
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1139 Session of
1979

INTRODUCED BY COPPERSMITH, LYNCH, HOLL AND HESS,
DECEMBER 3, 1979

REFERRED TO INSURANCE, DECEMBER 3, 1979

AN ACT

1 Amending the act of July 19, 1974 (P.L.489, No.176), entitled
2 "An act providing for a compensation system for persons
3 injured in motor vehicle accidents; requiring insurance for
4 all motor vehicles required to be registered in Pennsylvania;
5 defining 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 certain terms; imposing a maximum limit on basic
11 loss benefits; authorizing temporary suspension of coverage;
12 further providing for assigned claims plan coverage; further
13 providing for collateral and basic loss benefits; and
14 changing the liability of a person for damages for non-
15 economic detriment under certain circumstances.

16 The General Assembly of the Commonwealth of Pennsylvania
17 hereby enacts as follows:

18 Section 1. The definitions of "added loss benefits," "loss
19 of income," "survivor's loss" and "work loss" in section 103,
20 act of July 19, 1974 (P.L.489, No.176), known as the
21 "Pennsylvania No-fault Motor Vehicle Insurance Act," are amended
22 to read:

23 § 103. Definitions.

24 As used in this act:

1 "Added loss benefits" means benefits provided by added loss
2 insurance in accordance with section 207 of this act. Added loss
3 benefits shall include benefits for net loss sustained by an
4 operator or passenger of a motorcycle.

5 * * *

6 "Loss of income" means gross income actually lost by a victim
7 during his lifetime or that would have been lost but for any
8 income continuation plan, reduced by:

9 (A) eighty per cent (80%) of any income which such
10 individual earns from substitute work;

11 (B) income which such individual would have earned
12 in available substitute work he was capable of performing
13 but unreasonably failed to undertake; or

14 (C) any income which such individual would have
15 earned by hiring an available substitute to perform self-
16 employment services but unreasonably failed to do. Such a
17 "loss of income" shall be recoverable from an obligor by
18 a victim or his estate but shall not be recoverable as a
19 survivor's loss.

20 * * *

21 "Survivor's loss" means the:

22 (A) [loss of] income of a deceased victim which
23 would probably have been contributed to a survivor or
24 survivors, if such victim had not sustained the fatal
25 injury; and

26 (B) expenses reasonably incurred by a survivor or
27 survivors, after a victim's death resulting from injury,
28 in obtaining ordinary and necessary services in lieu of
29 those which the victim would have performed, not for
30 income, but for their benefit, if he had not sustained

1 the fatal injury,
2 reduced by expenses which the survivor or survivors would
3 probably have incurred but avoided by reason of the victim's
4 death resulting from injury.

5 "Victim" means an individual who suffers injury arising out
6 of the maintenance or use of a motor vehicle; "deceased victim"
7 means a victim suffering death resulting from injury.

8 * * *

9 "Work loss" means:

10 (A) loss of gross income of a victim during his
11 lifetime, as calculated pursuant to the provisions of
12 section 205 of this act; and

13 (B) reasonable expenses of a victim for hiring a
14 substitute to perform self-employment services, thereby
15 mitigating loss of income, or for hiring special help,
16 thereby enabling a victim to work and mitigate loss of
17 income. Work loss" shall not be recoverable as a
18 "survivor's loss."

19 Section 2. Subsection (a) of section 104 is amended and a
20 subsection is added to read:

21 § 104. Required motor vehicle insurance.

22 (a) Security covering a motor vehicle.--Every owner of a
23 motor vehicle which is registered or which is operated in this
24 Commonwealth by the owner or with his permission, shall
25 continuously provide security covering such motor vehicle while
26 such vehicle is either present or registered in the
27 Commonwealth. Security shall be provided for the payment of
28 basic loss benefits[, and for the payment of sums up to a total
29 limit of thirty thousand dollars (\$30,000) which the owner or
30 any person operating the vehicle with the express or implied

1 permission of the owner may become liable to pay as damages
2 because of bodily injury or death arising out of any one
3 accident (subject to a sublimit of fifteen thousand dollars
4 (\$15,000) for damages arising out of the bodily injury or death
5 of any one person) and for the payment of damages for injury to
6 or destruction of property in any one accident of amounts up to
7 a total limit of five thousand dollars (\$5,000)]. The owner or
8 any other person may provide security covering a motor vehicle
9 by a contract of insurance with an insurer or by qualifying as a
10 self-insurer or as an obligated government.

