Sponsored by:
Assemblyman RONALD S. DANCER
District 12 (Burlington, Middlesex, Monmouth and Ocean)
Assemblywoman VALERIE VAINIERI HUTTLE
District 37 (Bergen)
Assemblyman ROBERT D. CLIFTON
District 12 (Burlington, Middlesex, Monmouth and Ocean)

Co-Sponsored by:
Assemblymen Gusciora, O'Scanlon, Wolfe, McGuckin, Assemblywoman Caride and Assemblyman DeAngelo

SYNOPSIS
Prohibits use of volunteer driving activities in underwriting for private passenger automobile insurance; revises charitable immunity statute as applied to volunteer drivers.

CURRENT VERSION OF TEXT
Introduced Pending Technical Review by Legislative Counsel

(Sponsorship Updated As Of: 6/22/2012)
AN ACT concerning certain volunteer driving activities, amending
P.L.1997, c.151 and P.L.1959, c.90 and supplementing Title 17
of the Revised Statutes.

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

1. (New section) The Legislature finds and declares that
volunteers who drive their private passenger automobiles, or who
drive a similar vehicle owned by another party, to serve the State’s
most needy citizens, whether by transporting them to and from
doctor’s appointments, delivering groceries or meals, or supplying
other goods or services, provide an invaluable service to those
citizens and to the organizations which rely on them.

It is the intent of this act to extend to those volunteer drivers
protection from underwriting and rating plan decisions with respect
to private passenger automobile rate increases and surcharges,
cancellation, non renewal or refusal to write coverage, and refusal
to pay claims, based on their driving experience while performing
such volunteer driving activities as described in this act. In so
doing, it is hoped that individuals will be encouraged to volunteer,
and not discouraged by a concern that their automobile insurance
coverage could be negatively affected by any incidents that might
occur while they are engaged in volunteer driving activities.

2. Section 15 of P.L.1997, c.151 (C.17:29A-46.2) is amended
to read as follows:

15. a. Insurers shall put in writing all underwriting rules
applicable to each rate level utilized pursuant to section 14 of
P.L.1997, c.151 (C.17:29A-46.1). An insurer may take into account
factors, including, but not limited to, driving record characteristics
appropriate for underwriting and classification in formulating its
underwriting rules; provided that: (1) no underwriting rule based on
motor vehicle violations shall be formulated in such a manner as to
assign any named insured to a rating tier other than the standard
rating tier applicable to the insured’s territory solely on the basis of
accumulating four motor vehicle points or less. No]; (2) no
underwriting rule shall operate in such a manner as to assign a risk
to a rating plan on the basis of the territory in which the insured
resides or any other factor which the commissioner finds is a
surrogate for territory ; and (3) no underwriting rule shall operate in
such a manner as to assign a risk to a rating plan on the basis of an
individual’s volunteer driving activities, in which the individual
provides services, including transporting individuals or goods,
without compensation in excess of expenses, to a private, nonprofit

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.

corporation incorporated or operated pursuant to the "New Jersey
which knowingly fails to transact automobile insurance consistently
with its underwriting rules shall be subject to a fine of not less than
$1,000 for each violation.

b. All underwriting rules applicable to each rate level as
provided for in section 14 of P.L.1997, c.151 (C.17:29A-46.1) shall
be filed with the commissioner and shall be subject to his prior
approval. All underwriting rules shall be subject to public
inspection. Except as provided in subsection d. of section 27 of
P.L.1990, c.8 (C.17:33B-15), insurers shall apply their underwriting
rules uniformly and without exception throughout the State, so that
every applicant or insured conforming with the underwriting rules
will be insured or renewed, and so that every applicant not
conforming with the underwriting rules will be refused insurance.
c. An insurer with more than one rating plan for private
passenger automobile insurance policies providing identical
coverages shall not adopt underwriting rules which would permit a
person to be insured for private passenger automobile insurance
under more than one of the rating plans.
d. An insurer that revises its underwriting rules with respect to
the assignment of insureds to rating tiers based on the number of
accumulated motor vehicle points, as provided by subsection a. of
this section, as amended by P.L.2003, c.89, shall certify to the
commissioner that the revised rule will produce rates that are
revenue neutral based upon the insurer's current coverages and book
of business.

3. Section 1 of P.L.1959, c.90 (C.2A:53A-7) is amended to
read as follows:

1. a. No nonprofit corporation, society or association organized
exclusively for religious, charitable or educational purposes or its
trustees, directors, officers, employees, agents, servants or
volunteers shall, except as is hereinafter set forth, be liable to
respond in damages to any person who shall suffer damage from the
negligence of any agent or servant of such corporation, society or
association, where such person is a beneficiary, to whatever degree,
of the works of such nonprofit corporation, society or association;
provided, however, that such immunity from liability shall not
extend to any person who shall suffer damage from the negligence
of such corporation, society, or association or of its agents or
servants where such person is one unconcerned in and unrelated to
and outside of the benefactions of such corporation, society or
association.

