

No. 176

AN ACT

HB 1973

Providing for a compensation system for persons injured in motor vehicle accidents; requiring insurance for all motor vehicles required to be registered in Pennsylvania; defining compensable damage in motor vehicle accident cases; establishing an assigned claims plan; providing for arbitration; imposing powers and duties on courts, the Department of Transportation and the Insurance Commissioner; prohibiting certain discrimination; and providing penalties.

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

ARTICLE I
SHORT TITLE, PURPOSE AND DEFINITIONS

§ 101. Short title.

This act may be cited as the "Pennsylvania No-fault Motor Vehicle Insurance Act."

§ 102. Findings and purposes.

(a) Findings.—The General Assembly hereby finds and declares that:

(1) motor vehicles are the primary instrumentality for the transportation of individuals;

(2) the transportation of individuals by motor vehicle over Commonwealth highways and other highways significantly affects intrastate commerce, particularly in metropolitan areas;

(3) the maximum feasible restoration of all individuals injured and compensation of the economic losses of the survivors of all individuals killed in motor vehicle accidents on Commonwealth highways, in intrastate commerce, and in activity affecting intrastate commerce is essential to the humane and purposeful functioning of commerce;

(4) to avoid any undue burden on commerce during the intrastate transportation of individuals, it is necessary and proper to have a Statewide low-cost, comprehensive, and fair system of compensating and restoring motor vehicle accident victims and the survivors of deceased victims;

(5) exhaustive studies by the United States Department of Transportation, the Congress of the United States and the General Assembly have determined that the present basic system of motor vehicle accident and insurance law, which makes compensation and restoration contingent upon:

(A) every victim first showing that someone else was at fault;

(B) every victim first showing that he was without fault; and

(C) the person at fault having sufficient liability insurance and other available financial resources to pay for all the losses,

is not such a low-cost, comprehensive, and fair system;

(6) careful studies, intensive hearings, and some State experiments have demonstrated that a basic system of motor vehicle accident and insurance law which:

(A) assures every victim payment of all his basic medical and rehabilitation costs, and recovery of a reasonable amount of work loss, replacement services and survivor's loss; and

(B) eliminates the need to determine fault except when a victim is very seriously injured, is such a low-cost, comprehensive, and fair system;

(7) adoption of the system described in paragraph (6) in place of the system described in paragraph (5) would remove an undue burden on commerce;

(8) throughout the Commonwealth there should be uniformity as to the essential elements of the system of motor vehicle accident and insurance law to avoid confusion, complexity, uncertainty, and chaos which would be engendered by a multiplicity of noncomplementary systems, but the need for a basic system does not require that the Commonwealth itself directly administer, operate, or direct the administration or operation of such system; and

(9) a Statewide low-cost, comprehensive, and fair system of compensating and restoring motor vehicle accident victims can save and restore the lives of countless victims by providing and paying the cost of services so that every victim has the opportunity to:

(A) receive prompt and comprehensive professional treatment; and

(B) be rehabilitated to the point where he can return as a useful member of society and a self-respecting and self-supporting citizen.

(10) It is necessary to afford required coverages for motor vehicles to economically disadvantaged individuals at rates not so great as to deny such individuals access to insurance which it is necessary for them to have in order to earn income and to be or remain gainfully employed.

(b) Purposes.—Therefore, it is hereby declared to be the policy of the General Assembly to establish at reasonable cost to the purchaser of insurance, a Statewide system of prompt and adequate basic loss benefits for motor vehicle accident victims and the survivors of deceased victims.

§ 103. Definitions.

As used in this act:

“Added loss benefits” means benefits provided by added loss insurance in accordance with section 207 of this act.

“Allowable expense” means reasonable charges incurred for, or the reasonable value of (where no charges are incurred), reasonably needed and used products, services, and accommodations for:

(A) professional medical treatment and care;

(B) emergency health services;

(C) medical and vocational rehabilitation services;

(D) expenses directly related to the funeral, burial, cremation, or other form of disposition of the remains of a deceased victim, not to exceed one thousand five hundred dollars (\$1,500); and

The term does not include that portion of a charge for a room in a hospital, clinic, convalescent, or nursing home, or any other institution engaged in providing nursing care and related services, in excess of a reasonable and customary charge for semiprivate accommodations, unless more intensive care is medically required; or any amount includable in work loss, replacement services loss, or survivor's loss.

"Basic loss benefits" means benefits provided in accordance with this act for the net loss sustained by a victim, subject to any applicable limitations, exclusions, deductibles, waiting periods, disqualifications, or other terms and conditions provided or authorized in accordance with this act. Basic loss benefits do not include benefits for damage to property. Nor do basic loss benefits include benefits for net loss sustained by an operator or passenger of a motorcycle.

"Commissioner" means the Insurance Commissioner.

"Department" means the Pennsylvania Department of Transportation.

"Emergency health services" means services necessary to mitigate injury to any victim during the period immediately and proximately following an accident including, but not limited to, communications, transportation, and treatment by medical and paramedical personnel, and which are supplied or provided by any person accredited or certified by an emergency health services system.

"Emergency health services system" means a system which provides for the arrangement of personnel, facilities, and equipment for the effective and coordinated delivery in an appropriate geographical area of health care services under emergency conditions arising out of the maintenance or use of a motor vehicle, which is administered by a public or nonprofit private entity which has the authority and the resources to provide effective administration, and which is operating in accordance with applicable requirements, conditions, and regulations.

"Government" means the government of the United States, any state, any political subdivision of a state, any instrumentality of two or more states, or any agency, subdivision, or department of any such government, including any corporation or other association organized by a government for the execution of a government program and subject to control by a government, or any corporation or agency established under an interstate compact or international treaty.

"Injury" means accidentally sustained bodily harm to an individual and that individual's illness, disease, or death resulting therefrom.

"Insurance" means a contract, self-insurance, or any other legally binding obligation to pay or provide no-fault benefits or any required tort liability.

"Insured" means:

- (A) an individual identified by name as an insured in a contract of basic loss insurance complying with this act; and

(B) a spouse or other relative of a named insured, a minor in the custody of a named insured, and a minor in the custody of a relative of a named insured if:

- (i) not identified by name as an insured in any other contract of basic restoration insurance complying with this act; and
- (ii) in residence in the same household with a named insured.

An individual is in residence in the same household if he usually makes his home in the same family unit, even though he temporarily lives elsewhere.

“Insurer” means a legally constituted entity, other than a self-insurer or an obligated government, which is authorized under state law to provide security covering a motor vehicle in such state.

“Loss” means accrued economic detriment resulting from injury arising out of the maintenance or use of a motor vehicle consisting of, and limited to, allowable expense, work loss, replacement services loss, and survivor’s loss.

“Loss of income” means gross income actually lost by a victim or that would have been lost but for any income continuation plan, reduced by:

- (A) eighty per cent (80%) of any income which such individual earns from substitute work;
- (B) income which such individual would have earned in available substitute work he was capable of performing but unreasonably failed to undertake; or
- (C) any income which such individual would have earned by hiring an available substitute to perform self-employment services but unreasonably failed to do.

“Maintenance or use of a motor vehicle” means maintenance or use of a motor vehicle as a vehicle, including, incident to its maintenance or use as a vehicle, occupying, entering into, or alighting from it. Maintenance or use of a motor vehicle does not include:

- (A) conduct within the course of a business of repairing, servicing, or otherwise maintaining motor vehicles unless the conduct occurs off the business premises; or
- (B) conduct in the course of loading or unloading a motor vehicle unless the conduct occurs while occupying, entering into, or alighting from it.

