

39:6A-2

LEGISLATIVE HISTORY CHECKLIST

NJSA: 39:6A-2 ("No-fault insurance--amendment)

LAWS OF: 1972

CHAPTER 203

BILL NO: A1471

Sponsor(s): Raymond and others

Date Introduced: November 16, 1972

Committee: Assembly: Insurance

Senate: -----

Amended during passage: No

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Following statements are attached if available:

Sponsor statement: No

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CHAPTER 203 LAWS OF N. J. 1972
APPROVED 12-26-72

ASSEMBLY, No. 1471

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 16, 1972

By Assemblymen RAYMOND, DEVERIN, DICKEY, BORNHEIMER,
FROUDE, KLEIN and PARETI

Referred to Committee on Insurance

AN ACT to amend and supplement "An act concerning automobile accident reparation, providing for compulsory automobile liability insurance coverage and personal injury protection coverage regardless of fault in certain cases," approved June 20, 1972 (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 2 of P. L. 1972, c. 70 (C. 39:6A-2) is amended to read
2 as follows:

3 2. Definitions. As used in this act:

4 a. "Automobile" means a private passenger automobile of a
5 private passenger or station wagon type that is owned or hired
6 **[under a long-term contract]** and is neither used as a public or
7 livery conveyance for passengers nor rented to others **[without]**
8 *with* a driver; and a motor vehicle with a pick-up body, a delivery
9 sedan or a panel truck or a camper type vehicle used for recrea-
10 tional purposes owned by an individual or by husband and wife
11 who are residents of the same household, not customarily used in
12 the occupation, profession or business of the insured other than
13 farming or ranching. An automobile owned by a farm **[or]** family
14 copartnership or corporation which is principally garaged on a
15 farm or ranch and otherwise meets the definitions contained in
16 this section, shall be considered a private passenger automobile
17 owned by two or more relatives resident in the same household.

18 b. "Essential services" means those services performed not for
19 income which are ordinarily performed by an individual for the
20 care and maintenance of such individual's family or family
21 household.

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

22 c. "Income" means salary, wages, tips, commissions, fees and
23 other earnings derived from work or employment.

24 d. "Income producer" means a person, who at the time of the
25 accident causing personal injury or death, was in an occupational
26 status, earning or producing income.

27 e. "Medical expenses" means expenses for medical treatment,
28 surgical treatment, dental treatment, professional nursing services,
29 hospital services, rehabilitation services, X-ray and other diagnostic
30 services, prosthetic devices, ambulance services, medication and
31 other reasonable and necessary expenses resulting from the treat-
32 ment prescribed by persons licensed to practice medicine and
33 surgery pursuant to R. S. 45:9-1 et seq., dentistry pursuant to
34 R. S. 45:6-1 et seq., psychology pursuant to P. L. 1966, c. 282
35 (C. 45:14B-1 et seq.) or chiropractic pursuant to P. L. 1953, c. 233
36 (C. 45:9-41.1 et seq.) *or by persons similarly licensed in other*
37 *states and nations* or any nonmedical remedial treatment rendered
38 in accordance with a recognized religious method of healing.

39 f. "Hospital expenses" means:

40 (1) the cost of a semiprivate room, based on rates customarily
41 charged by the institution in which the recipient of benefits is
42 confined;

43 (2) the cost of board, meals and dietary services;

44 (3) the cost of other hospital services, such as operating room;
45 medicines, drugs, anesthetics, treatments with X-ray, radium and
46 other radioactive substances; laboratory tests, surgical dressings
47 and supplies; and other medical care and treatment rendered by
48 the hospital;

49 (4) the cost of treatment by a physiotherapist;

50 (5) the cost of medical supplies such as prescribed drugs and
51 medicines; blood and blood plasma; artificial limbs and eyes;
52 surgical dressings, casts, splints, trusses, braces, crutches, rental
53 of wheelchair, hospital bed or iron lung; oxygen and rental of equip-
54 ment for its administration.

