

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 866

H.P. 643 House of Representatives, March 20, 1987
Reference to the Committee on Banking and Insurance
suggested and ordered printed.

EDWIN H. PERT, Clerk
Presented by Representative ALIBERTI of Lewiston.
Cosponsored by Senator BALDACCI of Penobscot,
Representatives TARDY of Palmyra and NUTTING of Leeds.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-SEVEN

AN ACT to Require Motor Vehicle Liability
Insurance.

Be it enacted by the People of the State of Maine as
follows:

Sec. 1. 24 MRSA §2332-A is enacted to read:

§2332-A. Coordination of benefits

Nonprofit hospital or medical service organiza-
tions shall file plans with the Superintendent of In-
surance to provide for deductibles or to coordinate
payments for all or any part of medical or health re-
lated no-fault benefits as required by Title 24-A,
chapter 40-A, and if approved by the superintendent
the plans shall be implemented. If not approved, the
superintendent shall set forth in writing the reasons

1 for his disapproval. Insurers who offer coverage for
2 all or any part of no-fault benefits must, upon dis-
3 approval, resubmit a plan or plans to meet the re-
4 quirements of this section.

5 **Sec. 2.** 24-A MRSA §2749 is enacted to read:

6 §2749. Coordination of benefits

7 Insurers providing health insurance pursuant to
8 this chapter shall file plans with the Superintendent
9 of Insurance to provide for deductibles or to coordi-
10 nate payments for all or any part of medical or
11 health related no-fault benefits as required by chap-
12 ter 40-A. If approved by the superintendent, the
13 plans shall be implemented. If not approved, the su-
14 perintendent shall set forth in writing the reasons
15 for his disapproval. Insurers who offer coverage for
16 all or any part of no-fault benefits must, upon dis-
17 approval, resubmit a plan or plans to meet the re-
18 quirements of this section.

19 **Sec. 3.** 24-A MRSA §2845 is enacted to read:

20 §2845. Coordination of benefits; plans

21 Insurers providing group or blanket health insur-
22 ance pursuant to this chapter shall file plans with
23 the Superintendent of Insurance to provide for de-
24 ductibles or to coordinate payments for all or any
25 part of medical or health related no-fault benefits
26 as required by chapter 40-A. If approved by the su-
27 perintendent, the plans shall be implemented. If not
28 approved, the superintendent shall set forth in writ-
29 ing the reasons for his disapproval. Insurers who
30 offer coverage for all or any part of no-fault bene-
31 fits must, upon disapproval, resubmit a plan or plans
32 to meet the requirements of this section.

33 **Sec. 4.** 24-A MRSA §2902, sub-§2, as amended by
34 PL 1975, c. 676, is further amended to read:

35 2. The amount of coverage to be so provided
36 shall not be less than the minimum limits for bodily
37 injury liability insurance provided for under Title
38 29, section 787, subsection 1. Each insurer shall
39 furnish an amount of uninsured vehicle coverage at

1 least equal to the minimum limits for bodily injury
2 liability insurance as defined in section 2953, sub-
3 sections 1 and 2.

4 Sec. 5. 24-A MRSA c. 40-A is enacted to read:

5 CHAPTER 40-A

6 MAINE PLAN FOR MOTOR VEHICLE INSURANCE REFORM

7 §2951. Title

8 This chapter may be cited as the "Maine Plan for
9 Motor Vehicle Insurance Reform."

10 §2952. Definitions

11 As used in this chapter, unless the context oth-
12 erwise indicates, the following terms have the fol-
13 lowing meanings.

14 1. Highway. "Highway" means the entire width
15 between the boundary lines of every way publicly
16 maintained when any part of the way is open to use of
17 the public for purposes of vehicular travel.

18 2. Injury. "Injury" means bodily harm and bodi-
19 ly malfunction, disease or aggravation of disease,
20 including death resulting from the disease at any
21 time arising out of an accident involving a motor ve-
22 hicle, provided that the injury must appear within 2
23 years following the accident or it must be medically
24 ascertainable within 2 years following the accident
25 that an extension or complication of the original in-
26 jury is reasonably expected to continue or develop.

27 3. Insured motor vehicle. "Insured motor vehi-
28 cle" means the motor vehicle identified or described
29 in the policy issued to the named insured.

30 4. Loss. "Loss" means economic detriment which
31 accrues within 4 years following the date of the ac-
32 cident as a result of injury consisting only of al-
33 lowable expense, work loss, loss of replacement ser-
34 vices and, if the injury caused death, survivor's
35 loss.

