SENATE BILL No. 49

Introduced by Senator Lockyer

December 20, 1994

An act to add Section 3333.5 to the Civil Code, to add Sections 997.5 and 1141.115 to, to add Chapter 5.6 (commencing with Section 117.110) to Title 1 of Part 1 of, and to add Chapter 2.5 (commencing with Section 997) to Title 14 of Part 2 of, the Code of Civil Procedure, to amend Section 68616 of, and to add and repeal Section 68616.1 of, the Government Code, to amend, repeal, and add Sections 11580.1 and 11580.2 of, to add Sections 1871.9, 11580.02, 11580.03, 11580.04, 11580.7, and 11580.71 to, and to add Article 6.59 (commencing with Section 790.60) to Chapter 1 of Part 2 of Division 1 to, the Insurance Code, to amend Section 550 of the Penal Code, and to amend Sections 12810, 16056, 16377, 16430, 16451, 17151, 17709, 20002, and 20003 of, and to add Sections 4750.3 and 16006 to, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 49, as introduced, Lockyer. Vehicles.

(1) Under existing law, in an action to recover damages for an injury, evidence of benefits that the injured party is entitled to receive from collateral sources is generally inadmissible.

This bill would provide that in a 3rd-party action for personal injury arising out of the operation or use of a motor vehicle, the recovery shall be reduced by amounts paid as a medical payment benefit under a policy of motor vehicle insurance. The bill would enact related provisions.

(2) Existing law establishes a small claims court, which has jurisdiction where the demand does not exceed $5,000.

This bill would establish a small claims division for automobile claims involving less than $10,000. It would apply to claims in excess of $5,000. The bill would permit representation by attorneys in those cases, subject to various limits.

(3) Existing law establishes various discovery procedures prior to trial of an action.

This bill would require the mutual exchange of information in connection with 3rd-party claims that seek or contest a claim for money damages arising from a motor vehicle accident.

The bill would also permit the use of a medical injury profile as evidence in a 3rd-party action involving a nonserious bodily injury.

(4) Existing law provides for judicial arbitration of claims where the amount in controversy does not exceed $50,000.

This bill would require judicial arbitration of motor vehicle accident claims involving 3rd-party liability for bodily injury if the amount in controversy does not exceed $50,000. The bill would provide for sanctions in certain instances.

(5) Existing law requires the adoption of trial court delay reduction rules. Under existing law, parties may agree to a single continuance within 30 days of service of pleadings.

This bill would permit agreement for a continuance at any time following service of responsive pleadings and prior to the status conference. This change would be repealed on July 1, 1998. The bill would also permit a second continuance in certain cases involving motor vehicle accidents until January 1, 2000.

(6) Existing law does not generally limit fees that health care providers may charge.

This bill would provide that the charges for health care services that are incurred as a result of an injury arising from a motor vehicle accident may not exceed specified amounts.

(7) Existing law prohibits certain false and fraudulent acts in connection with insurance claims.

This bill would provide for a 5-year sentence enhancement and prohibit probation if the false claim, along with previous

false claims, involves $100,000 or more, as specified. It also would make related changes.

(8) Existing law requires owners and operators of motor vehicles to maintain liability insurance. Existing law requires that insurance be in the amount of $15,000 for bodily injury to one person, subject to a limit for bodily injury of $30,000, and in the amount of $5,000 for property damage.

This bill would reduce those amounts to $10,000, $20,000, and $3,000, respectively. It would permit insureds to waive the property damage coverage if they are good drivers and purchase minimum coverage, but would require medical payment coverage. This bill would also provide that policies include binding arbitration of 3rd-party disputes concerning property damage or nonserious bodily injury unless waived.

(9) Existing law provides for payment under uninsured motorist coverage where the owner or operator is unknown only if the injury arose out of physical contact between the uninsured vehicle and the insured or with an automobile which the insured is occupying.

This bill would provide for payment in that circumstance only if the bodily injury has arisen out of action of the motorist that caused physical contact between property of that motorist and the insured or with an automobile which the insured is occupying.

(10) Existing law does not authorize motor vehicle liability and casualty insurers to require insureds and other claimants for motor vehicle repair costs to have those repairs performed at a repair facility under contract to the insurer.

This bill would authorize policies issued by these insurers to require insureds and other claimants for repair of motor vehicle damage in this state to have those repairs done at repair facilities designated by, and under contract with, the insurer, as specified. The bill would limit monetary liability of insurers to the cost of repairs at a repair facility under contract with the insurer.

(11) This bill would require the Department of Motor Vehicles to require, upon registration of a motor vehicle, evidence satisfactory to the department that the owner of the motor vehicle is in compliance with the financial responsibility laws.

(12) Under existing law, the Department of Motor Vehicles may refuse to issue or renew a driver's license to any person who is a negligent operator. The determination of whether a person is a negligent operator is based on the number of traffic violation points the person acquires within a specified period. Under existing law, certain traffic violations are given a value of 2 points and others one point.

The bill would provide that a violation of the provision requiring the wearing of a seatbelt does not result in a violation point count.

(13) Existing law requires various reports to be made by persons involved in motor vehicle accidents.

This bill would require certain reports to the person's insurer and to the insurer for a person against whom a claim will be made.

(14) Existing law requires persons involved in accidents to present their driver's license and other information on request, in certain instances.

This bill would require that presentation without request, and would require presentation of proof of financial responsibility. Since a violation would be a crime, the bill would create a state-mandated local program. The bill would require a willful violation in order for the violation to be a crime.

The bill would require the Department of Motor Vehicles to include information concerning these requirements in its "Drivers Information Handbook," and to test for knowledge of these requirements.

(15) The bill would set forth various findings, and would request the Insurance Commissioner to act in accordance with those findings.

(16) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed $1,000,000 statewide and other procedures for claims whose statewide costs exceed $1,000,000.

This bill would provide for costs relating to crimes that no reimbursement is required by this act for a specified reason. For other costs, it would provide that, if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to those statutory procedures.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 3333.5 is added to the Civil Code, to read:

3333.5. (a) In a third-party action for personal injury arising out of the operation or use of a motor vehicle, the judgment, arbitration decision, or settlement for the plaintiff or claimant shall be reduced by any amount paid as a benefit to the plaintiff or claimant as a result of the personal injury from any medical payment benefit under a policy of motor vehicle insurance.

(b) No source of benefits specified under subdivision (a) shall recover any amounts against the plaintiff or claimant nor shall it be subrogated to the rights of the plaintiff or claimant against a defendant for any amount reduced under subdivision (a).

(c) In a third-party action or claim for personal injury arising out of the operation or use of a motor vehicle, the plaintiff or claimant shall give notice of that claim or action to any health or sickness disability insurer, any nonprofit hospital service plan, or any health care service plan that provided benefits to the plaintiff or claimant injured by the operation or use of a motor vehicle. The notice shall be given within 10 days of the filing of the claim or complaint, whichever occurs first. The same notice shall be given to any motor vehicle insurer providing medical payment benefits in excess of three thousand dollars ($3,000).

(d) Where the plaintiff's or claimant's action results in the creation or preservation of a fund, the proceeds of which a collateral source of benefits provider is entitled

as a result of pursuing its lien or subrogation rights under the law, the plaintiff or claimant may be awarded attorney's fees out of the fund in order to require beneficiaries of the fund who did not actively participate in the action to bear a fair share of the litigation costs.

(e) Any reduction of a plaintiff's or claimant's judgment, arbitration decision, or settlement award pursuant to subdivision (a):

(1) Shall not exceed three thousand dollars ($3,000).

(2) Shall take into account any comparative negligence reduction of the award attributable to medical expenses paid under an automobile insurance medical payment benefit.

SEC. 2. Chapter 5.6 (commencing with Section 117.110) is added to Title 1 of Part 1 of the Code of Civil Procedure, to read:

CHAPTER 5.6. SMALL CLAIMS JURISDICTION FOR AUTOMOBILE INJURIES

117.110. Many automobile accident cases can be handled expeditiously, efficiently, and economically in the relatively informal setting of small claims court.

117.111. (a) Except as provided in this chapter, the provisions of Chapter 5.5 (commencing with Section 116.110) shall apply to actions filed pursuant to this chapter. The provisions of Chapter 2.5 (commencing with Section 997) of Part 2 of Title 14 shall not apply to actions filed pursuant to this chapter or Chapter 5.5 (commencing with Section 116.110).

(b) Notwithstanding Section 116.220, beginning January 1, 1997, the small claims court jurisdiction for a personal injury or property damage claim, or both, arising out of an automobile collision is ten thousand dollars ($10,000). The provisions of this chapter shall apply to actions in which the claim exceeds five thousand dollars ($5,000).

(c) These automobile injury claims before the small claims court shall be tried by a judge or court commissioner sitting without a jury. A party may appeal

a judgment of the court to the superior court pursuant to Section 117.113.

(d) The filing fee for automobile cases filed with the small claims court shall be forty dollars ($40) for a complaint or answer. Five dollars ($5) of each fee charged and collected shall be deposited in each county in a special account specified in Section 116.910 to fund the small claims advisor service.

(e) A party served with a claim shall answer using a form specified in subdivision (f) within 30 days after service. Upon failure to answer within the time period, the court may enter the defendant's default.

(f) Forms for filing a claim or answer to an automobile injury or property damage complaint in the small claims court shall be adopted by the Judicial Council on or before January 1, 1997, and may be adopted before that date notwithstanding any other applicable operative date. The Judicial Council shall consult with members of the trial bar, both plaintiff and defense, members of the general public, and representatives of the insurance industry in preparing forms for usage by the general public in the court. The form shall advise a claimant filing in the small claims court of the jurisdictional limit of the court and that the claimant's recovery in the small claims court for damages for wage loss, medical expenses, pain and suffering, and property damage would be limited to a total of ten thousand dollars ($10,000).

(g) The case shall be scheduled for hearing within the time periods specified in Section 116.330, however, the computation of time shall commence with the filing of the answer, or, if no answer is filed, with the expiration of the period for filing an answer.

(h) As used in this section, ''automobile collision'' means a collision between two automobiles whether private passenger or commercial, between an automobile and a pedestrian or bicyclist, between an automobile and a motorcycle, between two motorcycles, or between a motorcycle and a pedestrian or bicyclist.

117.112. (a) A defendant in a small claims action filed pursuant to this chapter may move to transfer the case to

municipal or justice court. Election of the defendant to not transfer the case shall constitute a waiver of the party's right to a jury trial on appeal to the extent that the right exists.

(b) Parties to a small claims action filed pursuant to this chapter may be represented by an attorney. An insurer may provide an attorney to represent a defendant provided that the insurer stipulates that its policy with the defendant covers the matter to which the claim applies. If a plaintiff is not represented by an attorney and the defendant is represented by an attorney or an insurer's attorney, the small claims court shall conduct its proceeding in light of the possibly disparate and unequal ability of a nonattorney plaintiff to pursue effectively a claim, and shall utilize its inherent judicial powers to achieve a just and equitable resolution of the claim. If the claimant is not represented by an attorney and the defendant is disputing the appropriateness or necessity of health care treatment provided to the claimant, the court shall continue the matter if the claimant did not have prior notice and an opportunity to obtain witnesses or evidence to support the claim.

117.113. (a) Except as otherwise provided in this section, the provisions of Article 7 (commencing with Section 116.710) shall apply to appeals and motions to vacate a judgment pursuant to this chapter.

(b) Notwithstanding subdivision (c) of Section 116.780, for good cause and where necessary to achieve substantial justice between the parties, the superior court may award a party to an appeal, including any settlement following a notice of appeal, reimbursement of attorney's fees and costs actually and reasonably incurred in connection with the appeal, not exceeding one thousand dollars ($1,000).

