

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1106 Session of 1989

INTRODUCED BY HOLL, LOEPER AND HELFRICK, JUNE 21, 1989

AS AMENDED ON THIRD CONSIDERATION, JUNE 28, 1989

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 insurance fraud; providing for  
5 certification of pleadings, motions and other papers;  
6 PROVIDING FOR SPECIAL DAMAGES; further providing for chemical ←  
7 testing to determine amount of alcohol or controlled  
8 substances; providing for suspension of drivers' licenses for  
9 driving under the influence of alcohol; further providing for  
10 financial responsibility and insurance related to motor  
11 vehicles; further providing for reinstatement of operating  
12 privileges or vehicle registration; further providing for  
13 driving under the influence of alcohol or controlled  
14 substances, for issuance of inspection certificates and for  
15 administrative duties of the Department of Transportation;  
16 conferring powers and duties on the Insurance Department and  
17 the Department of Transportation; and making repeals.

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

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

22 § 911. Corrupt organizations.

23 \* \* \*

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

25 (1) "Racketeering activity" means:

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

3 Chapter 25 (relating to criminal homicide)

4 Section 2706 (relating to terroristic threats)

5 Chapter 29 (relating to kidnapping)

6 Chapter 33 (relating to arson, etc.)

7 Chapter 37 (relating to robbery)

8 Chapter 39 (relating to theft and related  
9 offenses)

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

12 Section 4109 (relating to rigging publicly  
13 exhibited contest)

14 Section 4117 (relating to insurance fraud)

15 Chapter 47 (relating to bribery and corrupt  
16 influence)

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

19 Section 5512 through 5514 (relating to gambling)

20 Chapter 59 (relating to public indecency)

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

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

28 (iv) the collection of any money or other property  
29 in full or partial satisfaction of a debt which arose as  
30 the result of the lending of money or other property at a

1 rate of interest exceeding 25% per annum or the  
2 equivalent rate for a longer or shorter period, where not  
3 otherwise authorized by law.

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

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

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

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

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

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

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

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

6 § 4117. Insurance fraud.

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

9 (1) Knowingly and with the intent to defraud any insurer  
10 presents or causes to be presented to any insurer any written  
11 or oral statement forming a part of, or in support of, an  
12 ~~insurance application or an~~ AUTOMOBILE insurance claim that ←  
13 contains any false, incomplete or misleading information  
14 concerning any fact or thing material to the ~~insurance~~ ←  
15 ~~application or~~ insurance claim.

16 (2) Knowingly and with the intent to defraud any insurer  
17 assists, abets, solicits or conspires with another to prepare  
18 or make any written or oral statement that is intended to be  
19 presented to any insurer in connection with, or in support  
20 of, any ~~insurance application or~~ AUTOMOBILE insurance claim ←  
21 that contains any false, incomplete or misleading information  
22 concerning any fact or thing material to the insurance claim.

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

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

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

5           (6) Solicits, offers, pays or receives a kickback or  
6 bribe in connection with the furnishing of goods or services  
7 for which payment is or may be made in whole or in part by an  
8 insurer, or receives a rebate of a fee or charge for  
9 referring an individual to another person for the furnishing  
10 of benefits.

11           (7) Borrows or uses another person's insurance  
12 identification or permits his insurance identification to be  
13 used by another, knowingly and with intent to present a  
14 fraudulent claim for reimbursement to an insurer.

15           (b) Electronic claims submission.--If a claim for a benefit  
16 is made by means of computer billing tapes or other electronic  
17 means, it shall be a rebuttable presumption that the person  
18 knowingly made the claim if the person has advised the insurer  
19 in writing that claims for benefits will be submitted by use of  
20 computer billing tapes or other electronic means.

21           (c) Grading.--An offense under this section is a felony of  
22 the third degree.

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

27           (e) Immunity.--An insurer, and any agent, servant or  
28 employee acting in the course and scope of his employment, shall  
29 be immune from civil or criminal liability arising from the  
30 supply or release of written or oral information to any entity

1 duly authorized to receive such information by Federal or State  
2 law, or by Insurance Department regulations, only if both of the  
3 following conditions exist:

4 (1) the information is supplied to the agency in  
5 connection with an allegation of fraudulent conduct on the  
6 part of any person relating to the filing or maintenance of  
7 an insurance claim or bodily injury or property damage; and

8 (2) the insurer, agent, servant or employee has probable  
9 cause to believe that the information supplied is reasonably  
10 related to the allegation of fraud.

11 (f) Civil action.--An insurer damaged as a result of a  
12 violation of this section may sue therefor in any court of  
13 competent jurisdiction to recover compensatory damages, which  
14 may include reasonable investigation expenses, costs of suit and  
15 attorney fees. A successful claimant shall recover treble  
16 damages if the court determines that the defendant has engaged  
17 in a pattern of violating this section.

18 (g) 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 application." A document submitted by a  
22 prospective insured which requests insurance coverage and which  
23 provides information requested by an insurer to evaluate the  
24 risk.

25 "Insurance claim." A claim for payment or other benefit  
26 pursuant to an insurance policy.

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

29 "Insurer." A company, association or exchange defined by  
30 section 101 of the act of May 17, 1921 (P.L.682, No.284), known

1 as The Insurance Company Law of 1921; an unincorporated  
2 association of underwriting members; a hospital plan  
3 corporation; a professional health services plan corporation; a  
4 health maintenance organization; a fraternal benefit society;  
5 and a health insured health care entity under the act of October  
6 15, 1975 (P.L.390, No.111), known as the Health Care Services  
7 Malpractice Act.

8 "Person." An individual, corporation, partnership,  
9 association, joint-stock company, trust or unincorporated  
10 organization.

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

18 Section 3. CHAPTER 83 OF Title 42 is amended by adding a <—  
19 section AND A SUBCHAPTER to read: <—

20 § 8355. Certification of pleadings, motions and other papers.

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

1 grounded in fact and is warranted by existing law or a good-  
2 faith argument for the extension, modification or reversal of  
3 existing law; and that it is not interposed for any improper  
4 purpose, such as to harass or to cause unnecessary delay or  
5 increase in the cost of litigation. If a pleading, motion or  
6 other paper is not signed, it shall be stricken unless it is  
7 signed promptly after the omission is called to the attention of  
8 the pleader or movant. If a pleading, motion or other paper is  
9 signed in violation of this section, the court, upon motion or  
10 upon its own initiative, shall impose upon the person who signed  
11 it, a represented party, or both, an appropriate sanction, which  
12 may include an order to pay to the other party or parties the  
13 amount of reasonable expenses incurred because of the filing of  
14 the pleading, motion or other paper, including a reasonable  
15 attorney fee. This section is in addition to and shall not be  
16 construed to limit any other remedies or sanctions provided by  
17 law.

