

39:6A-6

LEGISLATIVE HISTORY CHECKLIST

(Automobile insurance--make Federally-funded benefits to certain military personnel primary under laws)

NJSA 39:6A-6

LAWS 1981

CHAPTER 95

Bill No. A679

Sponsor(s) Bornheimer and others

Date Introduced Jan. 17, 1980

Committee: Assembly Banking and Insurance

Senate Labor, Industry and Professions

Amended during passage Yes  
according to Governor's recommendations

~~No~~ Amendments denoted by asterisks

Date of Passage: Assembly May 1, 1980

Re-enacted 2-9-81

Senate Sept. 29, 1980

Re-enacted 2-26-81

Date of approval March 31, 1981

Following statements are attached if available:

Sponsor statement Yes ~~No~~

Committee Statement: Assembly Yes ~~No~~

Senate Yes ~~No~~

Fiscal Note Yes ~~No~~

Veto Message Yes ~~No~~

Message on signing Yes ~~No~~

Following were printed:

Reports Yes ~~No~~

Hearings Yes ~~No~~

Supreme Court Case mentioned in Assembly Committee statement:

Sanner v. Government Employees Insurance Company,  
150 N.J. Super. 488, affirmed 75 N.J. 460. (1978)

DEPOSITORY COPY  
Do Not Remove From Library

6/22/81

95 81  
3-31-81  
[OFFICIAL COPY REPRINT]  
**ASSEMBLY, No. 679**

**STATE OF NEW JERSEY**

INTRODUCED JANUARY 17, 1980

By Assemblymen BORNHEIMER, ADUDBATO, PATERNITI,  
MAYS, SCHWARTZ, COWAN, T. GALLO, REMINGTON,  
DEVERIN, LESNIAK and KOSCO

Referred to Committee on Banking and Insurance

AN ACT concerning automobile insurance, and amending Section 6  
of P. L. 1972, c. 70.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. Section 6 of P. L. 1972, c. 70 (C. 39:6A-6) is amended to  
2 read as follows:

3 6. Collateral source. The benefits provided in section 4 a., b., c.,  
4 d., and e. and section 10, shall be payable as loss accrues, upon  
5 written notice of such loss and without regard to collateral sources,  
6 except that benefits collectible under workmen's compensation in-  
7 surance, employees temporary disability benefit statutes **[and]**,  
8 medicare provided under Federal law, **\*[or benefits]\*** *\*and bene-*  
9 *fits, in fact collected, that are\* provided under Federal law to active*  
10 *and retired military personnel* shall be deducted from the benefits  
11 collectible under section 4 a., b., c., d., and e. and section 10.

1 2. This act shall take effect immediately.

**EXPLANATION**—Matter enclosed in bold-faced brackets **[thus]** in the above bill  
is not enacted and is intended to be omitted in the law.

ASSEMBLY, No. 679

STATE OF NEW JERSEY

INTRODUCED JANUARY 17, 1980

By Assemblymen BORNHEIMER, ADUDBATO, PATERNITI,  
MAYS, SCHWARTZ, COWAN, T. GALLO, REMINGTON,  
DEVERIN, LESNIAK and KOSCO

Referred to Committee on Banking and Insurance

AN ACT concerning automobile insurance, and amending Section 6  
of P. L. 1972, c. 70.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. Section 6 of P. L. 1972, c. 70 (C. 39:6A-6) is amended to  
2 read as follows:

3 6. Collateral source. The benefits provided in section 4 a., b., c.,  
4 d., and e. and section 10, shall be payable as loss accrues, upon  
5 written notice of such loss and without regard to collateral sources,  
6 except that benefits collectible under workmen's compensation in-  
7 surance, employees temporary disability benefit statutes **[and]**,  
8 medicare provided under Federal law, *or benefits provided under*  
9 *Federal law to active and retired military personnel* shall be de-  
10 ducted from the benefits collectible under section 4 a., b., c., d., and  
11 e. and section 10.

1 2. This act shall take effect immediately.

STATEMENT

Recent court decisions have determined that insurance carriers are not required to pay no-fault benefits to military personnel who are treated in military or veterans hospitals for injuries incurred in auto accidents.

This legislation makes the Federally-provided benefits primary, so that the commissioner may require insurers to reduce personal injury protection premiums in recognition that their obligation is not the same as it is in the case of citizens who are not entitled to such Federally-provided benefits.

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

ASSEMBLY BANKING AND INSURANCE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 679

STATE OF NEW JERSEY

DATED: FEBRUARY 21, 1980

This legislation makes benefits provided by the Federal Government to active and retired military personnel primary under the New Jersey no-fault law (P. L. 1972, c. 67).

