

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 29, 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 automobile insurance claim that contains any false,
13 incomplete or misleading information concerning any fact or
14 thing material to the insurance claim.

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

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

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

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

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

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

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

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

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

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

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

1 law, or by Insurance Department regulations, only if both of the
2 following conditions exist:

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

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

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

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

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

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

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

28 "Insurer." A company, association or exchange defined by
29 section 101 of the act of May 17, 1921 (P.L.682, No.284), known
30 as The Insurance Company Law of 1921; an unincorporated

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

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

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

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

19 § 8355. Certification of pleadings, motions and other papers.

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

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

17 SUBCHAPTER G

18 SPECIAL DAMAGES

19 Sec.

20 8371. Actions on insurance policies.

21 § 8371. Actions on insurance policies.

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

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

28 (2) Award punitive damages against the insurer.

29 (3) Assess court costs and attorney fees against the
30 insurer.

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

3 § 1547. Chemical testing to determine amount of alcohol or
4 controlled substance.

5 * * *

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

8 * * *

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

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

20 * * *

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

23 CHAPTER 15

24 LICENSING OF DRIVERS

25 * * *

26 SUBCHAPTER D

27 DUI SUSPENSIONS

28 Sec.

29 1581. Definitions.

30 1582. Suspension on administrative determination.

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

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

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

15 § 1582. Suspension on administrative determination.

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

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

28 (c) Criminal charges.--The determination of these facts by
29 the department is independent of the determination of the same
30 or similar facts in the adjudication of any criminal charges

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

4 § 1583. Report by law enforcement officers.

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

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

18 § 1584. Notice of suspension.

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

28 (b) Address and receipt of notice.--The notice of suspension
29 shall be mailed by the department to the person at the last
30 known address shown on the department's records, and to the

1 address provided by the enforcement officer's report if that
2 address differs from the address of record. The notice is deemed
3 received three days after mailing.

4 (c) Content.--

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

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

18 § 1585. Notice of suspension served by enforcement officer.

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

26 (b) Possession of license.--

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

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

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

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

13 § 1586. Period of suspension.

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

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

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

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

30 (c) Concurrent suspensions.--Where a license is suspended

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

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

21 § 1587. Restoration of license.

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

29 § 1588. Administrative review.

30 (a) General rule.--Any person who has received a notice of

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

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

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

1 request for review.

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

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

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

16 § 1589. Hearing.

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

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

1 requesting the hearing at least ten days prior to the scheduled
2 hearing, unless the parties agree to waive this requirement.

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

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

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

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

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

30 Section 6. The definition of "insured" in section 1702 of

1 Title 75 is amended and the section is amended by adding
2 definitions to read:

3 § 1702. Definitions.

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

7 * * *

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

10 * * *

11 "Insured." Any of the following:

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

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

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

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

22 * * *

23 "Necessary medical treatment and rehabilitative services."

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

28 "Peer Review Organization" or "PRO." Any Peer Review
29 Organization with which the Federal Health Care Financing
30 Administration or the Commonwealth contracts for medical review

1 of Medicare or medical assistance services, or any health care
2 review company, approved by the commissioner, that engages in
3 peer review for the purpose of determining that medical and
4 rehabilitation services are medically necessary and economically
5 provided. The membership of any PRO utilized in connection with
6 the act shall include representation from the profession whose
7 services are subject to the review.

8 * * *

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

11 § 1711. Required benefits.

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

2 (B) ALTERNATIVE MEDICAL COVERAGE OPTION.--AT THE ELECTION OF
3 THE NAMED INSURED, THE FIRST PARTY MEDICAL BENEFIT REQUIRED
4 UNDER SUBSECTION (A) MAY BE PROVIDED IN THE AMOUNT OF \$5,000 IF
5 THE NAMED INSURED HAS ALTERNATE MEDICAL COVERAGE IN AN AMOUNT OF
6 AT LEAST \$5,000. THE NAMED INSURED MUST PROVIDE TO THE INSURER
7 PROOF OF ALTERNATE MEDICAL COVERAGES. THE TOTAL PREMIUM FOR ALL
8 FIRST PARTY coverages for an insured who purchases this level of
9 coverage shall be reduced by at least 10%.

10 Section 8. Section 1712 of Title 75 is amended to read:

11 § 1712. Availability of benefits.

