

106TH CONGRESS
1ST SESSION

H. R. 1475

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 HOUSE OF REPRESENTATIVES

APRIL 20, 1999

Mr. ARMEY (for himself, Mr. MORAN of Virginia, Mr. COX, Mr. BOEHNER, Mr. MILLER of Florida, Mr. BARTLETT of Maryland, Mr. WELDON of Florida, Mr. ROYCE, Mr. MCINTOSH, Mrs. NORTHUP, Mr. COOKSEY, Mr. PITTS, and Mr. DOOLEY of California) introduced the following bill; which was referred to the Committee on Commerce

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;

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

4 (ii) pays victims with serious injuries an
5 average of less than 50 percent of those bills
6 and lost wages; and

7 (D) pays twice as much for plaintiff and
8 defense lawyers combined as it pays for victims'
9 medical bills and lost wages;

10 (3) the chance of winning the lawsuit lottery in
11 the present system—

12 (A) results in the filing of billions of dol-
13 lars of fraudulent or otherwise unnecessary
14 auto insurance claims annually;

15 (B) generates billions of dollars in unnec-
16 essary health care costs for private, Federal,
17 and State health care programs;

18 (C) raises auto insurance premiums for all
19 drivers, including drivers operating business ve-
20 hicles; and

21 (D) makes auto insurance premiums
22 unaffordable for many low-income individuals;

23 (4) the present system harms cities by—

1 (A) encouraging the filing of frivolous and
2 inflated claims that cities pay at the expense of
3 all taxpayers; and

4 (B) contributing to the abandonment of
5 cities by taxpayers who can achieve substantial
6 reductions in their auto insurance premiums by
7 moving to the suburbs;

8 (5) the present system provides individuals little
9 incentive to purchase safer automobiles;

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

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

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

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

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

4 (B) forgo lawsuits against other drivers for
5 noneconomic damages on the basis of fault in
6 return for being free from suit for noneconomic
7 damages by other drivers;

8 (9) personal injury protection, by reducing the
9 need for auto liability lawsuits and the incentives for
10 fraudulent and otherwise questionable claims,
11 could—

12 (A) save drivers billions of dollars annu-
13 ally; and

14 (B) enable them to receive more adequate
15 and timely compensation when they are seri-
16 ously injured;

17 (10) personal injury protection would benefit
18 society by—

19 (A) increasing respect for the law by elimi-
20 nating the incentives of the adversarial present
21 system for fraudulent claims and unnecessarily
22 contentious behavior by both claimants and de-
23 fendants;

24 (B) saving precious health care resources;

1 (C) making it more affordable for low-in-
2 come individuals to operate an automobile to
3 get to better paying jobs;

4 (D) reducing the incentives for individuals
5 to abandon cities, by providing greater savings
6 for drivers who reside in cities;

7 (E) freeing city taxpayers' dollars for re-
8 ductions in taxes or expanded city programs by
9 reducing the amount of frivolous and unneces-
10 sary lawsuits against cities;

11 (F) encouraging drivers to own safer auto-
12 mobiles by giving insurers the opportunity to
13 reduce premiums for the owners of safe auto-
14 mobiles; and

15 (G) helping to free up court dockets that
16 are currently overburdened with personal injury
17 lawsuits fueled by the incentives for lawsuits
18 under the present system;

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

22 (A) a modified version of the present sys-
23 tem; or

24 (B) the personal injury protection system
25 described in paragraph (9);

1 would enable drivers to reduce the cost of auto in-
2 surance, increase the amount of average compensa-
3 tion in the event of a serious accident, and enhance
4 individual freedom;

5 (12) the Federal Government should encourage
6 consumer choice, but not exercise regulatory author-
7 ity over the business of auto insurance, including
8 rates and insurer solvency, as that authority is ap-
9 propriately exercised by the States;

10 (13) during the period beginning January 1,
11 1957 and ending December 31, 1996—

12 (A) the Federal Government spent more
13 than \$400,000,000,000 to facilitate highway
14 construction in the United States; and

15 (B) hundreds of thousands of individuals
16 have been killed in motor vehicle accidents on
17 highways constructed with those funds;

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

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

1 (16) it is necessary and proper for Congress, in
2 the exercise of its authority to establish post roads
3 and regulate commerce under section 8 of article I
4 of the United States Constitution, to provide drivers
5 throughout the United States with an alternative to
6 address the problems of the adversarial present sys-
7 tem and the inadequate no-fault insurance reforms.

