

By Mrs. Paulsen of Belmont, petition of Anne M. Paulsen, Kay Khan, Benjamin Swan, David C. Bunker, Jr., and another for legislation to further regulate certain claims under the motor vehicle insurance laws. Insurance.

The Commonwealth of Massachusetts

In the Year Two Thousand and One.

AN ACT TO DISCOURAGE UNINSURED MOTORISTS BY LIMITING THEIR BODILY INJURY LIABILITY COMPENSATION.

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

1 SECTION 1. Purpose of this act:

2 The purpose of this act is to limit the damages recoverable by  
3 an uninsured motorist to actual economic losses only, in an effort  
4 to provide greater inducement for motorists to meet the statutory  
5 requirements for compulsory insurance coverage.

6 It is estimated that between 10 and 12 percent of Massachusetts  
7 motorists operate without obtaining such insurance coverage, with  
8 the percentage approaching 30 percent in the higher-rated urban  
9 territories such as Boston. These uninsured motorists contribute to  
10 the costs of the insurance system without accepting their fair share  
11 of its costs, and at the expense of law-abiding motorists.

12 For example, in the event of an accident between an insured  
13 motorist and an uninsured motorist for which the uninsured  
14 motorist is found to be at fault, the bodily injury costs of the  
15 insured motorist are borne by the insured motorist's company  
16 through the insured motorist's Uninsured Motorist Coverage. In  
17 the event of such an accident in which the insured motorist is  
18 found to be at fault, the bodily injury costs of the uninsured  
19 motorist are borne by the insured motorist's company through the  
20 insured motorist's liability coverage. In either circumstance, the  
21 insured motorist's company bears the cost of the accident regard-  
22 less of the determination of fault. Thus the actions of uninsured  
23 motorists contribute to higher costs for insured motorists.

24 This bill seeks therefore to at least partially redress this situa-  
25 tion by prohibiting the uninsured motorist from collecting for any  
26 more than his/her actual damages, in order to encourage uninsured  
27 motorists to meet the requirements and responsibilities of driving.

28 However, it is understood that a major reason for the lack of  
29 compliance with the requirements for compulsory insurance is the  
30 high cost of such insurance, especially for motorists in high-rated  
31 territories. A just society has every right to ask that its citizens  
32 abide by certain requirements in order to promote the public good;  
33 a truly just society will also seek to provide means for its citizens  
34 to meet those requirements. Consequently, the provisions of this  
35 act are to be effective only if measures are taken to significantly  
36 reduce the cost of such motor vehicle insurance, especially in the  
37 high-rated territories.

1 SECTION 2. Section 6D of Chapter 231 of the General Laws,  
2 as appearing in the 1998 Official Edition, is hereby amended by  
3 adding at the end of the current section the following sentences:—  
4 In any action of tort brought as a result of bodily injury, sickness  
5 or disease, arising out of the ownership, operation, maintenance or  
6 use of a motor vehicle within this commonwealth by the defen-  
7 dant, any plaintiff who is under obligation to meet the require-  
8 ments of sections thirty-four A and thirty-four M of chapter ninety  
9 and who, at the time of the incident giving rise to such injury,  
10 sickness or disease, was not satisfying those requirements, may  
11 recover damages only for the reasonable and necessary expenses  
12 incurred in treating such injury, sickness or disease for necessary  
13 medical, surgical, x-ray and dental services, including prosthetic  
14 devices and necessary ambulance, hospital, professional nursing  
15 and funeral expenses, and may not recover damages for pain and  
16 suffering, including mental suffering associated with such injury,  
17 sickness or disease. Reasonable attorney fees are to be determined  
18 by a court of appropriate jurisdiction, not to exceed fifty (50) per-  
19 cent of the amount of the recovered damages.

20  
21 SECTION 3. This act shall take effect six (6) months from the  
22 date of its enactment, or on January first of the year two thousand  
23 and two, whichever date is later, but only if measures are taken,  
24 such as the passage of strong choice/no-fault legislation, that in

25 the judgment of the Commissioner of Insurance have, or will have  
26 by the effective date of this act, the effect of reducing the costs of  
27 the minimum compulsory bodily injury insurance in the high-  
28 rated territories by a minimum of thirty (30) percent.

