

By Ms. Melconian, a petition (accompanied by bill, Senate, No. 1524) of Linda J. Melconian for legislation relative to comprehensive automobile insurance reform. Insurance.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Eight.

AN ACT RELATIVE TO COMPREHENSIVE AUTOMOBILE INSURANCE REFORM.

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. Chapter 6 of the General Laws, as appearing in
2 the 1986 Official Edition, is hereby amended by inserting after
3 section 183 the following section:

4 Section 183A. There shall be a Massachusetts cost contain-
5 ment council, hereinafter called the council. The council shall
6 consist of the secretary of consumer affairs, who shall serve as
7 chairman, the commissioner of insurance, the secretary of public
8 safety, the registrar of motor vehicles, the commissioner of the
9 state police, the secretary of transportation and construction and
10 the commissioner of public works, or their designees. The council
11 shall annually formulate and administer a plan that, at a
12 minimum, shall have a material impact on private passenger
13 motor vehicle insurance premium charges. Such plan shall include
14 performance standards for reductions in, among other motor
15 vehicle insurance cost factors, motor vehicle thefts, motor vehicle
16 arson, motor vehicle accident frequency and severity, and
17 uninsured motorists.

18 The council shall annually notify the general court by filing a
19 report with the clerk of the senate who shall forward such report
20 to the senate and house committees on ways and means and the
21 joint committee on insurance of the reductions in motor vehicle
22 cost factors realized by the programs set forth in the plan; said
23 report shall be filed as of January first, nineteen hundred and
24 eighty-nine, and annually as of January first thereafter.

1 SECTION 2. 8G of chapter 26 of the General Laws is hereby
2 amended in the fifth paragraph by adding to the end thereof the
3 following: —

4 The commissioner of insurance shall have the authority to
5 review and approve rules and regulations adopted by the board.
6 Such regulations will be deemed approved unless disapproved
7 within 30 days of submission to the commissioner. The
8 commissioner shall periodically review the rules and regulations
9 of the board and may after such review disapprove any rule or
10 regulation of the board. Any disapproval by the commissioner
11 shall be in writing setting forth the reasons for such disapproval.
12 Any rule or regulation disapproved hereunder shall be null and
13 void.

14 The Commissioner shall promulgate regulations under this
15 chapter which will encourage insureds to seek the best possible
16 price for the repair of their motor vehicle when the cost of such
17 repair will be covered under either the property damage, collision,
18 limited collision or comprehensive portions of their policy. To this
19 end, the commissioner shall provide in the regulations that to the
20 extent the insured obtains any reduction in the cost of the repair
21 which is less than the appraised value of the repair as established
22 by the insurance company, the amount of the reduction shall be
23 evenly divided between the insured and the company.

1 SECTION 3. Chapter 26 of the General Laws, as appearing in
2 the 1986 Official Edition, is hereby amended by inserting after
3 Section 8G the following section: —

4 Section 8G½. No person, firm, corporation, or partnership
5 shall engage in or work at the business of repairing collision
6 damage to motor vehicles unless such person has obtained a
7 certificate of registration from the auto damage appraiser
8 licensing board, as established by Section eight G.

9 Any such person, firm, corporation, or partnership desiring to
10 be registered as an automobile collision repair facility shall make
11 written application under oath to the Board upon a form furnished
12 by the Board. Said application shall set forth the name and address
13 of the applicant and of any other person having a financial interest
14 direct or indirect, in the business to be conducted by the applicant,
15 and such other information as the Board shall require.

16 Such application shall be accompanied by a registration fee in
17 the amount of fifty dollars or such other amount as the secretary
18 of administration and finance, pursuant to the provisions of
19 section three B of Chapter seven shall establish.

20 Each certificate of registration issued by the Board shall bear
21 a number, shall be valid for one year from the date of issuance,
22 may be renewed upon application to the Board upon a form
23 furnished by the Board, shall not be transferable, and may be
24 exercised only by the registrant.

1 SECTION 4. Section 20 of Chapter 90 of the General Laws
2 is hereby amended by inserting after the second paragraph the
3 following paragraph: —

4 Any person convicted of a violation of the provisions of section
5 seventeen, or of a violation of a special regulation lawfully made
6 under the authority of section eighteen shall be punished by a fine
7 of not less than seventy-five dollars nor more than one hundred
8 fifty dollars for the first, not less than one hundred dollars nor
9 more than two hundred dollars for a second offense, and not less
10 than two hundred nor more than three hundred dollars for
11 subsequent offenses committed during any twelve-month period.

1 SECTION 5. Section 34A of Chapter 90 of the General Laws
2 as appearing in the 1986 Official Edition is hereby amended by
3 striking in line 155, the word “two” and inserting in its place the
4 word “fifty”.

1 SECTION 6. Section 34J of chapter 90 is amended in the first
2 sentence by striking the words “three hundred” and substituting
3 therefor “five hundred,” and by striking the words “one thousand
4 five hundred” and substituting therefor “five thousand.”

1 SECTION 7. Section 34J of Chapter 90, as appearing in the
2 1986 Official Edition, is hereby amended by striking out the word
3 “two” in line 9 and inserting in place thereof the following word:
4 four.