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

21 (1) Medical benefit.--[Coverage] Subject to the
22 limitations of section 1797 (relating to customary charges
23 for treatment), coverage to provide for reasonable and
24 necessary medical treatment and rehabilitative services,
25 including, but not limited to, hospital, dental, surgical,
26 psychiatric, psychological, osteopathic, ambulance,
27 chiropractic, licensed physical therapy, nursing services,
28 vocational rehabilitation and occupational therapy, speech
29 pathology and audiology, optometric services, medications,
30 medical supplies and prosthetic devices, all without

1 limitation as to time, provided that, within 18 months from
2 the date of the accident causing injury, it is ascertainable
3 with reasonable medical probability that further expenses may
4 be incurred as a result of the injury. Benefits under this
5 paragraph may include any nonmedical remedial care and
6 treatment rendered in accordance with a recognized religious
7 method of healing.

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

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

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

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

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

27 (4) Funeral benefit.--Expenses directly related to the
28 funeral, burial, cremation or other form of disposition of
29 the remains of a deceased individual, incurred as a result of
30 the death of the individual as a result of the accident and

1 within 24 months from the date of the accident. The total
2 premium for all first party coverages for an insured who
3 elects not to purchase a funeral benefit shall be reduced by
4 at least 1%.

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

8 (6) Uninsured and underinsured motorist coverage.

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

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

13 § 1715. Availability of adequate limits.

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

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

18 (1.1) For extraordinary medical benefits, from \$100,000
19 to \$1,100,000, which [may] shall be offered in [increments]
20 amounts of \$100,000, \$250,000, \$500,000, \$750,000 and
21 \$1,100,000, as limited by subsection (d).

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

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

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

27 (5) For combination of benefits enumerated in paragraphs
28 (1) through (4) and subject to a limit on the accidental
29 death benefit of up to \$25,000 and a limit on the funeral
30 benefit of \$2,500, up to at least [\$277,500] \$177,500 of

1 benefits in the aggregate or benefits payable up to three
2 years from the date of the accident, whichever occurs first,
3 provided that nothing contained in this subsection shall be
4 construed to limit, reduce, modify or change the provisions
5 of subsection (d).

6 (6) Uninsured and underinsured motorist coverage in
7 amounts equal to or less than the motor vehicle liability
8 insurance required under this chapter.

9 * * *

10 § 1722. Preclusion of pleading, proving and recovering required
11 benefits.

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

22 Section 10. Section 1731 of Title 75 is amended to read:

23 § 1731. [Scope] Availability, scope and amount of coverage.

24 (a) [General rule] Mandatory availability.--No motor vehicle
25 liability insurance policy shall be delivered or issued for
26 delivery in this Commonwealth, with respect to any motor vehicle
27 registered or principally garaged in this Commonwealth, unless
28 uninsured motorist and underinsured motorist coverages are
29 [provided] made available therein or supplemental thereto in
30 amounts equal to the bodily injury liability coverage except as

1 provided in section 1734 (relating to request for lower [or
2 higher] limits of coverage). Purchase of uninsured motorist and
3 underinsured motorist coverages is optional, provided that the
4 total premium for all first party coverages for an insured who
5 elects not to purchase uninsured and underinsured motorist
6 coverage benefit shall be reduced by at least 35%.

7 (b) Uninsured motorist coverage.--Uninsured motorist
8 coverage shall provide protection for persons who suffer injury
9 arising out of the maintenance or use of a motor vehicle and are
10 legally entitled to recover damages therefor from owners or
11 operators of uninsured motor vehicles. The insured may reject
12 uninsured motorist coverage by signing the following written
13 rejection form.

14 REJECTION OF UNINSURED MOTORIST PROTECTION

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

22 _____
23 Signature of Insured
24 _____

25 Date

26 (c) Underinsured motorist coverage.--Underinsured motorist
27 coverage shall provide protection for persons who suffer injury
28 arising out of the maintenance or use of a motor vehicle and are
29 legally entitled to recover damages therefor from owners or
30 operators of underinsured motor vehicles. The insured may reject

1 underinsured motorist coverage by signing the following written
2 rejection form.

3 REJECTION OF UNDERINSURED MOTORIST PROTECTION

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

11 _____
12 Signature of Insured

13 _____
14 Date

15 (c.1) Form of waiver.--Insurers shall print the rejection
16 forms required by subsections (b) and (c) on separate sheets in
17 prominent type and location. The form must be signed by the
18 named insured and dated to be valid. The signatures on the forms
19 may be witnessed by an insurance agent or broker. Any rejection
20 form that does not specifically comply with this section is
21 void. If the insurer fails to produce a valid rejection form,
22 uninsured or underinsured coverage, or both, as the case may be,
23 under that policy shall be equal to the bodily injury liability
24 limits. On policies in which either uninsured or underinsured
25 coverage has been rejected, the policy renewals must contain
26 notice in prominent type that the policy does not provide
27 protection against damages caused by uninsured or underinsured
28 motorists.

