

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 780

Session of
1971

INTRODUCED BY TILGHMAN, HANKINS, STAPLETON, ROVNER, HOWARD,
HOBBS AND CIANFRANI, JUNE 1, 1971

SENATOR HANKINS, INSURANCE, RE-REPORTED AS AMENDED, MAY 31, 1972

AN ACT

1 Concerning motor vehicle physical damage appraisers; providing
2 for the licensing of persons engaged in appraising physical
3 damages to motor vehicles; fixing fees and prescribing
4 unlawful acts and penalties.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Short Title.--This act shall be known and may be
8 cited as the "Motor Vehicle Physical Damage Appraiser Act."

9 Section 2. Definitions.--As used in this act:

10 ~~(1) "Appraiser" means any person who appraises motor vehicle~~ <—
11 ~~physical damage claims on behalf of any insurance company or~~
12 ~~firm or corporation engaged in the adjustment or appraisal of~~
13 ~~motor vehicle claims. "Appraiser" shall include (i) auto repair~~
14 ~~shop personnel charged with preparing damage reports; (ii) new~~
15 ~~car dealer personnel charged with preparing damage reports;~~
16 ~~(iii) insurance company staff auto physical damage appraisers;~~
17 ~~and (iv) independent auto physical damage appraisers.~~

18 (1) "APPRAISER" MEANS A MOTOR VEHICLE PHYSICAL DAMAGE <—
19 APPRAISER. THIS SHALL INCLUDE ALL PERSONS IN THIS STATE WHO

1 PRACTICE THE APPRAISAL OF MOTOR VEHICLE PHYSICAL DAMAGE.

2 (2) "Commissioner" means the Insurance Commissioner of the
3 Commonwealth of Pennsylvania.

4 (3) "Insurer" includes all companies, associations and
5 exchanges engaged in the insurance business of insurance and
6 self-insurers.

7 Section 3. Licenses; Examination; Fees.--(a) On or after
8 January 1, 1972, no person shall directly or indirectly act or
9 hold himself out as an appraiser unless such person has first
10 secured a license from the commissioner in accordance with the
11 provisions of this act.

12 (b) Except as otherwise provided in section 10 of this act,
13 no person shall be granted an appraiser's license unless he
14 shall first establish his qualifications therefor and shall take
15 and pass an examination for appraisers.

16 An applicant for such examination shall be at least twenty-
17 one years of age; shall be a resident of the Commonwealth of
18 Pennsylvania, or a resident of any other state or country which
19 permits residents of this Commonwealth to act as appraisers in
20 such other state or country; shall be trustworthy; and shall
21 otherwise establish to the satisfaction of the commissioner that
22 he has had experience or special education or training with
23 reference to the business of the appraising of physical damages
24 to motor vehicles of sufficient duration and extent reasonably
25 to make him competent to fulfill the responsibilities of an
26 appraiser.

27 Applications for an examination as appraiser shall be made to
28 the commissioner upon forms prescribed and furnished by him and
29 shall be accompanied by the proper fee. Applicants shall provide
30 the commissioner with such information concerning his identity

1 and personal history, and such other information as shall be
2 necessary to establish his qualifications to take the
3 examination.

4 (c) The commissioner shall prepare and make available to
5 applicants a manual or instructions setting forth in general
6 terms the subject matter to be covered in the examinations.

7 (d) The examination for licensure which shall be given under
8 the supervision of the commissioner shall consist of a written
9 examination that shall include the act of appraising one or more
10 damaged motor vehicles and shall be supplemented by an oral
11 examination. They shall be given at reasonable times and places
12 within the Commonwealth. Any applicant who fails to pass such
13 examination shall not be eligible to retake an examination for
14 thirty days from the date of such failure.

15 (e) The fee to be paid to the commissioner by an applicant
16 for an appraiser's license shall be ~~twenty dollars (\$20)~~ TEN <—
17 DOLLARS (\$10) at the time the application is made and ~~twenty~~ <—
18 ~~dollars (\$20)~~ TEN DOLLARS (\$10) annually for the renewal <—
19 thereof. In the event of failure to pass the examination, the
20 fee of ~~twenty dollars (\$20)~~ TEN DOLLARS (\$10) shall not be <—
21 returnable.