11 (a.1) Temporary suspension of coverage.--An owner of a motor
12 vehicle, who has provided security in accordance with the
13 provisions of subsection (a) and who has one or more vehicles
14 not in use for periods of time in excess of forty-five
15 consecutive calendar days, may obtain from his insurer an
16 agreement to the policy of insurance suspending temporarily all
17 coverages for the duration of time such vehicle may not be in
18 use: Provided, however, That such owner shall maintain basic
19 loss benefits coverage for at least one of the vehicles during
20 the period of suspension. In all such cases, an owner of such a
21 motor vehicle shall not be required to surrender the
22 registration certificate and license plates to the department as
23 provided in subsection (d). The commissioner shall promulgate
24 reasonable and necessary rules and regulations governing such
25 agreements between an owner and his insurer including provisions
26 for an equitable reduction from the annual policy premium of the
27 insurer.

28 * * *

29 Section 3. Subsection (b) of section 105, clause (2) of
30 subsection (a) of section 106, subsection (a) of section 108,

1 subsections (b) and (c) of section 110, clause (1) of subsection
2 (a) of section 111, subsections (a) and (b) of section 202,
3 section 203, subsection (a) of section 207, clause (1) of
4 subsection (a) of section 208, clause (5) of subsection (a) of
5 section 301 and section 501 of the act are amended to read:

6 § 105. Availability of insurance.

7 * * *

8 (b) Cancellation, refusal to renew, or other termination of
9 insurance.--Cancellation, refusal to renew and other termination
10 of insurance shall be provided for in accordance with the
11 provisions of the act of June 5, 1968 (P.L.140, No.78), entitled
12 "An act regulating the writing, cancellation of or refusal to
13 renew policies of automobile insurance; and imposing powers and
14 duties on the Insurance Commissioner therefor" as from time to
15 time amended.

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

17 (a) In general.--

18 * * *

19 (2) No-fault benefits are overdue if not paid within
20 thirty days after the receipt by the obligor of each
21 submission of reasonable proof of the fact and amount of loss
22 sustained, unless the obligor designates, upon receipt of an
23 initial claim for no-fault benefits, periods not to exceed
24 thirty-one days each for accumulating all such claims
25 received within each such period, in which case such benefits
26 are overdue if not paid within fifteen days after the close
27 of each such period. If reasonable proof is supplied as to
28 only part of a claim, but the part amounts to one hundred
29 dollars (\$100) or more, benefits for such part are overdue if
30 not paid within the time mandated by this paragraph. An

1 obligation for basic loss benefits for an item of allowable
2 expense may be discharged by the obligor by reimbursing the
3 victim or by making direct payment to the supplier or
4 provider of products, services, or accommodations within the
5 time mandated by this paragraph. Overdue payments bear
6 interest at the rate of eighteen per cent (18%) per annum if
7 said payments are unreasonably withheld. Overdue payment, not
8 unreasonably withheld, shall bear interest at the rate of six
9 per cent (6%) per annum.

10 * * *

11 § 108. Assigned claims plan.

12 (a) General.--

13 (1) If this act is in effect on the date when the
14 accident resulting in injury occurs, a victim or the survivor
15 or survivors of a deceased victim may obtain basic benefits
16 through the assigned claims plan established pursuant to
17 subsection (b) of this section, if basic loss insurance:

18 (A) is not applicable to the injury for a reason
19 other than those specified in the provisions on
20 ineligible claimants;

21 [(B) is not applicable to the injury because the
22 victim converted a motor vehicle while he was under
23 fifteen years of age;

24 (C)] (B) applicable to the injury cannot be
25 identified;

26 [(D)] (C) applicable to the injury is inadequate to
27 provide the contracted-for benefits because of financial
28 inability of an obligor to fulfill its obligations; or

29 [(E)] (D) benefits are refused by an obligor for a
30 reason other than that the individual is not entitled in

1 accordance with this act to receive the basic loss
2 benefits claimed.