1 SECTION 8. Section 34J of chapter 90 is further amended by
2 adding after the end thereof the following sentence: —

3 Any person who is convicted of, or who enters a plea of guilty
4 to a violation of this section shall be liable to the plan organized
5 pursuant to section 113H of chapter 175 of the General Laws in
6 the amount of the greater of \$500 or one year's premium for
7 compulsory motor vehicle insurance for the highest rated territory
8 and class of risk in effect at the time the conviction or plea of
9 guilty was entered. Said liability shall be in addition to all other
10 liabilities imposed on the person so convicted or so pleading,
11 whether civil or criminal. The said plan shall apply any sums
12 collected hereunder, to defray its costs of collection and to defray
13 in whole or in part its expenses for preventing fraud and arson.
14 Furthermore, any person who is convicted of, or enters a plea of
15 guilty to a violation of this section shall have his or her license
16 or right to operate a motor vehicle suspended for sixty days by
17 the registrar of motor vehicles upon the registrar's receipt of
18 notification from the clerk of any court which enters any
19 conviction hereunder or which accepts such plea of guilty. The
20 clerk of any court which enters any conviction hereunder or which
21 accepts such plea shall promptly notify the registrar of motor
22 vehicles for the Commonwealth and the Commonwealth Auto
23 Reinsurers pursuant to section 113 of chapter 175 or any successor
24 thereto of such entry or acceptance of such plea. For any second
25 or subsequent said conviction or plea of guilty within a six year
26 period, the offender's license or right to operate a motor vehicle
27 shall be suspended for one year by the registrar upon the registrar's
28 receipt of such notification by the clerk of any such court.

1 SECTION 9. Section 340 is hereby amended by inserting in
2 line 17 the following new sentence: — Every insurer shall also
3 make available to all policyholders at their option deductible
4 amounts of two hundred dollars, three hundred dollars and five
5 hundred dollars.

1 SECTION 10. Section 340 of Chapter 90 of the General Laws,
2 as appearing in the 1986 Official Edition, is hereby amended by
3 striking, in the sixth paragraph, the words "one hundred" and
4 inserting in place thereof the words: — two hundred.

1 SECTION 11. Section 2 of chapter 90D of the General Laws,
2 as appearing in the 1984 Official Edition, is hereby amended by
3 adding between lines 40 and 41 the following: —

4 “Total loss salvage motor vehicle,” a motor vehicle which has
5 been stolen and unrecovered or which has been wrecked,
6 destroyed or damaged by collision, fire, water or other occurrence
7 to such an extent that the owner or if the vehicle was insured,
8 the insurer, considers it uneconomical to repair the vehicle and
9 because of this, the vehicle is not repaired by or for the person
10 who owned the vehicle at the time of the event resulting in such
11 damage.

1 SECTION 12. Section 17 of chapter 90D of the General Laws,
2 as appearing in the 1984 Official Edition, is hereby amended by
3 striking out paragraph (d).

1 SECTION 13. Chapter 90D of the General Laws is hereby
2 amended by striking out section 20, as appearing in the 1984
3 Official Edition, and inserting in place thereof the following
4 sections: —

5 Section 20. (a) Whenever an insurer acquires ownership of a
6 motor vehicle which it has determined to be a total loss salvage
7 motor vehicle, it shall, within ten days from the date of acquisition,
8 surrender the certificate of title to the registrar and shall apply
9 for a salvage certificate.

10 (b) Whenever an insurer makes a total loss settlement on a
11 vehicle which it has determined to be a total loss salvage motor
12 vehicle and the insured owner retains possession and ownership
13 of the vehicle, the insurer shall notify the registrar of such
14 retention on a form prescribed by the registrar and the owner shall,
15 within ten days of such settlement, surrender the certificate of title
16 to the registrar and shall apply for a salvage certificate. The insurer
17 shall notify the insured owner of said owner's responsibility to
18 comply with the provisions of this section.

19 (c) Whenever a motor vehicle which is not the subject of an
20 insurance settlement is damaged to such an extent that the owner
21 determines said vehicle to be a total loss salvage motor vehicle,
22 the owner shall surrender the certificate of title to the registrar
23 and shall promptly apply for a salvage certificate.

24 (d) A total loss salvage motor vehicle shall not be titled under
25 this chapter or registered for operation under chapter ninety
26 unless the owner complies with the provisions of section 20D. The
27 owner of a total loss salvage motor vehicle shall not transfer such
28 vehicle except in accordance with section 20C of this chapter.

29 Section 20A.(a) The application for the salvage certificate shall
30 be made by the owner to the registrar on such form or forms as
31 the registrar shall prescribe and shall be accompanied by: (1) a
32 properly assigned certificate of title; (2) any other information and
33 documents the registrar may reasonably require to establish
34 ownership of the vehicle and the existence or nonexistence of a
35 lien; and (3) the required fee.

36 (b) The registrar shall file each application for salvage certificate
37 received and maintain adequate record thereof and, when satisfied
38 as to its genuineness and regularity, shall issue a salvage certificate
39 and a decal bearing the legend "salvage vehicle" which the owner
40 shall affix to the vehicle in a location and manner prescribed by
41 the registrar. The salvage certificate shall serve as proof of
42 ownership and shall contain the name and address of the owners,
43 a description of the vehicle, a salvage certificate serial number and
44 any other data the registrar prescribes.

45 Section 20B.(a) No salvage certificate need be obtained for: (1)
46 a vehicle owned by the United States unless it is registered in
47 accordance with the provisions of chapter ninety; (2) a vehicle
48 moved solely by animal power; (3) an implement of husbandry;
49 (4) special mobile equipment; (5) trailers; (6) passenger vehicles
50 ten or more years old; or (7) mobile homes as defined in section
51 thirty-two Q of chapter one hundred and forty.

