

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 483

Session of  
1973

INTRODUCED BY COPPERSMITH, HILL, MANBECK, STAUFFER,  
W. E. FLEMING, WOOD, REIBMAN AND MESSINGER, MARCH 19, 1973

REFERRED TO TRANSPORTATION, MARCH 19, 1973

AN ACT

1 Amending the act of April 29, 1959 (P.L.58, No.32), entitled "An  
2 act consolidating and revising the Vehicle Code, the Tractor  
3 Code, the Motor Vehicle Financial Responsibility Act and  
4 other acts relating to the ownership, possession and use of  
5 vehicles and tractors," relating to the compensation system  
6 for persons injured in motor vehicle accidents; requiring  
7 insurance for all motor vehicles operated or required to be  
8 registered in the Commonwealth of Pennsylvania; defining the  
9 elements of compensable damage and modifying the collateral  
10 source rule in motor vehicle accident cases; establishing an  
11 assigned claims plan; prescribing penalties; prescribing and  
12 regulating motor vehicle insurance practices and procedures;  
13 limiting the time for commencement of suit for insurance  
14 benefits; permitting award of attorneys' fees in certain  
15 cases; and requiring participation by insurers in a plan for  
16 the apportionment of certain motor vehicle insurance  
17 business.

18 The General Assembly of the Commonwealth of Pennsylvania  
19 hereby enacts as follows:

20 Section 1. The act of April 29, 1959 (P.L.58, No.32), known  
21 as "The Vehicle Code," is amended by adding an article to read:

22 ARTICLE XIV-A

23 PENNSYLVANIA MOTORISTS COMPENSATION REFORM ACT

24 (a) Title

25 Section 1401-A. Short Title.--This act shall be known and

1 may be cited as the "Pennsylvania Motorists Compensation Reform  
2 Act."

3 (b) Purpose

4 Section 1402-A. Legislative Purpose.--The purpose of this  
5 article is to create an efficient and well regulated system for  
6 the compensation of losses from bodily injury and death in motor  
7 vehicle accident cases and to foster the continued availability  
8 of motor vehicle insurance at reasonable rates.

9 (c) Definitions

10 Section 1403-A. Definitions.--As used in this article:

11 "Added Compensation Insurance" means the insurance permitted  
12 under subdivision (b).

13 "Basic Compensation Insurance" means the insurance required  
14 by subsection (b) of section 1404-A.

15 "Earnings" means (1) salary, wages, tips, commissions,  
16 professional fees; (2) net profit from tangible goods or  
17 products of economic value produced in individually owned  
18 businesses or farms or the reasonable value of the services  
19 necessary to produce the goods or products; and (3) other  
20 earnings derived from the performance of work.

21 "Income Producer" means a person who but for the motor  
22 vehicle accident causing injury or death would be producing  
23 earnings; or a person who at the time of the accident is  
24 temporarily not producing earnings but who, nevertheless, proves  
25 through a history or a pattern of previous production of  
26 earnings or by the existence of a bona fide offer of employment  
27 or otherwise that a reasonable probability exists that, but for  
28 the accident, he would be producing earnings.

29 "Insured" with respect to basic compensation insurance means  
30 (1) a person identified by name as an insured in a contract of

1 basic compensation insurance complying with this article; and  
2 (2) while residing in the same household with a named insured,  
3 the following persons not identified by name as an insured in  
4 any other contract of basic compensation insurance complying  
5 with this article: a spouse or other relative of a named  
6 insured; and a minor in the custody of a named insured or of a  
7 relative residing in the same household with a named insured. A  
8 person resides in the same household if he usually makes his  
9 home in the same family unit, even though he temporarily lives  
10 elsewhere.

11 "Insurer" means any insurance company, association or  
12 exchange which is authorized to write and is engaged in writing  
13 within this Commonwealth, on a direct basis, minimum liability  
14 insurance and basic compensation insurance under this article.

15 "Minimum Liability Insurance" means the insurance required by  
16 subsection (a) of section 1404-A.

17 "Motor Vehicle" means any vehicle driven or drawn by  
18 electrical or mechanical power manufactured primarily for use on  
19 the public streets, roads and highways, except any vehicle  
20 operated exclusively on a rail or rails.

21 "Motor Vehicle Accident" means an accident arising out of the  
22 operation, maintenance or use of a motor vehicle as a vehicle;  
23 the phrase does not include an accident occurring on business  
24 premises in the course of the business of repairing, servicing  
25 or otherwise maintaining motor vehicles.

26 "Occupying" means to be in or upon or entering into or  
27 alighting from a motor vehicle.

28 "Owner" means the person in whose name the motor vehicle is  
29 registered in this Commonwealth; and if no registration is in  
30 effect at the time of the motor vehicle accident, the term means

1 a person, other than a lienholder or secured party, having the  
2 property in or title to a motor vehicle, including a person  
3 entitled to the use and possession of a motor vehicle subject to  
4 a security interest in another person, but excluding a lessee  
5 under a lease not intended as security.

