

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

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Legislative Document

No. 1613

S.P. 609

In Senate, April 22, 1991

Reference to the Committee on Banking and Insurance suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator THERIAULT of Aroostook

Cosponsored by Senator BRAUN of Knox, Representative JOSEPH of Waterville and Representative RICHARDS of Hampden.

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STATE OF MAINE

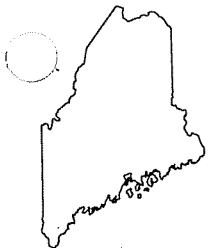
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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY-ONE

---

**An Act to Reform Maine Motor Vehicle Insurance.**

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

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

6 CHAPTER 40-A

8 MOTOR VEHICLE NO-FAULT INSURANCE

10 §2951. Short title

12 This chapter is known and may be cited as the "Maine Motor Vehicle No-fault Insurance Act."

14 §2952. Definitions

16 As used in this chapter, the following terms have the following meanings:

18 1. Accidental injury. "Accidental injury" means bodily injury, sickness or disease, including death resulting from bodily injury, sickness or disease, caused by an accident to the person suffering the injury and arising out of the ownership, use or occupancy of a motor vehicle. Bodily injury includes damage to or loss of a person's prosthetic devices.

26 2. Covered person. "Covered person" means the named insured, family members of the named insured or the owner, operator or occupant of a covered motor vehicle injured through the ownership, use or occupancy of a that vehicle in this State or any other person entitled to personal injury protection benefits under this chapter.

32 3. Family member. "Family member" means a person related to the insured by blood, marriage or adoption who is a resident of the insured's household, including a ward or foster child.

36 4. Motor vehicle. "Motor vehicle" means any self-propelled vehicle, whether of a commercial or private passenger type, with 4 or more load-bearing wheels designed for operation upon a public highway and includes a trailer drawn by or attached to such a vehicle.

42 A. "Private passenger motor vehicle" means any motor vehicle that is a sedan, station wagon or jeep-type vehicle and, if not used primarily for occupational, professional or business purposes, a pick-up or panel truck, van, camper or motor home.

48 B. "Commercial motor vehicle" means any motor vehicle that is not a private passenger motor vehicle.

2 For purposes of this chapter, the term "motor vehicle" does not  
3 include a bicycle, farm tractor, motorcycle, moped or motorized  
4 bicycle or tricycle as defined in Title 29, section 1 or an  
5 all-terrain vehicle whether 3-wheeled or 4-wheeled, minibike,  
6 go-cart, snowmobile or any similar vehicle.

7  
8 5. Named insured. "Named insured" means a person  
9 identified in a policy by name as the insured under the policy  
10 and that person's resident spouse.

11  
12 6. Noneconomic loss. "Noneconomic loss" means pain,  
13 suffering, emotional distress, inconvenience, loss of society and  
14 any similar nonmonetary damage or detriment.

15  
16 7. Owner. "Owner" means a person who holds legal title to  
17 a motor vehicle. When a motor vehicle is the subject of a  
18 security agreement, lease with an option to purchase or an  
19 installment sales contract and the debtor or leasee has an  
20 immediate right of possession, the debtor or leasee is considered  
21 the owner for purposes of this section.

22 8. Personal injury protection benefits. "Personal injury  
23 protection benefits" means required loss benefits and any  
24 optional supplementary loss benefits.

25  
26 9. Required loss benefits. "Required loss benefits" means  
27 those benefits required by section 2954 of this chapter for  
28 economic loss arising out of accidental injury.

29  
30 10. Supplementary loss benefits. "Supplementary loss  
31 benefits" means benefits with either or both monetary and time  
32 limits in excess of required loss benefits, and benefits for  
33 forms of economic loss not covered by required loss benefits,  
34 that are available for purchase by insureds.

35  
36 11. Use of motor vehicle. "Use of a motor vehicle" means  
37 operating, maintaining, loading or unloading a motor vehicle.  
38 This term does not include:

39  
40 A. Conduct within the course of a business of repairing,  
41 servicing or otherwise maintaining motor vehicles unless the  
42 conduct occurs off the business premises; and

43  
44 B. Conduct in the course of loading or unloading a  
45 commercial motor vehicle.

