

TRUCK & AUTO INSURANCE & ACCIDENT CLAIMS



A **Consumer's Guide** to Truck and Automobile
Claims and Insurance
in Virginia and West Virginia



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Auto Insurance



THIS BROCHURE contains Information received from
Commonwealth of Virginia
State Corporation Commission
Bureau of Insurance
P.O. Box 1157
Richmond, Virginia 23218
Website: WWW.SCC.VIRGINIA.GOV/DIVISION/BOI

West Virginia
Offices of the Insurance Commissioner
PO Box 50540
Charleston, WV 25305-0540
Website: WWW.WVINSURANCE.GOV

Each type of insurance has particular coverage language, however; in some instances state law overrides or adds to the benefits not explained in your insurance policy. This is especially true for mandatory coverages provided by state law.

This brochure is intended to help injured persons and their loved ones with insurance, coverage and claim issues. Consultation with a competent, independent insurance agent and experienced attorney who considers your assets, goals, needs and particular circumstances is highly recommended.

SHOPPING TIPS FOR INSURANCE BUYING

1. Tell your insurance agent or company certain facts about yourself and your driving habits. If these facts apply to you, they may entitle you to a lower premium:

- Existence of anti-theft device, automatic seatbelts and/or air bags;
- The car is used for pleasure driving only; you do not drive it to work;
- You are in a car pool and drive to work an average of no more than two days per week;
- You are a full-time student and qualify as a good student (generally B average or above);
- The distance you drive to work is short;
- You drive less than 7,500 miles per year;
- You have had no accidents or violations;
- Successful completion of a driver's ed or defensive driving course.

Many consumers have failed to benefit from various discounts simply because they did not supply the necessary information to their agent.

2. Ask whether the insurance company plans to return some of your premium dollars. Many mutual companies pay dividends to their policyholders at the end of the year. In some cases, dividends amount to more than 10% of premium costs. Remember that dividend amounts are not guaranteed.

3. Ask whether a company sells a Family Auto Policy, a Personal Auto Policy, or a Special Package Auto Policy. Discuss the differences in the coverage among the three different policies with your agent.

4. If you have been turned down by one insurance company because you had an auto accident or traffic violation, try other companies. Do not assume that you will be turned down by all companies. Just as companies have different premiums, they also have different underwriting standards. Keep trying. If several companies with low premiums turn you down, try some companies that have higher premiums.

5. If all else fails and you are unable to obtain auto insurance, any licensed agent can obtain insurance for you through the Virginia Automobile Insurance Plan. The Plan should be a last resort because the premiums are often higher than those of private companies.

WHY SHOULD YOU BUY AUTO INSURANCE?

If you cause an auto accident, you may be responsible for the losses of the other people involved. A claim may be made or a lawsuit filed against you for those losses. You may have to pay not only for the property damage you cause, but also for the medical expenses, lost wages, and pain and suffering of any injured person. The amount of money you may have to pay could be substantial.

If you do not have insurance, anything of value that you own, including your home, savings, future wages and other assets, may be taken to pay for those losses. Auto liability insurance will protect you so that this does not happen. Liability insurance also pays for a lawyer to defend you against any claim or lawsuit.

You can also buy insurance to cover you or your passengers' injuries or damages to your auto. Certain optional coverages like medical payments will pay you for your own losses whether or not you caused the loss.

Insurance is based on the theory that only a small portion of all drivers will be involved in accidents in any one year. The premiums paid by all drivers during the year are used to pay for the losses of those few drivers who have accidents. When you buy insurance, you receive financial protection in case you become involved in an accident. You also make sure that a person injured through your fault will recover for losses you cause.

You may feel that you never get to use your auto insurance unless something bad happens, but it makes sense to have that protection.



MORE AUTO INSURANCE TIPS

- **When you decide to buy an automobile.** You should have insurance in force on the day you first drive the auto as your own. If you obtain license plates prior to purchase, you will need an insurance company who has agreed to write your insurance and has given you a policy number. The insurance will not need to be effective until you first drive the auto as your own. However, the DMV requires compliance with Virginia's financial responsibility law before you receive your license plates. You should consider having comprehensive coverage in effect on the day you obtain legal title to the auto even if you do not plan to drive it right away. This guarantees that if your auto is damaged or stolen before you drive it, you will be compensated.
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- **When you trade autos or purchase additional autos.** If you purchase an automobile, it is automatically covered during the policy term if it replaces a car already on your policy. If you purchase an automobile *in addition to* the cars you already insure, most policies provide coverage for a limited time, usually 30 days. It is a good idea to notify your company as soon as possible when adding or deleting cars on your policy although most policies allow for at least 30 days for such changes to be made. If you have to borrow money to purchase the car, your lender will require that you purchase physical damage coverage.
 - **When your policy is up for renewal.** Regularly shop for auto insurance immediately prior to your annual renewal date. Be sure that you are buying the right types of coverages with the best combination of price and service. If you decide it is best for you to change automobile insurance companies at renewal time, be aware that Virginia law allows an insurance company to cancel a new policy during the first sixty (60) days that the policy is in effect. This means that you may be denied insurance by the new company you have chosen after your old policy has already expired. Prevent this from happening by telling the new agent or company when you apply for a policy everything about your driving habits and your driving record especially if you have been convicted of traffic violations or have been involved in an automobile accident.