22 (f) The commissioner shall prescribe the form of the
23 appraiser's license and it shall contain:

24 (1) The name of the appraiser.

25 (2) The address of the appraiser's place of business.

26 (3) Date of issuance and expiration date of license.

27 (4) Any other information which the commissioner determines
28 is necessary.

29 (g) The commissioner shall issue an appraiser's license to
30 every person who applies therefor, pays the proper fee, passes

1 the required examinations and otherwise is found by the
2 commissioner to possess the necessary qualifications for
3 licensure under this act.

4 Section 4. Expiration; Renewal of Licenses.--(a) An
5 appraiser's license shall expire on the first day of January
6 next following the date of issuance.

7 (b) Subject to the right of the commissioner to suspend,
8 revoke, or refuse to renew an appraiser's license, any such
9 license may be renewed for another like period by filing with
10 the commissioner on or before the expiration date a written
11 request, by or on behalf of the licensee, for such renewal,
12 accompanied by payment of the renewal fee.

13 (c) If the request and fee for renewal of license is filed
14 with the commissioner prior to the expiration of the existing
15 license, the licensee may continue to act under such license,
16 unless sooner revoked or suspended, until the issuance of
17 renewal license or until the expiration of five days after the
18 commissioner has refused to renew the license and has mailed
19 notice of such refusal to the licensee. Any request for renewal
20 not so filed until after date of expiration may be considered by
21 the commissioner as an application for a new license.

22 Section 5. Procedure for Refusal; Suspension or Revocation
23 of License.--(a) The commissioner shall revoke or refuse to
24 renew any such license of an appraiser immediately and without
25 hearing upon conviction of the licensee of a felony by final
26 judgment of any court of competent jurisdiction:

27 (1) By order given to the licensee not less than fifteen
28 days prior to the effective date thereof, subject to the right
29 of the licensee to a hearing before the commissioner, and
30 pending such hearing the license shall be suspended; or

(2) By an order on hearing effective as of ten days after date of the giving of the order subject to the right of appeal.

(b) Every order suspending any such license shall specify the period during which suspension will be effective, which shall in no event exceed twelve months.

The holder of any license which has been revoked or suspended shall surrender the license certificate to the commissioner at his request.

(c) The commissioner shall not reinstate the license or relicense any licensee or former licensee whose license has been suspended, revoked or renewal refused while the cause for the suspension, revocation or refusal of such license persists.

Section 6. Denial, Suspension, Revocation of License.--The commissioner may suspend, revoke, or refuse to renew any appraiser's license for any cause specified in any other provision of this act, or for any of the following causes:

(1) For any cause for which issuance of the license could have been refused had it been existent and been known to the commissioner.

(2) If the licensee wilfully violates or knowingly participates in the violation of any provision of this act.

(3) If the licensee has obtained or attempted to obtain any such license through wilful misrepresentation or fraud, or has failed to pass any examination required under this act.

(4) If the licensee has, with intent to deceive, materially misrepresented the terms or effect of any insurance contract; or has engaged or is about to engage in any fraudulent transaction.

(5) If the licensee has been convicted, by final judgment, of a felony.

(6) If in the conduct of his affairs under the license, the

1 licensee has shown himself to be, and is so deemed by the
2 commissioner, incompetent, or untrustworthy, or a source of
3 injury and loss to the public.

4 ~~Section 7. Place of Business. Every licensed appraiser~~ <—
5 ~~shall have and maintain in this State a place of business~~
6 ~~accessible to the public. Such place of business shall be that~~
7 ~~wherein the appraiser principally conducts transactions under~~
8 ~~his license. The address of his place of business shall appear~~
9 ~~on the license, and the licensee shall promptly notify the~~
10 ~~commissioner of any change thereof.~~

11 ~~Section 8.~~ 7. Notice; Hearing; Appeals.--Except as otherwise <—
12 herein provided all actions of the commissioner shall be taken
13 subject to the right of notice, hearing and adjudication, and
14 the right to appeal therefrom as provided by law.

