

CRIMES CODE (18 PA.C.S.), JUDICIAL CODE (42 PA.C.S.) AND VEHICLE
CODE (75 PA.C.S.) - AMEND

Act of Feb. 7, 1990, P.L. 11, No. 6

Cl. 75

Session of 1990

No. 1990-6

HB 121

AN ACT

Amending Titles 18 (Crimes and Offenses), 42 (Judiciary and Judicial Procedure) and 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for corrupt organizations; providing for motor vehicle insurance fraud; providing for certification of pleadings, motions and other papers; providing for special damages; further providing for vehicle registration; further providing for financial responsibility and insurance related to motor vehicles; providing for proof of insurance and for election of tort options and for medical treatment and benefits; further providing for reinstatement of operating privileges or vehicle registration; further providing for certain safety and antitheft devices, for a market study, for motor vehicle insurance in cities of the first class, and for insurance premium rates and premium rate procedures; further providing for inspection of vehicles; providing for certain reductions in automobile insurance premiums; conferring powers and duties on the Insurance Department and the Department of Transportation; adding provisions relating to motor vehicle insurance fraud; and making repeals.

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

Section 1. Section 911(h) of Title 18 of the Pennsylvania Consolidated Statutes is amended to read:

§ 911. Corrupt organizations.

* * *

(h) Definitions.--As used in this section:

(1) "Racketeering activity" means:

(i) any act which is indictable under any of the following provisions of this title:

Chapter 25 (relating to criminal homicide)

Section 2706 (relating to terroristic threats)

Chapter 29 (relating to kidnapping)

Chapter 33 (relating to arson, etc.)

Chapter 37 (relating to robbery)

Chapter 39 (relating to theft and related offenses)

Section 4108 (relating to commercial bribery and breach of duty to act disinterestedly)

Section 4109 (relating to rigging publicly exhibited contest)

Section 4117 (relating to motor vehicle insurance fraud)

Chapter 47 (relating to bribery and corrupt influence)

Chapter 49 (relating to perjury and other falsification in official matters)

Section 5512 through 5514 (relating to gambling)

Chapter 59 (relating to public indecency)

(ii) any offense indictable under section 13 of the act of April 14, 1972 (P.L.233, No.64), known as ["The

Controlled Substance, Drug, Device and Cosmetic Act["]
(relating to the sale and dispensing of narcotic drugs);

(iii) any conspiracy to commit any of the offenses set forth in subparagraphs (i) and (ii) of this paragraph; or

(iv) the collection of any money or other property in full or partial satisfaction of a debt which arose as the result of the lending of money or other property at a rate of interest exceeding 25% per annum or the equivalent rate for a longer or shorter period, where not otherwise authorized by law.

Any act which otherwise would be considered racketeering activity by reason of the application of this paragraph, shall not be excluded from its application solely because the operative acts took place outside the jurisdiction of this Commonwealth, if such acts would have been in violation of the law of the jurisdiction in which they occurred.

(2) "Person" means any individual or entity capable of holding a legal or beneficial interest in property.

(3) "Enterprise" means any individual, partnership, corporation, association or other legal entity, and any union or group of individuals associated in fact although not a legal entity, engaged in commerce.

(4) "Pattern of racketeering activity" refers to a course of conduct requiring two or more acts of racketeering activity one of which occurred after the effective date of this section.

(5) "Racketeering investigator" means an attorney, investigator or investigative body so designated in writing by the Attorney General and charged with the duty of enforcing or carrying into effect the provisions of this section.

(6) "Racketeering investigation" means any inquiry conducted by any racketeering investigator for the purpose of ascertaining whether any person has been involved in any violation of this section or of any order, judgment, or decree of any court duly entered in any case or proceeding arising under this section.

(7) "Documentary material" means any book, paper, record, recording, tape, report, memorandum, written communication, or other document relating to the business affairs of any person or enterprise.

Section 2. Title 18 is amended by adding a section to read:

§ 4117. Motor vehicle insurance fraud.

(a) **Offense defined.--A person commits an offense if the person does any of the following:**

(1) **Knowingly and with the intent to defraud a State or local government agency files, presents or causes to be filed with or presented to the government agency a document that contains false, incomplete or misleading information concerning any fact or thing material to the agency's determination in approving or disapproving a motor vehicle insurance rate filing, a motor vehicle insurance transaction or other motor vehicle insurance action which is required or filed in response to an agency's request.**

(2) **Knowingly and with the intent to defraud any insurer, presents or causes to be presented to any insurer any statement forming a part of, or in support of, a motor vehicle insurance claim that contains any false, incomplete**

or misleading information concerning any fact or thing material to the motor vehicle insurance claim.

(3) Knowingly and with the intent to defraud any insurer, assists, abets, solicits or conspires with another to prepare or make any statement that is intended to be presented to any insurer in connection with, or in support of, a motor vehicle insurance claim that contains any false, incomplete or misleading information concerning any fact or thing material to the motor vehicle insurance claim.

(4) Engages in unlicensed agent or broker activity as defined by the act of May 17, 1921 (P.L.789, No.285), known as The Insurance Department Act of one thousand nine hundred and twenty-one, knowingly and with the intent to defraud a motor vehicle insurer or the public.

(5) Knowingly benefits, directly or indirectly, from the proceeds derived from a violation of this section due to the assistance, conspiracy or urging of any person.

(6) Is the owner, administrator or employee of any health care facility and knowingly allows the use of such facility by any person in furtherance of a scheme or conspiracy to violate any of the provisions of this section.

(7) Borrows or uses another person's financial responsibility identification card or permits his financial responsibility identification card to be used by another, knowingly and with intent to present a fraudulent motor vehicle insurance claim to an insurer.

(b) Additional offenses defined.--

(1) In a claim arising out of a motor vehicle accident, a lawyer may not compensate or give anything of value to a nonlawyer to recommend or secure employment by a client or as a reward for having made a recommendation resulting in employment by a client; except that the lawyer may pay:

(i) the reasonable cost of advertising or written communication as permitted by the rules of professional conduct; or

(ii) the usual charges of a not-for-profit lawyer referral service or other legal service organization.

Upon a conviction of an offense provided for by this paragraph, the prosecutor shall certify such conviction to the disciplinary board of the Supreme Court for appropriate action. Such action may include a suspension or disbarment.

(2) With respect to a motor vehicle insurance benefit or claim, a health care provider may not compensate or give anything of value to a person to recommend or secure the provider's service to or employment by a patient or as a reward for having made a recommendation resulting in the provider's service to or employment by a patient; except that the provider may pay the reasonable cost of advertising or written communication as permitted by rules of professional conduct. Upon a conviction of an offense provided for by this paragraph, the prosecutor shall certify such conviction to the appropriate licensing board in the Department of State which shall suspend or revoke the health care provider's license.

(3) A person may not receive compensation, a reward or anything of value in return for providing names, addresses, telephone numbers or other identifying information of victims involved in motor vehicle accidents to a lawyer or health care provider which results in employment of the lawyer or

health care provider by the victims for purposes of a motor vehicle insurance claim or suit. Attempts to circumvent this paragraph through use of any other person, including, but not limited to, employees, agents or servants, shall also be prohibited. This provision shall not prohibit a lawyer or health care provider from making a referral and receiving compensation as is permitted under applicable professional rules of conduct.

(c) Electronic claims submission.--If a motor vehicle insurance claim is made by means of computer billing tapes or other electronic means, it shall be a rebuttable presumption that the person knowingly made the claim if the person has advised the insurer in writing that claims will be submitted by use of computer billing tapes or other electronic means.

(d) Grading.--An offense under subsection (a)(1) through (7) is a felony of the third degree. An offense under subsection (b) is a misdemeanor of the first degree.

(e) Restitution.--The court may, in addition to any other sentence authorized by law, sentence a person convicted of violating this section to make restitution under section 1106 (relating to restitution for injuries to person or property).

(f) Immunity.--An insurer, and any agent, servant or employee acting in the course and scope of his employment, shall be immune from civil or criminal liability arising from the supply or release of written or oral information to any entity duly authorized to receive such information by Federal or State law, or by Insurance Department regulations, only if both of the following conditions exist:

(1) the information is supplied to the agency in connection with an allegation of fraudulent conduct on the part of any person relating to a violation of this section; and

(2) the insurer, agent, servant or employee has reason to believe that the information supplied is related to the allegation of fraud.

(g) Civil action.--An insurer damaged as a result of a violation of this section may sue therefor in any court of competent jurisdiction to recover compensatory damages, which may include reasonable investigation expenses, costs of suit and attorney fees. An insurer may recover damages if the court determines that the defendant has engaged in a pattern of violating this section.

(h) Criminal action.--

(1) The district attorneys of the several counties shall have authority to investigate and to institute criminal proceedings for any violation of this section.

(2) In addition to the authority conferred upon the Attorney General by the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act, the Attorney General shall have the authority to investigate and to institute criminal proceedings for any violation of this section or any series of such violations involving more than one county of the Commonwealth or involving any county of the Commonwealth and another state. No person charged with a violation of this section by the Attorney General shall have standing to challenge the authority of the Attorney General to investigate or prosecute the case, and, if any such challenge is made, the challenge shall be dismissed and no relief shall be available in the courts of the Commonwealth to the person making the challenge.

(i) Regulatory and investigative powers additional to those now existing.--Nothing contained in this section shall be construed to limit the regulatory or investigative authority of any department or agency of the Commonwealth whose functions might relate to persons, enterprises or matters falling within the scope of this section.

(j) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Insurance policy." A document setting forth the terms and conditions of a contract of insurance.

"Insurer." A company, association or exchange defined by section 101 of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921; an unincorporated association of underwriting members; a hospital plan corporation; a professional health services plan corporation; a health maintenance organization; a fraternal benefit society; and a self-insured health care entity under the act of October 15, 1975 (P.L.390, No.111), known as the Health Care Services Malpractice Act.

"Motor vehicle insurance claim." A claim for payment or other benefit pursuant to a motor vehicle insurance policy.

"Person." An individual, corporation, partnership, association, joint-stock company, trust or unincorporated organization. The term includes any individual, corporation, association, partnership, reciprocal exchange, interinsurer, Lloyd's insurer, fraternal benefit society, beneficial association and any other legal entity engaged or proposing to become engaged, either directly or indirectly, in the business of insurance, including agents, brokers, adjusters and health care plans as defined in 40 Pa.C.S. Chs. 61 (relating to hospital plan corporations), 63 (relating to professional health services plan corporations), 65 (relating to fraternal benefit societies) and 67 (relating to beneficial societies) and the act of December 29, 1972 (P.L.1701, No.364), known as the Health Maintenance Organization Act. For purposes of this section, health care plans, fraternal benefit societies and beneficial societies shall be deemed to be engaged in the business of insurance.

"Statement." Any oral or written presentation or other evidence of loss, injury or expense, including, but not limited to, any notice, statement, proof of loss, bill of lading, receipt for payment, invoice, account, estimate of property damages, bill for services, diagnosis, prescription, hospital or doctor records, X-ray, test result or computer-generated documents.

Section 3. Chapter 83 of Title 42 is amended by adding a section and a subchapter to read:

§ 8355. Certification of pleadings, motions and other papers.

