

106TH CONGRESS
1ST SESSION

S. 837

To enable drivers to choose a more affordable form of auto insurance that also provides for more adequate and timely compensation for accident victims, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 20, 1999

Mr. McCONNELL (for himself, Mr. MOYNIHAN, Mr. LIEBERMAN, and Mr. McCAIN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To enable drivers to choose a more affordable form of auto insurance that also provides for more adequate and timely compensation for accident victims, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Auto Choice Reform Act of 1999”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

- Sec. 2. Findings.
- Sec. 3. Purposes.
- Sec. 4. Definitions.
- Sec. 5. Auto choice insurance system.
- Sec. 6. Personal injury protection system.
- Sec. 7. Tort maintenance system.
- Sec. 8. Source of compensation in cases of accidental injury.
- Sec. 9. Preservation of State and private rights.
- Sec. 10. Applicability to States.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

3 (1) auto insurance premiums are too high,
 4 largely because the current auto liability insurance
 5 system (referred to in this section as the “present
 6 system”)—

7 (A) encourages costly fraudulent claims
 8 and unnecessarily contentious behavior by both
 9 claimants and defendants; and

10 (B) often requires expensive lawyers on
 11 both sides of a dispute to settle claims;

12 (2) the adversarial tort system that is in effect
 13 in 37 States poorly compensates the most needy in-
 14 dividuals, in that the system—

15 (A) pays no liability benefits to more than
 16 30 percent of all accident victims;

17 (B) takes too long to pay victims when it
 18 does pay them;

19 (C)(i) pays victims with minor injuries an
 20 average of 2 to 3 times the cost of their medical
 21 bills and lost wages; but

1 (ii) pays victims with serious injuries an
2 average of less than 50 percent of those bills
3 and lost wages; and

4 (D) pays twice as much for plaintiff and
5 defense lawyers combined as it pays for victims'
6 medical bills and lost wages;

7 (3) the chance of winning the lawsuit lottery in
8 the present system—

9 (A) results in the filing of billions of dol-
10 lars of fraudulent or otherwise unnecessary
11 auto insurance claims annually;

12 (B) generates billions of dollars in unnec-
13 essary health care costs for private, Federal,
14 and State health care programs;

15 (C) raises auto insurance premiums for all
16 drivers, including drivers operating business ve-
17 hicles; and

18 (D) makes auto insurance premiums
19 unaffordable for many low-income individuals;

20 (4) the present system harms cities by—

21 (A) encouraging the filing of frivolous and
22 inflated claims that cities pay at the expense of
23 all taxpayers; and

24 (B) contributing to the abandonment of
25 cities by taxpayers who can achieve substantial

1 reductions in their auto insurance premiums by
2 moving to the suburbs;

3 (5) the present system provides individuals little
4 incentive to purchase safer automobiles;

5 (6) all of the no-fault insurance reform laws
6 that exist in 13 States provide more timely and equi-
7 table compensation for medical bills and lost wages
8 to more accident victims;

9 (7) some of those no-fault insurance reform
10 laws, however, have not been successful in control-
11 ling insurance premiums, in large part because oppo-
12 nents of such reform have weakened the laws by cre-
13 ating loopholes for unnecessary and costly lawsuits;

14 (8) the alternative form of insurance, personal
15 injury protection, that may be offered to drivers by
16 reason of this Act, gives drivers the ability to—

17 (A)(i) insure themselves in all accidents for
18 their own medical bills and lost wages; and

19 (ii) sue other drivers on the basis of fault
20 for any economic losses that are not covered by
21 their insurance; and

22 (B) forgo lawsuits against other drivers for
23 noneconomic damages on the basis of fault in
24 return for being free from suit for noneconomic
25 damages by other drivers;

1 (9) personal injury protection, by reducing the
2 need for auto liability lawsuits and the incentives for
3 fraudulent and otherwise questionable claims,
4 could—

5 (A) save drivers billions of dollars annu-
6 ally; and

7 (B) enable them to receive more adequate
8 and timely compensation when they are seri-
9 ously injured;

10 (10) personal injury protection would benefit
11 society by—

12 (A) increasing respect for the law by elimi-
13 nating the incentives of the adversarial present
14 system for fraudulent claims and unnecessarily
15 contentious behavior by both claimants and de-
16 fendants;

17 (B) saving precious health care resources;

18 (C) making it more affordable for low-in-
19 come individuals to operate an automobile to
20 get to better paying jobs;

21 (D) reducing the incentives for individuals
22 to abandon cities, by providing greater savings
23 for drivers who reside in cities;

24 (E) freeing city taxpayers' dollars for re-
25 ductions in taxes or expanded city programs by

1 reducing the amount of frivolous and unneces-
2 sary lawsuits against cities;

3 (F) encouraging drivers to own safer auto-
4 mobiles by giving insurers the opportunity to
5 reduce premiums for the owners of safe auto-
6 mobiles; and

7 (G) helping to free up court dockets that
8 are currently overburdened with personal injury
9 lawsuits fueled by the incentives for lawsuits
10 under the present system;

11 (11) a new auto insurance system that allows
12 drivers to select the form of auto insurance that best
13 meets their needs, by choosing between—

14 (A) a modified version of the present sys-
15 tem; or

16 (B) the personal injury protection system
17 described in paragraph (9);

18 would enable drivers to reduce the cost of auto in-
19 surance, increase the amount of average compensa-
20 tion in the event of a serious accident, and enhance
21 individual freedom;

22 (12) the Federal Government should encourage
23 consumer choice, but not exercise regulatory author-
24 ity over the business of auto insurance, including

1 rates and insurer solvency, as that authority is ap-
2 propriately exercised by the States;

3 (13) during the period beginning January 1,
4 1957 and ending December 31, 1996—

5 (A) the Federal Government spent more
6 than \$400,000,000,000 to facilitate highway
7 construction in the United States; and

8 (B) hundreds of thousands of individuals
9 have been killed in motor vehicle accidents on
10 highways constructed with those funds;

11 (14) the auto insurers who operate in interstate
12 commerce pay greater than 70 percent of the com-
13 pensation paid to accident victims;

14 (15) through programs such as medicare, med-
15 icaid, and social security, the Federal Government
16 pays a significant amount of the costs for compen-
17 sating motor vehicle accident victims; and

18 (16) it is necessary and proper for Congress, in
19 the exercise of its authority to establish post roads
20 and regulate commerce under section 8 of article I
21 of the United States Constitution, to provide drivers
22 throughout the United States with an alternative to
23 address the problems of the adversarial present sys-
24 tem and the inadequate no-fault insurance reforms.