“Medical and vocational rehabilitation services” means services necessary to reduce disability and to restore the physical, psychological, social, and vocational functioning of a victim. Such services may include, but are not limited to, medical care, diagnostic and evaluation procedures, physical and occupational therapy, other necessary therapies, speech pathology and audiology, optometric services, nursing care under the supervision of a registered nurse, medical social services, vocational rehabilitation and training services, occupational licenses and tools, and transportation where necessary to secure medical and

vocational rehabilitation services. A basic loss obligor is not obligated to provide basic loss benefits for allowable expense for medical and vocational rehabilitation services unless the facility in which or through which such services are provided has been accredited by the Department of Health, the equivalent governmental agency responsible for health programs, or the accrediting designee of such department or agency of the state in which such services are provided, as being in accordance with applicable requirements and regulations.

“Motor vehicle” means a vehicle of a kind required to be registered under the act of April 29, 1959 (P.L.58, No.32), known as The Vehicle Code.

“Net loss” means loss less benefits or advantages required to be subtracted from loss in calculating net loss pursuant to this act.

“Noneconomic detriment” means pain, suffering, inconvenience, physical impairment, and other nonpecuniary damage recoverable under the tort law applicable to injury arising out of the maintenance or use of a motor vehicle. The term does not include punitive or exemplary damages.

“No-fault benefits” means basic loss benefits, added loss benefits, or both.

“No-fault insurance” means basic loss insurance, added loss insurance, or both.

“Obligor” means an insurer, self-insurer, or obligated government providing no-fault benefits in accordance with this act.

“Owner” means an individual, government, corporation, company, association, firm, partnership, joint stock company, foundation, institution, society, union, club, church, or any other group of persons organized for any purpose, other than a lienholder or secured party, that owns or has title to a motor vehicle or is entitled to the use and possession of a motor vehicle subject to a security interest held by another. The term includes a lessee of a motor vehicle having the right to possession under a lease with option to purchase.

“Replacement services loss” means expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the victim would have performed, not for income, but for the benefit of himself or his family, if he had not been injured.

“Secretary” means the Pennsylvania Secretary of Transportation.

“Secured vehicle” means a motor vehicle for which security is provided in accordance with section 104 of this act.

“Security covering a motor vehicle,” “security covering the vehicle,” and “security” means the security which is provided in accordance with section 104 of this act.

“Self-insurer” means an owner or any person providing security pursuant to subsections (b) or (c) of section 104 of this act.

“State” means a state of the United States, the District of Columbia, Guam, and the Virgin Islands.

“State vocational rehabilitation agency” means the agency in the Commonwealth which administers the Commonwealth plan for vocational rehabilitation services under the Federal Vocational Rehabilitation Act (29 U.S.C.35).

“Survivor” means:

(A) spouse; or

(B) child, parent, brother, sister or relative dependent upon the deceased for support.

“Survivor’s loss” means the:

(A) loss of income of a deceased victim which would probably have been contributed to a survivor or survivors, if such victim had not sustained the fatal injury; and

(B) expenses reasonably incurred by a survivor or survivors, after a victim’s death resulting from injury, in obtaining ordinary and necessary services in lieu of those which the victim would have performed, not for income, but for their benefit, if he had not sustained the fatal injury,

reduced by expenses which the survivor or survivors would probably have incurred but avoided by reason of the victim’s death resulting from injury.

“Victim” means an individual who suffers injury arising out of the maintenance or use of a motor vehicle; “deceased victim” means a victim suffering death resulting from injury.

“Without regard to fault” means irrespective of fault as a cause of injury.

“Work loss” means:

(A) loss of gross income of a victim, as calculated pursuant to the provisions of section 205 of this act; and

(B) reasonable expenses of a victim for hiring a substitute to perform self-employment services, thereby mitigating loss of income, or for hiring special help, thereby enabling a victim to work and mitigate loss of income.

§ 104. Required motor vehicle insurance.

(a) Security covering a motor vehicle.—Every owner of a motor vehicle which is registered or which is operated in this Commonwealth by the owner or with his permission, shall continuously provide security covering such motor vehicle while such vehicle is either present or registered in the Commonwealth. Security shall be provided for the payment of basic loss benefits, and for the payment of sums up to a total limit of thirty thousand dollars (\$30,000) which the owner or any person operating the vehicle with the express or implied permission of the owner may become liable to pay as damages because of bodily injury or death arising out of any one accident (subject to a sublimit of fifteen thousand dollars (\$15,000) for damages arising out of the bodily injury or death of any one person) and for the payment of damages for injury to

or destruction of property in any one accident of amounts up to a total limit of five thousand dollars (\$5,000). The owner or any other person may provide security covering a motor vehicle by a contract of insurance with an insurer or by qualifying as a self-insurer or as an obligated government.

(b) Self-insurance.—Self-insurance, subject to approval of the commissioner and department, is effected by filing with the department in satisfactory form:

(1) a continuing undertaking by the owner or other appropriate person to pay basic restoration benefits and any tort liability required in amounts not less than those required, by subsection (a) of this section, to perform all obligations imposed in accordance with this act, and to elect to pay such added restoration benefits as are specified in the undertaking;

(2) evidence that appropriate provision exists for prompt and efficient administration of all claims, benefits, and obligations provided in accordance with this act; and

(3) evidence that reliable financial arrangements, deposits, resources, or commitments exist providing assurance substantially equivalent to that afforded by a contract of insurance complying with this act for payment of no-fault benefits, any required tort liability, and performance of all other obligations imposed in accordance with this act.

(c) Obligated government.—A government may provide security with respect to any motor vehicle owned or operated by it by lawfully obligating itself to pay basic restoration benefits in accordance with this act, and such added restoration benefits as are specified in the undertaking.

(d) Obligations upon termination of security.—An owner of a motor vehicle who ceases to maintain the security required in accordance with this act shall immediately surrender the registration certificate and license plates for the vehicle to the department and may not operate or permit operation of the vehicle in this Commonwealth until security has again been furnished as required in accordance with this act. A person other than the owner who ceases to maintain such security shall immediately notify the owner and the department, who may not operate or permit operation of the vehicle until security has again been furnished. An insurer who has issued a contract of insurance and knows or has reason to believe the contract is for the purpose of providing security shall immediately give notice to the department of the termination of the insurance. If the commissioner or department withdraws approval of security provided by a self-insurer or knows that the conditions for self-insurance have ceased to exist, he shall immediately give notice thereof to the department. These requirements may be modified or waived by the department.

§ 105. Availability of insurance.

(a) Plan.—

(1) The commissioner shall establish and implement or approve and supervise a plan assuring that any required no-fault benefits and tort liability coverages for motor vehicles will be conveniently and expeditiously available, subject only to payment or provisions for payment of the premium, to each individual who cannot conveniently obtain insurance through ordinary methods at rates not in excess of those applicable to similarly situated individuals under the plan. The plan may provide reasonable means for the transfer of individuals insured thereunder into the ordinary market, at the same or lower rates, pursuant to regulations established by the commissioner. The plan may be implemented by assignment of applicants among insurers, pooling, any joint insuring or reinsuring arrangement, or any other method, that results in all applicants being conveniently afforded the insurance coverages on reasonable and not unfairly discriminatory terms.