Every pleading, motion and other paper of a party represented by an attorney shall be signed by at least one attorney of record in his individual name and his address shall be stated. A party who is not represented by an attorney shall sign his pleading, motion or other paper and state his address. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. The signature of an attorney or party constitutes a certification by him that he has read the pleading, motion or other paper; that, to the best of his knowledge, information and belief, it is well-grounded in fact and is warranted by existing law or a

good-faith argument for the extension, modification or reversal of existing law; and that it is not interposed in bad faith or for any improper purpose, such as to harass another, to maliciously injure another or to cause unnecessary delay or increase in the cost of litigation. If a pleading, motion or other paper is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant. If a pleading, motion or other paper is signed in violation of this section, the court shall award to the successful party costs and reasonable attorney fees and may, in addition, impose a civil penalty which shall not exceed \$10,000. Such costs, fees and civil penalty shall be in addition to any other judgment awarded to the successful party and shall be imposed upon the person who signed the pleading, motion or other paper, or a represented party, or both. This section is in addition to and shall not be construed to limit any other remedies or sanctions provided by law.

SUBCHAPTER G
SPECIAL DAMAGES

Sec.

8371. Actions on insurance policies.

§ 8371. Actions on insurance policies.

In an action arising under an insurance policy, if the court finds that the insurer has acted in bad faith toward the insured, the court may take all of the following actions:

- (1) Award interest on the amount of the claim from the date the claim was made by the insured in an amount equal to the prime rate of interest plus 3%.
- (2) Award punitive damages against the insurer.
- (3) Assess court costs and attorney fees against the insurer.

Section 4. Sections 1305 and 1306 of Title 75 are amended to read:

§ 1305. Application for registration.

(a) General rule.--Application for the registration of a vehicle shall be made to the department upon the appropriate form or forms furnished by the department. The application shall contain the full name and address of the owner or owners; the make, model, year and vehicle identification number of the vehicle; and such other information as the department may require. Applicants for registration of a truck, truck tractor, trailer or bus shall provide the vehicle's Gross Vehicle Weight Rating (GVWR), or the Gross Combination Weight Rating (GCWR), as applicable. If the manufacturer's ratings are not available, the applicant shall provide sufficient information as to the horsepower, braking capacity and such other data as necessary for the department to determine an equivalent measure of the vehicle's hauling and stopping capability. If the applicant wishes to register a vehicle at a registered gross weight less than the gross vehicle weight rating, the application shall include information as to weight, load and any other such information as the department may require. The application shall be accompanied by self-certification of financial responsibility and the applicable fee.

(b) Evidence of P.U.C. approval for buses and taxis.--Before registering any bus or taxi which is required under the laws of this Commonwealth to obtain a certificate of public convenience from the Pennsylvania Public Utility Commission,

the department shall require evidence that the certificate has been issued and has not been revoked or has not expired.

(c) Designation of lessee as registrant.--The owner as lessor may designate the lessee as the registrant of the vehicle and the name and address of the lessee may be substituted on the registration card for the address of the lessor. The department shall designate the relationship upon the card in a manner it deems appropriate. This subsection is applicable only for the period during which the lease remains in effect.

(d) Self-certification of financial responsibility.--In addition to the other requirements to registration, the applicant shall file a self-certification of financial responsibility which shall include:

(1) The complete name, address and telephone number of the applicant.

(2) The name of the insurance company which is insuring the subject vehicle.

(3) The policy number, effective date and expiration date of the policy of insurance insuring the vehicle.

§ 1306. Grounds for refusing registration.

The department shall refuse registration or renewal or transfer of registration when any of the following circumstances exists:

(1) The applicant is not entitled to registration under the provisions of this chapter.

(2) The applicant has at registration or titling neglected or refused to furnish the department with the information required on the appropriate official form, or any reasonable additional information required by the department.

(3) The department has reasonable grounds to believe that the application contains false or fraudulent information, or that the vehicle is stolen, which fact the department shall ascertain by reference to the stolen vehicle file required to be maintained under section 7114 (relating to records of stolen vehicles), or that the granting of registration would constitute a fraud against the rightful owner or other person having a valid lien upon the vehicle.

(4) The fees required by law have not been paid.

(5) The vehicle is not constructed or equipped as required by this title.

(6) The registration of the vehicle stands suspended for any reason as provided for in this title.

(7) Self-certification of financial responsibility, as required under section 1305(d) (relating to application for registration), is not filed with the registration application.

Section 5. Title 75 is amended by adding a section to read:
§ 1318. Duties of agents.

(a) Verification of financial responsibility.--An agent of the Department of Transportation who is authorized to issue on behalf of the department a vehicle registration renewal or temporary registration shall be required to verify financial responsibility prior to issuance.

(b) Proof.--Proof of financial responsibility shall be verified by examining one of the following documents:

(1) An identification card as required by regulations promulgated by the Insurance Department.

(2) The declaration page of an insurance policy.

(3) A certificate of financial responsibility.

(4) A valid binder of insurance issued by an insurance company licensed to sell motor vehicle liability insurance in Pennsylvania.

Section 6. Sections 1376 and 1540(c) of Title 75 are amended to read:

§ 1376. Surrender of registration plates and cards upon suspension **or revocation.**

(a) General rule.--The department, upon suspending **or revoking** any registration, shall require the registration plate or plates and registration card **or cards** to be surrendered immediately to the department [and].

(b) **Delegation of authority.**--If within 35 days the registration plates and cards are not surrendered under subsection (a), the department may delegate authority to [any authorized department employee, member of the Pennsylvania State Police or local police officer to seize the registration plate or plates and registration card or cards.] **the following persons to seize a registration plate and registration card which are required to be surrendered under subsection (a):**

- (1) A designated department employee.
- (2) Members of the Pennsylvania State Police.
- (3) Local police officers.
- (4) Sheriffs or deputy sheriffs.
- (5) Constables or deputy constables. If constables and deputy constables are delegated authority to seize registration plates and registration cards under this section, they shall be compensated by the department at the rate of \$15 for each registration plate and card jointly seized, plus mileage. The department shall pay a constable or deputy constable within 30 days after a documented request for payment is submitted to it.

(c) **Regulations.**--The department shall, by regulation, prescribe the manner of selecting [the employees and State and local police officers] **those persons who are delegated authority under this section** to seize the registration plates and registration cards.

[(b)] (d) **Penalty.**--Any person failing or refusing to surrender to the department **or its authorized delegate**, upon demand, any registration plate or card which has been suspended **or revoked** is guilty of a summary offense and shall, upon conviction, be sentenced to pay a fine of [\$100] **\$300, plus costs. Costs shall include a reasonable fee for official seizure of the unsurrendered items.**

§ 1540. Surrender of license.

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(c) Seizure of revoked and suspended licenses.--

(1) The department may delegate authority to [any authorized department employee, member of the Pennsylvania State Police or local police officer] **the following persons** to seize the driver's license of any person [when the operating privilege of that person has been revoked or suspended and his] **whose** driver's license has been ordered to be surrendered by a court or district attorney or by the department[.]:

- (i) A designated department employee.
- (ii) Members of the Pennsylvania State Police.
- (iii) Local police officers.
- (iv) Sheriffs or deputy sheriffs.
- (v) Constables or deputy constables. If constables and deputy constables are delegated authority to seize

drivers' licenses under this subsection, they shall be compensated by the department at the rate of \$15 for each driver's license seized, plus mileage. The department shall pay a constable or deputy constable within 30 days after a documented request is submitted to it.

(2) The department shall, by regulation, prescribe the manner of selecting [the employees and State and local police officers] **those persons who are delegated authority under this subsection** to seize the drivers' licenses.

Section 7. Section 1702 of Title 75 is amended by adding definitions to read:

§ 1702. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Assigned Risk Plan." A program for the equitable apportionment of assigned risks and clean risks among insurers.

"Automobile Insurance Policy Act." The act of June 5, 1968 (P.L.140, No.78), entitled "An act regulating the writing, cancellation of or refusal to renew policies of automobile insurance; and imposing powers and duties on the Insurance Commissioner therefor."

* * *

"Clean risk." An insured or an applicant for insurance who, for the 36-month period immediately preceding the date of application or renewal date of the policy:

(1) has not been involved in an accident as a driver, provided that, for purposes of this paragraph, an "accident" shall not include accidents described in section 3 of the Automobile Insurance Policy Act or section 1799.3 (relating to limit on cancellations, refusals to renew, refusals to write, surcharges, rate penalties and point assignments);

(2) has not received more than three points for violations as set forth in Chapter 15 (relating to licensing of drivers); and

(3) whose operator's license has not been suspended or revoked except under section 1533 (relating to suspension of operating privilege for failure to respond to citation) and the insured is able to produce proof that he or she has responded to all citations and paid all fines and penalties imposed under that section and provided further that the named insured has been a licensed operator in Pennsylvania or another state for the immediately preceding three years.

"Commissioner." The Insurance Commissioner of the Commonwealth.

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"Necessary medical treatment and rehabilitative services." Treatment, accommodations, products or services which are determined to be necessary by a licensed health care provider unless they shall have been found or determined to be unnecessary by a State-approved Peer Review Organization (PRO).

"Noneconomic loss." Pain and suffering and other nonmonetary detriment.

"Peer Review Organization" or "PRO." Any Peer Review Organization with which the Federal Health Care Financing Administration or the Commonwealth contracts for medical review of Medicare or medical assistance services, or any health care review company, approved by the commissioner,

that engages in peer review for the purpose of determining that medical and rehabilitation services are medically necessary and economically provided. The membership of any PRO utilized in connection with this chapter shall include representation from the profession whose services are subject to the review.

"Private passenger motor vehicle." A four-wheel motor vehicle, except recreational vehicles not intended for highway use, which is insured by a natural person and:

(1) is a passenger car neither used as a public or livery conveyance nor rented to others; or

(2) has a gross weight not exceeding 9,000 pounds and is not principally used for commercial purposes other than farming.

The term does not include any motor vehicle insured exclusively under a policy covering garage, automobile sales agency repair shop, service station or public parking place operation hazards.

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"Serious injury." A personal injury resulting in death, serious impairment of body function or permanent serious disfigurement.

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"Voluntary rate." An insurer's rating plan approved by the commissioner. In the case of an insurer with multiple rating plans, the voluntary rate shall be that rating plan applicable to the risk.

Section 8. Title 75 is amended by adding a section to read:

§ 1705. Election of tort options.

(a) Financial responsibility requirements.--

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

NOTICE TO NAMED INSUREDS

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

B. "Full Tort" Option--The laws of the Commonwealth of Pennsylvania also give you the right to choose a form of insurance under which you maintain an unrestricted right for you and the members of your household to seek financial compensation for injuries caused by other drivers. Under this form of insurance, you and other household members covered under this policy may seek

the notice required by paragraph (1). A policy may not be issued until the applicant has been provided an opportunity to elect a tort option.

(5) An owner of a currently registered private passenger motor vehicle who does not have financial responsibility shall be deemed to have chosen the limited tort alternative.

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

(b) Application of tort options.--

(1) The tort option elected by a named insured shall apply to all private passenger motor vehicle policies of the named insured issued by the same insurer and shall continue in force as to all subsequent renewal policies, replacement policies and any other private passenger motor vehicle policies under which the individual is a named insured until the insurer, or its authorized representative, receives a properly executed form electing the other tort option.

(2) The tort option elected by a named insured shall apply to all insureds under the private passenger motor vehicle policy who are not named insureds under another private passenger motor vehicle policy. In the case where more than one private passenger motor vehicle policy is applicable to an insured and the policies have conflicting tort options, the insured is bound by the tort option of the policy associated with the private passenger motor vehicle in which the insured is an occupant at the time of the accident if he is an insured on that policy and bound by the full tort option otherwise.

(3) An individual who is not an owner of a currently registered private passenger motor vehicle and who is not a named insured or insured under any private passenger motor vehicle policy shall not be precluded from maintaining an action for noneconomic loss or economic loss sustained in a motor vehicle accident as the consequence of the fault of another person pursuant to applicable tort law.

