

SENATE, No. 788

STATE OF NEW JERSEY
219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator NICHOLAS P. SCUTARI

District 22 (Middlesex, Somerset and Union)

SYNOPSIS

Increases certain minimum limits for motor vehicle and automobile insurance coverages.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



S788 SCUTARI

2

1 AN ACT concerning motor vehicle insurance and amending various
2 parts of the statutory law.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 2 of P.L.1968, c.385 (C.17:28-1.1) is amended to
8 read as follows:

9 2. a. Except for a basic automobile insurance policy, no motor
10 vehicle liability policy or renewal of such policy of insurance,
11 including a standard liability policy for an automobile as defined in
12 section 2 of P.L.1972, c.70 (C.39:6A-2), insuring against loss
13 resulting from liability imposed by law for bodily injury or death,
14 sustained by any person arising out of the ownership, maintenance
15 or use of a motor vehicle, shall be issued in this State with respect
16 to any motor vehicle registered or principally garaged in this State
17 unless it includes coverage in limits for bodily injury or death as
18 follows:

19 (1) an amount or limit of **[\$15,000.00]** \$100,000, exclusive of
20 interest and costs, on account of injury to, or death of, one person,
21 in any one accident, and

22 (2) an amount or limit, subject to such limit for any one person
23 so injured or killed, of **[\$30,000.00]** \$200,000, exclusive of interest
24 and costs, on account of injury to or death of more than one person,
25 in any one accident, under provisions approved by the
26 Commissioner of Banking and Insurance, for payment of all or part
27 of the sums which the insured or his legal representative shall be
28 legally entitled to recover as damages from the operator or owner of
29 an uninsured motor vehicle, or hit and run motor vehicle, as defined
30 in section 18 of P.L.1952, c.174 (C.39:6-78), because of bodily
31 injury, sickness or disease, including death resulting therefrom,
32 sustained by the insured, caused by accident and arising out of the
33 ownership, maintenance, operation or use of such uninsured or hit
34 and run motor vehicle anywhere within the United States or
35 Canada; except that uninsured motorist coverage shall provide that
36 in order to recover for non-economic loss, as defined in section 2 of
37 P.L.1972, c.70 (C.39:6A-2), for accidents to which the benefits of
38 section 4 (C.39:6A-4) of that act apply, the tort option elected
39 pursuant to section 8 (C.39:6A-8) of that act shall apply to that
40 injured person.

41 All motor vehicle liability policies, except basic automobile
42 insurance policies, shall also include coverage for the payment of
43 all or part of the sums which persons insured thereunder shall be
44 legally entitled to recover as damages from owners or operators of
45 uninsured motor vehicles, other than hit and run motor vehicles,

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

Matter underlined thus is new matter.

S788 SCUTARI

1 because of injury to or destruction to the personal property of such
2 insured, with a limit in the aggregate for all insurers involved in any
3 one accident of ~~【\$5,000.00】~~ \$35,000, and subject, for each insured,
4 to an exclusion of the first \$500.00 of such damages.

5 b. Uninsured and underinsured motorist coverage shall be
6 provided as an option by an insurer to the named insured electing a
7 standard automobile insurance policy up to at least the following
8 limits: \$250,000.00 each person and \$500,000.00 each accident for
9 bodily injury; \$100,000.00 each accident for property damage or
10 \$500,000.00 single limit, subject to an exclusion of the first \$500.00
11 of such damage to property for each accident, except that the limits
12 for uninsured and underinsured motorist coverage shall not exceed
13 the insured's motor vehicle liability policy limits for bodily injury
14 and property damage, respectively.

15 Rates for uninsured and underinsured motorist coverage for the
16 same limits shall, for each filer, be uniform on a Statewide basis
17 without regard to classification or territory.

18 c. Uninsured and underinsured motorist coverage provided for
19 in this section shall not be increased by stacking the limits of
20 coverage of multiple motor vehicles covered under the same policy
21 of insurance nor shall these coverages be increased by stacking the
22 limits of coverage of multiple policies available to the insured. If
23 the insured had uninsured motorist coverage available under more
24 than one policy, any recovery shall not exceed the higher of the
25 applicable limits of the respective coverages and the recovery shall
26 be prorated between the applicable coverages as the limits of each
27 coverage bear to the total of the limits.

28 d. Uninsured and underinsured motorist coverage shall be
29 subject to the policy terms, conditions and exclusions approved by
30 the Commissioner of Banking and Insurance, including, but not
31 limited to, unauthorized settlements, non-duplication of coverage,
32 subrogation and arbitration.

