

## CHAPTER 65B

## AUTOMOBILE INSURANCE

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**65B.001 DEFINITIONS.**

Subdivision 1. Unless a different meaning is expressly made applicable, the terms defined in this section shall, for the purposes of this chapter, have the meaning given them.

Subd. 2. "Private passenger vehicle insurance" means a policy insuring a natural person as named insured, and any relative of the named insured who is a resident of the same household, covering private passenger vehicles or utility vehicles owned by the insured. This term does not include a policy insuring more than four vehicles rated on a fleet basis or covering garage, automobiles sales agency, repair shop, service station or public parking place operation hazards.

Subd. 3. "Private passenger vehicle" means a passenger automobile or station wagon, as those terms are defined in section 168.011, or a jeep type automobile, which vehicles are not rented to others or used as a public or livery conveyance for passengers.

Subd. 4. "Utility vehicle" means any four wheel vehicle, other than a private passenger vehicle, which has a pick-up, van, or panel truck type body and is not

used primarily in the occupation, profession or business of the insured, other than farming or ranching.

**History:** 1977 c 366 s 1; 1984 c 592 s 52

#### **65B.01 PURPOSES, CONSTRUCTION AND SCOPE.**

Subdivision 1. **Purpose.** The purposes of Laws 1971, Chapter 813 are to provide the guarantee that automobile insurance coverage will be available to any person who is unable to procure such insurance through ordinary methods by providing a facility for the placement of automobile insurance risks with insurers, and to preserve to the public the benefits of price competition by encouraging maximum use of the normal private insurance system. Laws 1971, Chapter 813 shall be liberally construed to effect the purposes stated.

Subd. 2. **Scope and membership.** Every insurer authorized to write and writing automobile bodily injury liability, property damage liability or physical damage insurance in this state, as a condition precedent to being licensed or to retain such license to write such insurance in this state, shall be a member of the facility and shall participate therein under the terms and provisions of Laws 1971, Chapter 813. Every such insurer shall be a member of such a facility on a date specified by the commissioner of commerce.

**History:** 1971 c 813 s 1; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92

#### **65B.02 DEFINITIONS.**

Subdivision 1. Unless the language or context clearly indicates a different meaning is intended, the following terms shall, for the purposes of Laws 1971, Chapter 813, have the meanings ascribed to them.

Subd. 2. "Qualified applicant" means a person who:

- (1) Is a resident of this state,
- (2) Owns a motor vehicle registered in accordance with the laws of this state, or has a valid drivers' license, or is required to file proof of financial responsibility with the commissioner of public safety in accordance with the provisions of this chapter, and
- (3) Has no unpaid premiums with respect to prior automobile insurance.

Subd. 3. "Facility" means the organization formed by insurers to carry out the purposes provided in section 65B.01, subdivision 1, and shall be known as the Minnesota automobile insurance plan.

Subd. 4. "Participating member" means an insurer who is required by Laws 1971, Chapter 813, to be a member of the facility and who in the second preceding calendar year, has written automobile insurance in this state.

Subd. 5. "Car years" means the number of insurance policies written on automobile or licensed drivers by a given insurer in any calendar year; and "voluntary car years" means the number of such policies written by a given insurer, exclusive of policies written through the facility.

Subd. 6. "Private passenger non-fleet automobile" means motorized vehicles designed for transporting passengers or goods, subject to specific contemporary definitions for insurance purposes as provided in the plan of operation.

Subd. 7. "Participation ratio" means the ratio of the participating member's Minnesota premiums, or other measure of business written approved by the commissioner, in relation to the comparable statewide totals for all participating members.

(1) For private passenger non-fleet automobile insurance coverages the participation ratio shall be based on voluntary car years written in this state for the

calendar year ending December 31 of the second prior year, as reported by the statistical agent of each participating member as private passenger non-fleet exposures.

(2) For insurance coverages on all other automobiles, including insurance for fleets, commercial vehicles, public vehicles and garages, the ratio shall be based on the total Minnesota gross, direct automobile insurance premiums written, including both policy and membership fees less return premiums and premiums on policies not taken, without including reinsurance assumed and without deducting reinsurance ceded, and less the amount of such premiums reported as received for insurance on private passenger non-fleet vehicles, for the calendar year ending December 31 of the second prior year.

(3) For the purpose of determining each participating member's responsibility for expenses and assessments, the ratio shall be based on each participating member's total Minnesota car years and gross, direct premiums written, including both policy and membership fees less return premiums and premiums on policies not taken, without including reinsurance assumed and without deducting reinsurance ceded, for the calendar year ending December 31 of the second prior year, provided, however, that the preliminary determination of each participating member's responsibility for expenses and assessments may use the calendar year ending December 31 of the third prior year.

Subd. 8. "Commissioner" means the commissioner of commerce or one properly acting in the capacity of the commissioner of commerce.

**History:** 1971 c 813 s 2; 1974 c 408 s 32 subd 4; 1977 c 276 s 1; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92

### 65B.03 GOVERNING COMMITTEE.

Subdivision 1. **Membership.** The commissioner shall direct that an election be held among every insurer subject to this chapter, for the election of a facility governing committee. Each member of the governing committee shall be a participating member.

Each participating member serving on the governing committee shall be represented by a salaried employee of that participating member, and not more than one participating member in a group under the same management shall serve on the governing committee at the same time. The commissioner of commerce or his designee shall be an ex officio member of the governing committee. In the event of a tie vote on any matter before the governing committee, the commissioner or his designee may cast a vote to break the tie. The composition of the governing committee may be revised by recommendation of the existing governing committee and approval of the commissioner.

Subd. 2. **Terms of office.** The committee so elected shall become the governing committee of the facility, effective on a date to be specified by the commissioner. Thereafter, the governing committee shall be elected to serve annual terms. Vacancies shall be filled as provided in the plan of operation.

**History:** 1971 c 813 s 3; 1973 c 756 s 1; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92

### 65B.04 PLAN OF OPERATION.

Subdivision 1. **Adoption; approval by commissioner.** The initial governing committee shall adopt a plan of operation by majority vote of the committee and shall submit it to the commissioner for approval. If the commissioner finds that the plan of operation meets the requirements of this chapter, he shall approve it and it

will then be in effect. If he finds that the plan fails to meet the requirements of this chapter, the commissioner shall disapprove the plan, returning it to the governing committee with his statement on the deficiencies which have caused him to disapprove the plan, and the governing committee shall have ten days within which to correct the deficiencies. If the plan is not returned for approval within ten days or if, on return, the commissioner determines that it still does not meet the requirements of this chapter, the commissioner shall amend the plan which was submitted by the governing committee to comply with this chapter, and shall, by order, effect the plan of operation. The action of the commissioner may be appealed in accordance with chapter 14.

**Subd. 2. Failure to submit plan.** If the governing committee fails to submit a plan of operation within 45 days after July 1, 1971, the commissioner shall prepare a plan of operation in accordance with Laws 1971, Chapter 813, as to the procedural aspects of the operation of the facility, and as to coverages to be provided at a rate level which is deemed to be reasonable, adequate and fair. A plan of operation prepared pursuant to this subdivision shall become effective when the commissioner so orders.

**Subd. 3. Amendments.** The plan of operation may be amended by a majority vote of the governing committee, the approval of the commissioner and ratification by a majority of the participating members. An order by the commissioner disapproving an amendment to the plan of operation must be issued within 30 days of his receipt of the proposed amendment, certified by the governing committee as having been adopted by that committee by a majority vote, or the amendment shall be deemed approved by the commissioner. An order of disapproval may be reviewed as provided in subdivision 1.

**Subd. 4. Adherence to plan.** Every insurer authorized to write and writing automobile bodily injury liability, property damage liability or physical damage insurance in this state, as a condition to maintaining its authorization to transact the business of insurance in this state, shall adhere to the plan of operation.

**History:** 1971 c 813 s 4; 1983 c 247 s 34

#### **65B.05 POWER OF FACILITY, GOVERNING COMMITTEE.**

The governing committee shall have the power to direct the operation of the facility in all pursuits consistent with the purposes and terms of Laws 1971, Chapter 813, including but not limited to the following:

(1) To sue and be sued in the name of the facility and to assess each participating member in accord with its participation ratio to pay any judgment against the facility as an entity, provided, however, that no judgment against the facility shall create any liabilities in one or more participating members disproportionate to their participation ratio or an individual representing participating members on the governing committee.

(2) To delegate ministerial duties, to hire a manager and to contract for goods and services from others.

(3) To assess participating members on the basis of participation ratios to cover anticipated costs of operation and administration of the facility.

(4) To impose limitations on cancellation or non-renewal by participating members of insureds covered pursuant to placement through the facility in addition to the limitations imposed by chapter 72A and sections 65B.13 to 65B.21.

**History:** 1971 c 813 s 5; 1Sp1981 c 4 art 1 s 56

**65B.06 DISTRIBUTION OF RISKS; COVERAGE.**

Subdivision 1. With respect to private passenger, non-fleet automobiles, the facility shall provide for the equitable distribution of qualified applicants to participating members in accordance with the participation ratio.

Subd. 2. With respect to private passenger, non-fleet automobiles, the facility shall provide for the issuance of policies of automobile insurance by participating members with coverage as follows:

(1) Bodily injury liability and property damage liability coverage in the minimum amounts specified in section 65B.49, subdivision 3;

(2) Uninsured motorists coverage as required by section 65B.49, subdivision 4;

(3) A reasonable selection of higher limits of liability coverage up to \$50,000 because of bodily injury to or death of one person in any one accident and, subject to such limit for one person, up to \$100,000 because of bodily injury to or death of two or more persons in any one accident, and up to \$25,000 because of injury to or destruction of property of others in any one accident, or higher limits of liability coverage as recommended by the governing committee and approved by the commissioner;

(4) Basic economic loss benefits, as required by section 65B.44, and other optional coverages as recommended by the governing committee and approved by the commissioner; and

(5) Automobile physical damage coverage, including coverage of loss by collision, subject to optional deductibles.

No coverage available under clause (5) shall be provided by a carrier that has been licensed to provide the coverage made available under clause (1) or (2), unless the qualified applicant has requested coverage pursuant to clause (1) or (2) as well as physical damage coverage. If a qualified applicant requests only physical damage coverage, the coverage shall be provided by an insurer not writing the coverage specified in clauses (1) and (2).

Subd. 3. With respect to all automobiles not included in subdivisions 1 and 2, the facility shall provide:

(1) Only the insurance coverage required by law;

(2) For the equitable distribution of qualified applicants for this coverage among the participating members in accord with the applicable participation ratio.

Subd. 4. Coverage made available under this section shall be the standard automobile policy and endorsement forms, as approved by the commissioner, with such changes, additions and amendments as are adopted by the governing committee and approved by the commissioner.

**History:** 1971 c 813 s 6; 1974 c 408 s 32 subds 4,5; 1976 c 2 s 41; 1977 c 276 s 2; 1Sp1981 c 4 art 1 s 57; 1984 c 592 s 53

**65B.07 OTHER PROVISIONS AND FUNCTIONS.**

Subdivision 1. The facility shall provide one or more optional deferred payment plans, which shall include sufficient advance payment to, at all times, equal at least the pro rata earned premium, and such plans shall include additional charges for deferred payments.