55 g. "Named insured" means the person or persons identified as
56 the insured in the policy *and, if an individual, his or her spouse.*

57 h. "Pedestrian" means any person who is not [an occupant of
58 a motor vehicle as the term is defined in R. S. 39:1-1 and includes
59 any person who is entering into or alighting from a motor vehicle]
60 *occupying a vehicle propelled by other than muscular power and*
61 *designed primarily for use on highways, rails and tracks and in-*
62 *cludes any person who is entering into or alighting from such a*
63 *vehicle.*

1 2. Section 3 of P. L. 1972, c. 70 (C. 39:6A-3) is amended to read
2 as follows:

3 3. Compulsory automobile insurance coverage; limits. Every
4 owner or registered owner of an automobile registered or princi-
5 pally garaged in this State shall maintain automobile liability in-
6 surance coverage, under provisions approved by the Commissioner
7 of Insurance, insuring against loss resulting from liability imposed
8 by law for bodily injury, death and property damage sustained by
9 any person arising out of the ownership, maintenance, operation
10 or use of an automobile wherein such coverage shall be at least in:

11 a. an amount or limit of \$15,000.00, exclusive of interest and
12 costs, on account of injury to, or death of, one person, in any one
13 accident; and

14 b. an amount or limit, subject to such limit for any one person
15 so injured or killed, of \$30,000.00, exclusive of interest and costs,
16 on account of injury to or death of, more than one person, in any
17 one accident; and

18 c. an amount or limit of \$5,000.00, exclusive of interest and costs,
19 for damage to property in any one accident.

20 No licensed insurance carrier shall [cancel or] refuse to renew
21 the required coverage stipulated by this act without the consent of
22 the Commissioner of Insurance.

1 3. Section 4 of P. L. 1972, c. 70 (C. 39:6A-4) is amended to read
2 as follows:

3 4. Personal injury protection coverage, regardless of fault.
4 Every automobile liability insurance policy insuring an auto-
5 mobile as defined in this act against loss resulting from liability
6 imposed by law for bodily injury, death and property damage
7 sustained by any person arising out of ownership, operation, main-
8 tenance or use of an automobile shall provide additional coverage,
9 as defined herein below, under provisions approved by the Com-
10 missioner of Insurance, for the payment of benefits without regard
11 to negligence, liability or fault of any kind, to the named insured
12 and members of his family residing in his household who sustained
13 bodily injury as a result of an [automobile] accident *involving*
14 *an automobile*, to other persons sustaining bodily injury while
15 occupying the automobile of the named insured or while using such
16 automobile with the permission of the named insured and to
17 pedestrians, sustaining bodily injury caused by the named insured's
18 automobile or struck by an object propelled by or from such auto-
19 mobile. "Additional coverage" means and includes:

20 a. Medical expense benefits. Payment of all reasonable medical
21 expenses incurred as a result of personal injury sustained in an
22 automobile accident. *In the event of death, payment shall be made*
23 *to the estate of the decedent.*

24 b. Income continuation benefits. The payment of the loss of
25 income of an income producer as a result of bodily injury disability,
26 subject to a maximum weekly payment of \$100.00, per week. Such
27 sums shall be payable during the life of the injured person and
28 shall be subject to an amount or limit of \$5,200.00, on account of
29 injury to any one person, in any one accident.

30 c. Essential services benefits. Payment of essential services
31 benefits to an injured person [other than an income producer]
32 shall be made in reimbursement of necessary and reasonable ex-
33 penses incurred for such substitute essential services ordinarily
34 performed by the injured person for [the injured person] *himself,*
35 *his family and members of the family residing in the household,*
36 *subject to an amount or limit of \$12.00 per day. Such benefits*
37 *shall be payable during the life of the injured person and shall*
38 *be subject to an amount or limit of \$4,380.00, on account of injury*
39 *to any one person in any one accident.*

40 d. Survivor benefits. [In the event of the death of an income
41 producer or one performing essential services as a result of in-
42 juries sustained in an automobile accident, the benefits that would
43 have been paid to the injured person but for his death under sec-
44 tion 4 a., b., and c., shall be paid to the surviving spouse dependent
45 upon the deceased for such income or essential services, or in the
46 event there is no dependent surviving spouse, then to the surviving
47 children dependent upon the deceased for such income or essential
48 services.] *In the event of the death of an income producer as a*
49 *result of injuries sustained in an accident entitling such person to*
50 *benefits under section 4 of this act, the maximum amount of bene-*
51 *fits which could have been paid to the income producer, but for his*
52 *death, under section 4 b. shall be paid to the surviving spouse, or in*
53 *the event there is no surviving spouse, then to the surviving*
54 *children, and in the event there are no surviving spouse or surviving*
55 *children, then to the estate of the income producer.*