46  
47 **§2953. Motor vehicle insurance required**

48  
49 1. Residents. Every policy of insurance or equivalent  
50 security covering a motor vehicle, as defined in this chapter,  
51 must provide the benefits and immunities provided for in this  
52 chapter.

2           2. Nonresidents. Every nonresident shall secure a motor  
3 vehicle insurance policy or equivalent security that provides the  
4 benefits described in this chapter as provided in this subsection.

6           A. An insurer authorized to transact automobile liability  
7 insurance and personal and property protection insurance in  
8 this State shall file and maintain a written certification  
9 that any accidental injury occurring in this State arising  
10 from the ownership, use or occupancy of a motor vehicle by a  
11 nonresident who is insured under that insurer's automobile  
12 liability insurance policies is subject to the personal  
13 injury protection insurance provisions set forth in this  
14 chapter.

16           B. An insurer not authorized to transact automobile  
17 liability insurance and personal and property protection  
18 insurance in this State may voluntarily file the  
19 certification described in paragraph A.

20           C. When a certification filed under paragraph A or B  
21 applies to accidental injury, the insurer and its insureds  
22 with respect to that accidental injury have the same rights  
23 and immunities under this chapter as personal injury  
24 protection insureds, and claimants have the same rights and  
25 benefits as personal injury protection insurance claimants,  
26 including the right to receive benefits from the electing  
27 insurer as if it were an insurer of personal injury  
28 protection insurance applicable to the accidental injury.

30           D. Every nonresident owner or registrant of a motor vehicle  
31 that was in this State for more than 90 consecutive days  
32 during the preceding 365 days, whose policy of motor vehicle  
33 insurance does not comply with paragraph A, B or C, shall  
34 maintain insurance or equivalent security pursuant to this  
35 chapter during the period the motor vehicle is driven or  
36 moved in this State.

38           **§2954. Personal injury protection benefits**

40           1. Required loss benefits. Every insurance policy issued  
41 pursuant to this chapter must provide personal injury protection  
42 benefits, without regard to fault, to covered persons at a  
43 minimum of \$20,000 in any one accident for accidental injury  
44 sustained by each person, subject to the limit respecting one  
45 person as follows:

48           A. Without limitation as to time provided that within one  
49 year after the date of the accident causing the injury the  
50 nature of the injuries resulting from the accident are  
51 apparent, payment for all reasonable and necessary expense  
52 incurred for:

2           (1) Medical, hospital, surgical, nursing, dental,  
4           ambulance, x-ray, prescription drug and prosthetic  
              services;

6           (2) Psychiatric, physical and occupational therapy and  
8           rehabilitation;

10           (3) Any nonmedical remedial care and treatment  
12           rendered in accordance with a religious method of  
              healing recognized by the laws of this State; and

14           (4) Any other professional health services.

16           The expenses incurred under this paragraph are subject to  
18           the limitations of section 2960. The automobile insurance  
              carrier is considered primary for purposes of the first  
              \$4,000 of medical expenses arising from a single occurrence;

20           B. Payment of 80% of the loss of earnings from work the  
22           covered person would have performed had that person not been  
24           injured, and reasonable and necessary expenses incurred by  
              the covered person in obtaining services in lieu of those  
              that person would have performed for income, at a maximum  
26           \$1,000 a month for not more than 18 months from the date of  
              the accident that caused the injury. As used in this  
28           section, "income" means salary, wages, tips, commission,  
              professional fees, profits from an individually owned  
30           business or farm, profits or income from any partnership or  
              profits from a corporation that are taxed pursuant to 26  
32           United States Code section 1361 et seq. Disability benefits  
              are not owed after the death of the accident claimant,  
              regardless of the cause of death.

34           C. Payment for total charges not exceeding \$4,000 per  
36           person for expenses related to funeral, cremation or burial  
38           services. An insurer may pay funeral benefits to the  
              executor or administrator of the estate, to any of the  
40           deceased's relatives by blood, legal adoption or marriage,  
              to any person appearing to the insurer to be equitably  
42           entitled or to any person who has incurred expenses for the  
              funeral, cremation or burial of the deceased.

44           D. Payment for all other reasonable and necessary expenses  
46           incurred up to \$25 per day for not more than one year from  
              the date of the accident that caused the injury.