Subd. 2. On any coverage placed through the facility, the facility shall allow the use of endorsement, approved by the commissioner, to exclude coverage in cases where a named person is driving the insured vehicle without a valid drivers' license or when his drivers' license has been revoked or suspended.

Subd. 3. The facility shall provide for publicizing its purposes and developing public understanding of the facility.

Subd. 4. The facility shall provide annual financial statements on the facility's operation to all participating members and to the commissioner.

Subd. 5. The facility shall provide for the reinsurance of risks placed through the facility, including, if desired, a pool for reinsuring liability coverages with limits in excess of those required by statute, or such other underwriting arrangements as may be necessary to enable participating members to offer such excess limits of liability insurance.

**History:** 1971 c 813 s 7

#### 65B.08 RATES.

Subdivision 1. **Filing.** As agent for participating members, the facility shall file with the commissioner all manuals of classification, all manuals of rules and rates, all rating plans, and any modifications of same, proposed for use for private passenger non-fleet automobile insurance placed through the facility. The classifications, rules and rates and any amendments thereto shall be subject to prior written approval by the commissioner. Rates, surcharge points, and increased limits factors filed by the facility shall not be excessive, inadequate, or unfairly discriminatory. No other entity, service or organization shall make filings for the facility or the participating members to apply to insurance placed through the facility.

Subd. 2. **Use of rates.** Every participating member shall be authorized to use the rates and rules approved by the commissioner for use by the facility on business placed through the facility, and shall use no other rates on private passenger non-fleet automobiles placed through the facility.

Subd. 3. **Facility exempt.** Laws relating to rating organizations or advisory organizations shall not apply to functions provided for under this section.

**History:** 1971 c 813 s 8

#### 65B.09 AGENTS.

Subdivision 1. **Agents' responsibility.** Every agent who is authorized to solicit, negotiate or effect automobile insurance on behalf of any participating member shall:

(1) Offer to place coverage through the facility for any qualified applicant who is ineligible or unacceptable for coverage in the insurer or insurers for whom the agent is authorized to solicit, negotiate or effect automobile insurance. Provided, that the failure of an agent to make such an offer to a qualified applicant shall not subject the agent to any liability to the applicant;

(2) Forward to the facility all applications and any deposit premiums which are required by the plan of operation, rules and procedures of the facility, if the qualified applicant accepts the offer to have his coverage placed through the facility;

(3) Be entitled to receive a commission for placing insurance through the facility at the uniform rates of commission as provided in the plan of operation, and all participating members shall be entitled to pay commissions to such agents.

Subd. 2. **Agents' contracts.** A participating member may not include the premiums and losses incurred from risks insured through the facility in determining the loss ratio of any of its agents, or otherwise use the experience from such risks as cause for altering the relationship between the participating member and its agent.

**History:** 1971 c 813 s 9

**65B.10 ELIGIBILITY.**

Subdivision 1. **Eligibility for coverage.** To be eligible for coverage through the facility an otherwise qualified applicant must have been rejected, cancelled or refused renewal with respect to automobile insurance by a participating member.

Subd. 2. **Termination of eligibility.** Eligibility for placement through the facility will terminate if an insured is offered equivalent coverage in the voluntary market at a rate lower than the facility rate. If the participating member that is required to provide coverage by the facility makes such an offer after giving 30 days' advance written notice to the agent of record before making the offer, the participating member shall have no further obligation to the agent of record.

Subd. 3. **Review of insureds.** At least annually, every participating member shall review every applicant which it insures through the facility and determine whether or not such applicant is acceptable for voluntary insurance at a rate lower than the facility rate. If such applicant is acceptable, the participating member shall make an offer to the applicant to insure him under voluntary coverage at such lower rate.

**History:** 1971 c 813 s 10

**65B.11 USE OF THE FACILITY BY THE PUBLIC.**

If, upon a formal hearing, the commissioner finds that a large proportion of qualified and eligible persons are failing to gain the benefits of the facility, the facility shall provide service to assist the public in making application to the facility for placement.

**History:** 1971 c 813 s 11

**65B.12 RIGHT TO HEARING; CONSTRUCTION OF PLAN OF OPERATION.**

Subdivision 1. Any participating member, applicant or person insured under a policy placed through the facility may request a formal hearing and ruling by the governing committee on any alleged violation of the plan of operation or any alleged improper act or ruling of the facility directly affecting its assessment, premium or coverage furnished, provided that such right to hearing shall not apply to any claim arising out of insurance provided by any participating member. Such request for hearing must be filed within 30 days after the date of the alleged act or decision.

Subd. 2. The plan of operation shall provide for prompt and fair hearings, and shall prescribe the procedure to be followed in such hearings.

Subd. 3. Any formal ruling by the governing committee may be appealed to the commissioner by filing notice of appeal with the facility and the commissioner within 30 days after issuance of the ruling. Such a hearing shall be governed by the procedures for contested cases.

Subd. 4. Upon a hearing pursuant to Laws 1971, Chapter 813, the commissioner shall issue an order approving or disapproving the action or decision of the governing committee or directing the governing committee to reconsider the ruling.

Subd. 5. The plan of operation shall be interpreted to conform to the laws of this state with respect to automobile insurance coverage and any changes therein, unless the facility is specifically excluded from the applicability of such laws.

**History:** 1971 c 813 s 12

**65B.13 AUTOMOBILE INSURANCE, DISCRIMINATION IN AUTOMOBILE POLICIES FORBIDDEN.**

No insurance company, or its agent, shall refuse to issue any standard policy of motor vehicle insurance or make any discrimination in the acceptance of risks, in rates, premiums, dividends, or benefits of any kind, or by way of rebate:

(a) between persons of the same class, or

(b) on account of race, or

(c) on account of physical handicap if the handicap is compensated for by special training, equipment, prosthetic device, corrective lenses, or medication and if the physically handicapped person;

(1) is licensed by the department of public safety to operate a motor vehicle in this state, and

(2) operates only vehicles which are equipped with auxiliary devices and equipment necessary for safe and effective operation by the handicapped person.

Every company or agent violating any of the foregoing provisions shall be fined not more than \$100 per violation, and every officer, agent, or solicitor violating the same shall be guilty of a misdemeanor. The commissioner of commerce is authorized to treat violations of this section as an unfair insurance practice and to enforce this section using the procedures, remedies, and penalties provided in sections 72A.17 to 72A.32.

**History:** 1967 c 395 art 12 s 14; 1979 c 215 s 1; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92

**65B.131** [Repealed, 1979 c 215 s 2]

**65B.132 STUDENT DISCOUNTS; ELIGIBILITY.**

Any insurance company providing discounts on automobile insurance premiums to eligible persons attending colleges and universities must provide the discount to eligible students enrolled in area vocational-technical institutes accredited by the department of education.

**History:** 1975 c 44 s 1

**65B.133 SURCHARGE DISCLOSURE.**

Subdivision 1. **Definitions.** For the purposes of this section, the terms defined in this section have the meanings given them.

(a) "Computed premium" means the rate in effect before the application of a surcharge.

(b) "Chargeable accident" means an accident which is taken into consideration in applying a surcharge.

(c) "Chargeable traffic violation" means a traffic violation which is taken into consideration in applying a surcharge.

(d) "Policy" means a policy providing private passenger vehicle insurance, as defined in section 65B.001, subdivision 2.

(e) "Surcharge" means any increase in premium for a policy, including the removal of an accident-free or claim-free discount, based upon an accident or a traffic violation.

(f) "Surcharge disclosure statement" means a written statement disclosing the surcharge plan of an insurer, the effective date of the surcharge plan, and the name of the insurer, and any other information which the commissioner may require to be disclosed to assist insureds in comparing surcharge plans among insurers.



(g) "Surcharge plan" means the conditions under which an insurer applies a surcharge including but not limited to: (1) the maximum dollar amount which an insurer pays due to an accident without applying a surcharge, (2) accidents which are not chargeable, (3) chargeable traffic violations, (4) the length of time that an accident or a traffic violation is chargeable, and (5) surcharge rates for the first and each successive accident or traffic violation.

(h) "Surcharge rate" means the amount of any surcharge expressed as a percentage of the computed premium rate or as a dollar amount surcharge, if a percentage surcharge is not used.

Subd. 2. **Disclosure to applicants.** Before accepting the initial premium payment, an insurer or its agent shall provide a surcharge disclosure statement to any person who applies for a policy which is effective on or after January 1, 1983.

Subd. 3. **Disclosure to policyholders.** An insurer or its agent shall mail or deliver a surcharge disclosure statement to the named insured either before or with the first notice to renew a policy on or after January 1, 1983. If a surcharge disclosure statement has been provided pursuant to subdivision 2, no surcharge disclosure statement is required to be mailed or delivered to the same named insured pursuant to subdivision 3.

Subd. 4. **Notification of change.** No insurer may change its surcharge plan unless a surcharge disclosure statement is mailed or delivered to the named insured before the change is made. A surcharge disclosure statement disclosing a change applicable on the renewal of a policy, may be mailed with an offer to renew the policy. No change in a surcharge plan may be applied retroactively.

Subd. 5. **Limitation on chargeable traffic violations.** No traffic violation is chargeable to a driver unless the driver is convicted of, or forfeits bail for, the offense, or the driver's license is revoked pursuant to section 169.123. If a surcharge is applied because bail is forfeited and if the driver is later acquitted of the offense, the insurer shall rebate the surcharge. A violation of section 169.685, subdivision 5 is not chargeable.

Subd. 6. **Penalty.** Failure to comply with this section constitutes a violation of section 70A.04 and is subject to the penalties prescribed in section 70A.21.

Subd. 7. **Commissioner may promulgate rules.** The commissioner may promulgate rules reasonably necessary to carry out and make effective this section.

**History:** 1982 c 541 s 1; 1983 c 261 s 2

#### **65B.134 COMPREHENSIVE COVERAGE; GLASS BREAKAGE.**

Any policy of automobile insurance, as defined in section 65B.14, subdivision 2, providing comprehensive coverage, whether designated as such or included in a policy providing broader coverage, must provide at the option of the insured complete coverage for repair or replacement of all damaged safety glass without regard to any deductible or minimum amount.

**History:** 1983 c 292 s 2

#### **65B.14 CANCELLATION OR NONRENEWAL OF AUTOMOBILE POLICIES; DEFINITIONS.**

Subdivision 1. For the purposes of sections 65B.14 to 65B.21, the terms defined in this section have the meanings given them.

Subd. 2. "Policy of automobile insurance" or "policy" means a policy of private passenger vehicle insurance as defined in section 65B.001, or a plan of reparation security as defined in section 65B.48 insuring less than five vehicles rated

on a commercial or fleet basis, or a policy of insurance covering the use of a motorcycle, delivered or issued for delivery in this state.

Subd. 3. "Renewal" or "to renew" means the issuance and delivery by an insurer of a policy superseding at the end of the policy period a policy previously issued and delivered by the same insurer on the same rating plan, or the issuance and delivery of a certificate or notice extending the term of a policy beyond its policy period or term; provided, however, that any policy with a policy period or term of less than six months or any policy with no fixed expiration date shall for the purpose of sections 65B.14 to 65B.21 be considered as if written for successive policy periods or terms of six months.