WHAT TYPES OF AUTO INSURANCE COVERAGE ARE YOU REQUIRED TO BUY?

Virginia: Virginia has a financial responsibility law. The purpose of this law is to keep drivers off the highway if they cannot bear the cost of injuries or damage that they cause. These financial responsibility requirements can be met in one of several ways.

Financial Responsibility Options

(1) When you register your vehicle, you must certify that it is insured by a company licensed to do business in Virginia. *Your policy must provide the following minimum limits of **liability, underinsured and uninsured coverage:***

- **\$25,000** for injury or death of one person;
- **\$50,000** for injury or death of two or more people; and
- **\$20,000** for property damage.

The \$20,000 property damage coverage is subject to a \$200 deductible when a loss is caused by a hit-and-run driver who cannot be identified. Otherwise, the law requires you to pay the uninsured motorist fee.

(2) Uninsured Motorist Fee: This \$500 Uninsured Motor Vehicle (UMV) fee, which is paid to the Department of Motor Vehicles (DMV), does not provide any insurance; it only allows you to drive an uninsured vehicle at your own risk. It expires with your registration and must be paid at renewal.

(3) Self-insurance or Surety Bonds: These are special options for owners of business vehicles. Details are available at any VA DMV office.



West Virginia: While the limits listed below are mandatory minimum requirements, WV laws require that all insurers offer higher optional limits of uninsured motorist coverage. An agent shall provide the option to purchase underinsured motorist coverage.

Liability	Uninsured Motorist
Property damage: \$10,000	Property damage: \$10,000
Bodily injury: \$20,000/\$40,000	Bodily injury: \$20,000/\$40,000
Mandatory Optional Offering of Coverage	
	Underinsured Motorist (minimum)
	Property damage: \$10,000
	Bodily injury: \$20,000/\$40,000

Increased underinsured motorist coverage may be purchased up to the limits of liability coverage carried on the policy.

Virginia and W. Virginia Preferred Coverage	Or Minimum Coverage I recommend
Property damage: \$100,000 or more	Property Damage: \$50,000
Bodily Injury: \$250,000/ \$500,000	Bodily Injury: \$100,000/\$300,000
	Uninsured Motorist
	Property damage: \$50,000
	Bodily injury: \$100,000/\$300,000

Uninsured/underinsured motorist coverage protects you by making sure that money is available to pay for your losses that were caused by someone else. Although the negligent driver is responsible for losses not paid by his insurance company, he may not be able to pay. Your insurance company will pay for losses above the amount of insurance that the negligent driver purchased. However, the total amount of coverage you can collect from both sources will not exceed the amount of uninsured/underinsured motorist coverage you have purchased.

WHAT OTHER TYPES OF INSURANCE ARE AVAILABLE?

There are other types of auto insurance that are available in addition to the required coverages. This insurance can provide additional protection against financial losses resulting from an auto accident.

A. Collision and Comprehensive Coverage

“Collision” and “Comprehensive” coverages, which are also known as physical damage coverages, pay for repair or replacement of your auto regardless of who is at fault. Collision coverage pays if your auto collides with most objects, including another car, or if it overturns. **Comprehensive coverage** pays for damage to your auto from almost all other causes such as fire, vandalism, water, hail, glass breakage, wind, and falling objects. It will pay even if your pet chews the upholstery. **Comprehensive coverage** also pays if your auto or parts of the auto, such as the battery or tires, are stolen. You will need physical damage coverage if you borrow the money to buy your car from a bank or some other financial institution. I recommend zero or low deductible for comprehensive coverage. Typically, it is more cost effective than a higher deductible.

B. Medical Expense and Loss of Income Benefits Coverage (non-fault based)

Medical Expense Benefits Coverage pays all reasonable and necessary medical and funeral expenses for you or others injured or killed in an accident while riding or driving in your auto. This includes hospital, surgical, rehabilitative, chiropractic, x-ray, dental, professional nursing, prosthetic, and funeral expenses. It will also cover you or members of your family if you are struck by an auto while walking or while riding in another auto. This coverage will pay for medical and funeral expenses even if you cause the accident. Usually, only expenses incurred within **three years** after the accident are included. **This coverage will provide benefits to anyone, such as a carpool mate, a friend, or a neighbor’s child injured in your car.**

Virginia law allows you to add your per car limits together up to 4 cars. Payments under med-pay are not paid back to the insurance company. Typically, **West Virginia** policies do not allow adding per car limits together and seek to be paid back when you collect from the at-fault party.

