

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1871 Session of
2009

INTRODUCED BY WATERS, BROWN, YOUNGBLOOD, MYERS AND MELIO,
JULY 20, 2009

REFERRED TO COMMITTEE ON INSURANCE, JULY 20, 2009

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, further providing for notice of election of tort
3 options and for definitions.

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

6 Section 1. Section 1705(a) of Title 75 of the Pennsylvania
7 Consolidated Statutes is amended and subsection (f) is amended
8 by adding a definition to read:

9 § 1705. Election of tort options.

10 (a) Financial responsibility requirements.--

11 (1) Each insurer, not less than 45 days prior to the
12 first renewal of a private passenger motor vehicle liability
13 insurance policy on and after July 1, 1990, shall notify in
14 writing each named insured of the availability of two
15 alternatives of full tort insurance and limited tort
16 insurance described in subsections (c) and (d). The notice
17 shall be a standardized form adopted by the commissioner and
18 shall include the following language:

NOTICE TO NAMED INSUREDS

A. "Limited Right to Sue Tort" Option--The laws of the Commonwealth of Pennsylvania give you the right to choose a form of insurance that limits your right and the right of members of your household to seek financial compensation for injuries caused by other drivers. Under this form of insurance, you and other household members covered under this policy may seek recovery for all medical and other out-of-pocket expenses, but not for pain and suffering or other nonmonetary damages unless the injuries suffered fall within the definition of "serious injury" as set forth in the policy or unless one of several other exceptions noted in the policy applies. The annual premium for basic coverage as required by law under this "limited right to sue tort" option is \$. Additional coverages under this option are available at additional cost.

B. "Full Right to Sue Tort" Option--The laws of the Commonwealth of Pennsylvania also give you the right to choose a form of insurance under which you maintain an unrestricted right for you and the members of your household to seek financial compensation for injuries caused by other drivers. Under this form of insurance, you and other household members covered under this policy may seek recovery for all medical and other out-of-pocket expenses and may also seek financial compensation for pain and suffering and other nonmonetary damages as a result of injuries caused by other drivers. The annual premium for basic coverage as required by law under this "full right to sue tort" option is \$.

Additional coverages under this option are available at additional cost.

C. You may contact your insurance agent, broker or company to discuss the cost of other coverages.

D. If you wish to choose the "limited right to sue tort" option described in paragraph A, you must sign this notice where indicated below and return it. If you do not sign and return this notice, you will be considered to have chosen the "full right to sue tort" coverage as described in paragraph B and you will be charged the "full right to sue tort" premium.

I wish to choose the "limited right to sue tort" option described in paragraph A:

.....

Named Insured	Date
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E. If you wish to choose the "full right to sue tort" option described in paragraph B, you may sign this notice where indicated below and return it. However, if you do not sign and return this notice, you will be considered to have chosen the "full right to sue tort" coverage as described in paragraph B and you will be charged the "full right to sue tort" premium.

I wish to choose the "full right to sue tort" option described in paragraph B:

.....

Named Insured	Date
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(2) Insurers shall print the above notice containing both options on one sheet in prominent type and place in a prominent location. Any person signing, or otherwise bound by, a document containing such terms is bound by such

1 election and is precluded from claiming liability of any
2 person based upon being inadequately informed in making the
3 election between full tort or limited tort alternatives.
4 Where there are two or more named insureds on a policy, any
5 named insured may make the full or limited tort election
6 provided for in this section for all named insureds on the
7 policy.

8 (3) If a named insured who receives a notice under
9 paragraph (1) does not indicate a choice within 20 days, the
10 insurer shall send a second notice. The second notice shall
11 be in a form identical to the first notice, except that it
12 shall be identified as a second and final notice. If a named
13 insured has not responded to either notice ten days prior to
14 the renewal date, the named insured and those he is empowered
15 by this section to bind by his choice are conclusively
16 presumed to have chosen the full tort alternative. All
17 notices required by this section shall advise that if no tort
18 election is made, the named insured and those he is empowered
19 to bind by his choice are conclusively presumed to have
20 chosen the full tort alternative. Any person subject to the
21 limited tort option by virtue of this section shall be
22 precluded from claiming liability of any person based upon
23 being inadequately informed.

24 (4) Each insurer, prior to the first issuance of a
25 private passenger motor vehicle liability insurance policy on
26 and after July 1, 1990, shall provide each applicant with the
27 notice required by paragraph (1). A policy may not be issued
28 until the applicant has been provided an opportunity to elect
29 a tort option.

30 (5) An owner of a currently registered private passenger

motor vehicle who does not have financial responsibility shall be deemed to have chosen the limited tort alternative.

(6) Nothing in this section changes or modifies the existing requirement that owners of registered vehicles maintain bodily injury and property damage liability insurance arising out of the ownership, maintenance or use of a motor vehicle.

* * *

(f) Definitions.--As used in this section, the following words and phrases when used in this section shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

* * *

"Tort." The term shall have the same meaning and be interpreted in the same manner as the term "right to sue."

Section 2. The amendment of 75 Pa.C.S. § 1705(a)(1) shall only apply to new private passenger motor vehicle liability insurance policies applied for and issued after 90 days after the effective date of this act.

Section 3. This act shall take effect in 60 days.