(c) Full tort alternative.--Each person who is bound by the full tort election remains eligible to seek compensation for noneconomic loss claimed and economic loss sustained in a motor vehicle accident as the consequence of the fault of another person pursuant to applicable tort law.

(d) Limited tort alternative.--Each person who elects the limited tort alternative remains eligible to seek compensation for economic loss sustained in a motor vehicle accident as the consequence of the fault of another person pursuant to applicable tort law. Unless the injury sustained is a serious injury, each person who is bound by the limited tort election shall be precluded from maintaining an action for any noneconomic loss, except that:

(1) An individual otherwise bound by the limited tort election who sustains damages in a motor vehicle accident as the consequence of the fault of another person may recover damages as if the individual damaged had elected the full tort alternative whenever the person at fault:

(i) is convicted or accepts Accelerated Rehabilitative Disposition (ARD) for driving under the influence of alcohol or a controlled substance in that accident;

(ii) is operating a motor vehicle registered in another state;

(iii) intends to injure himself or another person, provided that an individual does not intentionally injure himself or another person merely because his act or failure to act is intentional or done with his realization that it creates a grave risk of causing injury or the act or omission causing the injury is for the purpose of averting bodily harm to himself or another person; or

(iv) has not maintained financial responsibility as required by this chapter, provided that nothing in this paragraph shall affect the limitation of section 1731(d)(2) (relating to availability, scope and amount of coverage).

(2) An individual otherwise bound by the limited tort election shall retain full tort rights with respect to claims against a person in the business of designing, manufacturing, repairing, servicing or otherwise maintaining motor vehicles arising out of a defect in such motor vehicle which is caused by or not corrected by an act or omission in the course of such business, other than a defect in a motor vehicle which is operated by such business.

(3) An individual otherwise bound by the limited tort election shall retain full tort rights if injured while an occupant of a motor vehicle other than a private passenger motor vehicle.

(e) Nondiscrimination.--No insurer shall cancel, refuse to write or refuse to renew a motor vehicle insurance policy based on the tort option election of the named insured. Any violation of this subsection shall be deemed a violation of the Automobile Insurance Policy Act.

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

"Insured." Any individual residing in the household of the named insured who is:

(1) a spouse or other relative of the named insured;

or

(2) a minor in the custody of either the named insured or relative of the named insured.

"Named insured." Any individual identified by name as an insured in a policy of private passenger motor vehicle insurance.

Section 9. Sections 1711, 1712, 1715(a), 1718(c), 1720, 1722 and 1731 of Title 75 are amended to read:
§ 1711. Required benefits.

(a) **Medical benefit.**--An insurer issuing or delivering liability insurance policies covering any motor vehicle of the type required to be registered under this title, except recreational vehicles not intended for highway use, motorcycles, motor-driven cycles or motorized pedalcycles or like type vehicles, registered and operated in this Commonwealth, shall include coverage providing a medical benefit in the amount of [\$10,000, an income loss benefit up to a monthly maximum of \$1,000 up to a maximum benefit of \$5,000 and a funeral benefit in the amount of \$1,500, as defined in section 1712 (relating to availability of benefits), with respect to injury arising out of the maintenance or use of a motor vehicle. The income loss benefit provided under this section may be expressly waived by the named insured provided the named insured has no expectation of actual income loss due to age, disability or lack of employment history. At the election of the named

insured, such policy shall also include an extraordinary medical benefit as described in section 1715(a)(1.1) and (d) (relating to availability of adequate limits).] **\$5,000.**

(b) Minimum policy.--All insurers subject to this chapter shall make available for purchase a motor vehicle insurance policy which contains only the minimum requirements of financial responsibility and medical benefits as provided for in this chapter.

§ 1712. Availability of benefits.

An insurer issuing or delivering liability insurance policies covering any motor vehicle of the type required to be registered under this title, except recreational vehicles not intended for highway use, motorcycles, motor-driven cycles or motorized pedalcycles or like type vehicles, registered and operated in this Commonwealth, shall make available for purchase first party benefits with respect to injury arising out of the maintenance or use of a motor vehicle as follows:

(1) Medical benefit.--[Coverage] **Subject to the limitations of section 1797 (relating to customary charges for treatment), coverage** to provide for reasonable and necessary medical treatment and rehabilitative services, including, but not limited to, hospital, dental, surgical, psychiatric, psychological, osteopathic, ambulance, chiropractic, licensed physical therapy, nursing services, vocational rehabilitation and occupational therapy, speech pathology and audiology, optometric services, medications, medical supplies and prosthetic devices, all without limitation as to time, provided that, within 18 months from the date of the accident causing injury, it is ascertainable with reasonable medical probability that further expenses may be incurred as a result of the injury. Benefits under this paragraph may include any nonmedical remedial care and treatment rendered in accordance with a recognized religious method of healing.

(2) Income loss benefit.--Includes the following:

(i) Eighty percent of actual loss of gross income.

(ii) Reasonable expenses actually incurred for hiring a substitute to perform self-employment services thereby mitigating loss of gross income or for hiring special help thereby enabling a person to work and mitigate loss of gross income.

Income loss does not include loss of expected income for any period following the death of an individual or expenses incurred for services performed following the death of an individual. Income loss shall not commence until five working days have been lost after the date of the accident.

(3) Accidental death benefit.--A death benefit paid to the personal representative of the insured, should injury resulting from a motor vehicle accident cause death within 24 months from the date of the accident.

(4) Funeral benefit.--Expenses directly related to the funeral, burial, cremation or other form of disposition of the remains of a deceased individual, incurred as a result of the death of the individual as a result of the accident and within 24 months from the date of the accident.

(5) Combination benefit.--A combination of benefits described in paragraphs (1) through (4) as an alternative to the separate purchase of those benefits.

(6) Extraordinary medical benefits.--Medical benefits, as defined in paragraph (1), which exceed \$100,000.

§ 1715. Availability of adequate limits.

(a) General rule.--An insurer shall make available for purchase first party benefits as follows:

(1) For medical benefits, up to at least \$100,000.

(1.1) For extraordinary medical benefits, from \$100,000 to \$1,100,000, which may be offered in increments of \$100,000, as limited by subsection (d).

(2) For income loss benefits, up to at least \$2,500 per month up to a maximum benefit of at least \$50,000.

(3) For accidental death benefits, up to at least \$25,000.

(4) For funeral benefits, \$2,500.

(5) For combination of benefits enumerated in paragraphs

(1) [through], (2), (3) and (4) and subject to a limit on the accidental death benefit of up to \$25,000 and a limit on the funeral benefit of \$2,500, up to at least [\$277,500] **\$177,500** of benefits in the aggregate or benefits payable up to three years from the date of the accident, whichever occurs first, provided that nothing contained in this subsection shall be construed to limit, reduce, modify or change the provisions of subsection (d).

* * *

§ 1718. Exclusion from benefits.

* * *

(c) Named driver exclusion.--An insurer **or the first named insured** may exclude any [insured] **person** or his personal representative from benefits under a policy enumerated in section 1711 or 1712 when [the insured] **any of the following apply:**

(1) **The person** is excluded from coverage while operating a motor vehicle in accordance with the act of June 5, 1968 (P.L.140, No.78), relating to the writing, cancellation of or refusal to renew policies of automobile insurance.

(2) **The first named insured has requested that the person be excluded from coverage while operating a motor vehicle. This paragraph shall only apply if the excluded person is insured on another policy of motor vehicle liability insurance.**

§ 1720. Subrogation.

In actions arising out of the maintenance or use of a motor vehicle, there shall be no right of subrogation or reimbursement from a claimant's tort recovery with respect to workers' compensation benefits, benefits available under section 1711 (relating to required benefits), 1712 (relating to availability of benefits) or 1715 (relating to availability of adequate limits) or benefits [in lieu thereof] paid or payable **by a program, group contract or other arrangement whether primary or excess** under section 1719 (relating to coordination of benefits).

§ 1722. Preclusion of [pleading, proving and] recovering required benefits.

In any action for damages against a tortfeasor, **or in any uninsured or underinsured motorist proceeding**, arising out of the maintenance or use of a motor vehicle, a person who is eligible to receive benefits under the coverages set forth in [section 1711 (relating to required benefits) or the coverage set forth in section 1715(a)(1.1) (relating to availability of adequate limits)] **this subchapter, or workers' compensation, or any program, group contract or other arrangement for payment of benefits as defined in section 1719 (relating to coordination of benefits)** shall be precluded from [pleading, introducing into evidence or] recovering the amount of benefits paid or

payable under [section 1711 or 1715(a)(1.1)]. This preclusion applies only to the amount of benefits set forth in sections 1711 and 1715(a)(1.1)] **this subchapter, or workers' compensation, or any program, group contract or other arrangement for payment of benefits as defined in section 1719.** § 1731. [Scope] **Availability, scope** and amount of coverage.

(a) [General rule] **Mandatory offering.**--No motor vehicle liability insurance policy shall be delivered or issued for delivery in this Commonwealth, with respect to any motor vehicle registered or principally garaged in this Commonwealth, unless uninsured motorist and underinsured motorist coverages are [provided] **offered** therein or supplemental thereto in amounts [equal to the bodily injury liability coverage except] as provided in section 1734 (relating to request for lower [or higher] limits of coverage). **Purchase of uninsured motorist and underinsured motorist coverages is optional.**

(b) Uninsured motorist coverage.--Uninsured motorist coverage shall provide protection for persons who suffer injury arising out of the maintenance or use of a motor vehicle and are legally entitled to recover damages therefor from owners or operators of uninsured motor vehicles. **The named insured shall be informed that he may reject uninsured motorist coverage by signing the following written rejection form:**

REJECTION OF UNINSURED MOTORIST PROTECTION

By signing this waiver I am rejecting uninsured motorist coverage under this policy, for myself and all relatives residing in my household. Uninsured coverage protects me and relatives living in my household for losses and damages suffered if injury is caused by the negligence of a driver who does not have any insurance to pay for losses and damages. I knowingly and voluntarily reject this coverage.

.....
Signature of First Named Insured

.....
Date

(c) Underinsured motorist coverage.--Underinsured motorist coverage shall provide protection for persons who suffer injury arising out of the maintenance or use of a motor vehicle and are legally entitled to recover damages therefor from owners or operators of underinsured motor vehicles. **The named insured shall be informed that he may reject underinsured motorist coverage by signing the following written rejection form:**

REJECTION OF UNDERINSURED MOTORIST PROTECTION

By signing this waiver I am rejecting underinsured motorist coverage under this policy, for myself and all relatives residing in my household. Underinsured coverage protects me and relatives living in my household for losses and damages suffered if injury is caused by the negligence of a driver who does not have enough insurance to pay for all losses and damages. I knowingly and voluntarily reject this coverage.

.....
Signature of First Named Insured

.....
Date

(c.1) Form of waiver.--Insurers shall print the rejection forms required by subsections (b) and (c) on separate sheets in prominent type and location. The forms must be signed by the first named insured and dated to be valid. The signatures on the forms may be witnessed by an insurance agent or broker. Any

rejection form that does not specifically comply with this section is void. If the insurer fails to produce a valid rejection form, uninsured or underinsured coverage, or both, as the case may be, under that policy shall be equal to the bodily injury liability limits. On policies in which either uninsured or underinsured coverage has been rejected, the policy renewals must contain notice in prominent type that the policy does not provide protection against damages caused by uninsured or underinsured motorists. Any person who executes a waiver under subsection (b) or (c) shall be precluded from claiming liability of any person based upon inadequate information.

