

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 34

Session of
2007

INTRODUCED BY COHEN, PETRONE, GEORGE, JAMES, SIPTROTH, MELIO,
McILHATTAN, KULA, HALUSKA, CURRY, CALTAGIRONE, YOUNGBLOOD,
SABATINA, FREEMAN AND JOSEPHS, JANUARY 30, 2007

REFERRED TO COMMITTEE ON INSURANCE, JANUARY 30, 2007

AN ACT

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

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

7 Section 1. The definition of "financial responsibility" in
8 section 1702 of Title 75 of the Pennsylvania Consolidated
9 Statutes is amended to read:

10 § 1702. Definitions.

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

14 * * *

15 "Financial responsibility." The ability to respond in
16 damages for liability on account of accidents arising out of the
17 maintenance or use of a motor vehicle in the minimum amount of
18 [\$15,000] \$25,000 because of injury to one person in any one

1 accident, in the minimum amount of [\$30,000] \$50,000 because of
2 injury to two or more persons in any one accident and in the
3 minimum amount of [\$5,000] \$10,000 because of damage to property
4 of others in any one accident. The financial responsibility
5 shall be in a form acceptable to the Department of
6 Transportation.

7 * * *

8 Section 2. Sections 1705 heading and (a)(1), (2), (3), (4)
9 and (5), (b), (c), (d) and (e) and 1731(a), (b), (b.1), (b.2),
10 (b.3), (c) and (c.1) of Title 75 are amended to read:

11 § 1705. Election of [tort] right to sue options.

12 (a) Financial responsibility requirements.--

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

22 NOTICE TO NAMED INSUREDS

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

1 expenses, but not for pain and suffering or other
2 nonmonetary damages unless the injuries suffered fall
3 within the definition of "serious injury" as set forth in
4 the policy or unless one of several other exceptions
5 noted in the policy and enumerated in subsection (d)
6 applies. The annual premium for basic coverage as
7 required by law under this "limited [tort] right to sue"
8 option is \$.

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

12 B. "Full [Tort] Right to Sue" Option--The laws of the
13 Commonwealth of Pennsylvania also give you the right to
14 choose a form of insurance under which you maintain an
15 unrestricted right for you and the resident relative
16 members of your household to seek financial compensation
17 for injuries caused by other drivers. Under this form of
18 insurance, you and other household [members] relatives
19 covered under this policy may seek recovery for all
20 medical and other out-of-pocket expenses and may also
21 seek financial compensation for pain and suffering and
22 other nonmonetary damages as a result of injuries caused
23 by other drivers. The annual premium for basic coverage
24 as required by law under this "full [tort] right to sue"
25 option is \$.

26 Additional coverages under this option are available at
27 additional cost. A menu of available coverage and the
28 cost of each is listed in paragraph F.

29 C. [You may contact your insurance agent, broker or
30 company to discuss the cost of other coverages.] While

paragraphs A and B above give you the cost comparison between "limited right to sue" coverage and "full right to sue" coverage and the menu of coverages in paragraph F lists the other available coverages and the cost of each, you may contact your attorney, insurance agent, broker or company to discuss any questions you may have concerning these coverages and their costs.

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

I wish to choose the "limited [tort] right to sue" option described in paragraph A:

.....
Named Insured	Date

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

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

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

They are as follows:

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

Bodily Injury

Full Right to Sue

Limited Right to Sue

Uninsured/Underinsured

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>

Medical Benefits

Wage Loss Benefits

Property Damage Liability

Comprehensive

\$250 Deductible

500 Deductible

1,000 Deductible

Collision

1 full tort or limited tort alternatives.] On a separate sheet
2 insurers shall print the "menu of coverages" in prominent
3 type and in a prominent location. Where there are two or more
4 named insureds on a policy, any named insured may make the
5 full or limited [tort] right to sue election provided for in
6 this section for all named insureds on the policy.