(c) Notwithstanding Section 116.790, if the superior court finds that the appeal was without substantial merit and not based on good faith, but was intended to harass or delay the other party, or to encourage the other party to abandon the claim, the court shall award the other party (1) attorney's fees and costs actually and reasonably

incurred in connection with the appeal, including any settlement following a notice of appeal, and (2) any actual loss of earnings and any expenses of transportation and lodging actually and reasonably incurred in connection with the appeal, following a hearing on the matter.

(d) Any reimbursement of attorney's fees and costs pursuant to this section shall be paid to the party, or to the insurer if the party's defense is handled by an insurer, and shall be applied toward any fee and costs obligation owed by the party to the attorney.

117.114. An attorney for a plaintiff in an action filed pursuant to this chapter shall not recover a contingency fee from the client in excess of 20 percent of any recovery in the small claims court unless upon court approval of a higher fee. The court may, upon motion, increase the allowable contingency fee if it finds that application of the 20 percent contingency fee would result in inadequate compensation given the amount of time actually and reasonably spent by the attorney on the case and given the difficulty of the matter.

SEC. 3. Chapter 2.5 (commencing with Section 997) is added to Title 14 of Part 2 of the Code of Civil Procedure, to read:

CHAPTER 2.5. MANDATORY EXCHANGE OF CLAIMS INFORMATION

997. (a) This chapter applies to claims, including cross-claims, which seek or contest a third-party claim for money damages arising from a motor vehicle accident which are filed on or after July 1, 1996, or are pending on that date and the responsive pleading has not yet been filed on that date.

(b) The documents required under this chapter shall be in writing and executed by the parties. These documents shall be served upon the parties, or their attorneys if represented by counsel, or their insurer if represented by an insurer.

(c) ‘‘Motor vehicle accident’’ means an event in which a motor vehicle, as defined in Section 415 of the Vehicle Code, causes injury or damage to a person or property.

997.1. (a) The Judicial Council shall, on or before July 1, 1996, design and develop an ‘‘Automobile Injury Case Questionnaire’’ form for use pursuant to this chapter to elicit fundamental information about each party’s case in a claim for damages arising from a motor vehicle accident. These forms shall be made available by the clerk of the county courts and by any self-insurer or insurer writing automobile liability insurance in this state.

(b) The Judicial Council shall consult with members of the trial bar, both civil and defense, and with representatives from consumer groups and insurers in promulgating the form.

(c) The forms shall request information from each party concerning all of the following:

(1) The name, address, date of birth, telephone number, and driver’s license number, if applicable, of the party, and any other name or names by which the party has been known.

(2) The facts of the party’s version of the collision, including, but not limited to, a narrative description or statement executed by the party in accordance with subdivision (b) of Section 997.

(3) The names, addresses, telephone numbers, and statements of any witnesses with knowledge of any relevant facts of the accident, including whether any other person may be liable for the damages claimed.

(4) A copy of any law enforcement agency report, if the party is in possession of it, or the name of the law enforcement agency which has the report and the report number.

(5) If the party is claiming damages, a statement of the nature of the damages and the amount of the damages, including those for bodily injury, property damage, and loss of earnings. If a party is contesting a claim for damages, a statement of the specific facts and reasons for contesting the claim, whether in whole or in part.

(6) The names, addresses, and telephone numbers of all medical providers who have treated or examined the party for the accident for which damages are claimed, and the dates of the treatments or examinations. If a party is undergoing continuing medical treatment at the time of response, the names, addresses, and telephone numbers of the medical provider.

(7) The names, addresses, and telephone numbers of the most knowledgeable persons or entities who can substantiate a party's loss of earnings or loss of earnings capacity claim.

(8) The names, addresses, and telephone numbers of each insurer and the number of each policy that may cover the party's damages in whole or in part, the policy limits of each policy, and the existence of a policy coverage dispute, if any.

(9) A description of all documents, photographs, or physical evidence that relate to the party's claim for damages, or defense to the claim, and their location. A copy of all documents or photographs in the party's possession which support its claim for damages or its defense to the claim shall be attached to the case questionnaire.

997.2. (a) Each party seeking damages or contesting a claim for damages arising out of a motor vehicle accident shall complete the Judicial Council form questionnaire and serve the questionnaire upon the other party, or if represented by counsel or an insurer, upon the party's attorney or insurer.

(b) Upon filing a response to a filed claim for damages against an insured for injuries arising out of a motor vehicle accident, an insurer shall, within five business days, inform the claimant or the claimant's representative in writing of the claimant's responsibility to complete an ''Automobile Injury Case Questionnaire'' form within 30 days and to send it to the carrier. The notice shall also inform the claimant of the carrier's insured's responsibility to complete and send a similar form to the claimant within 30 days. The insurer shall send

the Judicial Council prepared form to the claimant with the notice.

(c) Upon receiving the notice and form questionnaire from the insurer, the claimant shall have 30 days to respond. Upon sending the notice to the claimant, the insurer shall also send a notice and Judicial Council form questionnaire to its insured notifying the insured of his or her responsibility to complete an ‘‘Automobile Injury Case Questionnaire’’ form and to send it to the claimant within 30 days.

(d) A party shall respond to each and every question of the case questionnaire relevant to a claim for damages or to a defense to the claim. A party contesting the claim shall additionally respond to questions regarding insurance applicable to the claim. Each response shall be as complete as the information reasonably available to the responding party permits. If a question cannot be answered completely, it shall be answered to the extent possible. If the responding party does not have personal knowledge sufficient to respond fully to a question, that party shall so state, but shall make a reasonable and good faith effort to obtain the information by inquiry to other natural persons or organizations. If a party declares that he or she has insufficient information to answer the questionnaire, the party shall have 30 additional days to complete that part of the questionnaire.

(e) After the service of an Automobile Injury Case Questionnaire, either party may request executed authorizations to examine the records of the responding party, as described in subdivision (c) of Section 997.1, if the responding party is seeking or contesting a claim for damages for bodily injury, or loss of earnings or earning capacity, or both. The responding parties shall serve the executed authorizations permitting review of records relevant to the litigated issues upon the requesting party within 20 days from the date of request. Nothing in this subdivision shall require the authorizations to permit depositions or statements of the source of the records.

(f) A party may move, upon showing of good cause, to amend any response to the questionnaire. A party may

move for an order to compel compliance with this chapter, and for monetary sanctions under Section 2023 for noncompliance. If a party represented by counsel then fails to obey an order compelling compliance, the court may make those orders that are just, including the imposition of further monetary sanctions, an issue sanction, an evidence sanction, or a terminating sanction under Section 2023. Motions pursuant to this chapter are governed by the time limits applicable to discovery motions in general.

(g) Each party may conduct discovery to supplement the information provided in the questionnaire. Except in cases claiming damage for a serious injury, as defined in Section 997.5, additional discovery shall be governed by Sections 94 and 95.

(h) This chapter applies to claims filed in the justice, municipal, or superior courts.

SEC. 4. Section 997.5 is added to the Code of Civil Procedure, to read:

997.5. (a) On and after January 1, 1997, in any third-party action seeking money damages for a nonserious bodily injury arising from a motor vehicle accident, the defendant may introduce a medical injury profile for the claimed injury, as established by the Insurance Commissioner.

(b) As used in this section, ‘‘nonserious injury’’ means a personal injury that results in a concussion of a nonpermanent nature or an impairment or injury of the musculoskeletal system of a nonpermanent nature. It includes sprains, strains, abrasions, bruises, hematomas, lacerations that are not permanently disfiguring, and injuries commonly characterized in the automobile injury reparation’s system as soft tissue.

(c) (1) Subdivision (a) shall not apply to an action or claim for serious injury arising out of the operation or use of a motor vehicle.

(2) As used in this section, ‘‘serious injury’’ means a personal injury that results in a fracture, herniated discs, laceration that results in scarring or permanent disfigurement, internal organ injury, loss of sense or

senses that is not temporary, loss of body part, any permanent nerve impairment, loss of fetus, paralysis, permanent brain injury, or death. The determination of whether an injury is serious or nonserious shall be made by the court.

(d) On or before December 1, 1996, the Insurance Commissioner shall establish a medical injury profile for nonserious injuries after consultation with appropriate health care organizations. The profile shall establish parameters for the treatment of nonserious injuries.

(e) A medical injury profile shall not be deemed to establish prima facie evidence of necessary and appropriate treatment for an injury in a particular case.

SEC. 5. Section 1141.115 is added to the Code of Civil Procedure, to read:

1141.115. Notwithstanding any other provision of this chapter:

(a) In each municipal or superior court, all at-issue civil actions pending on or filed after the operative date of this section that involve third-party liability for bodily injury resulting from an automobile collision shall be submitted to arbitration, by the presiding judge or the judge designated, under this chapter if the amount in controversy in the opinion of the court will not exceed fifty thousand dollars ($50,000) for each plaintiff, which decision shall not be appealable.

(b) If the settlement following a request for a trial de novo or the judgment upon trial de novo is not at least 20 percent more favorable for the party electing trial de novo than the damages awarded by arbitration, that party shall pay to the other party's or parties' attorney's fees and costs reasonably incurred by the other party as a result of the party's request for trial de novo. This assessment shall be in addition to any sanctions assessed under Section 1141.21. For purposes of assessing the reimbursement of attorney's fees when a party is represented on a contingency fee basis, the court shall, in its sole discretion, determine the reasonable value of the services performed by the attorney if performed on a per-hour basis by an attorney retained by an insurer in defense of

those actions in the community where the claim is being defended. Any reimbursement of attorney's fees and costs pursuant to this section shall be paid to the party, or to the insurer if the party's defense is handled by an insurer, and shall be applied toward any fee and costs obligation owed by the party to the attorney.

(c) At the trial de novo, testimony or evidence presented at the arbitration may be introduced to impeach or rebut testimony or evidence presented at the trial de novo. Nothing in this subdivision shall be construed to permit any reference to an arbitration award during the trial de novo.

(d) As used in this section, ''automobile collision'' means a collision between two automobiles whether private passenger or commercial, between an automobile and a pedestrian or bicyclist, between an automobile and a motorcycle, between two motorcycles, or between a motorcycle and a pedestrian or bicyclist.

SEC. 6. Section 68616 of the Government Code is amended to read:

68616. Delay reduction rules shall not require shorter time periods than as follows:

(a) Service of the complaint within 60 days after filing. Exceptions, for longer periods of time, may be granted as authorized by local rule.

(b) Service of responsive pleadings within 30 days after service of the complaint. The parties may stipulate to an additional 15 days. Exceptions, for longer periods of time, may be granted as authorized by local rule.

(c) Time for service of notice or other paper under Sections 1005 and 1013 of the Code of Civil Procedure and time to plead after service of summons under Section 412.20 of the Code of Civil Procedure shall not be shortened except as provided in those sections.

(d) ~~Within 30 days of~~ *At any time following* service of the responsive pleadings, *and prior to the status conference,* the parties may, by stipulation filed with the court, agree to a single continuance not to exceed 30 days.

It is the intent of the Legislature that these stipulations not detract from the efforts of the courts to comply with

standards of timely disposition. To this extent, the Judicial Council shall develop statistics that distinguish between cases involving, and not involving, these stipulations.

(e) No status conference, or similar event, other than a challenge to the jurisdiction of the court, may be required to be conducted sooner than 30 days after service of the first responsive pleadings, or no sooner than 30 days after expiration of a stipulated continuance, if any, pursuant to subdivision (d).

(f) Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure shall govern discovery, except in arbitration proceedings.

(g) An order referring an action to arbitration or mediation may be made at any status conference held in accordance with subdivision (e), provided that any arbitration ordered may not commence prior to 210 days after the filing of the complaint, exclusive of the stipulated period provided in subdivision (d). Any mediation ordered pursuant to Section 1775.3 of the Code of Civil Procedure may be commenced prior to 210 days after the filing of the complaint, exclusive of the stipulated period provided in subdivision (d). No rule adopted pursuant to this article may contravene Sections 638 and 639 of the Code of Civil Procedure.

