

ASSEMBLY, No. 1460

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 5, 1996

By Assemblyman DALTON

1 AN ACT concerning at-fault accident surcharges and amending
2 P.L.1983, c.65 and P.L.1990, c.8.

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

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7 1. Section 6 of P.L. 1983, c. 65 (C. 17:29A-35) is amended to read
8 as follows:

9 6. a. A merit rating accident surcharge system for private
10 passenger automobiles may be used in the voluntary market [, by the
11 New Jersey Automobile Full Insurance Underwriting Association
12 created pursuant to section 16 of P.L.1983, c.65 (C.17:30E-4), by the
13 Market Transition Facility created pursuant to section 88 of P.L.1990,
14 c.8 (C.17:33B-11),] and by any insurance plan established to provide
15 private passenger automobile insurance pursuant to section 1 of
16 P.L.1970, c.215 (C.17:29D-1). No surcharges shall be imposed [on
17 or after the operative date of this act,] unless there is an at-fault
18 accident within a three-year period immediately preceding the effective
19 date of coverage which results in payment by the insurer of at least a
20 [\$300.00] \$1,000 claim, which amount shall be adjusted by order of
21 the commissioner on July 1 every three years following the effective
22 date of this 1996 amendatory act to reflect the cumulative increases or
23 decreases in the components of the national Consumer Price Index,
24 U.S. City Average, deemed appropriate by the commissioner, and the
25 adjusted amount shall apply to automobile accidents occurring on or
26 after the adjustment date. All moneys collected under this subsection
27 shall be retained by the insurer assessing the surcharge. Accident
28 surcharges shall be imposed for a three-year period and shall, for each
29 filer, be uniform on a Statewide basis without regard to classification
30 or territory.

31 b. There is created a New Jersey Merit Rating Plan which shall
32 apply to all drivers and shall include, but not be limited to, the
33 following provisions:

34 (1) (a) Plan surcharges shall be levied, beginning on or after

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 January 1, 1984, by the Division of Motor Vehicles on any driver who
2 has accumulated, within the immediately preceding three-year period,
3 beginning on or after February 10, 1983, six or more motor vehicle
4 points, as provided in Title 39 of the Revised Statutes, exclusive of
5 any points for convictions for which surcharges are levied under
6 paragraph (2) of this subsection; except that the allowance for a
7 reduction of points in Title 39 of the Revised Statutes shall not apply
8 for the purpose of determining surcharges under this paragraph.
9 Surcharges shall be levied for each year in which the driver possesses
10 six or more points. Surcharges assessed pursuant to this paragraph
11 shall be \$100.00 for six points, and \$25.00 for each additional point.

12 (b) (Deleted by amendment, P.L.1984, c.1.)

13 (2) Plan surcharges shall be levied for convictions (a) under
14 R.S.39:4-50 for violations occurring on or after February 10, 1983,
15 and (b) under section 2 of P.L.1981, c.512 (C.39:4-50.4a), or for
16 offenses committed in other jurisdictions of a substantially similar
17 nature to those under R.S.39:4-50 or section 2 of P.L.1981, c.512
18 (C.39:4-50.4a), for violations occurring on or after January 26, 1984.
19 Except as hereinafter provided, surcharges under this paragraph shall
20 be levied annually for a three-year period, and shall be \$1,000.00 per
21 year for each of the first two convictions, for a total surcharge of
22 \$3,000 for each conviction, and \$1,500.00 per year for the third
23 conviction occurring within a three-year period, for a total surcharge
24 of \$4,500 for the third conviction. If a driver is convicted under both
25 R.S.39:4-50 and section 2 of P.L.1981, c.512 (C.39:4-50.4a) for
26 offenses arising out of the same incident, the driver shall be assessed
27 only one surcharge for the two offenses.

28 If, upon written notification from the Division of Motor Vehicles,
29 mailed to the last address of record with the division, a driver fails to
30 pay a surcharge levied under this subsection, the license of the driver
31 shall be suspended forthwith until the surcharge is paid to the Division
32 of Motor Vehicles; except that the Division of Motor Vehicles may
33 authorize payment of the surcharge on an installment basis over a
34 period not to exceed 12 months. If a driver fails to pay the surcharge
35 or any installments on the surcharge, the total surcharge shall become
36 due immediately.

37 The director may authorize any person to pay the surcharge levied
38 under this section by use of a credit card, and the director is
39 authorized to require the person to pay all costs incurred by the
40 division in connection with the acceptance of the credit card.

