

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1285 Session of
1981

INTRODUCED BY DeVERTER, KOWALYSHYN, VROON, NAHILL, GRUPPO,
RASCO, PETERSON, ROCKS, MOWERY, SIEMINSKI AND GEIST,
APRIL 22, 1981

REFERRED TO COMMITTEE ON INSURANCE, APRIL 22, 1981

AN ACT

1 Amending the act of July 19, 1974 (PL.489, No.176), entitled "An
2 act providing for a compensation system for persons injured
3 in motor vehicle accidents; requiring insurance for all motor
4 vehicles required to be registered in Pennsylvania; defining
5 compensable damage in motor vehicle accident cases;
6 establishing an assigned claims plan; providing for
7 arbitration; imposing powers and duties on courts, the
8 Department of Transportation and the Insurance Commissioner;
9 prohibiting certain discrimination; and providing penalties,"
10 redefining and adding terms, further providing for motor
11 vehicle insurance, proof of security at vehicle inspection,
12 the financial responsibility of owners, temporary suspension
13 of coverage, availability of insurance; providing for
14 settlement agreements and payment of claims and for assigned
15 claims plans; further providing for rates, motor vehicles in
16 interstate travel, rights and duties of obligors, basic loss
17 and collateral benefits, work loss and net loss, additional
18 coverage options and ineligible claimants; increasing the
19 threshold; further providing for examinations; providing for
20 immunity from liability for release of information, for
21 operation of a vehicle without security, and for surrender of
22 registration on suspension.

23 The General Assembly of the Commonwealth of Pennsylvania
24 hereby enacts as follows:

25 Section 1. The definitions of "added loss benefits,"
26 "allowable expense," "injury," "medical and vocational
27 rehabilitation services," "motor vehicle," "obligor,"

1 "replacement services loss," "State," "survivor," "survivor's
2 loss" and "work loss" in section 103, act of July 19, 1974
3 (P.L.489, No.176), known as the "Pennsylvania No-fault Motor
4 Vehicle Insurance Act," are amended, and a definition is added
5 to read:

6 § 103. Definitions.

7 As used in this act:

8 "Added loss benefits" means benefits provided by added loss
9 insurance in accordance with section 207 of this act. Added loss
10 benefits shall not include benefits for net loss sustained by an
11 operator or passenger of a motorcycle.

12 "Allowable expense" means reasonable charges incurred for, or
13 the reasonable value of (where no charges are incurred),
14 reasonably needed and used products, services, and
15 accommodations for:

- 16 (A) professional medical treatment and care;
17 (B) emergency health services;
18 (C) medical and vocational rehabilitation services;
19 and
20 (D) expenses directly related to the funeral,
21 burial, cremation, or other form of disposition of the
22 remains of a deceased victim, not to exceed one thousand
23 five hundred dollars (\$1,500); [and]

24 The term does not include that portion of a charge for a room
25 in a hospital, clinic, convalescent, or nursing home, or any
26 other institution engaged in providing nursing care and related
27 services, in excess of a reasonable and customary charge for
28 semiprivate accommodations, unless more intensive care is
29 medically required; or any amount includable in work loss,
30 replacement services loss, or survivor's loss.

1 * * *

2 "Injury" means accidentally sustained bodily harm to an
3 individual and that individual's illness, disease, or death
4 resulting therefrom the proximate cause of which arises out of
5 the maintenance or use of a motor vehicle.

6 * * *

7 "Medical and vocational rehabilitation services" means
8 services necessary to reduce disability and to restore the
9 physical, psychological, social, and vocational functioning of a
10 victim. Such services may include, but are not limited to,
11 medical care, diagnostic and evaluation procedures, physical and
12 occupational therapy, other necessary therapies, including but
13 not limited to chiropractic care, speech pathology and
14 audiology, optometric services, nursing care under the
15 supervision of a registered nurse, medical social services,
16 vocational rehabilitation and training services, occupational
17 licenses and tools, and transportation where necessary to secure
18 medical and vocational rehabilitation services. A basic loss
19 obligor is not obligated to provide basic loss benefits for
20 allowable expense for medical and vocational rehabilitation
21 services unless the facility in which or through which such
22 services are provided has been accredited by the Department of
23 Health, the equivalent governmental agency responsible for
24 health programs, or the accrediting designee of such department
25 or agency of the state in which such services are provided, as
26 being in accordance with applicable requirements and
27 regulations.

28 * * *

29 "Motorcycle" means a motor vehicle with a two-wheel frame
30 having a seat or saddle for the use of the rider and designed to

1 travel on not more than three wheels in contact with the ground.

2 * * *

3 "Motor vehicle" means a vehicle of a kind required to be
4 registered under [the act of April 29, 1959 (P.L.58, No.32),
5 known as the "Vehicle Code,"] Title 75 of the Pennsylvania
6 Consolidated Statutes (relating to vehicles).

7 * * *

8 "Obligor" means an insurer, self-insurer, or obligated
9 government providing no-fault benefits in accordance with this
10 act. The term does not include an insurer or provider of health
11 care benefits for medical or health care or work loss through a
12 program, group, contract or other arrangement unless such
13 insurer or other provider of such benefits or work loss is
14 elected by the insured to be the primary source of no-fault
15 benefits pursuant to the provisions of section 203.

16 * * *

17 "Replacement services loss" means expenses reasonably
18 incurred in obtaining ordinary and necessary services in lieu of
19 those the victim would have performed, not for income, but for
20 the benefit of himself or his family, if he had not been
21 injured. Replacement services loss does not include expenses
22 incurred for services performed following death of a victim.

23 * * *

24 "State" means a state of the United States, the District of
25 Columbia, Guam, [and] the Virgin Islands, and Puerto Rico.

26 * * *

27 "Survivor" means:

28 (A) spouse; or

29 (B) child, adopted child, ward, child under
30 guardianship of the deceased, foster child, parent,

1 brother, sister or relative dependent upon the deceased
2 for [support] his or her support immediately prior to the
3 accident causing death.

4 * * *

5 "Survivor's loss" means the

6 [(A) loss of income of a deceased victim which would
7 probably have been contributed to a survivor or
8 survivors, if such victim had not sustained the fatal
9 injury; and

10 (B)] expenses reasonably incurred by a survivor or
11 survivors, after a victim's death resulting from injury,
12 in obtaining ordinary and necessary services in lieu of
13 those which the victim would have performed, not for
14 income, but for their benefit, if he had not sustained
15 the fatal injury, reduced by expenses which the survivor
16 or survivors would probably have incurred but avoided by
17 reason of the victim's death resulting from injury.

18 * * *

19 "Work loss" means:

20 (A) loss of gross income of a victim, as calculated
21 pursuant to the provisions of section 205 of this act;
22 and

23 (B) reasonable expenses of a victim for hiring a
24 substitute to perform self-employment services, thereby
25 mitigating loss of income, or for hiring special help,
26 thereby enabling a victim to work and mitigate loss of
27 income.

28 Work loss does not include (i) loss of expected income for any
29 period following the death of a victim, or (ii) expenses
30 incurred for services performed following the death of a victim.

1 Section 2. Sections 104, 105 and 106 of the act are amended
2 to read:

3 § 104. Required motor vehicle insurance.