(h) Unnamed (DOE) defendants shall not be dismissed prior to the conclusion of the introduction of evidence at trial, except upon stipulation or motion of the parties.

(i) Notwithstanding Section 170.6 of the Code of Civil Procedure, in direct calendar courts, challenges pursuant to that section shall be exercised within 15 days of the party's first appearance. Master calendar courts shall be governed solely by Section 170.6 of the Code of Civil Procedure.

(j) This section applies to all cases subject to this article which are filed on or after January 1, 1991.

(k) This section shall remain in effect only until ~~January~~ *July* 1, ~~1999~~ *1998*, and as of that date is repealed,

unless a later enacted statute, which is enacted before ~~January~~ *July* 1, ~~1999~~ *1998*, deletes or extends that date.

SEC. 7. Section 68616 of the Government Code is amended to read:

68616. Delay reduction rules shall not require shorter time periods than as follows:

(a) Service of the complaint within 60 days after filing. Exceptions, for longer periods of time, may be granted as authorized by local rule.

(b) Service of responsive pleadings within 30 days after service of the complaint. The parties may stipulate to an additional 15 days. Exceptions, for longer periods of time, may be granted as authorized by local rule.

(c) Time for service of notice or other paper under Sections 1005 and 1013 of the Code of Civil Procedure and time to plead after service of summons under Section 412.20 of the Code of Civil Procedure shall not be shortened except as provided in those sections.

(d) Within 30 days of service of the responsive pleadings, the parties may, by stipulation filed with the court, agree to a single continuance not to exceed 30 days.

It is the intent of the Legislature that these stipulations not detract from the efforts of the courts to comply with standards of timely disposition. To this extent, the Judicial Council shall develop statistics that distinguish between cases involving, and not involving, these stipulations.

(e) No status conference, or similar event, other than a challenge to the jurisdiction of the court, may be required to be conducted sooner than 30 days after service of the first responsive pleadings, or no sooner than 30 days after expiration of a stipulated continuance, if any, pursuant to subdivision (d).

(f) Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure shall govern discovery, except in arbitration proceedings.

(g) No case may be referred to arbitration prior to 210 days after the filing of the complaint, exclusive of the stipulated period provided for in subdivision (d). No rule

adopted pursuant to this article may contravene Sections 638 and 639 of the Code of Civil Procedure.

(h) Unnamed (DOE) defendants shall not be dismissed prior to the conclusion of the introduction of evidence at trial, except upon stipulation or motion of the parties.

(i) Notwithstanding Section 170.6 of the Code of Civil Procedure, in direct calendar courts, challenges pursuant to that section shall be exercised within 15 days of the party's first appearance. Master calendar courts shall be governed solely by Section 170.6 of the Code of Civil Procedure.

(j) This section ~~applies to all cases subject to this article which are filed on or after January 1, 1991.~~

~~(k) This section~~ shall become operative on ~~January~~ *July* 1, ~~1999~~ *1998*.

SEC. 8. Section 68616.1 is added to the Government Code, to read:

68616.1. Notwithstanding subdivision (b) of Section 68616, prior to the filing of the answer and in addition to the 15-day continuance permitted in that provision, in any action subject to Section 1141.115 of the Code of Civil Procedure the parties may stipulate to a continuance not to exceed 15 days if the parties certify in the stipulation that settlement offers have been exchanged and that the parties believe that a settlement may be reached during this period.

It is the intent of the Legislature in providing this procedure that those stipulations be used by the parties to resolve cases and avoid the need for further litigation and use of court resources. It is also the intent of the Legislature that the stipulations not detract from the efforts of the courts to comply with standards of timely disposition. To this extent, the Judicial Council shall develop statistics that distinguish between cases involving, and not involving those stipulations.

This section shall remain in effect only until January 1, 2000, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2000, deletes or extends that date.

SEC. 9. Article 6.59 (commencing with Section 790.60) is added to Chapter 1 of Part 1 of Division 1 of the Insurance Code, to read:

Article 6.59. Health Care Cost Containment

790.60. (a) The charges for health care services that are incurred as a result of an injury arising from a motor vehicle accident shall not exceed the charges permissible under the schedules prepared and established by the administration of the Workers' Compensation Appeals Board for industrial accidents. If the services are not included in the schedules, the charges shall not exceed 80 percent of the provider's usual and customary charge.

(b) On or before January 1, 1997, the commissioner, after consulting with the administration of the Worker's Compensation Appeals Board, shall adopt rules and regulations implementing and coordinating the provisions of this article and the workers' compensation law with respect to charges for health services provided to persons injured in a motor vehicle accident, including the establishment of schedules for those services for which schedules have not been prepared and established by the administration of the Workers' Compensation Appeals Board.

(c) No provider of health services may demand or request any payment in addition to the charges authorized pursuant to this section. An insurer shall report to the appropriate licensing agency any patterns of overcharging, excessive treatment, or other improper actions by a health care provider within 30 days after the insurer has knowledge of those patterns.

(d) This section shall become operative January 1, 1997, except that the commissioner shall adopt rules and regulations under subdivision (b) prior to that date.

SEC. 10. Section 1871.9 is added to the Insurance Code, to read:

1871.9. (a) It is unlawful to do any of the following:

(1) Knowingly present or cause to be presented any false or fraudulent claim for the payment of a loss, including payment of a loss under a contract of insurance.

(2) Knowingly present multiple claims for the same loss or injury, including presentation of multiple claims to more than one insurer, with an intent to defraud.

(3) Knowingly cause or participate in a vehicular collision, or any other vehicular accident, for the purpose of presenting any false or fraudulent claim.

(4) Knowingly present a false or fraudulent claim for the payments of a loss for theft, destruction, damage, or conversion of a motor vehicle, a motor vehicle part, or contents of a motor vehicle.

(5) Knowingly prepare, make, or subscribe any writing, with intent to present or use the same, or to allow it to be presented in support of any false or fraudulent claim.

(6) Knowingly assist, abet, solicit, or conspire with (A) any person who knowingly presents any false or fraudulent claim for the payment of a loss, including payment of a loss under a contract of insurance; (B) any person who knowingly presents multiple claims for the same loss or injury, including presentation of multiple claims to more than one insurer, with an intent to defraud; (C) any person who knowingly causes or participates in a vehicular collision, or any other vehicular accident, for the purpose of presenting any false or fraudulent claim; and (D) any person who knowingly prepares, makes, or subscribes any writing, with the intent to present or use the same, or to allow it to be presented in support on any such claim.

(7) Knowingly make or cause to be made any false or fraudulent claim for payment of a health care benefit.

(8) Knowingly submit a claim for a health care benefit which was not used by, or on behalf of, the claimant.

(9) Knowingly present multiple claims for payment of the same health care benefit with an intent to defraud.

(10) Knowingly present for payment any undercharges for health care benefits on behalf of a specific claimant unless any known overcharges for

health care benefits for that claimant are presented for reconciliation at that same time.

(b) (1) Every person who violates paragraph (1), (2), (3), (4), (5), or (6) of subdivision (a) of this section shall be punished by imprisonment in the state prison, for two, three, or five years, or by a fine not exceeding fifty thousand dollars ($50,000), or by both, unless the value of the fraud exceeds fifty thousand dollars ($50,000), in which event the fine may not exceed the value of the fraud.

(2) Every person who violates paragraph (7), (8), (9), or (10) of subdivision (a) of this section is guilty of a public offense.

(A) Where the claim or amount at issue exceeds four hundred dollars ($400), the offense, upon conviction, is punishable by imprisonment in the state prison for two, three, or five years, or by a fine not exceeding fifty thousand dollars ($50,000), or by both, unless the value of the fraud exceeds fifty thousand dollars ($50,000), in which event the fine may not exceed the value of the fraud, or by imprisonment in a county jail not to exceed one year or a fine of not more than one thousand dollars ($1,000), or both the fine and imprisonment.

(B) Where the claim or amount at issue is four hundred dollars ($400) or less, the offense is punishable by imprisonment in a county jail not to exceed six months or a fine of not more than one thousand dollars ($1,000), or both the fine and imprisonment unless the aggregate amount of the claims or amount at issue exceeds four hundred dollars ($400) in any 12 consecutive month period, in which case those claims or amounts may be charged as in subparagraph (A).

(c) Notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution or imposition of a sentence be suspended for, any adult person convicted of felony violations of this section who has been previously convicted of felony violations of this section as an adult under charges separately brought and tried two or more times. The existence of any fact which would make a person ineligible for probation under this

subdivision shall be alleged in the information or indictment, and either admitted by the defendant in an open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

Except where the existence of that fact was not admitted or found to be true or the court finds that a prior felony conviction was invalid, the court shall not strike or dismiss any prior felony convictions alleged in the information or indictment.

This subdivision does not prohibit the adjournment of criminal proceedings pursuant to Division 3 (commencing with Section 3000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(d) Any person who violates subdivision (a) and who has a prior felony conviction of the offense set forth in that subdivision or in Section 548 of the Penal Code, shall receive a two-year enhancement for each prior felony conviction in addition to the sentence provided in subdivision (b). The existence of any fact which would subject a person to a penalty enhancement shall be alleged in the information or indictment and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

(e) This section shall not be construed to preclude the applicability of any other provision of criminal law that applies or may apply to any transaction.

(f) For any person who violates subdivision (a), if the false claim or claims involve more than one hundred thousand dollars ($100,000) in losses or potential losses, or if the claim or claims, together with all other convictions for violations of this section, involve more than one hundred thousand dollars ($100,000) in losses or potential losses, the following provisions shall apply:

(1) The person shall receive a five-year enhancement.

(2) The person shall not be granted probation except in unusual cases where the interests of justice would best be served by granting probation.

The fact that the person is subject to this subdivision shall be alleged in the accusatory pleading, and either admitted by the defendant in open court, or found to be true by the trier of fact.

SEC. 11. Section 11580.02 is added to the Insurance Code, to read:

11580.02. No policy of automobile liability insurance described in Section 16054 of the Vehicle Code covering liability arising out of the ownership, maintenance, or use of any motor vehicle shall be issued or delivered in this state unless it provides insurance against liability because of injury to or destruction of property subject to a limit of three thousand dollars ($3,000).

However, for an insured who is a good driver, as defined in Section 1861.025, who purchases the minimum personal injury liability coverage, the insurer and any named insured may, prior to or subsequent to the issuance or renewal of a policy, by agreement in writing, in a form prescribed by the commissioner, delete the provision covering liability for property damage. Notwithstanding any other provision of law, a policy for which the provision covering liability for property damage has been waived shall for all purposes satisfy the financial responsibility laws of this state.

The commissioner shall prescribe the form of an agreement to delete property damage liability coverage. The form shall disclose the potential liabilities of the insured and the hazards of not procuring property damage liability coverage.

SEC. 12. Section 11580.03 is added to the Insurance Code, to read:

11580.03. Every policy of automobile liability insurance described in Section 16054 of the Vehicle Code shall also include insurance covering insureds and occupants of an insured vehicle against medical expenses incurred as a result of injuries arising out of the operation

or use of the motor vehicle, subject to a limit of one thousand dollars ($1,000) per person.

SEC. 13. Section 11580.04 is added to the Insurance Code, to read:

11580.04. (a) Every policy of motor vehicle third-party liability insurance sold in this state shall include a provision, operative at the option of the insured, in which the insured agrees to submit any third-party claim involving property damage or a nonserious injury to binding nonjudicial arbitration. The election by the insured shall be made at the time of the policy application or renewal, and may be changed in writing at any time.

(b) Any person insured under a policy including an agreement to submit any third-party claim involving property damage or a nonserious injury to binding nonjudicial arbitration thereby agrees that any dispute between the insured and the insurer, between the insured and any person insured under a policy containing a similar agreement, or between the insured and any person willing to submit the dispute to binding arbitration, involving property damage or a nonserious bodily injury will be determined by binding nonjudicial arbitration and not by civil action.