(d) Limitation on recovery.--

(1) A person who recovers damages under uninsured motorist coverage or coverages cannot recover damages under underinsured motorist coverage or coverages for the same accident.

(2) A person precluded from maintaining an action for noneconomic damages under section 1705 (relating to election of tort options) may not recover from uninsured motorist coverage or underinsured motorist coverage for noneconomic damages.

Section 10. Section 1732 of Title 75 is repealed.

Section 11. Sections 1733 and 1734 of Title 75 are amended to read:

§ 1733. Priority of recovery.

(a) **General rule.**--Where multiple policies apply, payment shall be made in the following order of priority:

(1) A policy covering a motor vehicle occupied by the injured person at the time of the accident.

(2) A policy covering a motor vehicle not involved in the accident with respect to which the injured person is an insured.

(b) **Multiple sources of equal priority.**--The insurer against whom a claim is asserted first under the priorities set forth in subsection (a) shall process and pay the claim as if wholly responsible. The insurer is thereafter entitled to recover contribution pro rata from any other insurer for the benefits paid and the costs of processing the claim.

§ 1734. Request for lower [or higher] limits of coverage.

A named insured may request in writing the issuance of coverages under section 1731 (relating to **availability**, scope and amount of coverage) in amounts **equal to or less than** the limits of liability for bodily injury. [but in no event less than the amounts required by this chapter for bodily injury. If the named insured has selected uninsured and underinsured motorist coverage in connection with a policy previously issued to him by the same insurer under section 1731, the coverages offered need not be provided in excess of the limits of liability previously issued for uninsured and underinsured motorist coverage unless the named insured requests in writing higher limits of liability for those coverages.]

Section 12. Title 75 is amended by adding sections to read:
§ 1737. **Workers' compensation benefits not a bar to uninsured and underinsured motorist benefits.**

Notwithstanding anything contained in the act of June 2, 1915 (P.L.736, No.338), known as The Pennsylvania Workmen's Compensation Act, no employee who is otherwise eligible shall be precluded from recovery of uninsured or underinsured motorist benefits from an employer's motor vehicle policy under this chapter or the act of August 14, 1963 (P.L.909, No.433), entitled "An act requiring, with limitations, that insurance policies insuring against loss, occurring in connection with

motor vehicles provide protection against certain uninsured motorists."

§ 1738. Stacking of uninsured and underinsured benefits and option to waive.

(a) Limit for each vehicle.--When more than one vehicle is insured under one or more policies providing uninsured or underinsured motorist coverage, the stated limit for uninsured or underinsured coverage shall apply separately to each vehicle so insured. The limits of coverages available under this subchapter for an insured shall be the sum of the limits for each motor vehicle as to which the injured person is an insured.

(b) Waiver.--Notwithstanding the provisions of subsection (a), a named insured may waive coverage providing stacking of uninsured or underinsured coverages in which case the limits of coverage available under the policy for an insured shall be the stated limits for the motor vehicle as to which the injured person is an insured.

(c) More than one vehicle.--Each named insured purchasing uninsured or underinsured motorist coverage for more than one vehicle under a policy shall be provided the opportunity to waive the stacked limits of coverage and instead purchase coverage as described in subsection (b). The premiums for an insured who exercises such waiver shall be reduced to reflect the different cost of such coverage.

(d) Forms.--

(1) The named insured shall be informed that he may exercise the waiver of the stacked limits of uninsured motorist coverage by signing the following written rejection form:

UNINSURED COVERAGE LIMITS

By signing this waiver, I am rejecting stacked limits of uninsured motorist coverage under the policy for myself and members of my household under which the limits of coverage available would be the sum of limits for each motor vehicle insured under the policy. Instead, the limits of coverage that I am purchasing shall be reduced to the limits stated in the policy. I knowingly and voluntarily reject the stacked limits of coverage. I understand that my premiums will be reduced if I reject this coverage.

.....
Signature of First Named Insured

.....
Date

(2) The named insured shall be informed that he may exercise the waiver of the stacked limits of underinsured motorist coverage by signing the following written rejection form:

UNDERINSURED COVERAGE LIMITS

By signing this waiver, I am rejecting stacked limits of underinsured motorist coverage under the policy for myself and members of my household under which the limits of coverage available would be the sum of limits for each motor vehicle insured under the policy. Instead, the limits of coverage that I am purchasing shall be reduced to the limits stated in the policy. I knowingly and voluntarily reject the stacked limits of coverage. I understand that my premiums will be reduced if I reject this coverage.

.....
Signature of First Named Insured

.....
Date

(e) Signature and date.--The forms described in subsection (d) must be signed by the first named insured and dated to be valid. Any rejection form that does not comply with this section is void.

Section 13. Sections 1742, 1753 and 1781 of Title 75 are amended to read:

§ 1742. Scope of plan.

The Assigned Risk Plan shall:

(1) Include rules for the classification of risks and rates therefor.

(2) Provide for the installment payment of premiums subject to customary terms and conditions.

(3) Provide rules for the equitable apportionment among participating insurers of clean risks who shall be eligible to receive the insurer's voluntary rate.

(4) Provide rules to specify the effective date and time of coverage, provided that applicants may only obtain coverage effective as of the date and time of the application if the agent or broker of record uses electronic mail binding procedures specified in the rules.

§ 1753. Benefits available.

An eligible claimant may recover medical benefits, as described in section 1712(1) (relating to availability of benefits), up to a maximum of \$5,000. No income loss benefit or accidental death benefit shall be payable under this subchapter. [Funeral expenses, as described in section 1712(4), in the amount of \$1,500 shall be recoverable as an offset to the maximum amount of medical benefits available under this section.]

§ 1781. Notice of sanction for not evidencing financial responsibility.

An applicant for registration of a vehicle shall acknowledge on a form developed by the Department of Transportation that the applicant knows he may lose his operating privilege or vehicle registrations if he fails to [evidence financial responsibility for the purposes described in section 1772 (relating to suspension for nonpayment of judgments), 1783 (relating to proof of financial responsibility before restoring operating privilege or registration), 1784 (relating to proof of financial responsibility following violation) or 1785 (relating to proof of financial responsibility following accident).] **maintain financial responsibility on the currently registered vehicle for the period of registration.**

Section 14. Section 1782 of Title 75 is amended by adding a subsection to read:

§ 1782. Manner of providing proof of financial responsibility.

* * *

(d) Financial responsibility identification cards.--Insurers shall provide financial responsibility identification cards to insureds which shall be valid only for the period for which coverage has been paid by the insured. Financial responsibility identification cards shall disclose the period for which coverage has been paid by the insured and shall contain such other information as required by the Insurance Department. In such instance where the insured has financed premiums through a premium finance company or where the insured is on an insurer-sponsored or agency-sponsored payment plan, financial responsibility identification cards may be issued for periods

of six months even though such payment by the insured may be for a period of less than six months. Nothing in this subsection shall be construed to require the immediate issuance of financial responsibility identification cards where an insured replaces an insured vehicle, adds a vehicle or increases coverages under an existing policy for which a premium adjustment is required.

Section 15. Section 1786 of Title 75 is amended to read:
§ 1786. [Self-certification of] **Required** financial responsibility.

(a) **General rule.**--Every motor vehicle of the type required to be registered under this title which is operated or currently registered shall be covered by financial responsibility.

(b) **Self-certification.**--The Department of Transportation shall require that each motor vehicle registrant certify that the registrant is financially responsible at the time of registration or renewal thereof. The department shall refuse to register or renew the registration of a vehicle for failure to comply with this requirement or falsification of self-certification.

(c) **Consent to produce proof of financial responsibility.**--Upon registering a motor vehicle or renewing a motor vehicle registration, the owner of the motor vehicle shall be deemed to have given consent to produce proof, upon request, to the Department of Transportation or a police officer that the vehicle registrant has the financial responsibility required by this chapter.

(d) **Suspension of registration and operating privilege.**--The Department of Transportation shall suspend the registration of a vehicle if it determines the required financial responsibility has not been secured as required by this chapter and shall suspend the operating privilege of the registrant for a period of three months. The operating privilege shall not be restored until the restoration fee for operating privilege provided by section 1960 (relating to reinstatement of operating privilege or vehicle registration) is paid. Whenever the department revokes or suspends the registration of any vehicle under this chapter, the department shall not restore the registration until the vehicle owner furnishes proof of financial responsibility in a manner determined by the department and submits an application for registration to the department, accompanied by the fee for restoration of registration provided by section 1960.

(e) **Obligations upon termination of financial responsibility.**--

(1) An owner of a motor vehicle who ceases to maintain financial responsibility on a registered vehicle shall not operate or permit operation of the vehicle in this Commonwealth until proof of the required financial responsibility has been provided to the Department of Transportation.

(2) An insurer who has issued a contract of motor vehicle liability insurance, or any approved self-insurance entity, shall notify the department in a timely manner and in a method prescribed by the department's regulations.

(3) An insurer who has issued a contract of motor vehicle liability insurance and knows or has reason to believe that the contract is only for the purpose of providing proof of financial responsibility shall notify the department if the insurance has been canceled or terminated

by the insured or by the insurer. The insurer shall notify the department not later than ten days following the effective date of the cancellation or termination.

(4) A person who, after maintaining financial responsibility on the vehicle of another person, ceases to maintain such financial responsibility shall immediately notify the vehicle's owner who shall not operate, or permit operation of, the vehicle in this Commonwealth.

(5) In the case of a person who leases any motor vehicle from a person engaged in the business of leasing motor vehicles, the lessee shall sign a statement indicating that the required financial responsibility has been provided through the lessor or through the lessee's motor vehicle liability insurance policy coverage. The lessee shall submit the statement to the lessor.

(f) Operation of a motor vehicle without required financial responsibility.--Any owner of a motor vehicle for which the existence of financial responsibility is a requirement for its legal operation shall not operate the motor vehicle or permit it to be operated upon a highway of this Commonwealth without the financial responsibility required by this chapter. In addition to the penalties provided by subsection (d), any person who fails to comply with this subsection commits a summary offense and shall, upon conviction, be sentenced to pay a fine of \$300.

(g) Defenses.--

(1) No person shall be convicted of failing to produce proof of financial responsibility under this subchapter or section 3743 (relating to accidents involving damage to attended vehicle or property) or 6308 (relating to investigation by police officers) if the person produces, at the office of the issuing authority within five days of the date of the violation, proof that he possessed the required financial responsibility at the time of the violation.

(2) No person shall be penalized for maintaining a registered motor vehicle without financial responsibility under subsection (d) if the registration and license plates were surrendered to the Department of Transportation at the time insurance coverage terminated or financial responsibility lapsed.

Section 16. Section 1791 of Title 75 is amended to read:
§ 1791. Notice of available benefits and limits.

It shall be presumed that the insured has been advised of the benefits and limits available under this chapter provided the following notice in bold print of at least ten-point type is given to the applicant at the time of application for original coverage [or at the time of the first renewal after October 1, 1984], and no other notice or rejection shall be required:

IMPORTANT NOTICE

Insurance companies operating in the Commonwealth of Pennsylvania are required by law to make available for purchase the following benefits for you, your spouse or other relatives or minors in your custody or in the custody of your relatives, residing in your household, occupants of your motor vehicle or persons struck by your motor vehicle:

(1) Medical benefits, up to at least \$100,000.

(1.1) Extraordinary medical benefits, from \$100,000 to \$1,100,000 which may be offered in increments of \$100,000.

(2) Income loss benefits, up to at least \$2,500 per month up to a maximum benefit of at least \$50,000.