Health insurance usually covers only you and your family. It does not cover others who may be injured while riding in your auto. If you want to cover these people, you should buy medical expense and loss of income benefits coverages.



HOW DO YOU SHOP FOR AUTO INSURANCE?

The Virginia Bureau of Insurance publishes a consumer guide designed especially for comparing sample auto insurance premiums in Virginia. Contact the bureau for a copy of this guide.

Website: <http://www.scc.virginia.gov/division/boi/>

Toll Free Phone (Virginia only): 1-800-552-7945

Toll Free Phone (Nationwide): 1-877-310-6560

Contact the West Virginia Offices of the Insurance Commissioner for auto insurance information.

Website: <http://www.wvinsurance.gov/>

Toll Free Phone: 1-888-TRY-WVIC (1-888-879-9842)

Once you have narrowed your search to two or three companies with the best range of prices, you should consider each company's reputation for financial stability, policyholder service, underwriting practices, and claims handling practices. Service is difficult to measure. However, you can get some indication of a company's service and claim handling quality by talking to different insurance agents or personal injury attorneys.

HOW DO ACCIDENTS AND CLAIMS AFFECT YOUR PREMIUMS?

Virginia law prohibits an insurance company from increasing your auto insurance premium as a result of your involvement in an auto accident that was not wholly or partially your fault. If you feel that your premium has been increased because of an accident that was not your fault, you may ask the Bureau of Insurance to help you correct this situation. If you suspect insurance misconduct in West Virginia, contact the Offices of the Insurance Commissioner listed above.

WHAT ARE THE MOST IMPORTANT THINGS TO DO WHEN YOU ARE INVOLVED IN AN ACCIDENT?

1. **Always call the police** – even if it is an accident where the police do not normally respond.
2. **Obtain information.** Secure the name, address, registration number, insurance company name and operator's license number of all vehicles and operators involved. For truck or tractor trailer accidents make sure to take note of the USDOT number, driver's name, name of employer or business, log book and load information, and license plate number on both the trailer and the cab. Also make sure to acquire his cell phone number and GPS information to verify hours of service and accurate daily log books.
3. **Make a diagram of the accident scene.** Note the time, date, location, road conditions, make and year of vehicles involved, apparent damage and injuries, and your version of what happened. Make a diagram of the accident scene.
4. **Contact an experienced attorney as soon as possible for a free consultation.** Then notify your insurance agent.
5. **Obtain the names and addresses** of all witnesses and individuals involved in the accident.
6. **Take responsible steps to photograph** all vehicles involved and to protect your automobile from further damage or disposal to make sure that all crucial evidence is secured. For tractor trailer accidents photograph all mirrors, safety reflectors, and lighting devices. Federal regulations require safe equipment accessories. If this equipment is malfunctioning it is very relevant to your case.
7. **In a truck or tractor trailer accident, hire a specially trained accident investigator** who can come to the scene as soon as possible. They can acquire vital "black box" information from the onboard computer in regards to speed during collision and sudden braking. Also, have your attorney issue a letter to the trucking company to preserve daily logs, hours of service and maintenance information.

FREQUENTLY ASKED QUESTIONS

If I am involved in an accident where the other party was at fault, am I entitled to compensation for renting a substitute vehicle while my vehicle is being repaired?

If the other party's insurer assumes liability for the accident, you would be entitled to recover reasonable costs which were incurred in hiring a **comparable substitute** vehicle for the period during which you are deprived of the use of your vehicle. The rental may not exceed a reasonable period of time for repairs to be made. You have an obligation to keep these costs to a minimum. You should provide the insurance company with a receipt for the rental cost.

If the company does not accept liability, you would have to carry "Rental Reimbursement Coverage" which is an optional coverage available to you under your own policy.

If my friend asks to use my car for his own errands, will my automobile insurance provide coverage for him while he is driving?

Yes. All automobile liability policies in Virginia provide coverage to a "non-owner" operator if they are driving the vehicle with the permission of the "named insured."

If I choose to cancel my policy before its expiration, can the company charge me a fee?

Yes. Policyholders who cancel before the expiration date may be charged an administrative "short-rate" fee by the company to cover their costs for processing the cancellation. The short-rate fee is usually a substantial amount.

If I am involved in a tractor trailer accident should I give a recorded statement to the trucking company or its investigator?

