
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 121 Session of
1989

Report of the Committee of Conference

To the Members of the House of Representatives and Senate:

We, the undersigned, Committee of Conference on the part of the House of Representatives and Senate for the purpose of considering House Bill No. 121, entitled:

~~"An act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for the securing of loads on vehicles hauling garbage,"~~ 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 INSURANCE FRAUD; PROVIDING FOR CERTIFICATION OF PLEADINGS, MOTIONS AND OTHER PAPERS; * * * FURTHER PROVIDING FOR SECURING LOADS IN VEHICLES; FURTHER PROVIDING FOR THE INSPECTION OF NEWLY PURCHASED VEHICLES, FOR TRANSPORTING FOODSTUFFS IN VEHICLES USED TO TRANSPORT WASTE AND FOR PENALTIES; CONFERRING POWERS AND DUTIES ON THE INSURANCE DEPARTMENT AND THE DEPARTMENT OF TRANSPORTATION; AND MAKING REPEALS,"

respectfully submit the following bill as our report:

ROBERT W. O'DONNELL

WILLIAM C. RYBAK

STEPHEN F. FREIND

(Committee on the part of the House of Representatives.)

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(Committee on the part of the Senate.)

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AN ACT

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

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

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

25 § 911. Corrupt organizations.

26 * * *

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

28 (1) "Racketeering activity" means:

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

31 Chapter 25 (relating to criminal homicide)

32 Section 2706 (relating to terroristic threats)

33 Chapter 29 (relating to kidnapping)

34 Chapter 33 (relating to arson, etc.)

35 Chapter 37 (relating to robbery)

36 Chapter 39 (relating to theft and related
37 offenses)

38 Section 4108 (relating to commercial bribery and

1 breach of duty to act disinterestedly)

2 Section 4109 (relating to rigging publicly
3 exhibited contest)

4 Section 4117 (relating to motor vehicle insurance
5 fraud)

6 Chapter 47 (relating to bribery and corrupt
7 influence)

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

10 Section 5512 through 5514 (relating to gambling)

11 Chapter 59 (relating to public indecency)

12 (ii) any offense indictable under section 13 of the
13 act of April 14, 1972 (P.L.233, No.64), known as ["The
14 Controlled Substance, Drug, Device and Cosmetic Act["]
15 (relating to the sale and dispensing of narcotic drugs);

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

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

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

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

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

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

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

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

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

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

27 § 4117. Motor vehicle insurance fraud.

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

30 (1) Knowingly and with the intent to defraud a State or

1 local government agency files, presents or causes to be filed
2 with or presented to the government agency a document that
3 contains false, incomplete or misleading information
4 concerning any fact or thing material to the agency's
5 determination in approving or disapproving a motor vehicle
6 insurance rate filing, a motor vehicle insurance transaction
7 or other motor vehicle insurance action which is required or
8 filed in response to an agency's request.

9 (2) Knowingly and with the intent to defraud any
10 insurer, presents or causes to be presented to any insurer
11 any statement forming a part of, or in support of, a motor
12 vehicle insurance claim that contains any false, incomplete
13 or misleading information concerning any fact or thing
14 material to the motor vehicle insurance claim.

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

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

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

30 (6) Is the owner, administrator or employee of any

1 health care facility and knowingly allows the use of such
2 facility by any person in furtherance of a scheme or
3 conspiracy to violate any of the provisions of this section.

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

9 (b) Additional offenses defined.--

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

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

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

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

24 (2) With respect to a motor vehicle insurance benefit or
25 claim, a health care provider may not compensate or give
26 anything of value to a person to recommend or secure the
27 provider's service to or employment by a patient or as a
28 reward for having made a recommendation resulting in the
29 provider's service to or employment by a patient; except that
30 the provider may pay the reasonable cost of advertising or

1 written communication as permitted by rules of professional
2 conduct. Upon a conviction of an offense provided for by this
3 paragraph, the prosecutor shall certify such conviction to
4 the appropriate licensing board in the Department of State
5 which shall suspend or revoke the health care provider's
6 license.

7 (3) A person may not receive compensation, a reward or
8 anything of value in return for providing names, addresses,
9 telephone numbers or other identifying information of victims
10 involved in motor vehicle accidents to a lawyer or health
11 care provider which results in employment of the lawyer or
12 health care provider by the victims for purposes of a motor
13 vehicle insurance claim or suit. Attempts to circumvent this
14 paragraph through use of any other person, including, but not
15 limited to, employees, agents or servants, shall also be
16 prohibited. This provision shall not prohibit a lawyer or
17 health care provider from making a referral and receiving
18 compensation as is permitted under applicable professional
19 rules of conduct.

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

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

29 (e) Restitution.--The court may, in addition to any other
30 sentence authorized by law, sentence a person convicted of

1 violating this section to make restitution under section 1106
2 (relating to restitution for injuries to person or property).

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

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

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

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

24 (h) Criminal action.--

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

28 (2) In addition to the authority conferred upon the
29 Attorney General by the act of October 15, 1980 (P.L.950,
30 No.164), known as the Commonwealth Attorneys Act, the

1 Attorney General shall have the authority to investigate and
2 to institute criminal proceedings for any violation of this
3 section or any series of such violations involving more than
4 one county of the Commonwealth or involving any county of the
5 Commonwealth and another state. No person charged with a
6 violation of this section by the Attorney General shall have
7 standing to challenge the authority of the Attorney General
8 to investigate or prosecute the case, and, if any such
9 challenge is made, the challenge shall be dismissed and no
10 relief shall be available in the courts of the Commonwealth
11 to the person making the challenge.

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

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

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

23 "Insurer." A company, association or exchange defined by
24 section 101 of the act of May 17, 1921 (P.L.682, No.284), known
25 as The Insurance Company Law of 1921; an unincorporated
26 association of underwriting members; a hospital plan
27 corporation; a professional health services plan corporation; a
28 health maintenance organization; a fraternal benefit society;
29 and a self-insured health care entity under the act of October
30 15, 1975 (P.L.390, No.111), known as the Health Care Services

1 Malpractice Act.

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

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

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

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

30 § 8355. Certification of pleadings, motions and other papers.