(c) Arbitration shall be conducted pursuant to Title 9 (commencing with Section 1280) of Part 3 of the Code of Civil Procedure by a single neutral arbitrator. The following provisions shall also apply:

(1) The provisions of Sections 997, 997.1, and 997.2 of the Code of Civil Procedure shall apply to a claim being arbitrated pursuant to this section.

(2) The provisions of Section 997.5 shall apply to the arbitration.

(3) The insured shall be required to cooperate reasonably in the defense of the claim.

(4) Each party shall pay an arbitration fee of one hundred dollars ($100).

(5) The arbitration proceeding shall be set for hearing no later than 90 days after selection of the arbitrator. The arbitrator shall render the decision pursuant to the evidence and the law no later than 20 days after

completion of the hearing. Nothing in this section shall prohibit the arbitrator from making an award in excess of policy limits.

(d) Arbitration provisions contained in policies offered and sold under this section shall be fair, consistent, and impartial, and shall comply with California Rules of Court 1600 and following that are not in conflict with this section.

(e) A policy sold under this section in which the insured elects the optional provision specified in subdivision (a) shall require the policyholder to sign a disclosure statement acknowledging that (1) the policy is provided at a lower price in consideration for the requirement for the insured to resolve property damage and nonserious injury third-party claims involving the insured by binding nonjudicial arbitration, and (2) that the insured is waiving any right he or she may have to jury trial of that dispute.

(f) As used in this section, ‘‘nonserious injury’’ means a personal injury that results in a concussion of a nonpermanent nature or an impairment or injury of the musculoskeletal system of a nonpermanent nature. It includes sprains, strains, abrasions, bruises, lacerations that are not permanently disfiguring, and injuries commonly characterized in the automobile reparations system as soft tissue.

(g) This section does not apply to first-party claims.

(h) This section shall not prohibit a carrier from asserting that it is not liable under the policy under which the claim is made if, in the offer to submit the claim to arbitration, the carrier makes that assertion and has notified the claimant of the provisions of this section. The carrier’s claim that it is not liable under the policy shall be decided by the arbitrator at the same time as the underlying claim. Notwithstanding any other provision of law, the arbitrator’s decision regarding the carrier’s liability under the policy may be reviewed de novo in an action for declaratory relief on the petition of any party unless the parties have agreed in writing that the award on that issue shall be final. The petition shall be filed and

served within 30 days after the award is mailed to the parties. If a carrier fails to assert that it is not liable under a policy in its offer to submit to arbitration as required by this section, it shall be prohibited from seeking judicial review of policy coverage for a claim submitted to arbitration.

SEC. 14. Section 11580.1 of the Insurance Code is amended to read:

11580.1. (a) No policy of automobile liability insurance described in Section 16054 of the Vehicle Code covering liability arising out of the ownership, maintenance, or use of any motor vehicle shall be issued or delivered in this state on or after the effective date of this section unless it contains the provisions set forth in subdivision (b). However, none of the requirements of subdivision (b) shall apply to the insurance afforded under ~~any such~~ *that* policy (1) to the extent that ~~such~~ *the* insurance exceeds the limits specified in subdivision (a) of Section 16056 of the Vehicle Code, or (2) if ~~such~~ *the* policy contains an underlying insurance requirement, or provides for a retained limit of self-insurance, equal to or greater than the limits specified in subdivision (a) of Section 16056 of the Vehicle Code.

(b) Every policy of automobile liability insurance to which subdivision (a) applies shall contain all of the following provisions:

(1) *(A)* Coverage limits *for liability for personal injury or death* not less than the limits specified in subdivision (a) of Section 16056 of the Vehicle Code.

(B) Coverage limits for liability because of injury to or destruction of property subject to the limits specified in subdivision (a) of Section 16056 of the Vehicle Code, unless that property damage liability coverage has been waived as provided in Section 11580.02.

(C) Insurance for medical costs incurred by an insured or an occupant of an insured motor vehicle in the amount required by Section 11580.03.

(2) Designation by explicit description of, or appropriate reference to, the motor vehicles or class of motor vehicles to which coverage is specifically granted.

(3) Designation by explicit description of the purposes for which coverage for that motor vehicles is specifically excluded.

(4) Provision affording insurance to the named insured with respect to any owned or leased motor vehicle covered by ~~such~~ *that* policy, and to the same extent that insurance is afforded to the named insured, to any other person using*, or legally responsible for the use of,* ~~such~~ *the* motor vehicle, provided the use is by the named insured or with his or her permission, express or implied, and within the scope of ~~such~~ *that* permission, except that: (i) with regard to insurance afforded for the loading or unloading of ~~any such~~ *that* motor vehicle, the insurance may be limited to apply only to the named insured, a relative of the named insured who is a resident of the named insured's household, a lessee or bailee of the motor vehicle, or an employee of any ~~such person~~ *of those persons*; and (ii) the insurance afforded to any person other than the named insured need not apply to: (A) any employee with respect to bodily injury sustained by a fellow employee injured in the scope and course of his or her employment, or (B) any person, or to any agent or employee thereof, employed or otherwise engaged in the business of selling, repairing, servicing, delivering, testing, road-testing, parking, or storing automobiles with respect to any accident arising out of the maintenance or use of a motor vehicle in connection therewith. As used in this chapter, ''owned motor vehicle'' includes all motor vehicles described and rated in the policy.

(c) In addition to any exclusion as provided in paragraph (3) of subdivision (b), the insurance afforded by ~~any such~~ *that* policy of automobile liability insurance to which subdivision (a) applies, including the insurer's obligation to defend, may, by appropriate policy provision, be made inapplicable to any or all of the following:

(1) Liability assumed by the insured under contract.

(2) Liability for bodily injury or property damage caused intentionally by or at the direction of the insured.

(3) Liability imposed upon or assumed by the insured under any workers' compensation law.

(4) Liability for bodily injury to any employee of the insured arising out of and in the course of his employment.

(5) Liability for bodily injury to an insured or liability for bodily injury to an insured whenever the ultimate benefits of that indemnification accrue directly or indirectly to an insured.

(6) Liability for damage to property owned, rented to, transported by, or in the charge of, an insured. A motor vehicle operated by an insured shall be considered to be property in the charge of an insured.

(7) Liability for any bodily injury or property damage with respect to which insurance is or can be afforded under a nuclear energy liability policy.

(8) Any motor vehicle or class of motor vehicles, as described or designated in the policy, with respect to which coverage is explicitly excluded, in whole or in part.

The term ''the insured'' as used in paragraphs (1), (2), (3), and (4) shall mean only that insured under the policy against whom the particular claim is made or suit brought. The term ''an insured'' as used in paragraphs (5) and (6) shall mean any insured under the policy including those persons who would have otherwise been included within the policy's definition of an insured but, by agreement, are subject to the limitations of paragraph (1) of subdivision (d).

(d) Notwithstanding the provisions of paragraph (4) of subdivision (b), or the provisions of Article 2 (commencing with Section 16450) of Chapter 3 of Division 7, or Article 2 (commencing with Section 17150) of Chapter 1 of Division 9, of the Vehicle Code, the insurer and any named insured may, by the terms of any policy of automobile liability insurance to which subdivision (a) applies, or by a separate writing relating thereto, agree as to either or both of the following limitations, the agreement to be binding upon every insured to whom ~~such~~ *the* policy applies and upon every ~~third party~~ *third-party* claimant:

(1) That coverage and the insurer's obligation to defend under the policy shall not apply nor accrue to the benefit of any insured or any ~~third party~~ *third-party* claimant while any motor vehicle is being used or operated by a natural person or persons designated by name. These limitations shall apply to any use or operation of a motor vehicle including the negligent or alleged negligent entrustment of a motor vehicle to ~~such~~ *the* designated person or persons. The insurer shall have an obligation to defend the named insured when all of the following apply to ~~such~~ *the* designated natural person:

(A) He or she is a resident of the same household as the named insured.

(B) As a result of operating the insured motor vehicle of the named insured, he or she is jointly sued with the named insured.

(C) He or she is an insured under a separate automobile liability insurance policy issued to him or her as a named insured, which policy does not provide a defense to the named insured.

An agreement made by the insurer and any named insured more than 60 days following the inception of the policy excluding a designated person by name shall be effective from the date of the agreement and shall, with the signature of a named insured, be conclusive evidence of the validity of the agreement.

That agreement shall remain in force as long as the policy remains in force, and shall apply to any continuation, renewal, or replacement of the policy by the named insured, or reinstatement of the policy within 30 days of any lapse thereof.

(2) That with regard to any such policy issued to a named insured engaged in the business of leasing vehicles for those vehicles that are leased for a term in excess of six months, or selling, repairing, servicing, delivering, testing, road-testing, parking, or storing automobiles, coverage shall not apply to any person other than the named insured or his or her agent or employee, except to the extent that the limits of liability of any other valid and collectible insurance available to that person are not

equal to the limits of liability specified in subdivision (a) of Section 16056 of the Vehicle Code. If the policy is issued to a named insured engaged in the business of leasing vehicles, which business includes the lease of vehicles for a term in excess of six months, and the lessor includes in the lease automobile liability insurance, the terms and limits of which are not otherwise specified in the lease, the named insured shall incorporate a provision in each vehicle lease contract advising the lessee of the provisions of this subdivision and the fact that this limitation is applicable except as otherwise provided for by statute or federal law.

(e) Nothing in this section or in Section 16054 or 16450 of the Vehicle Code shall be construed to constitute a homeowner's policy, personal and residence liability policy, personal and farm liability policy, general liability policy, comprehensive personal liability policy, manufacturers' and contractors' policy, premises liability policy, special multiperil policy, or any policy or endorsement where automobile liability coverage is offered as incidental to some other basic coverage as an ''automobile liability policy'' within the meaning of Section 16054 of the Vehicle Code, or as a ''motor vehicle liability policy'' within the meaning of Section 16450 of the Vehicle Code, nor shall any provision of this section apply to a policy that provides insurance covering liability arising out of the ownership, maintenance, or use of any motor vehicle in the Republic of Mexico issued or delivered in this state by a nonadmitted Mexican insurer, notwithstanding that any such policy may provide automobile or motor vehicle liability coverage on insured premises or the ways immediately adjoining.

(f) On and after January 1, 1976, no policy of automobile liability insurance described in subdivision (a) shall be issued, amended, or renewed in this state if it contains any provision that expressly or impliedly excludes from coverage under the policy the operation or use of an insured motor vehicle by the named insured in the performance of volunteer services for a nonprofit charitable organization or governmental agency by

providing social service transportation. This subdivision shall not apply in any case in which the named insured receives any remuneration of any kind other than reimbursement for actual mileage driven in the performance of those services at a rate not to exceed the following:

(1) For the 1980–81 fiscal year, the maximum rate authorized by the State Board of Control, which shall also be known as the ‘‘base rate.’’

(2) For each fiscal year thereafter, the greater of either (A) the maximum rate authorized by the State Board of Control or (B) the base rate as adjusted by the California Consumer Price Index.

No policy of insurance issued under this section may be canceled by an insurer solely for the reason that the named insured is performing volunteer services for a nonprofit charitable organization or governmental agency consisting of providing social service transportation.

For the purposes of this section, ‘‘social service transportation’’ means transportation services provided by private nonprofit organizations or individuals to either individuals who are senior citizens or individuals or groups of individuals who have special transportation needs because of physical or mental conditions and supported in whole or in part by funding from private or public agencies.