48           2. Supplementary loss benefits. Insurers shall make  
50           available supplementary loss benefits in reasonable monetary and  
              time increments exceeding the required loss benefits to an  
52           aggregate total of \$250,000 actual payout per person per  
              occurrence, without regard to fault, for the benefits described

2 in subsection 1, excluding the benefits described in subsection  
3 1, paragraph C. Insurers may make available benefits in monetary  
4 levels in excess of the \$250,000 limit at the insurer's election.

6 3. Benefit reduction. Payments authorized under  
7 subsections 1 and 2 are reduced by amounts recoverable for the  
8 injury under state and federal laws providing social security  
9 disability benefits, workers' compensation benefits, amounts  
10 deductible under the applicable insurance policy and Medicare  
11 benefits, other than lifetime reserve days. The Medicare  
12 benefits used may not result in a reduction of the injured  
13 person's Medicare benefits for a subsequent illness or injury.  
14 Only those medical expenses actually paid or reimbursed by  
15 personal injury protection benefits may be considered in  
16 determining whether the aggregate limit on payment of personal  
17 injury protection benefits for medical expenses has been reached.

18 4. Authorized exclusions. Any insurer may exclude personal  
19 injury protection benefits for accidental injury to claimants as  
20 follows:

22 A. For accidental injury sustained by the named insured and  
23 the named insured's family members while occupying an  
24 uninsured motor vehicle owned by the named insured;

26 B. For accidental injury sustained by any person operating  
27 an insured motor vehicle without the express or implied  
28 consent of the named insured;

30 C. When the accidental injury sustained by the claimant was  
31 intentionally caused by that claimant, except that a person  
32 does not intentionally cause injury within the meaning of  
33 this section if the person knowingly causes injury in the  
34 course of attempting to avert injury to other persons or  
35 minimize injury to the persons, including that person,  
36 actually injured;

38 D. For accidental injury sustained as a result of that  
39 accident by any claimant convicted of operating under the  
40 influence of alcohol or illegal drugs;

42 E. When the accidental injury sustained by a claimant  
43 occurred while that person was committing a felony;

44 F. For accidental injury arising out of or in the course of  
45 the manufacture, sale, repair, servicing or maintenance of a  
46 motor vehicle by motor vehicle manufacturers, dealers,  
47 repair shops, garages or service stations when the  
48 accidental injury occurs on the business premises; and

50 G. For accidental injury arising out of the parking or  
51 storage of a motor vehicle by those in the business of  
52

2           parking or storing motor vehicles when the accidental injury  
3           occurs on the business premises.

4           Personal injury protection does not apply in those circumstances  
5           described in this subsection. In the event an insurer in good  
6           faith pays personal injury protection benefits and it is later  
7           determined that the recipient was not entitled to such benefits  
8           because the damages arose under circumstances described in this  
9           subsection, the insurer has subrogation rights against the party  
10           at fault to recover the benefits paid.

12           5. Deductibles. Any insurer may file with the  
13           Superintendent of Insurance its intention to make deductibles  
14           available. Every such filing must state the effective date and  
15           indicate the deductibles contemplated. Every filing must be made  
16           not less than 30 days in advance of the stated effective date  
17           unless the 30-day requirement is waived by the superintendent,  
18           and the effective date may be suspended by the superintendent for  
19           a period of time not to exceed 60 days. However, a deductible  
20           may not be approved in excess of 5% of the per person limits of  
21           the policy on personal injury protection benefits. The  
22           sufficiency of information and the confidentiality of such a  
23           filing are governed by section 2304-A.

24           6. Out-of-state operation. The named insured and the named  
25           insured's family members are entitled to benefits authorized  
26           under this section for accidental injury arising out of the  
27           ownership, use or occupancy of a motor vehicle outside of this  
28           State but inside the United States, its territories or  
29           possessions, or Canada.

32           **§2955. Benefits; when due; suspension; fair claims settlement**

34           1. Claims settlement. Payments of personal injury  
35           protection benefits are made as the loss is incurred. The  
36           benefits are overdue if not paid within 45 days after the  
37           claimant supplies proof of the fact and amount of loss  
38           sustained. If proof is not supplied for the entire claim, the  
39           amount supported by proof is overdue if not paid within 45 days  
40           after the proof is supplied. All overdue payments bear interest  
41           at the rate of 2% per month. If a valid claim or portion was  
42           overdue, the claimant is entitled to recover reasonable  
43           attorney's fees for services necessarily performed in connection  
44           with securing payment of the overdue claim, subject to  
45           limitations promulgated by the superintendent in regulations.

