

17:28-1.5

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(Medical expense-
-benefits)

LAWS OF: 1991

CHAPTER: 154

Bill No: A3325

Sponsor(s): Doria & others

Date Introduced: April 23, 1990

Committee: Assembly: Insurance

Senate: Labor

Amended during passage: Yes Amendments during passage
denoted by asterisks.

Date of Passage: Assembly: January 31, 1991

Senate: March 25, 1991

Date of Approval: June 7, 1991

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: No

Following were printed:

Reports: No

Hearings: No

Report mentioned in statements -- not available as of 9-1-91

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STATE OF NEW JERSEY

INTRODUCED APRIL 23, 1990

By Assemblymen DORIA, PASCRELL, Kronick,
Kenny and Marsella

1 AN ACT establishing certain medical expense benefits coverage
2 and a tort threshold for certain noneconomic loss for
3 passengers injured on certain motor buses and ²amending
4 P.L.1988, c.119 and² supplementing chapter 28 of Title 17 of
5 the Revised Statutes.
6

7 BE IT ENACTED by the Senate and General Assembly of the
8 State of New Jersey:

9 1. As used in this act:

10 "Commissioner" means the Commissioner of Insurance.

11 "Hospital expenses" means:

12 a. The cost of a semiprivate room, based on rates customarily
13 charged by the institution in which the recipient of benefits is
14 confined;

15 b. The cost of board, meals and dietary services;

16 c. The cost of other hospital services, such as operating room;
17 medicines, drugs, anesthetics; treatments with X-ray, radium and
18 other radioactive substances; laboratory tests, surgical dressings
19 and supplies; and other medical care and treatment rendered by
20 the hospital;

21 d. The cost of treatment by a physiotherapist;

22 e. The cost of medical supplies, such as prescribed drugs and
23 medicines; blood and blood plasma; artificial limbs and eyes;
24 surgical dressings, casts, splints, trusses, braces, crutches; rental
25 of wheelchair, hospital bed or iron lung; oxygen and rental of
26 equipment for its administration.

27 "Medical expenses" means expenses for medical treatment,
28 surgical treatment, dental treatment, professional nursing
29 services, hospital expenses, rehabilitation services, X-ray and
30 other diagnostic services, prosthetic devices, ambulance services,
31 medication and other reasonable and necessary expenses resulting
32 from the treatment prescribed by persons licensed to practice
33 medicine and surgery pursuant to R.S.45:9-1 et seq., dentistry
34 pursuant to R.S.45:6-1 et seq., psychology pursuant to P.L.1966,
35 c.282 (C.45:14B-1 et seq.) or chiropractic pursuant to P.L.1953,
36 c.233 (C.45:9-41.4 et seq.) or by persons similarly licensed in
37 other states and nations or any nonmedical remedial treatment
38 rendered in accordance with a recognized religious method of
39 healing.

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AIN committee amendments adopted January 10, 1991.

² Senate SLI committee amendments adopted March 11, 1991.

1 "Motor bus" means an omnibus, as defined in R.S.39:1-1,
2²[which operates between fixed termini and on a regular
3 schedule,]² except that "motor bus" shall not include:

4 a. Vehicles engaged in the transportation of passengers for
5 hire in the manner and form commonly called taxicab service
6 unless such service becomes or is held out to be regular service
7 between stated termini;

8 b. Hotel buses used exclusively for the transportation of hotel
9 patrons to or from local railroad or other common carrier
10 stations including local airports;

11 c. Buses operated for the transportation of enrolled children
12 and adults only when serving as chaperones to or from a school,
13 school connected activity, day camp, summer day camp, nursery
14 school, child care center, pre-school center or other similar
15 places of education, including "School Vehicle Type I" and
16 "School Vehicle Type II" as defined in R.S.39:1-1;

17 d. Any autobus with a carrying capacity of not more than 13
18 passengers operated under municipal consent upon a route
19 established wholly within the limits of a single municipality or
20 with a carrying capacity of not more than 20 passengers operated
21 under municipal consent upon a route established wholly within
22 the limits of not more than four contiguous municipalities within
23 any county of the fifth or sixth class, which route in either case
24 does not in whole or in part parallel upon the same street the line
25 of any street railway or traction railway or any other autobus
26 route;

27 e. Autocabs, limousines or livery services as defined in
28 R.S.48:16-13, unless such service becomes or is held out to be
29 regular service between stated termini;

30 f. Any vehicle used in a "ridesharing" arrangement, as defined
31 by the "New Jersey Ridesharing Act of 1981," P.L.1981, c.413
32 (C.27:26-1 et al); or

33 g. Any motor bus owned and operated by the New Jersey
34 Transit Corporation.

35 "Noneconomic loss" means pain, suffering and inconvenience.

36 "Passenger" means any person occupying, entering into or
37 alighting from a motor bus, except employees of the owner or
38 operator of the motor bus while they are on duty.

