

SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH SESSION

S.F. No. 2952

(SENATE AUTHORS: SAXHAUG and Jensen)

DATE	D-PG	OFFICIAL STATUS
04/04/2014	7393	Introduction and first reading Referred to Commerce

1.1

A bill for an act

1.2

relating to insurance; no-fault auto; adjusting certain dollar amounts to reflect

1.3

inflation; modifying the limitation on damages for noneconomic detriment;

1.4

amending Minnesota Statutes 2012, sections 65B.44, subdivisions 1, 3, 4, 5, 6,

1.5

7; 65B.45, subdivision 2; 65B.49, subdivisions 3, 3a; 65B.51, subdivision 3;

1.6

65B.525, subdivision 1; 65B.54, subdivision 1; proposing coding for new law

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in Minnesota Statutes, chapter 65B.

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

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Section 1. Minnesota Statutes 2012, section 65B.44, subdivision 1, is amended to read:

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Subdivision 1. **Inclusions.** (a) Basic economic loss benefits shall provide

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reimbursement for all loss suffered through injury arising out of the maintenance or use of

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a motor vehicle, subject to any applicable deductibles, exclusions, disqualifications, and

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other conditions, and shall provide a minimum of ~~\$40,000~~ \$94,300 for loss arising out of

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the injury of any one person, consisting of:

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(1) ~~\$20,000~~ \$62,900 for medical expense loss arising out of injury to any one

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person; and

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(2) a total of ~~\$20,000~~ \$31,400 for income loss, replacement services loss, funeral

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expense loss, survivor's economic loss, and survivor's replacement services loss arising

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out of the injury to any one person.

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(b) Notwithstanding any other law to the contrary, a person entitled to basic

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economic loss benefits under this chapter is entitled to the full medical expense benefits set

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forth in subdivision 2, and may not receive medical expense benefits that are in any way

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less than those provided for in subdivision 2, or that involve any preestablished limitations

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on the benefits. Medical expenses must be reasonable and must be for necessary medical

care as provided in subdivision 2. This paragraph shall not be deemed to alter the obligations of an insured or the rights of a reparation obligor as set forth in section 65B.56.

(c) No reparation obligor or health plan company as defined in section 62Q.01, subdivision 4, may enter into or renew any contract that provides, or has the effect of providing, managed care services to no-fault claimants. For the purposes of this section, "managed care services" is defined as any program of medical services that uses health care providers managed, owned, employed by, or under contract with a health plan company.

Sec. 2. Minnesota Statutes 2012, section 65B.44, subdivision 3, is amended to read:

Subd. 3. **Disability and income loss benefits.** Disability and income loss benefits shall provide compensation for 85 percent of the injured person's loss of present and future gross income from inability to work proximately caused by the nonfatal injury subject to a maximum of ~~\$250~~ \$600 per week. Loss of income includes the costs incurred by a self-employed person to hire substitute employees to perform tasks which are necessary to maintain the income of the injured person, which are normally performed by the injured person, and which cannot be performed because of the injury.

If the injured person is unemployed at the time of injury and is receiving or is eligible to receive unemployment benefits under chapter 268, but the injured person loses eligibility for those benefits because of inability to work caused by the injury, disability and income loss benefits shall provide compensation for the lost benefits in an amount equal to the unemployment benefits which otherwise would have been payable, subject to a maximum of ~~\$250~~ \$600 per week.

Compensation under this subdivision shall be reduced by any income from substitute work actually performed by the injured person or by income the injured person would have earned in available appropriate substitute work which the injured person was capable of performing but unreasonably failed to undertake.

For the purposes of this section "inability to work" means disability which prevents the injured person from engaging in any substantial gainful occupation or employment on a regular basis, for wage or profit, for which the injured person is or may by training become reasonably qualified. If the injured person returns to employment and is unable by reason of the injury to work continuously, compensation for lost income shall be reduced by the income received while the injured person is actually able to work. The weekly maximums may not be prorated to arrive at a daily maximum, even if the injured person does not incur loss of income for a full week.

For the purposes of this section, an injured person who is "unable by reason of the injury to work continuously" includes, but is not limited to, a person who misses time

from work, including reasonable travel time, and loses income, vacation, or sick leave benefits, to obtain medical treatment for an injury arising out of the maintenance or use of a motor vehicle.

Sec. 3. Minnesota Statutes 2012, section 65B.44, subdivision 4, is amended to read:

Subd. 4. **Funeral and burial expenses.** Funeral and burial benefits shall be reasonable expenses not in excess of ~~\$2,000~~ \$3,900, including expenses for cremation or delivery under the Darlene Luther Revised Uniform Anatomical Gift Act, chapter 525A.