6 "Person" means any individual, partnership, corporation,  
7 association, trust, syndicate, or other entity.

8 (d) Insurance Covering Motor Vehicles

9 Section 1404-A. Owners of Motor Vehicles Required to  
10 Insure.--The owner of a motor vehicle required to be registered  
11 in this Commonwealth shall insure continuously throughout the  
12 registration period, and the owner of a motor vehicle who  
13 operates it within this Commonwealth or permits it to be  
14 operated within this Commonwealth shall insure continuously  
15 during the period of operation within this Commonwealth.

16 (a) The payment of sums which the owner and any person  
17 operating the motor vehicle with the permission express or  
18 implied of the owner shall become liable to pay as damages  
19 because of bodily injury to or death of any person or  
20 destruction of property of others arising out of the ownership,  
21 maintenance or use of the motor vehicle within the territorial  
22 limits of the United States or Canada in the amount required  
23 under the financial responsibility laws of any jurisdiction  
24 whose law is applicable to the occurrence and, with respect to  
25 accidents occurring within the Commonwealth, in the amount of  
26 ten thousand dollars (\$10,000.00), because of bodily injury to  
27 or death of any one (1) person in any one (1) accident and,  
28 subject to said limit for any one (1) person, up to an amount of  
29 twenty thousand dollars (\$20,000.00), because of bodily injury  
30 to or death of two (2) or more persons in any one (1) accident,

and in the amount of five thousand dollars (\$5,000.00), because  
of injury to or destruction of property in any one (1) accident:  
Provided, however, That (i) said limits shall not be less than  
the limits of liability required for the same insurance under  
Article XIV of the act of April 29, 1959 (P.L.58, No.32), known  
as "The Vehicle Code," or under any amendments thereof; and (ii)  
insurance under this paragraph may be provided by a contract the  
coverage of which is excess to other valid and collectible  
liability insurance.

(b) The payment of basic compensation in accordance with  
subdivision (e) of this article on account of:

(1) Bodily injury to or death of any person as the result of  
a motor vehicle accident involving the motor vehicle other than:

(i) Bodily injury to or death of the occupant of another  
motor vehicle or of a vehicle operated exclusively on a rail or  
rails.

(ii) Bodily injury to or death of any person, other than an  
insured, who is not an occupant of a motor vehicle if the  
accident occurs outside the Commonwealth of Pennsylvania.

(iii) Bodily injury to or death of an occupant of the motor  
vehicle if the accident occurs outside this Commonwealth and the  
vehicle is owned by any government other than this Commonwealth  
or its political subdivisions or regularly used in the course of  
the business of transporting persons or property and is one (1)  
of five (5) or more vehicles under common ownership.

(2) Bodily injury to or death of the insured as the result  
of a motor vehicle accident in the event there is no other basic  
compensation insurance under this article applicable to the  
injury or no insurance can be identified, except that this  
provision is not applicable if the accident occurs while the

insured is operating or occupying a motor vehicle owned by him or furnished for his regular use.

Section 1405-A. Proof of Insurance.--No semiannual certificate of inspection of any motor vehicle shall be issued or displayed unless the owner has proof that the insurance required by this article is then in effect. Such proof shall be made upon a form and in accordance with regulations approved by Secretary of Transportation.

Section 1406-A. Form of the Insurance Contract.--

(a) Basic compensation insurance and minimum liability insurance required by this article may be provided by:

(1) Insurance under a policy of insurance issued by an insurer; or

(2) Any other method approved by the Department of Transportation or the Public Utility Commission as affording security equivalent to that afforded by a policy of insurance, provided proof of security is filed and continuously maintained with the Department of Transportation or the Public Utility Commission throughout the registration period. The person filing security shall have all of the obligations and rights of an insurer under this article.

(b) The United States and its public agencies and any state and its political subdivisions may, by lawfully obligating themselves, and the Commonwealth of Pennsylvania and its political subdivisions shall provide for the payment of basic compensation in accordance with this article for injury arising from the maintenance or use of motor vehicles owned by those entities. Each such entity, by lawfully obligating itself to pay basic compensation benefits, shall have all the rights of an insurer of basic compensation benefits under this article.

1     Section 1407-A. Conformity of Insurance Contracts.--Every  
2     contract of motor vehicle liability insurance wherever issued  
3     covering a motor vehicle registered in this Commonwealth or  
4     covering a motor vehicle accident which occurs within this  
5     Commonwealth, except a contract which provides coverage only for  
6     liability in excess of required minimum liability insurance, and  
7     every contract of insurance which purports to satisfy the  
8     requirements of this article shall be deemed to provide,  
9     notwithstanding any contrary provision, the minimum liability  
10    and basic compensation insurance in accordance with this  
11    article; and, absent any specific agreement to the contrary, the  
12    insured shall be presumed to have chosen none of the options set  
13    forth in section 1418-A: Provided, however, That insurance  
14    contracts issued with respect to motor vehicles registered in  
15    other states are not deemed varied except with respect to  
16    accidents occurring within this Commonwealth.