Subd. 4. "Nonpayment of premium" means failure of the named insured to discharge when due any of his obligations in connection with the payment of premiums on a policy of automobile insurance or any installment of such premium, whether the premium is payable directly to the insurer or its agent or indirectly under any premium finance plan or extension of credit.

**History:** 1967 c 463 s 1; 1971 c 813 s 13; 1974 c 56 s 1; 1974 c 408 s 31; 1977 c 366 s 2; 1984 c 592 s 54,56

**65B.15 CANCELLATION OR REDUCTION IN LIMITS DURING POLICY PERIOD; GROUNDS; NOTICE.**

Subdivision 1. No cancellation or reduction in the limits of liability of coverage during the policy period of any policy shall be effective unless notice thereof is given and unless based on one or more reasons stated in the policy which shall be limited to the following:

1. Nonpayment of premium; or
2. The policy was obtained through a material misrepresentation; or
3. Any insured made a false or fraudulent claim or knowingly aided or abetted another in the presentation of such a claim; or
4. The named insured failed to disclose fully his motor vehicle accidents and moving traffic violations for the preceding 36 months if called for in his written application; or
5. The named insured failed to disclose in his written application any requested information necessary for the acceptance or proper rating of the risk; or
6. The named insured knowingly failed to give any required written notice of loss or notice of lawsuit commenced against him, or, when requested, refused to cooperate in the investigation of a claim or defense of a lawsuit; or
7. The named insured or any other operator who either resides in the same household or customarily operates an automobile insured under such policy:

(a) has, within the 36 months prior to the notice of cancellation, had his driver's license under suspension or revocation; or

(b) is or becomes subject to epilepsy or heart attacks, and such individual does not produce a written opinion from a physician testifying to his medical ability to operate a motor vehicle safely, such opinion to be based upon a reasonable medical probability; or

(c) has an accident record, conviction record (criminal or traffic), physical condition or mental condition, any one or all of which are such that his operation of an automobile might endanger the public safety; or

(d) has been convicted, or forfeited bail, during the 24 months immediately preceding the notice of cancellation for criminal negligence in the use or operation of an automobile, or assault arising out of the operation of a motor vehicle, or operating a motor vehicle while in an intoxicated condition or while under the

influence of drugs; or leaving the scene of an accident without stopping to report; or making false statements in an application for a driver's license, or theft or unlawful taking of a motor vehicle; or

(e) has been convicted of, or forfeited bail for, one or more violations within the 18 months immediately preceding the notice of cancellation, of any law, ordinance, or regulation which justify a revocation of a driver's license.

8. The insured automobile is:

(1) so mechanically defective that its operation might endanger public safety; or

(2) used in carrying passengers for hire or compensation, provided however that the use of an automobile for a car pool shall not be considered use of an automobile for hire or compensation; or

(3) used in the business of transportation of flammables or explosives; or

(4) an authorized emergency vehicle; or

(5) subject to an inspection law and has not been inspected or, if inspected, has failed to qualify within the period specified under such inspection law; or

(6) substantially changed in type or condition during the policy period, increasing the risk substantially, such as conversion to a commercial type vehicle, a dragster, sports car or so as to give clear evidence of a use other than the original use.

Subd. 2. This section shall not apply to any policy of automobile liability insurance which has been in effect less than 60 days at the time notice of cancellation is mailed or delivered by the insurer unless it is a renewal policy.

Subd. 3. [Repealed, 1984 c 592 s 94]

**History:** 1967 c 463 s 2

## **65B.16 STATEMENT OF REASONS FOR CANCELLATION OR REDUCTION.**

No notice of cancellation or reduction in the limits of liability of coverage of an automobile insurance policy under section 65B.15 shall be effective unless the specific underwriting or other reason or reasons for such cancellation or reduction in the limits of liability of coverage are stated in such notice and the notice is mailed or delivered by the insurer to the named insured at least 30 days prior to the effective date of cancellation; provided, however, that when nonpayment of premium is the reason for cancellation or when the company is exercising its right to cancel insurance which has been in effect for less than 60 days at least ten days notice of cancellation shall be given. When nonpayment of premiums is the reason for cancellation, the reason must be given to the insured with the notice of cancellation; and if the company is exercising its right to cancel within the first 59 days of coverage and notice is given with less than ten days remaining in the 59-day period, the coverage must be extended, to expire ten days after notice was mailed.

**History:** 1967 c 463 s 3; 1971 c 696 s 1; 1984 c 592 s 57

## **65B.161 REFUND OF PREMIUM ON CANCELLATION.**

Cancellation of a policy of automobile insurance pursuant to sections 65B.15 and 65B.16 shall not be effective unless any unearned premium due the insured is returned to the insured with the notice of cancellation or is delivered or sent by mail to the insured so as to be received by the insured not later than the effective date of cancellation.

**History:** 1977 c 366 s 3

**65B.17 RENEWAL; NOTICE NOT TO RENEW.**

Subdivision 1. **General regulations.** No insurer shall fail to renew an automobile insurance policy unless it shall mail or deliver to the named insured, at the address shown in the policy, at least 60 days advance notice of its intention not to renew. The notice must contain the specific underwriting or other reason or reasons for the nonrenewal. When the failure to renew is based upon a termination of the agency contract, the notice must so state. This section does not apply:

- (a) If the insurer has manifested its willingness to renew; or
- (b) In case of nonpayment of the renewal premium;

Provided that, notwithstanding the failure of an insurer to comply with this section, the policy terminates on the effective date of any other automobile insurance policy procured by the insured, with respect to any automobile designated in both policies. Renewal of a policy does not constitute a waiver or estoppel with respect to grounds for cancellation which existed before the effective date of the renewal. No insurer shall fail to renew an automobile policy solely because of the age of the insured. No insurer shall refuse to renew an automobile insurance policy for reasons which are arbitrary or capricious. No insurer shall refuse to renew an automobile insurance policy in violation of rules adopted pursuant to subdivision 2. An insurer may refuse to renew an automobile insurance policy in case of nonpayment of dues to an association or organization, other than an insurance association or organization, where payment of dues is a prerequisite to obtaining or continuing such insurance; provided, however, that this provision for nonrenewal for failure to pay dues shall not be applicable to persons who are retired at age 62 years of age or older or who are disabled, according to social security standards.

Subd. 2. **Rulemaking.** The commissioner may adopt rules pursuant to chapter 14, including emergency rules, to specify the grounds for nonrenewal of an automobile policy. The rules must limit the basis for nonrenewal to the following factors:

- (a) the reasons stated for cancellation in section 65B.15;
- (b) payments made for collision, bodily injury liability, or property damage liability coverage;
- (c) moving violations of a driver; and
- (d) other factors deemed reasonable by the commissioner.

The rules must specify the manner in which these factors will be considered and may reflect the severity or reoccurrence of any moving violation, the amount of any payment made, and the number of vehicles insured.

Subd. 3. **Administrative penalty.** The rules adopted under this section may provide for imposition of a monetary penalty not greater than \$500 per occurrence upon insurers who are found to be in violation of any rule provision.

**History:** 1967 c 463 s 4; 1969 c 845 s 1; 1971 c 696 s 2; 1974 c 56 s 2; 1976 c 175 s 1; 1983 c 203 s 2; 1984 c 592 s 58; 1984 c 640 s 32

**65B.18 PROOF OF MAILING OF NOTICE.**

Proof of mailing of notice of cancellation, reduction in the limits of liability of coverage, or nonrenewal of a policy and, if required herein, the reason or reasons therefor to the named insured at the address shown in the policy, shall be sufficient proof that notice required herein has been given.

**History:** 1967 c 463 s 5; 1969 c 6 s 16; 1974 c 56 s 3

**65B.19 NOTICE OF CANCELLATION OR NONRENEWAL.**

Subdivision 1. **Disclosure.** No insurer shall take any action in regard to an automobile insurance policy on the statements or charges of any person made to the insurer concerning alleged unsafe driving habits of an insured unless the insurer shall concurrently disclose to the insured the name and address of the person from which the information was received.

Subd. 2. **Notice of right to complain.** When the insurer notifies the policyholder of nonrenewal, cancellation or reduction in the limits of liability of coverage under sections 65B.16 or 65B.17, the insurer shall also notify the named insured of his right to complain within 30 days of his receipt of notice of nonrenewal, cancellation or reduction in the limits of liability to the commissioner of such action and of the nature of and his possible eligibility for insurance through the Minnesota automobile insurance plan. Such notice shall be included in the notice of nonrenewal, cancellation or reduction in the limits of liability of coverage, and shall state that such notice of the insured's right of complaint to the commissioner and of the availability of insurance through the Minnesota automobile insurance plan is given pursuant to sections 65B.14 to 65B.21.

**History:** 1967 c 463 s 6; 1969 c 845 s 2; 1971 c 696 s 3; 1971 c 813 s 14; 1973 c 610 s 1; 1984 c 592 s 59

**65B.20 IMMUNITY OF INSURER OR COMMISSIONER; USE OF REASONS FOR CANCELLATION.**

There shall be no liability on the part of and no cause of action of any nature shall arise against the commissioner or against any insurer, its authorized representative, its agents, its employees, or any firm, person or corporation furnishing to the insurer information as to reasons for non-renewal or cancellation, for any statement made by them in any written notice of non-renewal or cancellation, for the providing of information relating thereto, or for statements made or evidence submitted at any hearings conducted in connection therewith.

**History:** 1967 c 463 s 7; 1969 c 845 s 3

**65B.21 OBJECTIONS; INVESTIGATION; DETERMINATION.**

Subdivision 1. Any individual who believes such nonrenewal, cancellation or reduction in the limits of liability of coverage of his policy is arbitrary, capricious or otherwise in violation of this provision, or who believes such notice of nonrenewal and the reason or reasons therefor were not given as provided herein, may, within 30 days after receipt of notice thereof, file in writing an objection to such action with the commissioner.

Subd. 2. Upon receipt of a written objection pursuant to the provisions herein, the commissioner shall notify the insurer of receipt of such objection and of the right of the insurer to file a written response thereto within ten days of receipt of such notification. The commissioner in his discretion may also order an investigation of the objection or complaint, the submission of additional information by the insured or the insurer about the action by the insurer or the objections of the insured, or such other procedure as he deems appropriate or necessary. Within 23 days of receipt of such written objection by an insured the commissioner shall approve or disapprove the insurer's action and shall notify the insured and insurer of his final decision. Either party may institute proceedings for judicial review of the commissioner's decision; provided, however, that the commissioner's final decision shall be binding pending judicial review.

**History:** 1967 c 463 s 8; 1969 c 845 s 4; 1971 c 696 s 4; 1973 c 610 s 2

**65B.22** [Repealed, 1974 c 408 s 33]

**65B.23** [Repealed, 1974 c 408 s 33]

**65B.24** [Repealed, 1974 c 408 s 33]

**65B.25** [Repealed, 1974 c 408 s 33]

**65B.26** [Repealed, 1974 c 408 s 33]

**65B.27** [Repealed, 1974 c 408 s 33]

**65B.28 ACCIDENT PREVENTION COURSE PREMIUM REDUCTIONS.**

Subdivision 1. **Required reduction.** An insurer must provide an appropriate premium reduction on its policies of private passenger vehicle insurance, as defined in section 65B.001, subdivision 2, issued, delivered, or renewed in this state after January 1, 1985 to insureds 65 years old and older who successfully complete an accident prevention course established under subdivision 2.