56 *In the event of the death of one performing essential services as*
57 *a result of injuries sustained in an accident entitling such person*
58 *to benefits under section 4 c. of this act, the maximum amount of*
59 *benefits which could have been paid such person, under section 4 c.,*
60 *shall be paid to the person incurring the expense of providing such*
61 *essential services.*

62 e. Funeral expenses benefits. **[Payment of all]** *All* reasonable
63 funeral, burial and cremation expenses, subject to a maximum
64 benefit of \$1,000.00, on account of the death to any one person in any
65 one accident *shall be payable to decedent's estate.*

1 4. Section 6 of P. L. 1972, c. 70 (C. 39:6A-6) is amended to read
2 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 medi-
8 care provided under Federal law, shall be deducted from the bene-
9 fits collectible under section 4 a., b., c., d., and e. *and section 10.*

1 5. Section 7 of P. L. 1972, c. 70 (C. 39:6A-7) is amended to read
2 as follows:

3 7. Exclusions. Insurers may exclude a person from benefits
4 under section 4 a., b., c., d., and e. *and section 10* where such person's
5 conduct contributed to his personal injuries or death occurred in
6 any of the following ways:

7 a. while committing a high misdemeanor or felony or seeking to
8 avoid **[unlawful]** *lawful* apprehension or arrest by a police officer;
9 or

10 b. while acting with specific intent of causing injury or damage
11 to himself or others.

1 6. Section 8 of P. L. 1972, c. 70 (C. 39:6A-8) is amended to read
2 as follows:

3 8. Tort exemption; limitation on the right to damages. Every
4 owner, registrant, operator or occupant of an automobile to which
5 section 4, personal injury protection coverage, regardless of fault,
6 applies, and every person or organization legally responsible for
7 his acts or omissions, is hereby exempted from tort liability for
8 damages *to any person who is required to maintain the coverage*
9 *mandated by this act, or to any person who has a right to receive*
10 *benefits under section 4 of this act as a result of bodily injury,*
11 *arising out of the ownership, operation, maintenance or use of such*
12 *automobile in this State, if the bodily injury, is confined solely to*
13 *the soft tissue of the body and the medical expenses incurred or to*
14 *be incurred by such injured person or the equivalent value thereof*
15 *for the reasonable and necessary treatment of such bodily injury,*
16 *is less than \$200.00, exclusive of hospital expenses, X-rays and*
17 *other diagnostic medical expenses. There shall be no exemption*
18 *from tort liability if the injured party has sustained death, perma-*

19 nent disability, permanent significant disfigurement, permanent
20 loss of any bodily function or loss of a body member in whole or in
21 part, regardless of the right of any person to receive benefits under
22 section 4 of this act. Bodily injury confined solely to the soft tissue,
23 for the purpose of this section means, injury in the form of sprains,
24 strains, contusions, lacerations, bruises, hematomas, cuts, abrasions,
25 scrapes, scratches, and tears confined to the muscles, tendons,
26 ligaments, cartilages, nerves, fibers, veins, arteries and skin of the
27 human body.

1 7. Section 9 of P. L. 1972, c. 70 (C. 39:6A-9) is amended to read
2 as follows:

3 9. Subrogation. Any insurer paying benefits in accordance with
4 the provisions of section 4 *and section 10*, personal injury protec-
5 tion coverage, regardless of fault, shall be subrogated to the rights
6 of any party to whom it makes such payments, to the extent of such
7 payments. Such subrogated insurer may only by intercompany
8 arbitration or by intercompany agreement exercise its subrogation
9 rights against only the insurer of any person liable for such
10 damages in tort *provided, however, that such insurer may exercise*
11 *its subrogation rights directly against any person required to have*
12 *in effect the coverage required by this act and who failed to have*
13 *such coverage in effect at the time of the accident.* The exemption
14 from tort liability provided in section 8 does not apply to the in-
15 surers' subrogation rights. On and after 2 years from the effective
16 date of this act the provisions of this section shall be inoperative.

1 8. Section 10 of P. L. 1972, c. 70 (C. 39:6A-10) is amended to
2 read as follows:

3 10. Additional personal injury protection coverage. Insurers
4 shall make available to the named insured covered under section 4,
5 suitable additional first-party coverage for income continuation
6 benefits, essential services benefits, survivor benefits and funeral
7 expense benefits. Income continuation in excess of that provided
8 for in section 4 must be provided as an option by insurers to per-
9 sons for disabilities, as long as the disability persists, [but not
10 beyond age 65,] up to an income level of \$35,000.00 per year, with
11 the excess between \$5,200.00 and the amount of coverage contracted
12 for to be written on the basis of 75% of said difference. The Com-
13 missioner of Insurance is hereby authorized and empowered to
14 establish, by rule or regulations, the amounts and terms of income
15 continuation insurance to be provided pursuant to this section.

