

HOUSE No. 2609

By Mr. Donohue of Woburn, petition of David Elfman for legislation to provide that certain claims under policies insuring motor vehicles against physical damages shall not be subject to mandatory arbitration. Insurance.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Sixty-Four.

AN ACT PROVIDING THAT CERTAIN CLAIMS UNDER POLICIES INSURING MOTOR VEHICLES AGAINST PHYSICAL DAMAGES SHALL NOT BE SUBJECT TO MANDATORY ARBITRATION.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 175 of the General Laws is hereby amended by strik-
2 ing out section 191A, as most recently amended by section 1 of
3 chapter 92 of the acts of 1961, and inserting in place thereof the
4 following section:—

5 *Section 191A.* No company shall issue a policy or contract
6 which insures against physical damage to a motor vehicle of the
7 insured unless said policy contains in substance the following
8 provision:—

9 If the named insured and the company fail to agree as to the
10 amount of loss, each shall, on the written demand of either,
11 made within sixty days after receipt of proof of loss by the com-
12 pany, select a competent and disinterested appraiser, and the
13 appraisal shall be made at a reasonable time and place. The
14 appraisers shall first select a competent and disinterested um-
15 pire, and failing for fifteen days to agree upon such umpire,
16 then, on the request of the named insured or the company, such
17 umpire shall be selected by a judge of a court of record in the
18 county and state in which such appraisal is pending. The ap-
19 praisers shall then appraise the loss, stating separately the
20 actual cash value at the time of loss and the amount of loss, and

21 failing to agree shall submit their differences to the umpire. An
22 award in writing of any two shall determine the amount of loss.
23 The named insured and the company shall each pay his or its
24 chosen appraiser and shall bear equally the other expenses of the
25 appraisal and umpire.

26 If it should appear from the statement in writing, signed and
27 sworn to by the insured and rendered to the company, setting
28 forth that the actual loss or damage is less than two thousand
29 dollars, then in such event, reference to arbitration as aforesaid
30 shall not be mandatory; and failure of the parties or either of
31 them to refer the amount of such loss to said referees shall not
32 be a bar or preclude any right of action in law or equity to re-
33 cover for such loss.

34 The company shall not be held to have waived any of its
35 rights by any act relating to appraisal.