4 (a) Security covering a motor vehicle.--Every owner of a
5 motor vehicle which is registered or which is operated in this
6 Commonwealth by the owner or with his permission, shall
7 continuously provide security covering such motor vehicle while
8 such vehicle is either present or registered in the
9 Commonwealth. Security shall be provided for the payment of
10 basic loss benefits, and for the payment of sums up to a total
11 limit of thirty thousand dollars (\$30,000) which the owner or
12 any person operating the vehicle with the express or implied
13 permission of the owner may become liable to pay as damages
14 because of bodily injury or death arising out of any one
15 accident (subject to a sublimit of fifteen thousand dollars
16 (\$15,000) for damages arising out of the bodily injury or death
17 of any one person) and for the payment of damages for injury to
18 or destruction of property in any one accident of amounts up to
19 a total limit of five thousand dollars (\$5,000). The owner or
20 any other person may provide security covering a motor vehicle
21 by a contract of insurance with an insurer or by qualifying as a
22 self-insurer or as an obligated government.

23 (a.1) Proof of security at vehicle inspection.--The
24 department shall promulgate and adopt such rules and regulations
25 as may be necessary to monitor and enforce compliance with the
26 provisions of this act with respect to the maintenance of
27 security. Such rules and regulations shall include, but not
28 necessarily be limited to, requiring the owner of a motor
29 vehicle to submit satisfactory proof of security to a motor
30 vehicle inspector at the time of motor vehicle inspection and

1 provide further that failure to submit such proof of security
2 shall be cause for rejection of the vehicle by the motor vehicle
3 inspector in accordance with the department's regulations.

4 (b) Self-insurance.--Self-insurance, subject to approval of
5 the commissioner and department, is effected by filing with the
6 department in satisfactory form:

7 (1) a continuing undertaking by the owner or other
8 appropriate person to pay basic [restoration] loss benefits
9 and any tort liability required in amounts not less than
10 those required, by subsection [(a)] (d) of this section, to
11 perform all obligations imposed in accordance with this act,
12 and to elect to pay such added [restoration] loss benefits as
13 are specified in the undertaking;

14 (2) evidence that appropriate provision exists for
15 prompt and efficient administration of all claims, benefits,
16 and obligations provided in accordance with this act; and

17 (3) evidence that reliable financial arrangements,
18 deposits, resources, or commitments exist providing assurance
19 substantially equivalent to that afforded by a contract of
20 insurance complying with this act for payment of no-fault
21 benefits, any required tort liability, and performance of all
22 other obligations imposed in accordance with this act.

23 (c) Obligated government.--A government may provide security
24 with respect to any motor vehicle owned or operated by it by
25 lawfully obligating itself to pay basic [restoration] loss
26 benefits in accordance with this act, and such added
27 [restoration] loss benefits as are specified in the undertaking.

28 (d) Obligations upon termination of security.--An owner of a
29 motor vehicle who ceases to maintain the security required in
30 accordance with this act shall immediately surrender the

1 registration certificate and license plates for the vehicle to
2 the department and may not operate or permit operation of the
3 vehicle in this Commonwealth until security has again been
4 furnished as required in accordance with this act. A person
5 other than the owner who ceases to maintain such security shall
6 immediately notify the owner and the department, who may not
7 operate or permit operation of the vehicle until security has
8 again been furnished. An insurer who has issued a contract of
9 insurance and knows or has reason to believe the contract is for
10 the purpose of providing security shall immediately give notice
11 to the department of the termination of the insurance. If the
12 commissioner or department withdraws approval of security
13 provided by a self-insurer or knows that the conditions for
14 self-insurance have ceased to exist, he shall immediately give
15 notice thereof to the department. These requirements may be
16 modified or waived by the department.

17 (e) Temporary suspension of coverage.--An owner of a motor
18 vehicle, who has provided security in accordance with the
19 provisions of subsection (a) and who has one or more vehicles
20 not in use for periods of time in excess of forty-five
21 consecutive calendar days, may obtain from his insurer an
22 agreement to the policy of insurance suspending temporarily any
23 coverages for the duration of time such vehicle may not be in
24 use: Provided, however, That such owner shall maintain basic
25 loss benefits coverage for at least one of the vehicles during
26 the period of suspension. In all such cases, an owner of such a
27 motor vehicle shall not be required to surrender the
28 registration certificate and license plates to the department as
29 provided in subsection (d). The commissioner shall promulgate
30 reasonable and necessary rules and regulations governing such

agreements between an owner and his insurer including provisions for an equitable reduction from the annual policy premium of the insurer.

§ 105. Availability of insurance.

(a) Plan.--

(1) The commissioner shall establish and implement or approve and supervise a plan assuring that any required no-fault benefits and tort liability coverages for motor vehicles will be conveniently and expeditiously available, subject only to payment or provisions for payment of the premium, to each individual who cannot conveniently obtain insurance through ordinary methods at rates not in excess of those applicable to similarly situated individuals under the plan. The plan may provide reasonable means for the transfer of individuals insured thereunder into the ordinary market, at the same or lower rates, pursuant to regulations established by the commissioner. The plan may be implemented by assignment of applicants among insurers, pooling, any joint insuring or reinsuring arrangement, or any other method, that results in all applicants being conveniently afforded the insurance coverages on reasonable and not unfairly discriminatory terms.

(2) The plan shall make available any added loss benefits and tort liability coverage together with other contract provisions which the commissioner determines are reasonably needed by applicants and are commonly afforded in voluntary markets. The plan must also assure that there is available through the private sector or otherwise to all applicants adequate premium financing or provision for the installment payment of premiums subject to customary terms

1 and conditions.

2 (3) All insurers writing no-fault benefits and tort
3 liability coverages in this Commonwealth shall participate in
4 the plan. The plan shall provide for equitable apportionment,
5 among all participating insurers writing any insurance
6 coverage required under the plan, of the financial burdens of
7 insurance provided to applicants under the plan and the costs
8 of operation of the plan.

9 (4) Subject to the supervision and approval of the
10 commissioner, insurers may consult and agree with each other
11 and with other appropriate persons as to the organization,
12 administration, and operation of the plan and as to rates and
13 rate modifications for insurance coverages provided under the
14 plan. Rates and rate modifications adopted or charged for
15 insurance coverages provided under the plan shall:

16 (A) be first adopted or approved by the
17 commissioner; and

18 (B) be reasonable and not unfairly discriminatory
19 among similarly situated applicants for insurance
20 pursuant to regulations established by the commissioner.

21 (5) To carry out the objectives of this subsection, the
22 commissioner may adopt rules, make orders, enter into
23 agreements with other governmental and private entities and
24 individuals, and form and operate or authorize the formation
25 and operation of bureaus and other legal entities.

26 (b) Cancellation, refusal to write and refusal to renew[, or
27 other termination of] insurance.--Cancellation, refusal to write
28 and refusal to renew [and other termination of insurance]
29 security by an insurer shall be [provided for in accordance
30 with] governed by the provisions of the act of June 5, 1968

1 (P.L.140, No.78), entitled "An act regulating the writing,
2 cancellation of or refusal to renew policies of automobile
3 insurance; and imposing powers and duties on the Insurance
4 Commissioner therefor," and its amendments.

5 § 106. Payment of claims for no-fault benefits.

6 (a) In general.--

7 (1) No-fault benefits are payable monthly as loss
8 accrues. Loss accrues not when injury occurs, but as
9 allowable expense, work loss, replacement services loss, or
10 survivor's loss is sustained.