(g) Notwithstanding the provisions of paragraph (4) of subdivision (b) of this section, or the provisions of Article 2 (commencing with Section 16450) of Chapter 3 of Division 7 of, or Article 2 (commencing with Section 17150) of Chapter 1 of Division 9 of, the Vehicle Code, a Mexican nonadmitted insurer and any named insured may, by the terms of any policy of automobile insurance for use solely in the Republic of Mexico to which subdivision (a) applies, or by a separate writing relating thereto, agree to the limitation that coverage under that policy shall not apply to any person riding in or occupying a vehicle owned by the insured or driven by another person with the permission of the insured. The

agreement shall be binding upon every insured to whom ~~any such~~ *that* policy applies and upon any ~~third party~~ *third-party* claimant.

(h) No policy of automobile insurance that provides insurance covering liability arising out of the ownership, maintenance or use of any motor vehicle solely in the Republic of Mexico issued by a nonadmitted Mexican insurance company, shall be subject to, or provide coverage for, those coverages provided in Section 11580.2.

SEC. 15. Section 11580.2 of the Insurance Code is amended to read:

11580.2. (a) (1) No policy of bodily injury liability insurance covering liability arising out of the ownership, maintenance, or use of any motor vehicle, except for policies which provide insurance in the Republic of Mexico issued or delivered in this state by nonadmitted Mexican insurers, shall be issued or delivered in this state to the owner or operator of a motor vehicle, or shall be issued or delivered by any insurer licensed in this state upon any motor vehicle then principally used or principally garaged in this state, unless the policy contains, or has added to it by endorsement, a provision with coverage limits at least equal to the limits specified in subdivision (m) and in no case less than the financial responsibility requirements specified in Section 16056 of the Vehicle Code insuring the insured, the insured's heirs or legal representative for all sums within the limits which he, she, or they, as the case may be, shall be legally entitled to recover as damages for bodily injury or wrongful death from the owner or operator of an uninsured motor vehicle. The insurer and any named insured, prior to or subsequent to the issuance or renewal of a policy, may, by agreement in writing, in the form specified in paragraph (2) or paragraph (3), (1) delete the provision covering damage caused by an uninsured motor vehicle completely, or (2) delete the coverage when a motor vehicle is operated by a natural person or persons designated by name, or (3) agree to provide the coverage in an amount less than that required by

subdivision (m) but not less than the financial responsibility requirements specified in Section 16056 of the Vehicle Code. Any of these agreements by any named insured or agreement for the amount of coverage shall be binding upon every insured to whom the policy or endorsement provisions apply while the policy is in force, and shall continue to be so binding with respect to any continuation or renewal of the policy or with respect to any other policy which extends, changes, supersedes, or replaces the policy issued to the named insured by the same insurer, or with respect to reinstatement of the policy within 30 days of any lapse thereof. A policy shall be excluded from the application of this section if the automobile liability coverage is provided only on an excess or umbrella basis. Nothing in this section shall require that uninsured motorist coverage be offered or provided in any homeowner policy, personal and residents' liability policy, comprehensive personal liability policy, manufacturers' and contractors' policy, premises liability policy, special multiperil policy, or any other policy or endorsement where automobile liability coverage is offered as incidental to some other basic coverage, notwithstanding that the policy may provide automobile or motor vehicle liability coverage on insured premises or the ways immediately adjoining.

(2) The agreement specified in paragraph (1) to delete the provision covering damage caused by an uninsured motor vehicle completely or delete the coverage when a motor vehicle is operated by a natural person or persons designated by name shall be in the following form:

"The California Insurance Code requires an insurer to provide uninsured motorists coverage in each bodily injury liability insurance policy it issues covering liability arising out of the ownership, maintenance, or use of a motor vehicle. Those provisions also permit the insurer and the applicant to delete the coverage completely or to delete the coverage when a motor vehicle is operated by a natural person or persons designated by name. Uninsured motorists coverage insures the insured, his or

her heirs, or legal representatives for all sums within the limits established by law, which the person or persons are legally entitled to recover as damages for bodily injury, including any resulting sickness, disease, or death, to the insured from the owner or operator of an uninsured motor vehicle not owned or operated by the insured or a resident of the same household. An uninsured motor vehicle includes an underinsured motor vehicle as defined in subdivision (p) of Section 11580.2 of the Insurance Code.''

The agreement may contain additional statements not in derogation of or in conflict with the foregoing. The execution of the agreement shall relieve the insurer of liability under this section while the agreement remains in effect.

(3) The agreement specified in paragraph (1) to provide coverage in an amount less than that required by subdivision (m) shall be in the following form:

''The California Insurance Code requires an insurer to provide uninsured motorists coverage in each bodily injury liability insurance policy it issues covering liability arising out of the ownership, maintenance, or use of a motor vehicle. Those provisions also permit the insurer and the applicant to agree to provide the coverage in an amount less then that required by subdivision (m) of Section 11580.2 of the Insurance Code but not less than the financial responsibility requirements. Uninsured motorists coverage insures the insured, his or her heirs, or legal representatives for all sums within the limits established by law, which the person or persons are legally entitled to recover as damages for bodily injury, including any resulting sickness, disease, or death, to the insured from the owner or operator of an uninsured motor vehicle not owned or operated by the insured or a resident of the same household. An uninsured motor vehicle includes an underinsured motor vehicle as defined in subdivision (p) of Section 11580.2 of the Insurance Code.''

The agreement may contain additional statements not in derogation of or in conflict with this paragraph.

However, it shall be presumed that an application for a policy of bodily injury liability insurance containing uninsured motorist coverage in an amount less than that required by subdivision (m), signed by the named insured and approved by the insurer, with a policy effective date after January 1, 1985, shall be a valid agreement as to the amount of uninsured motorist coverage to be provided.

(b) As used in subdivision (a), ‘‘bodily injury’’ includes sickness or disease, including death, resulting therefrom; ‘‘named insured’’ means only the individual or organization named in the declarations of the policy of motor vehicle bodily injury liability insurance referred to in subdivision (a); as used in subdivision (a) if the named insured is an individual ‘‘insured’’ means the named insured and the spouse of the named insured and, while residents of the same household, relatives of either while occupants of a motor vehicle or otherwise, heirs and any other person while in or upon or entering into or alighting from an insured motor vehicle and any person with respect to damages he or she is entitled to recover for care or loss of services because of bodily injury to which the policy provisions or endorsement apply; as used in subdivision (a), if the named insured is an entity other than an individual, ‘‘insured’’ means any person while in or upon or entering into or alighting from an insured motor vehicle and any person with respect to damages he or she is entitled to recover for care or loss of services because of bodily injury to which the policy provisions or endorsement apply. As used in this subdivision, ‘‘individual’’ shall not include persons doing business as corporations, partnerships, or associations. As used in this subdivision ‘‘insured motor vehicle’’ means the motor vehicle described in the underlying insurance policy of which the uninsured motorist endorsement or coverage is a part, a temporary substitute automobile for which liability coverage is provided in the policy or a newly acquired automobile for which liability coverage is provided in the policy if the motor vehicle is used by the named insured or with his or her permission or consent,

express or implied, and any other automobile not owned by or furnished for the regular use of the named insured or any resident of the same household, or by a natural person or persons for whom coverage has been deleted in accordance with subdivision (a) while being operated by the named insured or his or her spouse if a resident of the same household, but ‘‘insured motor vehicle’’ shall not include any automobile while used as a public or livery conveyance. As used in this section, ‘‘uninsured motor vehicle’’ means a motor vehicle with respect to the ownership, maintenance or use of which there is no bodily injury liability insurance or bond applicable at the time of the accident, or there is the applicable insurance or bond but the company writing the insurance or bond denies coverage thereunder or refuses to admit coverage thereunder except conditionally or with reservation, or an ‘‘underinsured motor vehicle’’ as defined in subdivision (p), or a motor vehicle used without the permission of the owner thereof if there is no bodily injury liability insurance or bond applicable at the time of the accident with respect to the owner or operator thereof, or the owner or operator thereof be unknown, provided that, with respect to an ‘‘uninsured motor vehicle’’ whose owner or operator is unknown:

(1) The bodily injury has arisen out of *action of the motorist that caused* physical contact ~~of the automobile with~~ *between property of that motorist and* the insured or with an automobile which the insured is occupying.

(2) The insured or someone on his or her behalf has reported the accident within 24 hours to the police department of the city where the accident occurred or, if the accident occurred in unincorporated territory then either to the sheriff of the county where the accident occurred or to the local headquarters of the California Highway Patrol, and has filed with the insurer within 30 days thereafter a statement under oath that the insured or his or her legal representative has or the insured’s heirs have a cause of action arising out of the accident for damages against a person or persons whose identity is unascertainable and set forth facts in support thereof. As

used in this section, ‘‘uninsured motor vehicle’’ shall not include a motor vehicle owned or operated by the named insured or any resident of the same household or self-insured within the meaning of the Financial Responsibility Law of the state in which the motor vehicle is registered or which is owned by the United States of America, Canada, a state or political subdivision of any such government or an agency of any of the foregoing, or a land motor vehicle or trailer while located for use as a residence or premises and not as a vehicle, or any equipment or vehicle designed or modified for use primarily off public roads, except while actually upon public roads.

As used in this section, ‘‘uninsured motor vehicle’’ also means an insured motor vehicle where the liability insurer thereof is unable to make payment with respect to the legal liability of its insured within the limits specified therein because of insolvency. An insurer’s solvency protection shall be applicable only to accidents occurring during a policy period in which its insured’s motor vehicle coverage is in effect where the liability insurer of the tortfeasor becomes insolvent within one year of the accident. In the event of payment to any person under the coverage required by this section and subject to the terms and conditions of the coverage, the insurer making the payment, shall to the extent thereof, be entitled to any proceeds which may be recoverable from the assets of the insolvent insurer through any settlement or judgment of the person against the insolvent insurer.

Nothing in this section is intended to exclude from the definition of an uninsured motor vehicle any motorcycle or private passenger type four wheel drive motor vehicle if that vehicle was subject to and failed to comply with the Financial Responsibility Law of this state.

(c) The insurance coverage provided for in this section does not apply either as primary or as excess coverage:

(1) To property damage sustained by the insured.

(2) To bodily injury of the insured while in or upon or while entering into or alighting from a motor vehicle other than the described motor vehicle if the owner thereof has insurance similar to that provided in this section.

(3) To bodily injury of the insured with respect to which the insured or his or her representative shall, without the written consent of the insurer, make any settlement with or prosecute to judgment any action against any person who may be legally liable therefor.

(4) In any instance where it would inure directly or indirectly to the benefit of any workers' compensation carrier or to any person qualified as a self-insurer under any workers' compensation law, or directly to the benefit of the United States, or any state or any political subdivision thereof.

(5) To establish proof of financial responsibility as provided in subdivisions (a), (b), and (c) of Section 16054 of the Vehicle Code.

(6) To bodily injury of the insured while occupying a motor vehicle owned by an insured or leased to an insured under a written contract for a period of six months or longer, unless the occupied vehicle is an insured motor vehicle. ''Motor vehicle'' as used in this paragraph means any self-propelled vehicle.

(7) To bodily injury of the insured when struck by a vehicle owned by an insured.

(8) To bodily injury of the insured while occupying a motor vehicle rented or leased to the insured for public or livery purposes.

(d) Subject to paragraph (2) of subdivision (c), the policy or endorsement may provide that if the insured has insurance available to the insured under more than one uninsured motorist coverage provision, any damages shall not be deemed to exceed the higher of the applicable limits of the respective coverages, and the damages shall be prorated between the applicable coverages as the limits of each coverage bear to the total of the limits.

(e) The policy or endorsement added thereto may provide that if the insured has valid and collectible automobile medical payment insurance available to him or her, the damages which the insured shall be entitled to recover from the owner or operator of an uninsured motor vehicle shall be reduced for purposes of uninsured motorist coverage by the amounts paid or due to be paid under the automobile medical payment insurance.