(3) Accidental death benefits, up to at least \$25,000.

(4) Funeral benefits, \$2,500.

(5) As an alternative to paragraphs (1) [through], (2), (3) and (4), a combination benefit, up to at least [\$277,500] **\$177,500** of benefits in the aggregate or benefits payable up to three years from the date of the accident, whichever occurs first, subject to a limit on accidental death benefit of up to \$25,000 and a limit on funeral benefit of \$2,500, provided that nothing contained in this subsection shall be construed to limit, reduce, modify or change the provisions of section 1715(d) (relating to availability of adequate limits).

(6) Uninsured, underinsured and bodily injury liability coverage up to at least \$100,000 because of injury to one person in any one accident and up to at least \$300,000 because of injury to two or more persons in any one accident or, at the option of the insurer, up to at least \$300,000 in a single limit for these coverages, except for policies issued under the Assigned Risk Plan. Also, at least \$5,000 for damage to property of others in any one accident.

Additionally, insurers may offer higher benefit levels than those enumerated above as well as additional benefits. However, an insured may elect to purchase lower benefit levels than those enumerated above.

Your signature on this notice or your payment of any renewal premium evidences your actual knowledge and understanding of the availability of these benefits and limits as well as the benefits and limits you have selected.

If you have any questions or you do not understand all of the various options available to you, contact your agent or company.

If you do not understand any of the provisions contained in this notice, contact your agent or company before you sign.

Section 17. Title 75 is amended by adding a section to read: § 1791.1. **Disclosure of premium charges and tort options.**

(a) **Invoice.--At the time of application for original coverage and every renewal thereafter, an insurer must provide to an insured an itemized invoice listing the minimum motor vehicle insurance coverage levels mandated by the Commonwealth and the premium charge for the insured to purchase the minimum mandated coverages. The invoice must contain the following notice in print of no less than ten-point type:**

The laws of the Commonwealth of Pennsylvania, as enacted by the General Assembly, only require that you purchase liability and first-party medical benefit coverages. Any additional coverages or coverages in excess of the limits required by law are provided only at your request as enhancements to basic coverages.

The insurer shall provide the itemized invoice to the insured in conjunction with the declaration of coverage limits and premiums for the insured's existing coverages.

(b) **Notice of tort options.--In addition to the invoice required under subsection (a), an insurer must, at the time of application for original coverage for private passenger motor vehicle insurance and every renewal thereafter, provide to an insured the following notice of the availability of two alternatives of full tort insurance and limited tort insurance described in section 1705(c) and (d) (relating to election of tort options):**

The laws of the Commonwealth of Pennsylvania give you the right to choose either of the following two tort options:

A. "Limited Tort" Option--This form of insurance limits your right and the rights of members of your household to seek financial compensation for injuries caused by other drivers. Under this form of insurance, you and other household members covered under this policy may seek recovery for all medical and other out-of-pocket expenses, but not for pain and suffering or other nonmonetary damages unless the injuries suffered fall within the definition of "serious injury," as set forth in the policy, or unless one of several other exceptions noted in the policy applies.

B. "Full Tort" Option--This form of insurance allows you to maintain an unrestricted right for yourself and other members of your household to seek financial compensation for injuries caused by other drivers. Under this form of insurance, you and other household members covered under this policy may seek recovery for all medical and other out-of-pocket expenses and may also seek financial compensation for pain and suffering or other nonmonetary damages as a result of injuries caused by other drivers.

If you wish to change the tort option that currently applies to your policy, you must notify your agent, broker or company and request and complete the appropriate form.

(c) Notice of premium discounts.--Except where the commissioner has determined that an insurer may omit a discount because the discount is duplicative of other discounts or is specifically reflected in the insurer's experience, at the time of application for original coverage and every renewal thereafter, an insurer must provide to an insured a notice stating that discounts are available for drivers who meet the requirements of sections 1799 (relating to restraint system), 1799.1 (relating to antitheft devices) and 1799.2 (relating to driver improvement course discounts).

(d) Additional information.--Upon an oral or written request, an insurer subject to this chapter shall provide to the requestor information on the requestor's cost to purchase from the insurer the minimum requested automobile insurance coverages under either of the two tort options described in subsection (b). These requirements shall include the request for and provision of information by telephone.

Section 18. Sections 1792 and 1797 of Title 75 are amended to read:

§ 1792. Availability of uninsured, underinsured, bodily injury liability and property damage coverages **and mandatory deductibles.**

(a) **Availability of coverages.**--Except for policies issued under Subchapter D (relating to Assigned Risk Plan), an insurer issuing a policy of bodily injury liability coverage pursuant to this chapter shall make available for purchase higher limits of uninsured, underinsured and bodily injury liability coverages up to at least \$100,000 because of injury to one person in any one accident and up to at least \$300,000 because of injury to two or more persons in any one accident or, at the option of the insurer, up to at least \$300,000 in a single limit for these coverages. Additionally, an insurer shall make available for purchase at least \$5,000 because of damage to property of others in any one accident. However, the exclusion of availability relating to the Assigned Risk Plan shall not apply to damage to property of others in any one accident.

(b) **Mandatory deductibles.--**

(1) Every private passenger automobile insurance policy providing collision coverage issued or renewed on and after the effective date of this subsection shall provide a deductible in an amount of \$500 for collision coverage, unless the named insured signs a statement indicating the insured is aware that the purchase of a lower deductible is permissible and that there is an additional cost of purchasing a lower deductible, and the insured agrees to accept it.

(2) Under no circumstances may a private passenger automobile insurance policy provide a collision deductible in an amount less than \$100.

(3) Any person or entity providing financing to the purchaser of a motor vehicle or otherwise holding a security interest in a motor vehicle shall not be permitted to require the purchase of a deductible for less than \$500 for collision and comprehensive coverages. Any financial institution, insurer, agent or other person or entity found to have violated this provision shall be required to reimburse the policyholder in an amount equal to the difference in premium and, in addition, shall be required to pay a civil penalty of \$500 to the Department of Transportation for each violation.

(4) With the purchase of a \$500 or greater deductible, there shall be an immediate commensurate reduction in rate for collision and comprehensive coverages. The reduction in rate shall be based on the insured's existing deductible level.

§ 1797. Customary charges for treatment.

(a) **General rule.--**A person or institution providing treatment, accommodations, products or services to an injured person for an injury covered by [medical or catastrophic loss benefits] **liability or uninsured and underinsured benefits or first party medical benefits, including extraordinary medical benefits, for a motor vehicle described in Subchapter B (relating to motor vehicle liability insurance first party benefits)** shall not [make a charge] **require, request or accept payment** for the treatment, accommodations, products or services in excess of [the amount the person or institution customarily charges for like treatment, accommodations, products and services in cases involving no insurance.] **110% of the prevailing charge at the 75th percentile; 110% of the applicable fee schedule, the recommended fee or the inflation index charge; or 110% of the diagnostic-related groups (DRG) payment; whichever pertains to the specialty service involved, determined to be applicable in this Commonwealth under the Medicare program for comparable services at the time the services were rendered, or the provider's usual and customary charge, whichever is less.** The General Assembly finds that the reimbursement allowances applicable in the Commonwealth under the Medicare program are an appropriate basis to calculate payment for treatments, accommodations, products or services for injuries covered by liability or uninsured and underinsured benefits or first party medical benefits insurance. Future changes or additions to Medicare allowances are applicable under this section. If the commissioner determines that an allowance under the Medicare program is not reasonable, he may adopt a different allowance by regulation, which allowance shall be applied against the percentage limitation in this subsection. If a prevailing

charge, fee schedule, recommended fee, inflation index charge or DRG payment has not been calculated under the Medicare program for a particular treatment, accommodation, product or service, the amount of the payment may not exceed 80% of the provider's usual and customary charge. If acute care is provided in an acute care facility to a patient with an immediately life-threatening or urgent injury by a Level I or Level II trauma center accredited by the Pennsylvania Trauma Systems Foundation under the act of July 3, 1985 (P.L.164, No.45), known as the Emergency Medical Services Act, or to a major burn injury patient by a burn facility which meets all the service standards of the American Burn Association, the amount of payment may not exceed the usual and customary charge. Providers subject to this section may not bill the insured directly but must bill the insurer for a determination of the amount payable. The provider shall not bill or otherwise attempt to collect from the insured the difference between the provider's full charge and the amount paid by the insurer.

(b) Peer review plan for challenges to reasonableness and necessity of treatment.--

(1) Peer review plan.--Insurers shall contract jointly or separately with any peer review organization established for the purpose of evaluating treatment, health care services, products or accommodations provided to any injured person. Such evaluation shall be for the purpose of confirming that such treatment, products, services or accommodations conform to the professional standards of performance and are medically necessary. An insurer's challenge must be made to a PRO within 90 days of the insurer's receipt of the provider's bill for treatment or services or may be made at any time for continuing treatment or services.

(2) PRO reconsideration.--An insurer, provider or insured may request a reconsideration by the PRO of the PRO's initial determination. Such a request for reconsideration must be made within 30 days of the PRO's initial determination. If reconsideration is requested for the services of a physician or other licensed health care professional, then the reviewing individual must be, or the reviewing panel must include, an individual in the same specialty as the individual subject to review.

(3) Pending determinations by PRO.--If the insurer challenges within 30 days of receipt of a bill for medical treatment or rehabilitative services, the insurer need not pay the provider subject to the challenge until a determination has been made by the PRO. The insured may not be billed for any treatment, accommodations, products or services during the peer review process.

(4) Appeal to court.--A provider of medical treatment or rehabilitative services or merchandise or an insured may challenge before a court an insurer's refusal to pay for past or future medical treatment or rehabilitative services or merchandise, the reasonableness or necessity of which the insurer has not challenged before a PRO. Conduct considered to be wanton shall be subject to a payment of treble damages to the injured party.

(5) PRO determination in favor of provider or insured.--If a PRO determines that medical treatment or rehabilitative services or merchandise were medically necessary, the insurer must pay to the provider the

outstanding amount plus interest at 12% per year on any amount withheld by the insurer pending PRO review.

(6) Court determination in favor of provider or insured.--If, pursuant to paragraph (4), a court determines that medical treatment or rehabilitative services or merchandise were medically necessary, the insurer must pay to the provider the outstanding amount plus interest at 12%, as well as the costs of the challenge and all attorney fees.

(7) Determination in favor of insurer.--If it is determined by a PRO or court that a provider has provided unnecessary medical treatment or rehabilitative services or merchandise or that future provision of such treatment, services or merchandise will be unnecessary, or both, the provider may not collect payment for the medically unnecessary treatment, services or merchandise. If the provider has collected such payment, it must return the amount paid plus interest at 12% per year within 30 days. In no case does the failure of the provider to return the payment obligate the insured to assume responsibility for payment for the treatment, services or merchandise.

(c) Review authorized.--By December 1, 1991, the Legislative Budget and Finance Committee shall commence a review of the impact of this section. Such review may be conducted biennially.

Section 19. Title 75 is amended by adding sections to read: § 1799. Restraint system.

(a) General rule.--All insurance companies authorized to write private passenger automobile insurance within this Commonwealth shall provide premium discounts for motor vehicles equipped with passive restraint devices. These discounts shall apply to the first party benefits coverage and shall be approved by the commissioner as part of the insurer's rate filing, provided that such discounts shall not be less than 15% for passive seat belts, 20% for one airbag on the operator's side of the vehicle and 30% for two airbags. Some or all of the premium discounts required by this subsection may be omitted upon demonstration to the commissioner in an insurer's rate filing that the discounts are duplicative of other discounts provided by the insurer or specifically reflected in the insurer's experience.

