

SENATE, No. 63

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Senators CAFIERO and MATHEUSSEN

1 AN ACT concerning automobile insurance accident surcharges and
2 amending P.L.1983, c.65 and P.L.1990, c.8.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
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 or
17 after the [operative] effective date of this 1994 amendatory act, unless
18 there is an at-fault accident within a three-year period immediately
19 preceding the effective date of coverage which results in payment by
20 the insurer of [at least a \$300.00] a claim which is at least equal to, or
21 in excess of, the amount of the named insured's annual premium. All
22 moneys collected under this subsection shall be retained by the insurer
23 assessing the surcharge. Accident surcharges shall be imposed for a
24 three-year period and shall, for each filer, be uniform on a Statewide
25 basis without regard to classification or territory.

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

29 (1) (a) Plan surcharges shall be levied, beginning on or after January
30 1, 1984, by the Division of Motor Vehicles on any driver who has
31 accumulated, within the immediately preceding three year period,
32 beginning on or after February 10, 1983, six or more motor vehicle

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 points, as provided in Title 39 of the Revised Statutes, exclusive of
2 any points for convictions for which surcharges are levied under
3 paragraph (2) of this subsection; except that the allowance for a
4 reduction of points in Title 39 of the Revised Statutes shall not apply
5 for the purpose of determining surcharges under this paragraph.
6 Surcharges shall be levied for each year in which the driver possesses
7 six or more points. Surcharges assessed pursuant to this paragraph
8 shall be not less than \$100.00 for six points, and not less than \$25.00
9 for each additional point. The commissioner may increase the amount
10 of surcharges as he deems necessary to effectuate the purposes of
11 P.L.1983, c.65 (C.17:29A-33 et al.), and may, pursuant to regulation,
12 permit the deferral of all or part of any surcharges authorized by this
13 subsection until the end of the policy term of an automobile insurance
14 policy with an effective date prior to January 1, 1984, upon
15 presentation of appropriate evidence that an insured has already paid
16 an equivalent surcharge arising from the same motor vehicle violation
17 or conviction.

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

19 (2) Plan surcharges shall be levied for convictions (a) under
20 R.S.39:4-50 for violations occurring on or after February 10, 1983,
21 and (b) under section 2 of P.L.1981, c.512 (C.39:4-50.4a), or for
22 offenses committed in other jurisdictions of a substantially similar
23 nature to those under R.S.39:4-50 or section 2 of P.L.1981, c.512
24 (C.39:4-50.4a), for violations occurring on or after January 26, 1984.
25 Surcharges under this paragraph shall be levied annually for a three
26 year period, and shall be not less than \$1,000.00 per year for each of
27 the first two convictions, and not less than \$1,500.00 per year for the
28 third conviction occurring within a three year period. If a driver is
29 convicted under both R.S.39:4-50 and section 2 of P.L.1981, c.512
30 (C.39:4-50.4a) for offenses arising out of the same incident, the driver
31 shall be assessed only one surcharge for the two offenses. The
32 commissioner may increase the amount of surcharges as he deems
33 necessary to effectuate the purposes of P.L.1983, c.65 (C.17:29A-33
34 et al.), and may, pursuant to regulation, permit the deferral of all or
35 any part of these surcharges as provided in paragraph (1)(a) of this
36 subsection.

37 If, upon written notification from the Division of Motor Vehicles,
38 mailed to the last address of record with the division, a driver fails to
39 pay a surcharge levied under this subsection, the license of the driver
40 shall be suspended forthwith until the surcharge is paid to the Division
41 of Motor Vehicles; except that upon satisfactory showing of indigency,
42 the Division of Motor Vehicles may authorize payment of the
43 surcharge on an installment basis over a period not to exceed 10
44 months.

45 For the purposes of this subparagraph, "indigency" shall be defined
46 in rules and regulations promulgated by the Director of the Division

1 of Motor Vehicles.

2 All moneys collectible under this subsection shall be billed and
3 collected by the Division of Motor Vehicles. Of the moneys collected:
4 10%, or the actual cost of administering the collection of the
5 surcharge, whichever is less, shall be retained by the Division of Motor
6 Vehicles; five percent, or the actual cost of administering the
7 cancellation notification system established pursuant to section 50 of
8 P.L.1990, c.8 (C.17:33B-41), whichever is less, shall be retained by
9 the Division of Motor Vehicles; and prior to October 1, 1991, the
10 remainder shall be remitted to the New Jersey Automobile Full
11 Insurance Underwriting Association and on or after October 1, 1991,
12 the remainder shall be remitted to the New Jersey Automobile
13 Insurance Guaranty Fund created pursuant to section 23 of P.L.1990,
14 c.8 (C.17:33B-5). From the date of certification by the Commissioner
15 of Insurance that the monies collectible under this subsection are no
16 longer needed to fund the association debt, monies collectible under
17 this subsection shall be remitted to the New Jersey Property-Liability
18 Guaranty Association created pursuant to section 6 of P.L.1974, c.17
19 (C.17:30A-6) to be used for payment of any loans made by that
20 association to the New Jersey Automobile Insurance Guaranty Fund
21 pursuant to paragraph (10) of subsection a. of section 8 of P.L.1974,
22 c.17 (C.17:30A-8).

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) to increase the dollar amount of the surcharges for motor vehicle
27 violations or convictions, (b) to impose, in accordance with paragraph
28 (1)(a) of this subsection, surcharges for motor vehicle violations or
29 convictions for which motor vehicle points are not assessed under
30 Title 39 of the Revised Statutes, or (c) to reduce the number of points
31 for which surcharges may be assessed below the level provided in
32 paragraph (1)(a) of this subsection, except that the dollar amount of
33 all surcharges levied under the New Jersey Merit Rating Plan shall be
34 uniform on a Statewide basis for each filer, without regard to
35 classification or territory. Surcharges adopted by the commissioner on
36 or after January 1, 1984 for motor vehicle violations or convictions for
37 which motor vehicle points are not assessable under Title 39 of the
38 Revised Statutes shall not be retroactively applied but shall take effect
39 on the date of the New Jersey Register in which notice of adoption
40 appears or the effective date set forth in that notice, 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.1990, c.8, s.35)

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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] a claim which is at least
19 equal to, or in excess of, the amount of the named insured's annual
20 premium.

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

22
23 3. This act shall take effect immediately and shall apply to private
24 passenger automobile insurance policies issued or renewed in this
25 State on or after January 1, 1995.

26 27 28 STATEMENT

29
30 This bill revises the criteria under which an insurer may assess an
31 accident surcharge for an at-fault accident under an insured's
32 automobile insurance policy.

33 Currently, there are two definitions of "at-fault accident" under
34 which an insurer may impose an accident surcharge. Under the merit
35 rating accident surcharge system pursuant to the provisions of section
36 6 of P.L.1983, c.65 (C.17:29A-35), a surcharge may be imposed if the
37 insurer has made payment on a claim of at least \$300. More recently,
38 under the "Fair Automobile Insurance Reform Act of 1990," or FAIR
39 Act, an insurer may impose a surcharge in accordance with the
40 schedule of automobile insurance eligibility points promulgated by the
41 commissioner pursuant to the provisions of section 26 of P.L.1990, c.8
42 (C.17:33B-14) if the insurer has made payment on a claim of at least
43 \$500. In practice, however, only the higher amount of \$500 may used
44 by insurers.

45 The bill amends the definition of "at-fault accident" in both statutes
46 to mean an accident which results in payment by the insurer of a claim

1 which is at least equal to, or in excess of, the amount of the named
2 insured's annual premium.

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7 Revises criteria for imposition of automobile insurance accident
8 surcharges.