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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**HOUSE BILL**  
**No. 1368** Session of  
1993

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INTRODUCED BY PERZEL, BARLEY, HALUSKA AND CESSAR, APRIL 21, 1993

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REFERRED TO COMMITTEE ON INSURANCE, APRIL 21, 1993

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AN ACT

1 Providing for a comprehensive automobile insurance reform  
2 program to be developed and administered by the Insurance  
3 Department.

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

6 Section 1. Short title.

7 This act shall be known and may be cited as the Automobile  
8 Insurance Reform Act.

9 Section 2. Definitions.

10 The following words and phrases when used in this act shall  
11 have the meanings given to them in this section unless the  
12 context clearly indicates otherwise:

13 "Commissioner." The Insurance Commissioner of the  
14 Commonwealth.

15 "Department." The Insurance Department of the Commonwealth.

16 "Insurer" or "insurance company." An insurer authorized to  
17 write automobile insurance within this Commonwealth.

18 "Peer review organizations" or "PRO." Professional groups

1 organized to self-regulate members of their own professions.

2 "Program." The comprehensive automobile insurance reform  
3 program promulgated under this act.

4 "Special investigative unit" or "SIU." A special  
5 investigative unit organized and operated by an insurer to  
6 detect insurance fraud.

7 Section 3. Insurance reform program.

8 The department shall, within six months of the effective date  
9 of this act, develop and promulgate, by regulation, a  
10 comprehensive automobile insurance reform program. This program  
11 shall conform to the provisions of this act.

12 Section 4. Automobile insurance cost reduction.

13 (a) Limits on health care costs.--

14 (1) The program shall contain a fee schedule specifying  
15 maximum fees which physicians shall be permitted to charge  
16 for virtually every medical procedure which may be required  
17 for treatment. This fee schedule shall be based on the  
18 revised Medicare Schedule for the preceding year. The  
19 approved fee for each procedure shall be no greater than 110%  
20 of the Medicare fee for each procedure.

21 (2) As an alternative to the schedule described in  
22 paragraph (1), the department may adopt a fee schedule  
23 developed by a private actuarial group.

24 (3) The appropriate fee schedule will be chosen by the  
25 department upon the advice of a committee of industry,  
26 consumer and government experts, to be appointed by the  
27 commissioner.

28 (4) The program shall provide that health care providers  
29 may charge the scheduled fee or their customary fee,  
30 whichever is lower. Health care providers must bill insurers

1 directly and may not bill patients for any unpaid difference  
2 or any disputed amount.

3 (5) An insurer may refuse to pay for medical services  
4 deemed unnecessary, duplicative or otherwise improper. Any  
5 dispute relating to billing shall be referred to the  
6 department which shall appoint a hearing officer to decide  
7 the matter. Hearings on these matters, and appeals from  
8 decisions of hearing officers, shall be as provided in 2  
9 Pa.C.S. (relating to administrative law and procedure).

10 (b) Prevention of health care abuse and fraud.--

11 (1) The program shall allow insurance companies to  
12 establish peer review organizations (PRO's), with the  
13 approval of the department, to monitor the practices of  
14 health care providers to determine if procedures or  
15 treatments are unnecessary, duplicative or overcharged.  
16 Companies may undertake this individually or collectively.  
17 They may also contract with existing PRO's.

18 (2) The program shall require that insurance companies  
19 establish special investigative units to investigate possible  
20 cases of fraud committed by health care providers. Special  
21 investigative units shall work with PRO's to root out,  
22 identify and evaluate incidences of fraud. Insurance  
23 companies may undertake this individually or collectively.  
24 They may also contract with existing investigative  
25 organizations.

26 (c) Rates.--

27 (1) The program shall restrain rate increases by  
28 curtailing excess profits. Profits shall be limited to a fair  
29 and reasonable return. The commissioner shall establish  
30 guidelines for the determination of what is fair and

1 reasonable. In the event that a company is found to have made  
2 excess profits from auto insurance policies, policyholders  
3 shall be guaranteed a return of such excess profits within a  
4 period of six months after such a determination is made.

5 (2) The program shall require that rate increase  
6 requests submitted to the department be based on all types of  
7 insurance sold by that company.

8 (3) The program shall:

9 (i) Prohibit premium rate increases for a period of  
10 three years following the previous increase.

11 (ii) Prohibit rate increases or surcharges resulting  
12 from claims made involving damages valued at less than  
13 \$500 plus the value of the policy deductible.

14 (iii) Prohibit rate increases for policyholders who  
15 make claims related to accidents where they are not at  
16 fault.

17 (iv) Mandate rate reductions for drivers who have  
18 made no at-fault accident claims or who have committed no  
19 moving violations for a three-year period.

20 Section 5. Options to reduce insurance costs.

21 (a) Methods of savings.--The program shall provide  
22 substantial savings on property damage coverage by the following  
23 methods:

24 (1) Allowing policyholders options with regard to  
25 deductibles. Insurance companies shall be required to offer a  
26 \$500 deductible. In addition, banks and finance companies  
27 shall be prohibited from requiring deductibles of less than  
28 \$500 when financing the purchase of a motor vehicle.

29 (2) Requiring premium discounts for policyholders who  
30 purchase antitheft devices, passive restraints or antilock

1       braking systems.