15 ~~Section 9.~~ 8. License Without Examination; Application.-- <—
16 Upon the payment of a fee of ~~twenty dollars (\$20)~~ TEN DOLLARS <—
17 (\$10) any person who has been employed or engaged for a period
18 of not less than ~~four~~ TWO years prior to the submission of such <—
19 application in the appraising of physical damages to motor
20 vehicles and is currently so engaged shall be licensed without
21 examination as an appraiser if the application is made on or
22 before January 1, 1972 and the applicant possesses the
23 qualifications required of applicants as provided in section 3
24 of this act.

25 ~~Section 10.~~ 9. Penalties.--Any person who violates any of <—
26 the provisions of this act is guilty of a misdemeanor and upon
27 conviction thereof, for each offense, shall be sentenced to pay
28 a fine not exceeding five hundred dollars (\$500), or to undergo
29 imprisonment not exceeding one year, or both.

30 ~~Section 11.~~ 10. Rules and Regulations.--(a) The Insurance <—

1 Commissioner is hereby charged with the administration and
2 enforcement of this act and ~~is hereby authorized and empowered~~ <—
3 ~~to~~ SHALL prescribe, adopt and promulgate rules and regulations <—
4 in connection therewith.

5 ~~(b) All persons subject to this act:~~ <—

6 ~~(1) Must be reexamined in accordance with the original~~
7 ~~qualifying examinations every fifth year following the issuance~~
8 ~~of the original license.~~

9 ~~(2) Must refrain from requesting, suggesting or recommending~~
10 ~~that repairs to a motor vehicle be made in a specified repair~~
11 ~~facility.~~

12 ~~(3) Must leave a legible, detailed and itemized copy of his~~
13 ~~appraisal with the repair shop selected by the consumer to make~~
14 ~~the repairs; such appraisal shall contain the name of the~~
15 ~~interested parties requesting same, the name and license number~~
16 ~~of the appraiser, identification of the vehicle involved and~~
17 ~~notations made to indicate old and/or unrelated damage.~~

18 ~~(4) Must make appraisals from physical damage only and not~~
19 ~~use photographs for the basis of an appraisal.~~

20 ~~(5) Must refrain from obtaining an agreed price or~~
21 ~~competitive appraisals by the use of photographs, telephone~~
22 ~~calls or in any manner other than a physical inspection of the~~
23 ~~motor vehicle.~~

24 ~~(6) Shall (i) conduct himself in such a manner as to inspire~~
25 ~~public confidence by fair and honorable dealings; (ii) approach~~
26 ~~the appraisal of damaged property without prejudice against, or~~
27 ~~favoritism toward, any party involved in order to make fair and~~
28 ~~impartial appraisals; (iii) disregard any efforts on the part of~~
29 ~~others to influence his judgment in the interest of the parties~~
30 ~~involved; (iv) prepare an independent appraisal of damage.~~

~~(7) Shall not (i) receive directly or indirectly any gratuity or other consideration in connection with his appraisal services from any person except his employer or, if self-employed, his customer; (ii) traffic in automobile salvage if such salvage is obtained in any way as a result of appraisal services rendered by him.~~

(B) EACH APPRAISER, WHILE ENGAGED IN APPRAISAL DUTIES, SHALL <—
CARRY THE LICENSE ISSUED TO HIM BY THE INSURANCE DEPARTMENT AND
SHALL DISPLAY IT, UPON REQUEST, TO AN OWNER WHOSE VEHICLE IS
BEING INSPECTED, TO THE REPAIR SHOP REPRESENTATIVE INVOLVED OR
TO ANY AUTHORIZED REPRESENTATIVE OF THE INSURANCE DEPARTMENT.