7 (3) If a named insured who receives [a] notice under
8 paragraph (1) does not indicate a choice within 20 days, the
9 insurer shall send a second notice. The second notice shall
10 be in a form identical to the first notice, except that it
11 shall be identified as a second and final notice. If a named
12 insured has not responded to either notice ten days prior to
13 the renewal date, the named insured and those he is empowered
14 by this section to bind by his choice are conclusively
15 presumed to have chosen the full [tort] right to sue
16 alternative. All notices required by this section shall
17 advise that if no [tort] right to sue election is made, the
18 named insured and those he is empowered to bind by his choice
19 are conclusively presumed to have chosen the full [tort]
20 right to sue alternative. [Any person subject to the limited
21 tort option by virtue of this section shall be precluded from
22 claiming liability of any person based upon being
23 inadequately informed.]

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

30 (5) An owner of a currently registered private passenger

1 motor vehicle who does not have financial responsibility
2 shall be deemed to have chosen the limited [tort] right to
3 sue alternative if the owner is the driver of the uninsured
4 motor vehicle at the time of the owner's injury.

5 * * *

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

7 (1) The [tort] right to sue option elected by a named
8 insured shall apply to all private passenger motor vehicle
9 policies of the named insured issued by the same insurer and
10 shall continue in force as to all subsequent renewal
11 policies, replacement policies and any other private
12 passenger motor vehicle policies under which the individual
13 is a named insured until the insurer, or its authorized
14 representative, receives a properly executed form electing
15 the other [tort] right to sue option.

16 (2) The [tort] right to sue option elected by a named
17 insured shall apply to all insureds under the private
18 passenger motor vehicle policy who are not named insureds
19 under another private passenger motor vehicle policy. In the
20 case where more than one private passenger motor vehicle
21 policy is applicable to an insured and the policies have
22 conflicting [tort] right to sue options, the insured is bound
23 by the [tort] right to sue option of the policy associated
24 with the private passenger motor vehicle in which the insured
25 is an occupant at the time of the accident if he is an
26 insured on that policy and bound by the full [tort] right to
27 sue option otherwise.

28 (3) An individual who is not an owner of a currently
29 registered private passenger motor vehicle and who is not a
30 named insured or insured under any private passenger motor

1 vehicle policy shall not be precluded from maintaining an
2 action for noneconomic loss or economic loss sustained in a
3 motor vehicle accident [as the consequence of the fault of
4 another person pursuant to applicable tort law.] and is,
5 therefore, deemed to have selected the full right to sue
6 option.

7 (c) Full [tort] right to sue alternative.--Each person who
8 is bound by the full [tort] right to sue election remains
9 eligible to seek compensation for noneconomic loss claimed and
10 economic loss sustained in a motor vehicle accident as the
11 consequence of the fault of another person pursuant to
12 applicable tort law.

13 (d) Limited [tort] right to sue alternative.--Each person
14 who elects the limited [tort] right to sue alternative remains
15 eligible to seek compensation for economic loss sustained in a
16 motor vehicle accident as the consequence of the fault of
17 another person pursuant to applicable tort law. Unless the
18 injury sustained is a serious injury, each person who is bound
19 by the limited [tort] right to sue election shall be precluded
20 from maintaining an action for any noneconomic loss, except
21 that:

22 (1) An individual otherwise bound by the limited [tort]
23 right to sue election who sustains damages in a motor vehicle
24 accident as the consequence of the fault of another person
25 may recover damages as if the individual damaged had elected
26 the full [tort] right to sue alternative whenever the person
27 at fault:

28 (i) is convicted or accepts Accelerated
29 Rehabilitative Disposition (ARD) for driving under the
30 influence of alcohol or a controlled substance in that

1 accident or has a blood alcohol reading of more than .08;

2 (ii) is operating a motor vehicle registered in
3 another state;

4 (iii) intends to injure himself or another person,
5 provided that an individual does not intentionally injure
6 himself or another person merely because his act or
7 failure to act is intentional or done with his
8 realization that it creates a grave risk of causing
9 injury or the act or omission causing the injury is for
10 the purpose of averting bodily harm to himself or another
11 person; or

12 (iv) has not maintained financial responsibility as
13 required by this chapter, provided that nothing in this
14 paragraph shall affect the limitation of section
15 1731(d)(2) (relating to availability, scope and amount of
16 coverage).