33 e. For the purpose of this section, (1) "underinsured motorist
34 coverage" means insurance for damages because of bodily injury
35 and property damage resulting from an accident arising out of the
36 ownership, maintenance, operation or use of an underinsured motor
37 vehicle. Underinsured motorist coverage shall not apply to an
38 uninsured motor vehicle. A motor vehicle is underinsured when the
39 sum of the limits of liability under all bodily injury and property
40 damage liability bonds and insurance policies available to a person
41 against whom recovery is sought for bodily injury or property
42 damage is, at the time of the accident, less than the applicable limits
43 for underinsured motorist coverage afforded under the motor
44 vehicle insurance policy held by the person seeking that recovery.
45 A motor vehicle shall not be considered an underinsured motor
46 vehicle under this section unless the limits of all bodily injury
47 liability insurance or bonds applicable at the time of the accident
48 have been exhausted by payment of settlements or judgments. The

1 limits of underinsured motorist coverage available to an injured
2 person shall be reduced by the amount he has recovered under all
3 bodily injury liability insurance or bonds;

4 (2) "uninsured motor vehicle" means:

5 (a) a motor vehicle with respect to the ownership, operation,
6 maintenance, or use of which there is no bodily injury liability
7 insurance or bond applicable at the time of the accident;

8 (b) a motor vehicle with respect to the ownership, operation,
9 maintenance, or use of which there is bodily injury liability
10 insurance in existence but the liability insurer denies coverage or is
11 unable to make payment with respect to the legal liability of its
12 insured because the insurer has become insolvent or bankrupt, or
13 the Commissioner of Banking and Insurance has undertaken control
14 of the insurer for the purpose of liquidation;

15 (c) a hit and run motor vehicle as described in section 18 of
16 P.L.1952, c.174 (C.39:6-78); or

17 (d) an automobile covered by a special automobile insurance
18 policy pursuant to section 45 of P.L.2003, c.89 (C.39:6A-3.3).

19 "Uninsured motor vehicle" shall not include an automobile
20 covered by a basic automobile insurance policy; an underinsured
21 motor vehicle; a motor vehicle owned by or furnished for the
22 regular use of the named insured or any resident of the same
23 household; a self-insurer within the meaning of any financial
24 responsibility or similar law of the state in which the motor vehicle
25 is registered or principally garaged; a motor vehicle which is owned
26 by the United States or Canada, or a state, political subdivision or
27 agency of those governments or any of the foregoing; a land motor
28 vehicle or trailer operated on rails or crawler treads; a motor vehicle
29 used as a residence or stationary structure and not as a vehicle; or
30 equipment or vehicles designed for use principally off public roads,
31 except while actually upon public roads.

32 f. Notwithstanding the provisions of this section or any other
33 law to the contrary, a motor vehicle liability policy or renewal of
34 such policy of insurance, insuring against loss resulting from
35 liability imposed by law for bodily injury or death, sustained by any
36 person arising out of the ownership, maintenance or use of a motor
37 vehicle, issued in this State to a corporate or business entity with
38 respect to any motor vehicle registered or principally garaged in this
39 State, shall not provide less uninsured or underinsured motorist
40 coverage for an individual employed by the corporate or business
41 entity than the coverage provided to the named insured under the
42 policy. A policy that names a corporate or business entity as a
43 named insured shall be deemed to provide the maximum uninsured
44 or underinsured motorist coverage available under the policy to an
45 individual employed by the corporate or business entity, regardless
46 of whether the individual is an additional named insured under that
47 policy or is a named insured or is covered under any other policy

S788 SCUTARI

1 providing uninsured or underinsured motorist coverage.
2 (cf: P.L.2007, c.163, s.1)

3

4 2. Section 3 of P.L.1972, c.70 (C.39:6A-3) is amended to read
5 as follows:

6 3. Compulsory automobile insurance coverage; limits. Except
7 as provided by section 4 of P.L.1998, c.21 (C.39:6A-3.1), every
8 owner or registered owner of an automobile registered or
9 principally garaged in this State shall maintain automobile liability
10 insurance coverage, under provisions approved by the
11 Commissioner of Banking and Insurance, insuring against loss
12 resulting from liability imposed by law for bodily injury, death and
13 property damage sustained by any person arising out of the
14 ownership, maintenance, operation or use of an automobile wherein
15 such coverage shall be at least in:

16 a. an amount or limit of **[\$15,000.00]** \$100,000, exclusive of
17 interest and costs, on account of injury to, or death of, one person,
18 in any one accident; and

19 b. an amount or limit, subject to such limit for any one person
20 so injured or killed, of **[\$30,000.00]** \$200,000, exclusive of interest
21 and costs, on account of injury to or death of, more than one person,
22 in any one accident; and

23 c. an amount or limit of **[\$5,000.00]** \$35,000, exclusive of
24 interest and costs, for damage to property in any one accident.