(2) The plan shall make available added loss benefits and tort liability coverage together with other contract provisions which the commissioner determines are reasonably needed by applicants and are commonly afforded in voluntary markets. The plan must also assure that there is available through the private sector or otherwise to all applicants adequate premium financing or provision for the installment payment of premiums subject to customary terms and conditions.

(3) All insurers writing no-fault benefits and tort liability coverages in this Commonwealth shall participate in the plan. The plan shall provide for equitable apportionment, among all participating insurers writing any insurance coverage required under the plan, of the financial burdens of insurance provided to applicants under the plan and the costs of operation of the plan.

(4) Subject to the supervision and approval of the commissioner, insurers may consult and agree with each other and with other appropriate persons as to the organization, administration, and operation of the plan and as to rates and rate modifications for insurance coverages provided under the plan. Rates and rate modifications adopted or charged for insurance coverages provided under the plan shall:

(A) be first adopted or approved by the commissioner; and

(B) be reasonable and not unfairly discriminatory among similarly situated applicants for insurance pursuant to regulations established by the commissioner.

(5) To carry out the objectives of this subsection, the commissioner may adopt rules, make orders, enter into agreements

with other governmental and private entities and individuals, and form and operate or authorize the formation and operation of bureaus and other legal entities.

(b) Cancellation, refusal to renew, or other termination of insurance.—Cancellation, refusal to renew and other termination of insurance shall be provided for in accordance with the provisions of the act of June 5, 1968 (P.L.140, No.78), entitled “An act regulating the writing, cancellation of or refusal to renew policies of automobile insurance; and imposing powers and duties on the Insurance Commissioner therefor.”

§ 106. Payment of claims for no-fault benefits.

(a) In general.—

(1) No-fault benefits are payable monthly as loss accrues. Loss accrues not when injury occurs, but as allowable expense, work loss, replacement services loss, or survivor's loss is sustained.

(2) No-fault benefits are overdue if not paid within thirty days after the receipt by the obligor of each submission of reasonable proof of the fact and amount of loss sustained, unless the obligor designates, upon receipt of an initial claim for no-fault benefits, periods not to exceed thirty-one days each for accumulating all such claims received within each such period, in which case such benefits are overdue if not paid within fifteen days after the close of each such period. If reasonable proof is supplied as to only part of a claim, but the part amounts to one hundred dollars (\$100) or more, benefits for such part are overdue if not paid within the time mandated by this paragraph. An obligation for basic loss benefits for an item of allowable expense may be discharged by the obligor by reimbursing the victim or by making direct payment to the supplier or provider of products, services, or accommodations within the time mandated by this paragraph. Overdue payments bear interest at the rate of eighteen per cent (18%) per annum.

(3) A claim for no-fault benefits shall be paid without deduction for the benefits or advantages which are to be subtracted from loss in calculating net loss if such benefits or advantages have not been paid or provided to such claimant prior to the date the no-fault benefits are overdue or the no-fault benefits claim is paid. The obligor is thereupon entitled to recover reimbursement from the person obligated to pay or provide such benefits or advantages or from the claimant who actually receives them.

(4) An obligor may bring an action to recover reimbursement for no-fault benefits which are paid upon the basis of an intentional misrepresentation of a material fact by a claimant or a supplier or provider of an item of allowable expense, if such obligor reasonably relied upon such misrepresentation. The action may be brought only against such supplier or provider, unless the claimant has

intentionally misrepresented the facts or knew of the misrepresentation. An obligor may offset amounts he is entitled to recover from the claimant under this paragraph against any no-fault benefits otherwise due.

(5) An obligor who rejects a claim for basic loss benefits shall give to the claimant written notice of the rejection promptly, but in no event more than thirty days after the receipt of reasonable proof of the loss. Such notice shall specify the reason for such rejection and inform the claimant of the terms and conditions of his right to obtain an attorney. If a claim is rejected for a reason other than that the person is not entitled to basic loss benefits claimed, the written notice shall inform the claimant that he may file his claim with the assigned claims bureau and shall give the name and address of the bureau.

(b) Release or settlement of claim.—

(1) Except as otherwise provided in this subsection, no-fault benefits shall not be denied or terminated because the victim executed a release or other settlement agreement. A claim for no-fault benefits may be discharged by a settlement agreement for an agreed amount payable in installments or in a lump sum, if the reasonably anticipated net loss does not exceed two thousand five hundred dollars (\$2,500). In all other cases, a claim may be discharged by a settlement to the extent authorized by law and upon a finding, by a court of competent jurisdiction, that the settlement is in the best interest of the claimant and any beneficiaries of the settlement, and that the claimant understands and consents to such settlement, and upon payment by the restoration obligor of the costs of such proceeding including a reasonable attorney's fee (based upon actual time expended) to the attorney selected by or appointed for the claimant. Such costs may not be charged to or deducted from the proceeds of the settlement. Upon approval of the settlement, the court may make appropriate orders concerning the safeguarding and disposing of the proceeds of the settlement and may direct as a condition of the settlement agreement, that the restoration obligor pay the reasonable cost of appropriate future medical and vocational rehabilitation services.

(2) A settlement agreement for an amount payable in installments shall be modified as to amounts to be paid in the future, if it is shown that a material and substantial change of circumstances has occurred or that there is newly-discovered evidence concerning the claimant's physical condition, loss, or rehabilitation which could not have been known previously or discovered in the exercise of reasonable diligence.

(3) A settlement agreement may be set aside if it is procured by fraud or if its terms are unconscionable.

(c) Time limitations on actions to recover benefits.—

(1) If no-fault benefits have not been paid for loss arising otherwise than from death, an action therefor may be commenced not

later than two years after the victim suffers the loss and either knows, or in the exercise of reasonable diligence should have known, that the loss was caused by the accident, or not later than four years after the accident, whichever is earlier. If no-fault benefits have been paid for loss arising otherwise than from death, an action for further benefits, other than survivor's benefits, by either the same or another claimant; may be commenced not later than two years after the last payment of benefits.

(2) If no-fault benefits have not been paid to the deceased victim or his survivor or survivors, an action for survivor's benefits may be commenced not later than one year after the death or four years after the accident from which death results, whichever is earlier. If survivor's benefits have been paid to any survivor, an action for further survivor's benefits by either the same or another claimant may be commenced not later than two years after the last payment of benefits. If no-fault benefits have been paid for loss suffered by a victim before his death resulting from the injury, an action for survivor's benefits may be commenced not later than one year after the death or six years after the last payment of benefits, whichever is earlier.

(3) If timely action for basic restoration benefits is commenced against an obligor and benefits are denied because of a determination that the obligor's coverage is not applicable to the claimant under the provisions of section 204 of this act, an action against the applicable obligor or the obligor to whom a claim is assigned under an assigned claims plan may be commenced not later than sixty days after the determination becomes final or the last date on which the action could otherwise have been commenced, whichever is later.

(4) Except as paragraph (1), (2), or (3) prescribes a longer period, an action by a claimant on an assigned claim which has been timely presented in accordance with the provisions of section 108(c) of this act may not be commenced more than sixty days after the claimant receives written notice of rejection of the claim by the restoration obligor to which it was assigned.

(5) If a person entitled to no-fault benefits is under a legal disability when the right to bring an action for the benefits first accrues, the period of his disability is not a part of the time limited for commencement of the action.

(d) Assignment of benefits.—An assignment of or an agreement to assign any right in accordance with this act for loss accruing in the future is unenforceable except as to benefits for:

(1) work loss to secure payment of alimony, maintenance, or child support; or

(2) allowable expense to the extent the benefits are for the cost of products, services, or accommodations provided or to be provided by the assignee.

