

**ASSEMBLY, No. 4081**

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**STATE OF NEW JERSEY**

**219th LEGISLATURE**

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INTRODUCED MAY 7, 2020

**Sponsored by:**

**Assemblyman RONALD S. DANCER**

**District 12 (Burlington, Middlesex, Monmouth and Ocean)**

**Assemblywoman VALERIE VAINIERI HUTTLE**

**District 37 (Bergen)**

**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**

As introduced.



**(Sponsorship Updated As Of: 5/7/2020)**

1 AN ACT concerning certain volunteer driving activities, amending  
2 P.L.1997, c.151 and P.L.1959, c.90 and supplementing Title 17  
3 of the Revised Statutes.

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

7  
8 1. (New section) The Legislature finds and declares that  
9 volunteers who drive their private passenger automobiles, or who  
10 drive a similar vehicle owned by another party, to serve the State's  
11 most needy citizens, whether by transporting them to and from  
12 doctor's appointments, delivering groceries or meals, or supplying  
13 other goods or services, provide an invaluable service to those  
14 citizens and to the organizations which rely on them.

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

26  
27 2. Section 15 of P.L.1997, c.151 (C.17:29A-46.2) is amended  
28 to read as follows:

29 15. a. Insurers shall put in writing all underwriting rules  
30 applicable to each rate level utilized pursuant to section 14 of  
31 P.L.1997, c.151 (C.17:29A-46.1). An insurer may take into account  
32 factors, including, but not limited to, driving record characteristics  
33 appropriate for underwriting and classification in formulating its  
34 underwriting rules; provided that no underwriting rule based on  
35 motor vehicle violations shall be formulated in such a manner as to  
36 assign any named insured to a rating tier other than the standard  
37 rating tier applicable to the insured's territory solely on the basis of  
38 accumulating four motor vehicle points or less. No underwriting  
39 rule shall operate in such a manner as to assign a risk to a rating  
40 plan on the basis of the territory in which the insured resides or any  
41 other factor which the commissioner finds is a surrogate for  
42 territory. No underwriting rule shall operate in such a manner as to  
43 assign a risk to a rating plan on the basis of an insured holding a  
44 standard motorcycle license or standard basic driver's license issued  
45 pursuant to R.S.39:3-10, or standard probationary license issued

**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.

1 pursuant to section 4 of P.L.1950, c.127 (C.39:3-13.4). No  
2 underwriting rule shall operate in such a manner as to assign a risk  
3 to a rating plan on the basis of an individual's volunteer driving  
4 activities, in which the individual provides services, including  
5 transporting individuals or goods, without compensation in excess  
6 of expenses, to a private, nonprofit corporation incorporated or  
7 operated pursuant to the "New Jersey Nonprofit Corporation Act,"  
8 N.J.S.15A:1-1 et seq. An insurer which knowingly fails to transact  
9 automobile insurance consistently with its underwriting rules shall  
10 be subject to a fine of not less than \$1,000 for each violation.

11 b. All underwriting rules applicable to each rate level as  
12 provided for in section 14 of P.L.1997, c.151 (C.17:29A-46.1) shall  
13 be filed with the commissioner and shall be subject to the  
14 commissioner's prior approval. All underwriting rules shall be  
15 subject to public inspection. Except as provided in subsection d. of  
16 section 27 of P.L.1990, c.8 (C.17:33B-15), insurers shall apply their  
17 underwriting rules uniformly and without exception throughout the  
18 State, so that every applicant or insured conforming with the  
19 underwriting rules will be insured or renewed, and so that every  
20 applicant not conforming with the underwriting rules will be  
21 refused insurance.

22 c. An insurer with more than one rating plan for private  
23 passenger automobile insurance policies providing identical  
24 coverages shall not adopt underwriting rules which would permit a  
25 person to be insured for private passenger automobile insurance  
26 under more than one of the rating plans.

27 d. An insurer that revises its underwriting rules with respect to  
28 the assignment of insureds to rating tiers based on the number of  
29 accumulated motor vehicle points, as provided by subsection a. of  
30 this section, as amended by P.L.2003, c.89, shall certify to the  
31 commissioner that the revised rule will produce rates that are  
32 revenue neutral based upon the insurer's current coverages and book  
33 of business.

34 (cf: P.L.2019, c.271, s.19)

35  
36 3. Section 1 of P.L.1959, c.90 (C.2A:53A-7) is amended to  
37 read as follows:

38 1. a. No nonprofit corporation, society or association  
39 organized exclusively for religious, charitable or educational  
40 purposes or its trustees, directors, officers, employees, agents,  
41 servants or volunteers shall, except as is hereinafter set forth, be  
42 liable to respond in damages to any person who shall suffer damage  
43 from the negligence of any agent or servant of such corporation,  
44 society or association, where such person is a beneficiary, to  
45 whatever degree, of the works of such nonprofit corporation,  
46 society or association; provided, however, that such immunity from  
47 liability shall not extend to any person who shall suffer damage  
48 from the negligence of such corporation, society, or association or

1 of its agents or servants where such person is one unconcerned in  
2 and unrelated to and outside of the benefactions of such  
3 corporation, society or association.

