

No. 1984-12

AN ACT

SB 300

Amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further defining "local authorities" to include airport authorities which are not located within counties of the first class or counties of the second class; further providing for financial responsibility; providing for notice relating to chemical tests and driving under the influence; further providing for motor carriers road tax identification markers and axle tax; and making repeals.

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

Section 1. The definition of "local authorities" in section 102 of Title 75 of the Pennsylvania Consolidated Statutes is amended to read:

§ 102. Definitions.

Subject to additional definitions contained in subsequent provisions of this title which are applicable to specific provisions of this title, the following words and phrases when used in this title shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

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"Local authorities." County, municipal and other local boards or bodies having authority to enact laws relating to traffic. *The term also includes airport authorities, except where those authorities are located within counties of the first class or counties of the second class.*

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Section 2. Section 1547(j) of Title 75 is amended to read:

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

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(j) Immunity from civil liability and reports.—No physician, nurse or technician or hospital employing such physician, nurse or technician, and no other employer of such physician, nurse or technician shall be civilly liable for **[properly]** withdrawing blood or obtaining a urine sample and reporting test results to the police at the request of a police officer pursuant to this section. No physician, nurse or technician or hospital employing such physician, nurse or technician may administratively refuse to perform such tests and provide the results to the police officer except as may be reasonably expected from unusual circumstances that pertain at the time the request is made.

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Section 3. Sections 1702, 1711, 1712, 1713, 1715, 1717, 1718, 1719, 1720, 1721, 1722, 1723, 1731, 1752, 1753, 1754, 1755, 1756, 1757, 1761, 1762, 1763, 1764, 1765(a) and (f), 1766, 1774, 1782(a), 1784, 1785, 1787, 1791, 1792, 1794, 1795(a), 1796, 1797 and 1798 of Title 75, added February 12, 1984 (P.L.26, No.11), are amended or added to read:

§ 1702. Definitions.

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

“Benefits” or “first party benefits.” Medical benefits, income loss benefits, accidental death benefits and funeral benefits.

“Department.” The Department of Transportation or Insurance Department, as applicable.

“Financial responsibility.” The ability to respond in damages for liability on account of accidents arising out of the [ownership,] maintenance or use of a motor vehicle in the amount of [**\$20,000 prior to July 1, 1986, and \$25,000 on or after that date**] **\$15,000** because of injury to one person in any one accident; in the amount of [**\$40,000 prior to July 1, 1986, and \$50,000 on or after that date**] **\$30,000** because of injury to two or more persons in any one accident and in the amount of [**\$7,500 prior to July 1, 1986, and \$10,000 on or after that date**] **\$5,000** because of damage to property of others in any one accident. The financial responsibility shall be in a form acceptable to the Department of Transportation.

“Injury.” Accidentally sustained bodily harm to an individual and that individual’s illness, disease or death resulting therefrom.

“Insured.” Any of the following:

- (1) An individual identified by name as an insured in a policy of motor vehicle liability insurance.
- (2) If residing in the household of the named insured:
 - (i) a spouse or other relative of the named insured; or
 - (ii) a minor in the custody of either the named insured or relative of the named insured.

“Insurer” or “insurance company.” A motor vehicle liability insurer subject to the requirements of this chapter.

“Self-insurer.” *An entity providing benefits and qualified in the manner set forth in section 1787 (relating to self-insurance).*

“Underinsured motor vehicle.” A motor vehicle for which the limits of available liability insurance and self-insurance are insufficient to pay losses and damages.

“Uninsured motor vehicle.” Any of the following:

- (1) A motor vehicle for which there is no liability insurance or self-insurance applicable at the time of the accident.
- (2) A motor vehicle for which the insurance company denies coverage or the insurance company is or becomes involved in insolvency proceedings in any jurisdiction.
- (3) An unidentified motor vehicle that causes an accident resulting in injury provided the accident is reported to the police or proper governmental authority and the claimant notifies his insurer within 30 days, or as soon as practicable thereafter, that the claimant or his legal representative has a legal action arising out of the accident.

§ 1711. Required **[medical benefit] benefits.**

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

§ 1712. Availability of benefits.

An insurer issuing or delivering liability insurance policies covering any motor vehicle of the type required to be registered under this title, except recreational vehicles not intended for highway use, motorcycles, motor-driven cycles or motorized pedalcycles or like type vehicles, registered and operated in this Commonwealth, shall make available for purchase first party benefits with respect to injury arising out of the **[ownership,]** maintenance or use of a motor vehicle as follows:

(1) Medical benefit.—**[All] Coverage to provide for** reasonable and necessary **[expenses for]** medical treatment and rehabilitative services, including, but not limited to, hospital, dental, surgical, *psychiatric, psychological, osteopathic*, ambulance, chiropractic, licensed physical therapy, nursing services, vocational rehabilitation and occupational therapy, *speech pathology and audiology, optometric services*, medications, medical supplies and prosthetic devices, all without limitation as to time, provided that, within 18 months from the date of the accident causing injury, it is ascertainable with reasonable medical probability that further expenses may be incurred as a result of the injury. Benefits under this paragraph may include any nonmedical remedial care and treatment rendered in accordance with a recognized religious method of healing. **[Expenses for hospital room charges may be limited to semiprivate accommodations.]**

(2) Income loss benefit.—Includes the following:

- (i) Eighty percent of actual loss of gross income.
- (ii) Reasonable expenses actually incurred for hiring a substitute to perform self-employment services thereby mitigating loss of gross income or for hiring special help thereby enabling a person to work and mitigate loss of gross income.

Income loss does not include loss of expected income for any period following the death of an individual or expenses incurred for services performed following the death of an individual. Income loss shall not com-

mence until five working days have been lost after the date of the accident.

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

(4) **Funeral benefit.**—Expenses directly related to the funeral, burial, cremation or other form of disposition of the remains of a deceased individual, incurred as a result of the death of the individual as a result of the accident and within 24 months from the date of the accident.