52 Section 20C.(a) If an owner of a vehicle for which a salvage
53 certificate has been issued under this chapter transfers his interest
54 therein, he shall, at the time of delivery of the vehicle, execute
55 the assignment to the transferee on the space provided therefor
56 on the salvage certificate or on such other form as the registrar
57 shall prescribe and cause the certificate and assignment to be
58 delivered to the transferee.

59 (b) Except for dealers licensed under the provisions of section
60 fifty-nine of chapter one hundred and forty, the transferee shall,
61 within ten days after receiving delivery of the total loss salvage
62 vehicle, apply for a new salvage certificate on the form prescribed

63 by the registrar. The application shall be accompanied by the
64 properly executed salvage certificate, required fee and and other
65 information and documents the registrar may reasonably require
66 to establish ownership of the vehicle.

67 (c) If a dealer, licensed under the provisions of section fifty-
68 nine of chapter one hundred forty, is a transferee of a vehicle for
69 which a salvage certificate has been issued, he need not apply for
70 a new salvage certificate but, upon transferring the vehicle, shall
71 execute the assignment to the transferee in the space provided for
72 such dealer assignments on the certificate or on such form as the
73 registrar prescribes and cause the certificate and assignment to be
74 delivered to the transferee.

75 (d) Any transferor of a vehicle for which a salvage certificate
76 has been issued under this chapter shall fully and fairly disclose
77 that fact to any transferee for value.

78 (e) The registrar may issue a salvage certificate for any motor
79 vehicle which is transferred into the commonwealth and which
80 was previously covered by a similar certificate from any other
81 state.

82 Section 20D. (a) Any owner who reconstructs or restores a
83 total loss salvage motor vehicle to its operating condition which
84 existed prior to the event which caused a salvage certificate to issue
85 under this chapter or the laws of another state, or who recovers
86 a total loss salvage motor vehicle if stolen, shall make applica-
87 tion to the registrar for a certificate of title and an inspection of
88 the vehicle prior to registration sale of said vehicle. Each
89 application for title and inspection shall be accompanied by the
90 following:

91 1) The outstanding salvage certificate previously issued for the
92 salvage vehicle;

93 2) Bills of sale evidencing acquisition of all major component
94 parts (listing the manufacturer's vehicle identification number of
95 the vehicle from which the parts were removed, if such part
96 contained or should contain the manufacturer's vehicle
97 identification number) used to restore the vehicle;

98 3) The owner shall also provide a sworn affidavit in the form
99 prescribed by the registrar which states that: (i) the identification
100 numbers of the restored vehicle and its parts have not been
101 removed, destroyed, falsified, altered or defaced; (ii) the salvage

102 certificate document attached to the application has not been
103 forged, falsified, altered or counterfeited; (iii) all information
104 contained on the application and its attachments is true and
105 correct to the knowledge of the owner; and

106 4) The required inspection fee.

107 The inspection shall include an examination of the vehicle and
108 its major component parts to determine that the vehicle's
109 identification number or its parts have not been removed, falsified,
110 altered, defaced, destroyed or tampered with, that the vehicle
111 information contained in the application and supporting
112 documents is true and correct, and that there is no indication that
113 the vehicle or any of its parts are stolen. Said inspection shall be
114 conducted by a person appointed under the provisions of section
115 twenty-nine of chapter ninety. Such inspection is not for the
116 purpose of checking road-worthiness or the safety condition of
117 the vehicle. No liability shall be imposed upon the registrar of
118 motor vehicles or upon the commonwealth or its agents or
119 employees which may result from, or be connected with, any act
120 or omission related to said inspection.

121 (b) Upon satisfactory inspection results, receipt of all required
122 documents and fees, the registrar shall issue a new certificate of
123 title in the name of the owner which shall contain the notation
124 "reconstructed," or if the vehicle was a stolen vehicle which was
125 subsequently recovered in undamaged condition, said certificate
126 shall contain the notation "recovered theft vehicle." The registrar
127 shall also issue a decal bearing the legend "reconstructed vehicle"
128 or "recovered theft vehicle" which the owner shall affix to the
129 vehicle in a location and in a manner prescribed by the registrar.

130 Section 20E. (a) Any person who takes possession of a motor
131 vehicle for the purpose of junking, scrapping or recycling as parts,
132 shall within ten days after receipt of delivery, cause the certificate
133 of title, salvage certificate or any other document required by the
134 registrar as proof of ownership, to be surrendered to the registrar
135 for cancellation and shall apply for a junk receipt.

136 (b) The registrar shall file each application for a junk receipt
137 and maintain an adequate record of said cancellation and upon
138 satisfaction as to the genuineness and regularity of the applica-
139 tion and upon payment of the required fee, shall issue a junk
140 receipt to the owner which shall contain the name and address

141 of the owner, a complete description of the vehicle, including the
142 vehicle identification number and the junk receipt serial number.
143 The vehicle identification number shall remain attached to said
144 vehicle upon destruction.

145 (c) Any transfer of interest of a vehicle for which a junk receipt
146 has been issued shall be accomplished by causing a bill of sale,
147 containing a complete description of the vehicle, including the
148 vehicle identification number, and the junk certificate to be
149 delivered to the transferee.

150 (d) A motor vehicle for which a junk receipt has been issued
151 shall not be titled under this chapter or registered to operate under
152 chapter ninety.