(C) THE APPRAISER SHALL EXCHANGE A LEGIBLE COPY OF HIS
APPRAISAL WITH THAT OF THE REPAIR SHOP SELECTED TO MAKE THE
REPAIRS AND ALSO FURNISH A COPY TO THE OWNER OF THE VEHICLE.
THIS APPRAISAL SHALL CONTAIN THE NAME OF THE INSURANCE COMPANY
ORDERING IT, IF ANY, THE INSURANCE FILE NUMBER, THE NUMBER OF
THE APPRAISER'S LICENSE AND THE PROPER IDENTIFICATION NUMBER OF
THE VEHICLE BEING INSPECTED. ALL UNRELATED OR OLD DAMAGE SHOULD
BE CLEARLY INDICATED ON THE APPRAISAL WHICH SHALL INCLUDE AN
ITEMIZED LISTING OF ALL DAMAGES, SPECIFYING THOSE PARTS TO BE
REPLACED OR REPAIRED. BECAUSE AN APPRAISER IS CHARGED WITH A
HIGH DEGREE OF REGARD FOR THE PUBLIC SAFETY, THE OPERATIONAL
SAFETY OF THE VEHICLE SHALL BE PARAMOUNT IN CONSIDERING THE
SPECIFICATION OF NEW PARTS. THIS CONSIDERATION IS VITALLY
IMPORTANT WHERE THE PARTS INVOLVED PERTAIN TO THE DRIVE TRAIN,
STEERING GEAR, SUSPENSION UNITS, BRAKE SYSTEM OR TIRES.

(D) NO APPRAISER SHALL SECURE OR USE REPAIR ESTIMATES THAT
HAVE BEEN OBTAINED BY THE USE OF PHOTOGRAPHS, TELEPHONE CALLS OR
IN ANY MANNER OTHER THAN A PERSONAL INSPECTION.

(E) NO APPRAISER OR HIS EMPLOYER SHALL REQUIRE THAT REPAIRS

1 BE MADE IN A SPECIFIED REPAIR SHOP.

2 (F) EVERY APPRAISER SHALL PROMPTLY REINSPECT DAMAGED
3 VEHICLES PRIOR TO THE REPAIRS IN QUESTION WHEN SUPPLEMENTARY
4 ALLOWANCES ARE REQUESTED BY REPAIR SHOPS AND THE AMOUNT OR
5 EXTENT OF DAMAGES IS IN DISPUTE.

6 (G) EVERY APPRAISER SHALL:

7 (1) CONDUCT HIMSELF IN SUCH A MANNER AS TO INSPIRE PUBLIC
8 CONFIDENCE BY FAIR AND HONORABLE DEALINGS.

9 (2) APPROACH THE APPRAISAL OF DAMAGED PROPERTY WITHOUT
10 PREJUDICE AGAINST, OR FAVORITISM TOWARD, ANY PARTY INVOLVED IN
11 ORDER TO MAKE FAIR AND IMPARTIAL APPRAISALS.

12 (3) DISREGARD ANY EFFORTS ON THE PART OF OTHERS TO INFLUENCE
13 HIS JUDGEMENT IN THE INTEREST OF THE PARTIES INVOLVED.

14 (4) PREPARE AN INDEPENDENT APPRAISAL OF DAMAGE.

15 (5) INSPECT A VEHICLE WITHIN SIX WORKING DAYS OF ASSIGNMENT
16 TO THE APPRAISER UNLESS INTERVENING CIRCUMSTANCES (I.E.
17 CATASTROPHE, DEATH, FAILURE OF THE PARTIES TO COOPERATE) RENDER
18 SUCH INSPECTION IMPOSSIBLE.

19 (H) NO APPRAISER SHALL:

20 (1) RECEIVE DIRECTLY OR INDIRECTLY ANY GRATUITY OR OTHER
21 CONSIDERATION IN CONNECTION WITH HIS APPRAISAL SERVICES FROM ANY
22 PERSON EXCEPT HIS EMPLOYER OR, IF SELF-EMPLOYED, HIS CUSTOMER.

23 (2) TRAFFIC IN AUTOMOBILE SALVAGE IF SUCH SALVAGE IS
24 OBTAINED IN ANY WAY AS A RESULT OF APPRAISAL SERVICES RENDERED
25 BY HIM FOR HIS OWN BENEFIT.

26 SECTION 11. LEGISLATIVE INTENT.--IT IS NOT CONTEMPLATED THAT
27 THIS ACT SHALL APPLY WHERE NO APPRAISAL HAS BEEN ASSIGNED.
28 RECOGNITION IS GIVEN TO THE FACT THAT MANY MINOR DAMAGE CLAIMS
29 DO NOT REQUIRE A FORMAL APPRAISAL AND TO REQUIRE SUCH WOULD BE
30 AN UNDUE BURDEN UPON THE PARTIES INVOLVED.

1 Section 12. Effective Date.--This act shall take effect
2 immediately.