39 2. a. Every owner ²[or],² registered owner ²or operator² of a
40 motor bus registered or principally garaged in this State shall
41 maintain medical expense benefits coverage, under provisions
42 approved by the commissioner, for the payment of benefits
43 without regard to negligence, liability or fault of any kind, to any
44 passenger who sustained bodily injury as a result of an accident
45 while occupying, entering into or alighting from a motor bus.

46 b. Medical expense benefits coverage shall include the
47 payment of reasonable medical expenses in an amount not to
48 exceed \$250,000 per person per accident. In event of death,

1 payments shall be made to the estate of the decedent.

2 3. Every owner, registrant or operator of a motor bus
3 registered or principally garaged in this State and every person or
4 organization legally responsible for his acts or omissions, is
5 hereby exempted from tort liability for noneconomic loss to a
6 passenger who has a right to receive benefits under section 2 of
7 this act as a result of bodily injury arising out of the ownership,
8 operation, maintenance or use of a motor ¹[vehicle] bus¹ in this
9 State, unless that person has sustained a personal injury which
10 results in death; dismemberment; significant disfigurement; a
11 fracture; loss of a fetus; permanent loss of use of a body organ,
12 member, function or system; permanent consequential limitation
13 of use of a body organ or member; significant limitation of use of
14 a body function or system; or a medically determined injury or
15 impairment of a non-permanent nature which prevents the
16 injured person from performing substantially all of the material
17 acts which constitute that person's usual and customary daily
18 activities for not less than 90 days during the 180 days
19 immediately following the occurrence of the injury or impairment.

20 4. Evidence of the amounts collectible or paid to an injured
21 passenger pursuant to section 2 of this act is inadmissible in a
22 civil action against an owner, registrant or operator of a motor
23 bus for recovery of damages for bodily injury by such injured
24 passenger.

25 The court shall instruct the jury that, in arriving at a verdict as
26 to the amount of the damages for noneconomic loss to be
27 recovered by the injured passenger, the jury shall not speculate as
28 to the amount of the medical expense benefits paid or payable
29 under section 2 to the injured passenger.

30 Nothing in this section shall be construed to limit the right of
31 recovery, against the tortfeasor, of uncompensated economic loss
32 sustained by the injured passenger.

33 ¹5. The Commissioner of Insurance shall conduct an analysis of
34 the impact of enactment of this act on the liability insurance
35 market for motor buses subject to this act including, but not
36 limited to, the availability of, and the rates and premiums for,
37 that insurance, during the first twelve months after the effective
38 date of this act. Within 120 after the close of that twelve month
39 period, the commissioner shall report the results of that analysis
40 to the Legislature and to the Chairmen of the Senate Labor,
41 Industry and Professions Committee and the Assembly Insurance
42 Committee, or their successor committees.¹

43 ²6. Section 10 of P.L.1988, c.119 (C.39:6A-4.6) is amended to
44 read as follows:

45 10. The Commissioner of Insurance shall, within 90 days after
46 the effective date of P.L.1990, c.8 (C.17:33B-1 et al.),
47 promulgate medical fee schedules on a regional basis for the
48 reimbursement of health care providers providing services or

1 equipment for medical expense benefits for which payment is to
2 be made by an automobile insurer under personal injury
3 protection coverage pursuant to P.L.1972, c.70 (C.39:6A-1 et
4 seq.), or by an insurer under medical expense benefits coverage
5 pursuant to section 2 of P.L. , c. (C.)(now pending
6 before the Legislature as this bill). These fee schedules shall be
7 promulgated on the basis of the type of service provided, and
8 shall incorporate the reasonable and prevailing fees of 75% of the
9 practitioners within the region. If, in the case of a specialist
10 provider, there are fewer than 50 specialists within a region, the
11 fee schedule shall incorporate the reasonable and prevailing fees
12 of the specialist providers on a Statewide basis. These schedules
13 shall be reviewed biannually by the commissioner.

14 No health care provider may demand or request any payment
15 from any person in excess of those permitted by the medical fee
16 schedules established pursuant to this section, nor shall any
17 person be liable to any health care provider for any amount of
18 money which results from the charging of fees in excess of those
19 permitted by the medical fee schedules established pursuant to
20 this section.²

21 (cf: P.L.1990, c.8, s.7)

22 ¹[5.] ²[6.1] ^{7.}² This act shall take effect on the ²[30th] ^{120th}²
23 day following enactment.

24

25

26

INSURANCE

27

28 Requires \$250,000 medical expense benefits coverage for motor
29 bus passengers and provides a verbal tort threshold for certain
30 pain and suffering suits.

1 hereby exempted from tort liability for noneconomic loss to a
 2 passenger who has a right to receive benefits under section 2 of
 3 this act as a result of bodily injury arising out of the ownership,
 4 operation, maintenance or use of a motor vehicle in this State,
 5 unless that person has sustained a personal injury which results in
 6 death; dismemberment; significant disfigurement; a fracture; loss
 7 of a fetus; permanent loss of use of a body organ, member,
 8 function or system; permanent consequential limitation of use of
 9 a body organ or member; significant limitation of use of a body
 10 function or system; or a medically determined injury or
 11 impairment of a non-permanent nature which prevents the
 12 injured person from performing substantially all of the material
 13 acts which constitute that person's usual and customary daily
 14 activities for not less than 90 days during the 180 days
 15 immediately following the occurrence of the injury or impairment.