17 (2) An individual otherwise bound by the limited [tort]
18 right to sue election shall retain full [tort] rights to sue
19 with respect to claims against a person in the business of
20 designing, manufacturing, repairing, servicing or otherwise
21 maintaining motor vehicles arising out of a defect in such
22 motor vehicle which is caused by or not corrected by an act
23 or omission in the course of such business, other than a
24 defect in a motor vehicle which is operated by such business.

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

29 (e) Nondiscrimination.--No insurer shall cancel, refuse to
30 write or refuse to renew a motor vehicle insurance policy based

1 on the [tort] right to sue option election of the named insured.
2 Any violation of this subsection shall be deemed a violation of
3 [the Automobile Insurance Policy Act] Article XX of the act of
4 May 17, 1921 (P.L.682, No.284), known as The Insurance Company
5 Law of 1921.

6 * * *

7 § 1731. Availability, scope and amount of coverage.

8 (a) Mandatory [offering] coverage.--No motor vehicle
9 liability insurance policy shall be delivered or issued for
10 delivery in this Commonwealth, with respect to any motor vehicle
11 registered or principally garaged in this Commonwealth, unless
12 uninsured motorist and underinsured motorist coverages are
13 offered therein or supplemental thereto in amounts [as provided
14 in section 1734 (relating to request for lower limits of
15 coverage)]. Purchase of uninsured motorist and underinsured
16 motorist coverages is optional] equal to the amount of liability
17 coverage.

18 (b) Uninsured motorist coverage.--Uninsured motorist
19 coverage shall provide protection for persons who suffer injury
20 arising out of the maintenance or use of a motor vehicle and are
21 legally entitled to recover damages therefor from owners or
22 operators of uninsured motor vehicles. [The named insured shall
23 be informed that he may reject uninsured motorist coverage by
24 signing the following written rejection form:

25 REJECTION OF UNINSURED MOTORIST PROTECTION

26 By signing this waiver I am rejecting uninsured motorist
27 coverage under this policy, for myself and all relatives
28 residing in my household. Uninsured coverage protects me and
29 relatives living in my household for losses and damages
30 suffered if injury is caused by the negligence of a driver

who does not have any insurance to pay for losses and damages. I knowingly and voluntarily reject this coverage.

.....

Signature of First Named Insured

.....

Date

(b.1) Limitation of rejection.--Uninsured motorist

protection may be rejected for the driver and passengers for rental or lease vehicles which are not otherwise common carriers by motor vehicle, but such coverage may only be rejected if the rental or lease agreement is signed by the person renting or leasing the vehicle and contains the following rejection language:

Rejection of Uninsured Motorist Protection

I am rejecting uninsured motorist coverage under this rental or lease agreement, and any policy of insurance or self-insurance issued under this agreement, for myself and all other passengers of this vehicle. Uninsured coverage protects me and other passengers in this vehicle for losses and damages suffered if injury is caused by the negligence of a driver who does not have any insurance to pay for losses and damages.

(b.2) Rejection language change.--The rejection language of subsection (b.1) may only be changed grammatically to reflect a difference in tense in the rental agreement or lease agreement.

(b.3) Vehicle rental services.--The requirements of subsection (b.1) may be met in connection with an expedited vehicle rental service, which service by agreement of the renter does not require the renter's signature for each rental, if a master enrollment or rental agreement contains the rejection

1 language of subsection (b.1) and such agreement is signed by the
2 renter.]