17    Section 1408-A. Insurer's Certification Respecting Out-of-  
18    State Insureds.--Every insurer authorized to write motor vehicle  
19    liability insurance in this Commonwealth shall file with the  
20    commissioner and maintain a written certification and shall be  
21    conclusively presumed to have agreed as a condition of receiving  
22    such authorization that its insureds with respect to motor  
23    vehicle liability insurance covering motor vehicles registered  
24    in other states except motor vehicle liability insurance  
25    contracts which provide coverage only for liability in excess of  
26    the amount of the required minimum liability insurance under  
27    this article, wherever such insurance is issued, who are  
28    involved in a motor vehicle accident occurring within this  
29    Commonwealth shall be accorded the minimum liability insurance  
30    and basic compensation insurance required under this article for

1 such accidents. Absent a specific agreement to the contrary  
2 between the insured and the insurer, the insured shall be  
3 presumed to have chosen none of the deductibles or options set  
4 forth in section 1418-A. All policies of insurance which are  
5 made subject to such certifications shall be considered policies  
6 of insurance meeting the requirements of this article, even  
7 though such policies need not provide comparable benefits or  
8 coverages with respect to motor vehicle accidents occurring  
9 outside the Commonwealth of Pennsylvania. Insurers not  
10 authorized to write motor vehicle insurance in this Commonwealth  
11 may voluntarily file certificates with the commissioner in the  
12 same form as those provided for authorized insurers and with  
13 like effect.

14 (e) Basic Compensation Insurance

15 Section 1409-A. Benefits Described.--Basic compensation  
16 shall pay:

17 (a) All reasonable expenses for necessary medical, hospital,  
18 ambulance, surgical, x-ray, dental and prosthetic services and  
19 supplies including physical and occupational rehabilitation and  
20 professional nursing care but not including that portion of any  
21 charge for accommodations in any hospital, convalescent or  
22 nursing home in excess of the reasonable and customary charge  
23 for semi-private accommodations unless intensive care or other  
24 accommodations are medically required.

25 (b) Subject to an overall combined limit of nine thousand  
26 one hundred dollars (\$9,100.00) payable on account of injury or  
27 death of any one (1) person:

28 (1) For each week of disability prior to death eighty-five  
29 (85) percent of the net loss of earnings or the net loss of  
30 probable earnings of an income producer and in the event of the



1 death of the income producer for each week following death one  
2 hundred (100) percent of the net loss of support to dependent  
3 persons, subject to a weekly limit of one hundred seventy-five  
4 dollars (\$175.00) per week payable under this paragraph on  
5 account of disability or death. Net loss of earnings or the net  
6 loss of probable earnings shall be the weekly earnings prior to  
7 disability or probable loss of earnings reduced by any earnings  
8 obtained or obtainable from work or substitute work during the  
9 period of disability and, in the case of loss of unemployment  
10 compensation benefits due to disability arising out of a motor  
11 vehicle accident, the net loss of earnings shall be deemed to  
12 include an amount equivalent to any such unemployment  
13 compensation benefits lost as a result of such disability. In  
14 the case of a seasonal or irregular worker, the weekly limit  
15 shall be equitably adjusted or apportioned on an annual basis.  
16 "Dependent person" for the purposes of this paragraph shall  
17 include only the following: (i) if a member of the decedent's  
18 household immediately prior to the accident causing death, the  
19 surviving spouse of the decedent, and (ii) if dependent for more  
20 than thirty-five (35) percent of his or her support upon the  
21 earnings of the decedent immediately prior to the accident  
22 causing death, a parent or child, adopted child or minor in the  
23 custody of the decedent: Provided, however, That no loss of  
24 support may be claimed and no benefits are payable for any  
25 period after the death of the dependent person, after remarriage  
26 of the surviving spouse or after any such child or minor has  
27 attained eighteen (18) years of age or twenty-one (21) years of  
28 age if the child or minor is engaged till then in a full-time  
29 program of academic or vocational education or training. In the  
30 case of the mental or physical incompetency to produce earnings

1 on the part of a child or adopted child of the decedent, the  
2 limitation on age shall not apply.

3 (2) The expenses reasonably incurred in obtaining ordinary  
4 and necessary services in lieu of those that the injured person  
5 would have performed, not for income, but for the benefit of  
6 himself or his family, had he not been injured, subject,  
7 however, to a daily maximum of twenty-five dollars (\$25.00), for  
8 an aggregate period of three hundred sixty-five (365) days.

9 (c) Reasonable and necessary funeral and burial expenses not  
10 exceeding one thousand dollars (\$1,000.00) per deceased person.

11 Section 1410-A. Reductions Applied to Loss or Expense.--In  
12 calculating the amount of the medical expenses incurred or the  
13 loss of earnings or loss of support sustained by any person, all  
14 benefits a person receives, or is entitled to receive, because  
15 of injury from: (i) workmen's compensation, (ii) unemployment  
16 compensation, (iii) disability benefits under the Federal Old-  
17 age Survivors and Disability Benefits Insurance Law, or (iv)  
18 hospital insurance benefits for the aged or supplementary  
19 medical insurance benefits for the aged under the Federal Health  
20 Insurance For The Aged Act of 1965 shall be subtracted:

21 Provided, That no subtraction shall be made for benefits  
22 described in clause (iv) of this section to the extent that a  
23 person's entitlement to such benefits is based upon use of his  
24 so-called "life-time reserve" of benefit days.