1 **SEC. 3. PURPOSES.**

2 The purposes of this Act are as follows:

3 (1) To enable consumers of auto insurance to
4 choose between 2 insurance systems, which are—

5 (A) a tort maintenance system based on
6 applicable State law that provides for substan-
7 tially similar—

8 (i) insurance premiums; and

9 (ii) compensation for injuries;

10 as compared to the auto insurance system in
11 existence in that State on the date of enactment
12 of this Act; and

13 (B) a personal injury protection system
14 that—

15 (i) compensates accident victims di-
16 rectly for their medical bills and lost wages
17 with substantially less need to pursue law-
18 suits; and

19 (ii) provides the opportunity for—

20 (I) substantial reductions in auto
21 insurance premiums;

22 (II) more comprehensive recovery
23 of medical bills and lost wages in a
24 shorter period of time; and

1 (III) the right to sue negligent
2 drivers for any uncompensated med-
3 ical bills or lost wages.

4 (2) To preserve the rights of States to regulate
5 the business of auto insurance.

6 **SEC. 4. DEFINITIONS.**

7 In this Act:

8 (1) ACCIDENT.—The term “accident” means an
9 unforeseen or unplanned event that—

10 (A) causes injury; and

11 (B) arises from the operation, mainte-
12 nance, or use of a motor vehicle.

13 (2) ADD-ON LAW.—The term “add-on law”
14 means a State law that provides that persons in-
15 jured in motor vehicle accidents—

16 (A) are compensated without regard to
17 fault for economic loss; and

18 (B) have the right to claim without any
19 limitation for noneconomic loss based on fault.

20 (3) COLLATERAL SOURCE.—The term “collat-
21 eral source” means a person, other than a tortfeasor
22 or a motor vehicle insurer, that has a legal obliga-
23 tion to pay compensation for economic loss to a per-
24 son who is injured in an accident.

1 (4) COMMON CARRIER.—The term “common
2 carrier” means a motorized vehicle of any kind, li-
3 censed for highway use, that is—

4 (A) required to be registered under the
5 provisions of applicable State law relating to
6 motor vehicles; and

7 (B) used in the business of transporting
8 persons.

9 (5) ECONOMIC LOSS.—The term “economic
10 loss” means objectively verifiable pecuniary loss
11 caused by an accident for—

12 (A) reasonable and necessary medical and
13 rehabilitation expenses;

14 (B) loss of earnings;

15 (C) funeral costs; and

16 (D) replacement services loss.

17 (6) ELECTRONIC SIGNATURE.—The term “elec-
18 tronic signature” means any letters, characters, or
19 symbols executed or adopted by a party with an in-
20 tent to authenticate a writing that are—

21 (A) manifested by—

22 (i) electronic means; or

23 (ii) any other similar means; and

24 (B) logically associated with that writing.

1 (7) FINANCIAL RESPONSIBILITY LAW.—The
2 term “financial responsibility law” means a law (in-
3 cluding a law requiring compulsory coverage) penal-
4 izing motorists for failing to carry defined limits of
5 tort liability insurance covering motor vehicle acci-
6 dents.

7 (8) FIRST PARTY BENEFITS.—The term “first
8 party benefits” means benefits paid or payable by an
9 insurer to an insured of that insurer under a per-
10 sonal injury protection policy or a tort maintenance
11 coverage policy applicable to that insured.

12 (9) INJURY.—The term “injury” means bodily
13 injury, sickness, disease, or death.

14 (10) INSURER.—The term “insurer” means—

15 (A) any person who is engaged in the busi-
16 ness of issuing or delivering motor vehicle in-
17 surance policies (including an insurance agent,
18 if appropriate) under applicable State law; or

19 (B) any person who is self-insured within
20 the meaning of applicable State law.

21 (11) MOTOR CARRIER.—The term “motor car-
22 rier” means—

23 (A) a person who—

1 (i) transports by motor vehicle goods
2 for another person or entity for compensa-
3 tion; and

4 (ii) is liable to the general public for
5 the operation of the vehicle under section
6 13906 of title 49, United States Code, and
7 regulations issued by the Secretary of
8 Transportation; or

9 (B) a person who transports such person's
10 goods by a motor vehicle that such person owns
11 or leases.

12 (12) MOTOR VEHICLE.—The term “motor vehi-
13 cle” means a vehicle with 4 or more wheels licensed
14 for highway use that is required to be registered
15 under the provisions of the applicable State financial
16 responsibility law relating to motor vehicles.

17 (13) NAMED INSURED.—The term “named in-
18 sured” means a person designated by name in a per-
19 sonal injury protection policy or tort maintenance
20 coverage policy as the insured.

21 (14) NO-FAULT MOTOR VEHICLE LAW.—The
22 term “no-fault motor vehicle law” means a State law
23 that provides that—

24 (A) persons injured in motor vehicle acci-
25 dents are paid compensation without regard to

1 fault for their economic loss that results from
2 injury; and

3 (B) in return for the payment referred to
4 in subparagraph (A), claims based on fault, in-
5 cluding claims for noneconomic loss, are limited
6 to a defined extent.

7 (15) NONECONOMIC LOSS.—The term “non-
8 economic loss” means subjective, nonmonetary losses
9 recognized under applicable State tort law.

10 (16) OCCUPY.—The term “occupy” means, with
11 respect to the operation, maintenance, or use of a
12 motor vehicle, to be in or on a motor vehicle or to
13 be engaged in the immediate act of entering into or
14 alighting from a motor vehicle.

15 (17) OPERATION, MAINTENANCE, OR USE OF A
16 MOTOR VEHICLE.—

17 (A) IN GENERAL.—The term “operation,
18 maintenance, or use of a motor vehicle”—

19 (i) means any activity involving or re-
20 lated to the transportation by a motor ve-
21 hicle; and

22 (ii) includes occupying or being en-
23 gaged in the immediate act of entering into
24 or alighting from a motor vehicle before or
25 after its use for transportation.

1 (B) EXCLUSIONS.—The term “operation,
2 maintenance, or use of a motor vehicle” does
3 not include—

4 (i) conduct within the course of a
5 business of manufacturing, sale, repairing,
6 servicing, or otherwise maintaining motor
7 vehicles, unless the conduct occurs outside
8 the scope of the business activity; or

9 (ii) conduct within the course of load-
10 ing or unloading a motor vehicle, unless
11 the conduct occurs while occupying or
12 being engaged in the immediate act of en-
13 tering into or alighting from a motor vehi-
14 cle before or after its use for transpor-
15 tation.

16 (18) PERSON.—The term “person” means any
17 individual, corporation, company, association, firm,
18 partnership, society, joint stock company, or any
19 other entity, including any governmental entity.