11 (2) No-fault benefits are overdue if not paid within
12 thirty days after the receipt by the obligor of each
13 submission of reasonable proof of the fact and amount of loss
14 sustained, unless the obligor designates, upon receipt of an
15 initial claim for no-fault benefits, periods not to exceed
16 thirty-one days each for accumulating all such claims
17 received within each such period, in which case such benefits
18 are overdue if not paid within fifteen days after the close
19 of each such period. If reasonable proof is supplied as to
20 only part of a claim, but the part amounts to one hundred
21 dollars (\$100) or more, benefits for such part are overdue if
22 not paid within the time mandated by this paragraph. An
23 obligation for basic loss benefits for an item of allowable
24 expense may be discharged by the obligor by reimbursing the
25 victim or his estate or by making direct payment to the
26 supplier or provider of products, services, or accommodations
27 within the time mandated by this paragraph. Overdue payments
28 bear interest at the rate of eighteen per cent (18%) per
29 annum. However, if the obligor withholds payments which are
30 later determined to be overdue and the obligor is found by a

1 court of competent jurisdiction to have had reasonable cause
2 for the withholding of such payments, said payments shall
3 bear interest at the rate of twelve per cent (12%) per annum.

4 (3) A claim for no-fault benefits shall be paid without
5 deduction for the benefits or advantages which are to be
6 subtracted from loss in calculating net loss if such benefits
7 or advantages have not been paid or provided to such claimant
8 prior to the date the no-fault benefits are overdue or the
9 no-fault benefits claim is paid whichever is later. The
10 obligor is thereupon entitled to recover reimbursement from
11 the person obligated to pay or provide such benefits or
12 advantages or from the claimant who actually receives them.
13 Benefits or advantages that are subtracted and which are
14 reasonably expected in the ordinary course of events shall be
15 deemed to have been provided until receipt by the obligor or
16 written notice that the amount or the payment thereof is in
17 dispute or that for any other reason the payment may not be
18 promptly made. Benefits subtracted by reason of this
19 provision shall not be overdue if paid within thirty days
20 following receipt of such notice.

21 (4) An obligor may bring an action to recover
22 reimbursement for no-fault benefits which are paid upon the
23 basis of an intentional misrepresentation of a material fact
24 by a claimant or a supplier or provider of an item of
25 allowable expense, if such obligor reasonably relied upon
26 such misrepresentation. The action may be brought only
27 against such supplier or provider, unless the claimant has
28 intentionally misrepresented the facts or knew of the
29 misrepresentation. An obligor may offset amounts he is
30 entitled to recover from the claimant under this paragraph

1 against any no-fault benefits otherwise due.

2 (5) An obligor who rejects a claim for basic loss
3 benefits shall give to the claimant written notice of the
4 rejection promptly, but in no event more than thirty days
5 after the receipt of reasonable proof of the loss. Such
6 notice shall specify the reason for such rejection and inform
7 the claimant of the terms and conditions of his right to
8 obtain an attorney. If a claim is rejected for a reason other
9 than that the person is not entitled to basic loss benefits
10 claimed, the written notice shall inform the claimant that he
11 may file his claim with the assigned claims bureau and shall
12 give the name and address of the bureau.

13 (b) Release or settlement of claim.--

14 (1) Except as otherwise provided in this subsection, no-
15 fault benefits shall not be denied or terminated because the
16 victim executed a release or other settlement agreement. A
17 claim for no-fault benefits may be discharged by a settlement
18 agreement for an agreed amount payable in installments or in
19 a lump sum, if the reasonably anticipated net loss does not
20 exceed [two thousand five hundred dollars (\$2,500)] ten
21 thousand dollars (\$10,000). A claim for survivor's loss, up
22 to the limit of liability thereof, may be discharged by
23 settlement in a lump sum. In all other cases, a claim may be
24 discharged by a settlement to the extent authorized by law
25 and upon a finding, by a court of competent jurisdiction,
26 that the settlement is in the best interest of the claimant
27 and any beneficiaries of the settlement, and that the
28 claimant understands and consents to such settlement, and
29 upon payment by the restoration obligor of the costs of such
30 proceeding including a reasonable attorney's fee (based upon

1 actual time expended) to the attorney selected by or
2 appointed for the claimant. Such costs may not be charged to
3 or deducted from the proceeds of the settlement. Upon
4 approval of the settlement, the court may make appropriate
5 orders concerning the safeguarding and disposing of the
6 proceeds of the settlement and may direct as a condition of
7 the settlement agreement, that the restoration obligor pay
8 the reasonable cost of appropriate future medical and
9 vocational rehabilitation services.

10 (2) A settlement agreement for an amount payable in
11 installments shall be modified as to amounts to be paid in
12 the future, if it is shown that a material and substantial
13 change of circumstances has occurred or that there is newly-
14 discovered evidence concerning the claimant's physical
15 condition, loss, or rehabilitation which could not have been
16 known previously or discovered in the exercise of reasonable
17 diligence.

18 (3) A settlement agreement may be set aside if it is
19 procured by fraud or if its terms are unconscionable.

20 (c) Time limitations on actions to recover benefits.--

21 (1) If no-fault benefits have not been paid for loss
22 arising otherwise than from death, an action therefor may be
23 commenced not later than two years after the victim suffers
24 the loss and either knows, or in the exercise of reasonable
25 diligence should have known, that the loss was caused by the
26 accident, or not later than four years after the accident,
27 whichever is earlier. If no-fault benefits have been paid for
28 loss arising otherwise than from death, an action for further
29 benefits [other than survivor's benefits,] on account of such
30 loss, by either the same or another claimant, may be

1 commenced not later than two years after the last payment of
2 benefits. Except as this paragraph prescribes a longer
3 period, if the victim dies, an action for loss arising
4 otherwise than from death may be commenced not later than one
5 year after the victim's death.

6 (2) If no-fault benefits have not been paid [to the
7 deceased victim or his survivor or survivors], for loss
8 arising from death, either for survivor's loss or the funeral
9 expense benefit provided under allowable expense an action
10 for survivor's [benefits] loss or the said funeral expense
11 may be commenced not later than one year after the death or
12 four years after the accident from which death results,
13 whichever is earlier. If survivor's [benefits have] loss has
14 been paid to any survivor, an action for further survivor's
15 [benefits] loss by either the same or another claimant may be
16 commenced not later than two years after the last payment of
17 benefits. If no-fault benefits have been paid for loss
18 suffered by a victim before his death resulting from the
19 injury, an action for survivor's [benefits] loss or the said
20 funeral expense may be commenced not later than one year
21 after the death or six years after the last payment of
22 benefits, whichever is earlier.

23 (3) If timely action for basic restoration benefits is
24 commenced against an obligor and benefits are denied because
25 of a determination that the obligor's coverage is not
26 applicable to the claimant under the provisions of section
27 204 of this act, an action against the applicable obligor or
28 the obligor to whom a claim is assigned under an assigned
29 claims plan may be commenced not later than sixty days after
30 the determination becomes final or the last date on which the

1 action could otherwise have been commenced, whichever is
2 later.

3 (4) Except as paragraph (1), (2), or (3) prescribes a
4 longer period, an action by a claimant on an assigned claim
5 which has been timely presented in accordance with the
6 provisions of section 108(c) or section 108.1(c) of this act,
7 whichever shall be applicable to the claim, may not be
8 commenced more than sixty days after the claimant receives
9 written notice of rejection of the claim by the [restoration
10 obligor] entity to which it was assigned.

11 (5) If a person entitled to no-fault benefits is under a
12 legal disability when the right to bring an action for the
13 benefits first accrues, the period of his disability is not a
14 part of the time limited for commencement of the action.

15 (d) Assignment of benefits.--An assignment of or an
16 agreement to assign any right in accordance with this act for
17 loss accruing in the future is unenforceable except as to
18 benefits for:

19 (1) work loss to secure payment of alimony, maintenance,
20 or child support; or

21 (2) allowable expense to the extent the benefits are for
22 the cost of products, services, or accommodations provided or
23 to be provided by the assignee.