29 (d) Limitation on recovery.--A person who recovers damages
30 under uninsured motorist coverage or coverages cannot recover

1 damages under uninsured motorist coverage or coverages for the
2 same accident.

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

4 Section 12. Sections 1733 and 1734 of Title 75 are amended
5 to read:

6 § 1733. Priority of recovery.

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

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

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

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

20 § 1734. Request for lower [or higher] limits of coverage.

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

1 the named insured requests in writing higher limits of liability
2 for those coverages.]

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

4 § 1737. Rights to payment.

5 (a) Subrogation.--In claims arising out of the maintenance
6 or use of an underinsured motor vehicle, there shall be no right
7 of subrogation by an insurer with respect to the payment of
8 underinsured motorist benefits.

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

13 § 1738. Stacking of uninsured and underinsured benefits.

14 When multiple vehicles are insured under one or more
15 policies, the stated limit shall apply separately to each
16 vehicle. The limits of coverage available under this subchapter
17 for an insured shall be the sum of the limits for each insured
18 vehicle under all applicable policies.

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

20 § 1753. Benefits available.

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

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

1 § 1782. Manner of providing proof of financial responsibility.

2 * * *

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

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

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

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

30 (b) Consent to produce proof of financial responsibility.--

1 Upon registering a motor vehicle or renewing a motor vehicle
2 registration, the owner of the motor vehicle shall be deemed to
3 have given consent to produce proof to the Department of
4 Transportation or a police officer that the vehicle registrant
5 has the financial responsibility required by this chapter.
6 Failure to produce proof of financial responsibility to a police
7 officer upon request constitutes a summary offense.

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

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

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

1 Transportation.

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

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

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

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

30 (f) Time limit to produce proof.--Failure of a registered

1 vehicle owner to provide proof of financial responsibility in a
2 form authorized by Insurance Department regulation within 15
3 days of a request by the Department of Transportation for the
4 proof provided for in subsection (e) shall subject the owner to
5 an additional civil penalty of \$200 and to a three-month
6 revocation of vehicle registration.

7 (g) Defenses.--

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

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

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

30 Section 17. Section 1791 of Title 75, amended April 26, 1989

1 (P.L.13, No.4), is amended to read:

2 § 1791. Notice of available benefits and limits.

3 It shall be presumed that the insured has been advised of the
4 benefits and limits available under this chapter provided the
5 following notice in bold print of at least ten-point type is
6 given to the applicant at the time of application for original
7 coverage [or at the time of the first renewal after October 1,
8 1984], and no other notice or rejection shall be required:

9 IMPORTANT NOTICE

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

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

18 (1.1) Extraordinary medical benefits, from \$100,000
19 to \$1,100,000 which [may] shall be offered in
20 [increments] amounts of \$100,000, \$250,000, \$500,000,
21 \$750,000 and \$1,100,000.

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

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

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

27 (5) As an alternative to paragraphs (1) through (4),
28 a combination benefit, up to at least [\$277,500] \$177,500
29 of benefits in the aggregate or benefits payable up to
30 three years from the date of the accident, whichever

1 occurs first, subject to a limit on accidental death
2 benefit of up to \$25,000 and a limit on funeral benefit
3 of \$2,500, provided that nothing contained in this
4 subsection shall be construed to limit, reduce, modify or
5 change the provisions of section 1715(d) (relating to
6 availability of adequate limits).

7 (6) Uninsured, underinsured and bodily injury
8 liability coverage up to at least \$100,000 because of
9 injury to one person in any one accident and up to at
10 least \$300,000 because of injury to two or more persons
11 in any one accident or, at the option of the insurer, up
12 to at least \$300,000 in a single limit for these
13 coverages, except for policies issued under the Assigned
14 Risk Plan. Also, at least \$5,000 for damage to property
15 of others in any one accident.
16 Additionally, insurers may offer higher benefit levels
17 than those enumerated above as well as additional
18 benefits. However, an insured may elect to purchase lower
19 benefit levels than those enumerated above.

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

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

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

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

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

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

20 (b) Mandatory deductibles.--

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

30 (2) Under no circumstances may a private passenger

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

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

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

22 § 1797. Customary charges for treatment.

