

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

H

1

HOUSE BILL 1621

Short Title: MV Fees/SDIP Equity.

(Public)

Sponsors: Representatives Beard; Bowman, Brawley, Decker, Foster, Gray, Hasty, Holmes, Hurley, Isenhower, McAllister, and Warner.

Referred to: Commerce.

June 5, 1992

A BILL TO BE ENTITLED

1 AN ACT TO INCREASE THE INSURANCE LAPSE FEE, TO PROVIDE THAT THE
2 COMMISSIONER OF MOTOR VEHICLES WILL HOLD INSURANCE
3 CANCELLATION HEARINGS, TO ELIMINATE SAFE DRIVER INCENTIVE
4 PLAN SURCHARGES ON ACCIDENTS OR VIOLATIONS BY FIRE, RESCUE,
5 OR LAW ENFORCEMENT PERSONNEL WHILE ACTING IN THE LINE OF
6 DUTY, AND TO ESTABLISH THE PERCENTAGE RATE FOR THE
7 INSURANCE REGULATORY CHARGE.
8

9 The General Assembly of North Carolina enacts:

10 Section 1. G.S. 20-309(e) reads as rewritten:

11 "(e) Upon termination by cancellation or otherwise of an insurance policy
12 provided in subsection (b) of this section, the insurer shall notify the Division of such
13 termination; provided, no cancellation notice is required if the insurer issues a new
14 insurance policy complying with this Article at the same time the insurer cancels or
15 otherwise terminates the old policy, no lapse in coverage results, and the insurer sends
16 the certificate of insurance form for the new policy to the Division. The Division, upon
17 receiving notice of cancellation or termination of an owner's financial responsibility as
18 required by this Article, shall notify such owner of such cancellation or termination, and
19 such owner shall, to retain the registration plate for the vehicle registered or required to
20 be registered, within 10 days from date of notice given by the Division either:

21 (1) Certify to the Division that he had financial responsibility effective on
22 or prior to the date of such termination; or

1 (2) In the case of a lapse in financial responsibility, pay a ~~fifty-dollar~~
2 (~~\$50.00~~) three hundred dollar (\$300.00) civil penalty; and certify to the
3 Division that he now has financial responsibility effective on the date
4 of certification, that he did not operate the vehicle in question during
5 the period of no financial responsibility with the knowledge that there
6 was no financial responsibility, and that the vehicle in question was
7 not involved in a motor vehicle accident during the period of no
8 financial responsibility.

9 The first sixty thousand dollars (\$60,000) collected during the
10 1992-93 fiscal year from the civil penalty imposed by the preceding
11 paragraph shall be used by the Division to publicize the purpose and
12 amount of the penalty. Thereafter, two hundred fifty dollars (\$250.00)
13 of each civil penalty collected pursuant to the preceding paragraph
14 shall be deposited in the General Fund.

15 Failure of the owner to certify that he has financial responsibility as herein required
16 shall be **prima facie** evidence that no financial responsibility exists with regard to the
17 vehicle concerned and unless the owner's registration plate has on or prior to the date of
18 termination of insurance been surrendered to the Division by surrender to an agent or
19 representative of the Division designated by the Commissioner, or depositing the same
20 in the United States mail, addressed to the Division of Motor Vehicles, Raleigh, North
21 Carolina, the Division shall revoke the vehicle's registration for 30 days.

22 In no case shall any vehicle, the registration of which has been revoked for failure to
23 have financial responsibility, be reregistered in the name of the registered owner,
24 spouse, or any child of the spouse, or any child of such owner within less than 30 days
25 after the date of receipt of the registration plate by the Division of Motor Vehicles,
26 except that a spouse living separate and apart from the registered owner may register
27 such vehicle immediately in such spouse's name. Additionally, as a condition precedent
28 to the reregistration of the vehicle by the registered owner, spouse, or any child of the
29 spouse, or any child of such owner, except a spouse living separate and apart from the
30 registered owner, the payment of a restoration fee of fifty dollars (\$50.00) and the
31 appropriate fee for a new registration plate is required. Any person, firm or corporation
32 failing to give notice of termination shall be subject to a civil penalty of two hundred
33 dollars (\$200.00) to be assessed by the Commissioner ~~of Insurance~~ upon a finding by the
34 Commissioner of Insurance that good cause is not shown for such failure to give notice
35 of termination to the Division."

36 Sec. 2. G.S. 20-210(f) reads as rewritten:

37 "(f) No cancellation or refusal to renew by an insurer of a policy of automobile
38 insurance shall be effective unless the insurer shall have given the policyholder notice at
39 his last known post-office address by certificate of mailing a written notice of the
40 cancellation or refusal to renew. Such notice shall:

- 41 (1) Be approved as to form by the Commissioner ~~of Insurance~~ prior to use;
42 (2) State the date, not less than 60 days after mailing to the insured of
43 notice of cancellation or notice of intention not to renew, on which
44 such cancellation or refusal to renew shall become effective, except

1 that such effective date may be 15 days from the date of mailing or
2 delivery when it is being canceled or not renewed for the reasons set
3 forth in subdivision (1) of subsection (d) and in subdivision (4) of
4 subsection (e) of this section;

5 (3) State the specific reason or reasons of the insurer for cancellation or
6 refusal to renew;

7 (4) Advise the insured of his right to request in writing, within 10 days of
8 the receipt of the notice, that the Commissioner of Insurance review the
9 action of the insurer; and the insured's right to request in writing,
10 within 10 days of receipt of the notice, a hearing before the
11 ~~Commissioner of Insurance~~; Commissioner;

12 (5) Either in the notice or in an accompanying statement advise the
13 insured that operation of a motor vehicle without complying with the
14 provisions of this Article is a misdemeanor and specifying the
15 penalties for such violation."