1 SECTION 14. Chapter 90D of the General Laws, as appearing
2 in the 1986 Official Edition is hereby amended by striking out
3 section 32 and inserting in place thereof the following section: —

4 (a) Whoever falsely makes, alters, forges, or counterfeits a
5 certificate of title, salvage certificate or junk receipt; or alters or
6 forges an assignment of certificate of title, salvage certificate or
7 junk receipt, or supporting documents, or an assignment or release
8 of a security interest on a certificate of title or a form the registrar
9 prescribes; or has possession of or uses a certificate of title, salvage
10 certificate or junk receipt, knowing it to have been altered, forged,
11 or counterfeited; or uses a false or fictitious name or address, or
12 makes a material false statement or fails to disclose a security
13 interest, or conceals any other material fact, in an application for
14 a certificate of title, salvage certificate or junk receipt; or support-
15 ing documents, shall be punished by a fine of not more than one
16 thousand dollars or by imprisonment in the state prison for not
17 more than five years, or in a jail or house of correction for not
18 more than two years, or both.

19 (b) Whoever permits another not entitled thereto, to use or
20 have possession of a certificate of title, salvage certificate or junk
21 receipt or fails to mail or deliver a certificate of title, certificate
22 of salvage, junk receipt or application therefor to the registrar
23 within ten days after the time required by this chapter, or who-
24 ever fails to deliver to the transferee or the registrar a certificate
25 of title, salvage certificate or junk receipt within ten days after
26 the time required by this chapter, or violates any other provision

27 of the chapter, except as provided for in paragraph (a), shall be
28 punished by a fine of not less than five hundred dollars and not
29 more than one thousand dollars or by imprisonment for not more
30 than six months or both.

31 (c) Whoever, unless authorized by law to do so, intentionally
32 and maliciously removes, mutilates, destroys, conceals or causes
33 to be removed, mutilated, or destroyed, a decal issued by the
34 registrar under the authority of section 20A and 20D of this chap-
35 ter or whoever sells, buys, receives, possesses or obtains control
36 of a motor vehicle knowing or having reason to know that such
37 decal has been removed, mutilated or destroyed shall be punished
38 by a fine of not less than five hundred dollars and not more than
39 one thousand dollars or by imprisonment in a jail or house of cor-
40 rection for not more than two years, or both.

1 SECTION 15. Section 113B of Chapter 175 of the General
2 Laws, as most recently amended by Section 5 of Chapter 710 of
3 the Acts of 1986, is hereby amended by striking out the words
4 "September fifteenth" in the first sentence of the first paragraph
5 and inserting in place thereof the words "December fifteenth".

1 SECTION 16. Section 113B of Chapter 175 of the General
2 Laws as appearing in the 1986 Official Edition is hereby amended
3 by inserting after the first paragraph the following paragraph:
4 In fixing and establishing classifications of risks the
5 Commissioner shall not utilize more than three territories and
6 each territory shall include only those cities and towns which are
7 contiguous with at least one other city or town in the territory.
8 Each territory shall reflect its own past and prospective loss
9 experience and not that past and prospective loss experience of
10 any other territory.

1 SECTION 17. Section 113BB of Chapter 175 of the General
2 Laws is hereby amended by striking the seventh paragraph and
3 inserting in place thereof the following paragraph: —

4 In fixing and establishing classifications or risks for
5 comprehensive fire and theft coverage so-called to motor vehicles,
6 the commissioner shall provide for appropriate reductions up to
7 a maximum of 25 percent in the premium charges covering such

8 vehicles if such vehicle is equipped with an anti-theft mechanism
9 or device approved by the commissioner.

1 SECTION 18. Section 113B of chapter 175 of the General
2 Laws as appearing in the 1986 Official Edition is hereby amended
3 by inserting after the seventh paragraph the following paragraph:

4 In fixing and establishing classifications of risks for personal
5 injury protection, uninsured and underinsured motorist protec-
6 tion, and medical payments coverages so-called, the commissioner
7 shall provide for appropriate reductions in premium charges
8 covering vehicles equipped with one or more air bags or a passive
9 restraint device approved by the commissioner.

1 SECTION 19. Section 113B of Chapter 175 of the General
2 Laws, as most recently amended by Section 5 of Chapter 710 of
3 the Acts of 1986, is hereby further amended by adding after the
4 ninth paragraph the following paragraph:

5 In fixing and establishing classification of risks, the
6 commissioner shall establish specific unsafe driver rates for those
7 insureds who have accumulated three or more unsafe driver
8 points, so-called, within any three year period. Said unsafe driver
9 rates, including premium charges and applicable surcharge
10 amounts, so established by the commissioner shall be actuarially
11 sound and shall not be included in the amounts calculated by the
12 safe driver insurance plan to provide credits to safe drivers but
13 such premium charges and surcharge amounts shall be retained
14 by the companies.

1 SECTION 20. Section 113B of Chapter 175 of the General
2 Laws as appearing in the 1986 Official Edition, is hereby amended
3 by inserting after paragraph fourteen the following new
4 paragraph: —

5 In fixing and establishing classifications of risks, the
6 commissioner shall establish a separate rate for coverage provided
7 in sections 26 and 27.

1 SECTION 21. Section 113H of Chapter 175 as appearing in
2 the 1986 Official Edition is hereby amended by inserting in

3 subsection (A)(7) after the word “refusal” in line 37, the
4 following: —

5 of the charging of rates at the discretion of the insurer.