1 Every pleading, motion and other paper of a party represented
2 by an attorney shall be signed by at least one attorney of
3 record in his individual name and his address shall be stated. A
4 party who is not represented by an attorney shall sign his
5 pleading, motion or other paper and state his address. Except
6 when otherwise specifically provided by rule or statute,
7 pleadings need not be verified or accompanied by affidavit. The
8 signature of an attorney or party constitutes a certification by
9 him that he has read the pleading, motion or other paper; that,
10 to the best of his knowledge, information and belief, it is well
11 grounded in fact and is warranted by existing law or a good-
12 faith argument for the extension, modification or reversal of
13 existing law; and that it is not interposed in bad faith or for
14 any improper purpose, such as to harass another, to maliciously
15 injure another or to cause unnecessary delay or increase in the
16 cost of litigation. If a pleading, motion or other paper is not
17 signed, it shall be stricken unless it is signed promptly after
18 the omission is called to the attention of the pleader or
19 movant. If a pleading, motion or other paper is signed in
20 violation of this section, the court shall award to the
21 successful party costs and reasonable attorney fees and may, in
22 addition, impose a civil penalty which shall not exceed \$10,000.
23 Such costs, fees and civil penalty shall be in addition to any
24 other judgment awarded to the successful party and shall be
25 imposed upon the person who signed the pleading, motion or other
26 paper, or a represented party, or both. This section is in
27 addition to and shall not be construed to limit any other
28 remedies or sanctions provided by law.

29 SUBCHAPTER G

30 SPECIAL DAMAGES

1 Sec.

2 8371. Actions on insurance policies.

3 § 8371. Actions on insurance policies.

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

7 (1) Award interest on the amount of the claim from the
8 date the claim was made by the insured in an amount equal to
9 the prime rate of interest plus 3%.

10 (2) Award punitive damages against the insurer.

11 (3) Assess court costs and attorney fees against the
12 insurer.

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

15 § 1305. Application for registration.

16 (a) General rule.--Application for the registration of a
17 vehicle shall be made to the department upon the appropriate
18 form or forms furnished by the department. The application shall
19 contain the full name and address of the owner or owners; the
20 make, model, year and vehicle identification number of the
21 vehicle; and such other information as the department may
22 require. Applicants for registration of a truck, truck tractor,
23 trailer or bus shall provide the vehicle's Gross Vehicle Weight
24 Rating (GVWR), or the Gross Combination Weight Rating (GCWR), as
25 applicable. If the manufacturer's ratings are not available, the
26 applicant shall provide sufficient information as to the
27 horsepower, braking capacity and such other data as necessary
28 for the department to determine an equivalent measure of the
29 vehicle's hauling and stopping capability. If the applicant
30 wishes to register a vehicle at a registered gross weight less

1 than the gross vehicle weight rating, the application shall
2 include information as to weight, load and any other such
3 information as the department may require. The application shall
4 be accompanied by self-certification of financial responsibility
5 and the applicable fee.

6 (b) Evidence of P.U.C. approval for buses and taxis.--Before
7 registering any bus or taxi which is required under the laws of
8 this Commonwealth to obtain a certificate of public convenience
9 from the Pennsylvania Public Utility Commission, the department
10 shall require evidence that the certificate has been issued and
11 has not been revoked or has not expired.

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

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

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

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

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

29 § 1306. Grounds for refusing registration.

30 The department shall refuse registration or renewal or

1 transfer of registration when any of the following circumstances
2 exists:

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

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

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

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

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

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

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

25 Section 5. Title 75 is amended by adding a section to read:
26 § 1318. Duties of agents.

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

1 responsibility prior to issuance.

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

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

6 (2) The declaration page of an insurance policy.

7 (3) A certificate of financial responsibility.

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

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

13 § 1376. Surrender of registration plates and cards upon
14 suspension or revocation.

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

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

27 (1) A designated department employee.

28 (2) Members of the Pennsylvania State Police.

29 (3) Local police officers.

30 (4) Sheriffs or deputy sheriffs.

1 (5) Constables or deputy constables. If constables and
2 deputy constables are delegated authority to seize
3 registration plates and registration cards under this
4 section, they shall be compensated by the department at the
5 rate of \$15 for each registration plate and card jointly
6 seized, plus mileage. The department shall pay a constable or
7 deputy constable within 30 days after a documented request
8 for payment is submitted to it.

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

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

21 § 1540. Surrender of license.

22 * * *

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

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

1 department[.]:

2 (i) A designated department employee.

3 (ii) Members of the Pennsylvania State Police.

4 (iii) Local police officers.

5 (iv) Sheriffs or deputy sheriffs.

6 (v) Constables or deputy constables. If constables
7 and deputy constables are delegated authority to seize
8 drivers' licenses under this subsection, they shall be
9 compensated by the department at the rate of \$15 for each
10 driver's license seized, plus mileage. The department
11 shall pay a constable or deputy constable within 30 days
12 after a documented request is submitted to it.

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

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

19 § 1702. Definitions.

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

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

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

30 * * *

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

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

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

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

21 "Commissioner." The Insurance Commissioner of the
22 Commonwealth.

23 * * *

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

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

1 "Peer Review Organization" or "PRO." Any Peer Review
2 Organization with which the Federal Health Care Financing
3 Administration or the Commonwealth contracts for medical review
4 of Medicare or medical assistance services, or any health care
5 review company, approved by the commissioner, that engages in
6 peer review for the purpose of determining that medical and
7 rehabilitation services are medically necessary and economically
8 provided. The membership of any PRO utilized in connection with
9 this chapter shall include representation from the profession
10 whose services are subject to the review.

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

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

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

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

22 * * *

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

26 * * *

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

1 Section 8. Title 75 is amended by adding a section to read:
2 § 1705. Election of tort options.

3 (a) Financial responsibility requirements.--

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

12 NOTICE TO NAMED INSUREDS

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

29 B. "Full Tort" Option--The laws of the Commonwealth of
30 Pennsylvania also give you the right to choose a form of

1 insurance under which you maintain an unrestricted right
2 for you and the members of your household to seek
3 financial compensation for injuries caused by other
4 drivers. Under this form of insurance, you and other
5 household members covered under this policy may seek
6 recovery for all medical and other out-of-pocket expenses
7 and may also seek financial compensation for pain and
8 suffering and other nonmonetary damages as a result of
9 injuries caused by other drivers. The annual premium for
10 basic coverage as required by law under this "full tort"
11 option is \$ _____.

12 Additional coverages under this option are available at
13 additional cost.

14 C. You may contact your insurance agent, broker or
15 company to discuss the cost of other coverages.

16 D. If you wish to choose the "limited tort" option
17 described in paragraph A, you must sign this notice where
18 indicated below and return it. If you do not sign and
19 return this notice, you will be considered to have chosen
20 the "full tort" coverage as described in paragraph B and
21 you will be charged the "full tort" premium.