3 (2) If a claim qualifies for assignment under paragraph
4 (1)[(C), (D), or (E)] (B), (C) or (D) of this subsection, the
5 assigned claims bureau or any [insurer] entity to whom the
6 claim is assigned is subrogated to all rights of the claimant
7 against the obligor legally obligated to provide basic
8 benefits to the claimant, or against any successor in
9 interest to or substitute for such obligor for such benefits
10 as are provided by the assignee.

11 (3) If an individual receives basic loss benefits
12 through the assigned claims plan for any reason other than
13 because of the financial inability of an obligor to fulfill
14 its obligation, all benefits or advantages that such
15 individual receives or is entitled to receive as a result of
16 such injury, other than life insurance benefits or benefits
17 by way of succession at death or in discharge of familial
18 obligations of support, shall be subtracted from loss in
19 calculating net loss.

20 (4) An assigned claim of an individual who does not
21 comply with the requirement of providing security for the
22 payment of basic restoration benefits, or of an individual as
23 to whom the security is invalidated because of his fraud or
24 willful misconduct, is subject to:

25 (A) all the maximum optional deductibles and
26 exclusions required to be offered; and

27 (B) a deduction in the amount of five hundred
28 dollars (\$500) for each year or part thereof of the
29 period of his continuous failure to provide security,
30 applicable to any benefits otherwise payable except basic

1 benefits for allowable expense.

2 * * *

3 § 110. Motor vehicles in interstate travel.

4 * * *

5 (b) [Conforming coverage.--

6 (1) An obligor providing security for the payment of
7 basic loss benefits shall be obligated to provide, and each
8 contract of insurance for the payment of basic loss benefits
9 shall be construed to contain, coverage sufficient to satisfy
10 the requirements for security covering a motor vehicle in any
11 state in which any victim who is a claimant or whose
12 survivors are claimants is domiciled or is injured.

13 (2) An obligor providing security for the payment of
14 basic loss benefits shall include in each contract of
15 insurance for the payment of basic loss benefits, coverage to
16 protect the owner or operator of a motor vehicle from tort
17 liability to which he is exposed through application of the
18 law of any state in which the motor vehicle may be operated
19 and arising out of the ownership, maintenance or use of a
20 motor vehicle.

21 (c) Applicable law.--

22 (1) The basic loss benefits available to any victim or
23 to any survivor of a deceased victim shall be determined
24 pursuant to the provisions of the state no-fault plan for
25 motor vehicle insurance in effect in the state of domicile of
26 the victim on the date when the motor vehicle accident
27 resulting in injury occurs. If there is no such state no-
28 fault plan in effect or if the victim is not domiciled in any
29 state, then basic loss benefits available to any victim shall
30 be determined pursuant to the provisions of the state no-

1 fault plan for motor vehicle insurance, if any, in effect in
2 the state in which the accident resulting in injury occurs.

3 (2) The right of a victim or of a survivor of a deceased
4 victim to sue in tort shall be determined by the law of the
5 state of domicile of such victim. If a victim is not
6 domiciled in a state, such right to sue shall be determined
7 by the law of the state in which the accident resulting in
8 injury or damage to property occurs.]

9 Accidents occurring outside of Pennsylvania.--Basic loss
10 benefits other than survivors benefits, payable as a result of
11 an accident which occurs outside of the Commonwealth of
12 Pennsylvania may be reduced by a sum equal to any tort recovery
13 of the same elements of loss by the claimant, exclusive of
14 reasonable attorney's fees and other reasonable expenses
15 incurred in effecting the recovery.

16 § 111. Rights and duties of obligors.