18 SUBCHAPTER G

←

19 SPECIAL DAMAGES

20 SEC.

21 8371. ACTIONS ON INSURANCE POLICIES.

22 § 8371. ACTIONS ON INSURANCE POLICIES.

23 IN AN ACTION ARISING UNDER AN INSURANCE POLICY, IF THE COURT  
24 FINDS THAT THE INSURER HAS ACTED IN BAD FAITH TOWARD THE  
25 INSURED, THE COURT MAY TAKE ALL OF THE FOLLOWING ACTIONS:

26 (1) AWARD INTEREST ON THE AMOUNT OF THE CLAIM FROM THE  
27 DATE THE CLAIM WAS MADE BY THE INSURED IN AN AMOUNT EQUAL TO  
28 THE PRIME RATE OF INTEREST PLUS 3%.

29 (2) AWARD PUNITIVE DAMAGES AGAINST THE INSURER.

30 (3) ASSESS COURT COSTS AND ATTORNEY FEES AGAINST THE

1 INSURER.

2 Section 4. Section 1547(d)(2) and (3) of Title 75 are  
3 amended to read:

4 § 1547. Chemical testing to determine amount of alcohol or  
5 controlled substance.

6 \* \* \*

7 (d) Presumptions from amount of alcohol.--If chemical  
8 testing of a person's breath, blood or urine shows:

9 \* \* \*

10 (2) That the amount of alcohol by weight in the blood of  
11 the person tested is in excess of 0.05% but less than [0.10%]  
12 0.08%, this fact shall not give rise to any presumption that  
13 the person tested was or was not under the influence of  
14 alcohol, but this fact may be considered with other competent  
15 evidence in determining whether the person was or was not  
16 under the influence of alcohol.

17 (3) That the amount of alcohol by weight in the blood of  
18 the person tested is [0.10%] 0.08% or more, this fact may be  
19 introduced into evidence if the person is charged with  
20 violating section 3731.

21 \* \* \*

22 Section 5. Chapter 15 of Title 75 is amended by adding a  
23 subchapter to read:

24 CHAPTER 15

25 LICENSING OF DRIVERS

26 \* \* \*

27 SUBCHAPTER D

28 DUI SUSPENSIONS

29 Sec.

30 1581. Definitions.

- 1 1582. Suspension on administrative determination.
- 2 1583. Report by law enforcement officers.
- 3 1584. Notice of suspension.
- 4 1585. Notice of suspension served by enforcement officer.
- 5 1586. Period of suspension.
- 6 1587. Restoration of license.
- 7 1588. Administrative review.
- 8 1589. Hearing.
- 9 § 1581. Definitions.

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

13 "Administrative review." A determination of license  
14 suspension by the department based on the documents supplied by  
15 the arresting officer and the arrested person.

16 § 1582. Suspension on administrative determination.

17 (a) General rule.--The department shall suspend the license  
18 of any person upon its determination that the person drove or  
19 was in actual physical control of a motor vehicle while the  
20 amount of alcohol by weight in the blood of that person was  
21 0.08% or more.

22 (b) Determination.--The department shall make an  
23 administrative determination of these facts on the basis of the  
24 report of a law enforcement officer required in section 1583  
25 (relating to report by law enforcement officer), and this  
26 determination shall be final unless an administrative review is  
27 requested under section 1588 (relating to administrative review)  
28 or a hearing is held under section 1589 (relating to hearing).

29 (c) Criminal charges.--The determination of these facts by  
30 the department is independent of the determination of the same

1 or similar facts in the adjudication of any criminal charges  
2 arising out of the same occurrence. The disposition of those  
3 criminal charges shall not affect any administrative suspension  
4 under this section.

5 § 1583. Report by law enforcement officers.

6 (a) Content.--A law enforcement officer who arrests any  
7 person for a violation of section 3731 (relating to driving  
8 under influence of alcohol or controlled substance) shall  
9 immediately forward to the department a sworn report of all  
10 information relevant to the enforcement action, including  
11 information which adequately identifies the arrested person, a  
12 statement of the officer's grounds for belief that the person  
13 violated section 3731, a report of the results of any chemical  
14 tests which were conducted, a copy of the citation and complaint  
15 filed with the court and the individual's operator's license.

16 (b) Forms.--The report required by this section shall be  
17 made on forms supplied by the department or in a manner  
18 specified by regulations of the department.

19 § 1584. Notice of suspension.

20 (a) Issuance.--Upon receipt of the report of the law  
21 enforcement officer, the department shall make the determination  
22 described in section 1582 (relating to suspension on  
23 administrative determination). If the department determines that  
24 the person is subject to license suspension and if notice of  
25 suspension has not already been served upon the person by the  
26 enforcement officer as required in section 1585 (relating to  
27 notice of suspension served by enforcement officer), the  
28 department shall issue a notice of suspension.

29 (b) Address and receipt of notice.--The notice of suspension  
30 shall be mailed by the department to the person at the last

1 known address shown on the department's records, and to the  
2 address provided by the enforcement officer's report if that  
3 address differs from the address of record. The notice is deemed  
4 received three days after mailing.

5 (c) Content.--

6 (1) The notice of suspension shall clearly specify the  
7 reason and statutory grounds for the administrative  
8 suspension, the effective date of the suspension, the right  
9 of the person to request an administrative review and a  
10 hearing, the procedure for requesting an administrative  
11 review and a hearing, and the date by which a request for an  
12 administrative review must be made in order to receive a  
13 determination prior to the effective date of the suspension.

14 (2) If the department determines that the person is not  
15 subject to license suspension, the department shall notify  
16 the person of its determination and shall rescind any order  
17 of suspension served upon the person by the enforcement  
18 officer.

19 § 1585. Notice of suspension served by enforcement officer.

20 (a) Personal service.--Whenever the chemical test results  
21 for a person who is being charged with a violation of section  
22 3731 (relating to driving under influence of alcohol or  
23 controlled substance) show an alcohol concentration of 0.08% or  
24 more, the officer, acting on behalf of the department, shall  
25 serve the notice of suspension personally on the arrested  
26 person.