(f) The policy or an endorsement added thereto shall provide that the determination as to whether the insured shall be legally entitled to recover damages, and if so entitled, the amount thereof, shall be made by agreement between the insured and the insurer or, in the event of disagreement, by arbitration. The arbitration shall be conducted by a single neutral arbitrator. An award or a judgment confirming an award shall not be conclusive on any party in any action or proceeding between (i) the insured, his or her insurer, his or her legal representative, or his or her heirs and (ii) the uninsured motorist to recover damages arising out of the accident upon which the award is based. If the insured has or may have rights to benefits, other than nonoccupational disability benefits, under any workers' compensation law, the arbitrator shall not proceed with the arbitration until the insured's physical condition is stationary and ratable. In those cases in which the insured claims a permanent disability, the claims shall, unless good cause be shown, be adjudicated by award or settled by compromise and release before the arbitration may proceed. Any demand or petition for arbitration shall contain a declaration, under penalty of perjury, stating whether (i) the insured has a workers' compensation claim; (ii) the claim has proceeded to findings and award or settlement on all issues reasonably contemplated to be determined in that claim; and (iii) if not, what reasons amounting to good cause are grounds for the arbitration to proceed immediately. The arbitration shall be deemed to be a proceeding and the hearing before the arbitrator shall be deemed to be the trial of an issue therein for purposes of issuance of a subpoena by an attorney of a party to the

arbitration under Section 1985 of the Code of Civil Procedure. Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure shall be applicable to these determinations, and all rights, remedies, obligations, liabilities and procedures set forth in Article 3 shall be available to both the insured and the insurer at any time after the accident, both before and after the commencement of arbitration, if any, with the following limitations:

(1) Whenever in Article 3, reference is made to the court in which the action is pending, or provision is made for application to the court or obtaining leave of court or approval by the court, the court which shall have jurisdiction for the purposes of this section shall be the superior court of the State of California, in and for any county which is a proper county for the filing of a suit for bodily injury arising out of the accident, against the uninsured motorist, or any county specified in the policy or an endorsement added thereto as a proper county for arbitration or action thereon.

(2) Any proper court to which application is first made by either the insured or the insurer under Article 3 for any discovery or other relief or remedy, shall thereafter be the only court to which either of the parties shall make any applications under Article 3 with respect to the same accident, subject, however, to the right of the court to grant a change of venue after a hearing upon notice, upon any of the grounds upon which change of venue might be granted in an action filed in the superior court.

(3) A deposition pursuant to Section 2016 of the Code of Civil Procedure may be taken without leave of court, except that leave of court, granted with or without notice and for good cause shown, must be obtained if the notice of the taking of the deposition is served by either party within 20 days after the accident.

(4) Paragraph (4) of subdivision (a) of Section 2019 of the Code of Civil Procedure is not applicable to discovery under this section.

(5) For the purposes of discovery under this section, the insured and the insurer shall each be deemed to be ‘‘a

party to the record of any civil action or proceedings,'' where that phrase is used in paragraph (2) of subdivision (b) of Section 2019 of the Code of Civil Procedure.

(6) Interrogatories under Section 2030 of the Code of Civil Procedure and requests for admission under Section 2033 of the Code of Civil Procedure may be served by either the insured or the insurer upon the other at any time more than 20 days after the accident without leave of court.

(7) Nothing in this section limits the rights of any party to discovery in any action pending or which may hereafter be pending in any court.

(g) The insurer paying a claim under an uninsured motorist endorsement or coverage shall be entitled to be subrogated to the rights of the insured to whom the claim was paid against any person legally liable for the injury or death to the extent that payment was made. The action may be brought within three years from the date that payment was made hereunder.

(h) An insured entitled to recovery under the uninsured motorist endorsement or coverage shall be reimbursed within the conditions stated herein without being required to sign any release or waiver of rights to which he or she may be entitled under any other insurance coverage applicable; nor shall payment under this section to the insured be delayed or made contingent upon the decisions as to liability or distribution of loss costs under other bodily injury liability insurance or any bond applicable to the accident. Any loss payable under the terms of the uninsured motorist endorsement or coverage to or for any person may be reduced:

(1) By the amount paid and the present value of all amounts payable to him or her, his or her executor, administrator, heirs, or legal representative under any workers' compensation law, exclusive of nonoccupational disability benefits.

(2) By the amount the insured is entitled to recover from any other person insured under the underlying liability insurance policy of which the uninsured motorist endorsement or coverage is a part, including any amounts

tendered to the insured as advance payment on behalf of the other person by the insurer providing the underlying liability insurance.

(i) No cause of action shall accrue to the insured under any policy or endorsement provision issued pursuant to this section unless one of the following actions have been taken within one year from the date of the accident:

(1) Suit for bodily injury has been filed against the uninsured motorist, in a court of competent jurisdiction.

(2) Agreement as to the amount due under the policy has been concluded.

(3) The insured has formally instituted arbitration proceedings.

(j) Notwithstanding subdivisions (b) and (i), in the event the accident occurs in any other state or foreign jurisdiction to which coverage is extended under the policy and the insurer of the tortfeasor becomes insolvent, any action authorized pursuant to this section may be maintained within three months of the insolvency of the tortfeasor's insurer, but in no event later than the pertinent period of limitation of the jurisdiction in which the accident occurred.

(k) Notwithstanding subdivision (i), any insurer whose insured has made a claim under his or her uninsured motorist coverage, and the claim is pending, shall, at least 30 days before the expiration of the applicable statute of limitation, notify its insured in writing of the statute of limitation applicable to the injury or death. Failure of the insurer to provide the written notice shall operate to toll any applicable statute of limitation or other time limitation for a period of 30 days from the date the written notice is actually given. The notice shall not be required if the insurer has received notice that the insured is represented by an attorney.

(*l*) As used in subdivision (b), ''public or livery conveyance,'' or terms of similar import, shall not include the operation or use of a motor vehicle by the named insured in the performance of volunteer services for a nonprofit charitable organization or governmental agency by providing social service transportation as

defined in subdivision (f) of Section 11580.1. This subdivision shall apply only to policies of insurance issued, amended, or renewed on or after January 1, 1976.

(m) Coverage provided under an uninsured motorist endorsement or coverage shall be offered with coverage limits equal to the limits of liability for bodily injury in the underlying policy of insurance, but shall not be required to be offered with limits in excess of the following amounts:

(1) A limit of thirty thousand dollars ($30,000) because of bodily injury to or death of one person in any one accident.

(2) Subject to the limit for one person set forth in paragraph (1), a limit of sixty thousand dollars ($60,000) because of bodily injury to or death of two or more persons in any one accident.

(n) Underinsured motorist coverage shall be offered with limits equal to the limits of liability for the insured's uninsured motorist limits in the underlying policy, and may be offered with limits in excess of the uninsured motorist coverage. For the purposes of this section, uninsured and underinsured motorist coverage shall be offered as a single coverage. However, an insurer may offer coverage for damages for bodily injury or wrongful death from the owner or operator of an underinsured motor vehicle at greater limits than an uninsured motor vehicle.

(o) If an insured has failed to provide an insurer with wage loss information or medical treatment record releases within 15 days of the insurer's request or has failed to submit to a medical examination arranged by the insurer within 20 days of the insurer's request, the insurer may, at any time prior to 30 days before the actual arbitration proceedings commence, request, and the insured shall furnish, wage loss information or medical treatment record releases, and the insurer may require the insured, except during periods of hospitalization, to make himself or herself available for a medical examination. The wage loss information or medical treatment record releases shall be submitted by the

insured within 10 days of request and the medical examination shall be arranged by the insurer no sooner than 10 days after request, unless the insured agrees to an earlier examination date, and not later than 20 days after the request. If the insured fails to comply with the requirements of this subdivision, the actual arbitration proceedings shall be stayed for at least 30 days following compliance by the insured. The proceedings shall be scheduled as soon as practicable following expiration of the 30-day period.

(p) This subdivision applies only when bodily injury, as defined in subdivision (b), is caused by an underinsured motor vehicle. If the provisions of this subdivision conflict with subdivisions (a) through (o), the provisions of this subdivision shall prevail.

(1) As used in this subdivision, ‘‘an insured motor vehicle’’ is one that is insured under a motor vehicle liability policy, or automobile liability insurance policy, self-insured, or for which a cash deposit or bond has been posted to satisfy a financial responsibility law.

(2) ‘‘Underinsured motor vehicle’’ means a motor vehicle that is an insured motor vehicle but insured for an amount that is less than the uninsured motorist limits carried on the motor vehicle of the injured person.

(3) This coverage does not apply to any bodily injury until the limits of bodily injury liability policies applicable to all insured motor vehicles causing the injury have been exhausted by payment of judgments or settlements, and proof of the payment is submitted to the insurer providing the underinsured motorist coverage.

(4) When bodily injury is caused by one or more motor vehicles, whether insured, underinsured, or uninsured, the maximum liability of the insurer providing the underinsured motorist coverage shall not exceed the insured’s underinsured motorist coverage limits, less the amount paid to the insured by or for any person or organization that may be held legally liable for the injury.

(5) The insurer paying a claim under this subdivision shall, to the extent of the payment, be entitled to reimbursement or credit in the amount received by the

insured from the owner or operator of the underinsured motor vehicle or the insurer of the owner or operator.

(6) If the insured brings an action against the owner or operator of an underinsured motor vehicle, he or she shall forthwith give to the insurer providing the underinsured motorist coverage a copy of the complaint by personal service or certified mail. All pleadings and depositions shall be made available for copying or copies furnished the insurer, at the insurer's expense, within a reasonable time.

(7) Underinsured motorist coverage shall be included in all policies of bodily injury liability insurance providing uninsured motorist coverage issued or renewed on or after July 1, 1985. Notwithstanding this section, an agreement to delete uninsured motorist coverage completely, or with respect to a person or persons designated by name, executed prior to July 1, 1985, shall remain in full force and effect.

(q) Regardless of the number of vehicles involved whether insured or not, persons covered, claims made, premiums paid or the number of premiums shown on the policy, in no event shall the limit of liability for two or more motor vehicles or two or more policies be added together, combined, or stacked to determine the limit of insurance coverage available to injured persons.

SEC. 16. Section 11580.7 is added to the Insurance Code, to read:

11580.7. (a) Any policy of automobile insurance or motor vehicle insurance issued or renewed in this state on or after July 1, 1996, may contain provisions requiring insureds to obtain any repair of vehicular damage occurring in this state that is a repairable loss, and for which there is liability, collision, comprehensive, or other coverage under the policy, at a facility under contract to the insurer pursuant to subdivision (b). Whenever ~~such a~~ *that* claim is allowed, the insurer shall refer the claimant to three or more of these repair facilities within reasonable proximity where the claimant requests that the repairs be performed. If the claimant elects to not repair the vehicle at one of the referral facilities, any

monetary benefit or compensation paid under the policy shall be limited to the cost of repairs at a facility under contract to the insurer pursuant to subdivision (b). If the insurer is not able to provide the required referrals, the policy requirements requiring repairs at a referral facility shall not apply.

(b) Each insurer that issues policies subject to this section shall contract with sufficient numbers of motor vehicle repair facilities throughout the state to allow referrals as required by subdivision (a). Discounts or other reductions in prices authorized by these contracts are not prohibited by subdivision (a) of Section 754 in accordance with paragraph (1) thereof.

(c) An insured's liability to another person for a repairable loss subject to this section shall not exceed the insurer's liability.

(d) ''Repairable loss,'' as used in this section, does not include a loss which exceeds the value of the vehicle to be repaired.

(e) It is the intent of the Legislature in enacting this section to help control the high cost of automobile and motor vehicle insurance by providing a means for insurers to hold down repair costs.

SEC. 17. Section 11580.71 is added to the Insurance Code, to read:

11580.71. Every insurer issuing policies of automobile or motor vehicle insurance that refers claimants to automotive body or repair shops for repairs shall develop a plan to assure that the repairs were completed properly and within a reasonable time. The insurer shall submit the plan to the commissioner by July 1, 1996, and at least every three years thereafter.