1 SECTION 22. Section 113H of Chapter 175 as appearing in
2 the 1986 Official Edition is hereby amended by inserting after
3 subsection (A)(7)(iv): —

4 (v) comprehensive, fire and theft or collision coverage on a
5 vehicle customarily driver, or owned by persons convicted one
6 time within the most recent three year period of any category of
7 driving while under the influence of alcohol or drugs.

1 SECTION 23. Section 113H of chapter 175 of the General
2 Laws is hereby amended by adding after subsection (A),
3 paragraph (7), clause (v), the following: —

4 (vi) any motor vehicle for which a salvage certificate has been
5 issued by the registrar of motor vehicles unless a new certificate
6 of title has been issued pursuant to section 20D of chapter 90D
7 of the General Laws.

1 SECTION 24. Section 113H of Chapter 175 of the General
2 Laws as appearing in the 1986 Official Edition is hereby amended
3 by inserting after the fourteenth paragraph the following new
4 paragraphs: —

5 In appointing a statistical agent, the commissioner shall require,
6 in addition to all other duties and responsibilities, that the
7 statistical agent oversee and conduct a closed claim study so-
8 called. In addition, to any other information that the
9 commissioner may require that said study shall include the
10 following: the number of claims filed in a particular year, the
11 number of lawsuits filed in said year, the number of average dollar
12 amount granted in court tried cases in said year, the number and
13 dollar amount granted in out of court settlements in said year,
14 the average payment arising out of property damage in an out
15 of court settlement and through a judicial decision, the average
16 payment arising out of personal injury damage in an out of court
17 settlement and through a judicial decision, the number of multiple
18 claims filed under the same vehicle over a three year period, the
19 number of claims filed where medical costs for the injured party

20 are between \$500 and \$1,000, \$1,000 and \$1,500, and \$1,500 and
21 \$2,000, the number of claims closed in said year and the number
22 of claims closed without payment in said year.

23 In the first year after the effective date of this act, the statistical
24 agent shall undertake a closed claim study, so-called, for the three
25 years immediately prior to the effective date of this act. In each
26 succeeding year after the effective date of this act the statistical
27 agent shall conduct a closed claim study for the year immediately
28 prior.

29 The results of said closed claim study shall be made available
30 to intervening parties in the rate making process and to any other
31 interested member of the public.

1 SECTION 25. Section 113H of Chapter 175 of the General
2 Laws as appearing in the 1986 Official Edition is hereby amended
3 by inserting at the end of the section, the following paragraph:

4 Effective January 1, 1991, the plan shall be modified to an
5 assigned risk plan which allows for equitable apportionment
6 among all insurers undertaking to issue motor vehicle policies
7 those applicants for insurance who have been unable to obtain
8 insurance through the method by which insurance is voluntarily
9 made available.

10 The assigned risk plan shall be developed and prepared by the
11 Commissioner and the existing governing committee of the
12 current plan. The Commissioner shall have all of the same
13 authority to review and approve the assigned risk plan as he has
14 over the current plan and he shall incorporate those portions of
15 the existing plan as are appropriate.

1 SECTION 26. Section 113L of Chapter 175 of the General
2 Laws, as appearing in the 1986 Official Edition, is hereby amended
3 by striking all of subsection one and inserting in its place the
4 following new subsection: —

5 Section 113L.(1) No policy shall be issued or delivered in the
6 commonwealth with respect to a motor vehicle, trailer or semi-
7 trailer registered in this state unless such policy provides coverage
8 in amounts or limits prescribed for bodily injury or death for a
9 liability policy under this chapter, under provisions approved by
10 the insurance commissioner, for the protection of persons insured

11 thereunder who are legally entitled to recover damages from
12 owners or operators of uninsured motor vehicles, trailers or semi-
13 trailers and hit-and-run motor vehicles because of bodily injury,
14 sickness or disease, including death resulting therefrom, and, no
15 insurer shall issue such a policy unless it makes a mandatory offer,
16 in the amounts or limits chosen for uninsured motor vehicle
17 coverage, for coverage for the protection of persons insured
18 thereunder who are legally entitled to recover damages from
19 owners or operators of insured motor vehicles, trailers or
20 semitrailers, whose policies or bonds are insufficient in limits of
21 liability to satisfy said damages, to the extent that said damages
22 exceed said limits of liability subject to the terms of the policy
23 provided that any coverage for the protection of persons insured
24 thereunder who are legally entitled to recover damages from
25 owners or operators of insured motor vehicles, trailers or
26 semitrailers, whose policies or bonds are insufficient in limits of
27 liability to satisfy said damages, to the extent that said damages
28 exceed said limits of liability subject to the terms of the policy
29 must be affirmatively chosen by the insured as an optional
30 coverage which requires the payment of a separate premium for
31 said additional coverage as established pursuant to section 113B
32 of Chapter 175 of the General Laws.

1 SECTION 27. Section 113L of Chapter 175 of the General
2 Laws as appearing in the 1986 Official Edition, is hereby amended
3 by inserting after subsection four a new section: —

4 The coverage required by this section applicable to any vehicle
5 for which a premium has been paid by the insured, may be reached
6 to satisfy any damages of an injured party up to the full limits
7 of said coverage, even if said vehicle is included with other vehicles
8 under the same insurance policy or if more than one vehicle is
9 insured under separate insurance policies for each vehicle,
10 provided that the insured has elected to pay a separate premium
11 for said additional coverage as established pursuant to section
12 113B of Chapter 175 of the General Laws.