41 In addition to any other remedy provided by law, the director is
42 authorized to utilize the provisions of the SOIL (Setoff of Individual
43 Liability) program established pursuant to P.L.1981, c.239
44 (C.54A:9-8.1 et seq.) to collect any surcharge levied under this section
45 that is unpaid on or after the effective date of this act. As an
46 additional remedy, the director may issue a certificate to the Clerk of

1 the Superior Court stating that the person identified in the certificate
2 is indebted under this surcharge law in such amount as shall be stated
3 in the certificate. The certificate shall reference the statute under
4 which the indebtedness arises. Thereupon the clerk to whom such
5 certificate shall have been issued shall immediately enter upon the
6 record of docketed judgments the name of such person as debtor; the
7 State as creditor; the address of such person, if shown in the
8 certificate; the amount of the debt so certified; a reference to the
9 statute under which the surcharge is assessed, and the date of making
10 such entries. The docketing of the entries shall have the same force
11 and effect as a civil judgment docketed in the Superior Court, and the
12 director shall have all the remedies and may take all of the proceedings
13 for the collection thereof which may be had or taken upon the
14 recovery of a judgment in an action, but without prejudice to any right
15 of appeal. Upon entry by the clerk of the certificate in the record of
16 docketed judgments in accordance with this provision, interest in the
17 amount specified by the court rules for post-judgment interest shall
18 accrue from the date of the docketing of the certificate, however
19 payment of the interest may be waived by the director. In the event
20 that the surcharge remains unpaid following the issuance of the
21 certificate of debt and the director takes any further collection action
22 including referral of the matter to the Attorney General or his
23 designee, the fee imposed, in lieu of the actual cost of collection, may
24 be 20 percent of the surcharge or \$200, whichever is greater. The
25 director shall provide written notification to a driver of the proposed
26 filing of the certificate of debt 10 days prior to the proposed filing;
27 such notice shall be mailed to the driver's last address of record with
28 the division.

29 All moneys collectible under this subsection b. shall be billed and
30 collected by the Division of Motor Vehicles. Of the moneys collected:
31 10%, or the actual cost of administering the collection of the
32 surcharge, whichever is less, shall be retained by the Division of Motor
33 Vehicles until August 31, 1996; five percent, or the actual cost of
34 administering the cancellation notification system established pursuant
35 to section 50 of P.L.1990, c.8 (C.17:33B-41), whichever is less, shall
36 be retained by the Division of Motor Vehicles until August 31, 1996;
37 and prior to October 1, 1991, the remainder shall be remitted to the
38 New Jersey Automobile Full Insurance Underwriting Association and
39 on or after October 1, 1991 until August 31, 1996, the remainder shall
40 be remitted to the New Jersey Automobile Insurance Guaranty Fund
41 created pursuant to section 23 of P.L.1990, c.8 (C.17:33B-5).
42 Commencing on September 1, 1996, or such earlier time as the
43 Commissioner of Insurance shall certify to the State Treasurer that
44 amounts on deposit in the New Jersey Automobile Insurance Guaranty
45 Fund are sufficient to satisfy the current and anticipated financial
46 obligations of the New Jersey Automobile Full Insurance Underwriting

1 Association, all plan surcharges collected by the Division of Motor
2 Vehicles under this subsection b. shall be remitted to the Division of
3 Motor Vehicles Surcharge Fund for transfer to the Market Transition
4 Facility Revenue Fund, as provided in section 12 of P.L.1994, c.57
5 (C.34:1B-21.12), for the purposes of section 4 of P.L.1994, c.57
6 (C.34:1B-21.4) until such a time as all the Market Transition Facility
7 bonds, notes and obligations issued pursuant to that section 4 of that
8 act and the costs thereof are discharged and no longer outstanding.
9 From the date of certification by the Commissioner of Insurance that
10 the moneys collectible under this subsection are no longer needed to
11 fund the association or at such a time as all Market Transition Facility
12 bonds, notes and obligations issued pursuant to section 4 of P.L.1994,
13 c.57 (C.34:1B-21.4) and the costs thereof are discharged and no
14 longer outstanding moneys collectible under this subsection shall,
15 subject to appropriation, be remitted to the New Jersey
16 Property-Liability Insurance Guaranty Association created pursuant to
17 section 6 of P.L.1974, c.17 (C.17:30A-6) to be used for payment of
18 any loans made by that association to the New Jersey Automobile
19 Insurance Guaranty Fund pursuant to paragraph (10) of subsection a.
20 of section 8 of P.L.1974, c.17 (C.17:30A-8); provided that all such
21 payments shall be subject to and dependent upon appropriation by the
22 State Legislature.