27 (b) Possession of license.--

28 (1) When the law enforcement officer serves the notice  
29 of suspension, the officer shall take possession of any  
30 driver's license issued by the Commonwealth which is held by

1 the person. When the officer takes possession of a valid  
2 driver's license issued by the Commonwealth, the officer,  
3 acting on behalf of the department, shall issue a temporary  
4 permit which is valid for 15 days after its date of issuance  
5 and shall provide notice of an identification card made  
6 available by the department.

7 (2) A copy of the completed notice of suspension form, a  
8 copy of any completed temporary permit form and any driver's  
9 license taken into possession under this section shall be  
10 forwarded immediately to the department by the officer.

11 (c) Forms.--The department shall provide forms for notice of  
12 suspension and identification cards and temporary permits to law  
13 enforcement agencies.

14 § 1586. Period of suspension.

15 (a) General rule.--The license suspension shall become  
16 effective 15 days after the subject person has received the  
17 notice of suspension as provided in section 1585 (relating to  
18 notice of suspension served by enforcement officer) or is deemed  
19 to have received the notice of suspension by mail as provided in  
20 section 1584 (relating to notice of suspension).

21 (b) Period.--The period of license suspension under this  
22 section shall be as follows:

23 (1) The period shall be three months if the person's  
24 driving record shows no prior alcohol-related or drug-related  
25 enforcement contacts during the immediately preceding five  
26 years.

27 (2) The period shall be one year if the person's driving  
28 record shows one or more prior alcohol-related or drug-  
29 related enforcement contacts during the immediately preceding  
30 five years.

1 (c) Concurrent suspensions.--Where a license is suspended  
2 under this section and the person is also convicted on criminal  
3 charges arising out of the same occurrence for a violation of  
4 section 3731 (relating to driving under influence of alcohol or  
5 controlled substance) or 3735 (relating to homicide by vehicle  
6 while driving under influence), both the suspension under this  
7 section and the revocation or suspension under section 1532  
8 (relating to revocation or suspension of operating privilege)  
9 shall be imposed, but the periods of revocation or suspension  
10 shall run concurrently and the total period of suspension shall  
11 not exceed the longer of the two revocation or suspension  
12 periods.

13 (d) Definition.--For purposes of this section, "alcohol-  
14 related or drug-related enforcement contacts" shall include any  
15 administrative suspension under this title, any suspension or  
16 revocation entered in this or any other state for a refusal to  
17 submit to chemical testing under an implied consent law and any  
18 conviction in this or any other state for a violation which  
19 involves driving a vehicle while having an unlawful alcohol  
20 concentration, or while under the influence of alcohol or drugs  
21 or alcohol and drugs.

22 § 1587. Restoration of license.

23 The periods of suspension specified by section 1586 (relating  
24 to period of suspension) are intended to be minimum periods of  
25 suspension for the described conduct. No license shall be  
26 restored under any circumstances, and no restricted or hardship  
27 permit shall be issued during the suspension period. No driving  
28 privilege may be restored until all applicable reinstatement  
29 fees have been paid.

30 § 1588. Administrative review.

1 (a) General rule.--Any person who has received a notice of  
2 suspension under this subchapter may request an administrative  
3 review. The request may be accompanied by a sworn statement or  
4 statements and any other relevant evidence which the person  
5 wants the department to consider in reviewing the determination  
6 made pursuant to section 1582 (relating to suspension on  
7 administrative determination).

8 (b) Evidence.--When a request for administrative review is  
9 made, the department shall review the determination made  
10 pursuant to section 1582. In the review, the department shall  
11 give consideration to any relevant sworn statement or other  
12 evidence accompanying the request for the review, and to the  
13 sworn statement of the law enforcement officer required by  
14 section 1583 (relating to report by law enforcement officers).  
15 If the department determines, by the preponderance of the  
16 evidence, that the person drove or was in actual physical  
17 control of a motor vehicle while the amount of alcohol by weight  
18 in the blood of that person was 0.08% or more, the department  
19 shall sustain the order of suspension. If the evidence does not  
20 support such a determination, the department shall rescind the  
21 order of suspension. The determination of the department upon  
22 administrative review is final unless a hearing is requested  
23 under section 1589 (relating to hearing).

24 (c) Time.--The department shall make a determination upon  
25 administrative review prior to the effective date of the  
26 suspension order if the request for the review is received by  
27 the department within eight days following service of the notice  
28 of suspension. Where the request for administrative review is  
29 received by the department more than eight days following  
30 service of the notice of suspension, the department shall make

1 its determination within seven days following the receipt of the  
2 request for review.

3 (d) Effect of request.--A request for administrative review  
4 shall not stay the license suspension. If the department is  
5 unable to make a determination within the time limits specified  
6 in subsection (c), it shall stay the suspension pending that  
7 determination.

8 (e) Forms.--The request for administrative review may be  
9 made by mail or in person at any office of the department. The  
10 department shall provide forms which the person may use to  
11 request an administrative review and to submit a sworn  
12 statement, but use of the forms is not required.

13 (f) Hearing.--A person may request and be granted a hearing  
14 under section 1589 without first requesting administrative  
15 review under this section. Administrative review is not  
16 available after a hearing is held.

17 § 1589. Hearing.

18 (a) General rule.--Any person who has received a notice of  
19 suspension may make a written request for a hearing. The request  
20 may be made on a form available at each office of the  
21 department. If the person's driver's license has not been  
22 previously surrendered, it shall be surrendered at the time the  
23 request for a hearing is made. A request for a hearing shall not  
24 stay the license suspension.

25 (b) Notice.--The hearing shall be scheduled to be held as  
26 quickly as practicable within 30 days of the filing of the  
27 request for a hearing. The hearing shall be held at a place  
28 designated by the department as close as practicable to the  
29 place where the arrest occurred, unless the parties agree to a  
30 different location. The department shall provide a written

1 notice of the time and place of the hearing to the party  
2 requesting the hearing at least ten days prior to the scheduled  
3 hearing, unless the parties agree to waive this requirement.

4 (c) Hearing officer.--The hearing officer shall be  
5 designated by the secretary. The hearing officer shall have  
6 authority to administer oaths and affirmations; to examine  
7 witnesses and take testimony; to receive relevant evidence; to  
8 issue subpoenas, take depositions, or cause depositions or  
9 interrogatories to be taken; to regulate the course and conduct  
10 of the hearing; and to make a final ruling on the issue.