20 (19) PERSONAL INJURY PROTECTION.—The
21 term “personal injury protection” means insurance
22 that provides for—

23 (A) benefits to a personal injury protection
24 insured for economic loss without regard to

1 fault for injury resulting from a motor vehicle
2 accident in accordance with this Act;

3 (B) a waiver of tort claims against other
4 drivers, other than—

5 (i) claims for uncompensated eco-
6 nomic loss based on fault; and

7 (ii) other tort claims exempted from
8 such a waiver under this Act;

9 (C) coverage against claims for uncompen-
10 sated economic losses based on fault by another
11 party that is entitled to recover those losses
12 under this Act; and

13 (D) coverage against claims for economic
14 or noneconomic losses of a third party with re-
15 spect to which the recovery of those losses is
16 not covered under this Act.

17 (20) PERSONAL INJURY PROTECTION IN-
18 SURED.—The term “personal injury protection in-
19 sured” means a person covered by the form of insur-
20 ance described in section 6.

21 (21) PERSONAL INJURY PROTECTION IN-
22 SURER.—The term “personal injury protection in-
23 surer” means an insurer who is engaged in the busi-
24 ness of providing personal injury protection.

1 (22) PERSONAL INJURY PROTECTION SYS-
2 TEM.—The term “personal injury protection sys-
3 tem” means the insurance system described in sec-
4 tion 6.

5 (23) REPLACEMENT SERVICES LOSS.—The
6 term “replacement services loss” means expenses
7 reasonably incurred in obtaining ordinary and nec-
8 essary services from other persons who are not mem-
9 bers of the injured person’s household, in lieu of the
10 services the injured person would have performed for
11 the benefit of the household.

12 (24) RESIDENT RELATIVE OR DEPENDENT.—

13 (A) IN GENERAL.—The term “resident rel-
14 ative or dependent” means a person—

15 (i) who is related to the named in-
16 sured by blood, marriage, adoption, or oth-
17 erwise (including a dependent receiving fi-
18 nancial services or support from such in-
19 sured); and

20 (ii) who—

21 (I) resides in the same household
22 as the named insured at the time of
23 the accident; or

24 (II) usually makes a home in the
25 same family unit as the named in-

1 sured, even though that person may
2 temporarily live elsewhere.

3 (B) EXCLUSION.—The term does not in-
4 clude any person who maintains or is required
5 to maintain insurance for a motor vehicle that
6 such person owns.

7 (25) STATE.—The term “State” means any
8 State of the United States, the District of Columbia,
9 the Commonwealth of Puerto Rico, Guam, the
10 United States Virgin Islands, American Samoa, the
11 Commonwealth of the Northern Mariana Islands,
12 the Trust Territories of the Pacific Islands, and any
13 other territory or possession of the United States.

14 (26) TORT LIABILITY.—The term “tort liabil-
15 ity” means the legal obligation to pay damages for
16 an injury in an accident adjudged to have been
17 caused by a tortfeasor, under applicable State law.

18 (27) TORT LIABILITY INSURANCE.—The term
19 “tort liability insurance” means a contract of insur-
20 ance under which an insurer agrees to pay, on behalf
21 of an insured, damages that the insured is obligated
22 to pay to a third person because of the liability of
23 the insured to that person.

24 (28) TORT MAINTENANCE COVERAGE.—The
25 term “tort maintenance coverage” means insurance

1 coverage under which a tort maintenance insured, if
2 involved in an accident with a personal injury pro-
3 tection insured, may recover first party benefits for
4 economic and noneconomic losses from the insurer
5 of that insured, based on fault under applicable
6 State law.

7 (29) TORT MAINTENANCE INSURED.—The term
8 “tort maintenance insured” means a person covered
9 by the form of insurance described in section 7.

10 (30) TORT MAINTENANCE SYSTEM.—The term
11 “tort maintenance system” means an insurance sys-
12 tem described in section 7.

13 (31) UNCOMPENSATED ECONOMIC LOSS.—

14 (A) IN GENERAL.—The term “uncompen-
15 sated economic loss” means any objectively
16 verifiable pecuniary loss payable based on fault
17 under applicable State tort law.

18 (B) ATTORNEY’S FEES.—The term in-
19 cludes a reasonable attorney’s fee calculated on
20 the basis of the time actually expended and the
21 value of the attorney’s efforts as reflected in
22 payment to the attorney’s client.

23 (C) EXCEPTION.—The term does not in-
24 clude any attorney’s fees when the uncompen-
25 sated economic loss is attributable only to a de-

1 ductible for coverage specified in subparagraph
2 (D).

3 (D) EXCLUSIONS.—Subject to section
4 8(j)(2), the term does not include amounts paid
5 or payable under—

6 (i) personal injury protection;

7 (ii) tort maintenance coverage;

8 (iii) no-fault or add-on motor vehicle
9 insurance;

10 (iv) Federal, State, or private dis-
11 ability or sickness programs;

12 (v) Federal, State, or private health
13 insurance programs;

14 (vi) employer wage continuation pro-
15 grams; or

16 (vii) workers' compensation or similar
17 occupational compensation laws.

18 (32) UNINSURED MOTORIST.—The term “unin-
19 sured motorist” means the owner of a motor vehicle,
20 including the resident relatives or dependents of the
21 owner, who is uninsured under either the personal
22 injury protection system described in section 6 or
23 the tort maintenance system described in section
24 7—

1 (A) at the limits prescribed by the applica-
2 ble State financial responsibility law; or

3 (B) an amount prescribed under section
4 6(a)(1).

5 **SEC. 5. AUTO CHOICE INSURANCE SYSTEM.**

6 (a) OPERATION OF THE RIGHT TO CHOOSE.—

7 (1) IN GENERAL.—Under this Act, an insurer
8 may offer a choice between—

9 (A) the personal injury protection system
10 described in section 6; and

11 (B) the tort maintenance system described
12 in section 7.

13 (2) ELECTION BY SELF-INSURED PERSONS.—A
14 self-insured person may elect coverage under para-
15 graph (1) by filing a notice with the appropriate
16 State or Federal agency.

17 (3) EFFECT OF ELECTION BY ELECTRONIC
18 MEANS.—For purposes of making an election of an
19 insurance system under this subsection, unless pro-
20 hibited by applicable State law, an electronic signa-
21 ture shall have the same force and effect as a hand-
22 written signature.

23 (b) EFFECT OF CHOICE ON RESIDENT RELATIVES
24 OR DEPENDENTS.—

1 (1) IN GENERAL.—Except as provided in para-
2 graph (2), a person who chooses either the personal
3 injury protection system or the tort maintenance
4 system also binds the resident relatives or depend-
5 ents of that person.

6 (2) EXCEPTION.—An adult resident relative or
7 dependent of a person described in paragraph (1)
8 may select the form of insurance that such person
9 does not select if the adult resident relative or de-
10 pendent makes that selection expressly in writing to
11 the insurer.