1 A. "Allowable expense" means reasonable charges
2 incurred for reasonably needed products, services
3 and accommodations, including those for medical,
4 hospital, dental, chiropractic, x-ray, nursing,
5 ambulance and prosthetic services and rehabilita-
6 tion and rehabilitative occupational training and
7 education and for any other remedial treatment
8 and care, including any nonmedical remedial
9 treatment and care rendered in accordance with a
10 recognized religious method of healing. Allowa-
11 ble expense does not include that portion of a
12 charge for a room in a hospital, clinic, conva-
13 lescent or nursing home, or any other institution
14 engaged in providing nursing care and related
15 services, in excess of reasonable and customary
16 charges for semiprivate accommodations, unless
17 intensive care is medically required; and does
18 not include a total charge in excess of \$1,000
19 for expenses of all types in any way related to
20 funeral, cremation and burial.

21 B. "Survivor's loss" means loss after decedent's
22 death of contribution of money or tangible things
23 of economic value, not including services that
24 his surviving next of kin would have received
25 from the decedent had the decedent not suffered
26 the injury causing death.

27 C. "Replacement services loss" means 75% of all
28 reasonable and necessary expenses incurred for
29 replacement of essential services in lieu of ser-
30 vices that, but for the injury, the injured per-
31 son would have performed without income for the
32 benefit of his household.

33 D. "Work loss" means 80% of the loss of gross
34 income from work the injured person would have
35 performed, including income from self-employment,
36 if he had not been injured, reduced by any income
37 from substitute work actually performed by the
38 injured person or by income the injured person
39 would have earned in available and appropriate
40 substitute work which he was capable of perform-
41 ing but unreasonably failed to undertake, and ex-
42 penses reasonably incurred in obtaining ordinary
43 and necessary services in lieu of those which, if
44 he had not been injured, he would have performed

1 not for income but for the benefit of himself or
2 his family.

3 The work loss of an injured person who is
4 seasonally employed shall be calculated by deter-
5 mining his probable weekly income by dividing his
6 probable annual income by the number of weeks he
7 normally works and multiplying that quantity by
8 the number of work weeks, or fraction of a work
9 week, the injured person was unable to perform
10 work during the accrual period, but for the in-
11 jury.

12 The work loss of an injured person who is not em-
13 ployed when the accident resulting in injury oc-
14 currs shall be calculated by determining his prob-
15 able weekly income by dividing his probable annu-
16 al income by 52 and multiplying that quantity by
17 the number of work weeks, or fraction of the work
18 week, if any, the victim would reasonably have
19 been expected to realize income during the accru-
20 al period.

21 As used in this section, "probable annual income"
22 means:

23 (1) For an injured person regularly em-
24 ployed at the time of the accident, 12 times
25 the monthly gross income earned by the in-
26 jured person from work in the month preced-
27 ing the month in which the accident result-
28 ing in injury occurs or the average annual
29 income earned by the injured person from
30 work during the years, not to exceed 3, pre-
31 ceding the year in which the accident re-
32 sulting in injury occurs, whichever is
33 greater; and

34 (2) For an injured person seasonally em-
35 ployed or not employed at the time of the
36 accident, the average annual gross income
37 earned by the injured person from work dur-
38 ing the years in which he was employed, not
39 to exceed 3 years, preceding the year in
40 which the accident resulting in injury oc-
41 currs.

1 Sums for work loss shall be periodically in-
2 creased in a manner corresponding to annual com-
3 ensation increases that would predictably have
4 resulted but for injury. In no event may basic
5 benefits provided for work loss pursuant to this
6 chapter exceed \$400 per week.

7 5. Motor vehicle. "Motor vehicle" means any
8 self-propelled vehicle not operated exclusively on
9 tracks, but not including motorcycles as defined in
10 Title 29, section 1, subsection 4; snowmobiles as de-
11 fined in Title 12, section 7821; and aircraft or any
12 vehicle prohibited by law from operating on the pub-
13 lic highways.

14 6. Net loss. "Net loss" means loss less
15 subtractable benefits. "Subtractable benefits" means
16 those benefits or advantages from sources other than
17 no-fault insurance which are required by the provi-
18 sion on subtractable benefits, section 2959, to be
19 subtracted from loss in calculating net loss.

20 7. No-fault benefits. "No-fault benefits" means
21 those benefits payable under the provisions on bene-
22 fits provided by no-fault insurance, section 2954,
23 subject to exclusions, limitations and other condi-
24 tions of this chapter.