22 I wish to choose the "limited tort" option described in
23 paragraph A:

24 _____
25 Named Insured Date

26 E. If you wish to choose the "full tort" option
27 described in paragraph B, you may sign this notice where
28 indicated below and return it. However, if you do not
29 sign and return this notice, you will be considered to
30 have chosen the "full tort" coverage as described in

1 paragraph B and you will be charged the "full tort"
2 premium.

3 I wish to choose the "full tort" option described in
4 paragraph B:

5
6 Named Insured Date

7 (2) Insurers shall print the above notice containing
8 both options on one sheet in prominent type and place in a
9 prominent location. Any person signing, or otherwise bound
10 by, a document containing such terms is bound by such
11 election and is precluded from claiming liability of any
12 person based upon being inadequately informed in making the
13 election between full tort or limited tort alternatives.
14 Where there are two or more named insureds on a policy, any
15 named insured may make the full or limited tort election
16 provided for in this section for all named insureds on the
17 policy.

18 (3) If a named insured who receives a notice under
19 paragraph (1) does not indicate a choice within 20 days, the
20 insurer shall send a second notice. The second notice shall
21 be in a form identical to the first notice, except that it
22 shall be identified as a second and final notice. If a named
23 insured has not responded to either notice, ten days prior to
24 the renewal date, the named insured and those he is empowered
25 by this section to bind by his choice are conclusively
26 presumed to have chosen the full tort alternative. All
27 notices required by this section shall advise that if no tort
28 election is made, the named insured and those he is empowered
29 to bind by his choice are conclusively presumed to have
30 chosen the full tort alternative. Any person subject to the

1 limited tort option by virtue of this section shall be
2 precluded from claiming liability of any person based upon
3 being inadequately informed.

4 (4) Each insurer, prior to the first issuance of a
5 private passenger motor vehicle liability insurance policy on
6 and after July 1, 1990, shall provide each applicant with the
7 notice required by paragraph (1). A policy may not be issued
8 until the applicant has been provided an opportunity to elect
9 a tort option.

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

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

18 (b) Application of tort options.--

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

27 (2) The tort option elected by a named insured shall
28 apply to all insureds under the private passenger motor
29 vehicle policy who are not named insureds under another
30 private passenger motor vehicle policy. In the case where

1 more than one private passenger motor vehicle policy is
2 applicable to an insured, and the policies have conflicting
3 tort options, the insured is bound by the tort option of the
4 policy associated with the private passenger motor vehicle in
5 which the insured is an occupant at the time of the accident
6 if he is an insured on that policy, and bound by the full
7 tort option otherwise.

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

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

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

28 (1) An individual otherwise bound by the limited tort
29 election who sustains damages in a motor vehicle accident as
30 the consequence of the fault of another person may recover

1 damages as if the individual damaged had elected the full
2 tort alternative whenever the person at fault:

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

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

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

17 (iv) has not maintained financial responsibility as
18 required by this chapter, provided that, nothing in this
19 paragraph shall affect the limitation of section
20 1731(d)(2) (relating to availability, scope and amount of
21 coverage).

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

30 (3) An individual otherwise bound by the limited tort

1 election shall retain full tort rights if injured while an
2 occupant of a motor vehicle other than a private passenger
3 motor vehicle.

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

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

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

- 15 (1) a spouse or other relative of the named insured; or
16 (2) a minor in the custody of either the named insured
17 or relative of the named insured.

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

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

23 § 1711. Required benefits.

24 (a) Medical benefit.--An insurer issuing or delivering
25 liability insurance policies covering any motor vehicle of the
26 type required to be registered under this title, except
27 recreational vehicles not intended for highway use, motorcycles,
28 motor-driven cycles or motorized pedalcycles or like type
29 vehicles, registered and operated in this Commonwealth, shall
30 include coverage providing a medical benefit in the amount of

1 [\$10,000, an income loss benefit up to a monthly maximum of
2 \$1,000 up to a maximum benefit of \$5,000 and a funeral benefit
3 in the amount of \$1,500, as defined in section 1712 (relating to
4 availability of benefits), with respect to injury arising out of
5 the maintenance or use of a motor vehicle. The income loss
6 benefit provided under this section may be expressly waived by
7 the named insured provided the named insured has no expectation
8 of actual income loss due to age, disability or lack of
9 employment history. At the election of the named insured, such
10 policy shall also include an extraordinary medical benefit as
11 described in section 1715(a)(1.1) and (d) (relating to
12 availability of adequate limits).] \$5,000.

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

18 § 1712. Availability of benefits.

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

27 (1) Medical benefit.--[Coverage] Subject to the
28 limitations of section 1797 (relating to customary charges
29 for treatment), coverage to provide for reasonable and
30 necessary medical treatment and rehabilitative services,

1 including, but not limited to, hospital, dental, surgical,
2 psychiatric, psychological, osteopathic, ambulance,
3 chiropractic, licensed physical therapy, nursing services,
4 vocational rehabilitation and occupational therapy, speech
5 pathology and audiology, optometric services, medications,
6 medical supplies and prosthetic devices, all without
7 limitation as to time, provided that, within 18 months from
8 the date of the accident causing injury, it is ascertainable
9 with reasonable medical probability that further expenses may
10 be incurred as a result of the injury. Benefits under this
11 paragraph may include any nonmedical remedial care and
12 treatment rendered in accordance with a recognized religious
13 method of healing.

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

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

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

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

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

30 (4) Funeral benefit.--Expenses directly related to the

1 funeral, burial, cremation or other form of disposition of
2 the remains of a deceased individual, incurred as a result
3 of the death of the individual as a result of the accident
4 and within 24 months from the date of the accident.

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

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

10 § 1715. Availability of adequate limits.

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

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

14 (1.1) For extraordinary medical benefits, from \$100,000
15 to \$1,100,000, which may be offered in increments of
16 \$100,000, as limited by subsection (d).

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

19 (3) For accidental death benefits, up to at least
20 \$25,000.

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

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

1 * * *

2 § 1718. Exclusion from benefits.

3 * * *

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

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

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

18 § 1720. Subrogation.

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

29 § 1722. Preclusion of [pleading, proving and] recovering
30 required benefits.