A recent Supreme Court decision held that military personnel treated in government hospitals were not entitled to collect personal injury protection benefits under New Jersey's no-fault law, as such benefits were judged not to be "incurred losses" under the terms of the statute.

When a serviceman is injured in an accident in a private passenger vehicle he is often taken directly to a military hospital or transferred to a military hospital as soon as it is practicable to do so. Military hospitals do not bill insurers for the medical care which the serviceman receives at the hospital, although under Federal law they are entitled to subrogate if there is a tortfeasor. This entails an action against the individual responsible for the accident, although this action would be incompatible with the provisions of the New Jersey no-fault system.

Thus, although New Jersey requires military men to maintain no-fault coverage, they are sometimes precluded from collecting the benefits to which they are entitled under the mandatory personal injury protection coverage. In addition to their inability to collect medical benefits, they are often ineligible to collect wage loss benefits under PIP because the services rarely cease paying their regular salaries during the period of disability.

This legislation would treat these individuals in the same way as senior citizens are now treated with respect to Medicare benefits, i.e. the Federally-provided benefits will be primary, and the private insurance secondary. This means that the Commissioner of Insurance may order an appropriate reduction in the PIP premium for these individuals so that the premium paid by the insureds in this category will be commensurate with the benefits actually received.

February 2, 1981

ASSEMBLY BILL NO. 679

To the General Assembly:

Pursuant to Article V, Section 1, Paragraph 14(b) of the Constitution, I herewith return Assembly Bill No. 679 with my objections, for reconsideration.

This bill would amend L. 1972, c. 70, Section 6 (C. 39:6A-6) to include as a deductible collateral source of personal injury protection benefits, those benefits provided under federal law to active and retired military personnel. An insurer deducts certain collateral source benefits from the personal injury protection benefits it would otherwise provide. The bill is intended to allow the Commissioner of Insurance to reduce premiums paid by military personnel.

The bill has one minor flaw that should be corrected. Under current law, the deductible collateral sources need only be "collectible." Thus, for example, whether or not an injured party in fact chooses to collect worker's compensation benefits, the benefits paid by the insurer are reduced by the amount the insured could collect in theory. See *Wagner v. Transamerica Insurance Co.*, 167 N.J. Super. 25, 33 (App. Div. 1979), certif. den. 81 N.J. 60 (1979). However, in some cases it may be inconvenient or undesirable for military personnel to obtain federally provided medical benefits. Consequently, the bill should clearly provide that such federally provided benefits should be deemed a deductible collateral source only in the case in which such benefits are actually collected.

Accordingly, I respectfully recommend the following change in Assembly Bill No. 679:

Line 8, Delete "or benefits" and Insert "and benefits, in fact collected, that are".

Respectfully,

/s/ Brendan Byrne

GOVERNOR

[seal]

Attest:

/s/ Harold L. Hodes

Chief of Staff, Secretary

A-2276, sponsored by Assemblyman William E. Flynn (D-Monmouth), which subjects a person operating a moped while under the influence of alcohol or drugs to the same penalties as apply to motor vehicle drivers.

A-679, sponsored by Assemblyman James W. Bonheimer (D-Middlesex), which amends L. 1972, c. 70, Section 6 N.J.S.A. 39:6A-6 to include as a collateral source of personal injury protection benefits, those benefits provided under federal law to active and retired military personnel.

An insurer deducts certain collateral source benefits from the personal injury protection benefits it would otherwise provide. The bill is intended to allow the Commissioner of Insurance to reduce premiums paid by military personnel.

S-211, sponsored by Senator Matthew Feldman (D-Bergen), which reinstates per-diem compensation to members and officers of various professional boards. Compensation will be set at \$25, or an amount determined by the Attorney General with the approval of the Treasurer. In no event shall compensation exceed \$100 a day, or \$2,500 annually. Money shall be paid pursuant to regulations promulgated by the Attorney General. Though the bill is effective immediately, the Attorney General is granted discretion to award per-diem compensation retroactively for services rendered after May 31, 1980.

Per-diem compensation of professional board members was withdrawn by P. L. 1977, c. 235.

According to S-211, in addition to the membership otherwise prescribed by law, the Governor shall appoint (in the same manner as presently prescribed by law for the appointment of members) additional members to represent the interests of the public, to be known as public members, to each of the following boards and commissions: The New Jersey State Board of Certified Public Accountants, the New Jersey State Board of Architects, the State Board of Barber Examiners, the New Jersey State Board of Dentistry, the