8 **SEC. 3. PURPOSES.**

9 The purposes of this Act are as follows:

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

12 (A) a tort maintenance system based on
13 applicable State law that provides for substan-
14 tially similar—

15 (i) insurance premiums; and

16 (ii) compensation for injuries;

17 as compared to the auto insurance system in
18 existence in that State on the date of enactment
19 of this Act; and

20 (B) a personal injury protection system
21 that—

22 (i) compensates accident victims di-
23 rectly for their medical bills and lost wages
24 with substantially less need to pursue law-
25 suits; and

1 (ii) provides the opportunity for—

2 (I) substantial reductions in auto
3 insurance premiums;

4 (II) more comprehensive recovery
5 of medical bills and lost wages in a
6 shorter period of time; and

7 (III) the right to sue negligent
8 drivers for any uncompensated med-
9 ical bills or lost wages.

10 (2) To preserve the rights of States to regulate
11 the business of auto insurance.

12 **SEC. 4. DEFINITIONS.**

13 In this Act:

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

16 (A) causes injury; and

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

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

22 (A) are compensated without regard to
23 fault for economic loss; and

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

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

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

9 (A) required to be registered under the
10 provisions of applicable State law relating to
11 motor vehicles; and

12 (B) used in the business of transporting
13 persons.

14 (5) ECONOMIC LOSS.—The term “economic
15 loss” means objectively verifiable pecuniary loss
16 caused by an accident for—

17 (A) reasonable and necessary medical and
18 rehabilitation expenses;

19 (B) loss of earnings;

20 (C) funeral costs; and

21 (D) replacement services loss.

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

1 (A) manifested by—

2 (i) electronic means; or

3 (ii) any other similar means; and

4 (B) logically associated with that writing.

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

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

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

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

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

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

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

3 (A) a person who—

4 (i) transports by motor vehicle goods
5 for another person or entity for compensa-
6 tion; and

7 (ii) is liable to the general public for
8 the operation of the vehicle under section
9 13906 of title 49, United States Code, and
10 regulations issued by the Secretary of
11 Transportation; or

12 (B) a person who transports such person’s
13 goods by a motor vehicle that such person owns
14 or leases.

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

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

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

4 (A) persons injured in motor vehicle acci-
5 dents are paid compensation without regard to
6 fault for their economic loss that results from
7 injury; and

8 (B) in return for the payment referred to
9 in subparagraph (A), claims based on fault, in-
10 cluding claims for noneconomic loss, are limited
11 to a defined extent.

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

15 (16) OCCUPY.—The term “occupy” means, with
16 respect to the operation, maintenance, or use of a
17 motor vehicle, to be in or on a motor vehicle or to
18 be engaged in the immediate act of entering into or
19 alighting from a motor vehicle.

20 (17) OPERATION, MAINTENANCE, OR USE OF A
21 MOTOR VEHICLE.—

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

1 (i) means any activity involving or re-
2 lated to the transportation by a motor ve-
3 hicle; and

4 (ii) includes occupying or being en-
5 gaged in the immediate act of entering into
6 or alighting from a motor vehicle before or
7 after its use for transportation.

8 (B) EXCLUSIONS.—The term “operation,
9 maintenance, or use of a motor vehicle” does
10 not include—

11 (i) conduct within the course of a
12 business of manufacturing, sale, repairing,
13 servicing, or otherwise maintaining motor
14 vehicles, unless the conduct occurs outside
15 the scope of the business activity; or

16 (ii) conduct within the course of load-
17 ing or unloading a motor vehicle, unless
18 the conduct occurs while occupying or
19 being engaged in the immediate act of en-
20 tering into or alighting from a motor vehi-
21 cle before or after its use for transpor-
22 tation.

23 (18) PERSON.—The term “person” means any
24 individual, corporation, company, association, firm,

1 partnership, society, joint stock company, or any
2 other entity, including any governmental entity.