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

"Passive restraint." Any frontal automobile crash protection system which requires no action of the vehicle occupants and complies with standard 571.208 of the National Traffic Safety Administration or its successor.

§ 1799.1. Antitheft devices.

(a) General rule.--All insurance companies authorized to write private passenger automobile insurance within this Commonwealth shall provide premium discounts for motor vehicles with passive antitheft devices. These discounts shall apply to the comprehensive coverage and shall be approved by the commissioner as part of the insurer's rate filing, provided that such discounts shall not be less than 10%. Some or all of the premium discounts required by this subsection may be omitted upon demonstration to the commissioner in an insurer's rate filing that the discounts are duplicative of other discounts provided by the insurer.

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

"Passive antitheft device." Any item or system installed in an automobile which is activated automatically when the operator turns the ignition key to the off position and which is designed to prevent unauthorized use, as prescribed by regulations of the commissioner. The term does not include an ignition interlock provided as a standard antitheft device by the original automobile manufacturer.

§ 1799.2. Driver improvement course discounts.

(a) Motor vehicle driver improvement course.--All insurance companies authorized to write private passenger automobile insurance within this Commonwealth shall provide a premium discount for each motor vehicle on a policy under which all named insureds are 55 years of age or older and have successfully completed a motor vehicle driver improvement course meeting the standards of the Department of Transportation. This discount shall apply to all coverages for all policy periods beginning within the three-year period immediately following the successful completion of the course and shall be approved by the commissioner as part of the insurer's rate filing, provided that such discount shall not be less than 5%. The successful completion of more than one course within a three-year period does not qualify the insured for additional discounts. The premium discount required by this subsection may be omitted upon demonstration to the commissioner in an insurer's rate filing that the discount is duplicative of a driver improvement course discount provided by the insurer.

(b) Completion of course.--Upon successfully completing the approved course, each participant shall be issued, by the course's sponsoring agency, a certificate which shall be the basis of qualification for the discount on insurance.

(c) Continuing eligibility.--Each participant shall take an approved course every three years to continue to be eligible for the discount on insurance. Each insurer may require, as a condition of providing and maintaining the discount, that the insured for a three-year period after course completion:

(1) not be involved in an accident for which the insured is chargeable;

(2) not be convicted of an offense enumerated in section 1535 (relating to schedule of convictions and points); and

(3) not be convicted or have accepted Accelerated Rehabilitative Disposition (ARD) for driving under the influence of alcohol or a controlled substance.

(d) Nonapplicability.--This section shall not apply in the event the approved course is specified by a court or other governmental entity resulting from a conviction of an offense enumerated in section 1535.

§ 1799.3. Limit on cancellations, refusals to renew, refusals to write, surcharges, rate penalties and point assignments.

(a) Damage claims.--No insurer shall cancel or refuse to renew a policy or apply any surcharge, rate penalty or driver record point assignment where, during the preceding three-year period, the aggregate cost to the insurer for any person injured or property damaged is determined to be less than \$650 in excess of any self-insured retention or deductible applicable to the named insured.

(b) Reimbursements.--A surcharge, rate penalty or driver record point assignment shall not be made if the insurer is reimbursed by or on behalf of the named insured or other resident operator for at least 60% of the total amount of the paid claim received through subrogation or from a settlement or judgment against the individual responsible for the accident.

(c) First party medical claims.--No surcharge, rate penalty or driver record point assignment shall be made as a result of an insurer paying a first party medical claim.

(d) Notice to insured.--If an insurer makes a determination to impose a surcharge, rate penalty or driver record point assignment, the insurer shall inform the named insured of the determination and shall specify the manner in which the surcharge, rate penalty or driver record point assignment was made and clearly identify the amount of the surcharge or rate penalty on the premium notice for as long as the surcharge or rate penalty is in effect.

(e) Adjustment of cap.--The Insurance Department, at least once every three years, shall adjust the \$650 cap or limit relative to changes in the components of the Consumer Price Index (Urban) to measure seasonally adjusted changes in medical care and automobile maintenance and repair costs and shall make such adjustments to the cap or limit as shall be necessary to maintain the same rate of change in the cap or limit as has occurred in the Consumer Price Index (Urban). Such adjustments may be rounded off to the nearest \$50 figure.

(f) Notice of refusal to write.--If requested by the applicant, an agent for an insurer shall submit an application for automobile insurance to the insurer or provide the applicant written notice of the reasons for refusal to write on a form supplied by the insurer and approved by the commissioner. An applicant receiving a notice of reasons under this subsection may obtain review by the commissioner pursuant to the Automobile Insurance Policy Act. If either the applicant or insurer is aggrieved by the commissioner's review, the commissioner may, in his discretion and for cause shown, hold a hearing pursuant to the Automobile Insurance Policy Act. No insurer shall take any action, overt or otherwise, against any agent or broker for complying with this subsection.

(g) Conflict with other law.--The limitations imposed on cancellations, refusals to renew, surcharges, rate penalties and point assignments by this section shall be in addition to any other limitations imposed by other laws. Where any conflict exists between this section and the provisions of any other law, this section shall be applied so as to supersede such other laws to the extent of the conflict.

§ 1799.4. Examination of vehicle repairs.

Upon request of the insurer, an insurance adjuster shall be afforded a reasonable opportunity to enter a repair facility and examine covered repairs being made to a specific insured's vehicle during regular business hours.

§ 1799.5. Conduct of market study.

(a) Duty of Insurance Department.--The Insurance Department may authorize a market conduct study of private passenger automobile insurers.

(b) Purposes of study.--The purposes of the study shall be to:

- (1) Determine extent of insurer competition.
- (2) Determine the number of uninsured motorists.
- (3) Determine extent of insurer profits and losses.

(4) Determine that rates and premiums charged to residents are lawfully applied.

(5) Determine if the various policies for automobile insurance written in this Commonwealth are available equally to each resident.

(6) Determine the validity of existing rating territories and if rate differentials between or among rating territories is justified by the losses.

§ 1799.6. Conduct of random field surveys.

(a) Authority.--In furtherance of the purposes and goals of section 1799.5 (relating to conduct of market study), the Insurance Department may conduct field surveys of agents and brokers in this Commonwealth, which shall include, but not be limited to:

(1) The determination of the geographical areas to be surveyed.

(2) The establishment of a list of insurance agents and brokers in the surveyed area or its immediate neighborhood.

(3) The interview of agents and brokers at their offices to obtain premium quotations from the agent for each company represented by that agent.

(4) The sorting and categorizing of information.

(5) The construction of a table displaying quotations by insurer, area and risk.

(6) The writing of a report of the findings.

(b) Conjunctive analysis of market study and field survey.--The department may analyze information collected from insurance companies under section 1799.5 in conjunction with information collected from field surveys. This analysis may be ongoing. The department's authority to undertake the conjunctive analysis is in addition to any other of its statutory investigative responsibilities. The conjunctive analysis may be used by the department for general regulatory purposes, including enforcement of the insurance laws.

§ 1799.7. Rates.

(a) Rate filing.--All insurers and the Assigned Risk Plan must file for new private passenger motor vehicle rates on or before May 1, 1990. These rates shall apply to all policies issued or renewed on and after July 1, 1990.

(b) Rate reductions.--The rates charged by insurers under the filing required by subsection (a) shall be reduced from current rates as follows:

(1) For an insured electing the limited tort option under section 1705 (relating to election of tort options), the total premium charged for any selection of coverages and coverage limits shall be reduced by at least 22% from the total premium for the same selection of coverages and coverage limits in effect on December 1, 1989.

(2) For an insured bound by the full tort option under section 1705, the total premium charged for any selection of coverages and coverage limits shall be reduced by at least 10% from the total premium for the same selection of coverages and coverage limits in effect on December 1, 1989.

(3) An insurer aggrieved by the rate reductions mandated by this subsection may seek relief from the commissioner, which relief may be granted when the commissioner deems necessary in extraordinary circumstances.

(c) Approval and disapproval of certain filings.--Any initial filing submitted by an insurer pursuant to subsection (a), which reduces rates for all insureds from rates in effect

December 1, 1989, in amounts specified in subsection (b), shall become effective immediately for policies issued or renewed on and after July 1, 1990, upon receipt by the department and shall be deemed to comply with the act of June 11, 1947 (P.L.538, No.246), known as The Casualty and Surety Rate Regulatory Act, and with Chapter 20 (relating to motor vehicle insurance rate review procedures). Any filing so deemed may subsequently be disapproved, effective upon seven days' written notice by the commissioner stating in what respect the filing or part thereof fails to meet the requirements of this chapter or other applicable law. If a deemed filing is so disapproved within 90 days after receipt by the commissioner, the commissioner may order the insurer to pay refunds to all insureds charged inappropriate rates under the filing. The ability to order refunds shall be in addition to other penalties authorized by law.

(d) Immediate rate freeze.--In order to provide stability during the period of transition leading up to the effective date of the amendments to this chapter and to assure fair and equitable treatment of insurers and insureds, it is in the best interest of the Commonwealth to temporarily suspend the adoption of new private passenger motor vehicle rates. Notwithstanding any provisions of law to the contrary, all private passenger motor vehicle rates in effect on December 1, 1989, may not be changed so as to be effective prior to July 1, 1990. Any rate requests filed with the commissioner to be effective on or after December 1, 1989, whether or not such requests were approved by the commissioner or by operation of law prior to, on or after December 1, 1989, are hereby disapproved as being in conflict with this chapter.

(e) Rate freeze after implementation of tort option elections.--No insurer nor the Assigned Risk Plan may increase any private passenger motor vehicle rates between July 1, 1990, and June 30, 1991.

(f) Rate increase justification.--All rates charged by an insurer during the period between July 1, 1991, and June 30, 1992, may not be increased over the rates in effect pursuant to subsections (b) and (e) by an amount greater than that indicated by an increase in the Consumer Price Index (URBAN), the cost of medical care services, the cost of automobile repairs or other indices of cost increases affecting automobile insurance adopted by the commissioner by publication of notice in the Pennsylvania Bulletin.

(g) Calculation of rates.--In all rate filings subsequent to the initial filing required by subsection (a), insurers shall allocate expenses, losses and income according to the coverages which generate such expenses, losses and income, provided that each insurer shall provide its limited tort electors with premium savings that equal, in the aggregate, reductions in the insurer's losses created by limited tort electors under the system of tort options established in section 1705.

(h) Coverage reductions.--Insurers shall reduce the premium for insureds who elect to reduce or eliminate first party benefits, uninsured or underinsured motorist coverage required prior to the effective date of this section by the cost of such coverage.

Section 20. Title 75 is amended by adding a chapter to read:

CHAPTER 18
MOTOR VEHICLE INSURANCE FRAUD

Subchapter

- A. General Provisions
- B. Antifraud Plans
- C. Motor Vehicle Insurance Fraud Index Bureau

SUBCHAPTER A
GENERAL PROVISIONS

Sec.

1801. Definitions.

§ 1801. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Bureau" or "index bureau." The Motor Vehicle Insurance Fraud Index Bureau.

"Commissioner." The Insurance Commissioner of the Commonwealth.

"Department." The Insurance Department of the Commonwealth.

SUBCHAPTER B
ANTIFRAUD PLANS

Sec.

- 1811. Filing of plans.
- 1812. Content of plans.
- 1813. Review by commissioner.
- 1814. Report on antifraud activities.
- 1815. Penalties.
- 1816. Confidentiality of plans and reports.
- 1817. Reporting of insurance fraud.
- 1818. Civil immunity.

§ 1811. Filing of plans.