(e) Deduction and setoff.—Except as otherwise provided in this act, basic loss benefits shall be paid without deduction or setoff.

(f) Exemption of benefits.—

(1) No-fault benefits for allowable expense are exempt from garnishment, attachment, execution, and any other process or claim, except upon the claim of a creditor who has provided products, services, or accommodations to the extent benefits are for allowable expense for those products, services, or accommodations.

(2) Basic loss benefits other than those for allowable expense are exempt from garnishment, attachment, execution, and any other process or claim for benefits attributable to loss sustained within the first sixty days following the accident resulting in injury. Other basic loss benefits (except for items of allowable expense) are exempt to the extent that wages or earnings are exempt under any applicable law exempting wages or earnings from such process or claims.

§ 107. Attorney's fees and costs.

Fees of claimant's attorney.—

(1) If any overdue no-fault benefits are paid by the obligor after receipt by the obligor of notice of representation of a claimant in connection with a claim or action for the payment of no-fault benefits, a reasonable attorney's fee (based on actual time expended) shall be paid by the obligor to such attorney. No part of the attorney's fee for representing the claimant in connection with such claim or action for no-fault benefits shall be charged or deducted from benefits otherwise due to such claimant and no part of such benefits may be applied to such fee.

(2) If, in any action by a claimant to recover no-fault benefits from an obligor, the court determines that the claim or any significant part thereof is fraudulent or so excessive as to have no reasonable foundation, the court may award the obligor'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 to the claimant.

(3) If, in any action by a claimant to recover no-fault benefits from an obligor, the court determines that the obligor has denied the claim or any significant part thereof without reasonable foundation, the court may award the claimant's attorney a reasonable fee based upon actual time expended.

§ 108. Assigned claims plan.

(a) General.—

(1) If this act is in effect on the date when the accident resulting in injury occurs, a victim or the survivor or survivors of a deceased victim may obtain basic benefits through the assigned claims plan established pursuant to subsection (b) of this section, if basic loss insurance:

(A) is not applicable to the injury for a reason other than those specified in the provisions on ineligible claimants;

(B) is not applicable to the injury because the victim converted a motor vehicle while he was under fifteen years of age;

(C) applicable to the injury cannot be identified;

(D) applicable to the injury is inadequate to provide the contracted-for benefits because of financial inability of an obligor to fulfill its obligations; or

(E) benefits are refused by an obligor for a reason other than that the individual is not entitled in accordance with this act to receive the basic loss benefits claimed.

(2) If a claim qualifies for assignment under paragraph (1)(C), (D), or (E) of this subsection, the assigned claims bureau or any insurer to whom the claim is assigned is subrogated to all rights of the claimant against the obligor legally obligated to provide basic benefits to the claimant, or against any successor in interest to or substitute for such obligor for such benefits as are provided by the assignee.

(3) If an individual receives basic loss benefits through the assigned claims plan for any reason other than because of the financial inability of an obligor to fulfill its obligation, all benefits or advantages that such individual receives or is entitled to receive as a result of such injury, other than life insurance benefits or benefits by way of succession at death or in discharge of familial obligations of support, shall be subtracted from loss in calculating net loss.

(4) An assigned claim of an individual who does not comply with the requirement of providing security for the payment of basic restoration benefits, or of an individual as to whom the security is invalidated because of his fraud or willful misconduct, is subject to:

(A) all the maximum optional deductibles and exclusions required to be offered; and

(B) a deduction in the amount of five hundred dollars (\$500) for each year or part thereof of the period of his continuous failure to provide security, applicable to any benefits otherwise payable except basic benefits for allowable expense.

(b) Assigned claims plan.—

(1) Obligors other than self insurers and governments providing basic loss insurance in this Commonwealth shall organize and maintain, subject to approval and regulation by the commissioner, an assigned claims bureau and an assigned claims plan and adopt rules for their operation and for assessment of costs on a fair and equitable basis consistent with this act. If such bureau and plan are not organized and maintained in a manner considered by the commissioner to be consistent with this act, he shall organize and maintain an assigned claims bureau and an assigned claims plan. Each obligor insurer providing basic loss insurance in the

Commonwealth shall participate in the assigned claims bureau and the assigned claims plan. Costs incurred shall be allocated fairly and equitably among the obligors.

(2) The assigned claims bureau shall promptly:

(A) assign each claim for no-fault benefits to an assignee who shall be a participating insurer; and

(B) notify the claimant of the identity and address of such assignee.

Claims shall be assigned so as to minimize inconvenience to claimants. The assignee thereafter has rights and obligations as if he had issued a policy of basic loss insurance complying with this act applicable to the injury or, in a case involving the financial inability of a restoration obligor to perform its obligations, as if the assignee had written the applicable basic restoration insurance, undertaken the self-insurance, or lawfully obligated itself to pay basic loss benefits.

(c) Time for presenting claims under assigned claims plan.—

(1) Except as provided in paragraph (2) of this subsection, an individual authorized to obtain basic loss benefits through the assigned claims plan shall notify the assigned claims bureau of his claim within the time that would have been allowed pursuant to section 106(c) of this act for commencing an action for basic loss benefits against any obligor, other than an assigned claims bureau, in any case in which identifiable no-fault insurance coverage was in effect and applicable to the claim.

(2) If timely action for basic loss benefits is commenced against an obligor who is unable to fulfill his obligations because of financial inability, an individual authorized to obtain basic loss benefits through the assigned claims plan shall notify the bureau of his claim within six months after his discovery of such financial inability.

§ 109. Rates.

(a) Rates and rating.—The commissioner shall regulate obligors providing security covering a motor vehicle in this Commonwealth. The rates charged for security shall be established, determined, and modified only in accordance with the provisions of the applicable rating law of this Commonwealth.

(b) Public information.—The commissioner shall provide the means to inform purchasers of insurance, in a manner adequate to permit them to compare prices, about rates being charged by insurers for no-fault benefits and tort liability coverage.

(c) Accountability program.—

(1) The commissioner, through the State vocational rehabilitation agency, shall establish and maintain a program for the regular and periodic evaluation of medical and vocational rehabilitation services for which reimbursement or payment is sought from an obligor as an item of allowable expense to assure that:

(A) the services are medical and vocational rehabilitation services, as defined in section 103 of this act;

(B) the recipient of the services is making progress toward a greater level of independent functioning and the services are necessary to such progress and continued progress; and

(C) the charges for the services for which reimbursement or payment is sought are fair and reasonable.

Progress reports shall be made periodically in writing on each case for which reimbursement or payment is sought under security for the payment of basic loss benefits. Such reports shall be prepared by the supervising physician or rehabilitation counselor and submitted to the State vocational rehabilitation agency. The State vocational rehabilitation agency shall file reports with the applicable obligor or obligors. Pursuant to this program, there shall be provision for determinations to be made in writing of the rehabilitation goals and needs of the victim and for the periodic assessment of progress at reasonable time intervals by the supervising physician or rehabilitation counselor.

(2) The commissioner is authorized to establish and maintain a program for the regular and periodic evaluation of this Commonwealth's no-fault plan for motor vehicle insurance.

(d) Availability of services.—The commissioner is authorized to coordinate with appropriate government agencies in the creation and maintenance of an emergency health services system or systems, and to take all steps necessary to assure that emergency health services are available for each victim suffering injury in the Commonwealth. The commissioner is authorized to take all steps necessary to assure that medical and vocational rehabilitation services are available for each victim resident of the Commonwealth. Such steps may include, but are not limited to, guarantees of loans or other obligations of suppliers or providers of such services, and support for training programs for personnel in programs and facilities offering such services.