Subd. 2. **Accident prevention course; rules.** The commissioner of public safety shall, by January 1, 1985, adopt rules establishing and regulating a motor vehicle accident prevention course for persons 65 years old and older. The rules must, at a minimum, include provisions:

- (1) establishing curriculum requirements;
- (2) establishing the number of hours required for successful completion of the course;
- (3) providing for the issuance of a course completion certification and requiring its submission to an insured as evidence of completion of the course; and
- (4) requiring persons 65 years old and older to retake the course every three years to remain eligible for a premium reduction.

**History:** 1984 c 532 s 1

**65B.29 MOTOR VEHICLE SERVICE CONTRACTS.**

Subdivision 1. **Definitions.** For the purposes of this section, the following terms have the meanings given them:

(1) "Motor vehicle service contract" or "service contract" means a contract or agreement given for consideration over and above the lease or purchase price of a motor vehicle that undertakes to perform or provide repair or replacement service, or indemnification for that service, for the operational or structural failure of a motor vehicle due to defect in materials or workmanship or normal wear and tear, but does not include mechanical breakdown insurance.

(2) "Motor vehicle service contract provider" or "provider" means a person who issues, makes, provides, sells, or offers to sell a motor vehicle service contract.

(3) "Commissioner" means the commissioner of commerce.

(4) "Department" means the department of commerce.

(5) "Mechanical breakdown insurance" means a policy, contract, or agreement that undertakes to perform or provide repair or replacement service, or indemnification for that service, for the operational or structural failure of a motor vehicle due to defect in materials or workmanship or normal wear and tear, and that is issued by an insurance company authorized to do business in this state.

(6) "Motor vehicle service contract reimbursement insurance policy" or "reimbursement insurance policy" means a policy of insurance providing coverage for all obligations and liabilities incurred by a motor vehicle service contract provider under the terms of motor vehicle service contracts issued by the provider.

(7) "Motor vehicle" means any self-propelled vehicle not operated exclusively upon railroad tracks and any vehicle propelled or drawn by a self-propelled vehicle but does not include snowmobiles and manufactured homes.

(8) "Service contract holder" means a person who purchases a motor vehicle service contract.

(9) "Motor vehicle service contract administrator" means a person who provides administrative services to motor vehicle service contract providers, including but not limited to: issuing a motor vehicle service contract; reviewing or settling losses arising under the contract; providing or recommending the written contract or form for a contract; providing or recommending advertising or promotional materials.

Subd. 2. **Insurance required.** No motor vehicle service contract may be issued, sold, or offered for sale in this state unless the provider of the service contract is insured under a motor vehicle service contract reimbursement insurance policy issued by an insurer authorized to do business in this state.

Subd. 3. **Filing requirements.** No motor vehicle service contract may be issued, sold, or offered for sale in this state unless a true and correct copy of the service contract and the provider's reimbursement insurance policy have been filed with the commissioner.

Subd. 4. **Disclosure to provider.** No motor vehicle service contract reimbursement insurance policy may be issued, sold, or offered for sale in this state unless the reimbursement insurance policy conspicuously states that the issuer of the policy will pay on behalf of the provider all sums which the provider is legally obligated to pay in the performance of its contractual obligations under the motor vehicle service contracts issued or sold by the provider.

Subd. 5. **Disclosure to service contract holders.** No motor vehicle service contract may be issued, sold, or offered for sale in this state unless the contract conspicuously states that the obligations of the provider to the service contract holder are guaranteed under the service contract reimbursement policy, and unless the contract conspicuously states the name and address of the issuer of the reimbursement policy.

Subd. 6. **Commissioner may prohibit certain sales.** The commissioner must, upon giving a ten-day notice to a motor vehicle service contract provider, issue an order instructing the provider to cease and desist from selling or offering for sale motor vehicle service contracts if the commissioner determines that the provider has failed to comply with a provision of this section. The commissioner must, upon giving a ten-day notice to an insurance company, issue an order instructing the insurer to cease and desist from selling or offering for sale motor vehicle service contract reimbursement insurance policies if the commissioner determines that the insurer has failed to comply with a provision of this section.

Subd. 7. **Rules.** The commissioner may adopt rules in the manner prescribed by chapter 14 to administer and enforce the provisions of this section and to establish minimum standards for disclosure of motor vehicle service contract coverage limitations and exclusions.

Subd. 8. **Inapplicable.** This section does not apply to motor vehicle service contracts issued by a motor vehicle manufacturer, distributor or importer.

**History:** 1984 c 568 s 1

## NO-FAULT AUTOMOBILE INSURANCE

### 65B.41 CITATION.

Sections 65B.41 to 65B.71, may be cited as the "Minnesota no-fault automobile insurance act".

**History:** 1974 c 408 s 1; 1978 c 674 s 57

**65B.42 PURPOSE.**

The detrimental impact of automobile accidents on uncompensated injured persons, upon the orderly and efficient administration of justice in this state, and in various other ways requires that sections 65B.41 to 65B.71 be adopted to effect the following purposes:

(1) To relieve the severe economic distress of uncompensated victims of automobile accidents within this state by requiring automobile insurers to offer and automobile owners to maintain automobile insurance policies or other pledges of indemnity which will provide prompt payment of specified basic economic loss benefits to victims of automobile accidents without regard to whose fault caused the accident;

(2) To prevent the overcompensation of those automobile accident victims suffering minor injuries by restricting the right to recover general damages to cases of serious injury;

(3) To encourage appropriate medical and rehabilitation treatment of the automobile accident victim by assuring prompt payment for such treatment;

(4) To speed the administration of justice, to ease the burden of litigation on the courts of this state, and to create a system of small claims arbitration to decrease the expense of and to simplify litigation, and to create a system of mandatory inter-company arbitration to assure a prompt and proper allocation of the costs of insurance benefits between motor vehicle insurers;

(5) To correct imbalances and abuses in the operation of the automobile accident tort liability system, to provide offsets to avoid duplicate recovery, to require medical examination and disclosure, and to govern the effect of advance payments prior to final settlement of liability.

**History:** 1974 c 408 s 2; 1978 c 674 s 57

**65B.43 DEFINITIONS.**

Subdivision 1. The following words and phrases, shall, for the purpose of sections 65B.41 to 65B.71, have the meanings ascribed to them, except where the context clearly indicates a different meaning.

Subd. 2. "Motor vehicle" means every vehicle, other than a motorcycle or other vehicle with fewer than four wheels, which (a) is required to be registered pursuant to chapter 168, and (b) is designed to be self-propelled by an engine or motor for use primarily upon public roads, highways or streets in the transportation of persons or property, and includes a trailer with one or more wheels, when the trailer is connected to or being towed by a motor vehicle.

Subd. 3. "Maintenance or use of a motor vehicle" means maintenance or use of a motor vehicle as a vehicle, including, incident to its maintenance or use as a vehicle, occupying, entering into, and alighting from it. Maintenance or use of a motor vehicle does not include (1) conduct within the course of a business of repairing, servicing, or otherwise maintaining motor vehicles unless the conduct occurs off the business premises, or (2) conduct in the course of loading and unloading the vehicle unless the conduct occurs while occupying, entering into or alighting from it.

Subd. 4. "Owner" means a person, other than a lienholder or secured party, who owns or holds legal title to a motor vehicle or is entitled to the use and possession of a motor vehicle subject to a security interest held by another person. If a motor vehicle is the subject of a lease having an initial term of six months or longer, the lessee shall be deemed the owner for the purposes of sections 65B.41 to 65B.71, and 170.54, notwithstanding the fact that the lessor retains title to the



vehicle and notwithstanding the fact that the lessee may be the owner for the purposes of chapter 168A.

Subd. 5. "Insured" means an insured under a plan of reparation security as provided by sections 65B.41 to 65B.71, including the named insured and the following persons not identified by name as an insured while (a) residing in the same household with the named insured and (b) not identified by name in any other contract for a plan of reparation security complying with sections 65B.41 to 65B.71 as an insured:

(1) a spouse,

(2) other relative of a named insured or

(3) a minor in the custody of a named insured or of a relative residing in the same household with a named insured.

A person resides in the same household with the named insured if that person usually makes his home in the same family unit, even though he temporarily lives elsewhere.

Subd. 6. "Income" means salary, wages, tips, commissions, professional fees, and other earnings from work or tangible things of economic value produced through work in individually owned businesses, farms, ranches or other work.

Subd. 7. "Loss" means economic detriment resulting from the accident causing the injury, consisting only of medical expense, income loss, replacement services loss and, if the injury causes death, funeral expense, survivor's economic loss and survivor's replacement services loss. Noneconomic detriment is not loss; however, economic detriment is loss although caused by pain and suffering or physical or mental impairment.

Subd. 8. "Noneconomic detriment" means all dignitary losses suffered by any person as a result of injury arising out of the ownership, maintenance, or use of a motor vehicle including pain and suffering, loss of consortium, and inconvenience.

Subd. 9. "Reparation obligor" means an insurer or self-insurer obligated to provide the benefits required by sections 65B.41 to 65B.71, including natural persons, firms, partnerships, associations, corporations, governmental units, trusts and syndicates.

Subd. 10. "Basic economic loss benefits" means benefits as described in section 65B.44.

Subd. 11. "Injury" means bodily harm to a person and death resulting from such harm.

Subd. 12. "Commercial vehicle" means:

(a) any motor vehicle used as a common carrier,

(b) any motor vehicle, other than a passenger vehicle or a station wagon, as those terms are defined in section 168.011, subdivisions 7 and 23, which has a curb weight in excess of 5500 pounds apart from cargo capacity, or

(c) any motor vehicle while used in the for-hire transportation of property.

Commercial vehicle does not include a "commuter van", which for purposes of this chapter shall mean a motor vehicle having a capacity of seven to 16 persons which is used principally to provide prearranged transportation of persons to or from their place of employment or to or from a transit stop authorized by a local transit authority which vehicle is to be operated by a person who does not drive the vehicle for his principal occupation but is driving it only to or from his principal place of employment, to or from a transit stop authorized by a local transit authority or for personal use as permitted by the owner of the vehicle.

Subd. 13. "Motorcycle" means a self-propelled vehicle designed to travel on fewer than four wheels which has an engine rated at greater than five horsepower,

and includes a trailer with one or more wheels, when the trailer is connected to or being towed by a motorcycle.

Subd. 14. Except where otherwise indicated, "commissioner" means the commissioner of commerce of the state of Minnesota.

Subd. 15. "Plan of reparation security" means a contract, self-insurance, or other legal means under which there is an obligation to pay the benefits described in section 65B.49.