Nothing in this subsection shall be deemed to grant immunity to
any health care provider, in the practice of his profession, who is a
compensated employee, agent or servant of any nonprofit corporation, society or association organized exclusively for religious, charitable or educational purposes.

b. No nonprofit corporation, society or association organized exclusively for hospital purposes or its trustees, directors, officers or volunteers shall, except as is hereinafter set forth, be liable to respond in damages to any person who shall suffer damage from the negligence of any agent or servant of such corporation, society or association, where such person is a beneficiary, to whatever degree, of the works of such nonprofit corporation, society or association; provided, however, that such immunity from liability shall not extend to any person who shall suffer damage from the negligence of such corporation, society, or association or of its agents or servants where such person is one unconcerned in and unrelated to and outside of the benefactions of such corporation, society or association; but nothing herein contained shall be deemed to exempt the agent, employee or servant individually from their liability for any such negligence.

c. Nothing in this section shall be deemed to grant immunity to: (1) any trustee, director, officer, employee, agent, servant or volunteer causing damage by a willful, wanton or grossly negligent act of commission or omission, including sexual assault and other crimes of a sexual nature; (2) any trustee, director, officer, employee, agent, servant or volunteer causing damage as the result of the negligent operation of a motor vehicle, provided, however, that damages which are the result of the negligent operation of a motor vehicle shall not exceed the combined limits of coverage of any applicable policy of motor vehicle or private passenger automobile insurance, other than umbrella insurance coverage, and the court shall abate a verdict in an action to the extent that it exceeds such limits, and provided further that a provision in a policy of insurance that attempts to exclude coverage as provided in this paragraph is void as contrary to public policy; or (3) an independent contractor of a nonprofit corporation, society or association organized exclusively for religious, charitable, educational or hospital purposes.

(cf: P.L.1995, c.183, s.1)

4. (New section) A claim for damages under a policy of motor vehicle liability insurance issued to a nonprofit corporation, society or association organized exclusively for religious, charitable, educational or hospital purposes shall not be denied on the basis that the insured organization received a fee or donation for providing the transportation or other services in the course of which the damages were incurred, or that the services constituted the use of a motor vehicle as a public or livery conveyance or limousine or livery service pursuant to any exclusion under the policy.
5. This act shall take effect on the first day of the fourth month next following enactment, and: with respect to section 2, shall apply to any policy delivered, issued, executed or renewed, or any policy approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date; and with respect to sections 3 and 4, shall apply to causes of action accruing on or after the effective date; but the commissioner may take any anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

STATEMENT

This bill prohibits the use of volunteer driving activities as an underwriting or rating factor to determine eligibility for private passenger automobile insurance or any premium or other charge paid therefor. "Volunteer driving activities" consist of providing services, including transporting individuals or goods, without compensation in excess of expenses to a private, nonprofit corporation incorporated or operated pursuant to the "New Jersey Nonprofit Corporation Act," N.J.S.15A:1-1 et seq.

The bill also amends the current provision of the State’s “charitable immunity statute,” which excludes from charitable immunity damages resulting from the negligent operation of a motor vehicle, to limit damages in such cases to the combined limits of coverage under any applicable policy of motor vehicle or private passenger automobile insurance, other than umbrella insurance coverage.

The bill also prohibits an insurance company from denying payment of a claim for damages under a motor vehicle liability insurance policy issued to a nonprofit organization on the basis that the insured organization received a fee or donation for providing the transportation or other services in the course of which the damages were incurred, or that the services constituted the use of a motor vehicle as a public or livery conveyance or limousine or livery service pursuant to any exclusion under the policy.

Volunteers who drive their private passenger automobiles, or who drive a similar vehicle owned by another party, to serve the State’s most needy citizens, whether by transporting them to and from doctor’s appointments, delivering groceries or meals, or supplying other goods or services, provide an invaluable service to those citizens and to the organizations which rely on them. This bill is intended to protect those these individuals from underwriting and rating plan decisions with respect to private passenger automobile rate increases and surcharges, cancellation, non renewal or refusal to write coverage, and refusal to pay claims, based on their driving experience while performing such volunteer driving
activities as described by the bill. In so doing, it is hoped that individuals will be encouraged to volunteer, and not discouraged by a concern that their automobile insurance coverage could be negatively affected by any incidents that might occur while they are engaged in volunteer driving activities.