

SENATE BILL NO. 528

September 17, 2019, Introduced by Senator LUCIDO and referred to the Committee on Insurance and Banking.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending section 3114 (MCL 500.3114), as amended by 2019 PA 21.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3114. (1) Except as provided in subsections (2), (3), and
2 (5), a personal protection insurance policy described in section
3 3101(1) applies to accidental bodily injury to the person named in
4 the policy, the person's spouse, and a relative of either domiciled
5 in the same household, if the injury arises from a motor vehicle
6 accident. A personal injury insurance policy described in section

1 3103(2) applies to accidental bodily injury to the person named in
2 the policy, the person's spouse, and a relative of either domiciled
3 in the same household, if the injury arises from a motorcycle
4 accident. If personal protection insurance benefits or personal
5 injury benefits described in section 3103(2) are payable to or for
6 the benefit of an injured person under his or her own policy and
7 would also be payable under the policy of his or her spouse,
8 relative, or relative's spouse, the injured person's insurer shall
9 pay all of the benefits up to the coverage level applicable under
10 section 3107c to the injured person's policy, and is not entitled
11 to recoupment from the other insurer.

12 (2) A person who suffers accidental bodily injury while an
13 operator or a passenger of a motor vehicle operated in the business
14 of transporting passengers shall receive the personal protection
15 insurance benefits to which the person is entitled from the insurer
16 of the motor vehicle. This subsection does not apply to a passenger
17 in any of the following, unless the passenger is not entitled to
18 personal protection insurance benefits under any other policy:

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

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

23 (c) A bus operating under a government sponsored
24 transportation program.

25 (d) A bus operated by or providing service to a nonprofit
26 organization.

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

28 (f) A bus operated by a canoe or other watercraft, bicycle, or
29 horse livery used only to transport passengers to or from a

1 destination point.

2 (g) A transportation network company vehicle.

3 (h) A motor vehicle insured under a policy for which the
4 person named in the policy has elected to not maintain coverage for
5 personal protection insurance benefits under section 3107d or as to
6 which an exclusion under section 3109a(2) applies.

7 (3) An employee, his or her spouse, or a relative of either
8 domiciled in the same household, who suffers accidental bodily
9 injury while an occupant of a motor vehicle owned or registered by
10 the employer, shall receive personal protection insurance benefits
11 to which the employee is entitled from the insurer of the furnished
12 vehicle.

13 (4) Except as provided in subsections (2) and (3), a person
14 who suffers accidental bodily injury arising from a motor vehicle
15 accident while an occupant of a motor vehicle who is not covered
16 under a personal protection insurance policy as provided in
17 subsection (1) shall claim personal protection insurance benefits
18 under the assigned claims plan under sections 3171 to 3175. This
19 subsection does not apply to a person insured under a policy for
20 which the person named in the policy has elected to not maintain
21 coverage for personal protection insurance benefits under section
22 3107d or as to which an exclusion under section ~~3109(2)~~ **3109a(2)**
23 applies, or who is not entitled to be paid personal protection
24 benefits under section 3107d(6)(c) or 3109a(2)(d) *(ii)*.

25 (5) ~~Subject to subsections (6) and (7), a~~ **A** person who suffers
26 accidental bodily injury arising from a motor vehicle accident that
27 shows evidence of the involvement of a motor vehicle while an
28 operator or passenger of a motorcycle shall claim personal
29 protection insurance benefits from insurers in the following order

1 of priority:

2 ~~(a) The insurer of the owner or registrant of the motor~~
3 ~~vehicle involved in the accident.~~

4 ~~(b) The insurer of the operator of the motor vehicle involved~~
5 ~~in the accident.~~

6 ~~(a) (e)~~—The motor vehicle insurer of the operator of the
7 motorcycle involved in the accident.

8 ~~(b) (d)~~—The motor vehicle insurer of the owner or registrant
9 of the motorcycle involved in the accident.

10 ~~(6) If an applicable insurance policy in an order of priority~~
11 ~~under subsection (5) is a policy for which the person named in the~~
12 ~~policy has elected to not maintain coverage for personal protection~~
13 ~~insurance benefits under section 3107d, or as to which an exclusion~~
14 ~~under section 3109(2) applies, the injured person shall claim~~
15 ~~benefits only under other policies, subject to subsection (7), in~~
16 ~~the same order of priority for which no such election has been~~
17 ~~made. If there are no other policies for which no such election has~~
18 ~~been made, the injured person shall claim benefits under the next~~
19 ~~order of priority or, if there is not a next order of priority,~~
20 ~~under the assigned claims plan under sections 3171 to 3175.~~

21 ~~(7) If personal protection insurance benefits are payable~~
22 ~~under subsection (5) under 2 or more insurance policies in the same~~
23 ~~order of priority, the benefits are only payable up to an aggregate~~
24 ~~coverage limit that equals the highest available coverage limit~~
25 ~~under any 1 of the policies.~~

26 ~~(6) (8)~~ Subject to subsections ~~(6) and (7)~~, if **If** 2 or more
27 insurers are in the same order of priority to provide personal
28 protection insurance benefits under subsection (5), an insurer that
29 pays benefits due is entitled to partial recoupment from the other

1 insurers in the same order of priority, and a reasonable amount of
2 partial recoupment of the expense of processing the claim, in order
3 to accomplish equitable distribution of the loss among all of the
4 insurers.

5 (7) ~~(9)~~—As used in this section:

6 (a) "Personal vehicle", "transportation network company
7 digital network", and "transportation network company prearranged
8 ride" mean those terms as defined in section 2 of the limousine,
9 taxicab, and transportation network company act, 2016 PA 345, MCL
10 257.2102.

11 (b) "Transportation network company vehicle" means a personal
12 vehicle while the driver is logged on to the transportation network
13 company digital network or while the driver is engaged in a
14 transportation network company prearranged ride.