11 (d) Evidence.--The sole issue at the hearing shall be  
12 whether by a preponderance of the evidence the person drove or  
13 was in actual physical control of a motor vehicle while the  
14 amount of alcohol by weight in the blood of that person was  
15 0.08% or more. If the hearing officer finds the affirmative of  
16 this issue, the suspension order shall be sustained. If the  
17 hearing officer finds the negative of the issue, the suspension  
18 order shall be rescinded.

19 (e) Decision.--The hearing shall be recorded. The decision  
20 of the hearing officer shall be rendered in writing, and a copy  
21 will be provided to the person who requested the hearing.

22 (f) Failure to appear.--If the person who requested the  
23 hearing fails to appear without just cause, the right to a  
24 hearing shall be waived, and the department's determination  
25 shall be final.

26 (g) Appeals.--An appeal from a decision of a hearing officer  
27 may be taken in the manner provided in Title 2 (relating to  
28 administrative law and procedure). Notwithstanding section  
29 1550(b) (relating to judicial review), no appeal under this  
30 section shall act as a supersedeas.

1 Section 6. The definition of "insured" in section 1702 of  
2 Title 75 is amended and the section is amended by adding  
3 definitions to read:

4 § 1702. Definitions.

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

8 \* \* \*

9 "Commissioner." The Insurance Commissioner of the  
10 Commonwealth.

11 \* \* \*

12 "Insured." Any of the following:

13 (1) An individual identified by name as an insured in a  
14 policy of motor vehicle liability insurance.

15 (2) If residing in the household of the named insured[:

16 (i)] a spouse or other relative of the named  
17 insured[;] or

18 [(ii)] a minor in the custody of either the named  
19 insured or relative of the named insured, unless such  
20 spouse, relative or minor has been excluded from coverage  
21 and is insured on another policy of motor vehicle  
22 liability insurance.

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 "Peer Review Organization" or "PRO." Any Peer Review

30 Organization with which the Federal Health Care Financing

1 Administration or the Commonwealth contracts for medical review  
2 of Medicare or medical assistance services, or any health care  
3 review company, approved by the commissioner, that engages in  
4 peer review for the purpose of determining that medical and  
5 rehabilitation services are medically necessary and economically  
6 provided. THE MEMBERSHIP OF ANY PRO UTILIZED IN CONNECTION WITH ←  
7 THE ACT SHALL INCLUDE REPRESENTATION FROM THE PROFESSION WHOSE  
8 SERVICES ARE SUBJECT TO THE REVIEW.

9 \* \* \*

10 Section 7. Section 1711 of Title 75, amended April 26, 1989  
11 (P.L.13, No.4), is amended to read:

12 § 1711. Required benefits.

13 An insurer issuing or delivering liability insurance policies  
14 covering any motor vehicle of the type required to be registered  
15 under this title, except recreational vehicles not intended for  
16 highway use, motorcycles, motor-driven cycles or motorized  
17 pedalcycles or like type vehicles, registered and operated in  
18 this Commonwealth, shall include coverage providing a medical  
19 benefit in the amount of [\$10,000, an income loss benefit up to  
20 a monthly maximum of \$1,000 up to a maximum benefit of \$5,000  
21 and a funeral benefit in the amount of \$1,500, as defined in  
22 section 1712 (relating to availability of benefits), with  
23 respect to injury arising out of the maintenance or use of a  
24 motor vehicle. The income loss benefit provided under this  
25 section may be expressly waived by the named insured provided  
26 the named insured has no expectation of actual income loss due  
27 to age, disability or lack of employment history. At the  
28 election of the named insured, such policy shall also include an  
29 extraordinary medical benefit as described in section  
30 1715(a)(1.1) and (d) (relating to availability of adequate

1 limits).] \$5,000. The total premium for all first party  
2 coverages for an insured who purchases this level of coverage  
3 shall be reduced by at least 10%.

4 Section 8. Section 1712 of Title 75 is amended to read:  
5 § 1712. Availability of benefits.

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

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

1 method of healing.

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

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

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

9 Income loss does not include loss of expected income for any  
10 period following the death of an individual or expenses  
11 incurred for services performed following the death of an  
12 individual. Income loss shall not commence until five working  
13 days have been lost after the date of the accident. The total  
14 premium for all first party coverages for an insured who  
15 elects not to purchase an income loss benefit shall be  
16 reduced by at least 15%.

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

21 (4) Funeral benefit.--Expenses directly related to the  
22 funeral, burial, cremation or other form of disposition of  
23 the remains of a deceased individual, incurred as a result of  
24 the death of the individual as a result of the accident and  
25 within 24 months from the date of the accident. The total  
26 premium for all first party coverages for an insured who  
27 elects not to purchase a funeral benefit shall be reduced by  
28 at least 1%.

29 (5) Combination benefit.--A combination of benefits  
30 described in paragraphs (1) through (4) as an alternative to

1 the separate purchase of those benefits.

2 (6) Uninsured and underinsured motorist coverage.

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

5 Section 9. Sections 1715(a) and 1722 of Title 75, amended  
6 April 26, 1989 (P.L.13, No.4), are amended to read:

7 § 1715. Availability of adequate limits.

8 (a) General rule.--An insurer shall make available for  
9 purchase first party benefits and uninsured and underinsured  
10 motorist coverage as follows:

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

12 (1.1) For extraordinary medical benefits, from \$100,000  
13 to \$1,100,000, which [may] shall be offered in [increments]  
14 amounts of \$100,000, \$250,000, \$500,000, \$750,000 and  
15 \$1,100,000, as limited by subsection (d).

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

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

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

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

30 (6) Uninsured and underinsured motorist coverage in

1 amounts equal to or less than the motor vehicle liability  
2 insurance required under this chapter.

3 \* \* \*

4 § 1722. Preclusion of pleading, proving and recovering required  
5 benefits.

6 In any action for damages against a tortfeasor arising out of  
7 the maintenance or use of a motor vehicle, a person who is  
8 eligible to receive benefits under the coverages set forth in  
9 [section 1711 (relating to required benefits) or the coverage  
10 set forth in section 1715(a)(1.1) (relating to availability of  
11 adequate limits)] this subchapter shall be precluded from  
12 pleading, introducing into evidence or recovering the amount of  
13 benefits paid or payable under [section 1711 or 1715(a)(1.1).  
14 This preclusion applies only to the amount of benefits set forth  
15 in sections 1711 and 1715(a)(1.1)] this subchapter.