**History:** 1974 c 408 s 3; 1975 c 18 s 1,2; 1976 c 233 s 6; 1978 c 674 s 57; 1979 c 190 s 1; 1983 c 289 s 114 subd 1; 1984 c 592 s 60-62; 1984 c 655 art 1 s 92

#### **65B.44 BASIC ECONOMIC LOSS BENEFITS.**

Subdivision 1. **Inclusions.** Basic economic loss benefits shall provide reimbursement for all loss suffered through injury arising out of the maintenance or use of a motor vehicle, subject to any applicable deductibles, exclusions, disqualifications, and other conditions, and shall provide a maximum of \$30,000 for loss arising out of the injury of any one person, consisting of:

(a) \$20,000 for medical expense loss arising out of injury to any one person; and

(b) A total of \$10,000 for income loss, replacement services loss, funeral expense loss, survivor's economic loss, and survivor's replacement services loss arising out of the injury to any one person.

Subd. 2. **Medical expense benefits.** Medical expense benefits shall reimburse all reasonable expenses for necessary medical, surgical, x-ray, optical, dental, chiropractic, and rehabilitative services, including prosthetic devices, prescription drugs, necessary ambulance and all other reasonable transportation expenses incurred in traveling to receive covered medical benefits, hospital, extended care and nursing services. Hospital room and board benefits may be limited, except for intensive care facilities, to the regular daily semi-private room rates customarily charged by the institution in which the recipient of benefits is confined. Such benefits shall also include necessary remedial treatment and services recognized and permitted under the laws of this state for an injured person who relies upon spiritual means through prayer alone for healing in accordance with his religious beliefs. Medical expense loss includes medical expenses accrued prior to the death of a person notwithstanding the fact that benefits are paid or payable to the decedent's survivors. Medical expense benefits for rehabilitative services shall be subject to the provisions of section 65B.45.

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 \$200 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 his income, which he normally performs himself, and which he cannot perform because of his 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 his 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 \$200 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 he 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 he is or may by training become reasonably qualified. If the injured person returns to his employment and is unable by reason of his injury to work continuously, compensation for lost income shall be reduced by the income received while he 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.

**Subd. 4. Funeral and burial expenses.** Funeral and burial benefits shall be reasonable expenses not in excess of \$1,250, including expenses for cremation or delivery under the Uniform Anatomical Gift Act, sections 525.921 to 525.93.

**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 he not been injured, the injured person would have performed not for income but for the direct benefit of himself or his 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 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.

**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 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 his surviving dependents would have received for their support during their dependency from the decedent had he 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 he is living or from whom he 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.

**Subd. 7. Survivor's 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 he 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 per week.

Subd. 8. **Property damage exclusion.** "Basic economic loss benefits" do not include benefits for physical damage done to property including motor vehicles and their contents.

**History:** 1974 c 408 s 4; 1975 c 18 s 3-6; 1976 c 2 s 42; 1977 c 266 s 1; 1978 c 674 s 57; 1979 c 221 s 1,2; 1983 c 345 s 1; 1984 c 602 s 5

#### **65B.45 REHABILITATION TREATMENT AND OCCUPATIONAL TRAINING.**

Subdivision 1. A reparation obligor is responsible for the cost of a procedure or treatment for rehabilitation or a course of rehabilitative occupational training if the procedure, treatment, or training is reasonable and appropriate for the particular case, its cost is reasonable in relation to its probable rehabilitative effects, and it is likely to contribute substantially to medical or occupational rehabilitation.

Subd. 2. 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 notify the reparation obligor that he has undertaken the procedure, treatment, or training within 60 days after a rehabilitation expense exceeding \$1,000 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 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.

Subd. 3. If the injured person notifies the reparation obligor of a proposed specified procedure or treatment for rehabilitation, or a proposed specified course of rehabilitative occupational training, and the reparation obligor does not promptly thereafter accept responsibility for its cost, the injured person may make a motion in an action to adjudicate his claim, or, if no action is pending, bring an action in the district court, for a determination that the reparation obligor is responsible for its costs. A reparation obligor may make a motion in an action to adjudicate the injured person's claim, or, if no action is pending, bring an action in the district court, for a determination that it is not responsible for the cost of a procedure, treatment, or course of training which the injured person has undertaken or proposes to undertake. A determination by the court that the reparation obligor is not responsible for the cost of a procedure, treatment, or course of training is not res judicata as to the propriety of any other proposal or the injured person's right to other benefits. This subdivision does not preclude an action by the reparation obligor or the injured person for declaratory relief under any other law of this state, nor an action by the injured person to recover basic economic loss benefits.

Subd. 4. If an injured person unreasonably refuses to accept a rehabilitative procedure, treatment, or course of occupational training, a reparation obligor may make a motion in an action to adjudicate the injured person's claim, or if no action is pending, may bring an action in the district court, for a determination that future benefits will be reduced or terminated to limit recovery of benefits to an amount equal to benefits that in reasonable probability would be due if the injured person had submitted to the procedure, treatment, or training, and for other reasonable orders. In determining whether an injured person has reasonable ground for refusal to undertake the procedure, treatment, or training, the court shall consider all relevant factors, including the risks to the injured person, the extent of the probable benefit, the place where the procedure, treatment, or training is offered, the extent to which the procedure, treatment, or training is recognized as standard and custom-

ary, and whether the imposition of sanctions because of the person's refusal would abridge his right to the free exercise of his religion.

*History: 1974 c 408 s 5*

#### **65B.46 RIGHT TO BENEFITS.**

Subdivision 1. If the accident causing injury occurs in this state, every person suffering loss from injury arising out of maintenance or use of a motor vehicle has a right to basic economic loss benefits.

Subd. 2. If the accident causing injury occurs outside this state in the United States, United States possessions, or Canada, the following persons and their surviving dependents suffering loss from injury arising out of maintenance or use of a motor vehicle have a right to basic economic loss benefits:

(1) Insureds, and

(2) the driver and other occupants of a secured vehicle, other than (a) a vehicle which is regularly used in the course of the business of transporting persons or property and which is one of five or more vehicles under common ownership, or (b) a vehicle owned by a government other than this state, its political subdivisions, municipal corporations, or public agencies. The reparation obligor may, if the policy expressly states, extend the basic economic loss benefits to any stated area beyond the limits of the United States, United States possessions and Canada.

Subd. 3. For the purposes of sections 65B.41 to 65B.71, injuries suffered by a person while on, mounting or alighting from a motorcycle do not arise out of the maintenance or use of a motor vehicle although a motor vehicle is involved in the accident causing the injury.

*History: 1974 c 408 s 6; 1978 c 674 s 57; 1980 c 539 s 1*

#### **65B.47 PRIORITY OF APPLICABILITY OF SECURITY FOR PAYMENT OF BASIC ECONOMIC LOSS BENEFITS.**

Subdivision 1. In case of injury to the driver or other occupant of a motor vehicle other than a commuter van, or other than a vehicle being used to transport children to school or to a school sponsored activity, if the accident causing the injury occurs while the vehicle is being used in the business of transporting persons or property, the security for payment of basic economic loss benefits is the security covering the vehicle or, if none, the security under which the injured person is an insured.

Subd. 2. In case of injury to an employee, or to his spouse or other relative residing in the same household, if the accident causing the injury occurs while the injured person is driving or occupying a motor vehicle other than a commuter van furnished by the employer, the security for payment of basic economic loss benefits is the security covering the vehicle or, if none, the security under which the injured person is an insured.

Subd. 3. In the case of any other person whose injury arises from the maintenance or use of a motor vehicle described in subdivision 1 or 2 who is not a driver or occupant of another involved motor vehicle, the security for the payment of basic economic loss benefits is the security covering the vehicle, or if none, the security under which the injured person is an insured.

Subd. 4. In all other cases, the following priorities apply:

(a) The security for payment of basic economic loss benefits applicable to injury to an insured is the security under which the injured person is an insured.

(b) The security for payment of basic economic loss benefits applicable to injury to the driver or other occupant of an involved motor vehicle who is not an insured is the security covering that vehicle.

(c) The security for payment of basic economic loss benefits applicable to injury to a person not otherwise covered who is not the driver or other occupant of an involved motor vehicle is the security covering any involved motor vehicle. An unoccupied parked vehicle is not an involved motor vehicle unless it was parked so as to cause unreasonable risk of injury.

Subd. 5. If two or more obligations to pay basic economic loss benefits are applicable to an injury under the priorities set out in this section, benefits are payable only once and the reparation obligor against whom a claim is asserted shall process and pay the claim as if wholly responsible, but he is thereafter entitled to recover contribution pro rata for the basic economic loss benefits paid and the costs of processing the claim. Where contribution is sought among reparation obligors responsible under subdivision 4, clause (c), proration shall be based on the number of involved motor vehicles.

Subd. 6. Where a reparation obligor pays basic economic loss benefits which another reparation obligor is obligated to pay under the priority provided in this section, the reparation obligor that pays is subrogated to all rights of the person to whom benefits are paid.

**History:** 1974 c 408 s 7; 1976 c 180 s 1; 1976 c 233 s 7,8

#### **65B.48 REPARATION SECURITY COMPULSORY.**

Subdivision 1. Every owner of a motor vehicle of a type which is required to be registered or licensed or is principally garaged in this state shall maintain during the period in which operation or use is contemplated a plan of reparation security under provisions approved by the commissioner, insuring against loss resulting from liability imposed by law for injury and property damage sustained by any person arising out of the ownership, maintenance, operation or use of the vehicle. The plan of reparation security shall provide for basic economic loss benefits and residual liability coverage in amounts not less than those specified in section 65B.49, subdivision 3, clauses (1) and (2). The non-resident owner of a motor vehicle which is not required to be registered or licensed, or which is not principally garaged in this state, shall maintain such security in effect continuously throughout the period of the operation, maintenance or use of such motor vehicle within this state with respect to accidents occurring in this state.

Subd. 2. The security required by sections 65B.41 to 65B.71 may be provided by a policy of insurance complying with sections 65B.41 to 65B.71 which is issued by or on behalf of an insurer authorized to transact business in this state or, if the vehicle is registered in another state, by a policy of insurance issued by or on behalf of an insurer authorized to transact business in either this state or the state in which the vehicle is registered or by qualifying as a self-insurer.

Subd. 3. Self-insurance, subject to approval of the commissioner, is effected by filing with the commissioner in satisfactory form:

(1) a continuing undertaking by the owner or other appropriate person to pay tort liabilities or basic economic loss benefits, or both, and to perform all other obligations imposed by sections 65B.41 to 65B.71;

(2) evidence that appropriate provision exists for prompt administration of all claims, benefits, and obligations provided by sections 65B.41 to 65B.71;

(3) evidence that reliable financial arrangements, deposits, or commitments exist providing assurance, substantially equivalent to that afforded by a policy of insurance complying with sections 65B.41 to 65B.71, for payment of tort liabilities, basic

economic loss benefits, and all other obligations imposed by sections 65B.41 to 65B.71; and

(4) a nonrefundable application fee of \$500.

Subd. 3a. To carry out the purposes of subdivision 3, the commissioner may adopt rules pursuant to chapter 14, including emergency rules. These rules may:

(a) establish reporting requirements;

(b) establish standards or guidelines to assure the adequacy of the financing and administration of self-insurance plans;

(c) establish bonding requirements or other provisions assuring the financial integrity of entities that self-insure; and

(d) establish other reasonable requirements to further the purposes of this section.

Subd. 4. The state of Minnesota or any agency thereof and any political subdivision of the state or agency thereof shall provide security by lawfully obligating itself to pay benefits in accordance with sections 65B.41 to 65B.71, either as a self-insurer pursuant to subdivision 3, or through purchase of a plan of reparation security.