2       (b) Less-essential coverage.--

3           (1) The program shall reduce or eliminate requirements  
4       to purchase certain less-essential coverages and shall make  
5       underinsured motorist coverage optional.

6           (2) The required medical benefit amount of \$10,000  
7       provided for under 75 Pa.C.S. § 1711 (relating to required  
8       benefits) shall be reduced to \$5,000 if the insured can  
9       demonstrate another source of medical coverage.

10       (c) Income loss benefits.--The program shall make income  
11       loss benefits optional. This option shall be available to those  
12       who would not suffer a loss of income and to those who have  
13       another source for this protection. The decision to purchase  
14       such benefits shall be left solely to the discretion of each  
15       policyholder.

16       (d) Funeral benefits.--The program shall make funeral  
17       benefits optional.

18       Section 6. Improved assigned risk plan.

19       The program shall provide for appropriate financial  
20       incentives for insurance companies to voluntarily sell insurance  
21       in all areas of this Commonwealth.

22       Section 7. Prevention of abuse.

23       (a) Civil Penalty.--

24           (1) The program shall provide for the assessment of a  
25       civil penalty, not to exceed \$5,000, upon any insurer deemed  
26       to have acted in bad faith toward any of its policyholders.  
27       The program shall provide for the investigation and control  
28       of such abuses.

29           (2) For the purposes of this section, delays in the  
30       payment of benefits arising out of a reasonable need to

investigate possibilities of fraud shall not constitute bad faith. The program shall contain guidelines under which claims can be delayed due to suspicion of fraud.

(b) Certain procedures prohibited.--The use of subrogation/consent procedures which deny prompt payment to insured parties shall be prohibited.

(c) Case law.--The program shall incorporate existing case law protection regarding uninsured and underinsured coverage in order to assure the availability of paid-for excess coverage to the more seriously or catastrophically injured victims whose benefits should be the last to be arbitrarily reduced. When one source of paid-for coverage is used up, this procedure, commonly known as "stacking," enables the seriously injured victim to go to the next level of coverage available.

#### Section 8. Litigation reduction.

The program shall offer consumers an option of choosing between a tort policy, as is now available, and a limited nontort policy. The limited nontort plan would prohibit a policyholder from suing to recover noneconomic damages, unless:

- (1) incurred injuries involve a serious and permanent injury, impairment or disfigurement;
- (2) medical bills exceed \$100,000;
- (3) the at-fault driver was found to have been legally intoxicated at the time of the accident;
- (4) the at-fault driver intentionally caused the accident; or
- (5) product liability is involved.

Automatic rate reductions, as determined by the program, shall accompany the nontort selection.

#### Section 9. Body shops.

1 The program shall include provisions establishing a licensing  
2 system for body shops that conduct business in this  
3 Commonwealth. Any claimant must have covered repairs done by a  
4 licensed body shop. This system shall include the following:

5 (1) Provisions to curb fraud related to automobile  
6 claims. Appropriate civil penalties shall be assessed against  
7 body shops which are found by the department to be engaging  
8 in fraudulent practice. Penalties for repeat offenders shall  
9 culminate in the revocation of licensure.

10 (2) Pennsylvania State Police responsibility for the  
11 inspection of body shops which perform claim-related repairs.  
12 Officers shall ascertain the following:

13 (i) That licenses are up to date and otherwise in  
14 order.

15 (ii) That shops represent themselves accurately to  
16 claimants with regard to their licensure status.

17 (iii) That repairs are performed and billed in a  
18 responsible and ethical manner.

19 (3) Provisions relating to fees. A fee shall be charged  
20 for the issuance of each license. This fee would be between  
21 \$200 and \$300, as determined by the commissioner. The  
22 proceeds of this fee and those accumulated from any monetary  
23 penalties which may be assessed by the department shall be  
24 used solely for the implementation of the licensing system,  
25 including the inspection duties of the Pennsylvania State  
26 Police personnel.

27 Section 10. Uninsured motorists.

28 (a) Proof of coverage.--The program shall require insurance  
29 companies to furnish policyholders with cards that cover only  
30 the period for which a premium has been paid. Each card must be

1 clearly stamped with the final date of coverage.

2 (b) Confiscation of tags, etc.--The program shall contain  
3 provisions as follows:

4 (1) Motorists stopped for moving violations must provide  
5 proof of insurance coverage. In the event that a motorist  
6 fails to do so, the police officer involved is authorized to  
7 confiscate the license plate and registration card of the  
8 vehicle.

9 (2) The owner of the vehicle shall have 48 hours to  
10 provide proof of coverage. After this period, if no proof is  
11 furnished, the plate and card shall be sent to the Department  
12 of Transportation, and the vehicle's registration shall be  
13 suspended.

14 (3) All vehicle owners who fail to provide proof of  
15 insurance coverage prior to the suspension of their vehicle's  
16 registration shall pay a \$50 service fee to the Department of  
17 Transportation for the reinstatement of registration and the  
18 return of tags. For each case, the department in turn must  
19 remit half of this fee to the police department involved.  
20 This fee shall be in addition to any other fines or penalties  
21 arising from the incident.

22 (c) Application of section.--This section shall apply 90  
23 days following the implementation of the program promulgated  
24 under this act.

25 Section 11. Repeals.

26 All acts and parts of acts are repealed insofar as they are  
27 inconsistent with this act.

28 Section 12. Effective date.

29 This act shall take effect in 60 days.