Sec. 4. Minnesota Statutes 2012, section 65B.44, subdivision 5, is amended to read:

Subd. 5. **Replacement service and loss.** Replacement service loss benefits shall reimburse all expenses reasonably incurred by or on behalf of the nonfatally injured person in obtaining usual and necessary substitute services in lieu of those that, had the injured person not been injured, the injured person would have performed not for income but for direct personal benefit or for the benefit of the injured person's household; if the nonfatally injured person normally, as a full time responsibility, provides care and maintenance of a home with or without children, the benefit to be provided under this subdivision shall be the reasonable value of such care and maintenance or the reasonable expenses incurred in obtaining usual and necessary substitute care and maintenance of the home, whichever is greater. These benefits shall be subject to a maximum of ~~\$200~~ \$300 per week. All replacement services loss sustained on the date of injury and the first seven days thereafter is excluded in calculating replacement services loss.

Sec. 5. Minnesota Statutes 2012, section 65B.44, subdivision 6, is amended to read:

Subd. 6. **Survivors economic loss benefits.** Survivors economic loss benefits, in the event of death occurring within one year of the date of the accident, caused by and arising out of injuries received in the accident, are subject to a maximum of ~~\$200~~ \$600 per week and shall cover loss accruing after decedent's death of contributions of money or tangible things of economic value, not including services, that surviving dependents would have received from the decedent for their support during their dependency had the decedent not suffered the injury causing death.

For the purposes of definition under sections 65B.41 to 65B.71, the following described persons shall be presumed to be dependents of a deceased person: (a) a wife is dependent on a husband with whom she lives at the time of his death; (b) a husband is dependent on a wife with whom he lives at the time of her death; (c) any child while under the age of 18 years, or while over that age but physically or mentally incapacitated

from earning, is dependent on the parent with whom the child is living or from whom the child is receiving support regularly at the time of the death of such parent. Questions of the existence and the extent of dependency shall be questions of fact, considering the support regularly received from the deceased.

Payments shall be made to the dependent, except that benefits to a dependent who is a child or an incapacitated person may be paid to the dependent's surviving parent or guardian. Payments shall be terminated whenever the recipient ceases to maintain a status which if the decedent were alive would be that of dependency.

Sec. 6. Minnesota Statutes 2012, section 65B.44, subdivision 7, is amended to read:

Subd. 7. **Survivors replacement services loss.** Survivors replacement services loss benefits shall reimburse expenses reasonably incurred by surviving dependents after the date of the decedent's death in obtaining ordinary and necessary services in lieu of those the deceased would have performed for their benefit had the decedent not suffered the injury causing death, minus expenses of the survivors avoided by reason of the decedent's death. These benefits shall be subject to a maximum of ~~\$200~~ \$600 per week.

Sec. 7. Minnesota Statutes 2012, section 65B.45, subdivision 2, is amended to read:

Subd. 2. **Notice of treatment or training.** An injured person who has undertaken a procedure or treatment for rehabilitation or a course of rehabilitative occupational training, other than medical rehabilitation procedure or treatment, shall give notice to the reparation obligor of having undertaken the procedure, treatment, or training within 60 days after a rehabilitation expense exceeding ~~\$1,000~~ \$3,100 has been incurred for the procedure, treatment, or training, unless the reparation obligor knows or has reason to know of the undertaking. If the injured person does not give the required notice within the prescribed time, the reparation obligor is responsible only for ~~\$1,000~~ \$3,100 or the expense incurred after the notice is given and within the 60 days before the notice, whichever is greater, unless failure to give timely notice is the result of excusable neglect.

Sec. 8. Minnesota Statutes 2012, section 65B.49, subdivision 3, is amended to read:

Subd. 3. **Residual liability insurance.** (1) Each plan of reparation security shall also contain stated limits of liability, exclusive of interest and costs, with respect to each vehicle for which coverage is thereby granted, of not less than ~~\$30,000~~ \$78,600 because of bodily injury to one person in any one accident and, subject to said limit for one person, of not less than ~~\$60,000~~ \$157,200 because of injury to two or more persons in any one accident, and,

if the accident has resulted in injury to or destruction of property, of not less than ~~\$10,000~~
\$31,400 because of such injury to or destruction of property of others in any one accident.

(2) Under residual liability insurance the reparation obligor shall be liable to pay, on behalf of the insured, sums which the insured is legally obligated to pay as damages because of bodily injury and property damage arising out of the ownership, maintenance or use of any motor vehicle, including a motor vehicle permissively operated by an insured as that term is defined in section 65B.43, subdivision 5, if the injury or damage occurs within this state, the United States of America, its territories or possessions, or Canada. A reparation obligor shall also be liable to pay sums which another reparation obligor is entitled to recover under the indemnity provisions of section 65B.53, subdivision 1.

