

HOUSE BILL No. 5098

August 8, 2007, Introduced by Rep. Scott and referred to the Committee on Health Policy.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending sections 3101, 3103, 3113, and 3114 (MCL 500.3101,
500.3103, 500.3113, and 500.3114), section 3101 as amended by 1988
PA 126, section 3103 as amended by 1986 PA 173, section 3113 as
amended by 1986 PA 93, and section 3114 as amended by 2002 PA 38.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3101. (1) The owner or registrant of a motor vehicle
2 required to be registered in this state shall maintain security for
3 payment of benefits under personal protection insurance, property
4 protection insurance, and residual liability insurance. Security
5 shall only be required to be in effect during the period the motor
6 vehicle is driven or moved upon a highway. Notwithstanding any
7 other provision in this act, an insurer that has issued an

1 automobile insurance policy on a motor vehicle that is not driven
2 or moved upon a highway may allow the insured owner or registrant
3 of the motor vehicle to delete a portion of the coverages under the
4 policy and maintain the comprehensive coverage portion of the
5 policy in effect.

6 (2) As used in this chapter:

7 (a) "Automobile insurance" means that term as defined in
8 section 2102.

9 (b) "Highway" means that term as defined in section 20 of the
10 Michigan vehicle code, ~~Act No. 300 of the Public Acts of 1949,~~
11 ~~being section 257.20 of the Michigan Compiled Laws 1949 PA 300, MCL~~
12 **257.20.**

13 (c) "Motorcycle" means a vehicle having a saddle or seat for
14 the use of the rider, designed to travel on not more than 3 wheels
15 in contact with the ground, which is equipped with a motor that
16 exceeds 50 cubic centimeters piston displacement. The wheels on any
17 attachment to the vehicle shall not be considered as wheels in
18 contact with the ground. Motorcycle does not include a moped, as
19 defined in section 32b of the Michigan vehicle code, ~~Act No. 300 of~~
20 ~~the Public Acts of 1949, being section 257.32b of the Michigan~~
21 ~~Compiled Laws 1949 PA 300, MCL 257.32B.~~

22 (d) "Motorcycle accident", **EXCEPT AS OTHERWISE PROVIDED IN**
23 **SECTION 3113(2)**, means a loss involving the ownership, operation,
24 maintenance, or use of a motorcycle as a motorcycle, but not
25 involving the ownership, operation, maintenance, or use of a motor
26 vehicle as a motor vehicle.

27 (e) "Motor vehicle" means a vehicle, including a trailer,

1 operated or designed for operation upon a public highway by power
2 other than muscular power which has more than 2 wheels. Motor
3 vehicle does not include a motorcycle or a moped, as defined in
4 section 32b of ~~Act No. 300 of the Public Acts of 1949, being~~
5 ~~section 257.32b of the Michigan Compiled Laws~~ **THE MICHIGAN VEHICLE**
6 **CODE, 1949 PA 300, MCL 257.32B.** Motor vehicle does not include a
7 farm tractor or other implement of husbandry ~~which~~ **THAT** is not
8 subject to the registration requirements of the Michigan vehicle
9 code pursuant to section 216 of the Michigan vehicle code, ~~Act No.~~
10 ~~300 of the Public Acts of 1949, being section 257.216 of the~~
11 ~~Michigan Compiled Laws~~ **1949 PA 300, MCL 257.216.**

12 (f) "Motor vehicle accident", **EXCEPT AS OTHERWISE PROVIDED IN**
13 **SECTION 3113(2)**, means a loss involving the ownership, operation,
14 maintenance, or use of a motor vehicle as a motor vehicle
15 regardless of whether the accident also involves the ownership,
16 operation, maintenance, or use of a motorcycle as a motorcycle.

17 (g) "Owner" means any of the following:

18 (i) A person renting a motor vehicle or having the use thereof,
19 under a lease or otherwise, for a period that is greater than 30
20 days.