1 SECTION 28. Section 113O of Chapter 175 of the General
2 Laws, as appearing in the 1986 Official Edition, is hereby amended
3 by striking, from the first paragraph, the words "or to an amount
4 not less than one hundred dollars."

1 SECTION 29. Section 113O of Chapter 175 is hereby amended
2 by striking the third sentence and inserting in its place the
3 following: —

4 Furthermore, insurers shall also make available to comprehen-
5 sive coverage policyholders at the option of the policyholder a one
6 hundred dollar deductible applicable to damage to glass of any
7 motor vehicle so covered.

1 SECTION 30. Section 113O of Chapter 175, as most recently
2 amended, is hereby amended by adding the following to (7) of
3 paragraph (A) thereof:

4 (vi) comprehensive, fire or theft coverage on a high-theft
5 vehicle which does not have at least the minimum anti-theft
6 device(s) prescribed by the commissioner of insurance. The
7 commissioner may designate as a "high-theft vehicle" any vehicle,
8 classified according to make, model and year of manufacture,
9 which has both above-average incidence of theft and above-
10 average original sales price, and may prescribe appropriate anti-
11 theft devices for such vehicles.

12 In the event of an insured fire or theft loss which results in the
13 payment of the total value of the insured vehicle, less salvage, or
14 the repair of the vehicle in an amount equivalent to twenty-five
15 percent or greater of the value of the vehicle, the fire or theft
16 coverage on the vehicle or any replacement vehicle may be
17 suspended or refused unless the insured installs an approved anti-
18 theft device in such vehicle.

1 SECTION 31. Chapter 175 of the General Laws is hereby
2 amended by adding after section 113Q a new section 113R as
3 follows: —

4 Section 113R. a. The provisions of this section shall be
5 applicable to all motor vehicle liability policies issued, delivered
6 or renewed in Massachusetts after December 31, 1988
7 notwithstanding any other provisions of this chapter or chapter
8 90 of the General Laws.

9 b. For purposes of this section, "existing customer" shall mean
10 an applicant for a motor vehicle liability policy who has been
11 insured for three years or longer without interruption under a
12 motor vehicle liability policy or policies issued by the insurer to
13 which the applicant's application is submitted.

14 c. A motor vehicle liability policy shall not provide fire and theft
15 coverage and/or comprehensive coverage, so-called, or collision
16 or limited collision coverage for a private passenger motor vehicle
17 prior to an inspection of that motor vehicle by the insurer, unless:

18 (1) the motor vehicle is new;

19 (2) the applicant for such coverage is an existing customer of
20 the insurer;

21 (3) the motor vehicle is already insured for such coverages with
22 the insurer by the applicant; or

23 (4) as provided in subsection d(2) below.

24 The commissioner, by regulations implementing the provisions
25 of this section shall:

26 (1) provide that insurers shall offer inspections at locations and
27 at times reasonably convenient to the insured. Where an
28 inspection is required pursuant to this section, it shall be
29 conducted by the insurer or its authorized representative and shall
30 be recorded on a form prescribed by the commissioner. Such form
31 shall be retained by the insurer with its policy records for the
32 insured, and a copy of such form shall be made available to the
33 insured upon request.

34 (2) provide that the inspections required in this section shall be
35 waived under circumstances specified in the regulation. Such
36 circumstances may include, but are not limited to:

37 (a) When requiring an inspection would cause a serious
38 hardship to the insurer, the insured or an applicant for insurance;

39 (b) When the insurer has no inspection facility or authorized
40 representative either in the city or town in which the motor vehicle
41 is principally garaged or within five miles of the said city or town.

42 (3) provide that such inspections shall include at least the
43 following;

44 (a) taking a physical imprint of the vehicle identification
45 number of the vehicle or otherwise record the vehicle
46 identification number in a manner satisfactory to the
47 commissioner;

48 (b) taking two color photographs of the car at angles which
49 show the front, back and side of the vehicle;

50 (c) recording the presence of such accessories as the
51 commissioner shall designate; and

52 (d) recording the location of and a description of existing
53 damage to the vehicle.

54 e. A motor vehicle liability policy shall not provide fire and theft
55 coverage and or comprehensive coverage, so-called, or collision
56 or limited collision coverage for any motor vehicle for which a
57 salvage certificate has been issued by the registrar of motor
58 vehicles, unless a new certificate of title has been issued pursuant
59 to section 20D of chapter 90D of the General Laws. Notwithstand-
60 ing the foregoing, any insurer authorized to issue motor vehicle
61 liability policies may, but shall not be compelled to, issue a special
62 policy or endorsement providing fire and theft coverage and/or
63 comprehensive coverage, so-called, or collision or limited collision
64 coverage for any motor vehicle having salvage certificate, on such
65 terms and conditions and subject to such inspections as the insurer
66 shall require.

1 SECTION 32. Chapter 175 of the General Laws is hereby
2 amended by adding after section 113S a new section 113T as
3 follows: —

4 Section 113T. The commissioner shall review the practices of
5 insurers and bodyshops concerning the use of new, used, rebuilt,
6 and aftermarket parts in the repair of damaged motor vehicles.

1 SECTION 33. Section 4 of Chapter 175E of the General Laws
2 as appearing in the 1986 Official Edition, is hereby amended by
3 adding in subsection (d) after the fifth paragraph the following
4 new paragraph: —

5 For motor vehicle insurance rates, the Commissioner shall
6 establish a separate rate for coverage provided in sections 36 and
7 37.