25 8. No-fault insured. "No-fault insured" means a
26 person identified by name as an insured in an insur-
27 ance contract with respect to which motor vehicle li-
28 ability insurance required by this chapter has been
29 issued and while residing in the same household with
30 a named insured, the following persons not identified
31 by name as an insured in any other contract of motor
32 vehicle liability insurance complying with this chap-
33 ter: A spouse or other relative of the named ins-
34 sured; and a minor in the custody of a named insured
35 or of a relative residing in the same household with
36 the named insured. A person resides in the same
37 household if he usually makes his home in the same
38 family unit, although temporarily living elsewhere.

39 9. Operation of a motor vehicle. "Operation of
40 a motor vehicle" means the use of a motor vehicle for
41 the transportation of one or more persons, or trans-
42 portation of property, including occupancy of the ve-

1 hicle by one or more persons when stopped or parked
2 and the maintenance of a motor vehicle, except when
3 the maintenance is within the course of a business of
4 repairing, servicing or otherwise maintaining motor
5 vehicles, unless the conduct occurs off the business
6 premises. Any person who is entering into or alight-
7 ing from a motor vehicle is an occupant of the vehi-
8 cle.

9 10 Pedestrian. "Pedestrian" means any person
10 who is not an occupant of a motor vehicle or a motor-
11 cycle.

12 §2953. Mandatory motor vehicle insurance coverage;
13 limits

14 1. Coverage. Every owner of a motor vehicle
15 principally garaged in this State for more than 4
16 months of any year, or which vehicle is required to
17 be registered in this State, who operates it or per-
18 mits it to be operated in this State shall provide,
19 prior to the operation, motor vehicle liability in-
20 surance coverage, under provisions approved by the
21 Superintendent of Insurance, insuring against loss
22 resulting from liability imposed by law for bodily
23 injury, death and property damage sustained by any
24 person arising out of the ownership, maintenance, op-
25 eration or use of a motor vehicle and the coverage
26 shall be at least in an amount or limit of:

27 A. Twenty thousand dollars, exclusive of inter-
28 est and costs on account of injury to, or death
29 of, one person in any one accident;

30 B. Subject to such limit for any one person in-
31 jured or killed, \$40,000, exclusive of interest
32 and costs, on account of injury to, or death of,
33 more than one person in any one accident; and

34 C. Ten thousand dollars, exclusive of interest
35 and costs, for damage to property in any one ac-
36 cident.

37 Every owner of a motor vehicle is required to provide
38 the proof of financial responsibility under Title 29,
39 chapter 9, subchapter I.

1 2. Self-insurer. Subject to approval of the
2 Secretary of State, the motor vehicle liability in-
3 surance coverage required by this chapter may be pro-
4 vided by self-insurance by filing with the Superin-
5 tendent of Insurance in satisfactory form:

6 A. A continuing undertaking by the owner or oth-
7 er appropriate person to pay basic benefits and
8 to perform all other obligations imposed by this
9 chapter;

10 B. Evidence that appropriate provision exists
11 for the prompt and efficient administration of
12 all claims, benefits and obligations provided by
13 this chapter; and

14 C. Deposits or commitments exist providing as-
15 urance for payment of basic benefits and all
16 other obligations imposed by this chapter sub-
17 stantially equivalent to those afforded by a pol-
18 icy of insurance that would comply with this
19 chapter. A person who provides security under
20 this subsection is a self-insurer.

21 3. Penalty. It is unlawful for any owner, oper-
22 ator or registrant of a motor vehicle registered or
23 principally garaged in this State to operate or cause
24 to be operated a motor vehicle upon any public road
25 or highway in this State knowingly without motor ve-
26 hicle liability insurance coverage as required by
27 this chapter. A violation of this chapter is a civil
28 violation for which, upon judgment, a person shall
29 forfeit not more than \$100 and shall forthwith for-
30 feit his right to operate a motor vehicle upon any
31 public road or highway in this State for a period up
32 to 3 months from the date of that judgment. Upon pe-
33 tition and filing of proof of the required coverage,
34 the Secretary of State shall restore to that person
35 his right to operate a motor vehicle in this State
36 prior to the expiration of the period of suspension.

37 §2954. Mandatory no-fault benefits

38 Every motor vehicle liability insurance policy,
39 insuring a motor vehicle, as defined in this chapter,
40 against loss resulting from liability imposed by law
41 for injury and death sustained by any person arising

1 out of ownership, operation, maintenance or use of a
2 motor vehicle, shall provide additional coverage, as
3 defined in this chapter under provision approved by
4 the Superintendent of Insurance, for the payment of
5 benefits without regard to negligence, liability or
6 fault of any kind, to the no-fault insured, to other
7 persons sustaining injury while occupying the motor
8 vehicle of the no-fault insured, or while using the
9 motor vehicle with the permission of the no-fault in-
10 jured, and to pedestrians sustaining injury caused by
11 the no-fault insured's motor vehicle or struck by an
12 object propelled by or from that motor vehicle.