23 (3) In addition to any other authority provided in P.L.1983, c.65
24 (C.17:29A-33 et al.), the commissioner, after consultation with the
25 Director of the Division of Motor Vehicles, is specifically authorized
26 (a) (Deleted by amendment, P.L.1994, c.64), (b) to impose, in
27 accordance with paragraph (1)(a) of this subsection, surcharges for
28 motor vehicle violations or convictions for which motor vehicle points
29 are not assessed under Title 39 of the Revised Statutes, or (c) to
30 reduce the number of points for which surcharges may be assessed
31 below the level provided in paragraph (1)(a) of this subsection, except
32 that the dollar amount of all surcharges levied under the New Jersey
33 Merit Rating Plan shall be uniform on a Statewide basis for each filer,
34 without regard to classification or territory. Surcharges adopted by the
35 commissioner on or after January 1, 1984 for motor vehicle violations
36 or convictions for which motor vehicle points are not assessable under
37 Title 39 of the Revised Statutes shall not be retroactively applied but
38 shall take effect on the date of the New Jersey Register in which notice
39 of adoption appears or the effective date set forth in that notice,
40 whichever is later.

41 c. No motor vehicle violation surcharges shall be levied on an
42 automobile insurance policy issued or renewed on or after January 1,
43 1984, except in accordance with the New Jersey Merit Rating Plan,
44 and all surcharges levied thereunder shall be assessed, collected and
45 distributed in accordance with subsection b. of this section.

46 d. (Deleted by amendment, P.L.1990, c.8.)

1 e. The Commissioner of Insurance and the Director of the Division
2 of Motor Vehicles as may be appropriate, shall adopt any rules and
3 regulations necessary or appropriate to effectuate the purposes of this
4 section.

5 (cf: P.L.1994, c.64, s.1)

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7 2. Section 26 of P.L.1990, c.8 (C.17:33B-14) is amended to read
8 as follows:

9 26. The commissioner shall, within 90 days of the effective date of
10 this act, promulgate a schedule of automobile insurance eligibility
11 points by rule or regulation adopted pursuant to the "Administrative
12 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The schedule
13 shall assess a point valuation to driving experience related violations
14 and shall include assessments for violations of lawful speed limits
15 within such increments as determined by the commissioner, other
16 moving violations, and at-fault accidents. For the purposes of this
17 section, an "at-fault accident" means an at-fault accident which results
18 in payment by the insurer of at least a ~~[\$500]~~ \$1,000 claim, which
19 amount shall be adjusted by order of the commissioner on July 1 every
20 three years following the effective date of this 1996 amendatory act to
21 reflect the cumulative increases or decreases in the components of the
22 national Consumer Price Index, U.S. City Average, deemed
23 appropriate by the commissioner, and the adjusted amount shall apply
24 to automobile accidents occurring on or after the adjustment date.

25 (cf: P.L.1990, c.8, s.26)

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27 3. This act shall take effect on the 90th day following enactment
28 and apply to private passenger automobile insurance policies issued or
29 renewed in this State on or after the effective date.

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32 STATEMENT

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34 This bill revises the criteria under which an insurer may assess an
35 accident surcharge for an at-fault accident under an insured's
36 automobile insurance policy.

37 Currently, there are two definitions of "at-fault accident" under
38 which an insurer may impose an accident surcharge. Under the merit
39 rating accident surcharge system pursuant to the provisions of section
40 6 of P.L.1983, c.65 (C.17:29A-35), a surcharge may be imposed if the
41 insurer has made payment on a claim of at least \$300. More recently,
42 under the "Fair Automobile Insurance Reform Act of 1990," or FAIR
43 Act, an insurer may impose an accident surcharge in accordance with
44 the schedule of automobile insurance eligibility points promulgated by
45 the commissioner pursuant to the provisions of section 26 of
46 P.L.1990, c.8 (C.17:33B-14) if the insured is involved in an at-fault

1 accident resulting in payment by the insurer of at least a \$500 claim.
2 In practice, however, only the higher amount of \$500 may used by
3 insurers.

4 The bill amends the definition of "at-fault accident" in both statutes
5 to mean an accident which results in payment by the insurer of at least
6 a \$1,000 claim, which amount shall be adjusted by order of the
7 Commissioner of Insurance on July 1 every three years to reflect the
8 cumulative increases or decreases in components of the national
9 Consumer Price Index, U.S. City Average, deemed appropriate by the
10 commissioner.

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15 Raises monetary threshold for at-fault accident surcharges to \$1,000
16 with index.