1 In any action for damages against a tortfeasor, or in any
2 uninsured or underinsured motorist proceeding, arising out of
3 the maintenance or use of a motor vehicle, a person who is
4 eligible to receive benefits under the coverages set forth in
5 [section 1711 (relating to required benefits) or the coverage
6 set forth in section 1715(a)(1.1) (relating to availability of
7 adequate limits)] this subchapter, or workers' compensation, or
8 any program, group contract or other arrangement for payment of
9 benefits as defined in section 1719 (relating to coordination of
10 benefits) shall be precluded from [pleading, introducing into
11 evidence or] recovering the amount of benefits paid or payable
12 under [section 1711 or 1715(a)(1.1)]. This preclusion applies
13 only to the amount of benefits set forth in sections 1711 and
14 1715(a)(1.1)] this subchapter, or workers' compensation or any
15 program, group contract or other arrangement for payment of
16 benefits as defined in section 1719.

17 § 1731. [Scope] Availability, scope and amount of coverage.

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

28 (b) Uninsured motorist coverage.--Uninsured motorist
29 coverage shall provide protection for persons who suffer injury
30 arising out of the maintenance or use of a motor vehicle and are

1 legally entitled to recover damages therefor from owners or
2 operators of uninsured motor vehicles. The named insured shall
3 be informed that he may reject uninsured motorist coverage by
4 signing the following written rejection form.

5 REJECTION OF UNINSURED MOTORIST PROTECTION

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

13

14 Signature of First Named Insured

15

16 Date

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

24 REJECTION OF UNDERINSURED MOTORIST PROTECTION

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

1 knowingly and voluntarily reject this coverage.

2
3

3 Signature of First Named Insured

4
5

5 Date

6 (c.1) Form of waiver.--Insurers shall print the rejection
7 forms required by subsections (b) and (c) on separate sheets in
8 prominent type and location. The forms must be signed by the
9 first named insured and dated to be valid. The signatures on the
10 forms may be witnessed by an insurance agent or broker. Any
11 rejection form that does not specifically comply with this
12 section is void. If the insurer fails to produce a valid
13 rejection form, uninsured or underinsured coverage, or both, as
14 the case may be, under that policy shall be equal to the bodily
15 injury liability limits. On policies in which either uninsured
16 or underinsured coverage has been rejected, the policy renewals
17 must contain notice in prominent type that the policy does not
18 provide protection against damages caused by uninsured or
19 underinsured motorists. Any person who executes a waiver under
20 subsection (b) or (c) shall be precluded from claiming liability
21 of any person based upon inadequate information.

22 (d) Limitation on recovery.--

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

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

1 damages.

2 Section 10. Section 1732 of Title 75 is repealed.

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

5 § 1733. Priority of recovery.

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

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

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

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

19 § 1734. Request for lower [or higher] limits of coverage.

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

1 higher limits of liability for those coverages.]

2 Section 12. Title 75 is amended by adding sections to read:

3 § 1737. Workers' compensation benefits not a bar to uninsured
4 and underinsured motorist benefits.

5 Notwithstanding anything contained in the act of June 2, 1915
6 (P.L.736, No.338), known as The Pennsylvania Workmen's
7 Compensation Act, no employee who is otherwise eligible shall be
8 precluded from recovery of uninsured or underinsured motorist
9 benefits from an employer's motor vehicle policy under this
10 chapter or the act of August 14, 1963 (P.L.909, No.443),
11 entitled "An act requiring, with limitations, that insurance
12 policies insuring against loss, occurring in connection with
13 motor vehicles provide protection against certain uninsured
14 motorists."

15 § 1738. Stacking of uninsured and underinsured benefits and
16 option to waive.

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

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

30 (c) More than one vehicle.--Each named insured purchasing

1 uninsured or underinsured motorist coverage for more than one
2 vehicle under a policy shall be provided the opportunity to
3 waive the stacked limits of coverage and instead purchase
4 coverage as described in subsection (b). The premiums for an
5 insured who exercises such waiver shall be reduced to reflect
6 the different cost of such coverage.

7 (d) Forms.--

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

12 UNINSURED COVERAGE LIMITS

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

22

23 Signature of First Named Insured

24

25 Date

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

1 of coverage, provided that applicants may only obtain
2 coverage effective as of the date and time of the application
3 if the agent or broker of record uses electronic mail binding
4 procedures specified in the rules.

5 § 1753. Benefits available.

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

14 § 1781. Notice of sanction for not evidencing financial
15 responsibility.

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

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

30 § 1782. Manner of providing proof of financial responsibility.

1 * * *

2 (d) Financial responsibility identification cards.--Insurers
3 shall provide financial responsibility identification cards to
4 insureds which shall be valid only for the period for which
5 coverage has been paid by the insured. Financial responsibility
6 identification cards shall disclose the period for which
7 coverage has been paid by the insured and shall contain such
8 other information as required by the Insurance Department. In
9 such instance where the insured has financed premiums through a
10 premium finance company or where the insured is on an insurer-
11 sponsored or agency-sponsored payment plan, financial
12 responsibility identification cards may be issued for periods of
13 six months even though such payment by the insured may be for a
14 period of less than six months. Nothing in this paragraph shall
15 be construed to require the immediate issuance of financial
16 responsibility identification cards where an insured replaces an
17 insured vehicle, adds a vehicle or increases coverages under an
18 existing policy for which a premium adjustment is required.

19 Section 15. Section 1786 of Title 75 is amended to read:

20 § 1786. [Self-certification of] Required financial
21 responsibility.

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

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

1 certification.

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

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

24 (e) Obligations upon termination of financial
25 responsibility.--

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

1 Transportation.

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

6 (3) An insurer who has issued a contract of motor
7 vehicle liability insurance and knows or has reason to
8 believe that the contract is only for the purpose of
9 providing proof of financial responsibility shall notify the
10 department if the insurance has been canceled or terminated
11 by the insured or by the insurer. The insurer shall notify
12 the department not later than ten days following the
13 effective date of the cancellation or termination.

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

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

26 (f) Operation of a motor vehicle without required financial
27 responsibility.--Any owner of a motor vehicle for which the
28 existence of financial responsibility is a requirement for its
29 legal operation shall not operate the motor vehicle or permit it
30 to be operated upon a highway of this Commonwealth without the

1 financial responsibility required by this chapter. In addition
2 to the penalties provided by subsection (d), any person who
3 fails to comply with this subsection commits a summary offense
4 and shall, upon conviction, be sentenced to pay a fine of \$300.

5 (g) Defenses.--

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

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

20 Section 16. Section 1791 of Title 75 is amended to read:

21 § 1791. Notice of available benefits and limits.