Each insurer licensed to write motor vehicle insurance in this Commonwealth shall institute and maintain a motor vehicle insurance antifraud plan. The antifraud plan of insurers licensed on the effective date of this subchapter shall be filed with the department on or before December 31, 1990. All insurers licensed after the effective date of this chapter shall file within six months of licensure. All changes to the antifraud plan shall be filed with the department within 30 days after it has been modified.

§ 1812. Content of plans.

The antifraud plans of each insurer shall establish specific procedures:

(1) To prevent insurance fraud, including internal fraud involving employees or company representatives, fraud resulting from misrepresentation on applications for insurance coverage, and claims fraud.

(2) To review claims in order to detect evidence of possible insurance fraud and to investigate claims where fraud is suspected.

(3) To report fraud to appropriate law enforcement agencies and to cooperate with such agencies in their prosecution of fraud cases.

(4) To undertake civil actions against persons who have engaged in fraudulent activities.

(5) To report fraud-related data to the index bureau.

(6) To ensure that costs incurred as a result of detected insurance fraud are not included in any rate base affecting the premiums of motor vehicle insurance consumers. § 1813. Review by commissioner.

Antifraud plans shall be filed with the department. If, after review, the commissioner finds that the antifraud plan does not comply with section 1812 (relating to content of plans), the antifraud plan may be disapproved. Notice of disapproval shall include a statement of the specific reasons for such disapproval. Any plan disapproved by the commissioner must be refiled within 60 days of the date of the notice of disapproval. The commissioner may audit insurers to ensure compliance with antifraud plans as a part of the examinations performed under sections 213, 214 and 216 of the act of May 17, 1921 (P.L.789, No.285), known as The Insurance Department Act of one thousand nine hundred and twenty-one.

§ 1814. Report on antifraud activities.

All insurers shall annually provide to the department a summary report on actions taken under the plan to prevent and combat insurance fraud, including, but not limited to, measures taken to protect and ensure the integrity of electronic data-processing-generated data and manually compiled data, statistical data on the amount of resources committed to combating fraud, and the amount of fraud identified and recovered during the reporting period.

§ 1815. Penalties.

Insurers that fail to file timely antifraud plans as required by sections 1811 (relating to filing of plans) and 1813 (relating to review by commissioner) are subject to the penalty provisions of section 320 of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921. Insurers that do not make a good faith attempt to file an antifraud plan which complies with section 1812 (relating to content of plans) shall also be subject to the penalty provisions of section 320 of The Insurance Company Law of 1921, provided that no penalty may be imposed for the first filing made by an insurer under this subchapter. Insurers that fail to follow the antifraud plan shall be subject to a civil penalty for each violation, not to exceed \$10,000, at the discretion of the commissioner after consideration of all relevant factors, including the willfulness of any violation.

§ 1816. Confidentiality of plans and reports.

The antifraud plans and reports which insurers file with the department and any reports or materials related to such reports are not public records and shall not be subject to public inspection.

§ 1817. Reporting of insurance fraud.

Every insurer licensed to do business in this Commonwealth, and its employees, agents, brokers, motor vehicle physical damage appraisers and public adjusters, or public adjuster solicitors, who has a reasonable basis to believe insurance fraud has occurred shall be required to report the incidence of suspected insurance fraud to Federal, State or local criminal law enforcement authorities. Licensed insurance agents and physical damage appraisers may elect to report suspected fraud through the affected insurer with which they have a contractual relationship. All reports of insurance fraud to law enforcement authorities shall be made in writing, and copies of the report shall be sent simultaneously to the index bureau. Where insurance fraud involves agents, brokers, motor vehicle physical damage appraisers, public adjusters or public adjuster

solicitors, a copy of the report shall also be sent to the department.

§ 1818. Civil immunity.

No person shall be subject to civil liability for libel, violation of privacy, or otherwise by virtue of the filing of reports or furnishing of other information, in good faith and without malice, required by this subchapter.

SUBCHAPTER C
MOTOR VEHICLE INSURANCE FRAUD
INDEX BUREAU

Sec.

1821. Designation.

1822. Reports.

1823. Membership in bureau.

1824. Organization, reports and fees.

1825. Use of information.

1826. Annual reports.

1827. Warning notice on application for insurance and claim forms.

1828. Rules and regulations.

§ 1821. Designation.

The department shall, after consultation with insurers licensed to write motor vehicle insurance in this Commonwealth, designate a Motor Vehicle Insurance Fraud Index Bureau. The bureau shall, within 180 days of its designation, file with the department a plan of operation consistent with the provisions of this subchapter. The plan of operation shall include, but not be limited to, the following:

(1) A description of the bureau's organizational makeup, membership, staff complement, physical location and self-funding methodology.

(2) Detailed procedures for all members to regularly report fraud-related data to the bureau.

(3) Policies and procedures governing insurer and law enforcement agency access to bureau data, information and reports.

(4) A detailed accounting of how information on insurance fraud filed by insurers will be organized and maintained.

(5) Any other information, data, procedure or program relating to insurance fraud as may be required by the department or determined necessary to facilitate the reporting and use of information and data.

§ 1822. Reports.

(a) Requirement.--Each insurer licensed to write motor vehicle insurance in this Commonwealth shall, as a condition of authority to transact the business of insurance in this Commonwealth, report information on suspected fraudulent claims and applications for benefits arising out of the maintenance and use of a motor vehicle in this Commonwealth with the bureau within 45 days of receipt of such claim.

(b) Content.--The information filed by insurers pursuant to subsection (a) shall include, but not be limited to:

(1) Identification of claimants.

(2) Identification of medical providers.

(3) Identification of repair shops.

(4) Identification of insurance adjusters.

(5) Identification of attorneys representing claimants.

(6) Description of claims.

(7) Other information deemed relevant by the submitting insurer or bureau.

(8) Other information required by the Insurance Commissioner.

§ 1823. Membership in bureau.

Each insurer licensed to write motor vehicle insurance in this Commonwealth shall become members of the bureau. Such insurers shall report to the bureau all relevant information on suspected fraudulent claims as provided for in section 1822 (relating to reports).

§ 1824. Organization, reports and fees.

The bureau shall file with the Insurance Department an annual report listing all insurance companies which are members of the bureau for purposes of complying with this subchapter. The bureau shall be organized, maintained and funded by member insurers. Information reported to the bureau shall be made available to law enforcement officials, any insurer licensed to write motor vehicle insurance in this Commonwealth, the Insurance Department and any similar bureau upon request, provided that an appropriate fee may be charged if the request for such information is made by an insurer that is not a member of the bureau or the request is made by another index bureau.

§ 1825. Use of information.

Information collected pursuant to this chapter shall only be used by insurers and law enforcement officials for the detection and prosecution of fraud or abuse, and insurers may not use this information for underwriting purposes.

§ 1826. Annual reports.

On or before July 1, 1991, and on or before July 1 of each year thereafter, the bureau, on behalf of member insurers, shall file with the commissioner an annual report on the nature and effect of motor vehicle insurance fraud in this Commonwealth. The report shall present statistical data on fraud in this Commonwealth. The commissioner may prescribe by regulation the content of the report.

§ 1827. Warning notice on application for insurance and claim forms.

Not later than May 1, 1990, all applications for insurance, renewals and claim forms shall contain a statement that clearly states in substance the following:

Any person who knowingly and with intent to injure or defraud any insurer files an application or claim containing any false, incomplete or misleading information shall, upon conviction, be subject to imprisonment for up to seven years and payment of a fine of up to \$15,000.

§ 1828. Rules and regulations.

The department may promulgate such rules and regulations as may be necessary to carry out this chapter.

Section 21. Section 1960 of Title 75 is amended to read:

§ 1960. Reinstatement of operating privilege **or vehicle registration.**

The department shall charge a fee of \$25 **or, if section 1786(d) (relating to required financial responsibility) applies, a fee of \$50** to restore a person's operating privilege **or the registration of a vehicle** following a suspension or revocation.

Section 22. Title 75 is amended by adding a chapter to read:

CHAPTER 20

MOTOR VEHICLE INSURANCE RATE REVIEW PROCEDURES

Sec.

- 2001. Short title of chapter.
- 2002. Scope of chapter.
- 2003. Waiting period for filings.
- 2004. Action by commissioner on rate filings within waiting period.
- 2005. Review of action of commissioner taken without hearing.
- 2006. Action by commissioner on rate filings after waiting period.
- 2007. Deemed approvals.
- 2008. Hearing procedures.
- 2009. Rules and regulations.

§ 2001. Short title of chapter.

This chapter shall be known and may be cited as the Motor Vehicle Insurance Rate Review Procedures Act.

§ 2002. Scope of chapter.

This chapter applies to all rate filings for motor vehicle insurance. Rate filings for motor vehicle insurance shall also be subject to the act of June 11, 1947 (P.L.538, No.246), known as The Casualty and Surety Rate Regulatory Act. Where any conflict exists between this chapter and The Casualty and Surety Rate Regulatory Act, this chapter shall be applied so as to supersede The Casualty and Surety Rate Regulatory Act to the extent of the conflict.

§ 2003. Waiting period for filings.

(a) General rule.--Notwithstanding any other provision of law to the contrary and except as otherwise provided in subsection (b), no rate filing to which this chapter applies may become effective prior to the expiration of a waiting period of 60 days from the date the filing is received by the commissioner. This 60-day period may be extended an additional 30 days by the commissioner upon written notice to the insurer or rating organization making the filing.

(b) Exceptions.--The waiting period and extensions thereof required by subsection (a) shall not apply in the following circumstances:

(1) When an insurer or rating organization makes written application, the commissioner may authorize a filing or part thereof which has been reviewed to become effective prior to the expiration of the waiting period or any extension thereof as provided in subsection (a).

(2) Upon the written consent of the insured stating his reasons therefor, filed and approved by the department, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk. The rate shall become effective when such consent is filed and shall be deemed to meet the requirements of this chapter and other applicable statutes governing the establishment of rates until such time as the commissioner reviews the filing and so long thereafter as the filing remains in effect.

§ 2004. Action by commissioner on rate filings within waiting period.

(a) General rule.--Notwithstanding any other provision of law to the contrary, within the waiting period or any extension thereof as provided in section 2003(a) (relating to waiting period for filings), the commissioner may, by written notice, approve or disapprove the rate filing or schedule a formal administrative hearing on the filing. If a rate filing is approved, it may become effective upon the expiration of the waiting period and any extension thereof as provided in section 2003(a) or upon the effective date specified in the filing, whichever is later. If a rate filing is disapproved, the

commissioner shall state in what respects the filing or part thereof fails to meet the requirements of this chapter or other applicable law.

(b) Effective date pending hearing.--If a rate filing is scheduled for a formal administrative hearing under this section, the filing may not become effective until an adjudication is issued. An adjudication shall be issued within 60 days after the close of the hearing.

§ 2005. Review of action of commissioner taken without hearing.

Any insurer or rating organization aggrieved by any order or decision of the commissioner made without a hearing may, within 30 days after notice of the order to the insurer or organization, make written request to the commissioner for a hearing thereon. The commissioner shall hold a hearing within 30 days after receipt of the request and shall give not less than ten days' written notice of the time and place of the hearing. Within 30 days after the close of the hearing, the commissioner shall affirm, reverse or modify his previous action, specifying his reasons therefor.

§ 2006. Action by commissioner on rate filings after waiting period.