25 Section 1411-A. Persons Entitled to Receive Payment of  
26 Benefits.--Basic compensation benefits hereinabove provided are  
27 payable to or for the benefit of the injured person or, to the  
28 person who incurs the loss or expense. If an insurer in good  
29 faith pays benefits or expenses to a person it believes is  
30 entitled to payment, the payment shall discharge the insurer's

liability to the extent of the payment unless the insurer has been notified in writing of the claim of some other person. In the event of the death of an injured person, in the absence of a court order directing payments, benefits may be paid: (i) to dependents of the deceased the benefits accrued before death without the appointment of an administrator or executor, and (ii) to the surviving spouse the benefits due to any dependent minor or incompetent person in the custody of the spouse.

Section 1412-A. Time for Payment of Benefits; Interest on Overdue Payments.--Benefits shall be overdue if not paid within thirty (30) days after the insurer receives reasonable proof of the fact and amount of loss or expense realized, except that an insurer may accumulate claims for periods not exceeding one (1) month, and benefits are not overdue if paid within fifteen (15) days after the period of accumulation. If reasonable proof is supplied as to only part of a claim, and the part totals one hundred dollars (\$100.00), or more, the part is overdue if not paid within the time provided by this section. Overdue payments bear compound interest on a daily basis at the rate of fifteen (15) percent per annum.

Section 1413-A. Exclusions of Coverage.--Basic compensation insurance shall not apply to bodily injury suffered by a person while intentionally causing or attempting to cause injury to himself or another unless the act causing injury is for the purpose of averting harm to himself or another person. Insurance may be made subject to additional limitations excluding benefits with respect to bodily injury arising out of the injured person's operation or use of the motor vehicle:

(1) In the course of the commission of a felony or in an attempt to elude lawful apprehension or arrest;

1     (2) Under circumstances resulting in his conviction for  
2 driving while under the influence of any intoxicating liquor or  
3 drug when the condition was a proximate cause of the injury;

4     (3) Without a valid driver's license or while his driver's  
5 license or driving privilege has been suspended or revoked  
6 unless the violation is due to delay or mistake in the  
7 administration of any governmental authority;

8     (4) While engaging in any prearranged motor vehicle race,  
9 speed exhibition or any other speed contest including those  
10 commonly known as "drag races"; or

11     (5) With knowledge that it is being operated without  
12 permission, express or implied, of the owner.

13     Section 1414-A. Other Insurance.--

14     (a) With respect to accidents occurring within this  
15 Commonwealth, if a claim for basic compensation benefits on  
16 account of bodily injury to or death of a person who at the time  
17 of the accident was not occupying a motor vehicle is made  
18 against an insurer liable to pay benefits, the insurer shall  
19 process and pay the claim as if wholly responsible, but shall  
20 thereafter be entitled to recover contribution pro rata for  
21 basic compensation benefits paid and the costs of processing the  
22 claim. Contribution shall be paid by the insurers of other  
23 insured motor vehicles, if any, involved in the accident and  
24 proration shall be based on the number of the insured motor  
25 vehicles involved. Benefits are payable to claimants only once  
26 regardless of the number of insurers liable to pay benefits.

27     (b) With respect to accidents occurring outside this  
28 Commonwealth, basic compensation benefits payable under this  
29 article shall be reduced to the extent of any similar benefits  
30 collectible with respect to the injury under the laws of any

1 other state.

2 Section 1415-A. Limitation of Actions.--No action for the  
3 recovery of benefits may be commenced more than two (2) years  
4 from the date of the motor vehicle accident causing the injury  
5 unless written notice of injury has been given to the insurer,  
6 within such period, by or on behalf of the person claiming  
7 benefits or unless the insurer has previously made payment of  
8 benefits for the injury: Provided, That if notice has been given  
9 or payment made, the action may be commenced at any time within  
10 a period of two (2) years after the most recent allowable  
11 expense or loss for which benefits are payable have been  
12 incurred: And provided further, That the claimant may not  
13 recover benefits for any portion of the loss incurred more than  
14 two (2) years prior to the date action is commenced.

15 Section 1416-A. Lump Sum Benefits.--Basic compensation,  
16 either with respect to a claim for a limited period of time or  
17 with respect to all future loss arising from an accidental  
18 bodily injury, may be discharged by (i) lump-sum settlement if  
19 the reasonably anticipated loss which is the subject of the  
20 settlement does not exceed one thousand dollars (\$1,000.00); or  
21 (ii) settlement, in case of reasonably anticipated loss of  
22 larger sums, with judicial approval upon a finding that the  
23 settlement will contribute substantially to the welfare or  
24 rehabilitation of the injured person or his dependent.

