

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:

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

Chapter 25 (relating to criminal homicide)

Section 2706 (relating to terroristic threats)

Chapter 29 (relating to kidnapping)

Chapter 33 (relating to arson, etc.)

Chapter 37 (relating to robbery)

Chapter 39 (relating to theft and related offenses)

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

Section 4109 (relating to rigging publicly exhibited contest)

Section 4117 (relating to insurance fraud)

Chapter 47 (relating to bribery and corrupt influence)

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

Section 5512 through 5514 (relating to gambling)

Chapter 59 (relating to public indecency)

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

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

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

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.

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

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

§ 4117. Insurance fraud.

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

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

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

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

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

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

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

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

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

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

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

"Insurance application." A document submitted by a prospective insured which requests insurance coverage and which provides information requested by an insurer to evaluate the risk.

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

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

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

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

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

SUBCHAPTER G

SPECIAL DAMAGES

SEC.

8371. ACTIONS ON INSURANCE POLICIES.

§ 8371. ACTIONS ON INSURANCE POLICIES.

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

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

(2) AWARD PUNITIVE DAMAGES AGAINST THE INSURER.

(3) ASSESS COURT COSTS AND ATTORNEY FEES AGAINST THE

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

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

* * *

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

§ 1711. Required benefits.

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

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

the separate purchase of those benefits.

(6) Uninsured and underinsured motorist coverage.

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

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

§ 1715. Availability of adequate limits.

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

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

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

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

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

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

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

(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%.

\leftarrow \leftarrow \leftarrow \leftarrow \leftarrow \leftarrow \leftarrow \leftarrow \leftarrow \leftarrow

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
8 _____

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.

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

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

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

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

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

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 given to the applicant at the time of application for original
2 coverage [or at the time of the first renewal after October 1,
3 1984], and no other notice or rejection shall be required:

4 IMPORTANT NOTICE

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

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

13 (1.1) Extraordinary medical benefits, from \$100,000
14 to \$1,100,000 which [may] shall be offered in
15 [increments] amounts of \$100,000, \$250,000, \$500,000,
16 \$750,000 and \$1,100,000.

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 1799.2. Anti-theft devices.

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

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

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

§ 1799.3. Motor vehicle replacement parts.

(a) General rule.--Nothing in this chapter shall prohibit the use of Non-OEM aftermarket crash parts in the covered repair 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

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

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

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

* * *

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

§ 4727. Issuance of certificate of inspection.

* * *

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

§ 6104. Administrative duties of department.

* * *

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

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.