SEC. 18. Section 550 of the Penal Code is amended to read:

550. (a) It is unlawful to do any of the following:

(1) Knowingly present or cause to be presented any false or fraudulent claim for the payment of a loss, including payment of a loss under a contract of insurance.

(2) Knowingly present multiple claims for the same loss or injury, including presentation of multiple claims to more than one insurer, with an intent to defraud.

(3) Knowingly cause or participate in a vehicular collision, or any other vehicular accident, for the purpose of presenting any false or fraudulent claim.

(4) Knowingly present a false or fraudulent claim for the payments of a loss for theft, destruction, damage, or conversion of a motor vehicle, a motor vehicle part, or contents of a motor vehicle.

(5) Knowingly prepare, make, or subscribe any writing, with the intent to present or use it, or to allow it to be presented in support of any false or fraudulent claim.

(6) Knowingly assist, abet, solicit, or conspire with any person described as follows:

(A) Any person who knowingly presents any false or fraudulent claim for the payment of a loss, including payment of a loss under a contract of insurance.

(B) Any person who knowingly presents multiple claims for the same loss or injury, including presentation of multiple claims to more than one insurer, with an intent to defraud.

(C) Any person who knowingly causes or participates in a vehicular collision, or any other vehicular accident, for the purpose of presenting any false or fraudulent claim.

(D) Any person who knowingly prepares, makes, or subscribes any writing, with the intent to present or use it, or to allow it to be presented in support on any claim.

(7) Knowingly make or cause to be made any false or fraudulent claim for payment of a health care benefit.

(8) Knowingly submit a claim for a health care benefit which was not used by, or on behalf of, the claimant.

(9) Knowingly present multiple claims for payment of the same health care benefit with an intent to defraud.

(10) Knowingly present for payment any undercharges for health care benefits on behalf of a specific claimant unless any known overcharges for

health care benefits for that claimant are presented for reconciliation at that same time.

~~(11) For purposes of paragraphs (7) to (10), inclusive, a claim or a claim for payment of a health care benefit also means a claim or claim for payment submitted by or on the behalf of a provider of any workers' compensation health benefits under the Labor Code.~~

(b) (1) Every person who violates paragraph (1), (2), (3), (4), (5), or (6) of subdivision (a) shall be punished by imprisonment in the state prison for two, three, or five years, or by a fine not exceeding fifty thousand dollars ($50,000), or by both that imprisonment and fine, unless the value of the fraud is fifty thousand dollars ($50,000) or more. Whenever the value of the fraud is fifty thousand dollars ($50,000) or more, the fine may be double the amount of the value of the fraud.

(2) Every person who violates paragraph (7), (8), (9), or (10) of subdivision (a) is guilty of a public offense.

(A) Where the claim or amount at issue exceeds four hundred dollars ($400), the offense is punishable by imprisonment in the state prison for two, three, or five years, by a fine not exceeding fifty thousand dollars ($50,000), or by both that imprisonment and fine, unless the value of the fraud exceeds fifty thousand dollars ($50,000), in which event the fine may not exceed the value of the fraud, or by imprisonment in a county jail not to exceed one year, by a fine of not more than one thousand dollars ($1,000), or by both that imprisonment and fine.

(B) Where the claim or amount at issue is four hundred dollars ($400) or less, the offense is punishable by imprisonment in a county jail not to exceed six months, by a fine of not more than one thousand dollars ($1,000), or by both that imprisonment and fine unless the aggregate amount of the claims or amount at issue exceeds four hundred dollars ($400) in any 12 consecutive month period, in which case the claims or amounts may be charged as in subparagraph (A).

(c) Notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution

or imposition of a sentence be suspended for, any adult person convicted of felony violations of this section who previously has been convicted of felony violations of this section as an adult under charges separately brought and tried two or more times. The existence of any fact which would make a person ineligible for probation under this subdivision shall be alleged in the information or indictment, and either admitted by the defendant in an open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

Except where the existence of the fact was not admitted or found to be true or the court finds that a prior felony conviction was invalid, the court shall not strike or dismiss any prior felony convictions alleged in the information or indictment.

This subdivision shall not prohibit the adjournment of criminal proceedings pursuant to Division 3 (commencing with Section 3000) of, or Division 6 (commencing with Section 6000) of, the Welfare and Institutions Code.

(d) Any person who violates subdivision (a) and who has a prior felony conviction of the offense set forth in that subdivision or in Section 548 shall receive a two-year enhancement for each prior felony conviction in addition to the sentence provided in subdivision (b). The existence of any fact which would subject a person to a penalty enhancement shall be alleged in the information or indictment and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

(e) This section shall not be construed to preclude the applicability of any other provision of criminal law that applies or may apply to any transaction.

(f) For any person who violates subdivision (a), if the false claim or claims involves more than one hundred thousand dollars ($100,000) in losses or potential losses, or

if the claim or claims, together with all other convictions for violations of this section involve more than one hundred thousand dollars ($100,000) in losses or potential losses, the following provisions shall apply:

(1) The person shall receive a five-year enhancement.

(2) The person shall not be granted probation except in unusual cases where the interest of justice would best be served by granting probation.

The fact that the person is subject to this subdivision shall be alleged in the accusatory pleading, and either admitted by the defendant in open court, or found to be true by the trier of fact.

SEC. 19. Section 4750.3 is added to the Vehicle Code, to read:

4750.3. Unless the department has received evidence of financial responsibility that shows that the motor vehicle is covered by a motor vehicle liability policy or an automobile liability policy that satisfies the financial responsibility requirements, the department shall refuse registration or renewal of registration of a motor vehicle on which registration fees are due. For purposes of this subdivision, evidence of financial responsibility is a copy or facsimile copy of any one of the following:

(1) A motor vehicle liability policy or an automobile liability policy for the motor vehicle.

(2) An insurance covering note for the motor vehicle, as specified in Section 382 of the Insurance Code.

(3) A certificate of self-insurance.

(4) A surety bond meeting the requirements of Section 16056.

(5) A certificate or deposit number of a cash deposit meeting the requirements of Section 16054.2.

(6) An insurance identification form or card evidencing coverage at the time of vehicle registration, in a manner determined by the department.

SEC. 20. Section 12810 of the Vehicle Code is amended to read:

12810. In determining the violation point count, the following shall apply:

(a) Any conviction of failure to stop in the event of an accident in violation of Section 20001 or 20002 shall be given a value of two points.

(b) Any conviction of a violation of Section 23152 or 23153 shall be given a value of two points.

(c) Any conviction of reckless driving shall be given a value of two points.

(d) (1) Any conviction of a violation of subdivision (c) of Section 192 of the Penal Code, or of Section 2800.2 or 2800.3, subdivision (b) of Section 21651, subdivision (b) of Section 22348, subdivision (a) of Section 23109, subdivision (c) of Section 23109, or Section 31602 of this code, shall be given a value of two points.

(2) Any conviction of a violation of subdivision (a) or (b) of Section 23140 shall be given a value of two points.

(e) Except as provided in subdivision (g), any other traffic conviction involving the safe operation of a motor vehicle upon the highway shall be given a value of one point.

(f) Any accident in which the operator is deemed by the department to be responsible shall be given a value of one point.

(g) (1) A violation of paragraph (1), (2), (3), or (5) of subdivision (b) of Section 40001 shall not result in a violation point count being given to the driver if the driver is not the owner of the vehicle.

(2) Any conviction of a violation of subdivision (a) of Section 21116, Section 21207.5, 21708, 21710, 21716, 23120, 24800, ~~or~~ 26707*, or 27315* shall not be given a violation point count.

(3) A violation of Section 23136 shall not result in a violation point count.

(h) A conviction for only one violation arising from one occasion of arrest or citation shall be counted in determining the violation point count for the purposes of this section.

(i) Any conviction of a violation of Section 14601, 14601.1, 14601.2, or 14601.3 shall be given a value of two points.

(j) Any conviction of a violation of Section 27360 within a 37-month period shall be given a value of one point.

SEC. 21. Section 16006 is added to the Vehicle Code, to read:

16006. (a) Every person required to make a report to the department by this chapter shall, at the same time that report is required, make a report of the accident to his or her insurer providing liability insurance.

(b) The report shall include the following information to the extent known to the person making the report:

(1) The names and addresses of the persons involved in the accident.

(2) The vehicle registration numbers of the involved vehicles.

(3) The date, time, and location of the accident.

(4) A general description of the circumstance of the accident, and of any injuries or damage, including injury or damage to the insured.

(c) In lieu of the report required by subdivision (b), the insured may send the insurer a copy of the SR-1 report filed with the department.

(d) (1) Except for good cause shown, a person injured in an accident originating from the operation of a motor vehicle on any street or highway, or any off-highway accident reportable under Section 16000.1, shall notify any insurer, that issued an automobile insurance policy believed to cover any third-party bodily injury claim arising from the accident, of the accident and potential claim within 10 days of discovery of the injury.

(2) The failure of an injured party to provide the notice required by paragraph (1) may be introduced at the court's discretion under Section 352 of the Evidence Code to contest the necessity of medical services provided to the injured party.

(3) As used in this section, ''good cause'' includes, but is not limited to, situations in which the injured person was mentally or physically incapacitated following the accident or was provided incorrect or no insurance information by other participants in the accident.

(e) The department shall advise motorists of the requirements of this section in its ‘‘Driver Information Handbook’’ and in its annual notice for vehicle registration and shall test for knowledge of this section in its testing of applicants for a new or renewed driver’s license.

(f) This section shall become operative January 1, 1997, except that the department shall commence to advise motorists under subdivision (e) no later than July 1, 1996.

SEC. 22. Section 16056 of the Vehicle Code is amended to read:

16056. (a) No policy or bond shall be effective under Section 16054 unless issued by an insurance company or surety company authorized to do business in this state, except as provided in subdivision (b) of this section, nor unless the policy or bond is subject, if the accident has resulted in bodily injury or death, to a limit, exclusive of interest and costs, of not less than ~~fifteen~~ *ten* thousand dollars ~~($15,000)~~ *($10,000)* because of bodily injury to or death of one person in any one accident and, subject to ~~such~~ *that* limit for one person, to a limit of not less than ~~thirty~~ *twenty* thousand dollars ~~($30,000)~~ *($20,000)* because of bodily injury to or death of two or more persons in any one accident, and, if the accident has resulted in injury to, or destruction of property, to a limit of not less than ~~five~~ *three* thousand dollars ~~($5,000)~~ *($3,000)* because of injury to or destruction of property of others in any one accident. *However, the property damage liability requirements of this section do not apply if that coverage has been waived under Section 11580.02 of the Insurance Code.*

(b) No policy or bond shall be effective under Section 16054 with respect to any vehicle which was not registered in this state or was a vehicle which was registered elsewhere than in this state at the effective date of the policy or bond or the most recent renewal thereof, unless the insurance company or surety company issuing the policy or bond is authorized to do business in this state, or if the company is not authorized to do business in this state, unless it executes a power of

attorney authorizing the department to accept service on its behalf of notice or process in any action upon the policy or bond arising out of an accident mentioned in subdivision (a).

SEC. 23. Section 16377 of the Vehicle Code is amended to read:

16377. Every judgment shall for the purposes of this chapter be deemed satisfied:

(a) When ~~fifteen~~ *ten* thousand dollars ~~($15,000)~~ *($10,000)* has been credited, upon any judgment in excess of that amount, or upon all judgments, collectively, which together total in excess of that amount, for personal injury to or death of one person as a result of any one accident.

(b) When, subject to the limit of ~~fifteen~~ *ten* thousand dollars ~~($15,000)~~ *($10,000)* as to one person, the sum of ~~thirty~~ *twenty* thousand dollars ~~($30,000)~~ *($20,000)* has been credited, upon any judgment in excess of that amount, or upon all judgments, collectively, which together total in excess of that amount, for personal injury to or death of more than one person as a result of any one accident.