25 Section 1417-A. Conditions; Proof of Claim.--Basic  
26 compensation insurance may be made subject to conditions  
27 customary to the field of casualty insurance and not  
28 inconsistent with the requirements and purposes of this article,  
29 including the requirement of reasonable proof of claim and a  
30 requirement of physical or mental examination by a physician of

1 the person suffering bodily injury.

2 Section 1418-A. Optional Deductibles, Limitations and  
3 Exclusions.--Insurers shall provide, if requested by the named  
4 insured:

5 (a) A deductible applicable to the medical expense benefits  
6 under subsection (a) of section 1409-A which may be payable on  
7 account of injury to an insured, as defined in this article, in  
8 an amount up to two hundred fifty dollars (\$250.00) for each  
9 person injured in any one (1) accident.

10 (b) A deductible applicable to medical expense benefits  
11 under subsection (e) of section 1409-A which may be payable on  
12 account of injury to a person which occurs while he is operating  
13 or is a passenger on a two (2) wheeled motor vehicle in the  
14 amount of one thousand dollars (\$1,000.00) for each such person  
15 injured in any one (1) accident.

16 (c) With respect to benefits payable under subsection (b) of  
17 section 1409-A on account of injury to an insured, as defined in  
18 this article, any one (1) or more of the following limitations:

19 (i) a waiting period not exceeding ten (10) weeks following the  
20 accident which causes injury before commencement of any  
21 entitlement to weekly benefits; (ii) a reduction in the weekly  
22 benefit for loss of earnings to sixty-five (65) percent of such  
23 loss accrued after the waiting period subject to a weekly  
24 maximum of one hundred twenty-five dollars (\$125.00) and a  
25 reduction in the weekly benefit for net loss of support to  
26 sixty-five (65) percent of such loss accrued after the waiting  
27 period subject to a weekly maximum of one hundred twenty-five  
28 dollars (\$125.00); (iii) a reduction in the overall combined  
29 limit on all benefits payable on account of disability and death  
30 of any one (1) person to an amount not less than six thousand

1 five hundred dollars (\$6,500.00); and (iv) an exclusion of all  
2 compensation for expenses incurred in obtaining substituted  
3 services described in clause (2) of subsection (b) of section  
4 1409-A, such limitations to be provided by insurers.

5 Section 1419-A. Duplicate Benefits.--Every insurance company  
6 or other organization (including any organization under Title 15  
7 of the Consolidated Pennsylvania Statutes) authorized to  
8 transact or transacting an insurance or health care business in  
9 this Commonwealth which issues or renews a policy of insurance  
10 or a contract providing insurance benefits or health care as a  
11 result of injury, except life insurance benefits and basic  
12 compensation benefits under this article, shall offer at an  
13 appropriately reduced premium or charge an option to exclude  
14 benefits and services to the extent basic compensation benefits  
15 are payable under this article. An insurance company or  
16 organization (including any nonprofit organization mentioned  
17 above) which issues, or renews after the expiration of one (1)  
18 year from the effective date of this article, a group policy of  
19 insurance or contract providing insurance benefits or prepaid  
20 health care services as a result of injury, except life  
21 insurance and basic compensation benefits which are payable  
22 under this article, shall not include within the benefits or  
23 services provided any benefits or services which duplicate basic  
24 compensation benefits payable under this article, unless the  
25 policy or contract gives the insurer or organization right of  
26 subrogation to the injured person's right to receive basic  
27 compensation benefits under this article. This section does not  
28 preclude the issuance of a group policy of insurance or contract  
29 providing basic compensation benefits combined with additional  
30 benefits or insurance coverages.

1     Section 1420-A. Benefits Exempt from Assignment or  
2     Attachment.--Basic compensation benefits may not be anticipated  
3     or assigned, and they are exempt from garnishment, attachment,  
4     execution or other process, except that covered expenses may be  
5     paid by the insurer directly to persons supplying products,  
6     services or accommodations to the claimant.

7                     (f) Added Compensation Insurance

8     Section 1421-A. Permission for Added Compensation  
9     Insurance.--Nothing in this act shall be construed to prohibit  
10    the issuance of insurance coverages more extensive than the  
11    minimum coverages required for basic compensation insurance.

12                    (g) Provisions Applicable to

13                    Basic and Added Compensation Insurance

14    Section 1422-A. Subrogation; Arbitration.--

15    (a) An insurer does not have and may not directly or  
16    indirectly contract for a right of reimbursement from or  
17    subrogation to the proceeds of a claim or cause of action for  
18    elements of damage not covered under basic or added compensation  
19    insurance.

20    (b) Except as provided in subsection (a), whenever a person  
21    who receives or is entitled to receive basic or added  
22    compensation benefits for an injury has a claim or cause of  
23    action against any other person for breach of an obligation or  
24    duty causing the injury, the insurer providing basic or added  
25    compensation is subrogated to the rights of the claimant and has  
26    a claim or a cause of action separate from that of the claimant  
27    to the extent that (i) elements of damage compensated for by a  
28    basic or added compensation are recoverable, and (ii) the  
29    insurer has paid or become obligated to pay accrued basic and  
30    added compensation benefits.