46           2. Optional dispute resolution. Every insurer shall  
47           provide a claimant with the option of submitting any dispute  
48           involving the insurer's liability to pay personal injury  
49           protection benefits, the amount of the dispute or any other  
50           matter that may arise pursuant to subsection 1 to arbitration



2 pursuant to simplified procedures to be promulgated or approved  
3 by the superintendent.

4 3. Arbitration award. An award by an arbitrator is binding  
5 except when vacated or modified by a master arbitrator in  
6 accordance with simplified procedures to be promulgated or  
7 approved by the superintendent. The award of a master arbitrator  
8 is binding except when the amount of the master arbitrator's  
9 award is \$5,000 or greater, exclusive of interest and attorney's  
10 fees, in which case the insurer or the claimant may institute a  
11 court action to adjudicate the dispute de novo.

12  
13 4. Suspension. When an insurer has reasonably requested  
14 that a person receiving personal injury protection benefits  
15 undergo an independent medical examination, and that person  
16 unreasonably refuses to comply with the request, the insurer may  
17 suspend all future personal injury protection benefits until that  
18 person complies with the request of the insurer, provided that  
19 the insurer notifies the person whose benefits are suspended of  
20 its action and the basis for its action in writing and maintains  
21 proof of its request and the accident claimant's refusal to  
22 comply.

23 **§2956. Priority of claims**

24  
25 1. Private passenger motor vehicles. For private passenger  
26 motor vehicles, a person eligible for personal injury protection  
27 benefits shall claim the benefits from sources of insurance in  
28 the following order:

29  
30 A. The insurance, if any, under which the claimant is or  
31 was insured, selected in accordance with the conditions set  
32 out in section 2965;

33  
34 B. The insurance, if any, covering the operator of the  
35 motor vehicle if the claimant is or was an uninsured  
36 occupant of the motor vehicle;

37  
38 C. The insurance, if any, covering a motor vehicle involved  
39 in the accident, if the claimant is or was an uninsured  
40 occupant of the motor vehicle;

41  
42 D. The insurance covering any motor vehicle, chosen at the  
43 option of the claimant, involved in the accident if the  
44 claimant is not an insured and was not occupying any motor  
45 vehicle, except that if one or more of the motor vehicles  
46 involved in the accident is a commercial motor vehicle, one  
47 of those vehicles must be chosen; or

48  
49 E. The insurance covering any motor vehicle involved in the  
50 accident if the claimant is not an insured and was occupying

2           a motor vehicle neither owned by that person nor covered by  
3           insurance.

4           2. Commercial motor vehicles. For commercial motor  
5           vehicles, including motor vehicles used in the business of  
6           transporting people or property for hire, a person eligible for  
7           personal injury protection benefits shall claim such benefits  
8           from sources of insurance in the following order:

10           A. The insurance, if any, covering the motor vehicle  
11           involved in the accident if the claimant was an occupant;

12           B. The insurance, if any, covering the operator of the  
13           motor vehicle if the claimant was an occupant;

14           C. The insurance, if any, under which the claimant is or  
15           was insured, selected in accordance with the conditions set  
16           out in section 2965;

17           D. The insurance covering any commercial motor vehicle,  
18           chosen at the option of the claimant, involved in the  
19           accident if the claimant is not insured and was not  
20           occupying any motor vehicle; or

21           E. The insurance covering any motor vehicle involved in the  
22           accident if the claimant was not insured and was occupying a  
23           motor vehicle neither owned by that person nor covered by  
24           insurance.

25           An insurer that provides personal injury protection benefits  
26           to an accident claimant as described in subsection 1, paragraph E  
27           or subsection 2, paragraph E is entitled to indemnity for those  
28           benefits and for the reasonable costs of processing the claim  
29           from the owner of the vehicle occupied by that claimant. In the  
30           event the owner has made any claim against that insurer or  
31           against any person insured by that insurer, the insurer is not  
32           required to pay any benefits to the owner until the insurer has  
33           been fully indemnified for personal injury protection benefits  
34           and reasonable claim processing costs incurred or that might be  
35           incurred pursuant to this section.