If, at any time after the waiting period or extension thereof as provided in section 2003(a) (relating to waiting period for filings), the commissioner finds that a rate filing does not meet the requirements of applicable statutes governing the establishment of rates or upon application by a person, other than the insurer or rating organization that made the filing, aggrieved by a rate filing for which the waiting period has expired, the commissioner may hold a hearing upon not less than ten days' written notice to every insurer or rating organization which made the filing, specifying the matters to be considered at the hearing. If, after the hearing, the commissioner finds that the filing fails to meet the requirements of applicable statutes governing the establishment of rates, he shall issue an order specifying his findings and stating when, within a reasonable period thereafter, the filing or portions thereof shall be deemed no longer effective. The order shall be sent to every affected insurer and rating organization. The order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in the order.

§ 2007. Deemed approvals.

A rate filing may be deemed to meet the requirements of this chapter and other applicable statutes governing the establishment of rates unless disapproved or scheduled for a formal administrative hearing by the commissioner within the waiting period or any extensions thereof as provided in section 2003(a) (relating to waiting period for filings). The filing shall not become effective unless the department receives written notice of the insurer's or rating organization's intent to exercise the right granted under this section at least ten calendar days prior to the effective date.

§ 2008. Hearing procedures.

All hearings shall be conducted in accordance with Title 2 (relating to administrative law and procedure).

§ 2009. Rules and regulations.

The commissioner may adopt such rules and regulations as are reasonably necessary to carry out the purposes of this chapter. Rules and regulations shall be promulgated in conformity with the provisions of the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law, and the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act.

Section 23. Title 75 is amended by adding a section to read:
§ 3731.1. Operators of commercial vehicles.

(a) Additional offense defined.--A person may not drive, operate or be in actual physical control of the movement of a commercial vehicle when the amount of alcohol by weight in the blood of the person is 0.04% or greater.

(b) Disqualification.--Upon receipt of a certified copy of a conviction of a violation of this section, the department shall disqualify the person from driving a commercial motor vehicle for a period of one year. Two or more convictions of a violation of this section shall result in the department disqualifying the person from driving a commercial motor vehicle, as provided in 49 CFR 383.51 (relating to disqualification of drivers).

(c) Definitions.--As used in this section, "commercial vehicle" means any of the following:

(1) A vehicle with a gross vehicle weight rating of 26,001 or more pounds.

(2) A combination of vehicles with a gross combination weight rating of 26,001 or more pounds, including the gross vehicle weight rating of the towed unit or units.

(3) A vehicle which is designed to transport 16 or more passengers, including the driver.

(4) A vehicle which is transporting hazardous material and which is required to be placarded for hazardous materials.

Section 24. Section 4703(d) of Title 75 is amended to read:
§ 4703. Operation of vehicle without official certificate of inspection.

* * *

(d) Newly-purchased vehicles.--Newly-purchased vehicles may be driven without a current inspection certificate for [five] **ten** days after sale or resale or entry into this Commonwealth, whichever occurs later.

* * *

Section 25. Section 4727 of Title 75 is amended by adding a subsection to read:

§ 4727. Issuance of certificate of inspection.

* * *

(d) Proof of insurance.--No certificate of inspection shall be issued unless a financial responsibility identification card indicating proper proof of financial responsibility as required by law is submitted to the inspection official, who shall, on a form provided by the department, keep a record of the name of the insured, the vehicle tag number, the issuing company, the policy number and the expiration date. In those cases where the insured fails to present proof of financial responsibility to the inspection official, the inspection official, in addition to denying a certificate of inspection, may provide notification to the department, on the form provided by the department, within 30 days of the insured's failure to present proof of financial responsibility.

Section 26. Section 6104 of Title 75 is amended by adding a subsection to read:

§ 6104. Administrative duties of department.

* * *

(f) Furnishing information to municipal police departments and sheriffs' offices.--The department shall regularly transmit to each municipal police department and sheriff's office a list

of the names of persons residing within its jurisdiction whose operating privilege or registration has been suspended or revoked.

Section 27. Title 75 is amended by adding a section to read:
§ 6308.1. Payment to police or sheriff's office of one-half of reinstatement fee.

The police department or sheriff's office whose officers or deputies seize a suspended or revoked driver's license or vehicle registration shall, in every case where the driver's license or vehicle registration is reinstated, receive from the department one-half of the fee imposed under section 1960 (relating to reinstatement of operating privilege or vehicle registration).

Section 28. The Insurance Department and the Department of Transportation shall promulgate regulations to the extent necessary to carry out the provisions of this act.

Section 29. The Joint State Government Commission shall, in relation to motorists in cities of the first class, make a study to assess the feasibility and impact of mandating that, upon application for or renewal of an operator's license, a driver remit moneys for the purchase of a basic automobile insurance policy. This policy would provide minimum levels of mandated coverages for bodily injury and property damage liability and for medical benefits. The assessment shall also include an analysis of the administrative cost and premium cost to the individual.

Section 30. (a) The Insurance Department shall commence a study of the use of a single carrier for private passenger motor vehicle insurance in cities of the first class. The term "single carrier" includes a private insurance company or a public authority or agency specifically created for the implementation of this section. Upon completion, the study shall be delivered to the Majority and Minority Leaders of the Senate and the House of Representatives. The study shall include, at a minimum, the following components:

(1) An assessment of the number of uninsured vehicles in cities of the first class.

(2) An assessment of the number of insured vehicles in cities of the first class.

(3) An analysis of sources of private passenger motor vehicle insurance, by company, for vehicles in cities of the first class. The analysis shall include a determination of the number of vehicles insured in cities of the first class in both the voluntary market and the Assigned Risk Plan by each insurance carrier licensed to provide private passenger motor vehicle insurance in this Commonwealth.

(4) An analysis of the costs to motorists to insure a vehicle in cities of the first class in the voluntary market and through the Assigned Risk Plan.

(5) An assessment of the impact of "take-out" provisions on the voluntary market place in cities of the first class.

(6) A determination as to the number of lawsuits filed for bodily injury claims; the amount and type of damages requested in such lawsuits; the percentage of claims settled before court and the amount of settlement; the percentage of lawsuits decided by the court and the amount of damages awarded; and the fees charged by lawyers for representing claims.

(7) An assessment of the frequency, type and amount of physical damage claims and first party medical payments.

(8) A determination as to whether the use of a single carrier in cities of the first class would have a positive

financial impact on all motorists in such cities and in this Commonwealth. Such determination shall include an analysis of the use of a public authority or agency as the single carrier and of its potential for providing lower rates when compared to use of a private insurance company as a single carrier. In addition, the determination shall include an analysis of the single carrier program when voluntary participation in the program is permitted in comparison to the benefits of mandatory participation.

(9) A legal opinion as to whether the use of a single carrier in cities of the first class is permissible under the Constitution and laws of the Commonwealth.

(b) Insurance companies licensed in this Commonwealth to write policies of private passenger motor vehicle insurance coverage shall cooperate with the Insurance Department study as described in subsection (a). Cooperation shall include, but not be limited to, the provision of information by insurance companies within reasonable time frames as requested by the department, if the information is available, to be used to address the various components of the study described in subsection (a). Such information may be used by the department only for purposes of this study.

(c) If the Insurance Commissioner concludes after the completion of the study that a single carrier in cities of the first class will improve the availability and affordability of private passenger motor vehicle insurance in such cities and in this Commonwealth, the Insurance Department may recommend implementing legislation to the General Assembly. If the General Assembly enacts legislation to implement a Single Carrier Insurance Program, the department shall publish a request for proposals to operate the program. The request for proposal process shall include a procedure for the prequalification of bidders based on financial ability to administer the program. Any contract signed by the department must include the following provisions:

(1) Participation in the program is voluntary by motorists living in cities of the first class unless legislation has been enacted subsequent to this act specifically providing for mandatory participation.

(2) All drivers, except those determined to be ineligible as defined in subsection (d), shall be afforded the opportunity to purchase private passenger motor vehicle insurance coverage through the program.

(3) Preferred provider arrangements or a fee schedule may be developed in the program with service providers for medical benefits; such arrangements shall be accessible to the insureds.

(4) For physical damage repair or replacement, the program may provide for a fee schedule or other method to contain costs, as well as a minimum deductible higher than that provided for in 75 Pa.C.S. Ch. 17 (relating to financial responsibility), but in no case may the minimum deductible be greater than \$1,000.

(5) Antifraud mechanisms may be established, including the inspection of physical damage claims, investigation of suspicious claims and case management for selected medical services.

(6) A cancellation clause permitting the single carrier to cancel the contract should enrollment in the program be inadequate.

(7) Rates charged in the program shall be lower than rates available in the voluntary market and shall be included

in the contract and shall be valid for a period of not less than two years. Rate increases after this period shall be subject to approval as provided in the act of June 11, 1947 (P.L.538, No.246), known as The Casualty and Surety Rate Regulatory Act.

(d) For purposes of subsection (c), the term "ineligible driver" shall mean a person who meets at least one of the following criteria:

(1) The person has, within five years of the date of application for insurance, been convicted of a violation of:

- (i) 75 Pa.C.S. § 3731 (relating to driving under the influence of alcohol or a controlled substance);
- (ii) 18 Pa.C.S. § 4117 (relating to motor vehicle insurance fraud); or
- (iii) any felony involving the use of a motor vehicle.

(2) The person has previously been insured under a motor vehicle insurance policy and has made more than one claim under an insurance policy, within 36 months of the date of application for insurance under this section, arising out of an accident where the insured was found to be substantially at fault, that is, more than 50%, and where a payment was made by the insurer that exceeded 50% of the annual premium for the policy of insurance.

(3) The person's operating privilege has been suspended or revoked within the preceding 36-month period.

(4) The person's driving record shows six or more points assessed under 75 Pa.C.S. § 1535 (relating to schedule of convictions and points) for violations that occurred within 36 months of the date of application for insurance under this section.

(e) Insureds covered by the single carrier shall be afforded all protections relating to policy cancellations, nonrenewals and refusals to write, as provided by law.

Section 31. (a) Sections 349 and 349.1 of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921, are repealed insofar as they are inconsistent with this act.

(b) The act of June 11, 1947 (P.L.538, No.246), known as The Casualty and Surety Rate Regulatory Act, is hereby repealed to the extent inconsistent with 75 Pa.C.S. Ch. 20 (relating to motor vehicle insurance rate review procedures).

(c) All other acts and parts of acts are repealed insofar as they are inconsistent with this act.

Section 32. This act shall take effect as follows:

(1) Sections 7, 8, 19 (75 Pa.C.S. § 1799.7), 20, 28, 29, 30 and 31(b) and (c) and this section shall take effect immediately.

(2) Section 18 (75 Pa.C.S. § 1797) shall take effect April 15, 1990.

(3) Sections 19 (75 Pa.C.S. §§ 1799.4, 1799.5 and 1799.6), 24 and 26 shall take effect in 60 days.

(4) Section 23 (75 Pa.C.S. § 3731.1) shall take effect April 1, 1992.

(5) Sections 1 (18 Pa.C.S. § 911(h)), 2 (18 Pa.C.S. § 4117), 3 (42 Pa.C.S. § 8355), 4 (75 Pa.C.S. §§ 1305 and 1306), 5 (75 Pa.C.S. § 1318), 6 (75 Pa.C.S. §§ 1376 and 1540(c)) and 31(a) shall take effect in 60 days.

(6) Section 22 shall take effect immediately for all rate filings for private passenger motor vehicle insurance and shall take effect July 1, 1990, for all other rate filings.

(7) Section 17 shall take effect immediately and shall apply to all policies issued or renewed on and after July 1, 1990.

(8) The remainder of this act shall take effect July 1, 1990.

APPROVED--The 7th day of February, A. D. 1990.

ROBERT P. CASEY