Subd. 5. Every owner of a motorcycle registered or required to be registered in this state or operated in this state by him or with his permission shall provide and maintain security for the payment of tort liabilities arising out of the maintenance or use of the motorcycle in this state. Security may be provided by a contract of liability insurance complying with section 65B.49, subdivision 3, or by qualifying as a self insurer in the manner provided in subdivision 3.

Subd. 6. A person providing security pursuant to subdivision 3 is a "self-insurer."

Subd. 7. "Security covering the vehicle" is the insurance or other security so provided. The vehicle for which the security is so provided is the "secured vehicle."

Subd. 8. [Repealed, 1984 c 592 s 94]

**History:** 1974 c 408 s 8; 1975 c 160 s 1; 1978 c 674 s 57; 1983 c 203 s 3,4; 1984 c 640 s 32

## **65B.49 INSURERS.**

Subdivision 1. **Mandatory offer of insurance benefits.** On and after January 1, 1975, no insurance policy providing benefits for injuries arising out of the maintenance or use of a motor vehicle shall be issued, renewed, continued, delivered, issued for delivery, or executed in this state with respect to any motor vehicle registered or principally garaged in this state unless coverage is provided therein or supplemental thereto, under provisions approved by the commissioner, requiring the insurer to pay, regardless of the fault of the insured, basic economic loss benefits.

A plan of reparation security shall state the name and address of the named insured, the coverage afforded by the policy, the premium charged, the term and limits of liability, and shall contain an agreement or endorsement that insurance is provided thereunder in accordance with and subject to the provisions of sections 65B.41 to 65B.71.

Subd. 2. **Basic economic loss.** Each plan of reparation security shall provide for payment of basic economic loss benefits.

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 \$25,000 because of bodily injury to one person in any one accident and, subject to said limit for one person, of not less than \$50,000 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 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 a motor vehicle 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 cancelled 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 his 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.

**Subd. 4. Uninsured or hit-and-run motor vehicle coverage.** (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 coverage is provided therein or supplemental thereto, in the amounts of \$25,000 because of injury to or the death of one person in any accident, and subject to the said limit for one person, \$50,000 because of bodily injury to or the death of two or more persons in any one accident, for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of uninsured motor vehicles and hit-and-run motor vehicles because of injury.

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

(3) "Uninsured motor vehicle" means any motor vehicle or motorcycle for which a plan of reparation security meeting the requirements of sections 65B.41 to 65B.71 is not in effect.

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

Subd. 5. [Repealed, 1980 c 539 s 7]

Subd. 6. [Repealed, 1980 c 539 s 7]

Subd. 7. **Additional benefits and coverage not prohibited.** Nothing in sections 65B.41 to 65B.71 shall be construed as preventing the insurer from offering other benefits or coverages in addition to those required to be offered under this section.

Subd. 8. **Compliance.** Any coverage issued by a participating member of the Minnesota automobile insurance plan shall comply with the provisions of this section, any provisions of law or of the contract notwithstanding.

**History:** 1974 c 408 s 9; 1977 c 266 s 2,3; 1977 c 276 s 3; 1978 c 674 s 57



**65B.50 INSURERS' CERTIFICATION OF BASIC COVERAGE.**

Subdivision 1. Every insurer licensed to write motor vehicle accident reparation and liability insurance in this state shall, on or before January 1, 1975, or as a condition to such licensing, file with the commissioner and thereafter maintain a written certification that it will afford at least the minimum security provided by section 65B.49 to all policyholders, except that in the case of non-resident policyholders it need only certify that security is provided with respect to accidents occurring in this state.

Subd. 2. Notwithstanding any contrary provision in it, every contract of liability insurance for injury, wherever issued, covering obligations arising from ownership, maintenance, or use of a motor vehicle, except a contract which provides coverage only for liability in excess of required minimum tort liability coverages, includes basic economic loss benefit coverages and residual liability coverages required by sections 65B.41 to 65B.71, while the vehicle is in this state, and qualifies as security covering the vehicle.

*History: 1974 c 408 s 10; 1978 c 674 s 57*

**65B.51 DEDUCTION OF COLLATERAL BENEFITS FROM TORT RECOVERY; LIMITATION ON RIGHT TO RECOVER DAMAGES.**

Subdivision 1. **Deduction of basic economic loss benefits.** With respect to a cause of action in negligence accruing as a result of injury arising out of the operation, ownership, maintenance or use of a motor vehicle with respect to which security has been provided as required by sections 65B.41 to 65B.71, there shall be deducted from any recovery the value of basic or optional economic loss benefits paid or payable, or which would be payable but for any applicable deductible.

Subd. 2. **Right to recover economic loss not included in first party benefits.** A person may bring a negligence action for economic loss not paid or payable by a reparation obligor because of daily or weekly dollar limitations of section 65B.44, the seven-day services exclusion of section 65B.44, the limitations of benefits contained in section 65B.44, subdivision 1, or an exclusion from coverage by sections 65B.58 to 65B.60.

Subd. 3. **Limitation of damages for non-economic detriment.** In an action described in subdivision 1, no person shall recover damages for non-economic detriment unless:

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

(1) Reasonable medical expense benefits paid, payable or payable but for any applicable deductible, plus

(2) The value of free medical or surgical care or ordinary and necessary nursing services performed by a relative of the injured person or a member of his household, plus

(3) The amount by which the value of reimbursable medical services or products exceeds the amount of benefit paid, payable, or payable but for an applicable deductible for those services or products if the injured person was charged less than the average 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) permanent disfigurement;

- (2) permanent injury;
- (3) death; or
- (4) disability for 60 days or more.

(c) 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.

Subd. 4. Nothing in this section shall impair or limit the liability of a person in the business of manufacturing, distributing, retailing, repairing, servicing or maintaining motor vehicles arising from a defect in a motor vehicle caused or not corrected by an act or omission in manufacture, inspection, repair, servicing or maintenance of a vehicle in the course of his business.

Subd. 5. Nothing in this section shall impair or limit tort liability or limit the damages recoverable from any person for negligent acts or omissions other than those committed in the operation, ownership, maintenance, or use of a motor vehicle.

**History:** 1974 c 408 s 11; 1975 c 18 s 7; 1977 c 266 s 4; 1978 c 711 s 1; 1983 c 243 s 1

**65B.52** [Repealed, 1975 c 18 s 17]

**65B.525 ARBITRATION PROCEDURE; RULES OF COURT.**

Subdivision 1. The supreme court and the several courts of general trial jurisdiction of this state may, on or before January 1, 1975, by rules of court or other constitutionally allowable device, provide for the submission to arbitration, upon mutual consent of all parties to the action, of all cases at issue where a claim in an amount of \$5,000 or less is made by a motor vehicle accident victim, whether in an action to recover economic loss or non-economic detriment for the allegedly negligent operation, maintenance, or use of a motor vehicle within this state, or against any reparation obligor for benefits as provided in sections 65B.41 to 65B.71.

Subd. 2. The rules of court may provide that cases which are not at issue, whether or not suit has been filed, may be referred to arbitration by agreement of reference signed by counsel for both sides, or by the parties themselves. Such agreement of reference shall define the issues to be arbitrated and, shall also contain any stipulations with respect to facts submitted or agreed or defenses waived. In such cases, the agreement of reference shall take the place of the pleadings in the case and be filed of record.

**History:** 1975 c 160 s 2; 1978 c 674 s 57

**65B.53 INDEMNITY; ARBITRATION BETWEEN OBLIGORS; SUBROGATION.**

Subdivision 1. A reparation obligor paying or obligated to pay basic or optional economic loss benefits is entitled to indemnity subject to the limits of the applicable residual liability coverage from a reparation obligor providing residual liability coverage on a commercial vehicle of more than 5,500 pounds curb weight if negligence in the operation, maintenance or use of the commercial vehicle 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.

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. 4. The right of indemnity provided in subdivision 1 shall be enforceable only through mandatory good-faith and binding arbitration procedures established by rule of the commissioner of commerce. 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. 5. Except as provided in this section nothing in sections 65B.41 to 65B.71 shall limit or abridge the subrogation rights of a reparation obligor providing collision coverage to a policyholder.

Subd. 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 this chapter.

Subd. 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 hearing.

Subd. 8. Notwithstanding any law to the contrary, in any action brought for the recovery of damages allegedly caused by the negligent operation, ownership, maintenance or use of a motor vehicle or motorcycle where the right of subrogation is claimed or may be claimed under this section, or in any counterclaim to such an action, the right of an insurer to be subrogated to all or a portion of the claim of an insured, whether the right to subrogation arises from contract, statute or any other source, shall be enforceable against the insured only if the insurer, upon demand by the insured, agrees to pay a share of the attorney fees and costs incurred to prosecute the claim, in such proportion as the insurer's subrogated interest in the claim bears to any eventual recovery on the claim.

**History:** 1974 c 408 s 13; 1976 c 79 s 1; 1977 c 188 s 1,2; 1977 c 266 s 5; 1979 c 190 s 2; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92

#### **65B.54 REPARATION OBLIGOR'S DUTY TO RESPOND TO CLAIMS.**

Subdivision 1. 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 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.

Subd. 2. Overdue payments shall bear simple interest at the rate of 15 percent per annum.

Subd. 3. A claim for basic economic loss benefits shall be paid without deduction for the benefits which are to be subtracted pursuant to section 65B.61, if these benefits have not been paid to the claimant before the reparation benefits are overdue or the claim is paid. The obligor is entitled to reimbursement from the person obligated to make the payments or from the claimant who actually receives the payments.

Subd. 4. A reparation obligor may bring an action to recover benefits which are not payable, but are in fact paid, because of an intentional misrepresentation of a material fact, upon which the reparation obligor relies, by the claimant or by a person providing products or services for which basic economic loss benefits are payable. The action may be brought only against the person providing the products or services, unless the claimant has intentionally misrepresented the facts or knew of the misrepresentation. A reparation obligor may offset amounts he is entitled to recover from the claimant under this subdivision against any basic economic loss benefits otherwise due him.

Subd. 5. A reparation obligor who rejects a claim for benefits shall give to the claimant prompt written notice of the rejection, specifying the reason. If a claim is rejected for a reason other than that the person is not entitled to the basic economic loss benefits claimed, the written notice shall inform the claimant that he may file his claim with the assigned claims bureau and shall give the name and address of the bureau.

**History:** 1974 c 408 s 14; 1979 c 190 s 3

## **65B.55 APPLICATION FOR BENEFITS UNDER PLAN OF SECURITY.**

Subdivision 1. A plan of reparation security may prescribe a period of not less than six months after the date of accident within which an insured or any other person entitled to claim basic economic loss benefits, or anyone acting on their behalf, must notify the reparation obligor or its agent, of the accident and the possibility of a claim for economic loss benefits. Failure to provide notice will not render a person ineligible to receive benefits unless actual prejudice is shown by the reparation obligor, and then only to the extent of the prejudice. The notice may be given in any reasonable fashion.