12 (3) TERMS AND CONDITIONS.—Insurers may
13 specify reasonable terms and conditions governing
14 the commencement, duration, and application of the
15 chosen coverage depending on the number of motor
16 vehicles and owners of such vehicles in a household.

17 (c) UNIFORMITY RULES.—

18 (1) IN GENERAL.—Notwithstanding subsection
19 (b)(2), and in order to minimize conflict between the
20 insurance options, an insurer may maintain and
21 apply underwriting rules that encourage uniformity
22 in the provision of insurance benefits within a house-
23 hold.

24 (2) UNIFORMITY IN INSURANCE IN EMPLOY-
25 MENT.—Except as provided in paragraph (6), an

1 employer that elects an insurance option described
2 in subparagraph (A) or (B) of subsection (a)(1)
3 binds the employees of that employer for purposes
4 of coverage of that employee in the course of em-
5 ployment by that employer.

6 (3) UNIFORMITY IN INSURANCE FOR MOTOR
7 CARRIERS.—Except as provided in paragraph (6), a
8 motor carrier that elects an insurance option de-
9 scribed in subparagraph (A) or (B) of subsection
10 (a)(1) binds any owner, operator, or occupant of a
11 motor vehicle operated by that motor carrier.

12 (4) UNIFORMITY IN INSURANCE FOR COMMON
13 CARRIERS.—Except as provided in paragraph (6), an
14 owner of a common carrier that elects an insurance
15 option described in subparagraph (A) or (B) of sub-
16 section (a)(1) binds the owner and any operator or
17 occupant of that common carrier.

18 (5) UNIFORMITY IN INSURANCE FOR MOTOR
19 VEHICLE RENTALS.—

20 (A) IN GENERAL.—Except as provided in
21 subparagraph (B), a person who is engaged in
22 the business of renting motor vehicles and who
23 elects an insurance option described in subpara-
24 graph (A) or (B) of subsection (a)(1) binds any
25 operator or occupant of the rented motor vehi-

1 ele with respect to the operation of that vehicle.
2 Such insurance under such an option shall be
3 in excess of any insurance elected pursuant to
4 subparagraph (A) or (B) of subsection (a)(1) by
5 a customer who rents a motor vehicle.

6 (B) EXCEPTION.—Subparagraph (A) shall
7 not apply if a customer who rents a motor
8 vehicle—

9 (i) specifically elects to obtain cov-
10 erage within the rental agreement other
11 than the coverage elected by the person en-
12 gaged in the business of renting the motor
13 vehicle; and

14 (ii) pays a separate charge for that
15 optional coverage.

16 (6) RIGHT OF EMPLOYEES, OPERATORS, AND
17 CERTAIN OCCUPANTS TO PURCHASE ADDITIONAL
18 COVERAGE.—

19 (A) EMPLOYEES.—An employee under
20 paragraph (2) may elect to purchase separate
21 personal injury protection or tort maintenance
22 coverage in excess of the insurance provided by
23 the employer in the scope of the employment of
24 that employee.

1 (B) OPERATORS AND OCCUPANTS OF
2 MOTOR CARRIERS.—An operator or occupant of
3 a motor carrier under paragraph (3) may elect
4 to purchase separate personal injury protection
5 or tort maintenance coverage in excess of the
6 insurance provided to that operator or occupant
7 by the motor carrier as an operator or occupant
8 of that motor carrier.

9 (C) OPERATORS AND OCCUPANTS OF COM-
10 MON CARRIERS.—An operator or occupant of a
11 common carrier under paragraph (4) may elect
12 to purchase separate personal injury protection
13 or tort maintenance coverage in excess of the
14 insurance provided to that operator or occupant
15 by the owner of the common carrier as an oper-
16 ator or occupant of the common carrier.

17 (D) EFFECT OF ELECTION.—The election
18 by an employee, operator, or occupant to pur-
19 chase insurance coverage under this paragraph
20 shall not affect the liability of an employer,
21 motor carrier, or common carrier.

22 (d) FAILURE TO ELECT TYPE OF INSURANCE.—

23 (1) IN GENERAL.—Except as provided in sub-
24 section (b)(1), any person who fails to elect a type
25 of insurance under subsection (a)(1) shall be deemed

1 to have elected insurance under the tort mainte-
2 nance system in effect in the State of that person's
3 residence.

4 (2) RULE OF CONSTRUCTION.—This subsection
5 shall not be construed to prevent a State from en-
6 acting a law that deems a person who fails to elect
7 a type of insurance under this section to have elect-
8 ed insurance under the personal injury protection
9 system.

10 (e) CONSUMER INFORMATION PROGRAM.—

11 (1) STATE PROGRAM.—The State official
12 charged with jurisdiction over insurance rates for
13 motor vehicles may establish and maintain a pro-
14 gram designed to ensure that consumers are ade-
15 quately informed concerning—

16 (A) the comparative cost of insurance
17 under the personal injury protection system and
18 the tort maintenance system; and

19 (B) the benefits, rights, and obligations of
20 insurers and insureds under each such system.

21 (2) INSURER PROGRAM.—An insurer that offers
22 a choice of insurance systems under subsection
23 (a)(1) shall provide to each consumer, before that
24 consumer chooses motor vehicle insurance, written

1 consumer information to ensure that consumers are
2 adequately informed about—

3 (A) the comparative cost of insurance
4 under the personal injury protection system and
5 the tort maintenance system; and

6 (B) the benefits, rights, and obligations of
7 insurers and insureds under each system.

8 (3) ADEQUATE NOTICE.—If an insurer files
9 consumer information forms under paragraph (2)
10 with the State official charged with jurisdiction over
11 insurance rates for motor vehicles, and such forms
12 are not disapproved within a reasonable period of
13 time after that filing, such filing and use of the in-
14 formation in accordance with paragraph (2) shall be
15 presumed to be adequate notice.

16 (f) SUPERSEDING PROVISION.—Subject to section
17 10, this Act supersedes a State law to the extent that the
18 State law is otherwise inconsistent with the requirements
19 of this Act.