Typically, no. If the accident is investigated by a police officer, all of the necessary information will be recorded on the police report. Tractor trailer companies know that the forces and weight of their vehicle will cause serious injury and are typically very aggressive and sophisticated in their investigation process and may solicit guesswork responses that may be damaging to your case.

FREQUENTLY ASKED QUESTIONS (CONTINUED)

Is there a grace period for late payment?

No. The company may cancel your policy for non-payment if the payment is even one day late.

How long does a company have to settle my claim?

In Virginia, the company should acknowledge receipt of your claim report within ten business working days. There is no specific time limit in which the company must settle your claim. Since each claim is different, the length of time to settle may vary. In **West Virginia**, the company should acknowledge receipt of your claim report within 15 business days.

The general rule for Virginia and West Virginia personal injury claims is that the appropriate legal paperwork and complaint must be filed within two years of the date of the accident. Certain exceptions exist (e.g. minor children and incapacitated persons) so consult an attorney for advice.

I was involved in an accident. The other person's insurance company has denied my claim based upon contributory and comparative negligence. What is contributory or comparative negligence?

Virginia is a contributory negligence state; West Virginia is a comparative state. Contributory and comparative negligence is a principle of law that recognizes that injured persons can contribute to his/her own injury. This is not easily accessed and should be thoroughly investigated by impartial persons and/or attorneys.



WHAT ABOUT INSURANCE COMPLAINTS?

Virginia law prohibits an insurance company from refusing to issue an automobile policy solely because of your age, sex, residence, race, color, creed, national origin, ancestry, marital status or lawful occupation (including military service).

Also, after your policy has been in effect for sixty (60) days or more, the company cannot cancel your policy for the remainder of the policy term unless:

- You fail to pay the premium;
- Your driver's license is revoked or suspended;
- An operator in your household or anyone who customarily operates your auto has had their license revoked or suspended; or
- Your legal residence has been changed to another state and your automobile will be garaged in the new state of residence.

A company intending to non-renew your policy must give you 45 days' notice in writing stating the termination date and the reason for termination. The notice must also tell you that you have a legal right to appeal to the Insurance Commissioner and obtain insurance through the Virginia Automobile Insurance Plan.

A company cannot non-renew your personal auto policy solely for the same following reasons:

- **One or more accidents or violations that occurred more than 48 months before your policy's upcoming anniversary date;**
- **One or more uninsured/underinsured motorist claims where the uninsured/underinsured motorist is known or there is physical evidence of contact;**
- **A single not-at-fault claim filed under your medical expense benefits coverage;**
- **One or more claims filed under the comprehensive coverage or towing coverage of your policy;**
- **Two or less accidents within three years unless the accident was wholly or partially the fault of the named insured, a resident of the same household, or other customary operator; or**
- **Credit information.**

SPECIAL INFORMATION REGARDING TRUCKING ACCIDENT CLAIMS

Claims arising to trucking accidents involve more complex insurance coverage issues. Typically, several policies are involved and the facts are very important to determine what coverages are available. Also, trucker endorsements and the employment status of the driver at the time of the accident need to be addressed when determining available insurance coverages. Federal law requires at least \$750,000 worth of coverage for interstate truckers hauling non-hazardous material. More is required for truckers hauling hazardous substances and liquids.



YOUR LEGAL OPTIONS IF YOU EXPERIENCE INSURANCE BAD FAITH

Virginia: As an automobile policyholder, you have the right to collect the benefits promised should an accident occur. If you make a claim and you believe that your insurance company is not living up to its obligations, you can force the company to honor your valid claims. If your claim is \$3,500 or less in excess of any deductible, and a company in bad faith refuses to pay you promptly, you can file suit against the company and recover double the amount your company owes plus reasonable attorney's fees and expenses. If your claim is *more* than \$3,500 in excess of any deductible, and a company in bad faith refuses to pay you promptly, you can file suit against the company and recover the amount your company owes plus double interest together with reasonable attorney's fees and expenses.

West Virginia: You have a similar option as Virginia, but no set compensatory damage amounts exist for misconduct or bad faith in first party claims.



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Please note: This document and brochure contains general discussions regarding very complex legal issues. This is not legal advice for your specific legal issue or claim advice. There is no attorney client relationship between you and Roger Ritchie, Jr. by using this document. A competent, independent insurance agent and experienced attorney who considers your assets, goals, needs and particular circumstances should be consulted.



Skip Ritchie is a civil lawyer and consumer advocate who has litigated hundreds of injury cases. He has extensive experience enforcing the provisions of insurance policies and/or taking legal action to correct improper denials by insurance companies. Skip has been successful obtaining compensation for injured parties from many of the world's largest insurance companies and corporations.

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