36           §2957. Residual liability coverage

37           A policy issued pursuant to this chapter must provide  
38           residual liability coverage in an amount not less than that  
39           required under Title 29, chapter 9 for those circumstances in  
40           section 2959, subsection 3 and any other circumstance to which  
41           personal injury protection does not apply.

42           §2958. Cancellation control

2 Policies of insurance providing personal injury protection  
3 benefits pursuant of this chapter are subject to the Maine  
4 Automobile Insurance Cancellation Control Act, chapter 39,  
5 subchapter II.

6 **§2959. Tort liability**

8 1. Preclusion of suit. Except as provided in subsections 3  
9 and 4, a person covered by personal injury protection insurance  
10 and every person or organization legally responsible for the  
11 covered person's acts or omissions, waive the right to sue for  
12 any accidental injury arising out of the ownership, use or  
13 occupancy of a motor vehicle inside this State.

14 2. Immunity from suit. Except as provided in subsections 3  
15 and 4, a person covered by personal injury protection insurance  
16 and every person or organization legally responsible for the  
17 covered person's acts or omissions are not liable for suit  
18 arising out of the ownership, use or occupancy of a motor vehicle  
19 inside this State.

20 3. Exceptions. The provisions of subsections 1 and 2 do  
21 not apply when accidents involve the following:

22 A. Death;

23 B. Dismemberment;

24 C. Permanent serious impairment of a body function caused  
25 by the accident that equals or is greater than 20% of whole  
26 body disability as established by the most recent edition of  
27 the American Medical Association's "Guides to the Evaluation  
28 of Permanent Impairment"; or

29 D. Permanent serious disfigurement or scarring of the  
30 facial or head area, including a disfigurement continuous in  
31 length that is partially in the facial area and extends into  
32 the neck region, permanent serious disfigurement in the  
33 region above the sternoclavicular articulations anterior to  
34 and including the region of the sternocleidomastoid muscles  
35 on either side or a combination of the above.

36 The issue of whether a claimant has suffered "permanent serious  
37 impairment" or "permanent serious disfigurement or scarring" is a  
38 question of law for the court, rather than a jury, to determine.

39 4. Certain suits permitted. Nothing in this section limits  
40 the right of any person to bring a tort action against:

41 A. A person involved in a motor vehicle accident who  
42 voluntarily uses or occupies a motor vehicle that person

2 knows is stolen or being operated without the permission of  
3 its owner;

4 B. A person engaged in the use of a motor vehicle for which  
5 no insurance has been provided in accordance with section  
6 2953 if that person would have been an insured under a  
7 policy of insurance constituting insurance for that vehicle  
8 had the owner of that vehicle been the named insured under  
9 such a policy;

10 C. A person who intentionally attempted to cause harm in a  
11 motor vehicle accident, subject to the limitation of section  
12 2954, subsection 4, paragraph C;

13 D. A person engaged in the use of a vehicle as described in  
14 section 2952, subsection 4 that is not a motor vehicle for  
15 purposes of this chapter; or

16 E. A person who, while causing harm in a motor vehicle  
17 accident, was cited for:

18 (1) Any felony; or

19 (2) Criminal operation under the influence of  
20 intoxicating liquor or drugs or with an excessive  
21 blood-alcohol level as defined in Title 29, section  
22 1312-B, as amended.

23 5. Punitive damages. Nothing in this section authorizes or  
24 prohibits the recovery of punitive or exemplary damages from any  
25 person whose conduct in the use of a motor vehicle that causes  
26 personal injury warrants such an award under the laws of the  
27 State, but such punitive or exemplary damages are not paid or  
28 reimbursed by any insurer.

29 **§2960. Limit on charges by providers of health services**

30 1. Health service fees. The charges for service specified  
31 in section 2954, subsection 1, paragraph A may not exceed the  
32 charges permissible under the schedules prepared and established  
33 by the chair of the Workers' Compensation Commission for  
34 workplace accidents except when the insurer or arbitrator  
35 determines that unusual procedures or unique circumstances  
36 justify the excess charge.