13 The minimum limit of liability of the insurer ob-
14 ligated to pay no-fault benefits, in this chapter
15 called "basic benefits," shall be in the amount of
16 \$5,000 with respect to each person entitled to re-
17 ceive benefits under this chapter and without limit
18 as to the total number of recipients of benefits.

19 Each insurer who offers coverage for no-fault
20 benefits in the minimum amount of \$5,000 per person
21 shall offer additional coverage to each named in-
22 jured, increasing the limit of the insurer's liability
23 to each recipient of no-fault benefits in multi-
24 ples of \$10,000 to each and including limits of
25 \$50,000 to each recipient.

26 §2955. Protection against duplication of benefits

27 1. Work loss. A named insured who at the time
28 of purchasing the coverage required under section
29 2954 states that he does not expect to be employed,
30 by virtue of being a student, retired or disabled or
31 that he does not expect to receive any earned income
32 during the period for which the coverage is being
33 purchased shall not be required to purchase coverage
34 for his own work loss as defined in section 2952,
35 subsection 4, paragraph D. When such coverage is ex-
36 cluded, the coverage required under section 2954
37 shall be offered at appropriately reduced premiums.

38 2. Submission of plans. Insurers who offer cov-
39 erage, including those nonprofit hospital or medical
40 service organizations subject to Title 24, for all or
41 any part of no-fault benefits required by this chap-
42 ter, shall file a plan or plans with the Superintend-

1 ent of Insurance, to provide for deductibles or to
2 coordinate no-fault benefits with other benefits pro-
3 vided by other insurers.

4 If approved by the superintendent, those plans shall
5 be implemented. If not approved, the superintendent
6 shall set forth in writing the reasons for his disap-
7 proval. Insurers who offer coverage for all or any
8 part of no-fault benefits must, upon disapproval,
9 resubmit plan or plans to meet the requirements of
10 this section.

11 3. Other benefits. To the extent a named ins-
12 ured is covered by Medicare, Medicaid, any system of
13 national health insurance, any health program admin-
14 istered by the United States Veterans' Administration
15 or the Armed Forces of the United States, the named
16 insured shall not be required to purchase additional
17 or duplicate coverage in regard to any benefits pro-
18 vided by this program or programs. The superintend-
19 ent shall certify the extent to which any such pro-
20 gram meets the requirements of this chapter.

21 Insurers shall ascertain of a named insured, prior to
22 the sale of any insurance to the named insured pro-
23 viding all or part of the benefits required by this
24 chapter and on forms provided by the superintendent,
25 whether or not the named insured is covered by any of
26 the programs set forth in this subsection. If the
27 named insured indicated that coverage, no insurer may
28 sell any policy of insurance to the named insured
29 which duplicates the coverage of the program or pro-
30 grams, as set forth in this subsection, unless the
31 named insured requests the duplicate coverage on a
32 form or forms approved by the superintendent.

33 4. The superintendent shall, within 14 months
34 following the effective date of this chapter, report
35 to the Legislature concerning the operation of this
36 section.

37 §2956. Basic benefits provided by no-fault benefit
38 insurance

39 Except as provided in this chapter, the no-fault
40 benefit insurer is liable to pay basic benefits,
41 without reference to fault, under the conditions

1 stated in this chapter, reimbursing persons suffering
2 net loss through injury arising out of the operation
3 of a motor vehicle. The benefits shall extend to pe-
4 destrians and to passengers sustaining injury caused
5 by an uninsured or unidentified motor vehicle. The
6 pedestrian, in that event, shall recover under the
7 terms of sections 2976 to 2978.

8 §2957. Intentional injuries

9 A person intentionally causing or attempting to
10 cause injury to himself or another is disqualified
11 from no-fault benefits for injury arising from his
12 acts, including benefits otherwise due him as a sur-
13 vivor. In the case of the death of a person inten-
14 tionally causing or attempting to cause injury to
15 himself, his surviving next of kin are not entitled
16 to benefits for survivors' loss. A person intention-
17 ally causes or attempts to cause injury if he acts or
18 fails to act for the purpose of causing injury. A
19 person intentionally causes or attempts to cause in-
20 jury if he acts or fails to act for the purpose of
21 causing injury or with knowledge that injury is sub-
22 stantially certain to follow. A person does not in-
23 entionally cause or attempt to cause injury merely
24 because his act or failure to act is intentional, or
25 done with his realization that it creates a grave
26 risk of causing injury, or if the act or omission
27 causing the injury is for the purpose of averting
28 bodily harm to himself or another person.