16 4. Evidence of the amounts collectible or paid to an injured
 17 passenger pursuant to section 2 of this act is inadmissible in a
 18 civil action against an owner, registrant or operator of a motor
 19 bus for recovery of damages for bodily injury by such injured
 20 passenger.

21 The court shall instruct the jury that, in arriving at a verdict as
 22 to the amount of the damages for noneconomic loss to be
 23 recovered by the injured passenger, the jury shall not speculate as
 24 to the amount of the medical expense benefits paid or payable
 25 under section 2 to the injured passenger.

26 Nothing in this section shall be construed to limit the right of
 27 recovery, against the tortfeasor, of uncompensated economic loss
 28 sustained by the injured passenger.

29 5. This act shall take effect on the 30th day following
 30 enactment.

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 33

Sponsor STATEMENT

34
 35 Many of the motor bus carriers in this State are facing
 36 increasing insurance premiums because of the escalation of suits
 37 filed by their passengers for minor injuries. These increases in
 38 premiums are high enough in some urban areas to threaten the
 39 existence of this necessary form of public transportation. This
 40 bill address these concerns in a constructive and equitable
 41 manner.

42 This bill requires that the owners and operators of motor buses
 43 must provide \$250,000 medical expense benefit coverage on a
 44 no-fault basis for any passenger injured as a result of an accident
 45 while occupying, entering into or alighting from a motor bus. In
 46 return for that coverage, an injured passenger would be subject to
 47 a verbal threshold in any suit the passenger may file for
 48 noneconomic loss against the owner or operator of the motor bus.

INSURANCE

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Requires \$250,000 medical expense benefits coverage for motor bus passengers and provides a verbal tort threshold for certain pain and suffering suits.

ASSEMBLY INSURANCE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3325

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 10, 1991

The Assembly Insurance Committee reports favorably and with committee amendments Assembly Bill No. 3325.

This bill requires that owners and operators of private commercial motor buses must provide \$250,000 medical expense benefit coverage on a no-fault basis for any passenger injured as a result of an accident while occupying, entering into or alighting from a motor bus. In return for that coverage, an injured passenger would be subject to a "verbal threshold" in any suit the passenger may file for noneconomic loss against the owner or operator of the bus.

COMMITTEE AMENDMENTS

The committee amended the bill to require the Commissioner of Insurance to conduct an analysis of the impact of the enactment of the bill on the liability insurance market for motor buses subject to its provisions during the first twelve months the bill is in effect and to report the results of that analysis to the Legislature and to the Chairmen of the Senate Labor, Industry and Professions Committee and the Assembly Insurance Committee, or their successor committees, within 120 days after the close of that twelve month period. The analysis shall include, but not be limited to, a study of the availability of, and the rates and premiums for, that insurance. A technical amendment was also made to change one reference in the bill from "motor vehicle" to "motor bus."

SENATE LABOR, INDUSTRY AND PROFESSIONS COMMITTEE

STATEMENT TO

[FIRST REPRINT]

ASSEMBLY, No. 3325

with Senate committee amendments

STATE OF NEW JERSEY

DATED: MARCH 11, 1991

The Senate Labor, Industry and Professions Committee reports favorably and with committee amendments Assembly, No. 3325 (1R).

This bill, as amended, requires that owners or operators of private, commercial motor buses which operate regular route, casino, charter or special bus service must provide \$250,000 medical expense benefits coverage on a no-fault basis for any passenger injured as a result of an accident while occupying, entering into or alighting from a motor bus. In return for that coverage, an injured passenger would be subject to a "verbal threshold" in any suit the passenger may file for noneconomic loss (pain, suffering and inconvenience) against the owner or operator of the bus. The committee amendments provide that the medical fee schedules currently in effect for medical expense benefits paid by private passenger automobile insurers would apply to the medical expense benefits provided for motor bus passengers under this bill.

The amount of medical expense benefits collectible or paid to an injured passenger would be inadmissible in any action against an owner or operator of a motor bus for damages by that passenger. An injured passenger would have the right to sue for uncompensated economic loss without regard to the verbal threshold.

The Commissioner of Insurance is required to conduct an analysis of the impact of the enactment of the bill on the liability insurance market for motor buses subject to its provisions during the first 12 months the bill is in effect and to report the results of that analysis to the Legislature and to the Chairmen of the Senate Labor, Industry and Professions Committee and the Assembly Insurance Committee, or their successor committees, within 120 days after the close of that 12-month period. The analysis shall include, but is not limited to, a study of the availability of, and the rates and premiums for, that insurance.

The bill was also amended to take effect on the 120th day after enactment instead of the 30th day.