Subd. 2. A plan of reparation security may provide that in any instance where a lapse occurs in the period of disability or in the medical treatment of a person with respect to whose injury basic economic loss benefits have been paid and a person subsequently claims additional benefits based upon an alleged recurrence of the injury for which the original claim for benefits was made, the obligor may require reasonable medical proof of such alleged recurrence; provided, that in no event shall the aggregate benefits payable to any person exceed the maximum limits specified in the plan of security, and provided further that such coverages may contain a provision terminating eligibility for benefits after a prescribed period of lapse of disability and medical treatment, which period shall not be less than one year.

**History:** 1974 c 408 s 15; 1984 c 592 s 55

**65B.56 COOPERATION OF PERSON CLAIMING BENEFITS.**

**Subdivision 1. Medical examinations and discovery of condition of claimant.** Any person with respect to whose injury benefits are claimed under a plan of reparation security shall, upon request of the reparation obligor from whom recovery is sought, submit to a physical examination by a physician or physicians selected by the obligor as may reasonably be required.

The costs of any examinations requested by the obligor shall be borne entirely by the requesting obligor. Such examinations shall be conducted within the city, town, or statutory city of residence of the injured person. If there is no qualified physician to conduct the examination within the city, town, or statutory city of residence of the injured person, then such examination shall be conducted at another place of the closest proximity to the injured person's residence. Obligor is authorized to include reasonable provisions in policies for mental and physical examination of those injured persons.

If requested by the person examined, a party causing an examination to be made shall deliver to him a copy of every written report concerning the examination rendered by an examining physician, at least one of which reports must set out in detail the findings and conclusions of such examining physician.

An injured person shall also do all things reasonably necessary to enable the obligor to obtain medical reports and other needed information to assist in determining the nature and extent of the injured person's injuries and loss, and the medical treatment received by him. If the claimant refuses to cooperate in responding to requests for examination and information as authorized by this section, evidence of such noncooperation shall be admissible in any suit or arbitration filed for damages for such personal injuries or for the benefits provided by sections 65B.41 to 65B.71.

The provisions of this section apply before and after the commencement of suit.

**Subd. 2. Claimant's participation in arbitration between obligors.** Any person receiving benefits under sections 65B.41 to 65B.71 shall participate and cooperate, as reasonably required under the coverage, in any and all arbitration proceedings as provided in section 65B.53 by or on behalf of the obligor paying the benefits, and the obligor may require in the furnishing of proof of loss the claimant's statement that he shall so participate and cooperate as consideration for the payment of such benefits. However, no claimant may be required by any obligor which has paid or is obligated to pay benefits as herein provided to personally attend an arbitration proceeding which shall take place more than 50 miles from the usual residence of the claimant; and provided that in no event shall the claimant have to attend such an arbitration proceeding if, at the time scheduled for that meeting, travel thereto by the claimant is not recommended by a physician treating the claimant for his injuries. Any claimant required to personally attend an arbitration proceeding shall be compensated by the reparation obligor requiring his attendance for actual income loss and expenses reasonably incurred.

**History:** 1974 c 408 s 16; 1975 c 18 s 8; 1978 c 674 s 57

**65B.57 ECONOMIC LOSS BENEFITS; EXEMPTIONS FROM LEGAL ATTACHMENT.**

All economic loss benefits provided by sections 65B.41 to 65B.71, whether paid or payable to any claimant shall not be subject to garnishment, sequestration, attachment or execution, or any other legal process which would deny their receipt and use by that person; provided, however, that this section shall not apply to any

person who has provided treatment or services, as described in section 65B.44, subdivision 2, to the victim of a motor vehicle accident.

**History:** 1974 c 408 s 17; 1978 c 674 s 57

**65B.58 CONVERTED MOTOR VEHICLES.**

A person who converts a motor vehicle is disqualified from basic or optional economic loss benefits, including benefits otherwise due him as a survivor, from any source other than an insurance contract under which the converter is an insured, for injuries arising from maintenance or use of the converted vehicle. If the converter dies from the injuries, his survivors are not entitled to basic or optional economic loss benefits from any source other than an insurance contract under which the converter is a basic economic loss insured. For the purpose of this section, a person is not a converter if he uses the motor vehicle in the good faith belief that he is legally entitled to do so.

**History:** 1974 c 408 s 18

**65B.59 RACES.**

A person who is injured in the course of an official racing contest, other than a rally held in whole or in part on public roads, or in practice or preparation therefor is disqualified from basic or optional economic loss benefits. His survivors are not entitled to basic or optional economic loss benefits for loss arising from his death.

**History:** 1974 c 408 s 19; 1975 c 18 s 9

**65B.60 INTENTIONAL INJURIES.**

A person intentionally causing or attempting to cause injury to himself or another person is disqualified from basic or optional economic loss benefits for injury arising from his acts, including benefits otherwise due him as a survivor. If a person dies as a result of intentionally causing or attempting to cause injury to himself, his survivors are not entitled to basic or optional economic loss benefits for loss arising from his death. A person intentionally causes or attempts to cause injury if he acts or fails to act for the purpose of causing injury or with knowledge that injury is substantially certain to follow. A person does not intentionally cause or attempt to cause injury (1) merely because his act or failure to act is intentional or done with his realization that it creates a grave risk of causing injury or (2) if the act or omission causing the injury is for the purpose of averting bodily harm to himself or another person.

**History:** 1974 c 408 s 20

**65B.605 LIABILITY FOR LOSS SUFFERED AS A RESULT OF PEACE OFFICER PURSUIT; PENALTIES.**

Subdivision 1. **Flee; definition.** For purposes of this section, the term "flee" means to increase speed, extinguish motor vehicle headlights or taillights, or to use other means with intent to attempt to elude a peace officer following a signal given by any peace officer to the driver of a motor vehicle.

Subd. 2. **Peace officer; definition.** For purposes of this section, "peace officer" means an employee of a political subdivision or state law enforcement agency who is licensed by the Minnesota board of peace officer standards and training, charged with the prevention and detection of crime and the enforcement of the general criminal laws of the state and who has the full power of arrest, and shall also include the Minnesota state patrol and Minnesota conservation officers.

Subd. 3. **Liability for loss.** If a peace officer is acting in the lawful discharge of an official duty, a person fleeing the peace officer by means of a motor vehicle or motorcycle is liable for all bodily injury and property damage suffered by any other person, except another person fleeing from a peace officer, arising out of the operation or use of a pursuing peace officer's vehicle, unless the peace officer is not exercising reasonable care.

**History:** 1981 c 37 s 2; 1981 c 312 s 3; 1984 c 445 s 1

#### **65B.61 BENEFITS PRIMARY; SUBTRACTIONS; COORDINATION.**

Subdivision 1. Basic economic loss benefits shall be primary with respect to benefits, except for those paid or payable under a workers' compensation law which any person receives or is entitled to receive from any other source as a result of injury arising out of the maintenance or use of a motor vehicle. Where workers' compensation benefits paid or payable are primary, the reparation obligor shall make an appropriate rebate or reduction in the premiums of the plan of reparation security. The amount of the rebate or rate reduction shall be not less than the amount of the projected reduction in benefits and claims for which the reparation obligor will be liable on that class of risks. The projected reduction or rebate in benefits and claims shall be based upon sound actuarial principles.

Subd. 2. If benefits are paid or payable under a workers' compensation law because of the injury, no disability income loss benefits are payable unless the weekly workers' compensation disability benefits are less than the weekly disability benefit as set out in section 65B.44, subdivision 3, in which case the reparation obligor shall pay to the injured person the amount that the weekly disability and income loss benefits payable under section 65B.44, subdivision 3, exceeds the weekly workers' compensation disability benefits.

Subd. 2a. If benefits are paid or payable under a workers' compensation law because of death, no survivors' economic loss benefits are payable unless the weekly workers' compensation dependency allowance is less than the weekly survivors' economic loss benefit rate as set out in section 65B.44, subdivision 6, in which case the reparation obligor shall pay to the surviving dependents the amount that the weekly survivors' economic loss benefits payable under section 65B.44, subdivision 6, exceed the weekly workers' compensation dependency allowances.

Subd. 2b. [Repealed, 1984 c 420 s 2]

Subd. 3. Any legal entity, other than a reparation obligor obligated to pay benefits under a plan of reparation security or an insurer or employer obligated to pay benefits under a workers' compensation law, may coordinate any benefits it is obligated to pay for loss incurred as a result of injury arising out of the maintenance or use of a motor vehicle with basic economic loss benefits. No entity may coordinate benefits pursuant to this subdivision, unless it provides an appropriately reduced premium rate. The amount of this rate reduction shall be not less than the amount of the projected reduction in benefits and claims for which the entity will be liable on that class of risks, less the additional reasonable expenses incurred to administer the plan coordinating benefits. The projected reduction in benefits and claims shall be based upon sound actuarial principles.

Subd. 4. [Repealed, 1979 c 57 s 2]

**History:** 1974 c 408 s 21; 1975 c 359 s 23; 1979 c 57 s 1; 1980 c 539 s 2-5; 1984 c 420 s 1

#### **65B.62 [Repealed, 1976 c 79 s 2]**

**65B.63 ASSIGNED CLAIMS PLAN.**

Subdivision 1. Reparation obligors providing basic economic loss insurance in this state may organize and maintain, subject to approval and regulation by the commissioner, an assigned claims bureau and an assigned claims plan, and adopt rules for their operation and for the assessment of costs on a fair and equitable basis consistent with sections 65B.41 to 65B.71. If such obligors do not organize and continuously maintain an assigned claims bureau and an assigned claims plan in a manner considered by the commissioner of commerce to be consistent with sections 65B.41 to 65B.71, he shall organize and maintain an assigned claims bureau and an assigned claims plan. Each reparation obligor providing basic economic loss insurance in this state shall participate in the assigned claims bureau and the assigned claims plan. Costs incurred shall be allocated fairly and equitably among the reparation obligors.

Subd. 2. The assigned claims bureau shall promptly assign each claim and notify the claimant of the identity and address of the assignee-obligor of the claim. Claims shall be assigned so as to minimize inconvenience to claimants. The assignee thereafter has rights and obligations as if he had issued a policy of basic economic loss insurance complying with sections 65B.41 to 65B.71 applicable to the injury or, in case of financial inability of a reparation obligor to perform its obligations, as if the assignee had written the applicable reparation insurance, undertaken the self-insurance, or lawfully obligated itself to pay basic economic loss benefits.

**History:** 1974 c 408 s 23; 1978 c 674 s 57; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92

**65B.64 PERSONS ENTITLED TO PARTICIPATE IN ASSIGNED CLAIMS PLAN.**

Subdivision 1. A person entitled to basic economic loss benefits because of injury covered by sections 65B.41 to 65B.71 may obtain basic economic loss benefits through the assigned claims plan or bureau established pursuant to section 65B.63 and in accordance with the provisions for making assigned claims provided in sections 65B.41 to 65B.71, if:

(a) The person is 14 years old or younger and basic economic loss benefits are not applicable to his injury because of section 65B.58;

(b) Basic economic loss benefits are not applicable to the injury for some reason other than those specified in sections 65B.58, 65B.59, or 65B.60;

(c) The plan of reparation security applicable to the injury cannot be identified;  
or

(d) A claim for basic economic loss benefits is rejected by a reparation obligor on some ground other than the person is not entitled to basic economic loss benefits under sections 65B.41 to 65B.71.