24 (e) Deduction and setoff.--Except as otherwise provided in
25 this act, basic loss benefits shall be paid without deduction or
26 setoff.

27 (f) Exemption of benefits.--

28 (1) No-fault benefits for allowable expense are exempt
29 from garnishment, attachment, execution, and any other
30 process or claim, except upon the claim of a creditor who has

1 provided products, services, or accommodations to the extent
2 benefits are for allowable expense for those products,
3 services, or accommodations.

4 (2) Basic loss benefits other than those for allowable
5 expense are exempt from garnishment, attachment, execution,
6 and any other process or claim for benefits attributable to
7 loss sustained within the first sixty days following the
8 accident resulting in injury. Other basic loss benefits
9 (except for items of allowable expense) are exempt to the
10 extent that wages or earnings are exempt under any applicable
11 law exempting wages or earnings from such process or claims.

12 Section 3. Section 108 of the act is repealed.

13 Section 4. The act is amended by adding a section to read:

14 § 108.1. Assigned claims plan.

15 (a) Organization.--Obligors other than self-insurers and
16 governments providing basic loss insurance in this Commonwealth
17 shall organize and maintain, subject to approval and regulation
18 by the commissioner, an assigned claims bureau and an assigned
19 claims plan and adopt rules for their operation and for
20 assessment of costs on a fair and equitable basis consistent
21 with this act. If such bureau and plan are not organized and
22 maintained in a manner considered by the commissioner to be
23 consistent with this act, he shall organize and maintain an
24 assigned claims bureau and an assigned claims plan. Each obligor
25 insurer providing basic loss insurance in the Commonwealth shall
26 participate in the assigned claims bureau and the assigned
27 claims plan. Costs incurred shall be allocated fairly and
28 equitably among the obligors.

29 (b) Basic loss benefits.--

30 (1) If this act is in effect on the date when the

1 accident resulting in injury occurs, a victim or the survivor
2 or survivors of a deceased victim may obtain basic benefits
3 through the assigned claims plan established pursuant to
4 subsection (a), if:

5 (A) basic loss insurance applicable to the injury
6 cannot be identified;

7 (B) basic loss insurance applicable to the injury is
8 inadequate to provide the contracted for benefits because
9 of financial inability of an obligor to fulfill its
10 obligations; or

11 (C) benefits are refused by an obligor for a reason
12 other than that the individual is not entitled in
13 accordance with this act to the basic loss benefits
14 claimed.

15 (2) If a claim qualifies for assignment under subclause
16 (A), (B) or (C) of paragraph (1), the assigned claims bureau
17 or any entity to whom the claim is assigned is subrogated to
18 all rights of the claimant against the obligor legally
19 obligated to provide basic benefits to the claimant or
20 against any successor in interest to or substitute for such
21 obligor for such benefits as are provided by the assignee.

22 (3) If an individual receives basic loss benefits
23 through the assigned claims plan, all benefits or advantages
24 that such individual receives or is entitled to receive as a
25 result of such injury, other than life insurance benefits or
26 benefits by way of succession at death or in discharge of
27 familial obligations of support, shall be subtracted from
28 loss in calculating net loss.

29 (4) The assigned claims bureau shall promptly assign
30 each claim for no-fault benefits to an assignee so as to

1 minimize inconvenience to claimants and shall notify the
2 claimant of the identity and address of such assignee.
3 Subject to the terms and limitations of this section, the
4 assignee thereafter has rights and obligations as if it had
5 issued a policy of basic loss benefits insurance complying
6 with this act, but not in excess of the basic loss benefits
7 insurance or self-insurance contract, if any, in substitution
8 for which the claim is assigned.

9 (c) Time limitations on filing claims.--

10 (1) Except as provided in paragraph (2), an individual
11 authorized to obtain basic loss benefits through the assigned
12 claims plan shall notify the assigned claims bureau of his
13 claim within the time that would have been allowed pursuant
14 to section 106(c) for commencing an action for basic loss
15 benefits against any obligor, other than an assigned claims
16 bureau.

17 (2) If timely action for basic loss benefits is
18 commenced against an obligor who is unable to fulfill its
19 obligations because of financial inability, an individual
20 authorized to obtain basic loss benefits through the assigned
21 claims plan shall notify the bureau of his claim within six
22 months after his discovery of such financial inability.

23 (d) Ineligible claimants.--An individual, whether resident
24 of this Commonwealth or not, who does not comply with the
25 requirement of providing security for the payment of basic loss
26 benefits, if he is injured while occupying a motor vehicle for
27 which there is no security in force applicable to his injury or
28 loss, or an individual as to whom the security is invalidated
29 because of his fraud or willful misconduct, shall not be
30 entitled to receive benefits under the assigned claims plan. An

individual, whether resident of this Commonwealth or not, who operates a motor vehicle with knowledge that security required by this act is not in effect with respect to such operation shall not be entitled to receive benefits under the assigned claims plan if injured in the course of such operation.

Section 5. Sections 109, 110 and 111, subsections (d) and (e) of section 202, section 203, the heading of section 204, subsection (c) of section 205, subsection (a) of section 206, section 207, clause (1) of subsection (a) of section 208, clauses (4) and (5) of subsection (a) of section 301 and section 401 of the act, are amended to read:

§ 109. Rates.

(a) Rates and rating.--

(1) The commissioner shall regulate obligors providing security covering a motor vehicle in this Commonwealth. The rates charged for security shall be established, determined, and modified only in accordance with the provisions of the applicable rating law of this Commonwealth.

(2) Within sixty days after January 1, 1982, the commissioner shall commence a review of the rates of all insurers in effect at that time. If, after the review, the commissioner finds on a preliminary basis that rates may be excessive, inadequate or unfairly discriminatory, the commissioner shall so notify each insurer of his findings. Upon being so notified, the insurer shall, within sixty days, file with the commissioner all information which the insurer believes proves the reasonableness, adequacy and fairness of the rate. In such instances, the insurer shall carry the burden of proof. In the event the commissioner finds that a rate is excessive, inadequate or unfairly discriminatory, the

1 commissioner may order that a new rate schedule be thereafter
2 filed by the insurer and further specifying the manner in
3 which noncompliance shall be corrected.

4 (3) The commissioner shall establish and promulgate a
5 uniform Statewide reporting system to classify risks for the
6 purpose of evaluating rates and premiums and for the purpose
7 of evaluating competition and the availability of motor
8 vehicle insurance in the voluntary market.

9 (4) The commissioner may promulgate rules to require
10 each insurer to report its loss and expense experience and
11 any other information the commissioner deems relevant, by
12 classification and in such detail as often as may be
13 necessary to aid the commissioner in determining the
14 reasonableness of rates, the credibility of loss projections
15 and the credibility of the risk classification system.

16 (5) The commissioner shall, by regulation, establish a
17 method for determining the profitability and rates of return
18 on net worth, assets and earned premiums with respect to each
19 kind of insurance subject to the provisions of this act,
20 based upon reasonable and uniform assumptions. Such
21 regulation shall require insurers to report annually to the
22 commissioner, who shall make such reports available for
23 public inspection concerning such profitability and rates of
24 return.

25 (b) Public information.--The commissioner shall provide the
26 means to inform purchasers of insurance, in a manner adequate to
27 permit them to compare prices, about rates being charged by
28 insurers for no-fault benefits and tort liability coverage.