22 It shall be presumed that the insured has been advised of the
23 benefits and limits available under this chapter provided the
24 following notice in bold print of at least ten-point type is
25 given to the applicant at the time of application for original
26 coverage [or at the time of the first renewal after October 1,
27 1984], and no other notice or rejection shall be required:

28 **IMPORTANT NOTICE**

29 Insurance companies operating in the Commonwealth of
30 Pennsylvania are required by law to make available for

1 purchase the following benefits for you, your spouse or
2 other relatives or minors in your custody or in the
3 custody of your relatives, residing in your household,
4 occupants of your motor vehicle or persons struck by your
5 motor vehicle:

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

7 (1.1) Extraordinary medical benefits, from \$100,000
8 to \$1,100,000 which may be offered in increments of
9 \$100,000.

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

12 (3) Accidental death benefits, up to at least
13 \$25,000.

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

15 (5) As an alternative to paragraphs (1) [through],
16 (2), (3) and (4), a combination benefit, up to at least
17 [\$277,500] \$177,500 of benefits in the aggregate or
18 benefits payable up to three years from the date of the
19 accident, whichever occurs first, subject to a limit on
20 accidental death benefit of up to \$25,000 and a limit on
21 funeral benefit of \$2,500, provided that nothing
22 contained in this subsection shall be construed to limit,
23 reduce, modify or change the provisions of section
24 1715(d) (relating to availability of adequate limits).

25 (6) Uninsured, underinsured and bodily injury
26 liability coverage up to at least \$100,000 because of
27 injury to one person in any one accident and up to at
28 least \$300,000 because of injury to two or more persons
29 in any one accident or, at the option of the insurer, up
30 to at least \$300,000 in a single limit for these

1 coverages, except for policies issued under the Assigned
2 Risk Plan. Also, at least \$5,000 for damage to property
3 of others in any one accident.

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

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

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

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

19 Section 17. Title 75 is amended by adding a section to read:

20 § 1791.1. Disclosure of premium charges and tort options.

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

28 The laws of the Commonwealth of Pennsylvania, as enacted
29 by the General Assembly, only require that you purchase
30 liability and first-party medical benefit coverages. Any

1 additional coverages or coverages in excess of the limits
2 required by law are provided only at your request as
3 enhancements to basic coverages.

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

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

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

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

29 B. "Full Tort" Option--This form of insurance allows
30 you to maintain an unrestricted right for

1 yourself and other members of your household to
2 seek financial compensation for injuries caused
3 by other drivers. Under this form of insurance,
4 you and other household members covered under
5 this policy may seek recovery for all medical and
6 other out-of-pocket expenses and may also seek
7 financial compensation for pain and suffering or
8 other nonmonetary damages as a result of injuries
9 caused by other drivers.

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

14 (c) Notice of premium discounts.--Except where the
15 commissioner has determined that an insurer may omit a discount
16 because the discount is duplicative of other discounts or is
17 specifically reflected in the insurer's experience, at the time
18 of application for original coverage and every renewal
19 thereafter, an insurer must provide to an insured a notice
20 stating that discounts are available for drivers who meet the
21 requirements of sections 1799 (relating to restraint system),
22 1799.1 (relating to antitheft devices) and 1799.2 (relating to
23 driver improvement course discounts).

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

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

3 § 1792. Availability of uninsured, underinsured, bodily injury
4 liability and property damage coverages and mandatory
5 deductibles.

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

20 (b) Mandatory deductibles.--

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

30 (2) Under no circumstances may a private passenger

1 automobile insurance policy provide a collision deductible in
2 an amount less than \$100.

3 (3) Any person or entity providing financing to the
4 purchaser of a motor vehicle or otherwise holding a security
5 interest in a motor vehicle shall not be permitted to require
6 the purchase of a deductible for less than \$500 for collision
7 and comprehensive coverages. Any financial institution,
8 insurer, agent or other person or entity found to have
9 violated this provision shall be required to reimburse the
10 policyholder in an amount equal to the difference in premium
11 and, in addition, shall be required to pay a civil penalty of
12 \$500 to the Department of Transportation for each violation.

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

18 § 1797. Customary charges for treatment.

19 (a) General rule.--A person or institution providing
20 treatment, accommodations, products or services to an injured
21 person for an injury covered by [medical or catastrophic loss
22 benefits] liability or uninsured and underinsured benefits or
23 first party medical benefits, including extraordinary medical
24 benefits, for a motor vehicle described in Subchapter B
25 (relating to motor vehicle liability insurance first party
26 benefits), shall not [make a charge] require, request or accept
27 payment for the treatment, accommodations, products or services
28 in excess of [the amount the person or institution customarily
29 charges for like treatment, accommodations, products and
30 services in cases involving no insurance.] 110% of the

1 prevailing charge at the 75th percentile; 110% of the applicable
2 fee schedule, the recommended fee or the inflation index charge;
3 or 110% of the diagnostic-related groups (DRG) payment;
4 whichever pertains to the specialty service involved, determined
5 to be applicable in this Commonwealth under the Medicare program
6 for comparable services at the time the services were rendered,
7 or the provider's usual and customary charge, whichever is less.
8 The General Assembly finds that the reimbursement allowances
9 applicable in the Commonwealth under the Medicare program are an
10 appropriate basis to calculate payment for treatments,
11 accommodations, products or services for injuries covered by
12 liability or uninsured and underinsured benefits or first party
13 medical benefits insurance. Future changes or additions to
14 Medicare allowances are applicable under this section. If the
15 commissioner determines that an allowance under the Medicare
16 program is not reasonable, he may adopt a different allowance by
17 regulation, which allowance shall be applied against the
18 percentage limitation in this subsection. If a prevailing
19 charge, fee schedule, recommended fee, inflation index charge or
20 DRG payment has not been calculated under the Medicare program
21 for a particular treatment, accommodation, product or service,
22 the amount of the payment may not exceed 80% of the provider's
23 usual and customary charge. If acute care is provided in an
24 acute care facility to a patient with an immediately life-
25 threatening or urgent injury by a Level I or Level II trauma
26 center accredited by the Pennsylvania Trauma Systems Foundation
27 under the act of July 3, 1985 (P.L.164, No.45), known as the
28 Emergency Medical Services Act, or to a major burn injury
29 patient by a burn facility which meets all the service standards
30 of the American Burn Association, the amount of payment may not

1 exceed the usual and customary charge. Providers subject to this
2 section may not bill the insured directly but must bill the
3 insurer for a determination of the amount payable. The provider
4 shall not bill or otherwise attempt to collect from the insured
5 the difference between the provider's full charge and the amount
6 paid by the insurer.