1 SECTION 34. Chapter 175E of the General Laws is hereby
2 amended by inserting after section 11 of the following section: —

3 Section 11A. Insurance companies or their agents shall dis-
4 close in simple language to every person they insure or solicit for
5 insurance that person's coverage options, including the option to
6 exclude oneself and members of one's household from personal
7 injury protection coverage, so-called. The commissioner shall
8 prescribe the form, content, and timing of said disclosures, and

9 may require the signed acknowledgement of the insured as appro-
10 priate. The commissioner shall prescribe penalties for failure to
11 comply with this section.

1 SECTION 35. Section 6D of Chapter 231 of the General Laws
2 as appearing in the 1986 Official Edition is hereby amended by
3 striking it in its entirety and inserting in its place the following
4 new section:

5 In any action of tort brought as a result of bodily injury, sickness
6 or disease, arising out of ownership, operation, maintenance or
7 use of a motor vehicle within this commonwealth by the
8 defendant, a plaintiff may recover damages for pain and suffering,
9 including mental suffering associated with such injury, sickness or
10 disease, only if the bodily injury, sickness or disease, results in
11 death; whole or in part of loss of body member; whole or in part
12 of permanent and serious disfigurement; a fracture; a loss of a
13 fetus; permanent loss of a body organ, function or system;
14 permanent consequential limitation of use of a body organ or
15 member; significant limitation of use of a body function or system;
16 or a medically determined injury or impairment of a non-
17 permanent nature which prevents the injured person from
18 performing substantially all of the material acts which constitute
19 such person's usual and customary daily activities for not less than
20 ninety days during the one hundred and eighty days immediately
21 following the occurrence of the injury or impairment.

1 SECTION 36. Section 27A of Chapter 266 as appearing in the
2 1986 Official Edition is hereby amended by striking out lines 12
3 through 40, and inserting in place thereof, the following: —

4 Such as indigency, the court may determine that the interests
5 of the victim and justice would not be served by ordering a fine.
6 In such a case, the court shall make and enter specific written
7 findings on the record concerning the extraordinary circumstan-
8 ces presented which militated against the imposition of such fine.
9 The court shall, after conviction, conduct an evidentiary
10 hearing to ascertain the extent of the damages or financial loss
11 suffered as a result of the defendant's crime. The court shall then
12 determine the amount and method of restitution. In so
13 determining, the court shall consider the financial resources of the
14 defendant and the burden restitution will impose on the defendant.

15 In light of the evidence presented at the evidentiary hearing, the
16 court shall then fine the defendant an amount equal to twice the
17 amount of damages or financial loss suffered as a result of the
18 defendant's crime. The defendant's present and future ability to pay
19 such fine shall be considered.

20 Upon a change in real or impending financial circumstances,
21 a defendant ordered to pay fines or restitution may petition the
22 court for modification from any payment of fines or restitution
23 or from any unpaid portion thereof. If the court finds, upon a
24 change in real or impending financial circumstances, that the
25 payment of fines or restitution due will impose an undue financial
26 hardship on the defendant or his family, the court may modify the
27 time and method of payment.

28 If a defendant who is require to pay such fine or restitution
29 defaults in any payment of such fine or restitution or installment
30 thereof, the court shall hold him in contempt unless said defendant
31 has made a good faith effort to pay such fine or restitution. If the
32 defendant has made a good faith effort to pay such fine or
33 restitution, the court may, upon motion of the defendant, modify
34 the order requiring payment of the fine or restitution by:

- 35 (a) providing for additional time to make any payment;
36 (b) reducing the amount of any payment or installment thereof.

37 The total of fines, not to exceed the aggregate of one million
38 dollars, collected under section 27 of chapter 266, section 29 of
39 chapter 266 and section 11B of chapter 266 shall be payable to
40 the Governor's Auto Theft Strike Force. Any fines in excess of
41 the aggregate of one million dollars shall then be payable to the
42 Local Aid Fund.

1 SECTION 37. Chapter 266 of the General Laws as appearing
2 in the 1986 Official Edition is hereby amended by adding after
3 section 27A, the following new section: —

4 Section 27B. Whoever by a false pretense, with intent to defraud
5 an insurer, submits false information to said insurer, or whoever
6 inflates an appraisal to said insurer, or whoever aids or abets in
7 such fraud, shall be punished by a fine of at least one thousand
8 dollars or imprisonment in jail for not more than two years. If
9 the defendant is in the business of providing said information to
10 an insurer, the defendant shall be subject to the additional penalty
11 of loss of license for a period not to exceed one year.

12 A person found guilty of violating this section shall in all cases,
13 upon conviction, in addition to any other punishment, be ordered
14 to make restitution to the insurer for any financial loss sustained
15 as a result of the commission of the crime.

1 SECTION 38. Section 28 of chapter 266 of the General Laws,
2 as appearing in the 1986 Official Edition, is hereby amended by
3 inserting after the word "trailer", in line 1, the following words: —
4 whoever maliciously damages a motor vehicle or trailer,.

1 SECTION 39. Said section 28 of chapter 266 of the General
2 Laws, as so appearing, is hereby further amended by striking out,
3 in line 6, the word "ten" and inserting in place thereof the following
4 word: twenty.

1 SECTION 40. Said section 28 of said chapter 266, as so
2 appearing, is hereby further amended by striking out, in line seven,
3 the word "two" and inserting in place thereof the following
4 word: — five.

1 SECTION 41. Said section 28 of said chapter 266, as so
2 appearing, is hereby further amended by striking out, in line 20,
3 the word "one" and inserting in place thereof the following
4 word: — two.

