

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2204 Session of
1991

INTRODUCED BY SCHEETZ, FAIRCHILD, HERSHEY, SCHULER, VROON,
JOHNSON, COLAIZZO, TIGUE, BARLEY, ARMSTRONG, FARGO, NOYE,
HAGARTY, SEMMEL, STURLA AND TRELLO, NOVEMBER 19, 1991

REFERRED TO COMMITTEE ON INSURANCE, NOVEMBER 19, 1991

AN ACT

1 Amending the act of May 17, 1921 (P.L.682, No.284), entitled "An
2 act relating to insurance; amending, revising, and
3 consolidating the law providing for the incorporation of
4 insurance companies, and the regulation, supervision, and
5 protection of home and foreign insurance companies, Lloyds
6 associations, reciprocal and inter-insurance exchanges, and
7 fire insurance rating bureaus, and the regulation and
8 supervision of insurance carried by such companies,
9 associations, and exchanges, including insurance carried by
10 the State Workmen's Insurance Fund; providing penalties; and
11 repealing existing laws," further providing for prohibited
12 policy provisions; and providing for deductibles.

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

15 Section 1. Section 653 of the act of May 17, 1921 (P.L.682,
16 No.284), known as The Insurance Company Law of 1921, amended
17 October 4, 1975 (P.L.346, No.100), is amended to read:

18 Section 653. Prohibited Policy Provisions.--[No] Except as
19 provided in section 653.1, no policy of insurance against
20 liability under "The Workmen's Compensation Act of nineteen
21 hundred and fifteen," and acts amendatory thereof or
22 supplementary thereto, or under "The Pennsylvania Occupational

1 Disease Act of nineteen hundred and thirty-nine," and acts
2 amendatory thereof or supplementary thereto, shall contain any
3 limitation of the liability of the insurer to an amount less
4 than that for which the insured employer may become liable under
5 such acts during the term of such insurance. No such policy or
6 contract of insurance, nor any agreement to deliver such
7 insurance, shall be issued except upon a form approved by the
8 Insurance Commissioner as complying with all the terms and
9 provisions of this act. But a policy may be issued to a self
10 insurer, qualified under section three hundred five of article
11 three of "The Workmen's Compensation Act of nineteen hundred and
12 fifteen," and acts amendatory thereof or supplementary thereto,
13 or under section three hundred five of article three of "The
14 Pennsylvania Occupational Disease Act of nineteen hundred and
15 thirty-nine," and acts amendatory thereof or supplementary
16 thereto, providing for the payment of any stated loss in excess
17 of ten thousand dollars falling upon such self insurer, under
18 the terms of the said acts, by reason of any single accident or
19 by reason of any single occurrence resulting in disability from
20 occupational disease.

21 Except for nonpayment of premiums, no policy of insurance
22 issued or renewed against liability under the act of June 2,
23 1915 (P.L.736, No.338), known as "The Pennsylvania Workmen's
24 Compensation Act," and acts amendatory thereof or supplementary
25 thereto; or under the act of June 21, 1939 (P.L.566, No.284),
26 known as "The Pennsylvania Occupational Disease Act," and acts
27 amendatory thereof or supplementary thereto; or under the
28 Federal Coal Mine Health and Safety Act of 1969, as amended,
29 Pub.L.91-173, December 30, 1969, 83 Stat. 742 et seq.; or
30 insuring an employer against liability for all sums such

1 employer shall become legally obligated to pay any employe of
2 his as damages because of bodily injury by accident or disease,
3 including death at any time resulting therefrom, sustained by
4 such employe arising out of and in the course of his employment,
5 may be cancelled or terminated by an insurer during the term of
6 the policy.

7 Section 2. The act is amended by adding a section to read:

8 Section 653.1. Deductibles.--(a) Each insurer issuing a
9 policy under this subdivision shall offer, as a part of the
10 policy or as an optional endorsement to the policy, deductibles
11 optional to the policyholder for benefits payable under this
12 subdivision. Deductible amounts offered shall be fully disclosed
13 to the prospective policyholder in writing in the amount of one
14 hundred dollars (\$100), two hundred dollars (\$200), three
15 hundred dollars (\$300), four hundred dollars (\$400), five
16 hundred dollars (\$500) or increments of five hundred dollars
17 (\$500) up to a maximum of two thousand five hundred dollars
18 (\$2,500) per compensable claim. The policyholder exercising the
19 deductible option shall choose only one deductible amount.

20 (b) If the policyholder exercises the option and chooses a
21 deductible, the insured employer shall be liable for the amount
22 of the deductible for benefits paid for each compensable claim
23 of work injury suffered by an employe. The insurer shall pay all
24 or part of the deductible amount, whichever is applicable to a
25 compensable claim, to the person or medical provider entitled to
26 the benefits conferred by this subdivision and then seek
27 reimbursement from the insured employer for the applicable
28 deductible amount. The payment or nonpayment of deductible
29 amounts by the insured employer to the insurer shall be treated
30 under the policy insuring the liability for workers'

1 compensation in the same manner as payment or nonpayment of
2 premiums.

3 (c) Optional deductibles shall be offered in each policy
4 insuring liability for workers compensation issued, delivered,
5 issued for delivery or renewed under this subdivision on or
6 after the effective date of this act, unless an insured employer
7 and insurer agree to renegotiate a workers' compensation policy
8 in effect on the effective date of this act so as to include a
9 provision allowing for a deductible.

10 (d) Premium reduction for deductibles shall be determined
11 before the application of any experience modification, premium
12 surchage or premium discounts. To the extent that an employer's
13 experience rating or safety record is based on benefits paid,
14 money paid by the insured employer under a deductible as
15 provided in this section shall not be included as benefits paid
16 so as to harm the experience rating of the employer.

17 (e) This section shall not apply to employers who are
18 approved to self-insure against liability for workers'
19 compensation or to group self-insurance funds for workers'
20 compensation.

21 Section 3. This act shall take effect in 60 days.