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

§ 1713. Source of benefits.

(a) **General rule.**—Except as provided in section 1714 (relating to ineligible claimants), a person **[injured in a motor vehicle accident]** *who suffers injury arising out of the maintenance or use of a motor vehicle* shall recover first party benefits against applicable insurance coverage in the following order of priority:

(1) For a named insured, the policy on which he is the named insured.

(2) For an insured, the policy covering the insured.

(3) For the occupants of an insured motor vehicle, the policy on that motor vehicle.

(4) For a person who is not the occupant of a motor vehicle, the policy on any motor vehicle involved in the accident. For the purpose of this paragraph, a parked and unoccupied motor vehicle is not a motor vehicle involved in an accident unless it was parked so as to cause unreasonable risk of injury.

(b) **Multiple sources of equal priority.**—The insurer against whom a claim is asserted first under the priorities set forth in subsection (a) shall process and pay the claim as if wholly responsible. The insurer is thereafter entitled to recover contribution pro rata from any other insurer for the benefits paid and the costs of processing the claim. If contribution is sought among insurers responsible under subsection (a)(4), proration shall be based on the number of involved motor vehicles.

§ 1715. Availability of adequate limits.

(a) **General rule.**—An insurer shall make available for purchase first party benefits as follows:

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

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

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

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

(5) For combination of benefits enumerated in paragraphs (1) through (4) and subject to a limit on the accidental death benefit of up to \$25,000 and a limit on the funeral benefit of \$2,500, up to at least \$277,500 of benefits in the aggregate or benefits payable up to three years from the date of the accident, whichever occurs first.

(b) Higher or lower limits and additional benefits.—**[An insured may elect to purchase]** *Insurers may make available* higher or lower limits or **[additional]** benefits **[than]** *in addition to* those enumerated in subsection (a).

(c) Restriction on providing first party benefits.—An insurer shall not issue or deliver a policy providing first party benefits in accordance with this subchapter unless the policy also contains coverage for liability in amounts at least equal to the limits required for financial responsibility.

§ 1717. Stacking of benefits.

[An insurer may provide that first] *First* party benefits shall not be increased by stacking the limits of coverage of:

- (1) multiple motor vehicles covered under the same policy of insurance; or
- (2) multiple motor vehicle policies covering the individual for the same loss.

§ 1718. Exclusion from benefits.

(a) General rule.—An insurer **[may]** *shall* exclude from benefits any insured, or his personal representative, under a policy enumerated in section 1711 (relating to required **[medical benefit] benefits**) or 1712 (relating to availability of benefits), when the conduct of the insured contributed to the injury sustained by the insured in any of the following ways:

- (1) While intentionally injuring himself or another or attempting to intentionally injure himself or another.
- (2) While committing a felony.
- (3) While seeking to elude lawful apprehension or arrest by a law enforcement official.

(b) Conversion of vehicle.—A person who knowingly converts a motor vehicle is ineligible to receive first party benefits from any source other than a policy of insurance under which he is an insured for any injury arising out of the maintenance or use of the converted vehicle.

(c) Named driver exclusion.—An insurer may exclude any insured or his personal representative from benefits under a policy enumerated in section 1711 or 1712 when the insured is excluded from coverage while operating a motor vehicle in accordance with the act of June 5, 1968 (P.L.140, No.78), relating to the writing, cancellation of or refusal to renew policies of automobile insurance.

§ 1719. Coordination of benefits.

(a) General rule.—Except for workers' compensation, a policy of insurance issued or delivered pursuant to this subchapter shall be primary. Any program, group contract or other arrangement for payment of benefits[,] such as described in section 1711 (relating to required **[medical benefit] benefits**) **[or]**, 1712(1) and (2) (relating to availability of benefits)[,] *or 1715 (relating to availability of adequate limits)* shall be construed to contain a provision that all benefits provided therein shall be in excess of and not in duplication of any valid and collectible first party benefits provided in section 1711 **[or]**, 1712 *or 1715 or workers' compensation*.

(b) Definition.—As used in this section the term "program, group contract or other arrangement" includes, but is not limited to, benefits payable

by a hospital plan corporation or a professional health service corporation subject to 40 Pa.C.S. Ch. 61 (relating to hospital plan corporations) or 63 (relating to professional health services plan corporations).

§ 1720. Subrogation.

[There] *In actions arising out of the maintenance or use of a motor vehicle, there shall be no right of subrogation or reimbursement from a claimant's tort recovery with respect to workers' compensation benefits, benefits available under section 1711 (relating to required **[medical benefit] benefits**) **[or]**, 1712 (relating to availability of benefits) *or* 1715 (relating to availability of adequate limits) or benefits in lieu thereof paid or payable under section 1719 (relating to coordination of benefits).*

§ 1721. Statute of limitations.

(a) General rule.—If benefits have not been paid, an action for first party benefits shall be commenced within four years from the date of the accident giving rise to the claim. If first party benefits have been paid, an action for further benefits shall be commenced within four years from the date of the last payment.

(b) Minors.—For minors entitled to **[medical]** benefits described in section 1711 (relating to required **[medical benefit] benefits**) or 1712**[(1)]** (relating to availability of benefits), an action for **[medical]** benefits shall be commenced within four years from the date on which the injured minor attains 18 years of age.

(c) Definition.—As used in this section the term “further benefits” means expenses incurred not earlier than four years preceding the date an action is commenced.

§ 1722. Preclusion of pleading **[and]**, proving **[of]** *and recovering* required **[medical benefit] benefits**.

In any action for damages against a tortfeasor arising out of the **[ownership,]** maintenance or use of a motor vehicle, a person who is eligible to receive **[medical]** benefits under the **[minimum required coverage] coverages** set forth in section 1711 (relating to required **[medical benefit] benefits**) shall be precluded from pleading **[or]**, introducing into evidence *or recovering* the amount of **[medical and rehabilitative expenses for which such]** benefits **[were]** paid or **[are]** payable *under section 1711*. This preclusion applies only to the amount of **[required medical]** benefits set forth in section 1711.