§ 110. Motor vehicles in interstate travel.

(a) General.—An owner of a motor vehicle who has complied with the requirements of security covering a motor vehicle in this Commonwealth shall be deemed to have complied with the requirements for such security in any state in which such vehicle is operating.

(b) Conforming coverage.—

(1) An obligor providing security for the payment of basic loss benefits shall be obligated to provide, and each contract of insurance for the payment of basic loss benefits shall be construed to contain, coverage sufficient to satisfy the requirements for security covering a motor vehicle in any state in which any victim who is a claimant or whose survivors are claimants is domiciled or is injured.

(2) An obligor providing security for the payment of basic loss benefits shall include in each contract of insurance for the payment of basic loss benefits, coverage to protect the owner or operator of a motor vehicle from tort liability to which he is exposed through application of the law of any state in which the motor vehicle may be operated and arising out of the ownership, maintenance or use of a motor vehicle.

(c) Applicable law.—

(1) The basic loss benefits available to any victim or to any survivor of a deceased victim shall be determined pursuant to the provisions of the state no-fault plan for motor vehicle insurance in effect in the state of domicile of the victim on the date when the motor vehicle accident resulting in injury occurs. If there is no such state no-fault plan in effect or if the victim is not domiciled in any state, then basic loss benefits available to any victim shall be determined pursuant to the provisions of the state no-fault plan for motor vehicle insurance, if any, in effect in the state in which the accident resulting in injury occurs.

(2) The right of a victim or of a survivor of a deceased victim to sue in tort shall be determined by the law of the state of domicile of such victim. If a victim is not domiciled in a state, such right to sue shall be determined by the law of the state in which the accident resulting in injury or damage to property occurs.

§ 111. Rights and duties of obligors.

(a) Reimbursement and subrogation.—

(1) Except as provided in paragraphs (2) and (3) of this subsection, an obligor:

(A) does not have and may not contract, directly or indirectly, in whole or in part, for a right of reimbursement from or subrogation to the proceeds of a victim's claim for relief or to a victim's cause of action for noneconomic detriment; and

(B) may not directly or indirectly contract for any right of reimbursement based upon a determination of fault from any other obligor not acting as a reinsurer for no-fault benefits which it has paid or is obligated to pay as a result of injury to a victim.

(2) Whenever an individual who receives or is entitled to receive no-fault benefits for an injury has a claim or cause of action against any other person causing the injury as based upon a determination of fault, the obligor is subrogated to the rights of the claimant only for:

(A) elements of damage compensated for by security for the payment of no-fault benefits in excess of the minimum basic loss benefits required under this act are recoverable; and

(B) the obligor has paid or become obligated to pay accrued or future no-fault benefits in excess of the minimum basic loss benefits required under this act.

(3) Nothing in this subsection shall preclude any person supplying or providing products, services, or accommodations from contracting or otherwise providing for a right of reimbursement to any basic restoration benefits for allowable expense.

(4) In no event shall any entity providing benefits other than no-fault benefits to an individual as described in section 203 of this act, have any right of subrogation with respect to said benefits.

(b) Duty to pay basic loss benefits.—An obligor providing security for the payment of basic loss benefits shall pay or otherwise provide such benefits without regard to fault to each individual entitled thereto, pursuant to the terms and conditions of this act.

(c) Indemnity.—An obligor has a right of indemnity against an individual who has converted a motor vehicle involved in an accident, or against an individual who has intentionally injured himself or another individual, for no-fault benefits paid for:

- (1) the loss caused by the conduct of that individual;
- (2) the cost of processing the claims for such benefits; and
- (3) the cost of enforcing this right of indemnity, including reasonable attorney's fees.

(d) Referral for rehabilitation services.—The obligor shall promptly refer each victim to whom basic benefits are expected to be payable for more than two months to the State vocational rehabilitation agency.

ARTICLE II RIGHT TO BENEFITS

§ 201. Right to basic loss benefits; limitation on benefits.

(a) Accident within this State.—If the accident resulting in injury occurs in this Commonwealth, any victim or any survivor of a deceased victim is entitled to receive basic loss benefits in accordance with the provisions of this act.

(b) Accident outside this State.—If the accident resulting in injury occurs outside of this Commonwealth, a victim or a survivor of a deceased victim is entitled to receive basic loss benefits if such victim was or is:

- (1) an insured; or
- (2) the driver or other occupant of a secured vehicle.

§ 202. Basic loss benefits.

(a) Allowable expense limits.—Allowable expense, as defined in section 103 of this act shall be provided or the equivalent in the form of a contract to provide for services required.

(b) Work loss limits.—Work loss, as defined in section 103 shall be provided:

- (1) up to a monthly maximum of:
 - (A) one thousand dollars (\$1,000) multiplied by a fraction whose numerator is the average per capita income in this

Commonwealth and whose denominator is the average per capita income in the United States, according to the latest available United States Department of Commerce figures; or

(B) the disclosed amount, in the case of a named insured who, prior to the accident resulting in injury, voluntarily discloses his actual monthly earnings to his obligor and agrees in writing with such obligor that such sum shall measure work loss; and

(2) up to a total amount of fifteen thousand dollars (\$15,000).

(c) Replacement services losses.—Replacement services loss, as defined in section 103 shall be provided up to a daily maximum of twenty-five dollars (\$25) for an aggregate period of one year.

(d) Survivors losses.—Survivors loss, as defined in section 103 shall be provided in an amount not to exceed five thousand dollars (\$5,000).

(e) Deductibles; waiting period.—Allowable expense, work loss and replacement services loss may include provisions to provide:

(1) a deductible not to exceed one hundred dollars (\$100) for each individual; or

(2) with respect to work loss or replacement services only, a waiting period not to exceed one week.

Such deductible or waiting period shall be elected in writing upon a form approved by the Insurance Commissioner and, if elected, shall be effective only as against the named insured and his or her immediate family.

§ 203. Collateral benefits.

(a) If benefits other than no-fault benefits are provided to an individual through a program, group, contract or other arrangement for which some other person pays in whole or in part that would inure to the benefit of a victim or the survivor of a deceased victim injured as a result of an accident in the absence of no-fault benefits, then any reduction or savings in the direct or indirect cost to such person of such benefits resulting from the existence of no-fault benefits shall be returned to such individual or utilized for his benefit.

(b) The owner or operator of a motor vehicle may elect to provide for security in whole or in part for the payment of basic loss benefits through a program, group, contract or other arrangement that would pay to or on behalf of the victim or members of his family residing with him or the survivor of a deceased victim, allowable expense, loss of income, work loss, replacement services loss and survivors loss. In all such instances, each contract of insurance issued by an insurer shall be construed to contain a provision that all basic loss benefits provided therein shall be in excess of any valid and collectible benefits otherwise provided through such program, group, contract or other arrangement as designated at the election of the owner or operator which shall be primary.

(c) An insurer providing basic loss benefits and tort liability in accordance with the provisions of subsection (b) above shall reduce the cost of such contract of insurance to reflect the anticipated reduction in basic loss benefits payable by the insurer by reason of the election of the owner or operator to provide substitute security.

§ 204. Source of basic restoration benefits.