23 (a) General rule.--A person or institution providing
24 treatment, accommodations, products or services to an injured
25 person for an injury covered by [medical or catastrophic loss
26 benefits] liability or first party medical benefits for a motor
27 vehicle described in Subchapter B (relating to motor vehicle
28 liability insurance first party benefits), shall not [make a
29 charge] require, request or accept payment for the treatment,
30 accommodations, products or services in excess of [the amount

1 the person or institution customarily charges for like
2 treatment, accommodations, products and services in cases
3 involving no insurance.] 110% of the prevailing charge at the
4 75th percentile; 110% of the applicable fee schedule, the
5 recommended fee or the inflation index charge; or the diagnostic
6 related groups payment; whichever pertains to the specialty
7 service involved, determined to be applicable in this
8 Commonwealth under the Medicare program for comparable services
9 at the time the services were rendered, or the provider's usual
10 and customary charge, whichever is less. If a prevailing charge
11 has not been calculated under the Medicare program for a
12 particular service, the amount of the payment may not exceed 80%
13 of the provider's usual and customary charge. Providers subject
14 to this section may not bill the insured directly but must bill
15 the insurer for a determination of the amount payable. The
16 provider shall not bill or otherwise attempt to collect from the
17 insured the difference between the provider's full charge and
18 the amount paid by the insurer.

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

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

1 services or may be made at any time for continuing treatment
2 or services.

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

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

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

27 (5) PRO determination in favor of provider or insured.--
28 If a PRO determines that medical treatment or rehabilitative
29 services or merchandise were medically necessary, the insurer
30 must pay to the provider the outstanding amount plus interest

1 at 12% per year or any amount withheld by the insurer pending
2 PRO review.

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

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

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

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

24 § 1799. Obligation of insurer upon termination of insurance.

25 An insurer who has issued a contract of motor vehicle
26 liability insurance and knows or has reason to believe that the
27 contract is for the purpose of providing financial
28 responsibility shall notify the department if the insurance has
29 been canceled or terminated by the insured or by the insurer.
30 The insurer shall notify the department not later than ten days

1 following the effective date of the cancellation or termination.

2 § 1799.1. Restraint system.

3 (a) General rule.--All insurance companies authorized to
4 write private passenger automobile insurance within this
5 Commonwealth shall reduce by 11% the premiums for first party
6 benefits as defined in section 1712 (relating to availability of
7 benefits) for any insured vehicle equipped with a passive
8 restraint system for front seat passengers.

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

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

16 § 1799.2. Anti-theft devices.

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

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

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

1 automobile manufacturer.

2 § 1799.3. Motor vehicle replacement parts.

3 (a) General rule.--Nothing in this chapter shall prohibit
4 the use of Non-OEM aftermarket crash parts in the covered repair
5 of an insured's vehicle. If such parts are to be used, the
6 insured must be given prior notice of such use as provided in
7 subsection (b). The repairs invoice shall clearly state that
8 Non-OEM crash parts have been used to repair an insured's
9 vehicle.

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

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

19 "Aftermarket crash part." A motor vehicle replacement part
20 made of sheet metal, plastic or other material and which
21 constitutes an exterior portion of a vehicle, including an inner
22 or outer panel, and is generally repaired or replaced as the
23 result of a collision.

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

27 § 1799.4. Good driver discount.

28 Every insurer which writes a policy of automobile insurance
29 in this Commonwealth shall reduce the total premium charged for
30 each vehicle as to which no at-fault claim has been filed for

1 five consecutive years immediately preceding the period for
2 which the policy is written if none of the drivers named in the
3 policy has committed a moving violation during the five-year
4 period which resulted in a conviction or which remains
5 unresolved.

6 (1) If a violation which is unresolved at the time the
7 policy is written results in an acquittal, the discount shall
8 be allowed either as a refund or as a credit on a subsequent
9 policy.

10 (2) For the purpose of this section, the term
11 "conviction" includes a plea of guilty, a plea of nolo
12 contendere, a finding of guilty by a court, an unvacated
13 forfeiture of bail or collateral deposited to secure a
14 defendant's appearance in court, and a payment by any person
15 charged with a violation of the fine prescribed for the
16 violation.

17 § 1799.5. Limit on surcharges, late penalties and point
18 assignments.

19 (a) Property damage claims.--No surcharge, rate penalty or
20 driver record point assignment shall be made if the aggregate
21 cost to the insurer of repair or replacement of property damaged
22 or bodily injury liability is determined to be less than \$650 in
23 excess of any self-insured retention or deductible applicable to
24 the named insured.