§ 1723. Reporting requirements.

Beginning December 31, **[1985] 1986**, and each year thereafter, each insurance company writing automobile insurance in this Commonwealth shall file with the Insurance Department the number of its insureds, the number of its insureds who have purchased first party medical benefits in excess of the minimum required by section 1711 (relating to required **[medical benefit] benefits**) and the number of insureds who have purchased first party medical benefits in the amount of \$100,000. The Insurance Department shall furnish this information to the General Assembly *annually*.

§ 1731. Scope and amount of coverage.

(a) General rule.—No motor vehicle liability insurance policy shall be delivered or issued for delivery in this Commonwealth, with respect to any

motor vehicle registered or principally garaged in this Commonwealth, unless uninsured motorist and underinsured motorist coverages are provided therein or supplemental thereto in amounts equal to the bodily injury liability coverage except as provided in section 1734 (relating to request for lower or higher limits of coverage).

(b) Uninsured motorist coverage.—Uninsured motorist coverage shall provide protection for persons who suffer injury arising out of the **[ownership,]** maintenance or use of a motor vehicle and are legally entitled to recover damages therefor from owners or operators of uninsured motor vehicles.

(c) Underinsured motorist coverage.—Underinsured motorist coverage shall provide protection for persons who suffer injury arising out of the **[ownership,]** maintenance or use of a motor vehicle and are legally entitled to recover damages therefor from owners or operators of underinsured motor vehicles.

(d) Limitation on recovery.—A person who recovers damages under uninsured motorist coverage or coverages cannot recover damages under underinsured motorist coverage or coverages for the same accident.

§ 1752. Eligible claimants.

(a) General rule.—A person is eligible to recover benefits from the Assigned Claims Plan if the person meets the following requirements:

(1) Is a resident of this Commonwealth.

(2) Is injured as the result of a motor vehicle accident occurring in this Commonwealth.

(3) Is not an owner of a **[currently registered]** motor vehicle **[subject to this chapter] required to be registered under Chapter 13 (relating to registration of vehicles).**

(4) Is not the operator or occupant of a motor vehicle owned by the Federal Government or any of its agencies, departments or authorities.

(5) Is not the operator or occupant of a motor vehicle owned by a self-insurer or by an individual or entity who or which is immune from liability for, or is not required to provide, benefits or uninsured and underinsured motorist coverage.

(6) Is otherwise not entitled to receive any first party benefits under section 1711 (relating to required **[medical benefit] benefits**) or 1712 (relating to availability of benefits) applicable to the injury arising from the accident.

(7) Is not the operator or occupant of a recreational vehicle not intended for highway use, motorcycle, motor-driven cycle or motorized pedalcycle or other like type vehicle required to be registered under this title and involved in the accident.

(b) Grounds for ineligibility.—A person otherwise qualifying as an eligible claimant under subsection (a) shall nevertheless be ineligible to recover benefits from the Assigned Claims Plan if that person contributed to his own injury in any of the following ways:

(1) While intentionally injuring himself or another or attempting to intentionally injure himself or another.

(2) While committing a felony.

(3) While seeking to elude lawful apprehension or arrest by a law enforcement official.

(4) While knowingly converting a motor vehicle.

§ 1753. Benefits available.

An eligible claimant may recover medical benefits, as described in section 1712(1) (relating to availability of benefits), up to a maximum of \$5,000. No income loss benefit or accidental death benefit shall be payable under this subchapter. Funeral expenses, as described in section 1712(4), in the amount of **[\$2,500] \$1,500** shall be recoverable as an offset to the maximum amount of medical benefits available under this section.

§ 1754. **[Uninsured motorist] Additional** coverage.

An eligible claimant who has no other source of applicable uninsured motorist coverage and is otherwise entitled to recover in an action in tort against a party who has failed to comply with this chapter may recover for losses or damages suffered as a result of the injury up to **[\$20,000 for accidents occurring prior to July 1, 1986, and \$25,000 for accidents occurring on or after that date,] \$15,000** subject to an aggregate limit for all claims arising out of any one motor vehicle accident of **[\$40,000 for accidents occurring prior to July 1, 1986, and \$50,000 for accidents occurring on or after that date] \$30,000**. If a claimant recovers medical benefits under section 1753 (relating to benefits available), the amount of medical benefits recovered or recoverable up to \$5,000 shall be set off against any amounts recoverable in this section.

§ 1755. Coordination of benefits.

(a) Workers' compensation.—All benefits (less reasonably incurred collection costs) that an eligible claimant receives or is entitled to receive from workers' compensation and from any other *like* source under local, state or Federal law shall be subtracted from any benefits available in section 1753 (relating to benefits available) unless the law authorizing or providing for those benefits makes them excess or secondary to the benefits in accordance with this subchapter.

(b) Accident and health benefits.—All benefits an eligible claimant receives or is entitled to receive as a result of injury from any available source of accident and health benefits shall be subtracted from those benefits available in section 1753.

§ 1756. Subrogation.

The Assigned Claims Plan or its assignee is entitled to recover, in accordance with the tort liability law of this Commonwealth, reimbursement for benefits *or coverages* paid, loss adjustment costs and any other sums paid to an eligible claimant under this subchapter.

§ 1757. Statute of limitations.

(a) General rule.—An action by an eligible claimant to recover benefits *or coverages* from the Assigned Claims Plan shall be commenced within **[three] four** years from the date of the accident.

(b) Minors.—For minors entitled to benefits described in section 1753 (relating to benefits available) or 1754 (relating to **[uninsured motorist] addi-**

tional coverage), an action to recover these benefits or coverages shall be commenced within **[three] four** years from the date on which the injured minor attains 18 years of age.