(a) Applicable security.—The security for the payment of basic loss benefits applicable to an injury to:

(1) an employee, or to the spouse or other relative of any employee residing in the same household as the employee, if the accident resulting in injury occurs while the victim or deceased victim is driving or occupying a motor vehicle furnished by such employee's employer, is the security for the payment of basic loss benefits covering such motor vehicle or, if none, any other security applicable to such victim;

(2) an insured is the security under which the victim or deceased victim is insured;

(3) the driver or other occupant of a motor vehicle involved in an accident resulting in injury who is not an insured is the security covering such vehicle;

(4) an individual who is not an insured or the driver or other occupant of a motor vehicle involved in an accident resulting in injury is the security covering any motor vehicle involved in such accident. For purposes 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; and

(5) any other individual is the applicable assigned claims plan.

(b) Multiple sources of equal property.—If two or more obligations to pay basic loss benefits apply equally to an injury under the priorities set forth in subsection (a) of this section, the obligor against whom a claim is asserted first shall process and pay the claim as if wholly responsible. Such obligor is thereafter entitled to recover contribution pro rata from any other such obligor for the basic loss benefits paid and for the costs of processing the claim. If contribution is sought among obligors responsible under paragraph (4) of subsection (a) of this section proration shall be based on the number of involved motor vehicles.

§ 205. Work loss.

(a) Regularly employed.—The work loss of a victim whose income prior to the injury was realized in regular increments shall be calculated by:

(1) determining his probable weekly income by dividing his probable annual income by fifty-two; and

(2) multiplying that quantity by the number of work weeks, or fraction thereof, the victim sustains loss of income during the accrual period.

(b) Seasonally employed.—The work loss of a victim whose income is realized in irregular increments shall be calculated by:

(1) determining his probable weekly income by dividing his probable annual income by the number of weeks he normally works; and

(2) multiplying that quantity by the number of work weeks, or fraction thereof, the victim was unable to perform and would have performed work during the accrual period but for the injury.

(c) Not employed.—The work loss of a victim who is not employed when the accident resulting in injury occurs shall be calculated by:

(1) determining his probable weekly income by dividing his probable annual income by fifty-two; and

(2) multiplying that quantity by the number of work weeks, or fraction thereof, if any, the victim would reasonably have been expected to realize income during the accrual period.

(d) Definitions.—As used in this section:

“Probable annual income” means, absent a showing that it is or would be some other amount, the following:

(A) twelve times the monthly gross income earned by the victim from work in the month preceding the month in which the accident resulting in injury occurs, or the average annual income earned by the victim from work during the years, not to exceed three, preceding the year in which the accident resulting in injury occurs, whichever is greater, for a victim regularly employed at the time of the accident;

(B) the average annual gross income earned by the victim from work during the years in which he was employed, not to exceed three, preceding the year in which the accident resulting in injury occurs, for a victim seasonally employed or not employed at the time of the accident; or

(C) the average annual gross income of a production or nonsupervisory worker in the private nonfarm economy in the state in which the victim is domiciled for the year in which the accident resulting in injury occurs, for a victim who has not previously earned income from work.

“Work week” means the number of days an individual normally works in a seven-day period; “weekly income” means income earned during a work week.

§ 206. Net loss.

(a) General.—Except as provided in section 108(a)(3) of this act, all benefits or advantages (less reasonably incurred collection costs) that an individual receives or is entitled to receive from social security (except those benefits provided under Title XIX of the Social Security Act and except those medicare benefits to which a person's entitlement depends upon use of his so-called “life-time reserve” of benefit days) workmen's

compensation, any State-required temporary, nonoccupational disability insurance, and all other benefits (except the proceeds of life insurance) received by or available to an individual because of the injury from any government, unless the law authorizing or providing for such benefits or advantages makes them excess or secondary to the benefits in accordance with this act, shall be subtracted from loss in calculating net loss.

(b) Tax deduction.—If a benefit or advantage received to compensate for loss of income because of injury, whether from no-fault benefits or from any source of benefits or advantages subtracted under subsection (a) of this section, is not taxable income, the income tax saving that is attributable to such loss of income because of injury is subtracted in calculating net loss for work loss. Subtraction may not exceed twenty per cent (20%) of the loss of income and shall be in such lesser amount as the insurer reasonably determines is appropriate based on a lower value of the income tax advantage.

§ 207. Added loss benefits.

(a) Mandatory offering.—Obligors providing security for the payment of basic loss benefits shall offer or obligate themselves to provide added loss benefits for injury or damage arising out of the ownership, maintenance, or use of a motor vehicle, including:

- (1) loss excluded from basic loss benefits by limits on allowable expense, work loss, replacement services loss, and survivor's loss;
- (2) benefits for damage to property;
- (3) benefits for loss of use of a motor vehicle;
- (4) benefits for expense for remedial religious treatment and care;
- (5) for physical damage to a motor vehicle, a coverage for all collision and upset damage, subject to an optional deductible; and
- (6) for economic detriment, a coverage for work loss sustained by a victim in excess of limitations on basic loss benefits for work loss.

(b) Additional loss coverage.—Subject to the approval of terms and forms by the commissioner, obligors may offer or obligate themselves to provide other added loss coverages.

The commissioner may adopt rules requiring that insurers providing basic loss insurance offer, in accordance with this act, any other specified added loss coverages and promulgate regulations with respect thereto.

§ 208. Ineligible claimants.

(a) Converter.—

- (1) Except as provided for assigned claims, a converter of a motor vehicle is ineligible to receive no-fault benefits, including benefits otherwise due him as a survivor, from any source other than a contract of insurance under which he is an insured, for any injury arising out of the maintenance or use of the converted vehicle. If a converter dies from such injuries, his survivor or survivors are not

entitled to no-fault benefits for survivor's loss from any source other than a contract of insurance under which the converter is an insured.

(2) For purposes of this subsection and subsection (c) of section 111 of this act, an individual is not a converter of a motor vehicle if he used it in the good faith belief that he was legally entitled to do so.

(b) Intentional injuries.—

(1) An individual who intentionally injures himself or another individual is ineligible to receive no-fault benefits for injury arising out of his acts, including benefits otherwise due him as a survivor. If an individual dies as a result of intentionally injuring himself, his survivor or survivors are not entitled to no-fault benefits for survivor's loss. An individual intentionally injures himself or another individual if he acts or fails to act for the purpose of causing such injury or with knowledge that such injury is substantially certain to follow. An individual does not intentionally injure himself or another individual:

(A) merely because his act or failure to act is intentional or done with his realization that it creates a grave risk of causing injury; or

(B) if the act or omission causing the injury is for the purpose of averting bodily harm to himself or another individual.

(2) For purposes of section 111(c) and section 206 of this act, an individual does not intentionally injure himself or another individual merely because his act or failure to act is intentional or done with his realization that it creates a grave risk of harm.

§ 209. Other provisions.

(a) Included coverage.—A contract of insurance covering liability arising out of the ownership, maintenance, or use of a motor vehicle registered in this Commonwealth, shall include basic loss benefits and any other benefit coverages required by the no-fault plan for motor vehicle insurance in effect in this Commonwealth unless such contract provides tort liability coverages only in excess of any of those required by the no-fault plan.

(b) Approval of terms and forms.—Terms and conditions (including forms used by insurers) of any contract, certificate, or other evidence of insurance sold or issued pursuant to this State's no-fault plan for motor vehicle insurance in accordance with this act and providing no-fault benefits or any required tort liability are subject to approval and regulation by the commissioner. The commissioner shall approve only terms and conditions which are consistent with the purposes of this act and fair and equitable to all persons whose interests may be affected. The commissioner may reasonably limit by rule the variety of coverage available in order to give purchasers of insurance a reasonable opportunity to compare the cost of insuring with various insurers.