20 **SEC. 6. PERSONAL INJURY PROTECTION SYSTEM.**

21 (a) MINIMUM POLICY REQUIREMENTS.—In order to
22 constitute a personal injury protection policy covered by
23 this Act, a motor vehicle insurance policy issued by an in-
24 surer shall, at a minimum—

1 (1) for each accident, provide personal injury
2 protection benefits to each personal injury protection
3 insured in amounts equal to—

4 (A) the minimum per person limits of li-
5 ability insurance for personal injury under the
6 relevant State financial responsibility law appli-
7 cable to private passenger vehicles; or

8 (B) in a State covered by a no-fault motor
9 vehicle law, the minimum level of insurance re-
10 quired for no-fault benefits;

11 (2) contain provisions for a waiver of tort
12 claims against drivers other than the insured,
13 except—

14 (A) claims for uncompensated economic
15 loss based on fault; or

16 (B) other tort claims exempted from such
17 a waiver under this Act;

18 (3) contain provisions for third party liability
19 coverage in amounts equal to the minimum limits re-
20 quired under applicable Federal or State financial
21 responsibility law for—

22 (A) property damage; and

23 (B) bodily injury to cover—

1 (i) uncompensated economic losses for
2 parties who are entitled to recover such
3 losses under this Act; and

4 (ii) economic and noneconomic losses
5 of third parties whose recovery is not af-
6 fected by this Act.

7 (b) PRIMACY OF PAYMENT.—

8 (1) IN GENERAL.—

9 (A) PERSONAL INJURY PROTECTION BENE-
10 FITS.—

11 (i) IN GENERAL.—Except as provided
12 in subparagraph (B), in any case in which
13 a personal injury protection insurer and a
14 collateral source are obligated to pay bene-
15 fits for the same economic loss under this
16 Act, the personal injury protection insurer
17 shall be liable for the primary payment of
18 benefits to cover that economic loss.

19 (ii) LIABILITY OF COLLATERAL
20 SOURCES.—A collateral source shall be lia-
21 ble for economic loss only to the extent
22 that that loss exceeds benefits paid or pay-
23 able by an insurer under an applicable per-
24 sonal injury protection insurance policy.

1 (B) EXCEPTION.—Personal injury protec-
2 tion benefits shall be reduced by an amount
3 equal to any benefits provided or required to be
4 provided under—

5 (i) an applicable Federal or State law
6 for workers' compensation;

7 (ii) any State-required nonoccupa-
8 tional disability insurance; or

9 (iii) any occupational disability insur-
10 ance covering professional drivers of motor
11 vehicles who are independent contractors.

12 (2) REIMBURSEMENT OF PAYORS.—

13 (A) IN GENERAL.—A personal injury pro-
14 tection insurer may take appropriate measures
15 to ensure that any person otherwise eligible for
16 personal injury protection benefits who has
17 been paid or is being paid for losses payable by
18 personal injury protection from a source other
19 than the applicable personal injury protection
20 insurer shall not receive multiple payment for
21 those losses.

22 (B) ACCRUAL OF RIGHTS.—Any right to
23 payment for losses referred to in subparagraph
24 (A) from a personal injury protection insurer
25 accrues only to that payor. Payments by a

1 payor referred to in subparagraph (A) shall not
 2 be counted against personal injury limits for
 3 personal injury protection until such time as
 4 the payor is reimbursed under this subpara-
 5 graph.

6 (3) PROTECTION AGAINST DUPLICATION.—

7 Upon receipt of reasonable notice, a personal injury
 8 protection insurer shall reimburse a collateral source
 9 for payments made by that collateral source for eco-
 10 nomic loss for injury resulting from a motor vehicle
 11 accident, to the extent that the personal injury pro-
 12 tection insurer is obligated to pay for that economic
 13 loss.

14 (c) PROMPT AND PERIODIC PAYMENT.—

15 (1) IN GENERAL.—A personal injury protection
 16 insurer may pay personal injury protection benefits
 17 periodically as losses accrue.

18 (2) LATE PAYMENT.—A personal injury protec-
 19 tion insurer that does not pay a claim for personal
 20 injury protection benefits during the 30-day period
 21 beginning on the date on which that insurer receives
 22 a submission of reasonable proof of the loss for
 23 which those benefits are payable, shall pay—

24 (A) the loss compounded at a rate of 24
 25 percent per annum as liquidated damages; and

1 (B) a reasonable attorney's fee calculated
2 on the basis of the time actually expended and
3 the value of the attorney's efforts as reflected
4 in payment to the attorney's client.

5 (3) ADMINISTRATION OF PERSONAL INJURY
6 PROTECTION BENEFITS.—To the extent consistent
7 with this Act, any applicable provision of a State no-
8 fault motor vehicle law or add-on law governing the
9 administration of payment of benefits without ref-
10 erence to fault shall apply to the payment of benefits
11 under personal injury protection under this sub-
12 section.

13 (d) AUTHORIZATIONS FOR DEDUCTIONS AND EXCLU-
14 SIONS.—

15 (1) IN GENERAL.—A personal injury protection
16 insurer may write personal injury protection—

17 (A)(i) without any deductible; or

18 (ii) subject to a reasonable deductible; and

19 (B) with an exclusion of coverage for first
20 party benefits to cover the losses of the per-
21 sonal injury protection insured caused by that
22 insured's—

23 (i) driving under the influence of alco-
24 hol or illegal drugs; or

1 (ii) driving while seeking to inten-
2 tionally injure another person.

3 (2) APPLICABILITY OF DEDUCTIBLES.—The
4 deductibles and exclusions described in paragraph
5 (1) shall apply only to—

6 (A) the person named in the applicable in-
7 surance policy; and

8 (B) the resident relatives or dependents of
9 the person described in subparagraph (A).

10 **SEC. 7. TORT MAINTENANCE SYSTEM.**

11 (a) MINIMUM POLICY REQUIREMENTS.—

12 (1) IN GENERAL.—The coverage for a person
13 who chooses insurance under section 5(a)(1)(B)
14 shall include—

15 (A) the type of motor vehicle insurance
16 that is otherwise required under applicable
17 State law; and

18 (B) tort maintenance coverage at a level
19 that is at least equivalent to the level of insur-
20 ance required under the applicable State finan-
21 cial responsibility law for bodily injury liability.

22 (2) RESPONSIBILITY FOR PAYMENT UNDER
23 TORT MAINTENANCE COVERAGE.—The responsibility
24 for payment for any claim under tort maintenance
25 coverage is assumed by the insurer of the person

1 with tort maintenance coverage to the extent of such
 2 coverage.

3 (b) ADDITIONAL PAYMENTS FROM UNINSURED MO-
 4 TORIST COVERAGE AND UNDERINSURED MOTORIST COV-
 5 ERAGE.—A tort maintenance insured who also purchases
 6 an insurance policy that provides uninsured motorist cov-
 7 erage or underinsured motorist coverage may recover
 8 under the terms of that policy for any economic or non-
 9 economic loss arising from an accident involving a per-
 10 sonal injury protection insured, in any case in which the
 11 amount of those economic or noneconomic losses exceed
 12 the aggregate amount recovered or recoverable from the—

13 (1) tort maintenance insured; and

14 (2) personal injury protection insured.