§ 1761. Definitions.

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

“Administrator.” The administrator designated by the Catastrophic Loss Trust Fund Board.

“Board.” The Catastrophic Loss Trust Fund Board.

“Catastrophic loss.” An injury, arising out of the **[ownership,]** maintenance or use of a motor vehicle, for which the reasonable and necessary expenses for medical treatment and rehabilitative services, as described in section 1712(1) (relating to availability of benefits), exceed \$100,000.

“Catastrophic loss benefit.” Payments by the Catastrophic Loss Trust Fund for those reasonable and necessary expenses *only* for medical treatment and rehabilitative services which, as described in section 1712(1), exceed \$100,000, subject to the limitations provided in section 1766 (relating to benefits). Catastrophic loss benefits shall not duplicate any other payments for medical treatment and rehabilitative services.

“Eligible claimant.” Except as provided in the definition of ineligible claimant, eligible claimant includes a resident of this Commonwealth who suffers injury on or after the effective date of this subchapter arising out of the **[ownership,]** maintenance **[and] or** use of a motor vehicle in the United States, its territories or possessions and Canada. The estate of an eligible claimant shall be entitled to receive catastrophic loss benefits pursuant to section 1766 to the extent that financial obligations for reasonable and necessary medical treatment and rehabilitative services were incurred by the eligible claimant prior to the death of that person. Otherwise eligible claimants shall not be disqualified from participating in or receiving benefits from the Catastrophic Loss Trust Fund for injuries suffered after the effective date of this subchapter but prior to their first registration renewal after the effective date of this subchapter.

“Executive director.” The executive director of the Catastrophic Loss Trust Fund Board.

“Fund.” The Catastrophic Loss Trust Fund.

“Fund charge.” The fund charge established under this subchapter.

“Ineligible claimant.” Any of the following:

(1) A person who is the owner of a motor vehicle who has not complied with the registration requirements of Chapter 13 (relating to registration of vehicles) **[and is injured while driving or occupying the vehicle]**.

(2) A person who is the driver or occupant of a recreational vehicle not intended for highway use, a motorcycle, a motorized pedalcycle, a motor-driven cycle or like type vehicle required to be registered under this title but not subject to the charge levied in section 1762 (relating to funding).

“Manager.” The manager designated by the Catastrophic Loss Trust Fund Board.

§ 1762. Funding.

The Catastrophic Loss Trust Fund shall be funded by levying an initial charge of \$5 upon all motor vehicles required to be registered under Chapter 13 (relating to registration of vehicles) except trailers, recreational vehicles not intended for highway use, motorcycles, motor-driven cycles, motorized pedalcycles or like type vehicles. This charge shall be remitted to **[the] an insurance company [at the same time as the payment of the premium] or other party as may be designated by the Insurance Department.** Upon receipt of the charge, the insurance company **or other designated party** shall remit it to the Insurance Department for deposit in the trust fund. The Catastrophic Loss Trust Fund Board shall, **by regulation,** determine by January 1 of each calendar year the amount of the fund charge for each registration year subsequent to the initial registration year and shall notify the Insurance Department which shall notify the insurance companies **or other designated parties** to collect the charge. **[There shall be no change in the fund charge for three years after the effective date of this subchapter. The Insurance Department shall publish notice of the fund charge to be levied in each registration year at least 30 days prior to the initiation of the charge.]**

§ 1763. Enforcement.

The Department of Transportation shall refuse registration or renewal or transfer of registration to the owner or owners of any motor vehicle for which registration is required under this subchapter until there is proof that the amount levied under this subchapter was paid. **[A person required to pay the fund charge required by section 1762 (relating to funding) who fails to comply with this requirement shall be ineligible to participate in or receive any catastrophic loss benefits from the fund.]**

§ 1764. Catastrophic Loss Trust Fund.

(a) Establishment.—A Catastrophic Loss Trust Fund shall be established to provide funds necessary to pay catastrophic loss benefits.

(b) Composition.—The fund shall be composed of moneys contributed pursuant to section 1762 (relating to funding) and funds earned by the investment and reinvestment of such moneys. The fund shall be held in trust, be deposited in a separate account and be the sole and exclusive source of funding for the payment of catastrophic loss benefits and the administration of the fund.

(c) Separation from General Fund and Motor License Fund.—The fund and all income earned by it shall not become part of the General Fund or Motor License Fund and no obligations or expense of or claim against the fund shall constitute a debt of the Commonwealth or a charge against the General Fund or Motor License Fund.

(d) Expenses in collecting fund charge.—Any expense incurred by the Commonwealth in the collection of the fund charge shall be paid by the fund. ***The Insurance Department may determine a formula to provide for the reimbursement by the fund for expenses incurred by insurance companies or others in collecting the fund charge.***

§ 1765. Catastrophic Loss Trust Fund Board.

(a) Composition.—The fund shall be under the general supervision of a board of directors, which board shall be **[an independent] a departmental administrative** board in the Insurance Department and which board shall be comprised of nine persons as follows:

(1) Four members of the General Assembly appointed for two years as follows:

(i) One appointed by the **[President pro tempore] Majority Leader** of the Senate.

(ii) One appointed by the Minority Leader of the Senate.

(iii) One appointed by the **[Speaker] Majority Leader** of the House of Representatives.

(iv) One appointed by the Minority Leader of the House of Representatives.

(2) Four public members appointed by the **[General Assembly] Governor** for two years **[as follows:**

(i) **One appointed by the President pro tempore of the Senate.**

(ii) **One appointed by the Minority Leader of the Senate.**

(iii) **One appointed by the Speaker of the House of Representatives.**

(iv) **One appointed by the Minority Leader of the House of Representatives].**

(3) The Insurance Commissioner who shall serve as chairman.

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(f) Duties of manager.—

(1) The manager shall accept **[the moneys of] all moneys collected for** the fund **[collected by the Department of Transportation].**

(2) The manager may invest and reinvest the moneys of the fund in the type of investments and in a manner as determined by the Insurance Department based upon investments allowed by law and investment policies for similar fiduciaries.