ARTICLE III
TORT LIABILITY

§ 301. Tort liability.

(a) Partial abolition.—Tort liability is abolished with respect to any injury that takes place in this State in accordance with the provisions of this act if such injury arises out of the maintenance or use of a motor vehicle, except that:

(1) An owner of a motor vehicle involved in an accident remains liable if, at the time of the accident, the vehicle was not a secured vehicle.

(2) A person in the business of designing, manufacturing, repairing, servicing, or otherwise maintaining motor vehicles remains liable for injury arising out of a defect in such motor vehicle which is caused or not corrected by an act or omission in the course of such business, other than a defect in a motor vehicle which is operated by such business.

(3) An individual remains liable for intentionally injuring himself or another individual.

(4) A person remains liable for loss which is not compensated because of any limitation in accordance with section 202 (a), (b), (c) or (d) of this act. A person is not liable for loss which is not compensated because of limitations in accordance with subsection (e) of section 202 of this act.

(5) A person remains liable for damages for non-economic detriment if the accident results in:

(A) death or serious and permanent injury; or

(B) the reasonable value of reasonable and necessary medical and dental services, including prosthetic devices and necessary ambulance, hospital and professional nursing expenses incurred in the diagnosis, care and recovery of the victim, exclusive of diagnostic x-ray costs and rehabilitation costs in excess of one hundred dollars (\$100) is in excess of seven hundred fifty dollars (\$750). For purposes of this subclause, the reasonable value of hospital room and board shall be the amount determined by the Department of Health to be the average daily rate charged for a semi-private hospital room and board computed from such charges by all hospitals in the Commonwealth; or

(C) medically determinable physical or mental impairment which prevents the victim from performing all or substantially all of the material acts and duties which constitute his usual and customary daily activities and which continues for more than sixty consecutive days; or

(D) injury which in whole or in part consists of cosmetic disfigurement which is permanent, irreparable and severe.

(6) A person remains liable for injury arising out of a motorcycle accident to the extent that such injury is not covered by basic loss benefits payable under this act, as described in section 103.

(b) Nonreimbursable tort fine.—Nothing in this section shall be construed to immunize an individual from liability to pay a fine on the basis of fault in any proceeding based upon any act or omission arising out of the maintenance or use of a motor vehicle: Provided, That such fine may not be paid or reimbursed by an insurer or other restoration obligor.

ARTICLE IV EXAMINATION, TREATMENT AND REHABILITATION OF INJURED PERSONS; DISCOVERY

§ 401. Examination.

Whenever the mental or physical condition of a person is material to any claim that has been or may be made for past or future basic loss benefits, a court of competent jurisdiction may order the person to submit to mental or physical examination by a physician or physicians. The order may be made only on the motion for good cause shown and upon notice to the person to be examined and to all other persons having an interest and shall specify the time, place, manner, conditions, and scope of the examination and the person or persons by whom it is to be made.

§ 402. Report of examination.

If requested by the person examined, a party causing an examination to be made shall deliver to him a copy of every written report concerning the examination rendered by an examining physician, at least one of which reports must set out his findings and conclusions in detail. After such request and delivery, the party causing the examination to be made is entitled upon request to receive from the person examined every written report available to him (or his representative) concerning any examination, previously or thereafter made, of the same mental or physical condition. By requesting and obtaining a report of the examination so ordered or by taking the deposition of the examiner, the person examined waives any privilege he may have, in relation to the claim for basic loss benefits, regarding the testimony of every other person who has examined or may thereafter examine him in respect of the same mental or physical condition.

§ 403. Refusal to comply.

If any person refuses to comply with an order entered pursuant to sections 401 and 402, the court may make such orders in regard to the refusal as are just, except that no order shall be entered directing the arrest of any person for disobeying an order to submit to a physical or

mental examination. The orders that may be made in regard to such a refusal include, but are not limited to, the following:

(1) An order that the mental or physical condition of the disobedient person shall be taken to be established for the purposes of the claim in accordance with the contention of the party obtaining the order.

(2) An order refusing to allow the disobedient person to support or oppose designated claims or defenses, or prohibiting him from introducing evidence of mental or physical condition.

(3) An order rendering judgment by default against the disobedient person as to his entire claim or a designated part of it.

(4) An order requiring the disobedient person to reimburse the obligor for reasonable attorney's fees and expenses incurred in defense against the claim.

(5) An order requiring delivery of a report, in conformity with section 402 on such terms as are just, and if a physician fails or refuses to make such a report a court may exclude his testimony if offered at trial.

§ 404. Court order; obligor responsibility.

(a) Court order.—After a hearing upon application by any interested person and reasonable notice to all other interested persons, and upon findings supported by evidence, a court of competent jurisdiction may enter an order determining that an obligor of basic loss benefits applicable to an injury is responsible, subject to the limits and other terms and conditions of the coverage, for the cost of a specified procedure or treatment for rehabilitation to which the injured person has submitted or does thereafter submit.

(b) Findings.—The findings required to support such an order are:

(1) that the specified course of procedure or treatment, whether or not involving surgery, is recognized and acceptable medically or is acceptable nonmedical remedial Christian Science treatment and care;

(2) that it has contributed or will contribute substantially to rehabilitation; and

(3) that the cost of such procedure or treatment is reasonable in relation to its probable rehabilitative effects.

§ 405. Court order; rehabilitative training.

(a) Court order.—After a hearing upon application by any interested person and reasonable notice to all other interested persons, and upon findings supported by evidence, a court of competent jurisdiction may enter an order determining that an obligor of basic loss benefits applicable to an injury is responsible, subject to the limits and other terms and conditions of the coverage, for the cost of a specified course of rehabilitative occupational training that the injured person has taken or does thereafter take.

(b) Findings.—The findings required to support such an order are:

(1) that the specified course of occupational training is a recognized form of training and is reasonable and appropriate for the particular case;

(2) that it has contributed or will contribute substantially to rehabilitation; and

(3) that the cost of such training is reasonable in relation to its probable rehabilitative effects.

§ 406. Compliance with court order.

(a) Order of compliance.—After a hearing upon application by any interested person and reasonable notice to all other interested persons, and upon findings, supported by evidence, as stated in section 404 or section 405, and further findings:

(1) that the injured person has refused or has by his conduct caused the obligor reasonably to believe that he may refuse to submit to such procedure, treatment, or training; and

(2) that he does not have reasonable grounds to continue such refusal, a court of competent jurisdiction may enter an order invoking reasonable sanctions against the injured person and others whose claims are based on his injury.

(b) Refusal to comply.—In determining whether an injured person has reasonable grounds for continuing refusal to submit to the specified procedure, treatment, or training, the court shall take into account, among all other relevant factors, the extent of the probable benefit, the attendant risks, the extent to which the procedure, treatment, or training is or is not recognized as standard and customary, and whether the imposition of sanctions because of the injured person's refusal would abridge his constitutional rights.

(c) Sanctions.—The sanctions that may be invoked in such an order include, but are not limited to, the following:

(1) An order that benefits be reduced or terminated at such time as necessary to limit recovery of benefits to an amount equal to the benefits that in reasonable probability would have been due had the injured person submitted to such rehabilitative procedure, treatment, or training.

(2) An order that the physical or mental condition of the injured person shall be taken to be established for the purposes of the claim in accordance with the contention of the insurer.