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

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

24 c. Nothing in this section shall be deemed to grant immunity  
25 to: (1) any nonprofit corporation, society or association organized  
26 exclusively for religious, charitable, educational or hospital  
27 purposes, or its trustee, director, officer, employee, agent, servant  
28 or volunteer, causing damage by a willful, wanton or grossly  
29 negligent act of commission or omission, including sexual assault,  
30 any other crime of a sexual nature, a prohibited sexual act as  
31 defined in section 2 of P.L.1992, c.7 (C.2A:30B-2), or sexual abuse  
32 as defined in section 1 of P.L.1992, c.109 (C.2A:61B-1); (2) any  
33 trustee, director, officer, employee, agent, servant or volunteer  
34 causing damage as the result of the negligent operation of a motor  
35 vehicle, provided, however, that damages which are the result of the  
36 negligent operation of a motor vehicle shall not exceed the  
37 combined limits of coverage of any applicable policy of motor  
38 vehicle or private passenger automobile insurance, other than  
39 umbrella insurance coverage, and the court shall abate a verdict in  
40 an action to the extent that it exceeds such limits, and provided  
41 further that a provision in a policy of insurance that attempts to  
42 exclude coverage as provided in this paragraph is void as contrary  
43 to public policy; or (3) an independent contractor of a nonprofit  
44 corporation, society or association organized exclusively for  
45 religious, charitable, educational or hospital purposes.  
46 (cf: P.L.2019, c.120, s.5)

1       4. (New section) A claim for damages under a policy of motor  
2 vehicle liability insurance issued to a nonprofit corporation, society  
3 or association organized exclusively for religious, charitable,  
4 educational or hospital purposes shall not be denied on the basis  
5 that the insured organization received a fee or donation for  
6 providing the transportation or other services in the course of which  
7 the damages were incurred, or that the services constituted the use  
8 of a motor vehicle as a public or livery conveyance or limousine or  
9 livery service pursuant to any exclusion under the policy.

10  
11       5. This act shall take effect on the first day of the fourth month  
12 next following enactment, and: with respect to section 2, shall apply  
13 to any policy delivered, issued, executed or renewed, or any policy  
14 approved for issuance or renewal in this State by the Commissioner  
15 of Banking and Insurance, on or after the effective date; and with  
16 respect to sections 3 and 4, shall apply to causes of action accruing  
17 on or after the effective date; but the commissioner may take any  
18 anticipatory administrative action in advance thereof as shall be  
19 necessary for the implementation of this act.

#### 20 21 22 STATEMENT

23  
24       This bill prohibits the use of volunteer driving activities as an  
25 underwriting or rating factor to determine eligibility for private  
26 passenger automobile insurance or any premium or other charge  
27 paid therefor. "Volunteer driving activities" consist of providing  
28 services, including transporting individuals or goods, without  
29 compensation in excess of expenses, to a private, nonprofit  
30 corporation incorporated or operated pursuant to the "New Jersey  
31 Nonprofit Corporation Act," N.J.S.15A:1-1 et seq.

32       The bill also amends the current provision of the State's  
33 "charitable immunity statute," which excludes from charitable  
34 immunity damages resulting from the negligent operation of a  
35 motor vehicle, to limit damages in such cases to the combined  
36 limits of coverage under any applicable policy of motor vehicle or  
37 private passenger automobile insurance, other than umbrella  
38 insurance coverage.

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

47       Volunteers who drive their private passenger automobiles, or  
48 who drive a similar vehicle owned by another party, to serve the

1 State's most needy citizens, whether by transporting them to and  
2 from doctor's appointments, delivering groceries or meals, or  
3 supplying other goods or services, provide an invaluable service to  
4 those citizens and to the organizations which rely on them. This  
5 bill is intended to protect these individuals from underwriting and  
6 rating plan decisions with respect to private passenger automobile  
7 rate increases and surcharges, cancellation, non renewal or refusal  
8 to write coverage, and refusal to pay claims, based on their driving  
9 experience while performing such volunteer driving activities as  
10 described by the bill. In so doing, it is hoped that individuals will  
11 be encouraged to volunteer, and not discouraged by a concern that  
12 their automobile insurance coverage could be negatively affected by  
13 any incidents that might occur while they are engaged in volunteer  
14 driving activities.