15 **SEC. 8. SOURCE OF COMPENSATION IN CASES OF ACCI-**
 16 **DENTAL INJURY.**

17 (a) ACCIDENTS INVOLVING PERSONS CHOOSING THE
 18 TORT MAINTENANCE SYSTEM.—

19 (1) IN GENERAL.—A tort maintenance insured
 20 who is involved in an accident with another person
 21 shall be subject to applicable State law for injury ex-
 22 cept that, based on fault, that person may, upon
 23 submission of proof of insurance—

1 (A) recover from any personal injury pro-
2 tection insured for uncompensated economic
3 loss (and not for noneconomic loss); and

4 (B) be liable to a personal injury protec-
5 tion insured for uncompensated economic loss
6 (and not for noneconomic loss).

7 (2) ALLOCATION OF TORT MAINTENANCE PAY-
8 MENTS.—In determining the extent of recovery of a
9 tort maintenance insured from a personal injury
10 protection insured under subsection (b), the pay-
11 ments made to the tort maintenance insured from
12 tort maintenance coverage shall first be allocable to
13 economic loss, and any remainder may be allocable
14 to noneconomic loss.

15 (b) ACCIDENTS INVOLVING PERSONS CHOOSING THE
16 PERSONAL INJURY PROTECTION SYSTEM.—

17 (1) RIGHT TO RECOVER ECONOMIC LOSS.—A
18 personal injury protection insured who is injured in
19 an accident may recover under the policy of that in-
20 sured only for economic loss, without regard to fault.

21 (2) RIGHT TO SUE FOR UNCOMPENSATED ECO-
22 NOMIC LOSS BASED ON FAULT.—A personal injury
23 protection insured who is involved in an accident
24 with a tort maintenance insured, or another personal
25 injury protection insured, may recover based on fault

1 from that other insured for uncompensated economic
2 loss (and not for noneconomic loss).

3 (c) ALLOCATION OF COMPARATIVE FAULT.—In any
4 case in which a claim is made under this Act for uncom-
5 pensated economic loss on the basis of comparative fault
6 under applicable State law, the recovery of damages shall
7 be based on the percentage of fault with respect to the
8 amount of uncompensated economic loss.

9 (d) ACCIDENTS INVOLVING PERSONS CHOOSING THE
10 PERSONAL INJURY PROTECTION SYSTEM AND PERSONS
11 WHO ARE UNLAWFULLY UNINSURED.—

12 (1) RIGHTS OF PERSONAL INJURY PROTECTION
13 INSUREDS.—A personal injury protection insured
14 who is involved in an accident with an uninsured
15 motorist—

16 (A) shall be compensated under the in-
17 sured person's policy for economic loss without
18 regard to fault; and

19 (B) may recover from the uninsured mo-
20 torist (other than under uninsured or under-
21 insured motorist coverage) for economic loss
22 and for noneconomic loss based on fault.

23 (2) LIMITATIONS ON LAWSUITS BY UNINSURED
24 MOTORISTS.—An uninsured motorist may not re-

1 cover from a personal injury protection insured for
2 noneconomic loss.

3 (e) ACCIDENTS INVOLVING MOTORISTS UNDER THE
4 INFLUENCE OF ALCOHOL OR ILLEGAL DRUGS OR IN-
5 FLICTING INTENTIONAL INJURY.—Notwithstanding any
6 other provision of this Act, a personal injury protection
7 insured who is in an accident may—

8 (1) recover all damages based on fault under
9 applicable State law from a person who—

10 (A) at the time of the accident, was driving
11 under the influence of alcohol or illegal drugs
12 (as those terms are defined under applicable
13 State law); or

14 (B) caused an injury while seeking to in-
15 tentionally injure another person; and

16 (2) be liable for all damages based on fault
17 under applicable State law, if such insured—

18 (A) at the time of the accident, was driving
19 under the influence of alcohol or illegal drugs
20 (as those terms are defined under applicable
21 State law); or

22 (B) caused an injury while seeking to in-
23 tentionally injure another person.

24 (f) RIGHTS OF LAWFULLY UNINSURED PERSONS.—
25 Nothing in this Act shall be construed to affect the tort

1 rights or obligations of any person lawfully uninsured
2 under the terms of an applicable State law for insurance
3 under either the personal injury protection system or tort
4 maintenance system under section 5(a)(1).

5 (g) RIGHTS OF PERSONS OCCUPYING MOTOR VEHI-
6 CLES WITH FEWER THAN 4 LOAD-BEARING WHEELS.—
7 Nothing in this Act shall be construed to affect the tort
8 rights or obligations of a person who occupies a motor ve-
9 hicle with fewer than 4 load-bearing wheels or an attach-
10 ment thereto, unless an applicable contract for personal
11 injury protection under which that person is insured speci-
12 fies otherwise. The preceding sentence applies without re-
13 gard to whether the person is otherwise legally insured for
14 personal injury protection or tort maintenance coverage.

15 (h) FORFEITURE OF FRAUDULENT CLAIMS.—An
16 owner, operator, or occupant of a motor vehicle involved
17 in an accident forfeits the right to make a claim against
18 an insured motorist for economic or noneconomic loss re-
19 sulting from injury incurred by that owner, operator, or
20 occupant if that owner, operator, or occupant knowingly
21 participated in a scheme to obtain insurance payments for
22 any accident that was staged with the intent to commit
23 insurance fraud.

24 (i) PRIORITY OF BENEFITS.—

1 (1) IN GENERAL.—Except as provided in para-
2 graph (2), a personal injury protection insured or a
3 tort maintenance insured may recover first party
4 benefits only under the coverage of that insured in
5 effect at the time of the accident.

6 (2) EXCEPTIONS.—

7 (A) IN GENERAL.—Except as provided in
8 subparagraph (B), with respect to an accident
9 that occurred while an injured individual was
10 occupying a motor vehicle—

11 (i) furnished by an employer, the pri-
12 mary coverage shall be the coverage appli-
13 cable to the motor vehicle; or

14 (ii) that was being used in the busi-
15 ness of transporting individuals or prop-
16 erty, the primary coverage shall be the cov-
17 erage applicable to that motor vehicle.

18 (B) CERTAIN CLAIMANTS.—A claimant
19 may claim first party benefits in an amount
20 greater than the amounts determined under the
21 limits under the primary insurance coverage de-
22 scribed in clause (i) or (ii) of subparagraph (A),
23 if that claimant would otherwise be able to re-
24 ceive those increased benefits by reason of in-
25 surance coverage of that claimant that would

1 otherwise apply, but for the operation of sub-
2 paragraph (A).

