

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2575 Session of
2006

INTRODUCED BY VEON, BEBKO-JONES, COHEN, DeWEESE, FRANKEL,
GERGELY, GOODMAN, GRUCELA, HARPER, JAMES, JOSEPHS, KIRKLAND,
LaGROTTA, LEACH, MELIO, MYERS, PALLONE, SIPTROTH, STABACK,
STURLA, THOMAS, WALKO, WATERS AND YOUNGBLOOD, APRIL 4, 2006

REFERRED TO COMMITTEE ON TRANSPORTATION, APRIL 4, 2006

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, further providing for election of tort options in
3 financial responsibility.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Section 1705 heading and (a)(1), (2), (3), (4)
7 and (5), (b), (c), (d) and (e) of Title 75 of the Pennsylvania
8 Consolidated Statutes are amended to read:

9 § 1705. Election of [tort] right to sue options.

10 (a) Financial responsibility requirements.--

11 (1) Each insurer, not less than 45 days prior to the
12 first renewal of a private passenger motor vehicle liability
13 insurance policy on and after July 1, 1990, shall notify in
14 writing each named insured of the availability of two
15 alternatives of full [tort] right to sue insurance and
16 limited [tort] right to sue insurance described in
17 subsections (c) and (d). The notice shall be a standardized

1 form adopted by the commissioner and shall include the
2 following language:

3 NOTICE TO NAMED INSUREDS

4 A. "Limited [Tort] Right to Sue" Option--The laws of the
5 Commonwealth of Pennsylvania give you the right to choose
6 a form of insurance that limits your right and the right
7 of resident relative members of your household to seek
8 financial compensation for injuries caused by other
9 drivers. Under this form of insurance, you and other
10 household [members] relatives covered under this policy
11 may seek recovery for all medical and other out-of-pocket
12 expenses, but not for pain and suffering or other
13 nonmonetary damages unless the injuries suffered fall
14 within the definition of "serious injury" as set forth in
15 the policy or unless one of several other exceptions
16 noted in the policy and enumerated in subsection (d)
17 applies. The annual premium for basic coverage as
18 required by law under this "limited [tort] right to sue"
19 option is \$.

20 Additional coverages under this option are available at
21 additional cost. A menu of available coverage and the
22 cost of each is listed in paragraph F.

23 B. "Full [Tort] Right to Sue" Option--The laws of the
24 Commonwealth of Pennsylvania also give you the right to
25 choose a form of insurance under which you maintain an
26 unrestricted right for you and the resident relative
27 members of your household to seek financial compensation
28 for injuries caused by other drivers. Under this form of
29 insurance, you and other household [members] relatives
30 covered under this policy may seek recovery for all

1 medical and other out-of-pocket expenses and may also
2 seek financial compensation for pain and suffering and
3 other nonmonetary damages as a result of injuries caused
4 by other drivers. The annual premium for basic coverage
5 as required by law under this "full [tort] right to sue"
6 option is \$.

7 Additional coverages under this option are available at
8 additional cost. A menu of available coverage and the
9 cost of each is listed in paragraph F.

10 C. [You may contact your insurance agent, broker or
11 company to discuss the cost of other coverages.] While
12 paragraphs A and B above give you the cost comparison
13 between "limited right to sue" coverage and "full right
14 to sue" coverage and the menu of coverages in paragraph F
15 lists the other available coverages and the cost of each,
16 you may contact your attorney, insurance agent, broker or
17 company to discuss any questions you may have concerning
18 these coverages and their costs.

19 D. If you wish to choose the "limited [tort] right to
20 sue" option described in paragraph A[,] you must sign
21 this notice where indicated below and return it. If you
22 do not sign and return this notice, you will be
23 considered to have chosen the "full [tort] right to sue"
24 coverage as described in paragraph B and you will be
25 charged the "full [tort] right to sue" premium. In the
26 event the cost comparisons in paragraphs A and B are
27 incomplete, even if you sign for the "limited right to
28 sue" option under this section, you will be considered to
29 have chosen the "full right to sue" option.