3 (19) PERSONAL INJURY PROTECTION.—The
4 term “personal injury protection” means insurance
5 that provides for—

6 (A) benefits to a personal injury protection
7 insured for economic loss without regard to
8 fault for injury resulting from a motor vehicle
9 accident in accordance with this Act;

10 (B) a waiver of tort claims against other
11 drivers, other than—

12 (i) claims for uncompensated eco-
13 nomic loss based on fault; and

14 (ii) other tort claims exempted from
15 such a waiver under this Act;

16 (C) coverage against claims for uncompen-
17 sated economic losses based on fault by another
18 party that is entitled to recover those losses
19 under this Act; and

20 (D) coverage against claims for economic
21 or noneconomic losses of a third party with re-
22 spect to which the recovery of those losses is
23 not covered under this Act.

24 (20) PERSONAL INJURY PROTECTION IN-
25 SURED.—The term “personal injury protection in-

1 sured” means a person covered by the form of insur-
2 ance described in section 6.

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

7 (22) PERSONAL INJURY PROTECTION SYS-
8 TEM.—The term “personal injury protection sys-
9 tem” means the insurance system described in sec-
10 tion 6.

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

18 (24) RESIDENT RELATIVE OR DEPENDENT.—

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

21 (i) who is related to the named in-
22 sured by blood, marriage, adoption, or oth-
23 erwise (including a dependent receiving fi-
24 nancial services or support from such in-
25 sured); and

1 (ii) who—

2 (I) resides in the same household
3 as the named insured at the time of
4 the accident; or

5 (II) usually makes a home in the
6 same family unit as the named in-
7 sured, even though that person may
8 temporarily live elsewhere.

9 (B) EXCLUSION.—The term does not in-
10 clude any person who maintains or is required
11 to maintain insurance for a motor vehicle that
12 such person owns.

13 (25) STATE.—The term “State” means any
14 State of the United States, the District of Columbia,
15 the Commonwealth of Puerto Rico, Guam, the
16 United States Virgin Islands, American Samoa, the
17 Commonwealth of the Northern Mariana Islands,
18 the Trust Territories of the Pacific Islands, and any
19 other territory or possession of the United States.

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

24 (27) TORT LIABILITY INSURANCE.—The term
25 “tort liability insurance” means a contract of insur-

1 ance under which an insurer agrees to pay, on behalf
 2 of an insured, damages that the insured is obligated
 3 to pay to a third person because of the liability of
 4 the insured to that person.

5 (28) TORT MAINTENANCE COVERAGE.—The
 6 term “tort maintenance coverage” means insurance
 7 coverage under which a tort maintenance insured, if
 8 involved in an accident with a personal injury pro-
 9 tection insured, may recover first party benefits for
 10 economic and noneconomic losses from the insurer of
 11 that insured, based on fault under applicable State
 12 law.

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

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

19 (31) UNCOMPENSATED ECONOMIC LOSS.—

20 (A) IN GENERAL.—The term “uncompen-
 21 sated economic loss” means any objectively
 22 verifiable pecuniary loss payable based on fault
 23 under applicable State tort law.

24 (B) ATTORNEY’S FEES.—The term in-
 25 cludes a reasonable attorney’s fee calculated on

1 the basis of the time actually expended and the
 2 value of the attorney's efforts as reflected in
 3 payment to the attorney's client.

4 (C) EXCEPTION.—The term does not in-
 5 clude any attorney's fees when the uncompen-
 6 sated economic loss is attributable only to a de-
 7 ductible for coverage specified in subparagraph
 8 (D).

9 (D) EXCLUSIONS.—Subject to section
 10 8(j)(2), the term does not include amounts paid
 11 or payable under—

- 12 (i) personal injury protection;
- 13 (ii) tort maintenance coverage;
- 14 (iii) no-fault or add-on motor vehicle
 15 insurance;
- 16 (iv) Federal, State, or private dis-
 17 ability or sickness programs;
- 18 (v) Federal, State, or private health
 19 insurance programs;
- 20 (vi) employer wage continuation pro-
 21 grams; or
- 22 (vii) workers' compensation or similar
 23 occupational compensation laws.

24 (32) UNINSURED MOTORIST.—The term “unin-
 25 sured motorist” means the owner of a motor vehicle,

1 including the resident relatives or dependents of the
 2 owner, who is uninsured under either the personal
 3 injury protection system described in section 6 or
 4 the tort maintenance system described in section
 5 7—

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

8 (B) an amount prescribed under section
 9 6(a)(1).

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

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

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

14 (A) the personal injury protection system
 15 described in section 6; and

16 (B) the tort maintenance system described
 17 in section 7.