29 §2958. Converted vehicle

30 A person who converts a motor vehicle is disqual-
31 ified from basic benefits or any additional benefits
32 under this chapter, including benefits otherwise due
33 him as a survivor, for injuries arising from the
34 maintenance or use of the converted vehicle and, in
35 the case of his death, his surviving next of kin are
36 not entitled to benefits for survivors' loss. For
37 the purpose of this section, a person is not a con-
38 verter if he uses the motor vehicle in the good faith
39 belief that he is legally entitled to use it.

40 §2959. Subtractable benefits

1 1. United States Social Security, Workers' Com-
2 pen-sation Act; health care. All benefits or advan-
3 tages a person receives, or is entitled to receive,
4 because of the injury, from the United States Social
5 Security, Medicare, Medicaid, any health care program
6 administered by the Department of Human Services,
7 the United States Veterans' Administration or any
8 other health care program under any state or federal
9 law, pursuant to the Workers' Compensation Act or any
10 similar law, shall be subtracted in calculating net
11 loss under this chapter.

12 2. Nontaxable. If a benefit or advantage re-
13 ceived to compensate for loss of income because of
14 injury, whether from basic benefits or from any
15 source of benefits or advantages subtracted under
16 subsection 1, is not taxable income, the income tax
17 saving that is attributable to his loss of income be-
18 cause of injury is subtracted in calculating net
19 loss. Subtraction may not exceed 15% of the loss of
20 income and shall be in a lesser amount if the claim-
21 ant furnishes to the insurer reasonable proof of a
22 lower value of the income tax advantage.

23 §2960. Partial abolition of tort liability

24 Tort liability with respect to accidents occur-
25 ring in this State and arising from the ownership,
26 maintenance or use of a motor vehicle is abolished,
27 except under the following circumstances in which re-
28 covery may be had for all damages recognized by law:

29 1. Liability for injury. A person in the busi-
30 ness of designing, manufacturing, repairing, servic-
31 ing or otherwise maintaining motor vehicles remains
32 liable for injury arising out of a defect in the mo-
33 tor vehicle which is caused or not corrected by an
34 act or omission in the course of that business, other
35 than a defect in a motor vehicle which is operated by
36 that business;

37 2. Required coverage not provided at time of ac-
38 cident. The coverage required under section 2953 was
39 not provided at the time of the accident;

40 3. Intentional damage or harm. The damage or
41 harm to a person or property was intentionally
42 caused;

1 4. Death or certain serious injuries. The in-
2 jured person dies or suffers permanent disability or
3 permanent serious disfigurement, permanent and sig-
4 nificant loss of any important bodily function or
5 loss of a body member in whole or in part, regardless
6 of the right of that person to receive basic benefits
7 under section 2954; or

8 5. Medical and hospital costs of \$500 or more.
9 An injured person's costs of medical and hospital ex-
10 penditures are \$500 or more. For purposes of this sub-
11 section, "costs of medical and hospital expenses" is
12 defined as the reasonable value for necessary ser-
13 vices rendered for medical, hospital, dental, surgi-
14 cal, ambulance, professional nursing and rehabilita-
15 tion services, chiropractic services, but exempting
16 diagnostic x rays in excess of \$100.

17 The term "costs of medical and hospital expenses" may
18 mean costs for any nonmedical remedial care and
19 treatment rendered in accordance with a recognized
20 religious method of healing; or

21 6. Property damage. Property damage.

22 §2961. Insurers' rights of reimbursement

23 Whenever a recipient of no-fault benefits recov-
24 ers in tort for injury, the insurer, including those
25 nonprofit hospital or medical service organizations
26 subject to Title 24, paying the no-fault benefits has
27 a right of reimbursement out of the tort recovery.
28 The reimbursement shall be in the amount of no-fault
29 benefits paid by the insurer. The tort recovery
30 shall be credited against no-fault benefits accruing
31 after the recovery.

32 The no-fault benefit insurer has no right of sub-
33 rogation to any cause of action of a recipient of
34 no-fault benefits or to bring such an action in its
35 own name, nor may the policy of no-fault benefit in-
36 surance confer those rights upon the insurer.