1 (c) Whenever a subrogation claim is made pursuant to this  
2 section against a person insured under a policy of motor vehicle  
3 liability insurance issued pursuant to subsection (a) of section  
4 1404-A of this article, all issues arising between insurers  
5 including the issue of the person's legal liability to pay  
6 damages and all issues arising under the insurance contracts  
7 shall be determined between such insurers by arbitration in  
8 accordance with a plan to be established among all insurers  
9 subject to this article approved by the Insurance Commissioner.

10 Section 1423-A. Insurer's Rights of Indemnity.--

11 (a) In addition to its rights of subrogation, an insurer  
12 which has paid basic or added compensation benefits shall be  
13 indemnified by a person who has converted a motor vehicle  
14 involved in the accident or a person who has intentionally  
15 caused injury for the basic or added compensation benefits paid  
16 and for future basic and added compensation benefits payable for  
17 the injury caused to other persons by the conduct of that  
18 person, for the cost of processing claims for those benefits,  
19 and for reasonable attorneys' fees and other expenses of  
20 enforcing the right of indemnity. For purposes of this section,  
21 a person is not a converter if he uses the motor vehicle in the  
22 good faith belief that he is legally entitled to do so.

23 (b) An insurer which pays or becomes liable to pay basic  
24 compensation benefits for bodily injury to a person injured  
25 while occupying or being struck by an uninsured motor vehicle  
26 shall be indemnified for such benefits paid or payable by the  
27 owner or registrant of the motor vehicle or from his estate if  
28 the failure to provide insurance constituted a violation of this  
29 act up to the amount of basic compensation benefits that would  
30 have been payable by an insurer if the motor vehicle had been an

insured motor vehicle under a policy providing basic compensation insurance, for the cost of processing claims for basic benefits, and for reasonable attorneys' fees and other expenses in enforcing the right of indemnity. The failure of such person to make payment within thirty (30) days after demand shall be grounds for suspension or revocation of his motor vehicle registration and operator's license, which suspension shall continue until such time as the insurer receives payment in full.

Section 1424-A. Insurer's Arbitrary Denial of Claims.--In any suit before a court of record to enforce a claim for basic or added compensation benefits, a person may be allowed an award of a reasonable sum for attorneys' fees and all reasonable costs of suit to enforce any claim which has been denied by an insurer without reasonable foundation.

Section 1425-A. Fraudulent or Excessive Claims.--In any suit before a court of record to enforce a claim for basic or added compensation benefits, a defendant may be allowed an award of a reasonable sum for attorneys' fees and all reasonable costs of suit for its defense where the claim was fraudulent or so excessive as to have no reasonable foundation, and the attorneys' fees and all reasonable costs of suit so awarded may be treated as an offset against any benefits due, or to become due, to the claimant or may be entered as a judgment against him.

Section 1426-A. Discovery.--

(a) Upon report of an insurer or claimant, information relevant to a claim for basic or added compensation benefits against the insurer shall be disclosed as follows:

(1) An employer shall furnish a statement of the work record

1 and earnings of an employee upon whose injury the claim is based.  
2 The statement shall cover the period specified by the claimant  
3 or insurer making the request and may include a reasonable  
4 period before and the entire period after the injury.

5 (2) A person upon whose injury claim is based shall deliver  
6 to the insurer every written report available to him concerning  
7 any medical treatment, previously or thereafter made, connected  
8 to the injury, the names and addresses of physicians and medical  
9 care facilities rendering diagnoses or treatment in regard to  
10 the injury or to a relevant past injury, and shall authorize the  
11 insurer to inspect and copy records of physicians, hospitals,  
12 clinics or other medical institutions connected with the injury.

13 (3) A physician, hospital, clinic or other medical  
14 institution furnishing services or accommodations to an injured  
15 person in connection with a condition alleged to be connected  
16 with an injury upon which a claim is based, upon authorization  
17 of the injured person, shall furnish a written report of the  
18 history, condition, diagnoses, medical tests, treatment, and  
19 dates and costs of treatment of the injured person, and permit  
20 inspection and copying of records as to the history, condition,  
21 treatment, and dates and cost of treatment.

22 (b) Any person other than the claimant providing information  
23 under this section may charge the person requesting the  
24 information a reasonable amount for the cost of providing it.

25 (c) In case of dispute as to the right of a claimant or  
26 insurer to discover information required to be disclosed, the  
27 claimant or insurer may petition the court for an order for  
28 discovery including the right to take written or oral  
29 depositions. The order may be made only for good cause shown and  
30 upon notice to all persons having an interest and it shall

1 specify the time, place, manner, conditions and scope of the  
2 discovery. The court, in order to protect against annoyance,  
3 embarrassment, or oppression, may enter an order refusing  
4 discovery or specifying conditions of discovery and order  
5 payment of costs and expenses of the proceeding, including  
6 reasonable attorneys' fees.