29 (c) Accountability program.--

30 (1) The commissioner, through the State vocational

1 rehabilitation agency, shall establish and maintain a program
2 for the regular and periodic evaluation of medical and
3 vocational rehabilitation services for which reimbursement or
4 payment is sought from an obligor as an item of allowable
5 expense to assure that:

6 (A) the services are medical and vocational
7 rehabilitation services, as defined in section 103 of
8 this act;

9 (B) the recipient of the services is making progress
10 toward a greater level of independent functioning and the
11 services are necessary to such progress and continued
12 progress; and

13 (C) the charges for the services for which
14 reimbursement or payment is sought are fair and
15 reasonable.

16 Progress reports shall be made periodically in writing on each
17 case for which reimbursement or payment is sought under security
18 for the payment of basic loss benefits. Such reports shall be
19 prepared by the supervising physician or rehabilitation
20 counselor and submitted to the State vocational rehabilitation
21 agency. The State vocational rehabilitation agency shall file
22 reports with the applicable obligor or obligors. Pursuant to
23 this program, there shall be provision for determinations to be
24 made in writing of the rehabilitation goals and needs of the
25 victim and for the periodic assessment of progress at reasonable
26 time intervals by the supervising physician or rehabilitation
27 counselor. An obligor who shall operate, maintain or participate
28 in a program to provide medical and vocational rehabilitation
29 services that conform to or exceed the standards of services
30 required by the State Vocational Rehabilitation Agency may,

1 subject to the approval of the commissioner, be exempt from the
2 notification and reporting requirements of this act with regard
3 to the providing of such rehabilitation services.

4 (2) The commissioner is authorized to establish and
5 maintain a program for the regular and periodic evaluation of
6 this Commonwealth's no-fault plan for motor vehicle
7 insurance.

8 (d) Availability of services.--The commissioner is
9 authorized to coordinate with appropriate government agencies in
10 the creation and maintenance of an emergency health services
11 system or systems, and to take all steps necessary to assure
12 that emergency health services are available for each victim
13 suffering injury in the Commonwealth. The commissioner is
14 authorized to take all steps necessary to assure that medical
15 and vocational rehabilitation services are available for each
16 victim resident of the Commonwealth. Such steps may include, but
17 are not limited to, guarantees of loans or other obligations of
18 suppliers or providers of such services, and support for
19 training programs for personnel in programs and facilities
20 offering such services.

21 § 110. Motor vehicles in interstate travel.

22 (a) General.--An owner of a motor vehicle who has complied
23 with the requirements of security covering a motor vehicle in
24 this Commonwealth shall be deemed to have complied with the
25 requirements for such security in any state in which such
26 vehicle is operating.

27 (b) Conforming coverage.--

28 (1) An obligor providing security for the payment of
29 basic loss benefits shall be obligated to provide, and each
30 contract of insurance for the payment of basic loss benefits

1 shall be construed to contain, coverage sufficient to satisfy
2 the requirements for security covering a motor vehicle in any
3 state in which any victim who is a claimant or whose
4 survivors are claimants is domiciled or is injured.

5 (2) An obligor providing security for the payment of
6 basic loss benefits shall include in each contract of
7 insurance for the payment of basic loss benefits, coverage to
8 protect the owner or operator of a motor vehicle from tort
9 liability to which he is exposed through application of the
10 law of any state in which the motor vehicle may be operated
11 and arising out of the ownership, maintenance or use of a
12 motor vehicle.

13 [(c) Applicable law.--

14 (1) The basic loss benefits available to any victim or
15 to any survivor of a deceased victim shall be determined
16 pursuant to the provisions of the state no-fault plan for
17 motor vehicle insurance in effect in the state of domicile of
18 the victim on the date when the motor vehicle accident
19 resulting in injury occurs. If there is no such state no-
20 fault plan in effect or if the victim is not domiciled in any
21 state, then basic loss benefits available to any victim shall
22 be determined pursuant to the provisions of the state no-
23 fault plan for motor vehicle insurance, if any, in effect in
24 the state in which the accident resulting in injury occurs.

25 (2) The right of a victim or of a survivor of a deceased
26 victim to sue in tort shall be determined by the law of the
27 state of domicile of such victim. If a victim is not
28 domiciled in a state, such right to sue shall be determined
29 by the law of the state in which the accident resulting in
30 injury or damage to property occurs.]

1 (c) Nonduplication of economic detriment benefits.--

2 (1) The basic loss benefits available to a victim or to
3 the survivor of a deceased victim who is domiciled in this
4 Commonwealth and who shall be injured in a motor vehicle
5 accident in any other state shall be determined pursuant to
6 the provisions of this act. Obligors providing security to
7 the owner or operator of a motor vehicle who is domiciled in
8 another state for the payment of basic loss benefits and
9 coverage to protect the owner or operator of a motor vehicle
10 from tort liability to which he is exposed through the
11 application of the law of any state in which the motor
12 vehicle may be operated shall, provide in the contract of
13 insurance issued by said obligor for payment of basic loss
14 benefits determined pursuant to the provisions of this act
15 while such vehicle is being operated in this Commonwealth.

16 (2) When a victim or a survivor of a deceased victim
17 domiciled in this Commonwealth and injured in another state
18 as the result of a motor vehicle accident has a cause of
19 action in such other state for recovery of economic detriment
20 suffered as a consequence of such injury, an obligor
21 providing basic loss benefits has and may contract for a
22 right of subrogation or reimbursement for basic loss benefits
23 paid, but only to the nature and extent of basic loss
24 benefits paid to or on behalf of the victim or the survivor
25 of a deceased victim which the victim or survivor may recover
26 in any such action. An obligor's right of subrogation shall
27 be subordinated to the victim's or survivor's right of action
28 to recover economic detriment suffered in excess of any
29 economic detriment not recoverable by the victim or survivor
30 from the obligor because of any limitation in the payment of

basic loss benefits in accordance with section 202(a), (b), (c) or (d) and the victim's or survivor's right of action to recover damages for non-economic detriment.

§ 111. Rights and duties of obligors.

(a) Reimbursement and subrogation.--

(1) Except as provided in paragraphs (2) and (3) of this subsection and section 110, an obligor:

(A) does not have and may not contract, directly or indirectly, in whole or in part, for a right of reimbursement from or subrogation to the proceeds of a victim's claim for relief or to a victim's cause of action for non-economic detriment; and

(B) may not directly or indirectly contract for any right of reimbursement based upon a determination of fault from any other obligor not acting as a reinsurer for no-fault benefits which it has paid or is obligated to pay as a result of injury to a victim.

[(2) Whenever an individual who receives or is entitled to receive no-fault benefits for an injury has a claim or cause of action against any other person causing the injury as based upon a determination of fault, the obligor is subrogated to the rights of the claimant only for:

(A) elements of damage compensated for by security for the payment of no-fault benefits in excess of the minimum basic loss benefits required under this act are recoverable; and

(B) the obligor has paid or become obligated to pay accrued or future no-fault benefits in excess of the minimum basic loss benefits required under this act.]

(2) Whenever an individual who receives or is entitled

1 to receive no-fault benefits for an injury has a claim or
2 cause of action for the same elements of economic detriment
3 against any other person causing the injury based upon a
4 determination of fault, the obligor is subrogated to the
5 rights of the claimant only for the same elements of economic
6 detriment compensated for by security for the payment of no-
7 fault benefits the obligor has paid or has become obligated
8 to pay for accrued or future benefits in excess of basic loss
9 benefits required under this act except that said obligor
10 does not have nor may not contract for a right of subrogation
11 to recover any economic detriment recovered by the victim or
12 survivor not compensated for because of any limitation in
13 applicable security in accordance with section 202(a), (b),
14 (c) or (d).