21 (ii) A person who holds the legal title to a vehicle, other
22 than a person engaged in the business of leasing motor vehicles who
23 is the lessor of a motor vehicle pursuant to a lease providing for
24 the use of the motor vehicle by the lessee for a period that is
25 greater than 30 days.

26 (iii) A person who has the immediate right of possession of a
27 motor vehicle under an installment sale contract.

1 (h) "Registrant" does not include a person engaged in the
2 business of leasing motor vehicles who is the lessor of a motor
3 vehicle pursuant to a lease providing for the use of the motor
4 vehicle by the lessee for a period that is greater than 30 days.

5 (3) Security may be provided under a policy issued by an
6 insurer duly authorized to transact business in this state ~~which~~
7 **THAT** affords insurance for the payment of benefits described in
8 subsection (1). A policy of insurance represented or sold as
9 providing security ~~shall be deemed~~ **IS CONSIDERED** to provide
10 insurance for the payment of the benefits.

11 (4) Security required by subsection (1) may be provided by any
12 other method approved by the secretary of state as affording
13 security equivalent to that afforded by a policy of insurance, if
14 proof of the security is filed and continuously maintained with the
15 secretary of state throughout the period the motor vehicle is
16 driven or moved upon a highway. The person filing the security has
17 all the obligations and rights of an insurer under this chapter.
18 When the context permits, "insurer" as used in this chapter,
19 includes any person filing the security as provided in this
20 section.

21 Sec. 3103. (1) An owner or registrant of a motorcycle shall
22 provide security against loss resulting from liability imposed by
23 law for property damage, bodily injury, or death suffered by a
24 person arising out of the ownership, maintenance, or use of that
25 motorcycle. The security shall conform with the requirements of
26 section 3009(1).

27 (2) Each insurer transacting insurance in this state ~~which~~

1 **THAT** affords coverage for a motorcycle as described in subsection
2 (1) also shall offer, to an owner or registrant of a motorcycle,
3 security for the payment of first-party medical benefits only, in
4 increments of \$5,000.00, payable in the event the owner or
5 registrant is involved in a motorcycle accident **OR IN AN ACCIDENT**
6 **AS DESCRIBED IN SECTION 3113(2)**. An insurer providing first-party
7 medical benefits may offer, at appropriate premium rates,
8 deductibles, provisions for the coordination of these benefits, and
9 provisions for the subtraction of other benefits provided or
10 required to be provided under the laws of any state or the federal
11 government, subject to the prior approval of the commissioner.
12 These deductibles and provisions shall apply only to benefits
13 payable to the person named in the policy, the spouse of the
14 insured, and any relative of either domiciled in the same
15 household.

16 Sec. 3113. (1) A person is not entitled to be paid personal
17 protection insurance benefits for accidental bodily injury if at
18 the time of the accident any of the following circumstances
19 existed:

20 (a) The person was using a motor vehicle or motorcycle ~~which~~
21 **THAT** he or she had taken unlawfully, unless the person reasonably
22 believed that he or she was entitled to take and use the vehicle.

23 (b) The person was the owner or registrant of a motor vehicle
24 or motorcycle involved in the accident with respect to which the
25 security required by section 3101 or 3103 was not in effect.

26 (c) The person was not a resident of this state, was an
27 occupant of a motor vehicle or motorcycle not registered in this

1 state, and was not insured by an insurer which has filed a
2 certification in compliance with section 3163.

3 (2) A MOTORCYCLIST WHO WAS NOT WEARING A CRASH HELMET AT THE
4 TIME OF AN ACCIDENT IS NOT ENTITLED TO BE PAID PERSONAL PROTECTION
5 INSURANCE BENEFITS FOR THAT ACCIDENT IN AN AMOUNT GREATER THAN THE
6 MOTORCYCLIST PURCHASED UNDER SECTION 3103(2) FOR ACCIDENTAL BODILY
7 INJURY ARISING OUT OF THAT MOTORCYCLE ACCIDENT REGARDLESS OF
8 WHETHER OR NOT THAT ACCIDENT ALSO INVOLVED THE OWNERSHIP,
9 OPERATION, MAINTENANCE, OR USE OF A MOTOR VEHICLE. AS USED IN THIS
10 SUBSECTION, "CRASH HELMET" MEANS THAT TERM AS USED IN SECTION 658
11 OF THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.658.