§ 1766. Benefits.

(a) General rule.—Subject to the limitations set forth in subsection (b), the Catastrophic Loss Trust Fund shall provide catastrophic loss benefits to eligible claimants *only* for the payment of expenses for medical treatment and rehabilitative services in excess of \$100,000. No payment shall be made by the fund for the first \$100,000 of expenses for medical treatment and rehabilitative services incurred by an eligible claimant.

(b) Maximum benefit.—The maximum catastrophic loss benefit which shall be paid by the fund on behalf of any one eligible claimant shall be \$50,000 per year and \$1,000,000 lifetime aggregate, **[unless said expenses for medical treatment are incurred and paid within one calendar year]. During the first 18 months of eligibility, the administrator may approve payments on behalf of a claimant without regard to the \$50,000 per year limit but** subject to the \$1,000,000 **[limit] lifetime aggregate.**

(c) Effect of other benefits.—Except for workers' compensation, catastrophic loss benefits paid *or payable* by the fund shall be primary to any other available source of accident or health benefits including any program,

group contract or other private or public source of benefits unless the law authorizing or providing those benefits makes the benefits primary to the benefits provided under this subchapter.

(d) Structured settlements.—The administrator may enter into structured settlements to pay benefits under this subchapter. Where it appears the settlement will be both cost effective to the fund and in the best interest of the claimant, the restrictions in subsection (b) shall not apply to this subsection, but in no event shall the cost of the structured settlement exceed the **[aggregate maximum of \$1,000,000] present value of the future annual payments up to the maximum lifetime aggregate benefit remaining calculated at 6% simple interest.**

(e) Preclusion of pleading, **[and]** proving *and recovering* benefits.—In any action for damages against a tortfeasor arising out of the **[ownership,]** maintenance or use of a motor vehicle, a person who is eligible to receive catastrophic loss benefits shall be precluded from pleading, **[or]** introducing into evidence *or recovering* the amount of medical and rehabilitative expenses for which **[such] catastrophic loss** benefits were paid or are payable. This preclusion applies only to catastrophic loss benefits.

(f) Subrogation.—There shall be no subrogation or reimbursement from a claimant's tort recovery with respect to catastrophic loss benefits.

§ 1774. Payments sufficient to satisfy judgments.

(a) General rule.—For the purpose of this chapter only, judgments shall be deemed satisfied upon the occurrence of one of the following:

(1) When **[\$25,000] \$15,000** has been credited upon any judgment or judgments rendered in excess of that amount because of injury to one person as the result of any one accident. **[Prior to July 1, 1986, the amount required to be credited shall be \$20,000.]**

(2) When **[\$50,000] \$30,000** has been credited upon any judgment or judgments rendered in excess of that amount because of injury to two or more persons as the result of any one accident. **[Prior to July 1, 1986, the amount required to be credited shall be \$40,000.]**

(3) When **[\$10,000] \$5,000** has been credited upon any judgment or judgments rendered in excess of that amount because of damage to property of others as the result of any one accident. **[Prior to July 1, 1986, the amount required to be credited shall be \$7,500.]**

(b) Credit for payment under settlement.—Payments made in settlement of any claims because of bodily injury or property damage arising from a motor vehicle accident shall be credited in reduction of the amounts provided for in this section.

(c) Escrow deposit by judgment debtor.—When the judgment creditor cannot be found, the judgment debtor may deposit in escrow with the prothonotary of the court where the judgment was entered an amount equal to the amount of the judgment, subject to the limits set forth in subsection (a), interest to date and record costs, whereupon the prothonotary shall notify the department and the judgment shall be deemed satisfied. The amount deposited shall be retained by the prothonotary for a period of five years from the date of the deposit, after which, if it has not been claimed by

the judgment creditor, it shall be returned to the judgment debtor. When the deposit is made, the prothonotary shall notify the judgment creditor and his counsel, if any, by certified or registered mail at his last known address. No interest shall run on any judgment with respect to the amount deposited with the prothonotary under the terms of this subsection.

§ 1782. Manner of providing proof of financial responsibility.

(a) General rule.—Proof of financial responsibility may be furnished by filing evidence satisfactory to the department that all motor vehicles registered in a person's name are covered by motor vehicle liability insurance *or by a program of self-insurance as provided by section 1787 (relating to self-insurance)* or other reliable financial arrangements, deposits, resources or commitments [equal to that afforded by a contract of insurance complying with this chapter] *acceptable to the department.*

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§ 1784. Proof of financial responsibility following violation.

A defendant who is convicted of a traffic offense, other than a parking offense, that requires a court appearance shall be required to show proof of financial responsibility covering the operation of the vehicle at the time of the offense. If the defendant fails to show proof of financial responsibility, the court shall notify the department of that fact. Upon receipt of the notice, the department shall revoke the registration of the vehicle. If the defendant is the owner of the vehicle, the department shall also [revoke] *suspend* the operating privilege of the defendant.

§ 1785. Proof of financial responsibility following accident.

If the department determines that the owner of a motor vehicle involved in an accident [required to file an accident report] *requiring notice to a police department pursuant to section 3746 (relating to immediate notice of accident to police department)* did not maintain financial responsibility on the motor vehicle at the time of the accident, the department shall suspend the operating privilege of the [person required to file the report] *owner, where applicable, and the department shall revoke the registration of the vehicle.*

§ 1787. *Self-insurance.*

(a) *General rule.—Self-insurance is effected by filing with the Department of Transportation, in satisfactory form, evidence that reliable financial arrangements, deposits, resources or commitments exist such as will satisfy the department that the self-insurer will:*

(1) *Provide the benefits required by section 1711 (relating to required benefits), subject to the provisions of Subchapter B (relating to motor vehicle liability insurance first party benefits), except the additional benefits and limits provided in sections 1712 (relating to availability of benefits) and 1715 (relating to availability of adequate limits).*

(2) *Make payments sufficient to satisfy judgments as required by section 1774 (relating to payments sufficient to satisfy judgments).*

(3) *Provide uninsured motorist coverage up to the limits set forth in section 1774.*

(b) *Stacking limits prohibited.—Any recovery of uninsured motorist benefits under this section only shall not be increased by stacking the limits*

provided in section 1774, in consideration of the ownership or operation of multiple vehicles or otherwise.