37 §2962. Priority of applicability of insurance poli-
38 cies

39 1. Priorities. The following priorities shall
40 apply:

1 A. The no-fault insurance for payment of
2 no-fault benefits applicable to injury to a
3 no-fault insured is the insurance under which the
4 injured person is covered as a no-fault insured;

5 B. The no-fault insurance for payment of
6 no-fault benefits applicable to injury to the
7 driver or other occupant of an involved motor ve-
8 hicle, who is not covered as a no-fault insured,
9 shall be the insurance covering that vehicle; and

10 C. The no-fault insurance for payment of
11 no-fault benefits applicable to injury to a per-
12 son not otherwise covered, who is not the driver
13 or other occupant of an involved motor vehicle,
14 is the insurance covering any involved motor ve-
15 hicle. An unoccupied parked vehicle is not an
16 involved motor vehicle unless it was parked so as
17 to cause unreasonable risk of injury.

18 2. Proration. If 2 or more obligations to pay
19 no-fault benefits are applicable to an injury under
20 the priorities set out in this section, benefits are
21 payable only once and the insurer against whom a
22 claim is asserted shall process and pay the claim as
23 if wholly responsible, but is entitled to recover
24 contribution pro rata for the no-fault benefits paid
25 and the costs of processing the claim. When contri-
26 bution is sought among insurers responsible under
27 subsection 1, paragraph C, proration shall be based
28 on the number of involved motor vehicles.

29 §2963. Territorial coverage

30 No-fault benefit insurance applies to injury suf-
31 fered by the no-fault insured within the State, the
32 United States, its territories and possessions, the
33 Dominion of Canada and the Republic of Mexico.

34 §2964. Approval of terms and forms

35 Terms and conditions of no-fault benefit insur-
36 ance and of policy forms used by insurers in offering
37 these coverages are subject to approval and regula-
38 tion by the Superintendent of Insurance. He shall
39 approve only terms and conditions which are consist-
40 ent with the purposes of this chapter and fair and

1 equitable to all persons whose interests may be af-
2 ected and which limit the variety of coverages
3 available to give insurance purchasers reasonable op-
4 portunity to compare the cost of insuring with vari-
5 ous insurers.

6 §2965. Payment of benefits

7 1. Time. No-fault benefits are payable semi-
8 monthly as loss accrues. Loss accrues not when in-
9 jury occurs, but as work loss, survivors' loss, re-
10 placement services loss or allowable expense is in-
11 curred. Benefits for work loss, survivors' loss and
12 replacement services loss are overdue if not paid
13 within 15 days after the insurer receives reasonable
14 proof of the fact and amount of loss realized. Bene-
15 fits for allowable expenses are overdue if not paid
16 within 30 days after the insurer receives reasonable
17 proof of the fact and amount of loss realized. If
18 reasonable proof is supplied as to only one part of a
19 claim time is as provided by this section. Allowable
20 expenses may be paid by the insurer upon written as-
21 signment by the claimant directly to persons supply-
22 ing products, services or accommodations to the
23 claimant.

24 2. Work loss. A claim for work loss shall be
25 paid as provided by this section without deduction
26 for subtractable benefits, if the subtractable bene-
27 fits have not been paid to the claimant before bene-
28 fits are overdue. The insurer is entitled to reim-
29 bursement from the person obligated to pay the
30 subtractable benefits or from the claimant who later
31 receives the subtractable benefits.

32 3. Overdue payments. Overdue payments bear in-
33 terest at the rate of 18% per year.

34 4. Mailing. Every policy of insurance purport-
35 ing to provide the benefits required under this chap-
36 ter shall plainly state an address where a demand for
37 benefits may be mailed. A demand for benefits mailed
38 to that address will be deemed conclusive proof that
39 the demand for those benefits was communicated to the
40 carrier and a certified or registered mail receipt
41 will be deemed conclusive proof of the date of the
42 demand. In the alternative, a demand for benefits

1 may be mailed to any authorized agent of the carrier
2 licensed as an authorized agent by the Bureau of In-
3 surance.

4 §2966. Limitation of action

5 If any no-fault benefit is not paid when due, an
6 action for the recovery of the overdue benefits must
7 be commenced within 2 years after the loss, for which
8 recovery is sought, has accrued.

9 §2967. Claims against wrong insurer

10 If timely action for no-fault benefits is com-
11 menced against an insurer and benefits are denied be-
12 cause of a determination that the insurer's coverage
13 is not applicable to the claimant under section 2962,
14 a claim against the next applicable insurer or as-
15 signed claims plan may be made within a reasonable
16 time after that determination becomes final. An ac-
17 tion by the claimant on the subsequent claim may not
18 be commenced later than 120 days after the determina-
19 tion becomes final or the last date on which the ac-
20 tion otherwise could have been commenced, whichever
21 is later.