30 I wish to choose the "limited [tort] right to sue" option

1 described in paragraph A:

2

3 Named Insured Date

4 E. If you wish to choose the "full [tort] right to sue"
5 option described in paragraph B, you may sign this notice
6 where indicated below and return it. However, if you do
7 not sign and return this notice[,] or if the cost
8 comparisons in paragraphs A and B are incomplete you will
9 be considered to have chosen the "full [tort] right to
10 sue" coverage as described in paragraph B and you will be
11 charged the "full [tort] right to sue" premium.

12 I wish to choose the "full [tort] right to sue" option
13 described in paragraph B:

14

15 Named Insured Date

16 F. Menu of coverages available--The laws of the
17 Commonwealth of Pennsylvania give you the right to choose
18 the form, type and amount of insurance you wish to
19 purchase. Insurance companies are required by law to make
20 available for purchase the various forms and types of
21 coverages listed and are required to inform you of the
22 cost of each type and amount.

23 They are as follows:

24	<u>\$25,000/</u>	<u>\$50,000/</u>	<u>\$100,000/</u>	<u>Extra-</u>
25	<u>\$50,000</u>	<u>\$100,000</u>	<u>\$300,000</u>	<u>ordinary</u>

26 Bodily Injury

27 Full Right to Sue

28 Limited Right to Sue

29 Uninsured/Underinsured

30 Full Right to Sue

Limited Right to Sue

<u>\$10,000</u>	<u>\$25,000</u>	<u>\$100,000</u>	<u>Extra-</u> <u>ordinary</u>
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Medical Benefits

Wage Loss Benefits

Property Damage Liability

Comprehensive

\$250 Deductible

500 Deductible

1,000 Deductible

Collision

\$250 Deductible

500 Deductible

1,000 Deductible

Rental Reimbursement

Accident Death Benefits

Funeral Benefits

Insurers may offer higher benefit levels than those
enumerated above as well as additional benefits.

Your signature on the "menu of coverages" evidences your
actual knowledge and understanding of the availability of
these benefits. If you have any questions or you do not
understand all of the various options available to you,
contact your attorney, agent, broker or insurance
company.

In the event that you do not sign and return this "menu
of coverages" or it does not completely list each
coverage available to you and enumerate the cost for
each, then you will be considered to have selected the
"full right to sue" option and will be deemed to have

selected each coverage option at the amount of the
minimum offering unless otherwise provided by law.

.....
Name Insured Date

(2) Insurers shall print the [above notice] tort option
notices under paragraph (1) containing both options on one
sheet in prominent type and place in a prominent location.
[Any person signing, or otherwise bound by, a document
containing such terms is bound by such election and is
precluded from claiming liability of any person based upon
being inadequately informed in making the election between
full tort or limited tort alternatives.] On a separate sheet
insurers shall print the "menu of coverages" in prominent
type and in a prominent location. Where there are two or more
named insureds on a policy, any named insured may make the
full or limited [tort] right to sue election provided for in
this section for all named insureds on the policy.

(3) If a named insured who receives [a] notice under
paragraph (1) does not indicate a choice within 20 days, the
insurer shall send a second notice. The second notice shall
be in a form identical to the first notice, except that it
shall be identified as a second and final notice. If a named
insured has not responded to either notice ten days prior to
the renewal date, the named insured and those he is empowered
by this section to bind by his choice are conclusively
presumed to have chosen the full [tort] right to sue
alternative. All notices required by this section shall
advise that if no [tort] right to sue election is made, the
named insured and those he is empowered to bind by his choice

1 are conclusively presumed to have chosen the full [tort]
2 right to sue alternative. [Any person subject to the limited
3 tort option by virtue of this section shall be precluded from
4 claiming liability of any person based upon being
5 inadequately informed.]

