

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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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

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

The General Assembly of North Carolina enacts:

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

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

- (1) Certify to the Division that he had financial responsibility effective on 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.