7           (h) Rules Respecting Damages Recoverable in  
8                           Motor Vehicle Cases

9       Section 1427-A. Rule Against Duplication of Recovery.--In an  
10 action for damages against an owner, operator, occupant or other  
11 person legally responsible for the operation, maintenance, or  
12 use of a motor vehicle, including an action for damages for  
13 wrongful death and including any action which survives death, no  
14 person may plead or introduce into evidence and no damages shall  
15 be recoverable on account of any loss or expense for which basic  
16 or added compensation benefits are paid or payable or which  
17 would have been payable hereunder but for (i) the failure of the  
18 injured person to claim such benefits, or (ii) the application  
19 of any deductible, exclusion or reduced coverage option  
20 purchased by the insured under basic compensation insurance, or  
21 (iii) an exclusion of coverage under either section 1413-A or  
22 section 1431-A. Nothing in this section shall be construed to  
23 preclude recovery of such damages in either of the following  
24 cases:

25       (1) An action based on the right to reimbursement of an  
26 insurer instituted or maintained pursuant to section 1422-A of  
27 this article; or

28       (2) An action in cases where the injured party establishes  
29 that the defendant failed to provide the basic compensation  
30 coverage for the benefit of the injured party as required by the

1 provisions of this article.

2 Section 1428-A. Rules Respecting Damages Recoverable for  
3 Nonpecuniary Loss.--No damages for pain, suffering,  
4 inconvenience, physical impairment, loss of consortium or other  
5 nonpecuniary loss shall be recoverable in any action against an  
6 owner, operator, occupant, or other person legally responsible  
7 for the operation, maintenance or use of a motor vehicle for  
8 injury sustained in a motor vehicle accident occurring within  
9 the Commonwealth of Pennsylvania or as to which the law of  
10 Pennsylvania as to damages is applicable, unless:

11 (1) Bodily injury results in a significant loss of an  
12 important body function which causes inability of an injured  
13 person to perform substantially all his usual activities for a  
14 period of six (6) months or longer; or

15 (2) Bodily injury results in disfigurement which is  
16 permanent, severe and irreparable; or

17 (3) Bodily injury results in death.

18 (i) Assigned Claims Plan

19 Section 1429-A. Establishment of Assigned Claims Plan and  
20 Bureau.--Insurers authorized in this Commonwealth to write basic  
21 compensation insurance and self-insurers providing security in  
22 lieu of insurance shall, subject to approval and regulation by  
23 the Insurance Commissioner, organize and maintain and shall  
24 participate in an assigned claims bureau and an assigned claims  
25 plan and formulate and from time to time amend rules and  
26 regulations for their operation and assessment and refund of  
27 assessment of costs including losses paid, the cost of adjusting  
28 losses and costs incurred in the operation of the bureau on a  
29 fair and equitable basis consistent with the provisions of this  
30 article. In default of the organization and continued

1 maintenance of an assigned claims bureau and assigned claims  
2 plan, the Insurance Commissioner shall organize and maintain a  
3 bureau and plan.

4 Section 1430-A. Claims That May be Made to the Assigned  
5 Claims Plan.--A person suffering injury or loss arising out of a  
6 motor vehicle accident occurring within the Commonwealth may  
7 obtain basic compensation benefits through the assigned claims  
8 plan in accordance with the provisions of this article if:

9 (a) No insurance is applicable to the injury; or

10 (b) No insurance applicable to the injury can be identified;  
11 or

12 (c) The only identifiable insurance applicable to the injury  
13 is, because of the financial inability of a self-insurer to  
14 fulfill its obligations, inadequate to provide benefits up to  
15 the maximum prescribed. In the latter case, the insurer or self-  
16 insurer to which the claim is assigned, or the bureau of  
17 assigned claim if the claim is assigned to it, is entitled to  
18 reimbursement from the defaulting insurer or self-insurer.

19 Section 1431-A. Disqualification of Certain Claims for  
20 Cause.--No payment under this assigned claims plan may be made  
21 with respect to a bodily injury to a person if the bodily injury  
22 arises out of the injured person's operation or use of a motor  
23 vehicle under any of the circumstances described in section  
24 1413-A or if the injured person himself or his or her spouse  
25 resident in his household causes or contributes to the failure  
26 of insurance by failing to insure a motor vehicle under  
27 circumstances where such failure constitutes a violation of this  
28 article.

29 Section 1432-A. Time for Presenting Claims and Commencing  
30 Suits.--A person claiming through the assigned claims plan shall

1 notify the bureau of his claim within the time that would have  
2 been allowed for filing an action for insurance benefits had  
3 there been in effect identifiable coverage applicable to the  
4 claim. If timely action for benefits is commenced against a  
5 self-insurer which, because of financial inability, is unable to  
6 fulfill its obligation, a claim through the assigned claims plan  
7 may be made within six (6) months after discovery of the  
8 financial inability. The bureau shall promptly assign each claim  
9 in accordance with the plan and notify the claimant of the  
10 identity and address of the insurer or self-insurer to which the  
11 claim is assigned (or the bureau if the claim is assigned to  
12 it). No action by the claimant shall be commenced later than  
13 ninety (90) days after receipt of notice of the assignment or  
14 the last date on which the action could otherwise have been  
15 commenced, whichever is later.