(c) When ~~five~~ *three* thousand dollars ~~($5,000)~~ *($3,000)* has been credited, upon any judgment in excess of that amount, or upon all judgments, collectively, each of which is in excess of five hundred dollars ($500), and which together total in excess of ~~five~~ *three* thousand dollars ~~($5,000)~~ *($3,000)*, for damage to property of others as a result of any one accident.

(d) When the judgment debtor or a person designated by him has deposited with the department a sum equal to the amount of the unsatisfied judgment for which the suspension action was taken and presents proof, satisfactory to the department, of inability to locate the judgment creditor.

SEC. 24. Section 16430 of the Vehicle Code is amended to read:

16430. Proof of financial responsibility when required by this code means proof of financial responsibility resulting from the ownership or operation of a motor vehicle and arising by reason of personal injury to, or

death of, any one person, of at least ~~fifteen~~ *ten* thousand dollars ~~($15,000)~~ *($10,000)*, and, subject to the limit of ~~fifteen~~ *ten* thousand dollars ~~($15,000)~~ *($10,000)* for each person injured or killed, of at least ~~thirty~~ *twenty* thousand dollars ~~($30,000)~~ *($20,000)* for the injury to, or the death of, two or more persons in any one accident, and for damages to property (in excess of five hundred dollars ($500)), of at least ~~five~~ *three* thousand dollars ~~($5,000)~~ *($3,000)* resulting from any one accident. Proof of financial responsibility may be given in any manner authorized in this chapter. *However, the property damage liability requirements of this section do not apply if that coverage has been waived under Section 11580.02 of the Insurance Code, and such a policy shall constitute proof of financial responsibility for all purposes, notwithstanding that waiver.*

SEC. 25. Section 16451 of the Vehicle Code is amended to read:

16451. An owner's policy of motor vehicle liability insurance shall insure the named insured and any other person using any motor vehicle registered to the named insured with the express or implied permission of the named insured, against loss from the liability imposed by law for damages arising out of ownership, maintenance, or use of the motor vehicle within the continental limits of the United States to the extent and aggregate amount, exclusive of interest and costs, with respect to each motor vehicle, of ~~fifteen~~ *ten* thousand dollars ~~($15,000)~~ *($10,000)* for bodily injury to or death of each person as a result of any one accident and, subject to the limit as to one person, the amount of ~~thirty~~ *twenty* thousand dollars ~~($30,000)~~ *($20,000)* for bodily injury to or death of all persons as a result of any one accident and ~~the amount of five thousand dollars ($5,000)~~*, unless waived pursuant to Section 11580.02 of the Insurance Code, the amount of three thousand dollars ($3,000)* for damage to property of others as a result of any one accident.

SEC. 26. Section 17151 of the Vehicle Code is amended to read:

17151. (a) The liability of an owner, bailee of an owner, or personal representative of a decedent imposed by this chapter and not arising through the relationship of principal and agent or master and servant is limited to the amount of ~~fifteen~~ *ten* thousand dollars ~~($15,000)~~ *($10,000)* for the death of or injury to one person in any one accident and, subject to the limit as to one person, is limited to the amount of ~~thirty~~ *twenty* thousand dollars ~~($30,000)~~ *($20,000)* for the death of or injury to more than one person in any one accident and is limited to the amount of ~~five~~ *three* thousand dollars ~~($5,000)~~ *($3,000)* for damage to property of others in any one accident.

(b) An owner, bailee of an owner, or personal representative of a decedent is not liable under this chapter for damages imposed for the sake of example and by way of punishing the operator of the vehicle. Nothing in this subdivision makes an owner, bailee, or personal representative immune from liability for damages imposed for the sake of example and by way of punishing him for his own wrongful conduct.

SEC. 27. Section 17709 of the Vehicle Code is amended to read:

17709. (a) No person, or group of persons collectively, shall incur liability for a minor's negligent or wrongful act or omission under Sections 17707 and 17708 in any amount exceeding ~~fifteen~~ *ten* thousand dollars ~~($15,000)~~ *($10,000)* for injury to or death of one person as a result of any one accident or, subject to the limit as to one person, exceeding ~~thirty~~ *twenty* thousand dollars ~~($30,000)~~ *($20,000)* for injury to or death of all persons as a result of any one accident or exceeding ~~five~~ *three* thousand dollars ~~($5,000)~~ *($3,000)* for damage to property of others as a result of any one accident.

(b) No person is liable under Section 17707 or 17708 for damages imposed for the sake of example and by way of punishing the minor. Nothing in this subdivision makes any person immune from liability for damages imposed for the sake of example and by way of punishing him for his own wrongful conduct.

SEC. 28. Section 20002 of the Vehicle Code is amended to read:

20002. (a) The driver of any vehicle involved in an accident resulting in damage to any property, including vehicles, shall immediately stop the vehicle at the scene of the accident and ~~do either~~ *shall then and there do one* of the following:

(1) Locate and notify the owner or person in charge of that property of the name and address of the driver and owner of the vehicle involved and, upon locating the driver of any other vehicle involved or the owner or person in charge of any damaged property, ~~upon being requested,~~ present his or her driver's license, ~~and~~ vehicle registration, *and evidence of financial responsibility as specified in subparagraph (B) of paragraph (2)* to the other driver, property owner, or person in charge of that property. The information presented shall include the current residence address of the driver and of the registered owner. If the registered owner of an involved vehicle is present at the scene, he or she shall also, upon request, present his or her driver's license information, if available, or other valid identification to the other *involved parties, and evidence of financial responsibility to the other* involved parties.

(2) *If a traffic or police officer is present at the scene of an accident and a police report is made, each driver involved in the accident shall, unless rendered incapable, exchange with any other driver or property owner involved in the accident and present at the scene, all of the following information:*

(A) Driver's name and current residence address, driver's license number, vehicle identification number, and name and current residence address of registered owner.

(B) Evidence of financial responsibility, as specified in Section 16021. If the financial responsibility of a person is a form of insurance, then that person shall, unless rendered incapable, supply the name and address of the insurance company.

(3) Leave in a conspicuous place on the vehicle or other property damaged a written notice giving the name and address of the driver and of the owner of the vehicle involved and a statement of the circumstances thereof and shall without unnecessary delay notify the police department of the city wherein the collision occurred or, if the collision occurred in unincorporated territory, the local headquarters of the Department of the California Highway Patrol.

(b) Any person who parks a vehicle which, prior to the vehicle again being driven, becomes a runaway vehicle and is involved in an accident resulting in damage to any property, attended or unattended, shall comply with the requirements of this section relating to notification and reporting and shall, upon conviction thereof, be liable to the penalties of this section for failure to comply with the requirements.

(c) *(1)* Any person *willfully* failing to comply with all the requirements of ~~this section~~ *paragraph (1) or (3) of subdivision (a), or subdivision (b)* is guilty of a misdemeanor and, upon conviction thereof, shall be punished by imprisonment in ~~the~~ *a* county jail *for* not ~~exceeding~~ *to exceed* six months, or by a fine not exceeding one thousand dollars ($1,000), or by both.

(2) Any person who willfully fails to comply with the requirements of paragraph (2) of subdivision (a) shall be guilty of an infraction punishable by a fine not to exceed two hundred fifty dollars ($250).

(d) The department shall advise motorists of the requirements of this section in its "Driver Information Handbook" and its annual notice for vehicle registration and shall test for knowledge of this section in its testing of applicants for a new or renewed driver's license.

SEC. 29. Section 20003 of the Vehicle Code is amended to read:

20003. (a) The driver of any vehicle involved in an accident resulting in injury to or death of any person shall also give his or her name, current residence address, the registration number of the vehicle he or she is driving, and the name and current residence address of the

registered owner *of the vehicle, evidence of financial responsibility as specified in Section 16021,* to the person struck or the driver or occupants of any vehicle ~~collided with, and~~ *involved in the vehicle collision. The driver also* shall give the information to any traffic or police officer at the scene of the accident~~. The driver also~~ *and* shall render to any person injured in the accident reasonable assistance, including transporting, or making arrangements for transporting~~,~~ that person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that treatment is necessary or if that transportation is requested by the injured person.

(b) Any driver subject to the provisions of subdivision (a) shall also~~, upon being requested,~~ exhibit his or her driver's license, if available, to the person struck or to the driver or occupants of any vehicle collided with, and to any traffic or police officer at the scene of the accident.

(c) Any person willfully failing to comply with all of the requirements of subdivision (a) or subdivision (b) is guilty of a misdemeanor and, upon conviction, shall be punished by imprisonment in a county jail for not to exceed six months or by a fine of not to exceed one thousand dollars ($1,000), or by both.

(d) The department shall advise motorists of the requirements of this section in its "Driver Information Handbook" and its annual notice for vehicle registration and shall test for knowledge of this section in its testing of applicants for a new or renewed driver's license.

SEC. 30. (a) The Legislature finds and declares that the reforms made by this act will result in substantial savings and reduced costs for private passenger automobile insurance. More particularly, the Legislature finds that this act, and the enactment of related provisions to prevent insurance fraud and enhance vehicle safety, will make it more affordable for all Californians to purchase required insurance coverage.

(b) It is the intent of the Legislature that the reforms provided by this bill shall:

(1) Result in the availability to good drivers in all areas of the state of a policy providing the minimum required

insurance at a price of less than four hundred fifty dollars ($450) if property damage liability coverage is included, and less than three hundred fifty dollars ($350) if property damage liability coverage is waived, as set by the Insurance Commissioner in between five and eight territories. If the commissioner determines that the target price is not achievable as desired in between five and eight territories, he or she may select a lower number of territories in which to set the price. Savings flowing from the enactment of measures in the 1995–96 Regular Session shall be considered by the commissioner in setting the price of the minimum insurance policy.

(2) Encourage the purchase of insurance by all drivers by making the minimum coverage available at lower, more affordable, prices.

(c) It is the further intent of the Legislature that the Insurance Commissioner do all of the following:

(1) In setting the price for the minimum policy and in setting rates, consider ways to recapture any subsidy of the basic policy when an insured buys additional coverage, beginning when more than forty thousand dollars ($40,000) in bodily injury liability coverage is purchased and consider establishment of prices for policies other than those described in paragraph (1) of subdivision (b), including policies sold to persons who are not good drivers and policies sold through the assigned risk plan, that are not lower than the price for the minimum policy sold to good drivers.

(2) Assure the availability of good driver discount insurance to good drivers by requiring insurers to offer that insurance throughout the county in which they do business.

(3) To assure the equal distribution among insurers of the cost of providing minimum insurance to good drivers, consider establishment of premium exchange systems, whether territorial or interterritorial, or other steps to equalize the distribution.

(d) Accordingly, the Insurance Commissioner shall take those steps consistent with Proposition 103 to implement the legislative intent expressed in this section,

including, where an amendment of Proposition 103 is required in order to implement that intent, reporting to the Legislature on that additional legislation necessary to effectuate that intent.

SEC. 31. If any provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 32. (a) Except as otherwise provided in this act, this act shall become operative January 1, 1997.

(b) Notwithstanding the delayed operative date of any provision of this act, where any provision of this act provides for the adoption of a regulation by an agency or officer, that regulation may be adopted and amended upon the effective date of this act.

(c) Sections 3, 5, 7, 8, 16, 17, 28, and 29 of this act shall become operative July 1, 1996.

(d) Sections 1, 10, 18, 20, and 30 of this act shall become operative January 1, 1996.

SEC. 33. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for those costs which may be incurred by a local agency or school district because this act creates a new crime or infraction, eliminates a crime or infraction, changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Article XIII B of the California Constitution.

However, notwithstanding Section 17580 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

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