3 (j) REIMBURSEMENT RIGHTS OF PERSONAL INJURY
4 PROTECTION INSURERS AND COLLATERAL SOURCES.—

5 (1) REIMBURSEMENT RIGHTS OF PERSONAL IN-
6 JURY PROTECTION INSURERS.—

7 (A) IN GENERAL.—A personal injury pro-
8 tection insurer may seek reimbursement under
9 subparagraph (B), from—

10 (i) an uninsured motorist who is liable
11 for damages caused by the accident;

12 (ii) a motorist who was under the in-
13 fluence of alcohol or illegal drugs at the
14 time of the accident;

15 (iii) a person who caused an injury
16 while seeking to intentionally injure an-
17 other person; or

18 (iv) any other person who is not af-
19 fected by the limitations on tort rights and
20 liabilities under this Act.

21 (B) REIMBURSEMENT.—A personal injury
22 protection insurer may seek reimbursement
23 under this subparagraph to the extent of the
24 obligations of that insurer, with respect to pay-
25 ments for a personal injury protection insured

1 of that insurer with respect to an accident
 2 caused in whole or in part, as determined in ac-
 3 cordance with applicable State law, from a per-
 4 son referred to in subparagraph (A), for the
 5 losses that insurer—

6 (i) has paid or reimbursed; or

7 (ii) under applicable law, is obligated
 8 to pay.

9 (2) REIMBURSEMENT RIGHTS OF COLLATERAL
 10 SOURCES.—With respect to an accident, a collateral
 11 source may seek reimbursement from an insurer in
 12 a civil action based on fault.

13 (3) PROHIBITION ON MULTIPLE RECOVERY.—In
 14 any action to recover losses arising out of an acci-
 15 dent, a person may not recover or introduce into evi-
 16 dence in a civil action against another person any
 17 amount of a loss that a collateral source or personal
 18 injury protection insurer—

19 (A) has paid or reimbursed; or

20 (B) is obligated to pay.

21 (k) CHOICE OF LAW.—

22 (1) APPLICABLE LAW.—With respect to a claim
 23 relating to a motor vehicle accident involving persons
 24 from different States, the choice-of-law principles

1 applicable under the law of the State of competent
2 jurisdiction shall apply.

3 (2) APPLICABLE COVERAGE IN AN AUTO
4 CHOICE STATE.—With respect to an accident that
5 involves a person from a State in which this Act
6 does not apply and a person from a State in which
7 this Act applies, in any case in which the accident
8 occurs in a State in which this Act applies, the cov-
9 erage of the person from the State in which this Act
10 does not apply shall be deemed to be the form of in-
11 surance (whether personal injury protection or tort
12 maintenance coverage) that most closely reflects the
13 form of insurance that that person maintains in the
14 State of residence of that person.

15 (l) JURISDICTION.—This Act shall not confer juris-
16 diction on the district courts of the United States under
17 section 1331 or 1337 of title 28, United States Code.

18 (m) STATUTES OF LIMITATIONS.—

19 (1) IN GENERAL.—Subject to paragraph (2),
20 nothing in this Act shall supersede an applicable
21 State law that imposes a statute of limitations for
22 claims related to an injury caused by an accident,
23 except that such statute shall be tolled during the
24 period during which any personal injury protection
25 or tort maintenance coverage benefits are paid.

1 (2) CLAIMS.—Unless otherwise provided by
2 State law, a claim for personal injury protection
3 benefits under this Act shall be filed not later than
4 2 years after the economic loss that is the subject
5 of the claim is incurred.

6 (n) LIMITATIONS ON NONRENEWAL, CANCELLATION,
7 AND PREMIUM INCREASES.—An insurer shall not cancel,
8 fail to renew, or increase the premium of a person insured
9 by the insurer solely because that insured person or any
10 other injured person made a claim for—

11 (1) personal injury protection benefits; or

12 (2) tort maintenance coverage benefits in any
13 case in which there is no basis for ascribing fault to
14 the insured or one for whom the insured is vicari-
15 ously liable.

16 (o) NEGLIGENT DRIVER RATINGS.—Nothing in this
17 Act shall be construed to limit insurers from canceling,
18 failing to renew, or increasing premiums for an insured
19 person if there is a basis for ascribing moving traffic viola-
20 tions or fault for an accident caused by that insured or
21 any resident relative or dependent, or employee of that in-
22 sured.

23 (p) IMMUNITY.—

24 (1) IN GENERAL.—Except as provided in para-
25 graph (2), no insurer, insurance agent or broker, in-

1 insurance producer representing a motor vehicle in-
2 surer, automobile residual market plan, or attorney
3 licensed to practice law within a State, or any em-
4 ployee of any such person or entity, shall be liable
5 in an action for damages on account of—

6 (A) an election of—

7 (i) the tort maintenance system under
8 section 5(a)(1)(B); or

9 (ii) the personal injury protection sys-
10 tem under section 5(a)(1)(A); or

11 (B) a failure to make a required election.

12 (2) EXCEPTION.—Paragraph (1) shall not
13 apply in any case in which—

14 (A) a person described in that
15 paragraph—

16 (i) willfully and intentionally mis-
17 represents the insurance choices available
18 to a customer or client of that person; or

19 (ii) willfully and with the intent to de-
20 fraud, induces the election of 1 motor vehi-
21 cle insurance system described in para-
22 graph (1)(A) over the other motor vehicle
23 insurance system described in that para-
24 graph; and

1 (B) the misrepresentation or inducement
2 under subparagraph (A) was the proximate
3 cause of that customer or client's electing or
4 failing to make an election of an insurance sys-
5 tem under subparagraph (A) or (B) of section
6 5(a)(1).

7 **SEC. 9. PRESERVATION OF STATE AND PRIVATE RIGHTS.**

8 (a) RIGHTS OF STATES.—Nothing in this Act shall
9 be construed—

10 (1) to waive or affect any defense of sovereign
11 immunity asserted by any State under any law or by
12 the United States;

13 (2) to preempt State choice-of-law rules with re-
14 spect to claims brought by a foreign nation or a cit-
15 izen of a foreign nation;

16 (3) to affect the right of any court to transfer
17 venue, to apply the law of a foreign nation, or to dis-
18 miss a claim of a foreign nation or of a citizen of
19 a foreign nation on the ground of inconvenient
20 forum;

21 (4) to preclude a State from enacting a law
22 that mandates that claims by personal injury protec-
23 tion insureds for uncompensated economic loss be
24 submitted for nonbinding alternative dispute resolu-
25 tion before any action may be maintained;

1 (5) to preclude a State from requiring personal
2 injury protection insurers to offer first party insur-
3 ance that establishes a dollar value for noneconomic
4 loss in objectively verifiable defined classes of cases
5 involving death or serious and permanent bodily in-
6 jury;

7 (6) to preclude a State from enacting a law ap-
8 plicable to all motor vehicle accident cases, including
9 cases covered by this Act, to establish a minimum
10 dollar value for economic losses for defined classes
11 of cases involving death or serious bodily injury;

12 (7) to preclude a State from providing that
13 forms of insurance other than those listed in section
14 6(b) shall be subtracted from personal injury protec-
15 tion insurance benefits otherwise payable for injury;

16 or

17 (8) to preclude a State from enacting a law
18 that—

19 (A) allows litigation by tort maintenance
20 insureds against personal injury protection in-
21 sureds for economic and noneconomic loss; and

22 (B) assures through a reallocation device
23 that the advantage of tort claim waivers by per-
24 sonal injury protection insureds against tort

1 maintenance insureds is reflected in the pre-
2 miums of personal injury protection insureds.