(c) Assigned Risk and Assigned Claims Plans.—Self-insurers shall not be required to accept assigned risks pursuant to Subchapter D (relating to Assigned Risk Plan) or contribute to the Assigned Claims Plan pursuant to Subchapter E (relating to Assigned Claims Plan).

(d) Catastrophic Loss Trust Fund.—Self-insurers shall contribute to the Catastrophic Loss Trust Fund in the manner provided in Subchapter F (relating to Catastrophic Loss Trust Fund).

(e) Promulgation of regulations, etc.—The Department of Transportation may, jointly with the Insurance Department, promulgate rules, regulations, guidelines, procedures or standards for reviewing and establishing the financial eligibility of self-insurers.

§ 1791. Notice of available benefits and limits.

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

IMPORTANT NOTICE

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

- (1) Medical benefits, up to at least \$100,000.
- (2) Income loss benefits, up to at least \$2,500 per month up to a maximum benefit of at least \$50,000.
- (3) Accidental death benefits, up to at least \$25,000.
- (4) Funeral benefits, \$2,500.
- (5) As an alternative to paragraphs (1) through (4), a combination benefit, up to at least \$277,500 of benefits in the aggregate or benefits payable up to three years from the date of the accident, whichever occurs first, subject to a limit on accidental death benefit of up to \$25,000 and a limit on funeral benefit of \$2,500.
- (6) Uninsured, underinsured and bodily injury liability coverage up to at least \$100,000 because of injury to one person in any one accident and up to at least \$300,000 because of injury to two or more persons in any one accident or, at the option of the insurer, up to at least \$300,000 in a single limit for these coverages, except for policies issued under the Assigned Risk Plan. Also, at least **[\$7,500 prior to July 1, 1986, and at least \$10,000 on or after that date] \$5,000** for damage to property of others in any one accident.

Additionally, insurers may offer higher benefit levels than those enumerated above as well as additional benefits. However, an insured may elect to purchase lower benefit levels than those enumerated above.

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

§ 1792. Availability of uninsured, underinsured, bodily injury liability and property damage coverages.

Except for policies issued under Subchapter D (relating to Assigned Risk Plan), an insurer issuing a policy of bodily injury liability coverage pursuant to this chapter shall make available for purchase higher limits of uninsured, underinsured and bodily injury liability coverages up to at least \$100,000 because of injury to one person in any one accident and up to at least \$300,000 because of injury to two or more persons in any one accident or, at the option of the insurer, up to at least \$300,000 in a single limit for these coverages. Additionally, an insurer shall make available for purchase at least **[\$7,500 prior to July 1, 1986, and at least \$10,000 on or after that date]** \$5,000 because of damage to property of others in any one accident. However, the exclusion of availability relating to the Assigned Risk Plan shall not apply to damage to property of others in any one accident.

§ 1794. Compulsory judicial arbitration jurisdiction.

Beginning **[July 1, 1986]** *January 1, 1987*, the monetary limit in 42 Pa.C.S. § 7361(b)(2)(i) (relating to compulsory arbitration) for the submission of matters to judicial arbitration in judicial districts embracing first and second class counties shall be \$25,000 for actions arising from the **[ownership,]** maintenance or use of a motor vehicle.

§ 1795. Insurance fraud reporting immunity.

(a) General rule.—An insurance company, and any agent, servant or employee acting in the course and scope of his employment, shall be immune from civil or criminal liability arising from the supply or release of written or oral information to any duly authorized Federal or State law enforcement agency, *including the Insurance Department*, upon compliance with the following:

(1) The information is supplied to the agency in connection with an allegation of fraudulent conduct on the part of any person relating to the filing or maintenance of a motor vehicle **[liability] insurance** claim for bodily injury or property damage.

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

* * *

§ 1796. *Mental or physical examination of person.*

(a) General rule.—*Whenever the mental or physical condition of a person is material to any claim for medical, income loss or catastrophic loss benefits, a court of competent jurisdiction or the administrator of the Catastrophic Loss Trust Fund for catastrophic loss claims may order the person to submit to a mental or physical examination by a physician. The order may only be made upon motion for good cause shown. The order shall give the person to be examined adequate notice of the time and date of the examina-*

tion and shall state the manner, conditions and scope of the examination and the physician by whom it is to be performed. If a person fails to comply with an order to be examined, the court or the administrator may order that the person be denied benefits until compliance.

(b) Report of examination.—If requested by the person examined, a party causing an examination to be made shall promptly deliver to the person examined a copy of every written report concerning the examination at least one of which must set forth the physician's findings and conclusions in detail. Upon failure to promptly provide copies of these reports, the court or the administrator shall prohibit the testimony of the examining physician in any proceeding to recover benefits.

§ 1797. *Customary charges for treatment.*

A person or institution providing treatment, accommodations, products or services to an injured person for an injury covered by medical or catastrophic loss benefits shall not make a charge for the treatment, accommodations, products or services in excess of the amount the person or institution customarily charges for like treatment, accommodations, products and services in cases involving no insurance.

§ 1798. *Attorney fees and costs.*

(a) Basis for reasonable fee.—No attorney's fee for representing a claimant in connection with a claim for first party benefits provided under Subchapter B (relating to motor vehicle liability insurance first party benefits) or a claim for catastrophic loss benefits under Subchapter F (relating to Catastrophic Loss Trust Fund) shall be calculated, determined or paid on a contingent fee basis, nor shall any attorney's fees be deducted from the benefits enumerated in this subsection which are otherwise due such claimant. An attorney may charge a claimant a reasonable fee based upon actual time expended.