22 §2968. Fees of claimant's attorney

23 1. Contingent fee; other fee. In any legal ac-
24 tion arising from an accident involving a motor vehi-
25 cle as a result of which benefits under this chapter
26 are furnished or are to be furnished, an attorney
27 representing or acting on behalf of any claimant of
28 the benefits shall be entitled to a contingent fee or
29 any other fee only as to the amount by which any dam-
30 ages recovered in that action exceeds the amount of
31 benefits furnished pursuant to this chapter.

32 2. Adjustment of fees. There may be no adjust-
33 ment of fees as to the remainder of any recovery.

34 3. Rules. The Supreme Judicial Court shall
35 promulgate appropriate rules to enforce this section.

36 §2969. Fees of insurer's attorney

1 An insurer shall be allowed a reasonable attor-
2 neys fee for defending a claim that was fraudulent.
3 This fee may be treated as an offset to benefits due
4 or which accrue, and judgment may be entered against
5 the claimant for any part of the fee not offset or
6 otherwise paid.

7 §2970. Lump-sum and installment settlements

8 Rights and obligations arising under no-fault
9 benefit insurance as to a claim, inclusive of future
10 loss arising from an injury or death, may be dis-
11 charged at any time. Any payment pursuant to this
12 section must be approved by the District Court.

13 §2971. Judgments for future benefits

14 If an action for no-fault benefits is commenced,
15 a lump-sum judgment by a court of proper jurisdiction
16 may be entered for benefits that would accrue after
17 the date of the award.

18 §2972. Exemption of benefits

19 Benefits for work loss and survivors' loss pay-
20 able under this chapter are exempt from garnishment,
21 attachment, execution and other process or claims to
22 the extent provided in any law exempting earnings or
23 wages from process or claims.

24 §2973. Mental or physical examination of injured
25 person

26 1. Order for examination. If the mental or
27 physical condition of a person is material to any
28 claim for past or future basic or additional benefits
29 under this chapter, the no-fault benefit insurer may
30 petition the Superior Court for an order directing
31 the person to submit to a mental or physical examina-
32 tion by a physician. The order may be made only for
33 good cause shown and upon notice to the person to be
34 examined and to all persons having an interest. The
35 order shall specify the time, place, manner, condi-
36 tions and scope of the examination and the physician
37 by whom it is to be made.

1 2. Reports. The insurer causing a mental or
2 physical examination to be made shall deliver to the
3 person examined a copy of a detailed written report
4 of the examining physician setting out his findings,
5 including results of all tests made, diagnosis, con-
6 clusions and reports of earlier examination of the
7 same condition. This subsection applies to examina-
8 tions made by agreement of the person examined and
9 the insurer, unless the agreement provides otherwise.
10 This subsection does not preclude discovery of a re-
11 port of an examining physician or taking a deposition
12 of the physician in accordance with any rule of court
13 or other provision of law. In making the order, the
14 court shall take into account whether refusal to sub-
15 mit to a mental or physical examination is based upon
16 the person's right to the free exercise of his reli-
17 gion.

18 §2974. Discovery of facts about injured person

19 If relevant to a claim for no-fault benefits and
20 upon request of a no-fault benefit claimant or insur-
21 er, information shall be disclosed as follows.

22 1. Work record and earnings. An employer shall
23 furnish a statement of the work record and earnings
24 of an employee upon whose injury the claim is based.
25 The statement shall cover the period specified by the
26 claimant or insurer making the request and may in-
27 clude the entire period after, and a reasonable period
28 before, the injury.

29 2. Medical treatment. An injured person upon
30 whose injury the claim is based shall deliver to the
31 insurer, upon request, every written report available
32 to him concerning any medical treatment, previously
33 or thereafter made, connected to the injury upon
34 which the claim is based and shall authorize the in-
35 surer to inspect and copy records, connected with the
36 injury upon which the claim is based, of physicians,
37 hospitals, clinics or other medical institutions.

38 3. Treatment. A physician, hospital, clinic or
39 other medical institution furnishing services or ac-
40 commodations to an injured person in connection with
41 a condition alleged to be connected with an injury
42 upon which a claim is based, upon authorization of

1 the injured person, shall furnish a written report of
2 the history, condition, diagnosis, medical tests,
3 treatment, dates and cost of treatment of the injured
4 person, and permit inspection and copying of records
5 as to the history, condition, treatment, dates and
6 cost of the treatment.

7 4. Cost. Any person providing information under
8 this section, other than the claimant, may charge the
9 person requesting the information a reasonable amount
10 for the cost of providing the information.