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

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

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

30 (3) Pending determinations by PRO.--If the insurer

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

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

15 (5) PRO determination in favor of provider or insured.--
16 If a PRO determines that medical treatment or rehabilitative
17 services or merchandise were medically necessary, the insurer
18 must pay to the provider the outstanding amount plus interest
19 at 12% per year on any amount withheld by the insurer pending
20 PRO review.

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

27 (7) Determination in favor of insurer.--If it is
28 determined by a PRO or court that a provider has provided
29 unnecessary medical treatment or rehabilitative services or
30 merchandise or that future provision of such treatment,

1 services or merchandise will be unnecessary, or both, the
2 provider may not collect payment for the medically
3 unnecessary treatment, services or merchandise. If the
4 provider has collected such payment, it must return the
5 amount paid plus interest at 12% per year within 30 days. In
6 no case does the failure of the provider to return the
7 payment obligate the insured to assume responsibility for
8 payment for the treatment, services or merchandise.

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

12 Section 19. Title 75 is amended by adding sections to read:

13 § 1799. Restraint system.

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

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

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

5 § 1799.1. Antitheft devices.

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

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

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

27 § 1799.2. Driver improvement course discounts.

28 (a) Motor vehicle driver improvement course.--All insurance
29 companies authorized to write private passenger automobile
30 insurance within this Commonwealth shall provide a premium

1 discount for each motor vehicle on a policy under which all
2 named insureds are 55 years of age or older and have
3 successfully completed a motor vehicle driver improvement course
4 meeting the standards of the Department of Transportation. This
5 discount shall apply to all coverages for all policy periods
6 beginning within the three-year period immediately following the
7 successful completion of the course, and shall be approved by
8 the commissioner as part of the insurer's rate filing, provided
9 that such discount shall not be less than 5%. The successful
10 completion of more than one course within a three-year period
11 does not qualify the insured for additional discounts. The
12 premium discount required by this subsection may be omitted upon
13 demonstration to the commissioner in an insurer's rate filing
14 that the discount is duplicative of a driver improvement course
15 discount provided by the insurer.

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

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

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

27 (2) not be convicted of an offense enumerated in section
28 1535 (relating to schedule of convictions and points); and

29 (3) not be convicted, or have accepted Accelerated
30 Rehabilitative Disposition (ARD) for driving under the

1 influence of alcohol or a controlled substance.

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

6 § 1799.3. Limit on cancellations, refusals to renew, refusals
7 to write, surcharges, rate penalties and point
8 assignments.

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

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

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

25 (d) Notice to insured.--If an insurer makes a determination
26 to impose a surcharge, rate penalty or driver record point
27 assignment, the insurer shall inform the named insured of the
28 determination and shall specify the manner in which the
29 surcharge, rate penalty or driver record point assignment was
30 made and clearly identify the amount of the surcharge or rate

1 penalty on the premium notice for as long as the surcharge or
2 rate penalty is in effect.

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

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

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

1 to the extent of the conflict.

2 § 1799.4. Examination of vehicle repairs.

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

7 § 1799.5. Conduct of market study.

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

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

13 (1) Determine extent of insurer competition.

14 (2) Determine the number of uninsured motorists.

15 (3) Determine extent of insurer profits and losses.

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

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

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

24 § 1799.6. Conduct of random field surveys.

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

30 (1) The determination of the geographical areas to be

1 surveyed.

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

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

7 (4) The sorting and categorizing of information.

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

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

11 (b) Conjunctive analysis of market study and field survey.--

12 The department may analyze information collected from insurance
13 companies under section 1799.5 in conjunction with information
14 collected from field surveys. This analysis may be ongoing. The
15 department's authority to undertake the conjunctive analysis is
16 in addition to any other of its statutory investigative
17 responsibilities. The conjunctive analysis may be used by the
18 department for general regulatory purposes, including
19 enforcement of the insurance laws.

20 § 1799.7. Rates.

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

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

28 (1) For an insured electing the limited tort option
29 under section 1705 (relating to election of tort options),
30 the total premium charged for any selection of coverages and

1 coverage limits shall be reduced by at least 22% from the
2 total premium for the same selection of coverages and
3 coverage limits in effect on December 1, 1989.

4 (2) For an insured bound by the full tort option under
5 section 1705, the total premium charged for any selection of
6 coverages and coverage limits shall be reduced by at least
7 10% from the total premium for the same selection of
8 coverages and coverage limits in effect on December 1, 1989.

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

13 (c) Approval and disapproval of certain filings.--Any
14 initial filing submitted by an insurer pursuant to subsection
15 (a), which reduces rates for all insureds from rates in effect
16 December 1, 1989, in amounts specified in subsection (b), shall
17 become effective immediately for policies issued or renewed on
18 and after July 1, 1990, upon receipt by the department and shall
19 be deemed to comply with the act of June 11, 1947 (P.L.538,
20 No.246), known as The Casualty and Surety Rate Regulatory Act
21 and with Chapter 20 (relating to motor vehicle insurance rate
22 review procedures). Any filing so deemed may subsequently be
23 disapproved, effective upon seven days written notice by the
24 commissioner stating in what respect the filing or part thereof
25 fails to meet the requirements of this chapter or other
26 applicable law. If a deemed filing is so disapproved within 90
27 days after receipt by the commissioner, the commissioner may
28 order the insurer to pay refunds to all insureds charged
29 inappropriate rates under the filing. The ability to order
30 refunds shall be in addition to other penalties authorized by

1 law.

2 (d) Immediate rate freeze.--In order to provide stability
3 during the period of transition leading up to the effective date
4 of the amendments to 75 Pa.C.S. Ch. 17 (relating to financial
5 responsibility) and to assure fair and equitable treatment of
6 insurers and insureds, it is in the best interest of the
7 Commonwealth to temporarily suspend the adoption of new private
8 passenger motor vehicle rates. Notwithstanding any provisions of
9 law to the contrary, all private passenger motor vehicle rates
10 in effect on December 1, 1989, may not be changed so as to be
11 effective prior to July 1, 1990. Any rate requests filed with
12 the commissioner to be effective on or after December 1, 1989,
13 whether or not such requests were approved by the commissioner
14 or by operation of law, prior to, on or after December 1, 1989,
15 are hereby disapproved as being in conflict with this chapter.

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

20 (f) Rate increase justification.--All rates charged by an
21 insurer during the period between July 1, 1991, and June 30,
22 1992, may not be increased over the rates in effect pursuant to
23 subsections (b) and (e) by an amount greater than that indicated
24 by an increase in the Consumer Price Index (URBAN), the cost of
25 medical care services, the cost of automobile repairs or other
26 indices of cost increases affecting automobile insurance adopted
27 by the commissioner by publication of notice in the Pennsylvania
28 Bulletin.