25 No licensed insurance carrier shall refuse to renew the required
26 coverage stipulated by this act of an eligible person as defined in
27 section 25 of P.L.1990, c.8 (C.17:33B-13) except in accordance
28 with the provisions of section 26 of P.L.1988, c.119 (C.17:29C-7.1)
29 or with the consent of the Commissioner of Banking and Insurance.
30 (cf: P.L.1998, c.21, s.3)

31

32 3. Section 1 of P.L.1972, c.197 (C.39:6B-1) is amended to read
33 as follows:

34 1. a. Every owner or registered owner of a motor vehicle
35 registered or principally garaged in this State shall maintain motor
36 vehicle liability insurance coverage, under provisions approved by
37 the Commissioner of Banking and Insurance, insuring against loss
38 resulting from liability imposed by law for bodily injury, death and
39 property damage sustained by any person arising out of the
40 ownership, maintenance, operation or use of a motor vehicle
41 wherein such coverage shall be at least in: (1) an amount or limit of
42 **[\$15,000.00]** \$100,000, exclusive of interest and costs, on account
43 of injury to, or death of, one person, in any one accident; and (2) an
44 amount or limit, subject to such limit for any one person so injured
45 or killed, of **[\$30,000.00]** \$200,000, exclusive of interest and costs,
46 on account of injury to or death of, more than one person, in any
47 one accident; and (3) an amount or limit of **[\$5,000.00]** \$35,000,

1 exclusive of interest and costs, for damage to property in any one
2 accident.

3 b. Notwithstanding the provisions of subsection a. of this
4 section, an owner or registered owner of an automobile, as defined
5 in section 2 of P.L.1972, c.70 (C.39:6A-2), registered or
6 **【primarily】** principally garaged in the State may satisfy the
7 requirements of subsection a. of this section by maintaining a basic
8 automobile insurance policy containing coverages provided
9 pursuant to subsections a. and b. of section 4 of P.L.1998, c.21
10 (C.39:6A-3.1).

11 c. Notwithstanding the provisions of subsection a. of this
12 section, an owner or registered owner of an automobile, as defined
13 in section 2 of P.L.1972, c.70 (C.39:6A-2), registered or
14 **【primarily】** principally garaged in the State may satisfy the
15 requirements of subsection a. of this section by maintaining a
16 special automobile insurance policy containing coverages provided
17 pursuant to subsection b. of section 45 of P.L.2003, c.89 (C.39:6A-
18 3.3).

19 (cf: P.L.2003, c.89, s.60)

20

21 4. Section 13 of P.L.1983, c.362, (C.39:6A-4.3) is amended to
22 read:

23 13. Personal injury protection coverage options. With respect to
24 personal injury protection coverage provided on an automobile in
25 accordance with section 4 of P.L.1972, c.70 (C.39:6A-4), the
26 automobile insurer shall provide the following coverage options:

27 a. Medical expense benefit deductibles in amounts of \$500.00,
28 \$1,000.00, \$2,000.00 and \$2,500.00 for any one accident;

29 b. The option to exclude all benefits offered under subsections
30 b., c., d., and e. of section 4;

31 c. (Deleted by amendment, P.L.1988, c.119.)

32 d. For policies issued or renewed on or after January 1, 1991,
33 the option that other health insurance coverage or benefits of the
34 insured, including health care services provided by a health
35 maintenance organization and any coverage or benefits provided
36 under any federal or State program, are the primary coverage in
37 regard to medical expense benefits pursuant to section 4 of
38 P.L.1972, c.70 (C.39:6A-4). If health insurance coverage or
39 benefits are primary, an automobile insurer providing medical
40 expense benefits under personal injury protection coverage shall be
41 liable for reasonable medical expenses not covered by the health
42 insurance coverage or benefits up to the limit of the medical
43 expense benefits coverage. The principles of coordination of
44 benefits shall apply to personal injury protection medical expense
45 benefits coverage pursuant to this subsection;

46 e. Medical expense benefits in amounts of \$150,000, \$75,000,
47 \$50,000 or **【\$15,000】** \$25,000 per person per accident; except that,
48 medical expense benefits shall be paid in an amount not to exceed

1 \$250,000 for all medically necessary treatment of permanent or
2 significant brain injury, spinal cord injury or disfigurement or for
3 medically necessary treatment of other permanent or significant
4 injuries rendered at a trauma center or acute care hospital
5 immediately following the accident and until the patient is stable,
6 no longer requires critical care and can be safely discharged or
7 transferred to another facility in the judgment of the attending
8 physician. The coverage election form shall contain a statement,
9 clearly readable and in 12-point bold type, in a form approved by
10 the commissioner, that election of any of the aforesaid medical
11 expense benefits options results in less coverage than the \$250,000
12 medical expense benefits coverage mandated prior to the effective
13 date of P.L.1998, c.21.