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

22 (3) EFFECT OF ELECTION BY ELECTRONIC
 23 MEANS.—For purposes of making an election of an
 24 insurance system under this subsection, unless pro-
 25 hibited by applicable State law, an electronic signa-

1 ture shall have the same force and effect as a hand-
2 written signature.

3 (b) EFFECT OF CHOICE ON RESIDENT RELATIVES
4 OR DEPENDENTS.—

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

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

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

21 (c) UNIFORMITY RULES.—

22 (1) IN GENERAL.—Notwithstanding subsection
23 (b)(2), and in order to minimize conflict between the
24 insurance options, an insurer may maintain and
25 apply underwriting rules that encourage uniformity

1 in the provision of insurance benefits within a house-
2 hold.

3 (2) UNIFORMITY IN INSURANCE IN EMPLOY-
4 MENT.—Except as provided in paragraph (6), an
5 employer that elects an insurance option described in
6 subparagraph (A) or (B) of subsection (a)(1) binds
7 the employees of that employer for purposes of cov-
8 erage of that employee in the course of employment
9 by that employer.

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

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

22 (5) UNIFORMITY IN INSURANCE FOR MOTOR
23 VEHICLE RENTALS.—

24 (A) IN GENERAL.—Except as provided in
25 subparagraph (B), a person who is engaged in

1 the business of renting motor vehicles and who
2 elects an insurance option described in subpara-
3 graph (A) or (B) of subsection (a)(1) binds any
4 operator or occupant of the rented motor vehi-
5 cle with respect to the operation of that vehicle.
6 Such insurance under such an option shall be
7 in excess of any insurance elected pursuant to
8 subparagraph (A) or (B) of subsection (a)(1) by
9 a customer who rents a motor vehicle.

10 (B) EXCEPTION.—Subparagraph (A) shall
11 not apply if a customer who rents a motor
12 vehicle—

13 (i) specifically elects to obtain cov-
14 erage within the rental agreement other
15 than the coverage elected by the person en-
16 gaged in the business of renting the motor
17 vehicle; and

18 (ii) pays a separate charge for that
19 optional coverage.

20 (6) RIGHT OF EMPLOYEES, OPERATORS, AND
21 CERTAIN OCCUPANTS TO PURCHASE ADDITIONAL
22 COVERAGE.—

23 (A) EMPLOYEES.—An employee under
24 paragraph (2) may elect to purchase separate
25 personal injury protection or tort maintenance

1 coverage in excess of the insurance provided by
2 the employer in the scope of the employment
3 of that employee.

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

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

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

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

1 (1) IN GENERAL.—Except as provided in sub-
2 section (b)(1), any person who fails to elect a type
3 of insurance under subsection (a)(1) shall be deemed
4 to have elected insurance under the tort mainte-
5 nance system in effect in the State of that person’s
6 residence.

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

13 (e) CONSUMER INFORMATION PROGRAM.—

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

19 (A) the comparative cost of insurance
20 under the personal injury protection system and
21 the tort maintenance system; and

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

24 (2) INSURER PROGRAM.—An insurer that offers
25 a choice of insurance systems under subsection

1 (a)(1) shall provide to each consumer, before that
 2 consumer chooses motor vehicle insurance, written
 3 consumer information to ensure that consumers are
 4 adequately informed about—

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

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

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

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

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

23 (a) MINIMUM POLICY REQUIREMENTS.—In order to
 24 constitute a personal injury protection policy covered by

1 this Act, a motor vehicle insurance policy issued by an in-
2 surer shall, at a minimum—

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

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

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

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

16 (A) claims for uncompensated economic
17 loss based on fault; or

18 (B) other tort claims exempted from such
19 a waiver under this Act;

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

24 (A) property damage; and

25 (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

of that insurer with respect to an accident caused in whole or in part, as determined in accordance with applicable State law, from a person referred to in subparagraph (A), for the losses that insurer—

(i) has paid or reimbursed; or

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

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

(3) PROHIBITION ON MULTIPLE RECOVERY.—In any action to recover losses arising out of an accident, a person may not recover or introduce into evidence in a civil action against another person any amount of a loss that a collateral source or personal injury protection insurer—

(A) has paid or reimbursed; or

(B) is obligated to pay.

(k) CHOICE OF LAW.—

(1) APPLICABLE LAW.—With respect to a claim relating to a motor vehicle accident involving persons 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 surance 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 erages);

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).

○