(3) Every plan of reparation security shall be subject to the following provisions which need not be contained therein:

(a) The liability of the reparation obligor with respect to the residual liability coverage required by this clause shall become absolute whenever injury or damage occurs; such liability may not be canceled or annulled by any agreement between the reparation obligor and the insured after the occurrence of the injury or damage; no statement made by the insured or on the insured's behalf and no violation of said policy shall defeat or void said policy.

(b) The satisfaction by the insured of a judgment for such injury or damage shall not be a condition precedent to the right or duty of the reparation obligor to make payment on account of such injury or damage.

(c) The reparation obligor shall have the right to settle any claim covered by the residual liability insurance policy, and if such settlement is made in good faith, the amount thereof shall be deductible from the limits of liability for the accident out of which such claim arose.

(d) Except as provided in subdivision 5a, a residual liability insurance policy shall be excess of a nonowned vehicle policy whether the nonowned vehicle is borrowed or rented, or used for business or pleasure. A nonowned vehicle is one not used or provided on a regular basis.

Sec. 9. Minnesota Statutes 2012, section 65B.49, subdivision 3a, is amended to read:

Subd. 3a. **Uninsured and underinsured motorist coverages.** (1) No plan of reparation security may be renewed, delivered or issued for delivery, or executed in this state with respect to any motor vehicle registered or principally garaged in this state unless separate uninsured and underinsured motorist coverages are provided therein. Each coverage, at a minimum, must provide limits of ~~\$25,000~~ \$78,600 because of injury to or

the death of one person in any accident and ~~\$50,000~~ \$157,200 because of injury to or the death of two or more persons in any accident. In the case of injury to, or the death of, two or more persons in any accident, the amount available to any one person must not exceed the coverage limit provided for injury to, or the death of, one person in any accident.

(2) Every owner of a motor vehicle registered or principally garaged in this state shall maintain uninsured and underinsured motorist coverages as provided in this subdivision.

(3) No reparation obligor is required to provide limits of uninsured and underinsured motorist coverages in excess of the bodily injury liability limit provided by the applicable plan of reparation security.

(4) No recovery shall be permitted under the uninsured and underinsured motorist coverages of this section for basic economic loss benefits paid or payable, or which would be payable but for any applicable deductible.

(5) If at the time of the accident the injured person is occupying a motor vehicle, the limit of liability for uninsured and underinsured motorist coverages available to the injured person is the limit specified for that motor vehicle. However, if the injured person is occupying a motor vehicle of which the injured person is not an insured, the injured person may be entitled to excess insurance protection afforded by a policy in which the injured party is otherwise insured. The excess insurance protection is limited to the extent of covered damages sustained, and further is available only to the extent by which the limit of liability for like coverage applicable to any one motor vehicle listed on the automobile insurance policy of which the injured person is an insured exceeds the limit of liability of the coverage available to the injured person from the occupied motor vehicle.

If at the time of the accident the injured person is not occupying a motor vehicle or motorcycle, the injured person is entitled to select any one limit of liability for any one vehicle afforded by a policy under which the injured person is insured.

(6) Regardless of the number of policies involved, vehicles involved, persons covered, claims made, vehicles or premiums shown on the policy, or premiums paid, in no event shall the limit of liability for uninsured and underinsured motorist coverages for two or more motor vehicles be added together to determine the limit of insurance coverage available to an injured person for any one accident.

(7) The uninsured and underinsured motorist coverages required by this subdivision do not apply to bodily injury of the insured while occupying a motor vehicle owned by the insured, unless the occupied vehicle is an insured motor vehicle.

(8) The uninsured and underinsured motorist coverages required by this subdivision do not apply to bodily injury of the insured while occupying a motorcycle owned by the insured.

7.1 Sec. 10. **[65B.495] PERIODIC ADJUSTMENT OF BENEFIT AND CLAIM**
7.2 **AMOUNTS.**

7.3 The dollar amounts stated in sections 65B.44; 65B.45; 65B.49, subdivisions 3 and
7.4 3a; 65B.51; 65B.525; and 65B.54, shall be adjusted for inflation based upon the Consumer
7.5 Price Index - All Urban Consumers, CPI-U, published by the United States Bureau of Labor
7.6 Statistics. The dollar amounts in the provisions referenced in this section are based upon
7.7 the value of that index for July 2001 rounded to the nearest \$100, which is the reference
7.8 base index for purposes of this section. The dollar amounts in the provisions referenced in
7.9 this section shall change effective January 1 of each odd-numbered year based upon the
7.10 percentage difference between the index for July of the preceding year and the reference
7.11 base index, calculated to the nearest whole percentage point. The commissioner shall
7.12 announce and publish, on or before September 30 of the preceding year, the changes in the
7.13 dollar amounts required by this section to take effect on January 1 of each odd-numbered
7.14 year. The commissioner shall use the most recent revision of the July index available as
7.15 of September 1. Changes in the dollar amounts must be in increments of \$100, and no
7.16 change shall be made in a dollar amount until the change in the index requires at least
7.17 a \$100 change. If the United States Bureau of Labor Statistics changes the base year
7.18 upon which the CPI-U is based, the commissioner shall make the calculations necessary
7.19 to convert from the old base year to the new base year. If the CPI-U is discontinued, the
7.20 commissioner shall use the available index that is most similar to the CPI-U.