37 2. Rulemaking. The Superintendent of Insurance, after  
38 consulting with the chair of the Workers' Compensation Commission  
39 and the Commissioner of Human Services, shall promulgate rules  
40 implementing and coordinating the provisions of this chapter and  
41 the Workers' Compensation Act with respect to charges for the  
42 professional health service specified in section 2954, subsection  
43 1, paragraph A including the establishment of schedules for all  
44 professional health services.

2 such services for which schedules have not been prepared and  
3 established by the chair of the Workers' Compensation Commission.

4 3. Balance billing prohibited. A provider of health  
5 services specified in section 2954, subsection 1, paragraph A may  
6 not demand or request any payment in addition to the charges  
7 authorized pursuant to this section. An insurer shall report to  
8 the superintendent any patterns of overcharging, excessive  
9 treatment or other improper actions by a health provider within  
10 30 days after the insurer has knowledge of the pattern.

12 **§2961. Notice of accident; injury**

14 An insurer shall require that notice be given as soon as  
15 practicable after an accident involving a motor vehicle for which  
16 the policy affords coverage required by this chapter. The notice  
17 of the injury required by this section and section 2964 may be  
18 given to the insurer or any of its authorized agents by a person  
19 claiming to be entitled to benefits or by someone acting in that  
20 person's behalf. The notice must give the name and address of  
21 the claimant and indicate in ordinary language the name of the  
22 person injured and the time, place and nature of the person's  
23 injury if the information is available.

24 **§2962. Indemnification; offset**

26 1. Prohibited indemnification. A subtraction from personal  
27 injury protection insurance benefits may not be made because of  
28 the value of a claim in tort based on the same accidental injury.

30 2. Permitted indemnification. A subtraction from or  
31 reimbursement for personal injury protection benefits paid or  
32 payable under this chapter may be made only if recovery is  
33 realized upon a tort claim arising from an accident occurring  
34 outside of this State or a tort claim brought in this State  
35 against the owner or operator of a motor vehicle for which the  
36 security required by section 2953 was not in effect, and may be  
37 made only to the extent that the recovery realized by the  
38 claimant is for damages for which the claimant has received or  
39 would otherwise be entitled to receive personal injury protection  
40 benefits. A subtraction may be made only to the extent of the  
41 recovery, exclusive of reasonable attorney's fees and other  
42 reasonable expenses incurred in effecting the recovery. If  
43 personal injury protection benefits have already been received,  
44 the claimant shall repay to the insurers out of the recovery a  
45 sum equal to the benefits received, but not more than the  
46 recovery exclusive of reasonable attorney's fees and other  
47 reasonable expenses incurred in effecting the recovery. The  
48 insurer has a lien on the recovery to this extent.

50 3. Limitation. A subtraction or reimbursement is not due  
51 the claimant's insurer from that portion of any recovery for  
52

2 noneconomic loss as provided in section 2959 or for benefits  
3 provided pursuant to section 2954, subsections 1 and 2 in excess  
4 of the amount recovered by the claimant from the claimant's  
5 insurer.

6 4. Required offset. In a successful liability action  
7 brought under section 2959 to which the provisions of  
8 indemnification of subsection 2 do not apply, an accident  
9 claimant may not recover economic damages for which the claimant  
10 has already been compensated by personal injury protection  
11 benefits. The trial judge shall make the appropriate remittitur  
12 in such a case to prevent double recovery if the award includes  
13 recovery of sums equal to the benefits already received.

14 **§2963. Limitation of actions; recovery of benefits; indemnity**

15 1. Recovery of benefits. An action for recovery of  
16 personal injury protection benefits payable under this chapter  
17 for accidental injury may not be commenced later than one year  
18 after the date of the accident causing the injury unless notice  
19 of injury as provided in section 2661 has been given to the  
20 insurer within one year after the accident or unless the insurer  
21 has previously made a payment of personal injury protection  
22 benefits for the injury. If the notice has been given or a  
23 payment has been made, the action may be commenced at any time  
24 within one year after the most recent allowable expense was  
25 incurred. The claimant may not recover benefits for any portion  
26 of the loss incurred more than one year before the date on which  
27 the action was commenced.

28 2. Indemnity. An action by an insurer to enforce any right  
29 of recovery or indemnity authorized under this chapter may not be  
30 commenced later than one year after payment has been received by  
31 a claimant upon a claim for which the insurer has a right of  
32 reimbursement or recovery or the right of reimbursement or  
33 recovery is made available.