16 Section 10. Section 1731(~~a~~) of Title 75 is amended to read: ←

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

18 (a) [General rule] Mandatory availability.--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] made available therein or supplemental thereto in  
24 amounts 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, provided that the  
28 total premium for all first party coverages for an insured who  
29 elects not to purchase uninsured and underinsured motorist  
30 coverage benefit shall be reduced by at least 35%.

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(B) UNINSURED MOTORIST COVERAGE.--UNINSURED MOTORIST COVERAGE SHALL PROVIDE PROTECTION FOR PERSONS WHO SUFFER INJURY ARISING OUT OF THE MAINTENANCE OR USE OF A MOTOR VEHICLE AND ARE LEGALLY ENTITLED TO RECOVER DAMAGES THEREFOR FROM OWNERS OR OPERATORS OF UNINSURED MOTOR VEHICLES. THE INSURED MAY REJECT UNINSURED MOTORIST COVERAGE BY SIGNING THE FOLLOWING WRITTEN REJECTION FORM.

REJECTION OF UNINSURED MOTORIST PROTECTION

BY SIGNING THIS WAIVER I AM REJECTING UNINSURED MOTORIST COVERAGE UNDER THIS POLICY, FOR MYSELF AND ALL RELATIVES RESIDING IN MY HOUSEHOLD. UNINSURED COVERAGE PROTECTS ME AND RELATIVES LIVING IN MY HOUSEHOLD FOR LOSSES AND DAMAGES SUFFERED IF INJURY IS CAUSED BY THE NEGLIGENCE OF A DRIVER WHO DOES NOT HAVE ANY INSURANCE TO PAY FOR LOSSES AND DAMAGES. I KNOWINGLY AND VOLUNTARILY REJECT THIS COVERAGE.

\_\_\_\_\_

SIGNATURE OF INSURED

\_\_\_\_\_

DATE

(C) UNDERINSURED MOTORIST COVERAGE.--UNDERINSURED MOTORIST COVERAGE SHALL PROVIDE PROTECTION FOR PERSONS WHO SUFFER INJURY ARISING OUT OF THE MAINTENANCE OR USE OF A MOTOR VEHICLE AND ARE LEGALLY ENTITLED TO RECOVER DAMAGES THEREFOR FROM OWNERS OR OPERATORS OF UNDERINSURED MOTOR VEHICLES. THE INSURED MAY REJECT UNDERINSURED MOTORIST COVERAGE BY SIGNING THE FOLLOWING WRITTEN REJECTION FORM.

REJECTION OF UNDERINSURED MOTORIST PROTECTION

BY SIGNING THIS WAIVER I AM REJECTING UNDERINSURED MOTORIST COVERAGE UNDER THIS POLICY, FOR MYSELF AND ALL RELATIVES

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1 RESIDING IN MY HOUSEHOLD. UNDERINSURED COVERAGE PROTECTS ME AND  
2 RELATIVES LIVING IN MY HOUSEHOLD FOR LOSSES AND DAMAGES SUFFERED  
3 IF INJURY IS CAUSED BY THE NEGLIGENCE OF A DRIVER WHO DOES NOT  
4 HAVE ENOUGH INSURANCE TO PAY FOR ALL LOSSES AND DAMAGES. I  
5 KNOWINGLY AND VOLUNTARILY REJECT THIS COVERAGE.

6 \_\_\_\_\_  
7 SIGNATURE OF INSURED  
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9 DATE

10 (C.1) FORM OF WAIVER.--INSURERS SHALL PRINT THE REJECTION  
11 FORMS REQUIRED BY SUBSECTIONS (B) AND (C) ON SEPARATE SHEETS IN  
12 PROMINENT TYPE AND LOCATION. THE FORM MUST BE SIGNED BY THE  
13 NAMED INSURED AND DATED TO BE VALID. THE SIGNATURES ON THE FORMS  
14 MAY BE WITNESSED BY AN INSURANCE AGENT OR BROKER. ANY REJECTION  
15 FORM THAT DOES NOT SPECIFICALLY COMPLY WITH THIS SECTION IS  
16 VOID. IF THE INSURER FAILS TO PRODUCE A VALID REJECTION FORM,  
17 UNINSURED OR UNDERINSURED COVERAGE, OR BOTH, AS THE CASE MAY BE,  
18 UNDER THAT POLICY SHALL BE EQUAL TO THE BODILY INJURY LIABILITY  
19 LIMITS. ON POLICIES IN WHICH EITHER UNINSURED OR UNDERINSURED  
20 COVERAGE HAS BEEN REJECTED, THE POLICY RENEWALS MUST CONTAIN  
21 NOTICE IN PROMINENT TYPE THAT THE POLICY DOES NOT PROVIDE  
22 PROTECTION AGAINST DAMAGES CAUSED BY UNINSURED OR UNDERINSURED  
23 MOTORISTS.

24 (D) LIMITATION ON RECOVERY.--A PERSON WHO RECOVERS DAMAGES  
25 UNDER UNINSURED MOTORIST COVERAGE OR COVERAGES CANNOT RECOVER  
26 DAMAGES UNDER UNINSURED MOTORIST COVERAGE OR COVERAGES FOR THE  
27 SAME ACCIDENT.

28 Section 11. Section 1732 of Title 75 is repealed.

29 Section 12. Sections 1733 and 1734 of Title 75 are amended  
30 to read:

1 § 1733. Priority of recovery.

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

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

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

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

15 § 1734. Request for lower [or higher] limits of coverage.

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

28 Section 13. Title 75 is amended by adding sections to read:

29 § 1737. Rights to payment.

30 (a) Subrogation.--In claims arising out of the maintenance

1 or use of an underinsured motor vehicle, there shall be no right  
2 of subrogation by an insurer with respect to the payment of  
3 underinsured motorist benefits.

4 (b) Condition to payment.--No policy of insurance shall  
5 require, as a condition to the payment of underinsured motorist  
6 benefits, the prior consent of the insurer to the settlement of  
7 a bodily injury claim with any person.

8 § 1738. Stacking of uninsured and underinsured benefits.

