

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, Nos. 63 and 374

STATE OF NEW JERSEY

ADOPTED JANUARY 18, 1996

Sponsored by Senators CAFIERO, MATHEUSSEN and MacINNES

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

3

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

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

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

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

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

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 1984, by the Division of Motor Vehicles on any driver who has
2 accumulated, within the immediately preceding three-year period,
3 beginning on or after February 10, 1983, six or more motor vehicle points,
4 as provided in Title 39 of the Revised Statutes, exclusive of any points for
5 convictions for which surcharges are levied under paragraph (2) of this
6 subsection; except that the allowance for a reduction of points in Title 39
7 of the Revised Statutes shall not apply for the purpose of determining
8 surcharges under this paragraph. Surcharges shall be levied for each year
9 in which the driver possesses six or more points. Surcharges assessed
10 pursuant to this paragraph shall be \$100.00 for six points, and \$25.00 for
11 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, and
15 (b) under section 2 of P.L.1981, c.512 (C.39:4-50.4a), or for offenses
16 committed in other jurisdictions of a substantially similar nature to those
17 under R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a), for
18 violations occurring on or after January 26, 1984. Except as hereinafter
19 provided, surcharges under this paragraph shall be levied annually for a
20 three-year period, and shall be \$1,000.00 per year for each of the first two
21 convictions, for a total surcharge of \$3,000 for each conviction, and
22 \$1,500.00 per year for the third conviction occurring within a three-year
23 period, for a total surcharge of \$4,500 for the third conviction. If a driver
24 is convicted under both R.S.39:4-50 and section 2 of P.L.1981, c.512
25 (C.39:4-50.4a) for offenses arising out of the same incident, the driver
26 shall be assessed only one surcharge for the two offenses.

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

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

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

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

25 All moneys collectible under this subsection b. shall be billed and
26 collected by the Division of Motor Vehicles. Of the moneys collected:
27 10%, or the actual cost of administering the collection of the surcharge,
28 whichever is less, shall be retained by the Division of Motor Vehicles until
29 August 31, 1996; five percent, or the actual cost of administering the
30 cancellation notification system established pursuant to section 50 of
31 P.L.1990, c.8 (C.17:33B-41), whichever is less, shall be retained by the
32 Division of Motor Vehicles until August 31, 1996; and prior to October
33 1, 1991, the remainder shall be remitted to the New Jersey Automobile
34 Full Insurance Underwriting Association and on or after October 1, 1991
35 until August 31, 1996, the remainder shall be remitted to the New Jersey
36 Automobile Insurance Guaranty Fund created pursuant to section 23 of
37 P.L.1990, c.8 (C.17:33B-5). Commencing on September 1, 1996, or such
38 earlier time as the Commissioner of Insurance shall certify to the State
39 Treasurer that amounts on deposit in the New Jersey Automobile
40 Insurance Guaranty Fund are sufficient to satisfy the current and
41 anticipated financial obligations of the New Jersey Automobile Full
42 Insurance Underwriting Association, all plan surcharges collected by the
43 Division of Motor Vehicles under this subsection b. shall be remitted to
44 the Division of Motor Vehicles Surcharge Fund for transfer to the Market
45 Transition Facility Revenue Fund, as provided in section 12 of P.L.1994,
46 c.57 (C.34:1B-21.12), for the purposes of section 4 of P.L.1994, c.57

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

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

34 c. No motor vehicle violation surcharges shall be levied on an
35 automobile insurance policy issued or renewed on or after January 1,
36 1984, except in accordance with the New Jersey Merit Rating Plan, and
37 all surcharges levied thereunder shall be assessed, collected and distributed
38 in accordance with subsection b. of this section.

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

40 e. The Commissioner of Insurance and the Director of the Division of
41 Motor Vehicles as may be appropriate, shall adopt any rules and
42 regulations necessary or appropriate to effectuate the purposes of this
43 section.

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

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

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

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

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

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