34 **§2964. Subrogation; dispute resolution**

35 1. Permitted subrogation. An insurer liable for the  
36 payment of personal injury protection benefits to or on behalf of  
37 a covered person has the right to recover the amount paid from  
38 the insurer of any other covered person to the extent that the  
39 other covered person would have been liable, but for the  
40 provisions of this chapter, to pay damages in an action at law.  
41 In any case, the right to recover exists only if at least one of  
42 the motor vehicles involved is a commercial motor vehicle  
43 weighing more than 10,000 pounds unloaded or is a motor vehicle  
44 used primarily for the transportation of persons or property for  
45 hire.

2           2. Dispute resolution. If insurers involved under  
3 subsection 1 can not agree between themselves as to the  
4 appropriate settlement authorized under subsection 1, the sole  
5 remedy of any such insurer or compensation provider to recover on  
6 a claim arising pursuant to subsection 1 is the submission of the  
7 controversy to mandatory arbitration pursuant to procedures  
8 promulgated or approved by the Superintendent of Insurance.  
9 These procedures are also used to resolve all disputes arising  
10 under this chapter between insurers.

11           §2965. Stacking of coverages prohibited

12           1. Insureds. If an insured or named insured is protected  
13 by any type of insurance pursuant to this chapter or any type of  
14 motor vehicle insurance policy for liability, uninsured or  
15 underinsured motorist, personal injury protection benefits or any  
16 other coverage, the insurance must provide that any insured or  
17 named insured is protected only to the extent of the coverage  
18 provided on the insured's vehicle involved in the accident.  
19 Regardless of the number of motor vehicles involved, the number  
20 of persons covered or claims made, the number of vehicles or  
21 premiums shown in the policy, the number of premiums paid or the  
22 number of individual motor vehicle policies maintained by the  
23 insured, the limit of coverage for liability, uninsured or  
24 underinsured motorist, basic or supplemental loss benefits or any  
25 other coverage is not added to or stacked upon limits for such  
26 coverages applying to other motor vehicles to determine the  
27 amount of coverage available to an injured insured in any one  
28 accident.

29           2. Others. If none of the vehicles covered by the policies  
30 applicable to the insured or named insured is involved in the  
31 accident, coverage is available, if provided by the policy, only  
32 to the extent of coverage on any one of the insured's vehicles,  
33 to be selected by the insured, with applicable coverage.  
34 Coverage on any other vehicles is not added to or stacked upon  
35 that coverage. The provisions of this section do not apply to  
36 the extent that any policy of insurance expressly declares that  
37 it applies to losses in excess of those covered under other  
38 policies of insurance, but the coverage provided by such  
39 insurance may not exceed that specified by its terms.

40           3. Pro rata share. If 2 or more insurers are liable to pay  
41 basic benefits for the same injury to any one person, the maximum  
42 payable is as specified in this section, and any insurer paying  
43 the benefits is entitled to recover from each of the other  
44 insurers an equitable pro rata share of the benefits paid and  
45 expenses incurred in processing the claim.

46           §2966. Severability

2 The purpose of this chapter with respect to motor vehicle  
3 insurance claim costs and benefits is dependent upon the  
4 existence and the operation of section 2959. If section 2959 is  
5 ever held invalid, then all other provisions of this chapter are  
6 rendered similarly invalid. If any provision of this chapter  
7 other than section 2959 is held invalid, the invalidity does not  
8 affect any other provision of this chapter or the application of  
9 this chapter that can be given effect without the invalid  
10 provision or application, and that provision is severable.

11 **§2967. Effective date**

12 The effective date of this Act is January 1, 1992. Claims  
13 arising before that date are not subject to this Act. Every  
14 policy of motor vehicle liability insurance issued to residents  
15 of this State and every motor vehicle liability policy issued to  
16 nonresidents subject to section 2953, subsection 2 in effect on  
17 January 1, 1992 are deemed amended on that date to provide for  
18 the payment of personal injury protection benefits as required by  
19 this chapter.

20  
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22  
23 **STATEMENT OF FACT**

24  
25 This bill establishes no-fault automobile insurance in  
26 Maine. The no-fault insurance system provides coverage for  
27 personal protection, property protection and residual liability.  
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