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

12 (5) An owner of a currently registered private passenger
13 motor vehicle who does not have financial responsibility
14 shall be deemed to have chosen the limited [tort] right to
15 sue alternative if the owner is the driver of the uninsured
16 motor vehicle at the time of the owner's injury.

17 * * *

18 (b) Application of [tort] right to sue options.--

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

28 (2) The [tort] right to sue option elected by a named
29 insured shall apply to all insureds under the private
30 passenger motor vehicle policy who are not named insureds

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

10 (3) An individual who is not an owner of a currently
11 registered private passenger motor vehicle and who is not a
12 named insured or insured under any private passenger motor
13 vehicle policy shall not be precluded from maintaining an
14 action for noneconomic loss or economic loss sustained in a
15 motor vehicle accident [as the consequence of the fault of
16 another person pursuant to applicable tort law.] and is,
17 therefore, deemed to have selected the full right to sue
18 option.

19 (c) Full [tort] right to sue alternative.--Each person who
20 is bound by the full [tort] right to sue election remains
21 eligible to seek compensation for noneconomic loss claimed and
22 economic loss sustained in a motor vehicle accident as the
23 consequence of the fault of another person pursuant to
24 applicable tort law.

25 (d) Limited [tort] right to sue alternative.--Each person
26 who elects the limited [tort] right to sue alternative remains
27 eligible to seek compensation for economic loss sustained in a
28 motor vehicle accident as the consequence of the fault of
29 another person pursuant to applicable tort law. Unless the
30 injury sustained is a serious injury, each person who is bound

1 by the limited [tort] right to sue election shall be precluded
2 from maintaining an action for any noneconomic loss, except
3 that:

4 (1) An individual otherwise bound by the limited [tort]
5 right to sue election who sustains damages in a motor vehicle
6 accident as the consequence of the fault of another person
7 may recover damages as if the individual damaged had elected
8 the full [tort] right to sue alternative whenever the person
9 at fault:

10 (i) is convicted or accepts Accelerated
11 Rehabilitative Disposition (ARD) for driving under the
12 influence of alcohol or a controlled substance in that
13 accident or has a blood alcohol reading of more than .08;

14 (ii) is operating a motor vehicle registered in
15 another state;

16 (iii) intends to injure himself or another person,
17 provided that an individual does not intentionally injure
18 himself or another person merely because his act or
19 failure to act is intentional or done with his
20 realization that it creates a grave risk of causing
21 injury or the act or omission causing the injury is for
22 the purpose of averting bodily harm to himself or another
23 person; or

24 (iv) has not maintained financial responsibility as
25 required by this chapter, provided that nothing in this
26 paragraph shall affect the limitation of section
27 1731(d)(2) (relating to availability, scope and amount of
28 coverage).

29 (2) An individual otherwise bound by the limited [tort]
30 right to sue election shall retain full [tort] rights to sue

1 with respect to claims against a person in the business of
2 designing, manufacturing, repairing, servicing or otherwise
3 maintaining motor vehicles arising out of a defect in such
4 motor vehicle which is caused by or not corrected by an act
5 or omission in the course of such business, other than a
6 defect in a motor vehicle which is operated by such business.

7 (3) An individual otherwise bound by the limited [tort]
8 right to sue election shall retain full [tort] rights to sue
9 if injured while an occupant of a motor vehicle other than a
10 private passenger motor vehicle.

11 (e) Nondiscrimination.--No insurer shall cancel, refuse to
12 write or refuse to renew a motor vehicle insurance policy based
13 on the [tort] right to sue option election of the named insured.
14 Any violation of this subsection shall be deemed a violation of
15 [the Automobile Insurance Policy Act] Article XX of the act of
16 May 17, 1921 (P.L.682, No.284), known as The Insurance Company
17 Law of 1921.

18 * * *

19 Section 2. This act shall take effect in 60 days.