15 (3) Nothing in this subsection shall preclude any person
16 supplying or providing products, services, or accommodations
17 from contracting or otherwise providing for a right of
18 reimbursement to any basic [restoration] loss benefits for
19 allowable expense.

20 [(4) In no event shall any entity providing benefits
21 other than no-fault benefits to an individual as described in
22 section 203 of this act, have any right of subrogation with
23 respect to said benefits.]

24 (b) Duty to pay basic loss benefits.--An obligor providing
25 security for the payment of basic loss benefits shall pay or
26 otherwise provide such benefits without regard to fault to each
27 individual entitled thereto, pursuant to the terms and
28 conditions of this act.

29 (c) Indemnity.--An obligor has a right of indemnity against
30 an individual who has converted a motor vehicle involved in an

1 accident, or against an individual who has intentionally injured
2 himself or another individual, for no-fault benefits paid for:

3 (1) the loss caused by the conduct of that individual;

4 (2) the cost of processing the claims for such benefits;

5 [and]

6 (3) payments under the assigned claims plan to an
7 individual who does not comply with the requirement of
8 providing security for the payment of basic loss benefits or
9 whose security has been invalidated because of fraud or
10 willful misconduct; and

11 ~~[(3)]~~ (4) the cost of enforcing this right of indemnity,
12 including reasonable attorney's fees.

13 (d) Referral for rehabilitation services.--The obligor shall
14 promptly refer each victim to whom basic loss benefits are
15 expected to be payable for more than two months to the State
16 vocational rehabilitation agency.

17 (e) Nonduplication of benefits under uninsured motorist
18 coverage.--Every victim or survivor of a deceased victim making
19 claim under the uninsured motorist coverage prescribed by the
20 act of August 14, 1963 (P.L.909, No.433), entitled "An act
21 requiring, with limitations, that insurance policies insuring
22 against loss occurring in connection with motor vehicles provide
23 protection against certain uninsured motorists," or under any
24 other form of uninsured or underinsured motorist coverage that
25 may be hereafter provided or required to be offered or provided
26 shall be entitled to make claim for non-economic detriment and
27 economic detriment only to the extent that said claim for
28 economic detriment is for elements of economic detriment not
29 compensated for by security for the payment of no-fault benefits
30 or because of limitations in applicable security in accordance

1 with section 202(a), (b), (c) or (d). No obligor shall make any
2 payment under any uninsured motorist coverage for any element of
3 economic detriment for which the victim or survivor of a
4 deceased victim has been compensated for or for which the
5 obligor has paid or has become obligated to pay for accrued or
6 future benefits by security for the payment of no-fault
7 benefits.

8 (f) Tort payment without regard for rights of obligor having
9 reimbursement interest.--An obligor with a right of subrogation
10 or reimbursement interest who shall suffer loss from inability
11 to collect such reimbursement out of a payment received by a
12 claimant upon a tort claim is entitled to indemnity from one
13 who, having notice of the obligor's interest, made such a
14 payment to the claimant without making the claimant and the
15 insurer joint payees as their respective interests may appear,
16 or without obtaining the obligor's consent to a different method
17 of payment.

18 § 202. Basic loss benefits.

19 * * *

20 (d) Survivors losses.--Survivors loss, as defined in section
21 103 shall be provided in an amount not to exceed five thousand
22 dollars (\$5,000). Obligors shall, subject to terms and
23 conditions approved by the commissioner, offer to insured's
24 survivors loss benefits for amounts in excess of five thousand
25 dollars (\$5,000).

26 (e) Deductibles; waiting period.--Allowable expense, work
27 loss and replacement services loss may include provisions to
28 provide:

29 (1) a deductible not to exceed [one hundred dollars
30 (\$100)] five hundred dollars (\$500) for each individual and

1 one thousand five hundred dollars (\$1,500) in the aggregate
2 for three or more individuals arising out of any one
3 accident; or

4 (2) with respect to work loss or replacement services
5 only, a waiting period not to exceed [one week] four weeks.

6 Such deductible or waiting period shall be elected in writing
7 upon a form approved by the Insurance Commissioner and, if
8 elected, shall be effective only as against the named insured
9 and his or her immediate family.

10 § 203. Collateral benefits.

11 [(a) If benefits other than no-fault benefits are provided
12 to an individual through a program, group, contract or other
13 arrangement for which some other person pays in whole or in part
14 that would inure to the benefit of a victim or the survivor of a
15 deceased victim injured as a result of an accident in the
16 absence of no-fault benefits, then any reduction or savings in
17 the direct or indirect cost to such person of such benefits
18 resulting from the existence of no-fault benefits shall be
19 returned to such individual or utilized for his benefit.

20 (b) The owner or operator of a motor vehicle may elect to
21 provide for security in whole or in part for the payment of
22 basic loss benefits through a program, group, contract or other
23 arrangement that would pay to or on behalf of the victim or
24 members of his family residing with him or the survivor of a
25 deceased victim, allowable expense, loss of income, work loss,
26 replacement services loss and survivors loss. In all such
27 instances, each contract of insurance issued by an insurer shall
28 be construed to contain a provision that all basic loss benefits
29 provided therein shall be in excess of any valid and collectible
30 benefits otherwise provided through such program, group,

1 contract or other arrangement as designated at the election of
2 the owner or operator which shall be primary.

3 (c) An insurer providing basic loss benefits and tort
4 liability in accordance with the provisions of subsection (b)
5 above shall reduce the cost of such contract of insurance to
6 reflect the anticipated reduction in basic loss benefits payable
7 by the insurer by reason of the election of the owner or
8 operator to provide substitute security.]

9 (a) Election by named insured.--Every obligor providing
10 security covering a motor vehicle shall offer options to the
11 named insured to elect to provide security, in whole or in part,
12 for the payment of basic loss benefits through a program, group,
13 contract or other arrangement that would pay to, or on behalf
14 of, the victim or members of his family residing with him or to
15 or on behalf of the survivor of a deceased victim, allowable
16 expense, loss of income, work loss, replacement services loss,
17 or survivors loss. In all such instances in which the named
18 insured exercises such an election, each contract of insurance
19 issued by an insurer shall be construed to contain a provision
20 that all basic loss benefits provided therein shall be in excess
21 of any valid and collectible benefits otherwise provided through
22 such program, group, contract or other arrangement which as
23 designated at the election of the owner or operator shall be
24 primary. If no such election is made, then any group program,
25 group contract or similar group arrangement shall be construed,
26 with respect to any claim arising from any accident occurring
27 fourteen months or more after the effective date of this
28 amendatory act, to contain a provision that the coverage
29 thereunder shall be in excess of, and not in duplication of, any
30 valid and collectible allowable expense contained in any

1 security covering a motor vehicle which, because of the absence
2 of such election, shall be primary. Notwithstanding the
3 foregoing, if any group program, group contract or similar group
4 arrangement is provided pursuant to a collectible bargaining
5 agreement in effect on the effective date of this amendatory act
6 and the then current term of which does not expire within
7 fourteen months thereafter, then the foregoing automatic
8 elimination of duplicate allowable expense shall not apply until
9 the current term of said collective bargaining agreement has
10 expired or until thirty-six months after the effective date of
11 this amendatory act, whichever is shorter.