14 If none of the aforesaid medical expense benefits options is
15 affirmatively chosen in writing, the policy shall provide \$250,000
16 medical expense benefits coverage;

17 f. The insurer shall provide an appropriate reduction from the
18 territorial base rate for personal injury protection coverage for those
19 electing any of the options in subsections a., b., d. and e. of this
20 section.

21 Any named insured who chooses the option provided by
22 subsection d. of this section shall provide proof that he and
23 members of his family residing in his household are covered by
24 health insurance coverage or benefits in a manner and to an extent
25 approved by the commissioner. Nothing in this section shall be
26 construed to require a health insurer, health maintenance
27 organization or governmental agency to cover individuals or
28 treatment which is not normally covered under the applicable
29 benefit contract or plan. If it is determined that an insured who
30 selected or is otherwise covered by the option provided in
31 subsection d. of this section did not have such health coverage in
32 effect at the time of an accident, medical expense benefits shall be
33 payable by the person's automobile insurer and shall be subject to
34 any deductible required by law or otherwise selected as an option
35 pursuant to subsection a. of this section, any copayment required by
36 law and an additional deductible in the amount of \$750.

37 An option elected by the named insured in accordance with this
38 section shall apply only to the named insured and any resident
39 relative in the named insured's household who is not a named
40 insured under another automobile insurance policy, and not to any
41 other person eligible for personal injury protection benefits required
42 to be provided in accordance with section 4 of P.L.1972, c.70
43 (C.39:6A-4).

44 Medical expense benefits payable in any amount between the
45 deductible selected pursuant to subsection a. of this section and
46 \$5,000.00 shall be subject to the copayment provided in the policy,
47 if any.

1 No insurer or health provider providing benefits to an insured
2 who has elected a deductible pursuant to subsection a. of this
3 section shall have a right of subrogation for the amount of benefits
4 paid pursuant to a deductible elected thereunder or any applicable
5 copayment.

6 The Commissioner of Banking and Insurance shall adopt rules
7 and regulations to effectuate the purposes of this section and may
8 promulgate standards applicable to the coordination of personal
9 injury protection medical expense benefits coverage.
10 (cf: P.L.1998, c.22, s.3)

11

12 5. This act shall take effect on the first day of the fourth month
13 after enactment and shall apply to insurance policies entered into on
14 or after that date.

15

16

17

STATEMENT

18

19 This bill increases certain minimum motor vehicle liability
20 insurance requirements. Specifically, the bill increases the amount
21 of liability insurance coverage that every owner of a motor vehicle
22 registered or principally garaged in this State must maintain:

23 (1) from \$15,000 to \$100,000, exclusive of interest and costs, on
24 account of injury to, or death of, one person, in any one accident;

25 (2) from \$30,000 to \$200,000, exclusive of interest and costs, on
26 account of injury to, or death of, more than one person, in any one
27 accident; and

28 (3) from \$5,000 to \$35,000, exclusive of interest and costs, for
29 damage to property in any one accident.

30 The bill provides these same limits with regard to automobile
31 insurance under section 3 of P.L.1972, c.70 (C.39:6A-3) and motor
32 vehicle liability insurance under section 1 of P.L.1972, c.197 (C.
33 39:6B-1) and section 2 of P.L.1968, c.385 (C.17:28-1.1). An
34 automobile means a private passenger automobile. A motor vehicle
35 includes all vehicles propelled otherwise than by muscular power,
36 excepting such vehicles as run only upon rails or tracks and
37 motorized bicycles.

38 Thus, under the bill, all motor vehicles and private passenger
39 automobile policies in the State, except those insured under the
40 basic or special policy, would be required to have bodily injury
41 liability coverage of at least \$100,000 per person and \$200,000 per
42 accident, and \$35,000 of liability coverage for property damage.

43 The bill also amends the law concerning medical expense
44 benefits options as part of the personal injury protection, or "PIP,"
45 coverage, per person, per accident, under standard automobile
46 policies. Under the bill, the minimum amount of medical expense
47 benefits an insured may choose as an alternative to the standard
48 amount of medical expense benefits is increased from the current

S788 SCUTARI

9

- 1 \$15,000 to \$25,000. The current mandatory minimum of \$250,000
- 2 for all medically necessary treatment of certain permanent or
- 3 significant injuries remains intact.