29 (g) Calculation of rates.--In all rate filings subsequent to
30 the initial filing required by subsection (a), insurers shall

1 allocate expenses, losses and income according to the coverages
2 which generate such expenses, losses and income, provided that
3 each insurer shall provide its limited tort electors with
4 premium savings that equal, in the aggregate, reductions in the
5 insurer's losses created by limited tort electors under the
6 system of tort options established in section 1705 (relating to
7 election of tort options).

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

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

14 CHAPTER 18

15 MOTOR VEHICLE INSURANCE FRAUD

16 Subchapter

17 A. General Provisions

18 B. Antifraud Plans

19 C. Motor Vehicle Insurance Fraud Index Bureau

20 SUBCHAPTER A

21 GENERAL PROVISIONS

22 Sec.

23 1801. Definitions.

24 § 1801. Definitions.

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

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

30 "Commissioner." The Insurance Commissioner of the

1 Commonwealth.

2 "Department." The Insurance Department of the Commonwealth.

3 SUBCHAPTER B

4 ANTIFRAUD PLANS

5 Sec.

6 1811. Filing of plans.

7 1812. Content of plans.

8 1813. Review by commissioner.

9 1814. Report on antifraud activities.

10 1815. Penalties.

11 1816. Confidentiality of plans and reports.

12 1817. Reporting of insurance fraud.

13 1818. Civil immunity.

14 § 1811. Filing of plans.

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

24 § 1812. Content of plans.

25 The antifraud plans of each insurer shall establish specific
26 procedures:

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

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

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

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

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

10 (6) To ensure that costs incurred as a result of
11 detected insurance fraud are not included in any rate base
12 affecting the premiums of motor vehicle insurance consumers.

13 § 1813. Review by commissioner.

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

26 § 1814. Report on antifraud activities.

27 All insurers shall annually provide to the department a
28 summary report on actions taken under the plan to prevent and
29 combat insurance fraud, including, but not limited to, measures
30 taken to protect and ensure the integrity of electronic data-

1 processing-generated data and manually compiled data,
2 statistical data on the amount of resources committed to
3 combating fraud, and the amount of fraud identified and
4 recovered during the reporting period.

5 § 1815. Penalties.

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

21 § 1816. Confidentiality of plans and reports.

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

26 § 1817. Reporting of insurance fraud.

27 Every insurer licensed to do business in this Commonwealth,
28 and its employees, agents, brokers, motor vehicle physical
29 damage appraisers and public adjusters, or public adjuster
30 solicitors, who has a reasonable basis to believe insurance

1 fraud has occurred, shall be required to report the incidence of
2 suspected insurance fraud to Federal, State or local criminal
3 law enforcement authorities. Licensed insurance agents and
4 physical damage appraisers may elect to report suspected fraud
5 through the affected insurer with which they have a contractual
6 relationship. All reports of insurance fraud to law enforcement
7 authorities shall be made in writing, and copies of the report
8 shall be sent simultaneously to the index bureau. Where
9 insurance fraud involves agents, brokers, motor vehicle physical
10 damage appraisers, public adjusters or public adjuster
11 solicitors, a copy of the report shall also be sent to the
12 department.

13 § 1818. Civil immunity.

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

18 SUBCHAPTER C

19 MOTOR VEHICLE INSURANCE FRAUD

20 INDEX BUREAU

21 Sec.

22 1821. Designation.

23 1822. Reports.

24 1823. Membership in bureau.

25 1824. Organization, reports and fees.

26 1825. Use of information.

27 1826. Annual reports.

28 1827. Warning notice on application for insurance and claim
29 forms.

30 1828. Rules and regulations.

1 § 1821. Designation.

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

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

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

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

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

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

24 § 1822. Reports.

25 (a) Requirement.--Each insurer licensed to write motor
26 vehicle insurance in this Commonwealth shall, as a condition of
27 authority to transact the business of insurance in this
28 Commonwealth, report information on suspected fraudulent claims
29 and applications for benefits arising out of the maintenance and
30 use of a motor vehicle in this Commonwealth with the bureau

1 within 45 days of receipt of such claim.

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

4 (1) Identification of claimants.

5 (2) Identification of medical providers.

6 (3) Identification of repair shops.

7 (4) Identification of insurance adjusters.

8 (5) Identification of attorneys representing claimants.

9 (6) Description of claims.

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

12 (8) Other information required by the Insurance
13 Commissioner.

14 § 1823. Membership in bureau.

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

20 § 1824. Organization, reports and fees.

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

1 of the bureau or the request is made by another index bureau.

2 § 1825. Use of information.

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

7 § 1826. Annual reports.

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

15 § 1827. Warning notice on application for insurance and claim
16 forms.

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

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

26 § 1828. Rules and regulations.

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

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

30 § 1960. Reinstatement of operating privilege or vehicle

1 supercede The Casualty and Surety Rate Regulatory Act to the
2 extent of the conflict.

3 § 2003. Waiting period for filings.

4 (a) General rule.--Notwithstanding any other provision of
5 law to the contrary, and except as otherwise provided in
6 subsection (b), no rate filing to which this chapter applies may
7 become effective prior to the expiration of a waiting period of
8 60 days from the date the filing is received by the
9 commissioner. This 60-day period may be extended an additional
10 30 days by the commissioner upon written notice to the insurer
11 or rating organization making the filing.

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

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

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

29 § 2004. Action by commissioner on rate filings within waiting
30 period.

1 (a) General rule.--Notwithstanding any other provision of
2 law to the contrary, within the waiting period or any extension
3 thereof as provided in section 2003(a) (relating to waiting
4 period for filings), the commissioner may, by written notice,
5 approve or disapprove the rate filing or schedule a formal
6 administrative hearing on the filing. If a rate filing is
7 approved, it may become effective upon the expiration of the
8 waiting period and any extension thereof as provided in section
9 2003(a) or upon the effective date specified in the filing,
10 whichever is later. If a rate filing is disapproved, the
11 commissioner shall state in what respects the filing or part
12 thereof fails to meet the requirements of this chapter or other
13 applicable law.

14 (b) Effective date pending hearing.--If a rate filing is
15 scheduled for a formal administrative hearing under this
16 section, the filing may not become effective until an
17 adjudication is issued. An adjudication shall be issued within
18 60 days after the close of the hearing.

19 § 2005. Review of action of commissioner taken without hearing.