17 (a) Reimbursement and subrogation.--

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

20 (A) does not have and may not contract, directly or
21 indirectly, in whole or in part, for a right of
22 reimbursement from or subrogation to the proceeds of a
23 victim's claim for relief or to a victim's cause of
24 action for noneconomic detriment; and

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

30 * * *

1 § 202. Basic loss benefits.

2 (a) Allowable expense limits.--Allowable expense, as defined
3 in section 103 of this act [shall be provided] or the equivalent
4 in the form of a contract to provide for services required up to
5 an amount of one hundred thousand dollars (\$100,000) per victim.

6 (b) Work loss limits.--Work loss, as defined in section 103
7 shall be provided:

8 (1) up to a monthly maximum of:

9 (A) one thousand dollars (\$1,000) multiplied by a
10 fraction whose numerator is the average per capita income
11 in this Commonwealth and whose denominator is the average
12 per capita income in the United States, according to the
13 latest available United States Department of Commerce
14 figures; or

15 (B) [the] a lesser disclosed amount, in the case of
16 a named insured who, prior to the accident resulting in
17 injury, voluntarily discloses his actual monthly earnings
18 to his obligor and agrees in writing with such obligor
19 that such sum shall measure work loss; and

20 (2) up to a total amount of fifteen thousand dollars
21 (\$15,000).

22 * * *

23 § 203. Collateral benefits.

24 (a) [If benefits other than no-fault benefits are provided
25 to an individual through a program, group, contract or other
26 arrangement for which some other person pays in whole or in part
27 that would inure to the benefit of a victim or the survivor of a
28 deceased victim injured as a result of an accident in the
29 absence of no-fault benefits, then any reduction or savings in
30 the direct or indirect cost to such person of such benefits

1 resulting from the existence of no-fault benefits shall be
2 returned to such individual or utilized for his benefit.

3 (b) The owner or operator of a motor vehicle may elect]
4 Obligors providing security for the payment of basic loss
5 benefits shall offer options reducing the cost of basic loss
6 insurance for the named insured who elects to provide for
7 security in whole or in part for the payment of basic loss
8 benefits through a program, group, contract or other arrangement
9 that would pay to or on behalf of the victim or members of his
10 family residing with him or the survivor of a deceased victim,
11 allowable expense, loss of income, work loss, replacement
12 services loss and survivors loss. In all such instances, each
13 contract of insurance issued by an insurer shall be construed to
14 contain a provision that all basic loss benefits provided
15 therein shall be in excess and not in duplication of any valid
16 and collectible benefits otherwise provided through such
17 program, group, contract or other arrangement as designated at
18 the election of the [owner or operator] named insured which
19 shall be primary. In the absence of such election, a group
20 contract, that would otherwise pay in whole or in part allowable
21 expense, loss of income, work loss, replacement services loss or
22 survivors loss benefits thereunder, shall be construed to
23 contain a provision that all such benefits shall be in excess
24 and not in duplication of any valid and collectible basic loss
25 benefits contained in the contract of insurance which, because
26 of the absence of such selection, shall be primary.

27 [(c) An insurer providing basic loss benefits and tort
28 liability in accordance with the provisions of subsection (b)
29 above shall reduce the cost of such contract of insurance to
30 reflect the anticipated reduction in basic loss benefits payable

1 by the insurer by reason of the election of the owner or
2 operator to provide substitute security.]

3 (b) A named insured who elects such an option shall be
4 afforded an appropriately reduced premium in accordance with the
5 rates filed with the Insurance Commissioner. Basic loss insurers
6 may require the policyholder to certify as to existence of
7 coverage and reasonable information as to the extent of such
8 coverage. A named insured and resident spouse eligible to
9 receive benefits from Medicare Parts (A) and (B) shall
10 automatically be afforded an appropriately reduced premium in
11 accordance with the rates filed with the commissioner.

12 (c) The commissioner may adopt rules and regulations with
13 respect to this section.

14 § 207. Added loss benefits.