Subd. 2. If a claim qualifies for assignment under subdivision 1, the assigned claims bureau or any reparation obligor to whom the claim is assigned shall be, as provided in section 65B.53, subrogated to all of the rights of the claimant against any person, including another obligor, who is legally obligated to provide economic loss benefits to the claimant, for economic loss benefits provided by the obligor to whom the claim was assigned.

Subd. 3. A person shall not be entitled to basic economic loss benefits through the assigned claims plan with respect to injury which was sustained if at the time of such injury the injured person was the owner of a private passenger motor vehicle for which security is required under sections 65B.41 to 65B.71 and he failed to have



such security in effect. Members of the owner's household other than minor children shall also be disqualified from benefits through the assigned claims plan.

**History:** 1974 c 408 s 24; 1978 c 674 s 57; 1979 c 190 s 4; 1980 c 539 s 6

#### **65B.65 TIME FOR PRESENTING CLAIMS UNDER ASSIGNED CLAIMS PLAN.**

Subdivision 1. Except as provided in subdivision 2, a person authorized to obtain basic reparation benefits through the assigned claims plan shall notify the bureau of his claim within the time that would have been allowed for commencing an action for those benefits if there had been identifiable coverage in effect and applicable to the claim.

Subd. 2. If timely action for basic reparation benefits is commenced against a reparation obligor who is unable to fulfill his obligations because of financial inability, a person authorized to obtain basic reparation benefits through the assigned claims plan shall notify the bureau of his claim within six months after discovery of the financial inability.

**History:** 1974 c 408 s 25; 1975 c 18 s 10

#### **65B.66 CLAIMS AGAINST WRONG INSURER.**

If timely action for economic loss benefits is commenced against a reparation obligor and benefits are denied because of a determination that the obligor's coverage is not applicable to the claimant under the provisions of section 65B.47 on the priority of applicability of security a claim against a proper obligor or assigned claims plan may be made not later than 90 days after such determination becomes final or the last date on which the action could otherwise have been commenced, whichever is later.

**History:** 1974 c 408 s 26

#### **65B.67 PENALTIES FOR FAILURE TO PROVIDE SECURITY FOR BASIC REPARATION BENEFITS.**

Subdivision 1. Every owner of a motor vehicle or motorcycle for which security has not been provided as required by section 65B.48, shall not by the provisions of this chapter be relieved of tort liability arising out of the operation, ownership, maintenance or use of the motor vehicle or motorcycle.

Subd. 2. **Violation by owner.** Any owner of a motor vehicle or motorcycle with respect to which security is required under sections 65B.41 to 65B.71 who operates the motor vehicle or motorcycle or permits it to be operated upon a public highway, street or road in this state and who knows or has reason to know that the motor vehicle or motorcycle does not have security complying with the terms of section 65B.48, is guilty of a misdemeanor and shall be sentenced as provided in subdivision 4.

Subd. 3. **Violation by driver.** Any other person who operates a motor vehicle or motorcycle upon a public highway, street or road in this state with knowledge that the owner does not have security complying with the terms of section 65B.48 in full force and effect is guilty of a misdemeanor and shall be sentenced as provided in subdivision 4.

Subd. 3a. **False statements.** Any owner of a motor vehicle or motorcycle who falsely claims to have a plan of reparation security in effect at the time of registration of a motor vehicle or motorcycle pursuant to section 65B.48 is guilty of a misdemeanor and shall be sentenced as provided in subdivision 4.

Subd. 4. **Penalty.** Any operator of a motor vehicle or motorcycle who is convicted of a misdemeanor under the terms of this section shall be sentenced as provided in section 609.03, clause (3), and shall have his driver's license revoked for not more than 12 months. If the operator is also an owner of the motor vehicle or motorcycle, the registration of the motor vehicle or motorcycle shall also be revoked for not more than 12 months. Before reinstatement of a driver's license or registration, the operator shall file with the commissioner of public safety the written certificate of an insurance carrier authorized to do business in this state stating that security has been provided by the operator as required by section 65B.48. The commissioner shall include a notice of the penalties contained in this section on all forms for registration of motor vehicles or motorcycles required to maintain a plan of reparation security.

Subd. 4a. The commissioner of public safety may revoke the registration of any motor vehicle or motorcycle, and may suspend the driver's license of any operator, without preliminary hearing upon a showing by department records, including accident reports required to be submitted by section 169.09, or other sufficient evidence that security required by section 65B.48 has not been provided and maintained. Before reinstatement of the registration, there shall be filed with the commissioner of public safety the written certificate of an insurance carrier authorized to do business in the state stating that security has been provided as required by section 65B.48. The commissioner of public safety may require the certificate of insurance provided to satisfy this subdivision to be certified by the insurance carrier to be noncancelable for a period not to exceed one year. The commissioner of public safety may also require a certificate of insurance to be filed with respect to all vehicles required to be insured under section 65B.48 and owned by any person whose driving privileges have been suspended or revoked as provided in this section before reinstating the person's driver's license.

Subd. 5. When a nonresident's operating privilege is suspended pursuant to this section, the commissioner of public safety or his designee shall transmit a copy of the record of the action to the official in charge of the issuance of licenses in the state in which the nonresident resides.

Subd. 6. Upon receipt of notification that the operating privilege of a resident of this state has been suspended or revoked in any other state pursuant to a law providing for its suspension or revocation for failure to deposit security for the payment of judgments arising out of a motor vehicle or motorcycle accident, or for failure to provide security covering a motor vehicle or motorcycle if required by the laws of that state, the commissioner of public safety shall suspend the operator's license of the resident until he furnishes evidence of compliance with the laws of this state and if applicable the laws of the other state.

**History:** 1974 c 408 s 27; 1975 c 18 s 11-14; 1978 c 674 s 57; 1979 c 190 s 5; 1983 c 6 s 1-4

## **65B.68 RULES OF COMMISSIONER OF PUBLIC SAFETY.**

Subdivision 1. The commissioner of public safety shall have the power and perform the duties imposed upon him by sections 65B.41 to 65B.71 and may adopt rules to implement and provide effective administration of the provisions requiring security and governing termination of security.

Subd. 2. The commissioner of public safety may by rule provide that motor vehicles and motorcycles owned by certain persons may not be registered in this state unless satisfactory evidence is furnished that security has been provided as required by section 65B.48. If a person who is required to furnish evidence ceases to

maintain security, he shall immediately surrender the registration certificate and license plates for the vehicle. These requirements may be imposed if:

- (1) The registrant has not previously registered a motor vehicle in this state; or
- (2) An owner or operator of the vehicle has previously failed to comply with the security requirements of sections 65B.41 to 65B.71 or of prior law; or
- (3) The driving record of an owner or operator of the vehicle evidences his continuing disregard of the laws of this state enacted to protect the public safety; or
- (4) Other circumstances indicate that action is necessary to effectuate the purposes of sections 65B.41 to 65B.71.

No owner of a boat, snowmobile or utility trailer registered for a gross weight of 3,000 pounds or less shall be required by the commissioner of public safety to furnish evidence that the security required by section 65B.48 has been provided.

Subd. 3. MS1980 [Expired]

**History:** 1974 c 408 s 28; 1978 c 674 s 57; 1979 c 190 s 6; 1980 c 426 s 1; 1981 c 74 s 1

#### **65B.685 STANDARDIZING COVERAGE.**

As far as consistent with the requirements of sections 65B.41 to 65B.71, the commissioner may limit by rule the variety of coverages available in order to give insurance purchasers reasonable opportunity to compare the cost of insuring with various insurers.

**History:** 1979 c 190 s 7

#### **65B.69 OBLIGOR'S NOTIFICATION OF LAPSE, CANCELLATION, OR FAILURE TO RENEW POLICY OF COVERAGE.**

If the required plan of reparation security of an owner or named insured is cancelled, and notification of such fact is given to the insured as required by section 65B.19, a copy of such notice shall within 30 days after coverage has expired be sent to the commissioner of public safety. If, on or before the end of that 30 day period, the insured owner of a motor vehicle has not presented the commissioner of public safety or his authorized agent with evidence of required security which shall have taken effect upon the expiration of the previous coverage, or if the insured owner or registrant has not instituted an objection to his obligor's cancellation under section 65B.21, within the time limitations therein specified, he shall immediately surrender the registration certificate and motor vehicle license plates to the commissioner of public safety and may not operate or permit operation of the vehicle in this state until security is again provided and proof of security furnished as required by sections 65B.41 to 65B.71.

**History:** 1974 c 408 s 29; 1978 c 674 s 57

#### **65B.70 AUTOMOBILE INSURANCE RATES.**

Subdivision 1. [Expired]

Subd. 2. **Applicability of chapter 70a.** The rates charged for motor vehicle insurance other than the compulsory plan of reparation security required by sections 65B.41 to 65B.71 shall be governed by chapter 70A, commencing with January 1, 1975.

Subd. 3. [Expired]

Subd. 4. [Expired]

Subd. 5. **Excessive rates.** The commissioner shall review all automobile coverage rates on an annual basis. If the commissioner finds that the rates of any insurer, for coverages required or permitted by sections 65B.41 to 65B.71, are excessive, applying the standards of chapter 70A, he shall issue such order as he deems appropriate to establish a reasonable competitive rate, and such order may include provisions for an appropriate premium adjustment or rebate on outstanding policies.

Subd. 6. [Expired]

**History:** 1974 c 408 s 30; 1978 c 674 s 57

### 65B.71 COMPLIANCE.

Subdivision 1. The definition of "qualified applicant" under section 65B.02, subdivision 2, clause (2) shall, upon the repeal of chapter 170 and the enactment of sections 65B.41 to 65B.71, include a person required to prove automobile insurance coverage as required by sections 65B.41 to 65B.71.

Subd. 2. The actions permitted a metropolitan airport commission corporation under section 473.606, subdivision 6 shall, upon the repeal of chapter 170 and the enactment of sections 65B.41 to 65B.71, include acts necessary to bring the corporation, its commissioners and agents within the provisions of sections 65B.41 to 65B.71.

Subd. 3. The actions permitted a county board under section 375.32, subdivision 2 shall, upon the repeal of chapter 170 and the enactment of sections 65B.41 to 65B.71, include acts necessary to bring the county, its officers and employees within the provisions of sections 65B.41 to 65B.71.

Subd. 4. The provisions of Minnesota Statutes 1971, Chapter 170, as amended by Laws 1973, Chapter 35, Sections 37 and 38, shall apply to a person who is involved in a motor vehicle accident occurring before January 1, 1975. Money deposited with the commissioner in accordance with Minnesota Statutes 1971, Chapter 170, as amended by Laws 1973, Chapter 35, Sections 37 and 38, shall be retained by the commissioner and disbursed only in accordance with Minnesota Statutes 1971, Chapter 170, as amended by Laws 1973, Chapter 35, Sections 37 and 38. An operator's license suspended in accordance with Minnesota Statutes 1971, Chapter 170, as amended by Laws 1973, Chapter 35, Sections 37 and 38, shall be reinstated only in accordance with Minnesota Statutes 1971, Chapter 170, as amended by Laws 1973, Chapter 35, Sections 37 and 38.

**History:** 1974 c 408 s 32 subds 1-3; 1975 c 18 s 15; 1978 c 674 s 57; 1Sp1981 c 4 art 1 s 58