16 Sec. 3. G.S. 20-210(i) reads as rewritten:

17 "(i) Notwithstanding any provision herein contained, any insured may within 10
18 days of the receipt of the notice of cancellation or notice of intention not to renew, or
19 the receipt of the reason or reasons for cancellation or refusal to renew if they were not
20 stated in the notice, be entitled to request in writing that the Commissioner of Insurance
21 review the action of an insurer in canceling or refusing to renew the policy of such
22 insured. Within said 10-day period the insured may also request in writing a hearing in
23 regard to such review; otherwise, the right of the insured for a hearing shall be deemed
24 waived. On receiving a request in writing for a review of the action of such insurer, the
25 Commissioner of Insurance shall immediately notify the insurer involved of the insured's
26 request and the charges involved, if known, and on receipt of said notification and
27 within 10 days thereafter the insurer may make a request in writing for a hearing in
28 regard to such review; otherwise, the right of the insurer to such a hearing shall be
29 deemed waived. If neither the insurer or the insured by request in writing or the
30 Commissioner of Insurance of his own motion requires a hearing, then in such event the
31 Commissioner of Insurance shall make such investigation as he deems appropriate to
32 determine if the insurer has violated the provisions of this section, and shall after
33 appropriate findings of fact either approve the cancellation or nonrenewal of such policy
34 or order the insurer to renew, reissue, or reinstate such policy on such terms as may be
35 just. At the written request of the insured or insurer or on his own motion, the
36 Commissioner of Insurance shall after notice conduct a hearing to determine if the
37 insurer has violated the provisions of this section, and after appropriate findings of fact,
38 shall within 40 days after receipt in writing of a request for review by the insured, either
39 approve the cancellation or nonrenewal of such policy or order the insurer to renew,
40 reissue, or reinstate such policy on such terms as may be just. In addition, if the
41 Commissioner of Insurance finds after notice and hearing and after appropriate findings
42 of fact, that the insurer has willfully violated the provisions of this section or has acted
43 without reasonable investigation into the grounds for action of cancellation or
44 nonrenewal, he may order the insurer involved to pay the reasonable expenses and costs

1 of the investigation and hearing conducted by the Commissioner not to exceed the sum
2 of three hundred dollars (\$300.00) and such costs as are ordered paid by the
3 Commissioner pursuant to the provisions of this section shall be paid as a condition of
4 such insurer continuing to write automobile insurance business in this State. Any
5 insured or insurer aggrieved by any order or decision of the Commissioner ~~of Insurance~~
6 may appeal said order and decision to the Superior Court of ~~Wake County~~ pursuant to and
7 ~~subject to the provisions of G.S. 58-2-75. the county in which the hearing is held.~~ All
8 examinations, investigations, and hearings provided by this subsection may be
9 conducted by the Commissioner personally or by one or more of his deputies, ~~actuaries,~~
10 ~~examiners, licensed attorneys,~~ or employees designated by him for the purpose, and any
11 order entered by such hearing officer other than the Commissioner shall have the same
12 force and effect as if entered by the Commissioner himself. All hearings shall be held at
13 such time and place as shall be designated in a notice which shall be given by the
14 Commissioner in writing to the person cited to appear at least 10 days before the date
15 designated thereon. The notice shall state the subject of the inquiry and the specific
16 charges, if any. It shall be sufficient to give such notice either by delivering it or by
17 depositing the same in the United States mail, postage prepaid and addressed to the last
18 known address of such insured or insurer. The policy shall remain in full force and
19 effect during the pendency of review by the Commissioner ~~of Insurance~~ or the court
20 except where the Commissioner ~~of Insurance~~ has sustained the action of the insurer and
21 except where the cancellation or failure to renew was for nonpayment under subdivision
22 (1) of subsection (d) and subdivision (4) of subsection (e) of this section, in which case
23 the policy shall terminate as of the date provided in the notice under subsection (f) of
24 this section."

25 Sec. 4. G.S. 20-210(k) reads as rewritten:

26 "(k) Each insurer shall maintain for a period of three years records of refusals to
27 renew and cancellations and shall, on request, forward to the Commissioner ~~of Insurance~~
28 copies of every notice or statement referred to in subsection (f) of this section which it
29 shall at any time send to any of its insureds."

30 Sec. 5. G.S. 58-36-75(d) reads as rewritten:

31 "(d) There shall be no Facility recoupment surcharge under G.S. 58-37-40(f) or
32 Safe Driver Incentive Plan surcharges under G.S. 58-36-75 for accidents or conviction
33 for speeding violations occurring when operating a firefighting, rescue squad, or law
34 enforcement vehicle in response to an emergency if the operator of the vehicle at the
35 time of the accident or speeding violation was a paid or volunteer member of any fire
36 department, rescue squad, or any law enforcement agency. This exception does not
37 include an accident or speeding violation occurring after the vehicle ceases to be used in
38 response to such emergency."

39 Sec. 6. The percentage rate to be used in calculating the insurance regulatory
40 charge under G.S. 58-6-25 is eight percent (8%) for the 1992 taxable year.

41 Sec. 7. Section 5 of this act becomes effective October 1, 1992, and applies
42 to accidents or violations occurring on or after that date. The remainder of this act
43 becomes effective July 1, 1992.