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

28 (c) Notice to insured.--If an insurer makes a determination
29 to impose a surcharge, rate penalty or driver record point
30 assignment, the insurer shall inform the named insured of the

1 determination and shall specify the manner in which the
2 surcharge, rate penalty or driver record point assignment was
3 made and clearly identify the amount of the surcharge or rate
4 penalty on the premium notice for as long as the surcharge or
5 rate penalty is in effect.

6 (d) Adjustment of cap.--The Insurance Department, at least
7 once every three years, shall adjust the \$650 cap or limit on
8 the property damage or bodily injury liability surcharge, rate
9 penalty or driver record point assignment scheme relative to
10 changes in the components of the Consumer Price Index (Urban) to
11 measure seasonally adjusted changes in medical care and
12 automobile maintenance and repair costs and shall make such
13 adjustments to the cap or limit as shall be necessary to
14 maintain the same rate of change in the cap or limit as has
15 occurred in the Consumer Price Index (Urban). Such adjustments
16 may be rounded off to the nearest \$50 figure.

17 § 1799.6. Examination of vehicle repairs.

18 Upon request of the insurer, an insurance adjuster shall be
19 afforded a reasonable opportunity to enter a repair facility and
20 examine covered repairs being made to a specific insured's
21 vehicle at a mutually arranged time during regular business
22 hours.

23 § 1799.7. Rates.

24 All insurers must file for new rates within 30 days of the
25 effective date of this section. These rates shall apply to all
26 policies issued and renewed on and after December 1, 1989.

27 Section 20. Section 1960 of Title 75 is amended to read:

28 § 1960. Reinstatement of operating privilege or vehicle
29 registration.

30 The department shall charge a fee of \$25 or, if section

1 1786(c) (relating to required financial responsibility) applies,
2 a fee of \$50 to restore a person's operating privilege or the
3 registration of a vehicle following a suspension or revocation.

4 Section 21. Section 3731(a) of Title 75 of the Pennsylvania
5 Consolidated Statutes is amended and the section is amended by
6 adding a subsection to read:

7 § 3731. Driving under influence of alcohol or controlled
8 substance.

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

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

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

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

22 (4) except as provided in subsection (a.1), the amount
23 of alcohol by weight in the blood of the person is [0.10%]
24 0.08% or greater.

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

26 (1) If the person was driving, operating or in actual
27 physical control of the movement of a commercial vehicle as
28 defined in paragraph (2), the maximum allowable amount of
29 alcohol by weight in the blood of the person under subsection
30 (a)(4) is 0.04%.

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

3 (i) A vehicle with a gross vehicle weight rating of
4 26,001 or more pounds.

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

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

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

13 * * *

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

16 § 4727. Issuance of certificate of inspection.

17 * * *

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

30 § 6104. Administrative duties of department.

1 * * *

2 (f) Furnishing information to municipal police departments
3 and sheriffs' offices.--The department shall regularly transmit
4 to each municipal police department and sheriff's office a list
5 of the names of persons residing within its jurisdiction whose
6 operating privilege or registration has been suspended or
7 revoked.

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

9 § 6308.1. Payment to police or sheriff's office of one-half of
10 reinstatement fee.

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

18 Section 24. Based on the premium reduction requirements
19 contained in section 7 (75 Pa.C.S. § 1711), section 8 (75
20 Pa.C.S. § 1712), section 9 (75 Pa.C.S. § 1722), section 18 (75
21 Pa.C.S. §§ 1792 and 1797) and section 19 (75 Pa.C.S. §§ 1799.1,
22 1799.2 and 1799.3), the premiums charged by insurers shall be
23 reduced by a total of at least 30% for insureds who elect to
24 purchase coverages as specified in those sections.

25 Section 25. The Insurance Department and the Department of
26 Transportation shall promulgate regulations to the extent
27 necessary to carry out the provisions of section 1 (18 Pa.C.S. §
28 911(h)) and 2 (18 Pa.C.S. § 4117).

29 Section 26. The following act and parts of acts are
30 repealed:

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

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

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

7 (1) Section 25 and this section shall take effect
8 immediately.

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

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

11 (ii) Section 2 (18 Pa.C.S. § 4117).

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

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

14 (v) Section 16 (75 Pa.C.S. § 1786).

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

16 (vii) Section 26.

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

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

21 (5) The remainder of this act shall take effect December
22 1, 1989, or immediately, whichever is later.