20 Any insurer or rating organization aggrieved by any order or
21 decision of the commissioner made without a hearing may, within
22 30 days after notice of the order to the insurer or
23 organization, make written request to the commissioner for a
24 hearing thereon. The commissioner shall hold a hearing within 30
25 days after receipt of the request and shall give not less than
26 ten days' written notice of the time and place of the hearing.
27 Within 30 days after the close of the hearing, the commissioner
28 shall affirm, reverse or modify his previous action, specifying
29 his reasons therefor.

30 § 2006. Action by commissioner on rate filings after waiting

1 period.

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

21 § 2007. Deemed approvals.

22 A rate filing may be deemed to meet the requirements of this
23 chapter and other applicable statutes governing the
24 establishment of rates unless disapproved or scheduled for a
25 formal administrative hearing by the commissioner within the
26 waiting period or any extensions thereof as provided in section
27 2003(a) (relating to waiting period for filings). The filing
28 shall not become effective unless the department receives
29 written notice of the insurer's or rating organization's intent
30 to exercise the right granted under this section at least ten

1 calendar days prior to the effective date.

2 § 2008. Hearing procedures.

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

5 § 2009. Rules and regulations.

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

13 Section 23. Title 75 is amended by adding a section to read:

14 § 3731.1. Operators of commercial vehicles.

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

19 (b) Disqualification.--Upon receipt of a certified copy of a
20 conviction of a violation of this section, the department shall
21 disqualify the person from driving a commercial motor vehicle
22 for a period of one year. Two or more convictions of a violation
23 of this section shall result in the department disqualifying the
24 person from driving a commercial motor vehicle, as provided in
25 49 CFR § 383.51 (relating to disqualification of drivers).

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

28 (1) A vehicle with a gross vehicle weight rating of
29 26,001 or more pounds.

30 (2) A combination of vehicles with a gross combination

1 weight rating of 26,001 or more pounds, including the gross
2 vehicle weight rating of the towed unit or units.

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

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

8 Section 24. Section 4703(d) of Title 75 is amended to read:

9 § 4703. Operation of vehicle without official certificate of
10 inspection.

11 * * *

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

16 * * *

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

19 § 4727. Issuance of certificate of inspection.

20 * * *

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

1 the department, on the form provided by the department, within
2 30 days of the insured's failure to present proof of financial
3 responsibility.

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

6 § 6104. Administrative duties of department.

7 * * *

8 (f) Furnishing information to municipal police departments
9 and sheriffs' offices.--The department shall regularly transmit
10 to each municipal police department and sheriff's office a list
11 of the names of persons residing within its jurisdiction whose
12 operating privilege or registration has been suspended or
13 revoked.

14 Section 27. Title 75 is amended by adding a section to read:

15 § 6308.1. Payment to police or sheriff's office of one-half of
16 reinstatement fee.

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

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

27 Section 29. The Joint State Government Commission shall, in
28 relation to motorists in cities of the first class, make a study
29 to assess the feasibility and impact of mandating that, upon
30 application for or renewal of an operator's license, a driver

1 remit moneys for the purchase of a basic automobile insurance
2 policy. This policy would provide minimum levels of mandated
3 coverages for bodily injury and property damage liability and
4 for medical benefits. The assessment shall also include an
5 analysis of the administrative cost and premium cost to the
6 individual.

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

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

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

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

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

30 (5) An assessment of the impact of "take-out" provisions

1 on the voluntary market place in cities of the first class.

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

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

11 (8) A determination as to whether the use of a single
12 carrier in cities of the first class would have a positive
13 financial impact on all motorists in such cities and in this
14 Commonwealth. Such determination shall include an analysis of
15 the use of a public authority or agency as the single carrier
16 and of its potential for providing lower rates when compared
17 to use of a private insurance company as a single carrier. In
18 addition, the determination shall include an analysis of the
19 single carrier program when voluntary participation in the
20 program is permitted in comparison to the benefits of
21 mandatory participation.

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

25 (b) Insurance companies licensed in this Commonwealth to
26 write policies of private passenger motor vehicle insurance
27 coverage shall cooperate with the Insurance Department study as
28 described in subsection (a). Cooperation shall include, but not
29 be limited to, the provision of information by insurance
30 companies within reasonable time frames as requested by the

1 department, if the information is available, to be used to
2 address the various components of the study described in
3 subsection (a). Such information may be used by the department
4 only for purposes of this study.

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

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

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

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

30 (4) For physical damage repair or replacement, the

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

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

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

13 (7) Rates charged in the program shall be lower than
14 rates available in the voluntary market and shall be included
15 in the contract and shall be valid for a period of not less
16 than two years. Rate increases after this period shall be
17 subject to approval as provided in the act of June 11, 1947
18 (P.L.538, No.246), known as The Casualty and Surety Rate
19 Regulatory Act.

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

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

25 (i) section 3731 (relating to driving under the
26 influence of alcohol or a controlled substance);

27 (ii) 18 Pa.C.S. § 4117 (relating to motor vehicle
28 insurance fraud); or

29 (iii) any felony involving the use of a motor
30 vehicle.

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

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

11 (4) The person's driving record shows six or more points
12 assessed under section 1535 (relating to schedule of
13 convictions and points) for violations that occurred within
14 36 months of the date of application for insurance under this
15 section.

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

19 Section 31. (a) Sections 349 and 349.1 of the act of May
20 17, 1921 (P.L.682, No.284), known as The Insurance Company Law
21 of 1921, are repealed insofar as they are inconsistent with this
22 act.

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

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

29 Section 32. This act shall take effect as follows:

30 (1) Sections 7, 8, 19 (75 Pa.C.S. § 1799.7), 20, 28, 29,

1 30 and 31(b) and (c), and this section shall take effect
2 immediately.

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

5 (3) Sections 19 (75 Pa.C.S. §§ 1799.4, 1799.5 and
6 1799.6), 24 and 26 shall take effect in 60 days.

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

9 (5) Sections 1 (18 Pa.C.S. § 911(h)), 2 (18 Pa.C.S. §
10 4117), 3 (42 Pa.C.S. § 8355), 4 (75 Pa.C.S. §§ 1305 and
11 1306), 5 (75 Pa.C.S. § 1318), 6 (75 Pa.C.S. §§ 1376 and
12 1540(c)) and 31(a) shall take effect in 60 days.

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

17 (7) Section 17 shall take effect immediately and shall
18 apply to all policies issued or renewed on and after July 1,
19 1990.

20 (8) The remainder of this act shall take effect July 1,
21 1990.