act, the insurer shall, upon written request of the named insured, mailed or delivered not less than fifteen days prior to the effective date of such notice of intention not to renew, specify in writing the reason for such refusal to renew. Such reason shall be mailed or delivered to the named insured within five days after receipt of such

request.

Sec. 6. Proof of mailing notice of cancellation, or of intention not to renew, or of reasons for cancellation, to the named insured at the address shown in the policy shall be sufficient proof of notice.

Sec. 7. When automobile bodily injury and property damage liability coverage is cancelled, other than for nonpayment of premium, or in the event of failure to renew automobile bodily injury and property damage liability coverage to which section 4 of this act applies, the insurer shall notify the named insured of his possible eligibility for automobile liability insurance through an affiliated insurer or the automobile liability assigned risk plan. Such notice shall accompany or be included in the notice of cancellation or the notice of intent not to renew.

Sec. 8. There shall be no liability on the part of, and no cause of action of any nature shall arise against, the Director of Insurance or against any insurer, its authorized representative, its agents, its employees, or any firm, person, or corporation furnishing to the insurer information as to reasons for cancellation or intention not to renew, for any statement made by any of them in any written notice of cancellation or intention not to renew, or in any other communication, oral or written, specifying the reasons for cancellation or intention not to renew, or the providing of information pertaining thereto, or for statements made or evidence submitted at any hearings conducted in connection therewith.