9 When multiple vehicles are insured under one or more  
10 policies, the stated limit shall apply separately to each  
11 vehicle. The limits of coverage available under this subchapter  
12 for an insured shall be the sum of the limits for each insured  
13 vehicle under all applicable policies.

14 Section 14. Section 1753 of Title 75 is amended to read:

15 § 1753. Benefits available.

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

24 Section 15. Section 1782 of Title 75 is amended by adding a  
25 subsection to read:

26 § 1782. Manner of providing proof of financial responsibility.

27 \* \* \*

28 (d) Financial responsibility identification cards.--Insurers  
29 shall provide financial responsibility identification cards to  
30 insureds which shall be valid only for the period for which

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

15 Section 16. Section 1786 of Title 75 is amended to read:

16 § 1786. [Self-certification of] Required financial  
17 responsibility.

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

25 (b) Consent to produce proof of financial responsibility.--  
26 Upon registering a motor vehicle or renewing a motor vehicle  
27 registration, the owner of the motor vehicle shall be deemed to  
28 have given consent to produce proof to the Department of  
29 Transportation or a police officer that the vehicle registrant  
30 has the financial responsibility required by this chapter.

1 Failure to produce proof of financial responsibility to a police  
2 officer upon request constitutes a summary offense.

3 (c) Suspension of registration and operating privilege.--The  
4 Department of Transportation shall suspend the registration of a  
5 vehicle if it determines the required financial responsibility  
6 has not been secured as required by this chapter and may suspend  
7 the operating privilege of the registrant. The operating  
8 privilege shall not be restored until proof of financial  
9 responsibility is submitted, together with the restoration fee  
10 for operating privilege provided by section 1960 (relating to  
11 reinstatement of operating privilege or vehicle registration).  
12 Whenever the department revokes or suspends the registration of  
13 any vehicle under this chapter, the department shall not restore  
14 the registration until the vehicle owner furnishes proof of  
15 financial responsibility in a manner determined by the  
16 department and submits an application for registration to the  
17 department, accompanied by the fee for restoration of  
18 registration provided by section 1960.

19 (d) Obligations upon termination of financial  
20 responsibility.--

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

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

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

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

13           (e) Operation of a motor vehicle without required financial  
14           responsibility.--Any owner of a motor vehicle for which the  
15           existence of financial responsibility is a requirement for its  
16           legal operation shall not operate the motor vehicle or permit it  
17           to be operated upon a highway of this Commonwealth without the  
18           financial responsibility required by this chapter and shall,  
19           upon request of the Department of Transportation, produce proof  
20           of financial responsibility on a form provided by the  
21           department. Any person who fails to comply with this subsection  
22           is subject to a civil penalty of \$100 plus \$100 for each month  
23           or part of a month of the registration period for which  
24           financial responsibility was not obtained.

25           (f) Time limit to produce proof.--Failure of a registered  
26           vehicle owner to provide proof of financial responsibility in a  
27           form authorized by Insurance Department regulation within 15  
28           days of a request by the Department of Transportation for the  
29           proof provided for in subsection (e) shall subject the owner to  
30           an additional civil penalty of \$200 and to a three-month

1 revocation of vehicle registration.

2 (g) Defenses.--

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

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

18 (h) Lack of knowledge.--No person, other than a registrant,  
19 who proves that he was authorized to drive the vehicle and that  
20 he did not know and had no reason to believe that the required  
21 financial responsibility had not been provided shall be  
22 convicted of failing to produce proof of financial  
23 responsibility as required under this section. In such case,  
24 however, the registrant may be charged with a violation.

25 Section 17. Section 1791 of Title 75, amended April 26, 1989  
26 (P.L.13, No.4), is amended to read:

27 § 1791. Notice of available benefits and limits.

28 It shall be presumed that the insured has been advised of the  
29 benefits and limits available under this chapter provided the  
30 following notice in bold print of at least ten-point type is



1 availability of adequate limits).

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

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

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

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

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

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

28 § 1792. Availability of uninsured, underinsured, bodily injury  
29 liability and property damage coverages and mandatory  
30 deductibles.

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

15     (b) Mandatory deductibles.--

16         (1) Every private passenger automobile insurance policy  
17 providing collision and ~~comprehensive coverages~~ COVERAGE     <—  
18 issued or renewed on or after the effective date of this  
19 subsection, shall provide a deductible in an amount of \$500  
20 for collision and ~~comprehensive coverages~~ COVERAGE, unless     <—  
21 the named insured signs a statement indicating the insured is  
22 aware that the purchase of a lower deductible is permissible  
23 and that there is an additional cost of purchasing a lower  
24 deductible, and the insured agrees to accept it.

25         (2) Under no circumstances may a private passenger  
26 automobile insurance policy provide a COLLISION deductible in     <—  
27 an amount less than \$100.

28         (3) Any person or entity providing financing to the  
29 purchaser of a motor vehicle or otherwise holding a security  
30 interest in a motor vehicle shall not be permitted to require

1 the purchase of a deductible for less than \$500 for collision  
2 and comprehensive coverages. Any financial institution,  
3 insurer, agent or other person or entity found to have  
4 violated this provision shall be required to reimburse the  
5 policyholder in an amount equal to the difference and, in  
6 addition, shall be required to pay a civil penalty of \$500 to  
7 the Department of Transportation for each violation.

8 (4) With the purchase of a \$500 or greater deductible,  
9 there shall be an immediate commensurate reduction in rate  
10 for collision and comprehensive coverages. The reduction in  
11 rate shall be based on the insured's existing deductible  
12 level. Should the insured elect to purchase a deductible in  
13 an amount equal to or exceeding \$100, there shall be an  
14 immediate commensurate reduction in rate for collision and  
15 comprehensive coverages, but only as it relates to the  
16 insured's existing deductible rate.

17 § 1797. Customary charges for treatment.

