

HOUSE No. 100

Accompanying the eleventh recommendation of the Commissioner of Insurance (House, No. 88). Insurance.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Thirty-Three.

An Act relative to Service by Registered Mail of Notices of Cancellation of Motor Vehicle Liability Policies and Bonds.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section one hundred and thirteen A of
2 chapter one hundred and seventy-five of the General
3 Laws, inserted by section four of chapter three hun-
4 dred and forty-six of the acts of nineteen hundred
5 and twenty-five, as most recently amended by section
6 five of chapter three hundred and eighty-one of the
7 acts of nineteen hundred and twenty-eight, is hereby
8 further amended by striking out, in the twenty-sixth
9 line, the word "and", and inserting in place thereof
10 the words: — , that notice of cancellation sent by the
11 company to the insured, by registered mail, postage
12 prepaid, addressed to him at his residential or busi-
13 ness address stated in the policy, shall be a sufficient
14 notice and that an affidavit of any officer, agent or
15 employee of the company duly authorized to send

16 such notice, that it has been sent and addressed as
17 aforesaid, shall be prima facie evidence of that fact;
18 together with a provision, — so that the provision
19 numbered (2) in said section will read as follows: —
20 That no cancellation of the policy, whether by the
21 company or by the insured, shall be valid unless
22 written notice thereof is given by the party proposing
23 cancellation to the other party and, except when the
24 intended effective date thereof is the date of expira-
25 tion of the registration of the motor vehicle or trailer
26 covered by the policy, to the registrar of motor ve-
27 hicles in such form as the department of public works
28 may prescribe, at least fifteen days in each case prior
29 to the intended effective date thereof, which date
30 shall be expressed in said notice, that notice of can-
31 cellation sent by the company to the insured, by
32 registered mail, postage prepaid, addressed to him at
33 his residential or business address stated in the policy,
34 shall be a sufficient notice and that an affidavit of
35 any officer, agent or employee of the company duly
36 authorized to send such notice, that it has been sent
37 and addressed as aforesaid, shall be prima facie evi-
38 dence of that fact; together with a provision that,
39 in the event of a cancellation by the insured, he shall,
40 if he has paid the premium on the policy to the
41 company, or to its agent who issued the policy, or to
42 the duly licensed insurance broker, if any, by whom
43 the policy was negotiated, be entitled to receive
44 a return premium after deducting the customary
45 monthly short rates for the time the policy shall have
46 been in force, or in the event of cancellation by the
47 company, the insured shall, if he has paid the premium
48 as aforesaid, be entitled to receive a return premium
49 calculated on a pro rata basis; provided, that if the

50 insured after receiving a notice of cancellation by the
51 company files a new certificate under section thirty-
52 four H of said chapter ninety prior to the intended
53 effective date of such cancellation, the filing of said
54 certificate shall operate to terminate the policy on
55 the date of said filing, and the return premium, if
56 any, payable to the insured shall be computed as of
57 the date of said filing, instead of the intended effective
58 date of cancellation expressed in the notice thereof;
59 and provided further, that if the final effective date
60 of a cancellation by the company is fixed by an order
61 of the board of appeal on motor vehicle liability poli-
62 cies and bonds or of the superior court, or a justice
63 thereof, as provided in section one hundred and
64 thirteen D, the return premium, if any, payable to
65 the insured shall be computed as of such final effective
66 date.

1 SECTION 2. Section one hundred and thirteen D of
2 said chapter one hundred and seventy-five, inserted
3 by section four of said chapter three hundred and
4 forty-six, as most recently amended by section seven
5 of chapter three hundred and eighty-one of the acts
6 of nineteen hundred and twenty-eight, is hereby fur-
7 ther amended by striking out the first paragraph
8 thereof and inserting in place thereof the following:—
9 *Section 113D.* Any person aggrieved by the issue
10 by any company, or by an agent thereof on its behalf,
11 of a notice purporting to cancel a motor vehicle lia-
12 bility policy or bond, both as defined in section thirty-
13 four A of chapter ninety, or by the refusal of any
14 company, or an agent thereof on its behalf, to issue
15 such a policy or to execute or to act as surety on such
16 a bond, may, within ten days after receiving written