(b) Unreasonable refusal to pay benefits.—In the event an insurer is found to have acted with no reasonable foundation in refusing to pay the benefits enumerated in subsection (a) when due, the insurer shall pay, in addition to the benefits owed and the interest thereon, a reasonable attorney fee based upon actual time expended.

(c) Payment by fund.—The Catastrophic Loss Trust Fund may award the claimant's attorney a reasonable fee based upon actual time expended because a claimant is unable to otherwise pay the fees and costs.

(d) Fraudulent or excessive claims.—If, in any action by a claimant to recover benefits under this chapter, the court determines that the claim, or a significant part thereof, is fraudulent or so excessive as to have no reasonable foundation, the court may award the insurer's attorney a reasonable fee based upon actual time expended. The court, in such case, may direct that the fee shall be paid by the claimant or that the fee may be treated in whole or in part as an offset against any benefits due or to become due the claimant.

Section 4. Title 75 is amended by adding a section to read:

§ 2105. *Exemptions.*

(a) General rule.—The requirements of this chapter and of the act of June 19, 1964 (P.L. 7, No. 1), known as the Motor Carriers Road Tax Act, do not apply to the following vehicles:

(1) *A motor carrier vehicle bearing a Pennsylvania farm truck registration plate and operated in accordance with the restrictions of section 1344 (relating to use of farm truck plates) or a motor carrier vehicle registered and operated under provisions of another jurisdiction determined by the Department of Revenue and the Department of Transportation to be similar to those restrictions.*

(2) *A motor carrier vehicle exempt from registration as a farm truck and operated in accordance with the restrictions of section 1302(a)(10) (relating to vehicles exempt from registration) or a motor carrier vehicle operated under provisions of another jurisdiction determined by the Department of Revenue and the Department of Transportation to be similar to those restrictions.*

(3) *An emergency vehicle as defined by section 102 (relating to definitions).*

(4) *A motor carrier vehicle operated by or on behalf of any department, board or commission of the Commonwealth, or any political subdivision thereof, or any quasi-governmental authority of which this Commonwealth is a participating member, or any agency of the Federal Government or the District of Columbia, or of any state or any political subdivision thereof which grants similar exemptions to publicly owned vehicles registered in this Commonwealth.*

(5) *A bus operated under the act of August 1, 1963 (P.L.476, No.249), relating to taxation of motor fuels consumed by interstate buses, or any school bus operated by or on behalf of any private or privately operated school.*

(6) *An implement of husbandry as defined by section 102.*

(7) *Special mobile equipment as defined by section 102.*

(8) *An unladen or towed motor vehicle or unladen trailer which enters this Commonwealth solely for the purpose of securing repairs or reconditioning. The repair facility shall furnish to the motor carrier a certificate to be carried by the motor carrier vehicle operator while the vehicle is in this Commonwealth for the purposes of this paragraph.*

(9) *A motor carrier vehicle needing emergency repairs which secures authorization from the Pennsylvania State Police to enter this Commonwealth under this section.*

(b) *Regulations.—The Department of Revenue may promulgate regulations to implement this section.*

Section 5. Section 3731 of Title 75 is amended by adding a subsection to read:

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

* * *

(g) *Notice by department.—The department shall prepare a notice which shall contain a clear statement of the penalties prescribed by law for driving under the influence in violation of this section, for homicide by vehicle while driving under influence in violation of section 3735 (relating to homicide by vehicle while driving under influence), for refusal to take a chemical test provided for in section 1547 (relating to chemical testing to determine amount of*

alcohol or controlled substance) and for consuming alcohol or a controlled substance in a vehicle while the vehicle is in operation on any highway in violation of section 3715 (relating to restriction on alcoholic beverages). The notice shall include a statement that the length of any suspension of operating privileges resulting from a refusal to take a chemical test shall be in addition to the length of any suspension imposed as a result of a conviction for driving under the influence notwithstanding the fact that both suspensions were imposed in connection with the same incident. The notice shall also include a statement advising that it is possible that these penalties could be revised, in whole or in part, by the General Assembly prior to their receipt of a subsequent notice. Failure to receive the notice shall not be a defense in any criminal, license suspension or license revocation proceeding brought pursuant to this title or in any other action whether or not the failure is due to an error or omission on the part of the department. The department shall provide the notice to operators of motor vehicles in the same mailing that it utilizes for the issuance of learners' permits and for the issuance and renewal of drivers' licenses or at the time of issuance of a photo driver's license.

Section 6. Section 3755(b) of Title 75 is amended to read:

§ 3755. Reports by emergency room personnel.

* * *

(b) Immunity from civil *or criminal* liability.—No physician, nurse or technician or hospital employing such physician, nurse or technician and no other employer of such physician, nurse or technician shall be civilly *or criminally* liable for **[properly]** withdrawing blood or obtaining a urine sample and reporting test results to the police pursuant to this section *or for performing any other duty imposed by this section*. No physician, nurse or technician or hospital employing such physician, nurse or technician may administratively refuse to perform such tests and provide the results to the police officer except as may be reasonably expected from unusual circumstances that pertain at the time of admission.