16 Section 1433-A. Rights and Obligations of Insurers and Self-  
17 insurers to Whom Claim is Assigned.--The insurer or self-insurer  
18 to whom claim is assigned or the bureau, if the claim is  
19 assigned to it, shall:

20 (a) Have all the rights and obligations as if it had issued  
21 a policy of basic compensation insurance complying with this  
22 article applicable to the injury or, in the case of the  
23 financial inability of a self-insurer to perform its  
24 obligations, as if the assignee had written the applicable basic  
25 compensation insurance or undertaken the self-insurance or  
26 obligation.

27 (b) Preserve and enforce all rights to indemnity,  
28 subrogation or reimbursement against any insurer, self-insurer  
29 or third party legally obligated to pay the claim.

30 Section 1434-A. Insurance Rates to Reflect Costs of Assigned

1 Claims.--All reasonable costs incurred in the handling and  
2 disposition of assigned claims (including amounts paid pursuant  
3 to assessments under this article) shall be taken into account  
4 in making and regulating rates for basic compensation insurance.

5 (j) Miscellaneous Provisions

6 Section 1435-A. Penalty.--Any owner of a motor vehicle who  
7 operates his motor vehicle or permits it to be operated upon a  
8 public highway in this Commonwealth without having in full force  
9 and effect the minimum insurance coverages required by this  
10 article is guilty of a misdemeanor. Any other person who  
11 operates a motor vehicle upon a public highway in this  
12 Commonwealth with the knowledge that the owner does not have a  
13 minimum insurance in full force and effect is guilty of a  
14 misdemeanor. Any person convicted of a misdemeanor under the  
15 terms of this section shall have his license and, if an owner,  
16 his registration revoked and may be fined not less than one  
17 hundred dollars (\$100.00) nor more than one thousand five  
18 hundred dollars (\$1,500.00) or may be imprisoned for not more  
19 than one (1) year or both. The revocation of license or motor  
20 vehicle registration pursuant to this section shall continue for  
21 a period of six (6) months and until evidence of the insurance  
22 required by this article is supplied, and, if applicable, the  
23 provisions of Article XIV of this act, have been fully  
24 satisfied.

25 Section 1436-A. Filing of Rates and Forms.--In order to  
26 assure the prompt implementation of this act and to encourage  
27 the preparation of the initial policy forms and rates required  
28 by this article, all insurers licensed to transact and  
29 transacting the business of motor vehicle liability insurance  
30 immediately prior to the effective date of this section and



desiring to qualify to write basic compensation and minimum liability insurance shall, not later than six (6) months after the effective date of this section as a condition of qualification, comply with the initial form filing requirements of section 354, act of May 17, 1921 (P.L.682, No.284), known as the "Insurance Company Law of 1921," as amended, and the initial rate filing requirements of paragraph (a) of section 4, act of June 11, 1947 (P.L.538, No.246), known as "The Casualty and Surety Rate Regulatory Act."

Section 1437-A. Reduction in Premiums.--The premiums charged by any company during the first twelve (12) month period after the effective date of this act for insurance against bodily injury liability to the limits required in subsection (a) of section 1403-A, together with insurance for the payment of basic compensation benefits required in subsection (b) of section 1404-A shall not exceed eighty (80) percent of the combined premiums for bodily injury liability insurance for the same limits required in subsection (a) of section 1404-A and one thousand dollars (\$1,000.00) of medical payments insurance approved for the company and in effect on the date of approval of this act. These premiums shall be in conformity with the act of June 11, 1947 (P.L.538, No.246), known as "The Casualty and Surety Rate Regulatory Act."

Section 1438-A. Agreements for Apportionment of Automobile Insurance; Mandatory Participation.--Each company authorized to write any kind or kinds of automobile insurance with respect to which there has been an agreement submitted to and approved by the commissioner as provided in section 15 of The Casualty and Surety Rate Regulatory Act for the apportionment among insurers transacting such insurance of applicants who are in good faith

1 entitled to but are unable to procure such insurance through  
2 ordinary methods shall, as a condition of obtaining and  
3 continuing its authority to transact any such kind or kinds of  
4 automobile insurance, subscribe to such agreements and shall  
5 participate in such agreements in accordance with and to the  
6 extent required by its provisions.

7 Section 1439-A. Severability.--If any provision of this  
8 article or the application thereof to any person or circumstance  
9 is held invalid, such invalidity does not affect other  
10 provisions or applications of this act which can be given effect  
11 without the invalid application or provision, and to this end  
12 the provisions of this article are declared to be severable.  
13 However, section 1428-A, entitled "Rules Respecting Damages  
14 Recoverable for Nonpecuniary Loss" of this article is expressly  
15 made inseverable.

16 Section 2. This act shall take effect one year after it is  
17 adopted: Provided, however, That section 1436-A, entitled  
18 "Filing of Rates and Forms," of Article XIV-A, as added by this  
19 act, shall take effect immediately.