

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2121 Session of
1998

INTRODUCED BY COLAFELLA, VANCE, E. Z. TAYLOR, M. COHEN, BOSCOLA,
DeLUCA, PETRARCA, KENNEY, TRICH, LEDERER, CARN, THOMAS,
ITKIN, DALLY, STABACK, STURLA, McGEEHAN, TRELLO, LUCYK,
READSHAW, MUNDY, TIGUE, JOSEPHS, GEORGE, SURRA, WASHINGTON,
TRAVAGLIO, C. WILLIAMS, BELARDI, MANDERINO, OLASZ, LAUGHLIN,
MELIO, McCALL, CORRIGAN, JAROLIN, GIGLIOTTI, WOJNAROSKI,
WALKO, BATTISTO, COY, SATHER, CIVERA, BELFANTI, PRESTON,
RAMOS, CLARK AND YOUNGBLOOD, JANUARY 22, 1998

REFERRED TO COMMITTEE ON INSURANCE, JANUARY 22, 1998

AN ACT

1 Amending the act of June 5, 1968 (P.L.140, No.78), entitled "An
2 act regulating the writing, cancellation of or refusal to
3 renew policies of automobile insurance; and imposing powers
4 and duties on the Insurance Commissioner therefor," further
5 providing for definitions, for portions of policies, for
6 cancellation and refusal of insurance, for notice to insureds
7 and for hearings; and making a repeal.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Section 1 of the act of June 5, 1968 (P.L.140,
11 No.78), entitled "An act regulating the writing, cancellation of
12 or refusal to renew policies of automobile insurance; and
13 imposing powers and duties on the Insurance Commissioner
14 therefor," is amended by adding clauses to read:

15 Section 1. As used in this act the following definitions
16 shall apply:

17 * * *

1 (5) "First-party benefits" include medical, income loss,
2 accidental death, funeral and extraordinary medical benefits.

3 (6) "Named insured" means the person or persons who are
4 named in the declarations of a policy.

5 Section 2. Section 2 of the act is amended to read:

6 Section 2. [This act shall apply only to that portion of a
7 policy of automobile insurance providing bodily injury and
8 property damage liability, comprehensive, and collision
9 coverages and to the provisions therein, if any, relating to
10 medical payments and uninsured motorists coverage.] An insurer
11 may not cancel portions of a policy midterm, except at the
12 request of the insured. At renewal, an insurer may not refuse to
13 renew the following coverages except in compliance with this
14 act:

15 (1) First-party benefits.

16 (2) Bodily injury and property damage liability coverages.

17 (3) Comprehensive coverage.

18 (4) Collision coverage.

19 (5) Uninsured and underinsured coverages.

20 Section 3. Section 3(b), (f) and (h) of the act, amended
21 October 5, 1978 (P.L.1060, No.248), are amended, subsection (a)
22 is amended by adding a clause and the section is amended by
23 adding subsections to read:

24 Section 3. (a) No insurer shall cancel or refuse to write
25 or renew a policy of automobile insurance for one or more of the
26 following reasons:

27 * * *

28 (15) Any claim under the collision portion of the policy
29 which was intentionally caused by a person other than the
30 insured.

(b) No insurer shall cancel or refuse to renew a policy of automobile insurance on the basis [of one accident] that, within the thirty-six month period prior to the upcoming anniversary date of the policy[.], any of the following have occurred:

(1) One accident.

(2) More than one accident, as long as no two accidents involved the same individual.

(3) For an insured that has been insured by the same insurer for at least ten years, two accidents.

(4) Two noninjury accidents, each of which results in a payment by the insurer of less than two thousand dollars (\$2,000).

(b.1) No insurer shall cancel or refuse to renew a policy or apply any surcharge, rate penalty or driver record point assignment where, within the thirty-six month period prior to the upcoming anniversary date of the policy, the aggregate cost to the insurer for any person injured or property damaged is determined to be less than two thousand dollars (\$2,000) in excess of any self-insured retention or deductible applicable to the named insured.

(b.2) The Insurance Department, at least once every three years, shall adjust the two thousand dollar (\$2,000) caps or limits relative to changes in the components of the Consumer Price Index for All Urban Consumers to measure seasonally adjusted changes in medical care and automobile maintenance and repair costs and shall make such adjustments to the caps or limits as shall be necessary to maintain the same rate of change in the caps or limits as has occurred in the Consumer Price Index for All Urban Consumers. Such adjustments may be rounded off to the nearest fifty-dollar (\$50) figure.

1 * * *

2 (f) The applicability of subsection (e) to one, other than
3 [the] a named insured, who either is a resident in the same
4 household or who customarily operates an automobile insured
5 under the policy shall be proper reason for the insurer
6 thereafter excluding such individual from coverage under the
7 policy, but not for cancelling or refusing to renew the policy.
8 If any named insured refuses to sign a named driver exclusion,
9 the insurer may cancel or refuse to renew the policy under this
10 subsection.

