



SPONSOR: Rep. Bush & Sen. Paradee
Rep. Baumbach

HOUSE OF REPRESENTATIVES
150th GENERAL ASSEMBLY

HOUSE BILL NO. 143

AN ACT TO AMEND TITLES 18 AND 21 OF THE DELAWARE CODE RELATING TO AUTOMOBILE INSURANCE POLICIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 3903, Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3903. Cancellation or nonrenewal of automobile policy; definitions; scope.

(a) As used in §§ 3903-3907 of this title:

(3) "Policy" means any 1 or more of the following portions of an automobile insurance policy:

a. Insuring against bodily injury and property damage liability;

b. Insuring against physical damage;

c. Insuring against risks commonly included under "comprehensive coverage";

d. Relating to medical payments;

e. Providing uninsured motorist coverage, where such policy is delivered or issued for delivery in this State, insuring ~~a natural person~~ an individual as named insured, or 1 or more related individuals resident of the same household, and under which the insured vehicles therein designated are motor vehicles of the private passenger or station wagon type (not used for public or livery conveyance of passengers, or rented to others) or any other 4 wheel motor vehicles with a load capacity of 1500 pounds or less not used in the occupation, profession, or business of the insured, and other than a policy of automobile liability insurance that meets any of the following criteria:

1. Issued under an assigned risk plan; ~~or,~~

2. Insuring more than 4 motor vehicles; ~~or,~~

3. Covering garage, automobile sales agency, repair shop, service station, or public parking place operation hazards.

Section 2. Amend § 3905, Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3905. Cancellation or nonrenewal of automobile policy — Notice of cancellation or intention not to renew; notice of reasons [For application of this section, see 79 Del. Laws, c. 390, § 8].

(a) No cancellation of a policy to which § 3904(a) of this title applies shall be effective unless notice thereof is mailed or delivered by the insurer to the named insured at least 30 days prior to the effective date of cancellation and accompanied by the reason for cancellation, except that, where cancellation is for nonpayment of premium, at least 15 days' notice of cancellation accompanied by the reason therefor shall be given.

Section 3. Amend § 3920, Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3920. Cancellation or nonrenewal of commercial automobile policy.

(a)(1) An insurer licensed to do business in Delaware may not cancel mid-term any commercial automobile policy except for any of the following reasons:

a. Nonpayment of premium.

b. Material misrepresentation or nondisclosure to the insurer of a material fact at the time of acceptance of the risk.

c. Increased hazard or material change in the risk assumed, where the increased hazard or material change could not have been reasonably contemplated by the parties at the time of the assumption of the risk.

d. Substantial breaches of contractual duties, conditions, or warranties, which materially affect the nature or insurability of the risk.

e. Fraudulent acts against the insurer by the insured or its representatives, which materially affect the nature of the risk insured.

f. Lack of cooperation from the insured on loss control matters affecting insurability of the risk.

g. Bona fide loss of or substantial changes in applicable reinsurance if the insurer gives 60 days' written notice to both the insured and the Commissioner and submits a statement outlining the measures taken by the insurer to retain reinsurance and to obtain alternative sources of reinsurance in a form promulgated by the Commissioner.

h. Material increase in exposure arising out of changes in statutory or case law after the issuance of the insurance contract if the insurer gives 60 days' written notice to the insured and the Commissioner.

i. Bona fide loss of or reduction in available insurance capacity if the insurer gives 60 days' written notice to the insured and Commissioner.

(2) Except as otherwise provided in paragraph (3) of this subsection, an insurer may not cancel a commercial automobile policy unless notice of the cancellation is mailed or delivered by the insurer to the named insured, at the insured's last address of record with the insurer, at least 60 days before the effective date of cancellation and accompanied by the reason for the cancellation. If the cancellation is for nonpayment of premium, the insurer shall give at least 10 days' notice of cancellation accompanied by the reason for the cancellation.

(3) Nothing in this section prohibits an insurer from issuing a notice of cancellation regarding a commercial automobile policy that has been in effect for less than 60 days at the time the notice is mailed or delivered.

(b) An insurer shall renew a commercial automobile policy unless the insurer mails or delivers to the named insured, at the insured's last address of record with the insurer, at least 60 days' advance notice of its intention to nonrenew accompanied by the reason or reasons for the nonrenewal. This subsection does not apply in case of nonpayment of premium or if the insurer has manifested its willingness to renew. Notwithstanding the failure of an insurer to comply with this subsection, the commercial automobile policy must terminate on the effective date of any other commercial automobile policy procured by the insured with respect to any automobile designated in both policies. Renewal of a commercial automobile policy shall not constitute a waiver or estoppel with respect to grounds for cancellation or nonrenewal which existed before the effective date of the renewal.

(c) The mailing of the notice of cancellation or of intention to nonrenew to the named insured, at the last address of record with the insurer, must be by certified mail or by USPS Intelligent Mail barcode (IMb). Proof of mailing of such notice must be retained by the insurer for a period of not less than 1 year. This subsection does not apply in case of nonpayment of premium.

(d) When a policy is cancelled or nonrenewed, other than for nonpayment of premium, the insurer shall notify the named insured of any possible eligibility for insurance through an automobile assigned risk plan. The notice of availability of insurance through an automobile assigned risk plan must accompany or be included in the notice of cancellation or the notice of intent not to renew, and must state that the notice is given pursuant to this section.

Section 4. Amend § 2118, Title 21 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(l) A motor vehicle registration shall not be issued or renewed for any vehicle not covered by a vehicle insurance policy meeting the requirements of this title. All insurers shall send to the Division of Motor Vehicles notice, in written or electronic form per the direction of the Division, of any cancellations or terminations of private passenger automobile insurance under § 3904(a)(1) of Title 18 for any private passenger automobile policies which are final and occur within the first 6 months after such policies are issued. The Insurance Commissioner may further change the timeframe for

82 notification by regulation. All insurers shall send notice to the named insured when a motor vehicle insurance policy is
83 canceled pursuant to the provisions of § 3905 or § 3920 of Title 18.

84 Section 5. This Act shall take effect 6 months after enactment and shall apply to all policies issued or renewed
85 after the effective date.

SYNOPSIS

Section 1 of this Act clarifies the definition of the term “policy” for purposes of §§ 3903-3907 of Title 18 of the Delaware Code to apply only to personal automobile insurance policies and not commercial or other types of policies.

Section 2 of this Act extends the amount of notice that an insurer must provide to a private passenger policyholder before cancelling an automobile policy for nonpayment of premium from 10 to 15 days.

Section 3 of this Act sets standards for cancellation and nonrenewal notice requirements for commercial automobile policies.

Section 4 of this Act is a housekeeping item and adds cross reference in Title 21 to the newly-created section 3920 for commercial policies.

This Act makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.