15 (a) Mandatory offering.--[Obligors providing security for
16 the payment of basic loss benefits shall offer or obligate
17 themselves to provide added loss benefits for injury or damage
18 arising out of the ownership, maintenance, or use of a motor
19 vehicle, including:

20 (1) loss excluded from basic loss benefits by limits on
21 allowable expense, work loss, replacement services loss, and
22 survivor's loss;

23 (2) benefits for damage to property;

24 (3) benefits for loss of use of a motor vehicle;

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

27 (5) for physical damage to a motor vehicle, a coverage
28 for all collision and upset damage, subject to an optional
29 deductible; and

30 (6) for economic detriment, a coverage for work loss

1 sustained by a victim in excess of limitations on basic loss
2 benefits for work loss.] Obligors providing security for the
3 payment of basic loss benefits shall offer or obligate
4 themselves to provide added loss benefits for injury or
5 damage arising out of the ownership, maintenance or use of a
6 motor vehicle, including:

7 (1) increased limits on work loss, replacement services
8 loss and survivor's loss and increased limits up to at least
9 two hundred fifty thousand dollars (\$250,000) in regular
10 increments on allowable expense;

11 (2) for injury or damage for which the person injured is
12 liable, caused to one or more person or persons or their
13 property in an amount sufficient to meet the requirements of
14 financial security as set forth in Chapter 17 of Title 75
15 Pa.C.S. known as the "Vehicle Code" for detriment resulting
16 from an accident caused by an individual operating a motor
17 vehicle without liability insurance;

18 (3) loss of use of a motor vehicle;

19 (4) coverage for expense for remedial religious
20 treatment and care; and

21 (5) for physical damage to a motor vehicle, a coverage
22 for all collision and upset damage and comprehensive material
23 damage, subject to an optional deductible.

24 * * *

25 § 208. Ineligible claimants.

26 (a) Converter.--

27 (1) [Except as provided for assigned claims, a] A
28 converter of a motor vehicle is ineligible to receive no-
29 fault benefits, including benefits otherwise due him as a
30 survivor, from any source other than a contract of insurance

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

7 * * *

8 § 301. Tort liability.

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

13 * * *

14 (5) A person remains liable for damages for non-economic
15 detriment if [the accident] the injury sustained results in:

16 (A) death or serious and permanent injury; [or

17 (B) the reasonable value of reasonable and necessary
18 medical and dental services, including prosthetic devices
19 and necessary ambulance, hospital and professional
20 nursing expenses incurred in the diagnosis, care and
21 recovery of the victim, exclusive of diagnostic x-ray
22 costs and rehabilitation costs in excess of one hundred
23 dollars (\$100) is in excess of seven hundred fifty
24 dollars (\$750). For purposes of this subclause, the
25 reasonable value of hospital room and board shall be the
26 amount determined by the Department of Health to be the
27 average daily rate charged for a semi-private hospital
28 room and board computed from such charges by all
29 hospitals in the Commonwealth; or

30 (C)] (B) medically determinable [physical or mental]

1 impairment which prevents the victim from performing all
2 or substantially all of the material acts and duties
3 which constitute his usual and customary daily activities
4 and which continues for more than [sixty] ninety
5 consecutive days; or

6 [(D)] (C) injury which [in whole or in part]
7 consists of cosmetic disfigurement which is permanent,
8 irreparable and severe.

9 * * *

10 § 501. Uninsured motorists.

11 (a) An insurer under uninsured motorists coverage shall not
12 be liable for damages for non-economic detriment unless the
13 injury is described in one or more paragraphs of section
14 301(a)(5) nor shall the insurer be liable under said uninsured
15 motor coverage for basic loss or added loss benefits paid to the
16 insured victim.

17 (b) The obligor obligated to pay basic loss benefits for
18 accidental bodily injury to a person occupying a motor vehicle,
19 the owner of which is uninsured pursuant to this act or to the
20 spouse or relative resident in the household of the owner or
21 registrant of such motor vehicle, shall be entitled to recover
22 all the benefits paid and appropriate loss adjustments costs
23 incurred from the owner or registrant of such motor vehicle or
24 from his estate. The failure of the person to make payment
25 within thirty days shall be grounds for suspension or revocation
26 of his motor vehicle registration and operator's license.

27 Section 4. This act shall take effect immediately.