18 (a) General rule.--A person or institution providing  
19 treatment, accommodations, products or services to an injured  
20 person for an injury covered by [medical or catastrophic loss  
21 benefits] liability or first party medical benefits for a motor  
22 vehicle described in Subchapter B (relating to motor vehicle  
23 liability insurance first party benefits), shall not [make a  
24 charge] require, request or accept payment for the treatment,  
25 accommodations, products or services in excess of [the amount  
26 the person or institution customarily charges for like  
27 treatment, accommodations, products and services in cases  
28 involving no insurance.] 110% of the prevailing charge at the  
29 75th percentile; 110% of the applicable fee schedule, the  
30 recommended fee or the inflation index charge; or the diagnostic

1 related groups payment; whichever pertains to the specialty  
2 service involved, determined to be applicable in this  
3 Commonwealth under the Medicare program for comparable services  
4 at the time the services were rendered, or the provider's usual  
5 and customary charge, whichever is less. If a prevailing charge  
6 has not been calculated under the Medicare program for a  
7 particular service, the amount of the payment may not exceed 80%  
8 of the provider's usual and customary charge. Providers subject  
9 to this section may not bill the insured directly but must bill  
10 the insurer for a determination of the amount payable. The  
11 provider shall not bill or otherwise attempt to collect from the  
12 insured the difference between the provider's full charge and  
13 the amount paid by the insurer.

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

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

28 (2) PRO reconsideration.--An insurer, provider or  
29 insured may request a reconsideration by the PRO of the PRO's  
30 initial determination. Such a request for reconsideration

1 must be made within 30 days of the PRO's initial  
2 determination. If reconsideration is requested for the  
3 services of a physician or other licensed health care  
4 professional, then the reviewing individual must be, or the  
5 reviewing panel must include, an individual in the same  
6 specialty as the individual subject to review.

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

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

22 (5) PRO determination in favor of provider or insured.--  
23 If a PRO determines that medical treatment or rehabilitative  
24 services or merchandise were medically necessary, the insurer  
25 must pay to the provider the outstanding amount plus interest  
26 at 12% per year or any amount withheld by the insurer pending  
27 PRO review.

28 (6) Court determination in favor of provider or  
29 insured.--If pursuant to paragraph (4) a court determines  
30 that medical treatment or rehabilitative services or

1 merchandise were medically necessary, the insurer must pay to  
2 the provider the outstanding amount plus interest at 12%, as  
3 well as the costs of the challenge and all attorney fees.

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

16 (c) Premium reduction.--The premium to be paid by an insured  
17 for all medical benefits shall be reduced by at least 7%.

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

19 § 1799. Obligation of insurer upon termination of insurance.

20 An insurer who has issued a contract of motor vehicle  
21 liability insurance and knows or has reason to believe that the  
22 contract is for the purpose of providing financial  
23 responsibility shall notify the department if the insurance has  
24 been canceled or terminated by the insured or by the insurer.  
25 The insurer shall notify the department not later than ten days  
26 following the effective date of the cancellation or termination.

27 § 1799.1. Restraint system.

28 (a) General rule.--All insurance companies authorized to  
29 write private passenger automobile insurance within this  
30 Commonwealth shall reduce by 11% the premiums for first party

1 benefits as defined in section 1712 (relating to availability of  
2 benefits) for any insured vehicle equipped with a passive  
3 restraint system for front seat passengers.

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

7 "Passive restraint." Any frontal automobile crash protection  
8 system which requires no action of the vehicle occupants and  
9 complies with standard 751.208 of the National Traffic Safety  
10 Administration or its successor.

11 § 1799.2. Anti-theft devices.

12 (a) General rule.--All insurance companies authorized to  
13 write private passenger automobile insurance within this  
14 Commonwealth shall reduce the premiums for comprehensive  
15 coverage for all insured vehicles equipped with passive anti-  
16 theft devices.

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 department. The term does not include an ignition interlock  
25 provided as a standard antitheft device by the original  
26 automobile manufacturer.

27 § 1799.3. Motor vehicle replacement parts.

28 (a) General rule.--Nothing in this chapter shall prohibit  
29 the use of Non-OEM aftermarket crash parts in the covered repair  
30 of an insured's vehicle. If such parts are to be used, the

1 insured must be given prior notice of such use as provided in  
2 subsection (b). The repairs invoice shall clearly state that  
3 Non-OEM crash parts have been used to repair an insured's  
4 vehicle.

5 (b) Premium reductions.--Insureds who consent to include the  
6 use of Non-OEM aftermarket crash parts, whenever available, at  
7 the time of initial purchase or renewal of their motor vehicle  
8 liability insurance policy coverage, shall be provided  
9 reductions in premiums based on the negotiated reduction in  
10 costs resulting from the usage of Non-OEM crash parts.

11 (c) Definitions.--The following words and phrases when used  
12 in this section shall have the meanings given to them in this  
13 section unless the context clearly indicates otherwise:

14 "Aftermarket crash part." A motor vehicle replacement part  
15 made of sheet metal, plastic or other material and which  
16 constitutes an exterior portion of a vehicle, including an inner  
17 or outer panel, and is generally repaired or replaced as the  
18 result of a collision.

19 "Non-original equipment manufacturer aftermarket crash part  
20 (Non-OEM)." Aftermarket crash parts not made for or by the  
21 manufacturer of the motor vehicle.

22 § 1799.4. GOOD DRIVER DISCOUNT.

←

23 EVERY INSURER WHICH WRITES A POLICY OF AUTOMOBILE INSURANCE  
24 IN THIS COMMONWEALTH SHALL REDUCE THE TOTAL PREMIUM CHARGED FOR  
25 EACH VEHICLE AS TO WHICH NO AT-FAULT CLAIM HAS BEEN FILED FOR  
26 FIVE CONSECUTIVE YEARS IMMEDIATELY PRECEDING THE PERIOD FOR  
27 WHICH THE POLICY IS WRITTEN IF NONE OF THE DRIVERS NAMED IN THE  
28 POLICY HAS COMMITTED A MOVING VIOLATION DURING THE FIVE-YEAR  
29 PERIOD WHICH RESULTED IN A CONVICTION OR WHICH REMAINS  
30 UNRESOLVED.

1           (1) IF A VIOLATION WHICH IS UNRESOLVED AT THE TIME THE  
2 POLICY IS WRITTEN RESULTS IN AN ACQUITTAL, THE DISCOUNT SHALL  
3 BE ALLOWED EITHER AS A REFUND OR AS A CREDIT ON A SUBSEQUENT  
4 POLICY.

5           (2) FOR THE PURPOSE OF THIS SECTION, THE TERM  
6 "CONVICTION" INCLUDES A PLEA OF GUILTY, A PLEA OF NOLO  
7 CONTENDERE, A FINDING OF GUILTY BY A COURT, AN UNVACATED  
8 FORFEITURE OF BAIL OR COLLATERAL DEPOSITED TO SECURE A  
9 DEFENDANT'S APPEARANCE IN COURT, AND A PAYMENT BY ANY PERSON  
10 CHARGED WITH A VIOLATION OF THE FINE PRESCRIBED FOR THE  
11 VIOLATION.