1 9. The Commissioner of Insurance is hereby authorized and em-
2 powered to prescribe, adopt, promulgate, rescind and enforce such

3 reasonable rules and regulations as may be required to effectuate
4 the purposes of this act.

1 10. For the purpose of implementing and enforcing this act, the
2 Commissioner of Insurance shall possess all of those general
3 powers as enumerated in Title 17 of the Revised Statutes.

1 11. a. Every action for the payment of benefits set forth in
2 sections 4 and 10 of this act, except an action by a decedent's estate,
3 shall be commenced not later than 2 years after the injured person
4 or survivor suffers a loss or incurs an expense and either knows
5 or in the exercise of reasonable diligence should know that the loss
6 or expense was caused by the accident, or not later than 4 years
7 after the accident whichever is earlier, provided, however, that if
8 benefits have been paid before then an action for further benefits
9 may be commenced not later than 2 years after the last payment of
10 benefits.

11 b. Every action by a decedent's estate for the payment of bene-
12 fits set forth in sections 4 and 10 of this act shall be commenced not
13 later than 2 years after death or 4 years after the accident from
14 which death results, whichever is earlier, provided, however, that
15 if benefits had been paid to the decedent prior to his death then an
16 action may be commenced not later than 2 years after his death or
17 4 years after the last payment of benefits, whichever is earlier,
18 provided, further, that if the decedent's estate has received benefits
19 before then an action for further benefits shall be commenced not
20 later than 2 years from the last payment of benefits.

1 12. This act shall take effect immediately.

DECEMBER 1971

Governor William T. Cahill signed into law today seven bills to supplement provisions of the new no-fault automobile insurance which goes into effect in New Jersey on January 1st. The Governor, who actively supported the no-fault package of legislation from its inception, commended the members of the Automobile Insurance Study Commission, Commissioner of Insurance Richard C. McDonough and the Legislature for their cooperation in passing this most important legislation.

The principal bill, ^{A1071} sponsored by Assemblyman Eugene Raymond (R., Camden), amends the No-Fault Act to clarify certain questions that arose since its passage. The bill changes make it clear that medically indigent individuals who receive free or low cost medical care may include reasonable value of those services in calculating the \$200 "threshold" amount to determine if they have the right to sue for damages. They broaden the personal injury protection benefits provided. They make it clear that camper-type vehicles are covered by no-fault insurance, and allow senior citizens to receive "income producer" benefits beyond age 65 under certain circumstances if they are injured in an automobile accident.

In addition, the bill gives the Commissioner of Insurance the necessary power to promulgate rules and regulations to implement and enforce the act and sets up a time limit during which individuals must claim personal injury protection benefits.

Bill A-802, also sponsored by Assemblyman Raymond, makes motor vehicle liability insurance coverage compulsory. Under this bill, any individual convicted of operating a motor vehicle in New Jersey without the minimum coverage can be punished by the courts as a disorderly person.

Another Raymond-sponsored measure, A-1007, requires all operators of motor vehicles in this State to carry an insurance identification card which demonstrates they have the required insurance coverage.

Two of the other bills amend the Unsatisfied Claim and Judgment Fund and the Security Responsibility Laws to coincide with the concept of No-Fault insurance. Bill A-803, sponsored by Assemblyman Thomas Deverin (D., Middlesex), provided that pedestrians injured by an uninsured driver, who should have no-fault insurance coverage but does not, will be able to collect no-fault benefits from the Unsatisfied Claim and Judgment Fund.

Under Bill A-804, sponsored by Assemblyman Raymond, the amounts of security which an uninsured individual involved in an accident must post with the Division of Motor Vehicles has been increased to coincide with the minimum limits of insurance coverage which an individual is now required to have in effect in order to operate a motor vehicle in New Jersey.

The other two of the seven bills were sponsored by Assemblyman Philip Kaltenbacher (R., Essex). A-1475 allows the Director of the Division of Motor Vehicles to control information supplied by insurance companies with respect to cancellation and non-renewal of automobile insurance policies. A-1477 requires insurance companies to supply information on the termination of motor vehicle insurance or the issuance or renewal of insurance as required by the Director of Motor Vehicles.

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