

# HOUSE . . . . No. 728

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By Mr. York of Lynn, petition of Morton E. York for further regulation of cancellation of liability insurance policies and registrations in connection with operation of motor vehicles. Insurance.

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## The Commonwealth of Massachusetts

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

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AN ACT TO FURTHER REGULATE THE CANCELLATION OF MOTOR VEHICLE LIABILITY POLICIES AND BONDS AND THE REVOCATION OF MOTOR VEHICLE REGISTRATIONS IN CONNECTION THEREWITH.

*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. Provision (2) of section one hundred  
2 and thirteen A of chapter one hundred and seventy-five  
3 of the General Laws, as most recently amended by  
4 chapter two hundred and seventy-two of the acts of  
5 nineteen hundred and thirty-six, is hereby further  
6 amended by striking out said provision (2) and in-  
7 serting the following: —

8 (2) That, except as otherwise provided in provision  
9 (2) A and in section one hundred and thirteen D, no  
10 cancellation of the policy, whether by the company  
11 or by the insured, shall be valid unless written notice  
12 thereof is given by the party proposing cancellation  
13 to the other party and to the registrar of motor vehi-  
14 cles in such form as the department of public works

15 may prescribe, at least fifteen days in each case prior  
16 to the intended effective date thereof, which date  
17 shall be expressed in said notice, and that no such  
18 cancellation because of non-payment of premiums shall  
19 be effective to defeat or avoid the policy so as to bar  
20 recovery within the limit provided in the policy by  
21 a judgment creditor proceeding under the provisions  
22 of said section one hundred and thirteen and clause  
23 (10) of section three of chapter two hundred and  
24 fourteen until the number plates of the motor vehicle  
25 or trailer covered by the policy are returned to the  
26 registrar of motor vehicles, and that notice of cancella-  
27 tion sent by the company to the insured, by registered  
28 mail, postage prepaid, with a return receipt of the  
29 addressee requested, addressed to him at his residence  
30 or business address stated in the policy shall be a  
31 sufficient notice and that an affidavit of any officer,  
32 agent or employee of the company, duly authorized  
33 for the purpose, that he has so sent such notice ad-  
34 dressed as aforesaid shall be prima facie evidence of  
35 the sending thereof as aforesaid; together with a  
36 provision that, in the event of a cancellation by the  
37 insured, he shall, if he has paid the premium on the  
38 policy to the company or to its agent who issued the  
39 policy, or to the duly licensed insurance broker, if  
40 any, by whom the policy was negotiated, be entitled  
41 to receive a return premium after deducting the  
42 customary monthly short rates for the time the  
43 policy shall have been in force, or in the event of  
44 cancellation by the company, the insured shall, if  
45 he has paid the premium as aforesaid, be entitled to  
46 receive a return premium calculated on a pro rata  
47 basis; provided, that if the insured after the sending  
48 of a notice of cancellation by the company, which is

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

1 SECTION 2. Section thirty-four H of chapter ninety  
2 of the General Laws, as amended by chapter one  
3 hundred and nineteen of the acts of nineteen hundred  
4 and thirty-three, is hereby further amended by  
5 striking out the third paragraph and inserting the  
6 following new paragraph: —

7 Upon failure of the owner of a motor vehicle to file  
8 a new certificate as required by this section, the  
9 registrar shall immediately revoke the registration  
10 thereof; provided, that if a new certificate as aforesaid  
11 is filed prior to the final effective date of the cancella-  
12 tion of the existing policy or bond, he may in his  
13 discretion rescind such revocation; and provided  
14 further that in case such cancellation is because of  
15 non-payment of premiums, operation of a motor  
16 vehicle after such revocation of registration shall be

17 considered only as evidence of negligence in all civil  
18 actions, except civil actions brought by, or on behalf,  
19 of the operator or owner of such motor vehicle, in-  
20 cluding all actions under section thirty-four G of this  
21 chapter and in all suits in equity, including suits in  
22 equity to reach and apply the proceeds of a motor  
23 vehicle liability policy as described in section thirty-  
24 four A of this chapter as amended, until the number  
25 plates of the motor vehicle covered by the policy are  
26 returned to the registrar of motor vehicles.