

city of Duluth in lieu of the provisions of Minnesota Statutes, Section 69.48.

Benefits shall be payable to a surviving spouse whose remarriage has terminated prior to the effective date of this act, from and after the effective date of this act.

Sec. 5. Section 1 is effective upon approval by the Eveleth city council and upon compliance with Minnesota Statutes, Section 645.021. Sections 2 and 3 are effective upon approval by the Chisholm city council and upon compliance with Minnesota Statutes, Section 645.021; and section 4 is effective upon approval by the Duluth city council and upon compliance with Minnesota Statutes, Section 645.021.

Approved March 25, 1976.

CHAPTER 79—S.F.No.345

An act relating to insurance; providing for indemnification and subrogation in certain cases; amending Minnesota Statutes 1974, Section 65B.53; repealing Minnesota Statutes 1974, Section 65B.62.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1974, Section 65B.53, is amended to read:

65B.53 AUTOMOBILE INSURANCE; NO-FAULT; INDEMNITY; ARBITRATION BETWEEN OBLIGORS; SUBROGATION. Subdivision 1. A reparation obligor paying or obligated to pay basic or optional economic loss benefits shall be entitled to indemnity subject to the limits of the applicable residual liability coverage from a reparation obligor providing such coverage to a person whose negligence was the direct and proximate cause of the injury for which the basic economic loss benefits were paid or payable to the extent that the insured would have been liable for damages but for the deduction provisions of section 65B.51, subdivision 1, and only if a commercial vehicle was involved in the accident causing the injury.

~~Subd. 2: To the extent permitted by section 65B.51, subdivision 1, a reparation obligor paying or obligated to pay basic or optional economic loss benefits shall be subrogated to the extent of benefits paid or payable to any cause of action to recover damages for economic loss which the person to whom the basic or optional economic loss benefits were paid or payable has brought under the terms of section 65B.51, subdivision 3 against another person whose negligence was the direct and proximate cause of the injury for which the basic economic~~

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loss benefits were paid or payable:

Subd. 2. A reparation obligor paying or obligated to pay basic or optional economic loss benefits is subrogated to the claim for the recovery of damages for economic loss that the person to whom the basic or optional economic loss benefits were paid or payable has against another person whose negligence in another state was the direct and proximate cause of the injury for which the basic economic loss benefits were paid or payable. This right of subrogation exists only to the extent that basic economic loss benefits are paid or payable and only to the extent that recovery on the claim absent subrogation would produce a duplication of benefits or reimbursement of the same loss.

Subd. 3. A reparation obligor paying or obligated to pay basic economic loss benefits is subrogated to a claim based on an intentional tort, strict or statutory liability, or negligence other than negligence in the maintenance, use, or operation of a motor vehicle. This right of subrogation exists only to the extent that basic economic loss benefits are paid or payable and only to the extent that recovery on the claim absent subrogation would produce a duplication of benefits or reimbursement of the same loss.

Subd. 3-4 . The right of indemnity provided in subdivision 1 shall be enforceable only through mandatory good-faith and binding arbitration procedures to be established by rule of the commissioner of insurance. These procedures shall utilize determinations of comparative negligence. No evidence nor the decision in such an arbitration proceeding shall be admissible in any action by any party.

Subd. 4-5 . Nothing in ~~Laws 1974, Chapter 408~~ Minnesota Statutes, Sections 65B.41 to 65B.71 shall limit or abridge the subrogation rights of a reparation obligor providing collision coverage to a policyholder ; ~~but any obligor required to submit a claim described in subdivision 1 to arbitration shall join any claim it has against the other party to that proceeding as a result of automotive property damage to its insured arising out of the same accident as the primary claim .~~

Subd. 5-6 . No reparation obligor shall include in its contract any provision which would require a person to commence a negligence action as a condition precedent to the payment of basic economic loss benefits or which permits the reparation obligor to determine whether such an action will be commenced. No reparation obligor shall contract for a right of reimbursement or subrogation greater than or in addition to those permitted by ~~Laws 1974, Chapter 408~~ Minnesota Statutes, Chapter 65B .

Subd. 6-7 . Arbitration proceedings need not await final payment of benefits, and the award, if any, shall include provision for reimbursement of subsequent benefits, but no question of fact decided by a prior award shall be reconsidered in any such subsequent arbitration

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hearing.

Sec. 2. Minnesota Statutes 1974, Section 65B.62, is repealed.

Sec. 3. This act is effective the day following final enactment and applies to accidents occurring on and after its effective date.

Approved March 25, 1976.

CHAPTER 80—S.F.No.429

[Not Coded]

An act relating to the Minnesota zoological garden; providing a means of public access to the garden at the time of its opening; directing the department of highways to improve a certain road to provide such public access; and appropriating money.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. ZOOLOGICAL GARDEN; PUBLIC ACCESS; LEGISLATIVE FINDING. The legislature finds that the anticipated opening of the Minnesota zoological garden is July 1977. It further finds that Legislative Route No. 279 extended by Laws 1974, Chapter 265, to provide public access to the zoological garden cannot be completed at the time of the anticipated opening due to federal, state and environmental requirements. It is therefore necessary to provide an alternative to route No. 279 that will not involve the same federal, state and environmental requirements, will provide reasonably adequate access to the zoological garden, and will be available for use by the public at the time of the anticipated opening.

Sec. 2. HIGHWAY DEPARTMENT TO UPGRADE PUBLIC ROAD. Subdivision 1. Within the limits of the appropriation provided therefor in section 4, the department of highways shall contract with the local municipalities to widen, reconstruct where necessary and generally upgrade, to the extent necessary to provide adequate public access to the Minnesota zoological garden, the following described road:

Beginning at a point on Johnny Cake Ridge road at its intersection with Dakota county highway No. 32, also known as Cliff road, in Dakota county; thence extending southerly along Johnny Cake Ridge road a distance of approximately two miles to the south line of Section 14, Township 115 North, Range 20 West, and there terminating.

The road described is not added to the trunk highway system, and except for the authority conferred herein upon the department of highways shall remain under the jurisdiction of the cities of Apple Valley

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