7.21 Sec. 11. Minnesota Statutes 2012, section 65B.51, subdivision 3, is amended to read:

7.22 Subd. 3. **Limitation of damages for noneconomic detriment.** In an action
7.23 described in subdivision 1, no person shall recover damages for noneconomic detriment
7.24 unless:

7.25 ~~(a) The sum of the following exceeds \$4,000:~~

7.26 ~~(1) reasonable medical expense benefits paid, payable or payable but for any~~
7.27 ~~applicable deductible, plus~~

7.28 ~~(2) the value of free medical or surgical care or ordinary and necessary nursing~~
7.29 ~~services performed by a relative of the injured person or a member of the injured person's~~
7.30 ~~household, plus~~

7.31 ~~(3) the amount by which the value of reimbursable medical services or products~~
7.32 ~~exceeds the amount of benefit paid, payable, or payable but for an applicable deductible~~
7.33 ~~for those services or products if the injured person was charged less than the average~~
7.34 ~~reasonable amount charged in this state for similar services or products, minus~~

~~(4) the amount of medical expense benefits paid, payable, or payable but for an applicable deductible for diagnostic X-rays and for a procedure or treatment for rehabilitation and not for remedial purposes or a course of rehabilitative occupational training; or~~

~~(b) the injury results in:~~

~~(1) significant permanent disfigurement;~~

~~(2) significant permanent injury;~~

~~(3) death; or~~

~~(4) disability the inability to engage in substantially all of the injured person's usual and customary daily activities for 60 days or more.~~

~~(e) For the purposes of clause (a) evidence of the reasonable value of medical services and products shall be admissible in any action brought in this state.~~

~~For the purposes of this subdivision disability means the inability to engage in substantially all of the injured person's usual and customary daily activities.~~

Sec. 12. Minnesota Statutes 2012, section 65B.525, subdivision 1, is amended to read:

Subdivision 1. **Mandatory submission to binding arbitration.** Except as otherwise provided in section 72A.327, the Supreme Court and the several courts of general trial jurisdiction of this state shall by rules of court or other constitutionally allowable device, provide for the mandatory submission to binding arbitration of all cases at issue where the claim at the commencement of arbitration is in an amount of ~~\$10,000~~ \$15,700 or less against any insured's reparation obligor for no-fault benefits or comprehensive or collision damage coverage.

Sec. 13. Minnesota Statutes 2012, section 65B.54, subdivision 1, is amended to read:

Subdivision 1. **Payment of basic economic loss benefits.** Basic economic loss benefits are payable monthly as loss accrues. Loss accrues not when injury occurs, but as income loss, replacement services loss, survivor's economic loss, survivor's replacement services loss, or medical or funeral expense is incurred. Benefits are overdue if not paid within 30 days after the reparation obligor receives reasonable proof of the fact and amount of loss realized, unless the reparation obligor elects to accumulate claims for periods not exceeding 31 days and pays them within 15 days after the period of accumulation. If reasonable proof is supplied as to only part of a claim, and the part totals ~~\$100~~ \$300 or more, the part is overdue if not paid within the time provided by this section. Medical or funeral expense benefits may be paid by the reparation obligor directly to persons supplying products, services, or accommodations to the claimant. Claims by a health provider defined

9.1 in section 62J.03, subdivision 8, for medical expense benefits covered by this chapter shall
9.2 be submitted to the reparation obligor pursuant to the uniform electronic transaction
9.3 standards required by section 62J.536 and the rules promulgated under that section.
9.4 Payment of benefits for such claims for medical expense benefits are not due if the claim is
9.5 not received by the reparation obligor pursuant to those electronic transaction standards and
9.6 rules. Notwithstanding any such submission, a reparation obligor may require additional
9.7 reasonable proof regarding the fact and the amount of loss realized regarding such a claim.
9.8 A health care provider cannot directly bill an insured for the amount of any such claim not
9.9 remitted pursuant to the transaction standards required by section 62J.536 if the reparation
9.10 obligor is acting in compliance with these standards in receiving or paying such a claim.

9.11 Sec. 14. **EFFECTIVE DATE; APPLICABILITY.**

9.12 Sections 1 to 13 are effective August 1, 2013, and apply to actions arising from
9.13 incidents occurring on or after that date.