(3) An order that, if the insurer elects to pay a specified lump sum (found to be fair and reasonable compensation in lieu of benefits that in reasonable probability would be due if the injured person submitted to the specified procedure, treatment, or training) it shall be fully discharged from all liability arising from the injury.

§ 407. Customary charges for treatment.

Any physician, hospital, clinic, or other person or institution lawfully rendering treatment to an injured person for an injury covered by basic

loss benefits, and any person or institution providing rehabilitative occupational training following such an injury, may charge a reasonable amount for the products, services and accommodations rendered. In no event, however, may a charge by any person or institution be in excess of the amount the person or institution customarily charges for like products, services, and accommodations in cases involving no insurance.

§ 408. Earnings statement.

(a) Statement from employer.—Every employer shall, if a request is made by a basic loss obligor against whom a claim has been made, furnish forthwith, in a form approved by the commissioner, a sworn statement of earnings, since injury and for a reasonable period before injury, of the person upon whose injury the claim is based.

(b) Medical records.—Every physician, hospital, clinic, or other medical institution providing, before or after an injury upon which a claim for basic or added loss benefits is based, any products, services, or accommodations in relation to that or any other injury, or in relation to a condition claimed to be connected with that or any other injury, shall, if requested to do so, by the obligor against whom the claim has been made, subject to conditions approved by the commissioner:

(1) furnish forthwith a written report of the history, condition, treatment, and dates and costs of such treatment of the injured person that are in connection with the injury involved for which claim is being made; and

(2) produce forthwith and permit the inspection and copying of his or its records regarding such history, condition, treatment, and dates and costs of treatment that are in connection with the injury involved for which claim is being made.

(c) Cost of reports.—An employer, physician, hospital, clinic, or other person or institution providing information in response to a request under the terms of this section may charge a reasonable amount in reimbursement for the time and cost of providing the information.

(d) Discovery.—In the event of any dispute regarding an insurer's right to discovery of facts about an injured person's earnings or about his history, condition, treatment, and dates and costs of such treatment, a court of competent jurisdiction may enter an order for such discovery. The order may be made only on motion for good cause shown and upon notice to all persons having an interest, and it shall specify the time, place, manner, conditions, and scope of the discovery. A court may, in order to protect against annoyance, embarrassment, or oppression, as justice requires, enter an order refusing discovery or specifying conditions of discovery and may order payments of costs and expenses of the proceeding, including reasonable fees for the appearance of attorneys at the proceedings, as justice requires.

ARTICLE V
UNINSURED MOTORISTS, ANTI-DISCRIMINATION,
SECURITY REQUIRED CANCELLATION, SUBROGATION,
RATE REDUCTION, SELF INSURANCE, TERMINATION
OF SECURITY, CONSUMER INFORMATION, SEVERABILITY

§ 501. Uninsured motorists.

The obligor obligated to pay basic loss benefits for accidental bodily injury to a person occupying a motor vehicle, the owner of which is uninsured pursuant to this act or to the spouse or relative resident in the household of the owner or registrant of such motor vehicle, shall be entitled to recover all the benefits paid and appropriate loss adjustments costs incurred from the owner or registrant of such motor vehicle or from his estate. The failure of the person to make payment within thirty days shall be grounds for suspension or revocation of his motor vehicle registration and operator's license.

§ 502. Anti-discrimination.

There shall be no unfair discrimination by insurers in eligibility rules and underwriting practices by reason of race, religion, nationality or ethnic group, age, sex, family size, occupation, place of residence or marital status. The terms "eligibility rules and underwriting practices" do not include the making or promulgation of rates if made and promulgated in accordance with the appropriate rate regulatory act of this Commonwealth and regulations pursuant thereto as promulgated by the commissioner.

§ 503. Separability.

The provisions of this act are severable, except that the provisions of section 301(a) are expressly made inseverable.

§ 504. Policy requirements and premium changes.

(a) Requirements for writing insurance.—All insurers licensed in this Commonwealth and desiring to qualify to write insurance applicable to motor vehicle accidents subsequent to the effective date of this act, shall, as a condition of qualifications, prepare and file policy forms and insurance rates, for coverages effected by this act. Such policy forms and rates shall be filed with the office of the Insurance Commissioner of this Commonwealth within three months from enactment hereof.

(b) Initial premium charges.—The premiums charged by any insurer during the first twelve-month period following the effective date of this act for basic loss insurance benefits together with security required for the payment of tort judgments shall not exceed eighty-five per cent (85%) of the combined premiums for:

(1) bodily injury liability insurance for the same limits required in this act; and

(2) medical payments insurance in the amount of one thousand dollars (\$1,000) approved by the commissioner for any insurer and in effect on the date this act becomes effective.

(c) Limitation on premium increases.—No insurer shall increase the premium rate of an owner of a policy solely because one or more of the named insureds under the policy made a claim under the policy and was paid thereon unless it is determined that the named insured was at fault in contributing to the accident giving rise to the claim. The Insurance Commissioner shall promulgate rules and regulations establishing guidelines and procedures for determining fault of an insured for the purposes of this subsection.

§ 505. Roll on benefits.

It is prohibited for any obligor, in effecting the renewal of any automobile insurance policy or in amending any automobile insurance policy to conform to the provisions of this act, to add on any no-fault benefits in excess of the minimum benefits required or to increase the limits of tort liability insurance required under this act without the prior written consent of the insured in agreement thereto.

ARTICLE VI PENALTIES

§ 601. Operation of a vehicle without security.

Any owner of a passenger vehicle, for which the existence of security for basic loss benefits and tort liability insurance is a requirement for its legal operation upon the public highways of this State, under either section 104 or 110 of this act or sections 418, 419 or 420, act of April 29, 1959 (P.L.58, No.32), known as The Vehicle Code, who operates such motor vehicle or permits it to be operated upon a public highway in this State without having in full force and effect security complying with the terms of section 104 is guilty of a misdemeanor. And any other person who operates such a motor vehicle upon a public highway in this Commonwealth with the knowledge that the owner does not have such security in full force and effect is guilty of a misdemeanor. And each person convicted of a misdemeanor under the terms of this section may be fined not less than one hundred dollars (\$100) or more than five hundred dollars (\$500) or may be imprisoned for not more than six months or both.

§ 602. Excessive charges.

Any person who charges, demands, receives or collects for hospital or medical products, services or accommodations rendered in the treatment of an injured person or for rehabilitative occupational training or for legal services rendered in connection with a claim for basic loss benefits, any amount in excess of that authorized by this act

with awareness that the charge is in excess of that authorized is guilty of a misdemeanor and upon conviction may be fined not less than one hundred dollars (\$100) or more than five hundred dollars (\$500) or may be imprisoned for not more than six months or both.

§ 603. Violations by obligor.

Any obligor who shall advertise, offer or contract for, or otherwise provide for no-fault benefits or tort liability insurance coverages required by this act, and who, by a pattern of business transactions violates any of the provisions of this act, shall be guilty of a summary offense and upon conviction thereof shall be sentenced to pay a fine of not more than one thousand dollars (\$1,000) for each violation.

ARTICLE VII
EFFECTIVE DATE

§ 701. Effective date.

This act shall take effect in twelve months: Provided, however, That subsection (a) of section 504 shall take effect immediately.

APPROVED—The 19th day of July, A. D. 1974.

MILTON J. SHAPP

The foregoing is a true and correct copy of Act of the General Assembly No. 176.

A handwritten signature in black ink, reading "C. McLaughlin Tucker". The signature is written in a cursive style with a large initial "C" and "T".

Secretary of the Commonwealth.