12 Sec. 3114. (1) Except as provided in subsections (2), (3), and
13 (5), a personal protection insurance policy described in section
14 3101(1) applies to accidental bodily injury to the person named in
15 the policy, the person's spouse, and a relative of either domiciled
16 in the same household, if the injury arises from a motor vehicle
17 accident. A personal injury insurance policy described in section
18 3103(2) applies to accidental bodily injury to the person named in
19 the policy, the person's spouse, and a relative of either domiciled
20 in the same household, if the injury arises from a motorcycle
21 accident. When personal protection insurance benefits or personal
22 injury benefits described in section 3103(2) are payable to or for
23 the benefit of an injured person under his or her own policy and
24 would also be payable under the policy of his or her spouse,
25 relative, or relative's spouse, the injured person's insurer shall
26 pay all of the benefits and is not entitled to recoupment from the
27 other insurer.

1 (2) A person suffering accidental bodily injury while an
2 operator or a passenger of a motor vehicle operated in the business
3 of transporting passengers shall receive the personal protection
4 insurance benefits to which the person is entitled from the insurer
5 of the motor vehicle. This subsection does not apply to a passenger
6 in the following, unless that passenger is not entitled to personal
7 protection insurance benefits under any other policy:

8 (a) A school bus, as defined by the department of education,
9 providing transportation not prohibited by law.

10 (b) A bus operated by a common carrier of passengers certified
11 by the department of transportation.

12 (c) A bus operating under a government sponsored
13 transportation program.

14 (d) A bus operated by or providing service to a nonprofit
15 organization.

16 (e) A taxicab insured as prescribed in section 3101 or 3102.

17 (f) A bus operated by a canoe or other watercraft, bicycle, or
18 horse livery used only to transport passengers to or from a
19 destination point.

20 (3) An employee, his or her spouse, or a relative of either
21 domiciled in the same household, who suffers accidental bodily
22 injury while an occupant of a motor vehicle owned or registered by
23 the employer, shall receive personal protection insurance benefits
24 to which the employee is entitled from the insurer of the furnished
25 vehicle.

26 (4) Except as provided in subsections (1) to (3), a person
27 suffering accidental bodily injury arising from a motor vehicle

1 accident while an occupant of a motor vehicle shall claim personal
2 protection insurance benefits from insurers in the following order
3 of priority:

4 (a) The insurer of the owner or registrant of the vehicle
5 occupied.

6 (b) The insurer of the operator of the vehicle occupied.

7 (5) ~~A-EXCEPT AS OTHERWISE PROVIDED IN SECTION 3113(2), A~~
8 person suffering accidental bodily injury arising from a motor
9 vehicle accident ~~which-THAT~~ shows evidence of the involvement of a
10 motor vehicle while an operator or passenger of a motorcycle shall
11 claim personal protection insurance benefits from insurers in the
12 following order of priority:

13 (a) The insurer of the owner or registrant of the motor
14 vehicle involved in the accident.

15 (b) The insurer of the operator of the motor vehicle involved
16 in the accident.

17 (c) The motor vehicle insurer of the operator of the
18 motorcycle involved in the accident.

19 (d) The motor vehicle insurer of the owner or registrant of
20 the motorcycle involved in the accident.

21 (6) If 2 or more insurers are in the same order of priority to
22 provide personal protection insurance benefits under subsection
23 (5), an insurer paying benefits due is entitled to partial
24 recoupment from the other insurers in the same order of priority,
25 together with a reasonable amount of partial recoupment of the
26 expense of processing the claim, in order to accomplish equitable
27 distribution of the loss among all of the insurers.

1 Enacting section 1. This amendatory act takes effect 120 days
2 after the date it is enacted and applies to policies issued or
3 renewed on or after 120 days after the date it is enacted.