Section 7. Title 75 is amended by adding a section to read:

§ 9910. *Exemptions from tax.*

(a) *General rule.*—*The tax imposed by this chapter does not apply to the following vehicles:*

(1) *A motor carrier vehicle bearing a Pennsylvania farm truck registration plate and operated in accordance with the restrictions of section 1344 (relating to use of farm truck plates) or a motor carrier vehicle registered and operated under provisions of another jurisdiction determined by the Department of Revenue and the Department of Transportation to be similar to those restrictions.*

(2) *A motor carrier vehicle exempt from registration as a farm truck and operated in accordance with the restrictions of section 1302(a)(10) (relating to vehicles exempt from registration) or a motor carrier vehicle operated under provisions of another jurisdiction determined by the Department of Revenue and the Department of Transportation to be similar to those restrictions.*

(3) *An emergency vehicle as defined by section 102 (relating to definitions).*

(4) *A motor carrier vehicle operated by or on behalf of any department, board or commission of the Commonwealth, or any political subdivision thereof, or any quasi-governmental authority of which this Commonwealth is a participating member, or any agency of the Federal Government or the District of Columbia, or of any state or any political subdivision thereof which grants similar exemptions to publicly owned vehicles registered in this Commonwealth.*

(5) *A new or used motor carrier vehicle operated with a dealer registration plate or a similar plate of another jurisdiction for the purposes of delivery, testing, demonstration or operation by a prospective purchaser under a loan not to exceed five days for the purpose of demonstration.*

(6) *A motor carrier vehicle bearing a miscellaneous motor vehicle business plate or a similar plate of another jurisdiction for the purpose of repair of the vehicle, transportation on its own wheels of a new vehicle owned by or in possession of a registered dealer or for repossession by a financier or collector-repossessor.*

(7) *A bus.*

(8) *An implement of husbandry as defined by section 102.*

(9) *Special mobile equipment as defined by section 102.*

(10) *An unladen or towed motor vehicle or unladen trailer which enters this Commonwealth solely for the purpose of securing repairs or reconditioning. The repair facility shall furnish to the motor carrier a certificate to be carried by the motor carrier vehicle operator while the vehicle is in this Commonwealth for the purposes of this paragraph.*

(11) *A motor carrier vehicle needing emergency repairs which secures authorization from the Pennsylvania State Police to enter this Commonwealth under this section.*

(b) Regulations.—The Department of Revenue and the Department of Transportation may promulgate regulations to implement this section.

Section 8. Competitive ratemaking required.—(a) Any filing under section 4 of the act of June 11, 1947 (P.L.538, No.246), known as The Casualty and Surety Rate Regulatory Act, made by an insurer under this act and subject to 75 Pa.C.S. Ch. 17 (relating to financial responsibility), with an effective date on or after October 1, 1984, shall become effective automatically 45 days after filing and is deemed to comply with that act unless disapproved by the Insurance Commissioner in accordance with the procedures set forth in section 5 of that act. This section is limited to two filings per coverage.

(b) This section supersedes the prior approval requirements of The Casualty and Surety Rate Regulatory Act and rules and regulations promulgated thereunder insofar as they are inconsistent with this act.

(c) After notice and a hearing in accordance with the procedures established in The Casualty and Surety Rate Regulatory Act, the Insurance Commissioner shall have the right at any time to order the disapproval of any rate in use by an insurance company pursuant to subsection (a) if he finds that

rate to be excessive, inadequate or unfairly discriminatory. The burden of proof that a rate is not excessive, inadequate or unfairly discriminatory shall be on the insurance company.

(d) After notice and a hearing in accordance with the procedures established in The Casualty and Surety Rate Regulatory Act, the Insurance Commissioner shall have the right to rescind subsection (a) at any time if he finds that the insurance market is not competitive.

(e) This section expires October 1, 1985.

Section 9. Savings provision.—Notwithstanding the repeal of the act of July 19, 1974 (P.L.489, No.176), known as the Pennsylvania No-fault Motor Vehicle Insurance Act, the requirement to fund the payment of assigned claims under section 108 of that act remains unaffected.

Section 10. Repeals.—(a) Section 24 of the act of June 19, 1964 (P.L.7, No.1), known as the Motor Carriers Road Tax Act, is repealed.

(b) Section 5 of the act of February 12, 1984 (P.L.26, No.11), entitled “An act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for financial responsibility; providing for motor vehicle insurance first party benefits; providing for uninsured and underinsured motorist coverage; providing for an Assigned Risk Plan and Assigned Claims Plan; providing for a Catastrophic Loss Trust Fund; providing for insurance premiums; providing for fraud reporting immunity; providing for judicial arbitration limits; and making repeals,” is repealed.

(c) Section 10 of the act of February 12, 1984 (P.L.26, No.11), entitled “An act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for financial responsibility; providing for motor vehicle insurance first party benefits; providing for uninsured and underinsured motorist coverage; providing for an Assigned Risk Plan and Assigned Claims Plan; providing for a Catastrophic Loss Trust Fund; providing for insurance premiums; providing for fraud reporting immunity; providing for judicial arbitration limits; and making repeals,” is repealed insofar as it provides an effective date inconsistent with the effective date provided in this act.

Section 11. Applicability.—This act applies to insurance policies issued or renewed on or after the effective date of this act.

Section 12. Effective dates.—(a) The act of February 12, 1984 (P.L.26, No.11), entitled “An act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for financial responsibility; providing for motor vehicle insurance first party benefits; providing for uninsured and underinsured motorist coverage; providing for an Assigned Risk Plan and Assigned Claims Plan; providing for a Catastrophic Loss Trust Fund; providing for insurance premiums; providing for fraud reporting immunity; providing for judicial arbitration limits; and making repeals,” shall take effect October 1, 1984.

(b) Sections 1 (section 102) and 8 (competitive ratemaking required) of this act shall take effect immediately.

(c) Section 2 (section 1547) of this act shall take effect immediately and shall be retroactive to January 14, 1983.

(d) Section 5 (section 3731) of this act shall take effect in 120 days and shall expire four years from its effective date.

(e) Sections 4 (section 2105), 6 (section 3755), 7 (section 9910) and 10(a) (repeal of section 24 of Motor Carriers Road Tax Act) of this act shall take effect in 60 days.

(f) The remaining provisions of this act shall take effect October 1, 1984.

(g) This section shall take effect immediately.

APPROVED—The 12th day of February, A. D. 1984.

DICK THORNBURGH