12 § 1799.5. LIMIT ON SURCHARGES, LATE PENALTIES AND POINT  
13 ASSIGNMENTS.

14       (A) PROPERTY DAMAGE CLAIMS.--NO SURCHARGE, RATE PENALTY OR  
15 DRIVER RECORD POINT ASSIGNMENT SHALL BE MADE IF THE AGGREGATE  
16 COST TO THE INSURER OF REPAIR OR REPLACEMENT OF PROPERTY DAMAGED  
17 OR BODILY INJURY LIABILITY IS DETERMINED TO BE LESS THAN \$650 IN  
18 EXCESS OF ANY SELF-INSURED RETENTION OR DEDUCTIBLE APPLICABLE TO  
19 THE NAMED INSURED.

20       (B) FIRST PARTY MEDICAL CLAIMS.--NO SURCHARGE, RATE PENALTY  
21 OR DRIVER RECORD POINT ASSIGNMENT SHALL BE MADE AS A RESULT OF  
22 AN INSURER PAYING A FIRST PARTY MEDICAL CLAIM.

23       (C) NOTICE TO INSURED.--IF AN INSURER MAKES A DETERMINATION  
24 TO IMPOSE A SURCHARGE, RATE PENALTY OR DRIVER RECORD POINT  
25 ASSIGNMENT, THE INSURER SHALL INFORM THE NAMED INSURED OF THE  
26 DETERMINATION AND SHALL SPECIFY THE MANNER IN WHICH THE  
27 SURCHARGE, RATE PENALTY OR DRIVER RECORD POINT ASSIGNMENT WAS  
28 MADE AND CLEARLY IDENTIFY THE AMOUNT OF THE SURCHARGE OR RATE  
29 PENALTY ON THE PREMIUM NOTICE FOR AS LONG AS THE SURCHARGE OR  
30 RATE PENALTY IS IN EFFECT.



1 adding a subsection to read:

2 § 3731. Driving under influence of alcohol or controlled  
3 substance.

4 (a) Offense defined.--A person shall not drive, operate or  
5 be in actual physical control of the movement of any vehicle  
6 while:

7 (1) under the influence of alcohol to a degree which  
8 renders the person incapable of safe driving;

9 (2) under the influence of any controlled substance, as  
10 defined in the act of April 14, 1972 (P.L.233, No.64), known  
11 as ["The Controlled Substance, Drug, Device and Cosmetic  
12 Act,[" to a degree which renders the person incapable of  
13 safe driving;

14 (3) under the combined influence of alcohol and any  
15 controlled substance to a degree which renders the person  
16 incapable of safe driving; or

17 (4) except as provided in subsection (a.1), the amount  
18 of alcohol by weight in the blood of the person is [0.10%]  
19 0.08% or greater.

20 (a.1) Operators of commercial vehicles.--

21 (1) If the person was driving, operating or in actual  
22 physical control of the movement of a commercial vehicle as  
23 defined in paragraph (2), the maximum allowable amount of  
24 alcohol by weight in the blood of the person under subsection  
25 (a)(4) is 0.04%.

26 (2) As used in this subsection, "commercial vehicle"  
27 means any of the following:

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

30 (ii) A combination of vehicles with a gross

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

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

6 (iv) A vehicle which is required to be placarded for  
7 hazardous materials.

8 \* \* \*

9 Section 22. Sections 4727 and 6104 of Title 75 are amended  
10 by adding subsections to read:

11 § 4727. Issuance of certificate of inspection.

12 \* \* \*

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

25 § 6104. Administrative duties of department.

26 \* \* \*

27 (f) Furnishing information to municipal police departments  
28 and sheriffs' offices.--The department shall regularly transmit  
29 to each municipal police department and sheriff's office a list  
30 of the names of persons residing within its jurisdiction whose

1 operating privilege or registration has been suspended or  
2 revoked.

3 Section 23. Title 75 is amended by adding a section to read:  
4 § 6308.1. Payment to police or sheriff's office of one-half of  
5 reinstatement fee.

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

13 Section 24. Based on the premium reduction requirements  
14 contained in section 7 (75 Pa.C.S. § 1711), section 8 (75  
15 Pa.C.S. § 1712), section 9 (75 Pa.C.S. § 1722), section 18 (75  
16 Pa.C.S. §§ 1792 and 1797) and section 19 (75 Pa.C.S. §§ 1799.1,  
17 1799.2 and 1799.3), the premiums charged by insurers shall be  
18 reduced by a total of at least 30% for insureds who elect to  
19 purchase coverages as specified in those sections.

20 Section 25. The Insurance Department and the Department of  
21 Transportation shall promulgate regulations to the extent  
22 necessary to carry out the provisions of section 1 (18 Pa.C.S. §  
23 911(h)) and 2 (18 Pa.C.S. § 4117).

24 Section 26. The following act and parts of acts are  
25 repealed:

26 Section 349 of the act of May 17, 1921 (P.L.682, No.284),  
27 known as The Insurance Company Law of 1921.

28 Sections 604 and 623 of the act of May 17, 1921 (P.L.789,  
29 No.285), known as The Insurance Department Act of one thousand  
30 nine hundred and twenty-one.

1 Section 27. This act shall take effect as follows:

2 (1) Section 25 and this section shall take effect  
3 immediately.

4 (2) The following sections shall take effect in 60 days:

5 (i) Section 1 (18 Pa.C.S. § 911(h)).

6 (ii) Section 2 (18 Pa.C.S. § 4117).

7 (iii) Section 3 (42 Pa.C.S. § 8355).

8 (iv) Section 15 (75 Pa.C.S. § 1782(d)).

9 (v) Section 16 (75 Pa.C.S. § 1786).

10 (vi) Section 21 (75 Pa.C.S. § 3731(a)).

11 (vii) Section 26.

12 (3) Section 5 (75 Pa.C.S. Ch.15, Subch.D) shall take  
13 effect in 90 days.

14 (4) Section 19 (75 Pa.C.S. § ~~1799.5~~ 1799.7) shall take ←  
15 effect September 1, 1989, or immediately, whichever is later.

16 (5) The remainder of this act shall take effect December  
17 1, 1989, or immediately, whichever is later.