17 notice purporting to cancel such policy or bond, or,
18 if he did not receive such a written notice from the
19 company, within ten days after receiving a written
20 notice from the registrar of motor vehicles under
21 section thirty-four H of said chapter ninety, or, if he
22 did not receive such a notice from the registrar, not
23 later than ten days after the revocation under said
24 section thirty-four H of the registration of such motor
25 vehicle or trailer, unless he has secured a certificate
26 as defined in said section thirty-four A from another
27 company, or within a like period after such a refusal,
28 file a written complaint with the commissioner. The
29 complaint shall be in such form and contain such
30 information, including the address of the complain-
31 ant, as the commissioner may prescribe. If it relates
32 to a cancellation, it shall specify the registration
33 number of the motor vehicle or trailer covered by the
34 policy or bond and the date on which the complain-
35 ant received said written notice, or, if he did not
36 receive such a notice, the complaint shall state that
37 fact, and the date upon which he received a written
38 notice from the registrar under said section thirty-
39 four H or the date upon which the said registrar
40 revoked the registration of such motor vehicle or
41 trailer, as the case may be, and, if the complaint
42 relates to a refusal as aforesaid, the date thereof.
43 The board of appeal on motor vehicle liability policies
44 and bonds, hereinafter called the board, may allow
45 such complaint to be amended.

1 SECTION 3. Said section one hundred and thirteen
2 D is hereby further amended by striking out the third
3 paragraph and inserting in place thereof the following:—
4 If the complaint relates to the cancellation of such

5 a policy or bond, the filing thereof within ten days
6 after the complainant received the written notice of
7 cancellation from the company, shall operate to con-
8 tinue the policy or bond in full force and effect, but
9 not beyond its date of expiration in any case, and, in
10 a case in which the board orders that a cancelled
11 policy or bond be reinstated, as hereinafter provided,
12 pending the decree of the superior court or a justice
13 thereof if an appeal from such finding and order is
14 taken as hereinafter provided. The commissioner
15 shall cause a copy of a complaint which was filed
16 within ten days from the date specified therein as the
17 date upon which the complainant received written
18 notice of cancellation from the company, attested in
19 such manner as he may prescribe, forthwith to be
20 sent to the registrar of motor vehicles or his office and
21 to the company.

1 SECTION 4. Said section one hundred and thirteen
2 D is hereby further amended by striking out the last
3 sentence of the fourth paragraph, and inserting in
4 place thereof the following: — If the board finds in
5 favor of the company in the case of a cancellation of
6 which the complainant received written notice, the
7 order shall, unless the policy or bond has expired, affirm
8 the cancellation and specify a date not less than fifteen
9 nor more than twenty days from the filing of a memo-
10 randum of the finding and order in the office of the
11 commissioner as hereinafter provided, on which the
12 cancellation shall be effective. If the board finds in
13 favor of the complainant in the case of a cancellation
14 of which the complainant did not receive written
15 notice as aforesaid, the order shall, unless the policy
16 or bond, if reinstated, will expire within ten days

17 from the date of the hearing on the complaint, specify
18 a date not earlier than the date upon which the written
19 memorandum from the finding and order is filed as
20 hereinafter provided, upon which the policy or bond
21 shall be reinstated and from which it shall be in full
22 force and effect, until duly cancelled. The order of
23 the board in such a case shall operate to restore the
24 registration of the motor vehicle described in the
25 policy or bond upon the date specified therein for the
26 reinstatement of the policy or bond, subject to all
27 provisions of law governing the registration of motor
28 vehicles, except that the complainant shall not be
29 required to pay any fee to the registrar of motor
30 vehicles in connection with such registration.

1 SECTION 5. Said section one hundred and thirteen
2 D is hereby further amended by inserting after the
3 word "bond" in the fifty-third line, the words:—
4 the operation of which was suspended by the filing of
5 the complaint, — so that the fifth paragraph will read
6 as follows:— The commissioner, as soon as may be
7 after the rendition thereof, shall cause a written
8 memorandum of all findings and the orders entered
9 thereon signed by the assenting members of the board
10 to be filed in his office as a public record, and he shall
11 on the date of said filing cause a copy of the finding
12 and order, duly attested by the board or a member or
13 the secretary thereof, with the date of said filing
14 endorsed thereon, to be sent to each of the parties,
15 and, if the finding and order relates to the cancella-
16 tion of such a policy or bond, the operation of which
17 was suspended by the filing of the complaint, to the
18 registrar of motor vehicles or his office.

1 SECTION 6. The provisions of this act shall apply
2 to motor vehicle liability policies and bonds, both as
3 defined in section thirty-four A of chapter ninety of
4 the General Laws, issued or executed in connection
5 with the registration of motor vehicles or trailers
6 under said chapter ninety for or during the year
7 nineteen hundred and thirty-four and subsequent
8 years.