12 (b) Return of savings.--If benefits other than no-fault
13 benefits are provided to an individual through a program, group,
14 contract or other arrangement for which the individual's
15 employer or some other person pays in whole or in part that
16 would inure to the benefit of a victim or the survivor of a
17 deceased victim injured as the result of an accident in the
18 absence of no-fault benefits, then any reduction or savings in
19 the direct or indirect cost to such employer or other person of
20 such benefits resulting from the existence of no-fault benefits
21 shall be returned to such individual or utilized for his benefit
22 by the employer or other person providing such other benefits.

23 (c) Reduction of cost.--An insurer providing basic loss
24 benefits and tort liability in accordance with the provisions of
25 subsection (a) shall reduce the cost of such contract of
26 insurance to reflect the anticipated reduction in basic loss
27 benefits payable by the insurer by reason of the election of the
28 owner or operator to provide substitute security.

29 (d) Information program.--The commissioner shall formulate a
30 program and promulgate rules and regulations to provide for

dissemination of information to the public of the options
available pursuant to subsection (a) which reduce the cost of
maintaining security covering a motor vehicle.

(e) Certification by insured of other security.--Basic loss
insurers may require policyholders to certify as to the
existence of other security and such other reasonable
information as to such security as may be required.

(f) Construction of section.--This section shall not be
construed to effect, limit or impair section 106(d).

(g) Definitions.--As used in this section "program, group,
contract or other arrangement" shall include, but not be limited
to, benefits payable by a hospital plan corporation subject to
40 Pa.C.S. § 6101 (relating to definitions) or a professional
health service corporation subject to 40 Pa.C.S. § 6301
(relating to application of chapter).

§ 204. Source of basic [restoration] loss benefits.

* * *

§ 205. Work loss.

* * *

(c) Not employed.--The work loss of a victim who is
currently employable but not employed when the accident
resulting in injury occurs shall be calculated by:

(1) determining his probable weekly income by dividing
his probable annual income by fifty-two; and

(2) multiplying that quantity by the number of work
weeks, or fraction thereof, if any, the victim would
reasonably have been expected to realize income during the
accrual period. For purposes of this subsection, a currently
employable victim is one who could reasonably expect to find
employment, for which he is fitted by training or experience,

1 within a period of six months and, if employment opportunity
2 were available, could reasonably be expected to accept it.

3 * * *

4 § 206. Net loss.

5 (a) General.--Except as provided in section [108(a)(3)]
6 108.1(b)(3) of this act, all benefits or advantages (less
7 reasonably incurred collection costs) that an individual
8 receives or is entitled to receive from social security (except
9 those benefits provided under Title XIX of the Social Security
10 Act and except those medicare benefits to which a person's
11 entitlement depends upon use of his so-called "life-time
12 reserve" of benefit days) workmen's compensation, any State-
13 required temporary, nonoccupational disability insurance, and
14 all other benefits (except the proceeds of life insurance)
15 received by or available to an individual because of the injury
16 from any government, unless the law authorizing or providing for
17 such benefits or advantages makes them excess or secondary to
18 the benefits in accordance with this act, shall be subtracted
19 from loss in calculating net loss.

20 * * *

21 § 207. [Added loss benefits] Additional coverage options.

22 (a) Mandatory offering.--Obligors providing security for the
23 payment of basic loss benefits shall offer or obligate
24 themselves to provide [added loss benefits] insurance for injury
25 or damage arising out of the ownership, maintenance, or use of a
26 motor vehicle, including:

27 (1) loss excluded from basic loss benefits by limits on
28 allowable expense, work loss, replacement services loss, and
29 survivor's loss;

30 (2) [benefits] insurance for damage to property;

(3) [benefits] insurance for loss of use of a motor vehicle;

(4) benefits for expense for remedial religious treatment and care;

(5) insurance for physical damage to a motor vehicle, a coverage for all collision and upset damage, subject to an optional deductible and comprehensive material damage coverage, subject to an optional deductible; and

(6) for economic detriment, a coverage for work loss sustained by a victim in excess of limitations on basic loss benefits for work loss.

(b) Additional loss coverage.--Subject to the approval of terms and forms by the commissioner, obligors may offer or obligate themselves to provide other [added loss coverages] coverage options.

The commissioner may adopt rules requiring that insurers providing basic loss insurance offer, in accordance with this act, any other specified added loss coverages and promulgate regulations with respect thereto.

(c) The coverage which is offered pursuant to this section shall not be provided, or deemed provided under any provision of this act, except upon the election of a named insured under a policy of motor vehicle insurance issued by an insurer.

§ 208. Ineligible claimants.

(a) Converter.--

(1) [Except as provided for assigned claims, a] A converter of a motor vehicle is ineligible to receive no-fault benefits, including benefits otherwise due him as a survivor, from any source other than a contract of insurance under which he is an insured, for any injury arising out of

1 the maintenance or use of the converted vehicle. If a
2 converter dies from such injuries, his survivor or survivors
3 are not entitled to no-fault benefits for survivor's loss
4 from any source other than a contract of insurance under
5 which the converter is an insured.

6 * * *

7 § 301. Tort liability.

8 (a) Partial abolition.--Tort liability is abolished with
9 respect to any injury that takes place in this State in
10 accordance with the provisions of this act if such injury arises
11 out of the maintenance or use of a motor vehicle, except that:

12 * * *

13 (4) A person remains liable for loss which is not
14 compensated because of any limitation in accordance with
15 section 202 (a), (b), (c) or (d) of this act and nothing in
16 this act shall be construed to have limited or impaired the
17 right to recover at law as heretofore for an element of
18 economic detriment for which there is no applicable security
19 under the provisions of this act. A person is not liable,
20 however, for loss which is not compensated because of
21 limitations in accordance with subsection (e) of section 202
22 of this act.

23 (5) A person remains liable for damages for non-economic
24 detriment in excess of two thousand five hundred dollars
25 (\$2,500) if the injury sustained in the accident results in:

26 (A) death [or serious and permanent injury]; or

27 (B) [the reasonable value of reasonable and
28 necessary medical and dental services, including
29 prosthetic devices and necessary ambulance, hospital and
30 professional nursing expenses incurred in the diagnosis,

1 care and recovery of the victim, exclusive of diagnostic
2 x-ray costs and rehabilitation costs in excess of one
3 hundred dollars (\$100) is in excess of seven hundred
4 fifty dollars (\$750). For purposes of this subclause, the
5 reasonable value of hospital room and board shall be the
6 amount determined by the Department of Health to be the
7 average daily rate charged for a semi-private hospital
8 room and board computed from such charges by all
9 hospitals in the Commonwealth] significant and permanent
10 loss of an important body function; or

11 (C) [medically determinable physical or mental
12 impairment which prevents the victim from performing all
13 or substantially all of the material acts and duties
14 which constitute his usual and customary daily activities
15 and which continues for more than sixty consecutive days]
16 injury that is permanent within a reasonable degree of
17 medical probability and which is serious, other than
18 scarring or disfigurement; or

19 (D) [injury which in whole or in part consists of
20 cosmetic disfigurement which is permanent, irreparable
21 and severe] significant and permanent scarring or
22 disfigurement.

23 * * *

24 § 401. Examination.