1 SECTION 42. Section 29 of Chapter 266 as appearing in the
2 1986 Official Edition is hereby amended by striking out lines 20
3 through 36 and inserting in place thereof, the following: —
4 The court shall, after conviction, conduct an evidentiary
5 hearing to ascertain the extent of the damages or financial loss
6 suffered as a result of the defendant's crime. The court shall then
7 determine the amount and method of restitution. In so
8 determining, the court shall consider the financial resources of the
9 defendant and the burden restitution will impose on the
10 defendant.

11 In light of the evidence presented at the evidentiary hearing,
12 the court shall then fine the defendant an amount equal to twice
13 the amount of damages or financial loss suffered as a result of
14 the defendant's crime. The defendant's present and future ability
15 to pay such fine shall be considered.

16 Upon a change in real or impending financial circumstances,
17 a defendant ordered to pay such fines or restitution may petition
18 the court for modification from any payment of fines or restitution
19 or from any unpaid portion thereof. If the court finds, upon a
20 change in real or impending financial circumstances, that the
21 payment of fines or restitution due will impose an undue financial
22 hardship on the defendant or his family, the court may modify
23 the time and method of payment.

24 If a defendant who is required to pay such fine or restitution
25 defaults in any payment of such fine or restitution or installment
26 thereof, the court shall hold him in contempt unless said defendant
27 has made a good faith effort to pay such fine or restitution. If
28 the defendant has made a good faith effort to pay such fine or
29 restitution, the court may, upon motion of the defendant, modify
30 the order requiring payment of the fine or restitution by:

- 31 (a) providing for additional time to make any payment;
32 (b) reducing the amount of any payment or installment thereof.

33 The total of fines, not to exceed the aggregate of one million
34 dollars, collected under section 27 of chapter 266, section 29 of
35 chapter 266 and section 11B of chapter 266 shall be payable to
36 the Governor's Auto Theft Strike Force. Any fines in excess of
37 the aggregate of one million dollars shall then be payable to the
38 Local Aid Fund.

1 SECTION 43. Section 29 of chapter 266 as appearing in the
2 1986 Official Edition is hereby amended by adding in line 41 the
3 following: — A prosecution commended under this subdivision
4 shall not be placed on file or continued without a finding.

1 SECTION 44. Section 11B of Chapter 266 as appearing in the
2 1986 Official Edition is hereby amended by striking out the words
3 "five hundred" and "two" in line 11 and inserting thereof the
4 following: — "one thousand" and "four".

1 SECTION 45. Section 11B of Chapter 266 as appearing in the
2 1986 Official Edition is hereby amended by striking out the word
3 "restitution" in line 18 and inserting thereof, the following: "a fine".

1 SECTION 46. Section 111B of Chapter 266 as appearing in the
2 1986 Official Edition is hereby amended by inserting at the end
3 thereof, the following: —

4 Upon a change in real or impending financial circumstances,
5 a defendant ordered to pay such fines or restitution may petition
6 the court for remission from any payment of fines or from any
7 unpaid portion thereof. If the court finds, upon a change in real
8 or impending financial circumstances, that the payment of fines
9 due will impose an undue financial hardship on the defendant or
10 his family, the court may modify the time and method of payment.

11 If a defendant who is required to pay such fine defaults in any
12 payment of such fine or installment thereof, the court shall hold
13 him in contempt unless said defendant has made a good faith
14 effort to pay such fine. If the defendant has made a good faith
15 effort to pay such fine, the court may, upon motion of the
16 defendant, modify the order requiring payment of the fine by:

- 17 (a) providing for additional time to make any payment;
18 (b) reducing the amount of any payment or installment thereof.

19 The total of fines, not to exceed the aggregate of one million
20 dollars, collected under section 27 of chapter 266, section 29 of
21 chapter 266 and section 11B of chapter 266 shall be payable to
22 the Governor's Auto Theft Strike Force. Any fines in excess of
23 the aggregate of one million dollars shall then be payable to the
24 Local Aid Fund.

1 SECTION 47. Notwithstanding any general or special law to
2 the contrary, the Commissioner shall establish and implement a
3 plan to deregulate the premium charges for the non-compulsory
4 coverage. This plan shall become effective for policies issued or
5 renewed on or after January 1, 1992. The plan shall provide that
6 no company shall be required to obtain prior approval from the
7 Commissioner to raise or lower its premium charges for these
8 coverages by ten percent or less per year from its existing charges
9 for any insured. If any company wishes to raise or lower its rates
10 from these coverages in excess of ten percent for any year, it must
11 submit a filing, in a form approved by the Commissioner for prior
12 approval of any such change in its premiums by the commissioner.
13 The Commissioner shall approve such changes only if he finds
14 that the resulting premium will be adequate, just, reasonable and

15 non-discriminatory as set forth in section 113B of chapter 175.
16 The Commissioner will have authority to implement, review, and
17 modify the plan in the same manner as he does in fixing and
18 establishing the premium charges for the compulsory coverages
19 as provided in chapters 175 and 175E.

1 SECTION 48. Notwithstanding any general or special law to
2 the contrary, the Registrar of Motor Vehicles shall establish a
3 special task force to coordinate and implement Chapter 806 of
4 the Acts of 1985. Said implementation shall take effect no later
5 than July 1, 1988.

6 In addition to any other duties, the task force shall assist
7 municipalities in implementing the statute on the local level and
8 provide whatever information and assistance necessary thereto.

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