11 (f.1) An insurer that covers the same insureds under more
12 than one policy of automobile insurance may not cancel or refuse
13 to renew more than one policy based on the license suspension of
14 an insured. An insurer may refuse to renew any policy in which
15 the individual under license suspension is a named insured, as
16 provided in subsection (e). If a named insured refuses to sign a
17 named driver exclusion removing coverage for an individual under
18 license suspension, the insurer may cancel or refuse to renew
19 the policy under this subsection.

20 * * *

21 (h) The [Insurance Department] department shall adopt
22 appropriate rules and regulations to implement and enforce the
23 provisions of this section.

24 Section 4. Section 5 of the act, amended July 14, 1988
25 (P.L.546, No.97), is amended to read:

26 Section 5. (a) No cancellation or refusal to renew by an
27 insurer of a policy of automobile insurance shall be effective
28 unless the insurer shall deliver or mail, to the named insured
29 at the address shown in the policy a written notice of the
30 cancellation or refusal to renew. Such notice shall:

1 (1) Be approved as to form by the Insurance Commissioner
2 prior to use;

3 (2) State the date, not less than sixty days after the date
4 of such mailing or delivering on which such cancellation or
5 refusal to renew shall become effective, except that such
6 effective date may be fifteen days from the date of mailing or
7 delivery when it is being cancelled or not renewed for the
8 reasons set forth in clauses (1) and (2) of section 4;

9 (3) State the specific reason or reasons of the insurer for
10 cancellation or refusal to renew;

11 (4) Advise the insured of his right to request in writing,
12 within thirty days of the receipt of the notice of cancellation
13 or intention not to renew, and of the receipt of the reason or
14 reasons for the cancellation or refusal to renew as stated in
15 the notice of cancellation or of intention not to renew, that
16 the Insurance Commissioner review the action of the insurer;

17 (5) Either in the notice or in an accompanying statement
18 advise the insured of his possible eligibility for insurance
19 through the automobile assigned risk plan;

20 (6) Advise the insured that he must obtain compulsory
21 automobile insurance coverage if he operates or registers a
22 motor vehicle in the Commonwealth, that the insurer is notifying
23 the Department of Transportation that the insurance is being
24 cancelled or not renewed, and that the insured must notify the
25 Department of Transportation that he has replaced said coverage.

26 (7) Clearly state that, when coverage is to be terminated
27 due to nonresponse to a citation imposed under 75 Pa.C.S. § 1533
28 (relating to suspension of operating privilege for failure to
29 respond to citation) or nonpayment of a fine or penalty imposed
30 under that section, coverage shall not terminate if the insured

1 provides the insurer with proof that the insured has responded
2 to all citations and paid all fines and penalties and that he or
3 she has done so on or before the termination date of the policy.

4 (b) An insurer shall deliver or mail to the named insured a
5 written notice of the following:

6 (1) At the time a policy is initially issued, a statement
7 that two accidents, if occurring within a thirty-six month
8 period, may result in the cancellation or nonrenewal of the
9 policy.

10 (2) After a first accident, for an insured who has not
11 continually maintained a policy with the same insurer for ten
12 years or more, a statement that a second accident, if occurring
13 within thirty-six months of the first accident, may result in
14 cancellation or nonrenewal of the policy.

15 (3) After a second accident, for an insured who has
16 continually maintained a policy with the same insurer for ten
17 years or more, a statement that a third accident, if occurring
18 within thirty-six months of the first accident, may result in
19 cancellation or nonrenewal of the policy.

20 (4) At the time a claim has been settled, a statement of the
21 dollar amount of the settlement.

22 Section 5. Section 8 of the act, amended October 5, 1978
23 (P.L.1060, No.248), is amended to read:

24 Section 8. (a) Any insured may within [twenty] thirty days
25 of the receipt by the insured of notice of cancellation or
26 [notice of intention not to renew, and of the receipt of the
27 reason or reasons for the cancellation or refusal to renew as
28 stated in the notice] nonrenewal, request in writing to the
29 Insurance Commissioner that [he] the Insurance Department review
30 the action of the insurer in cancelling or refusing to renew the

1 policy of such insured.

2 (b) Any applicant for a policy who is refused such policy by
3 an insurer shall be given a written notice of refusal to write
4 by the insurer. Such notice shall state the specific reason or
5 reasons of the insurer for refusal to write a policy for the
6 applicant. Within [twenty] thirty days of the receipt of such
7 reasons, the applicant may request in writing to the [Insurance
8 Commissioner] commissioner that [he] the department review the
9 action of the insurer in refusing to write a policy for the
10 applicant.

11 Section 6. The provisions of 75 Pa.C.S. § 1799.3(a) and (e)
12 are repealed.

13 Section 7. This act shall take effect in 60 days.