3 (b) PRESERVATION OF STATE REGULATORY AU-
4 THORITY.—Nothing in this Act may be construed—

5 (1) to preclude a State or State official charged
6 with regulatory authority over the business of insur-
7 ance from fully exercising that regulatory authority,
8 including adopting regulations and procedures
9 regarding—

10 (A) rates;

11 (B) policy forms;

12 (C) company solvency;

13 (D) consumer protection;

14 (E) underwriting and marketing practices;

15 and

16 (F) carrying out the requirements of this
17 Act; or

18 (2) to allow or provide for Federal regulation of
19 motor vehicle insurance.

20 (c) RIGHTS OF PRIVATE PARTIES.—Nothing in this
21 Act may be construed—

22 (1) to require a personal injury protection in-
23 surer to offer, or a personal injury protection in-
24 sured to purchase, any coverage for bodily injury in
25 addition to the coverage required under this Act, in-

1 including uninsured motorist coverage, underinsured
2 motorist coverage, or coverage for medical payments;

3 (2) to prevent insurers and insureds from con-
4 tracting to limit recovery for the loss of earnings
5 under personal injury protection by—

6 (A) limiting such recovery to only 60 per-
7 cent or more of lost wages or income;

8 (B) limiting the amount of such recovery
9 payable per week; or

10 (C) limiting the period of time after an ac-
11 cident during which the benefits referred to in
12 this paragraph are payable to a period of not
13 less than 1 year;

14 (3) to prevent an insurer from contracting with
15 personal injury protection insureds to limit the
16 amounts payable for replacement services loss on a
17 per day or per week basis;

18 (4) to prevent an insurer from contracting with
19 insureds, as permitted by applicable State law, to
20 have submitted to arbitration any dispute with re-
21 spect to payment of personal injury protection or
22 tort maintenance coverage;

23 (5) to affect the worker classification of a per-
24 son, either as an employee or an independent con-
25 tractor, on the basis of the election of an employer

1 or motor carrier of an insurance system under sec-
2 tion 5(a); or

3 (6) to affect the awarding of punitive damages
4 under any applicable State law.

5 **SEC. 10. APPLICABILITY TO STATES.**

6 (a) ELECTION OF NONAPPLICABILITY BY STATES.—

7 Subject to subsections (c) through (e), this Act shall apply
8 with respect to a State, unless—

9 (1) by not later than the earlier of the date that
10 is 1 year after the date of enactment of this Act or
11 the expiration of the first regular legislative session
12 of the State beginning after the date of enactment
13 of this Act, the State enacts a statute that—

14 (A) cites the authority of this subsection;

15 (B) declares the election of that State that
16 this Act shall not apply with respect to that
17 State; and

18 (C) contains no other provision; or

19 (2)(A) the State official charged with jurisdic-
20 tion over insurance rates for motor vehicles makes a
21 finding that this Act does not apply by reasons of
22 the applicability of the conditions described in sub-
23 section (b)(1)(A); and

1 (B) that finding is made and any review de-
2 scribed in subsection (b)(1)(B) is completed not
3 later than the date specified in subsection (b)(1)(C).

4 (b) NONAPPLICABILITY BASED ON STATE FIND-
5 ING.—

6 (1) IN GENERAL.—This Act shall not apply
7 with respect to a State, if—

8 (A) the State official charged with jurisdic-
9 tion over insurance rates for motor vehicles
10 makes a finding that the statewide average
11 motor vehicle premiums for bodily injury insur-
12 ance in effect immediately before the date of
13 enactment of this Act will not be reduced by an
14 average of at least 30 percent for persons
15 choosing the personal injury protection system,
16 in the amounts required under section 6 (with-
17 out including in the calculation for personal in-
18 jury protection insureds any costs for unin-
19 sured, underinsured, or medical payments cov-
20 erage)’’;

21 (B) the finding described under subpara-
22 graph (A) is supported by evidence adduced in
23 a public hearing and reviewable under the appli-
24 cable State administrative procedure law; and

1 (C) the finding described under subpara-
2 graph (A) is made, and any review of such find-
3 ing under subparagraph (B) is completed, not
4 later than 120 days after the date of enactment
5 of this Act.

6 (2) COMPARISON OF BODILY INJURY PRE-
7 MIUMS.—For purposes of making a comparison
8 under paragraph (1)(A) of premiums for personal
9 injury protection with preexisting premiums for bod-
10 ily injury insurance (in effect immediately before the
11 date of enactment of this Act), the preexisting bodily
12 injury insurance premiums shall include premiums
13 for—

14 (A) bodily injury liability, uninsured and
15 underinsured motorists' liability, and medical
16 payments coverage; and

17 (B) if applicable, no-fault benefits under a
18 no-fault motor vehicle law or add-on law.

19 (c) IMPLEMENTATION PERIOD.—Except as provided
20 in subsection (d), if a State fails to enact a law by the
21 applicable date specified in paragraph (1) of subsection
22 (a) or if a finding described in paragraph (2) of that sub-
23 section is not made and reviewed by the date specified in
24 subsection (b)(1)(C), this Act shall apply to that State be-

1 ginning on the date that is 270 days after the later of
2 those dates.

3 (d) ACCELERATED APPLICABILITY.—

4 (1) IN GENERAL.—Subject to paragraph (2), a
5 State may enact a law that provides for the imple-
6 mentation of the provisions of this Act in that State
7 before an otherwise applicable date determined
8 under subsection (a).

9 (2) APPLICABILITY.—If a State makes an elec-
10 tion under paragraph (1), this Act shall apply to
11 that State beginning on the date that is 270 days
12 after such election.

13 (e) ELECTION OF NONAPPLICABILITY BY A STATE
14 AFTER THIS ACT BECOMES APPLICABLE WITH RESPECT
15 TO THE STATE.—After this Act becomes applicable with
16 respect to a State under subsection (c) or (d), this Act
17 shall cease to apply with respect to that State if the State
18 enacts a statute that meets the requirements of subpara-
19 graphs (A) through (C) of subsection (a)(1).

○