11 5. Order of discovery. In the case of a dispute
12 as to the right of a claimant or insurer to discover
13 this information, the claimant or insurer may peti-
14 tion the Superior Court for an order for discovery.
15 The order may be made only for good cause shown and
16 upon notice to all persons having an interest and it
17 shall specify the time, place, manner, conditions and
18 scope of the discovery. The court, in order to pro-
19 tect against annoyance, embarrassment or oppression,
20 may enter an order refusing discovery or specifying
21 conditions of discovery and order payment of costs
22 and expenses of the proceeding, including reasonable
23 attorneys fees.

24 §2975. Proof of insurance

25 1. Suspension of license. The Secretary of
26 State, upon receipt of notice from the clerk of any
27 court in this State that a person has been found in
28 violation under section 2953, shall suspend the li-
29 cence or the right to obtain a license, or right of
30 that person to operate, and all the registration cer-
31 tificates and registration plates of that person un-
32 til proof of insurance complying with this chapter is
33 supplied.

34 2. Notification. Any insurer providing insur-
35 ance pursuant to section 2953 shall notify the Secre-
36 tary of State whenever a new policyholder is accepted
37 or a current policyholder terminates a policy.

38 §2976. Assigned claims plan

39 1. Plan. A person entitled to basic benefits
40 because of injury occurring in this State and covered

1 by this chapter may obtain basic benefits through the
2 assigned claims plan or bureau established pursuant
3 to section 2977 and in accordance with the provision
4 for making assigned claims as provided in section
5 2978, if:

6 A. Basic benefits are not applicable to the in-
7 jury for some reason other than those specified
8 in sections 2957 and 2958;

9 B. Basic benefits for self-insurance applicable
10 to the injury cannot be identified;

11 C. Basic benefits applicable to the injury, be-
12 cause of financial inability of an insurer or
13 self-insurer to fulfill its obligation, are inad-
14 equiate to provide the contracted for benefits; or

15 D. A claim for basic benefits is rejected by an
16 insurer or self-insurer on some ground other than
17 the person is not entitled to basic benefits un-
18 der this chapter.

19 2. Subrogation. If a claim qualified for as-
20 signment under subsection 1, paragraph B, C or D, the
21 assigned claims bureau of any insurer or self-insurer
22 to whom the claim is assigned shall be subrogated to
23 all of the rights of the claimant against any insurer
24 or self-insurer, its successor in interest or substi-
25 tute, legally obligated to provide benefits to the
26 claimant, for no-fault basic benefits provided by the
27 assignment.

28 3. Limitations. A person shall not be entitled
29 to basic benefits through the assigned claims plan or
30 from any insurer, with respect to injury which he has
31 sustained, if at the time of the injury he was the
32 owner of a motor vehicle for which motor vehicle lia-
33 bility insurance is required under this chapter and
34 he failed to have that security in effect.

35 §2977. Assigned claims bureau

36 Self-insurers and insurers writing motor vehicle
37 liability insurance in this State may organize and
38 maintain, subject to approval and regulation by the
39 superintendent, an assigned claims bureau and an as-

1 signed claims plan and adopt rules for their operation
2 and for the assessment of costs on a fair and
3 equitable basis consistent with this chapter. If
4 they do not organize and continuously maintain an as-
5 signed claims bureau and an assigned claims plan in a
6 manner considered by the superintendent to be con-
7 sistent with this chapter, the superintendent shall
8 organize and maintain an assigned claims bureau and
9 an assigned claims plan. Each self-insurer and in-
10 surer writing motor vehicle liability insurance in
11 this State shall participate in the assigned claims
12 bureau and the assigned claims plan. Costs incurred
13 shall be allocated by the superintendent in a fair
14 manner among insurers and self-insurers.

15 §2978. Notification to assigned claims bureau

16 A person authorized to obtain basic benefits
17 through the assigned claims plan shall notify the bu-
18 reau of his claim within the time that would have
19 been allowed for filing an action for basic benefits.
20 If timely action for basic benefits is commenced
21 against an insurer or self-insurer who, because of
22 financial inability, is unable to fulfill his obliga-
23 tions, a claim through the assigned claims plan may
24 be made within a reasonable time after discovery of
25 the financial inability.

26 Sec. 6. Effective date. This Act shall become
27 effective July 1, 1988. Accidents occurring before
28 the effective date of this Act are not covered by or
29 subject to this Act. The Superintendent of Insurance
30 shall exercise, prior to the effective date of this
31 Act, the authority vested in him under this Act to do
32 all things necessary to implement the Act on the ef-
33 fective date.

34 STATEMENT OF FACT

35 The purpose of this bill is to require no-fault
36 motor vehicle insurance.

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