3 (c) Underinsured motorist coverage.--Underinsured motorist
4 coverage shall provide protection for persons who suffer injury
5 arising out of the maintenance or use of a motor vehicle and are
6 legally entitled to recover damages therefor from owners or
7 operators of underinsured motor vehicles. [The named insured
8 shall be informed that he may reject underinsured motorist
9 coverage by signing the following written rejection form:

10 REJECTION OF UNDERINSURED MOTORIST PROTECTION

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

19

20 Signature of First Named Insured

21

22 Date

23 (c.1) Form of waiver.--Insurers shall print the rejection
24 forms required by subsections (b) and (c) on separate sheets in
25 prominent type and location. The forms must be signed by the
26 first named insured and dated to be valid. The signatures on the
27 forms may be witnessed by an insurance agent or broker. Any
28 rejection form that does not specifically comply with this
29 section is void. If the insurer fails to produce a valid
30 rejection form, uninsured or underinsured coverage, or both, as

1 the case may be, under that policy shall be equal to the bodily
2 injury liability limits. On policies in which either uninsured
3 or underinsured coverage has been rejected, the policy renewals
4 must contain notice in prominent type that the policy does not
5 provide protection against damages caused by uninsured or
6 underinsured motorists. Any person who executes a waiver under
7 subsection (b) or (c) shall be precluded from claiming liability
8 of any person based upon inadequate information.]

9 * * *

10 Section 3. Sections 1734 and 1736 of Title 75 are repealed:
11 [§ 1734. Request for lower limits of coverage.

12 A named insured may request in writing the issuance of
13 coverages under section 1731 (relating to availability, scope
14 and amount of coverage) in amounts equal to or less than the
15 limits of liability for bodily injury.

16 § 1736. Coverages in excess of required amounts.

17 The coverages provided under this subchapter may be offered
18 by insurers in amounts higher than those required by this
19 chapter but may not be greater than the limits of liability
20 specified in the bodily injury liability provisions of the
21 insured's policy.]

22 Section 4. Section 1738(b), (c), (d) and (e) of Title 75 are
23 amended to read:

24 § 1738. Stacking of uninsured and underinsured benefits and
25 option to waive.

26 * * *

27 [(b) Waiver.--Notwithstanding the provisions of subsection
28 (a), a named insured may waive coverage providing stacking of
29 uninsured or underinsured coverages in which case the limits of
30 coverage available under the policy for an insured shall be the

1 stated limits for the motor vehicle as to which the injured
2 person is an insured.

3 (c) More than one vehicle.--Each named insured purchasing
4 uninsured or underinsured motorist coverage for more than one
5 vehicle under a policy shall be provided the opportunity to
6 waive the stacked limits of coverage and instead purchase
7 coverage as described in subsection (b). The premiums for an
8 insured who exercises such waiver shall be reduced to reflect
9 the different cost of such coverage.

10 (d) Forms.--

11 (1) The named insured shall be informed that he may
12 exercise the waiver of the stacked limits of uninsured
13 motorist coverage by signing the following written rejection
14 form:

15 UNINSURED COVERAGE LIMITS

16 By signing this waiver, I am rejecting stacked limits
17 of uninsured motorist coverage under the policy for
18 myself and members of my household under which the limits
19 of coverage available would be the sum of limits for each
20 motor vehicle insured under the policy. Instead, the
21 limits of coverage that I am purchasing shall be reduced
22 to the limits stated in the policy. I knowingly and
23 voluntarily reject the stacked limits of coverage. I
24 understand that my premiums will be reduced if I reject
25 this coverage.

26

27 Signature of First Named Insured

28

29 Date

30 (2) The named insured shall be informed that he may

1 exercise the waiver of the stacked limits of underinsured
2 motorist coverage by signing the following written rejection
3 form:

4 UNDERINSURED COVERAGE LIMITS

5 By signing this waiver, I am rejecting stacked limits
6 of underinsured motorist coverage under the policy for
7 myself and members of my household under which the limits
8 of coverage available would be the sum of limits for each
9 motor vehicle insured under the policy. Instead, the
10 limits of coverage that I am purchasing shall be reduced
11 to the limits stated in the policy. I knowingly and
12 voluntarily reject the stacked limits of coverage. I
13 understand that my premiums will be reduced if I reject
14 this coverage.

15

16 Signature of First Named Insured

17

18 Date

19 (e) Signature and date.--The forms described in subsection
20 (d) must be signed by the first named insured and dated to be
21 valid. Any rejection form that does not comply with this section
22 is void.]

23 Section 5. This act shall take effect in 60 days.