25 Whenever the mental or physical condition of a [person]
26 victim is material to any claim that has been or may be made for
27 past or future basic loss benefits. [a court of competent
28 jurisdiction may order the person to submit to mental or
29 physical examination by a physician or physicians. The order may
30 be made only on the motion for good cause shown and upon notice

1 to the person to be examined and to all other persons having an
2 interest and shall specify the time, place, manner, conditions,
3 and scope of the examination and the person or persons by whom
4 it is to be made.] Such victim, upon request of an obligor,
5 shall submit to mental or physical examination by a physician or
6 physicians. The cost of any such examination requested by an
7 obligor shall be borne entirely by the obligor. Any such
8 examination shall be conducted within the city or county of
9 residence of the victim, but if there is no qualified physician
10 to conduct the examination within such city or county of
11 residence of the victim, then such examination shall be
12 conducted in an area of closest proximity to the victim's
13 residence. If the victim shall refuse to submit to any such
14 examination, a court of competent jurisdiction may, upon the
15 motion or petition of the obligor, require the victim to be
16 examined by such physicians selected and paid by the obligor or
17 by a physician or physicians designated by the court and paid by
18 the obligor. The victim shall have at all times the right to
19 have a physician, selected and paid by the victim, participate
20 in any such examination.

21 Section 6. The act is amended by adding a section to read:

22 § 409. Release of information; immunity from liability.

23 Any person who releases information, whether oral or written,
24 acting in good faith, pursuant to the requirements of sections
25 106 (a)(5), 109(d), 401, 402, 408(a), (b) or (d) or pursuant to
26 any proceeding for the release, discovery or production of
27 information under this act is immune from liability, whether
28 civil or criminal, that might otherwise be incurred or imposed.

29 Section 7. Section 601 of the act is repealed.

30 Section 8. The act is amended by adding sections to read:

1 § 601.1. Operation of a vehicle without security.

2 (a) General rule.--No person who owns a passenger vehicle,
3 for which the existence of security for basic loss benefits and
4 tort liability insurance is a requirement for its legal
5 operation upon the public highways of this State, under either
6 section 104 or 110 of this act or 75 Pa.C.S. § 1747 (relating to
7 providing financial responsibility), shall operate such motor
8 vehicle or permit it to be operated upon a public highway in
9 this State without having in full force and effect security
10 complying with the terms of section 104. Further, no other
11 person shall operate such a motor vehicle upon a public highway
12 in this State with the knowledge that the owner does not have
13 such security in full force and effect.

14 (b) Carrying and exhibiting Pennsylvania No-fault Insurance
15 Identification Card on demand.--Every person who operates a
16 vehicle for which the existence of security for basic loss
17 benefits and tort liability insurance is a requirement for its
18 legal operation upon the public highways of this State pursuant
19 to the above-mentioned sections, shall possess a valid
20 Pennsylvania No-fault Insurance Identification Card at all times
21 when driving such motor vehicle and shall exhibit the card upon
22 demand to a police officer who investigates an accident or
23 otherwise stops the vehicle for probable cause.

24 (c) Exhibition of invalid insurance identification cards.--
25 No person who is required to possess and exhibit a Pennsylvania
26 No-fault Insurance Identification Card pursuant to subsection
27 (b) shall exhibit an invalid identification card to any police
28 officer. For the purposes of this section, an invalid card
29 includes, but is not limited to, one expired, fraudulently
30 obtained or forged.

1 (d) Inferences from failure to possess and exhibit the
2 insurance identification card.--In any summary proceeding or
3 criminal proceeding in which the defendant is charged with
4 violating subsection (a) or (c), if it is shown that the
5 defendant failed to possess and exhibit the identification card
6 as required by subsection (b), or failed to furnish satisfactory
7 proof within five days at the office of the issuing authority or
8 arresting officer, it may be inferred that the defendant was in
9 violation of subsection (a) or (c) at the time of the demand.

10 (e) Penalty.--Any person violating subsection (a) is guilty
11 of a summary offense and shall, upon conviction, be sentenced to
12 pay a fine of two hundred dollars (\$200). Any person violating
13 subsection (b) is guilty of a summary offense and shall, upon
14 conviction, be sentenced to pay a fine of fifty dollars (\$50)
15 and to a mandatory fifteen-day suspension of the individual's
16 operating privileges. Any person violating subsection (c) is
17 guilty of a misdemeanor of the third degree and shall, upon
18 conviction, be sentenced to pay a fine of not less than three
19 hundred dollars (\$300), nor more than one thousand dollars
20 (\$1,000), or to imprisonment for not more than six months or
21 both. No person charged with violating subsection (a) or (b)
22 shall be convicted if the person furnishes at the office of the
23 issuing authority or the arresting officer, within five days,
24 satisfactory proof of having held security at the time of the
25 demand.

26 (f) Subsequent convictions.--Every person convicted of a
27 second or subsequent violation of subsection (a) within three
28 years of an initial conviction under subsection (a) shall be
29 sentenced to pay a fine of not less than three hundred dollars
30 (\$300), nor more than one thousand dollars (\$1,000) or to

1 imprisonment of not more than six months or both. Every person
2 convicted of a second or subsequent violation of subsection (b)
3 within three years of an initial conviction under subsection (b)
4 shall be sentenced to pay a fine of not less than one hundred
5 dollars (\$100) nor more than three hundred dollars (\$300) and to
6 a mandatory sixty-day suspension of the individual's operating
7 privileges for the second violation, and to a mandatory six-
8 month suspension of operating privileges for the third and all
9 subsequent violations. Every person convicted of a second or
10 subsequent violation of subsection (c) within three years of an
11 initial conviction under subsection (c) shall be sentenced to
12 pay a fine of not less than one thousand dollars (\$1,000) nor
13 more than two thousand five hundred dollars (\$2,500) or to
14 imprisonment for not more than one year or both.

15 (g) Issuance of insurance identification cards.--No obligor
16 who provides security for basic loss benefits coverage and tort
17 liability insurance pursuant to this act shall issue an
18 insurance identification card for a period in excess of the
19 policy period.

20 § 601.2. Surrender of registration plates and cards upon
21 suspension.

22 (a) General rule.--The department, upon suspending any
23 registration, shall require the registration plate or plates and
24 registration card to be surrendered immediately to the
25 department and may delegate authority to any authorized
26 department employee, issuing authority, police officer,
27 constable or writ server to seize the registration plate or
28 plates and registration card or cards.

29 (b) Issuing authorities, constables and writ servers.--
30 Whenever the surrender of registration plates and cards is

1 accomplished through the use of issuing authorities, constables
2 or writ servers, the procedures for such surrender shall be
3 prescribed by general rule by the Supreme Court. For each card
4 and plate set recovered by a constable or writ server, such
5 officer shall be paid a fee of fifteen dollars (\$15) by the
6 department which shall include mileage.

7 (c) Reimbursement of department.--As a condition for the
8 return of a registration plate and card surrendered to a
9 constable or a writ server, a person shall reimburse the
10 department a service fee of thirty dollars (\$30).

11 (d) Penalty.--Any person failing or refusing to surrender to
12 the department or to its authorized employee, issuing authority,
13 police officer, constable or writ server, upon demand, any
14 registration plate or card which has been suspended is guilty of
15 a summary offense and shall, upon conviction, be sentenced to
16 pay a fine of one hundred dollars (\$100).

17 (e) Reports and records of issuing authorities.--Every
18 issuing authority shall maintain records of all proceedings
19 brought under this act in accordance with 75 Pa.C.S. § 6321
20 (relating to records of issuing authorities). In addition, every
21 issuing authority shall report all proceedings brought under
22 this act in accordance with 75 Pa.C.S. § 6322 (relating to
23 reports by issuing authorities).

24 (f) Reports of courts of records.--The clerk of any court of
25 record within this Commonwealth shall report the final
26 determination of any proceeding brought under this act in
27 accordance with 75 Pa.C.S. § 6323 (relating to reports by
28 courts).

29 Section 9. This act shall take effect in six months.