

AMENDED IN ASSEMBLY JULY 19, 1995

AMENDED IN SENATE MAY 23, 1995

AMENDED IN SENATE APRIL 18, 1995

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 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, 9250.5, and 16006 to, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 49, as amended, 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) Existing law imposes registration and license fees for the privilege of operating upon the public highways in this state any vehicle of a type that is subject to registration under the Vehicle Code, except as specified. These fees are collected by the Department of Motor Vehicles and deposited to the credit of the Motor Vehicle Account in the State Transportation Fund.

This bill would impose an additional \$1 registration fee upon every vehicle subject to registration, except as specified. The bill would require all of the additional fees collected to be used, upon appropriation by the Legislature, to reimburse the department for its costs incurred in implementing the provision specified above relating to verifying that the owner of a motor vehicle is in compliance with the financial responsibility laws.

(13) 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.

(14) 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.

(15) 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.

~~(16) The bill would set forth various findings, and would request the Insurance Commissioner to act in accordance with those findings~~ *declarations.*

(17) 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:

- 1 SECTION 1. Section 3333.5 is added to the Civil Code,
- 2 to read:
- 3 3333.5. (a) In a third-party action for personal injury
- 4 arising out of the operation or use of a motor vehicle, the
- 5 judgment, arbitration decision, or settlement for the
- 6 plaintiff or claimant shall be reduced by any amount paid
- 7 as a benefit to the plaintiff or claimant as a result of the



1 personal injury from any medical payment benefit under
2 a policy of motor vehicle insurance.

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

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

20 (d) Where the plaintiff’s or claimant’s action results in
21 the creation or preservation of a fund, the proceeds of
22 which a collateral source of benefits provider is entitled
23 as a result of pursuing its lien or subrogation rights under
24 the law, the plaintiff or claimant may be awarded
25 attorney’s fees out of the fund in order to require
26 beneficiaries of the fund who did not actively participate
27 in the action to bear a fair share of the litigation costs.

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

- 31 (1) Shall not exceed three thousand dollars (\$3,000).
- 32 (2) Shall take into account any comparative
33 negligence reduction of the award attributable to
34 medical expenses paid under an automobile insurance
35 medical payment benefit.

36 SEC. 2. Chapter 5.6 (commencing with Section
37 117.110) is added to Title 1 of Part 1 of the Code of Civil
38 Procedure, to read:

39



1 CHAPTER 5.6. SMALL CLAIMS JURISDICTION FOR
2 AUTOMOBILE INJURIES
3

4 117.110. Many automobile accident cases can be
5 handled expeditiously, efficiently, and economically in
6 the relatively informal setting of small claims court.

7 117.111. (a) Except as provided in this chapter, the
8 provisions of Chapter 5.5 (commencing with Section
9 116.110) shall apply to actions filed pursuant to this
10 chapter. The provisions of Chapter 2.5 (commencing
11 with Section 997) of Part 2 of Title 14 shall not apply to
12 actions filed pursuant to this chapter or Chapter 5.5
13 (commencing with Section 116.110).

14 (b) Notwithstanding Section 116.220, beginning
15 January 1, 1997, the small claims court jurisdiction for a
16 personal injury or property damage claim, or both, arising
17 out of an automobile collision is ten thousand dollars
18 (\$10,000). The provisions of this chapter shall apply to
19 actions in which the claim exceeds five thousand dollars
20 (\$5,000).

21 (c) These automobile injury claims before the small
22 claims court shall be tried by a judge or court
23 commissioner sitting without a jury. A party may appeal
24 a judgment of the court to the superior court pursuant to
25 Section 117.113.

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

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

36 (f) Forms for filing a claim or answer to an automobile
37 injury or property damage complaint in the small claims
38 court shall be adopted by the Judicial Council on or before
39 January 1, 1997, and may be adopted before that date
40 notwithstanding any other applicable operative date. The

1 Judicial Council shall consult with members of the trial
2 bar, both plaintiff and defense, members of the general
3 public, and representatives of the insurance industry in
4 preparing forms for usage by the general public in the
5 court. The form shall advise a claimant filing in the small
6 claims court of the jurisdictional limit of the court and
7 that the claimant's recovery in the small claims court for
8 damages for wage loss, medical expenses, pain and
9 suffering, and property damage would be limited to a
10 total of ten thousand dollars (\$10,000).

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

16 (h) As used in this section, "automobile collision"
17 means a collision between two automobiles whether
18 private passenger or commercial, between an automobile
19 and a pedestrian or bicyclist, between an automobile and
20 a motorcycle, between two motorcycles, or between a
21 motorcycle and a pedestrian or bicyclist.

22 117.112. (a) A defendant in a small claims action filed
23 pursuant to this chapter may move to transfer the case to
24 municipal or justice court. Election of the defendant to
25 not transfer the case shall constitute a waiver of the
26 party's right to a jury trial on appeal to the extent that the
27 right exists.

28 (b) Parties to a small claims action filed pursuant to
29 this chapter may be represented by an attorney. An
30 insurer may provide an attorney to represent a defendant
31 provided that the insurer stipulates that its policy with the
32 defendant covers the matter to which the claim applies.
33 If a plaintiff is not represented by an attorney and the
34 defendant is represented by an attorney or an insurer's
35 attorney, the small claims court shall conduct its
36 proceeding in light of the possibly disparate and unequal
37 ability of a nonattorney plaintiff to pursue effectively a
38 claim, and shall utilize its inherent judicial powers to
39 achieve a just and equitable resolution of the claim. If the
40 claimant is not represented by an attorney and the



1 defendant is disputing the appropriateness or necessity of
2 health care treatment provided to the claimant, the court
3 shall continue the matter if the claimant did not have
4 prior notice and an opportunity to obtain witnesses or
5 evidence to support the claim.

6 117.113. (a) Except as otherwise provided in this
7 section, the provisions of Article 7 (commencing with
8 Section 116.710) shall apply to appeals and motions to
9 vacate a judgment pursuant to this chapter.

10 (b) Notwithstanding subdivision (c) of Section
11 116.780, for good cause and where necessary to achieve
12 substantial justice between the parties, the superior court
13 may award a party to an appeal, including any settlement
14 following a notice of appeal, reimbursement of attorney's
15 fees and costs actually and reasonably incurred in
16 connection with the appeal, not exceeding one thousand
17 dollars (\$1,000).

18 (c) Notwithstanding Section 116.790, if the superior
19 court finds that the appeal was without substantial merit
20 and not based on good faith, but was intended to harass
21 or delay the other party, or to encourage the other party
22 to abandon the claim, the court shall award the other
23 party (1) attorney's fees and costs actually and reasonably
24 incurred in connection with the appeal, including any
25 settlement following a notice of appeal, and (2) any
26 actual loss of earnings and any expenses of transportation
27 and lodging actually and reasonably incurred in
28 connection with the appeal, following a hearing on the
29 matter.

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

35 117.114. An attorney for a plaintiff in an action filed
36 pursuant to this chapter shall not recover a contingency
37 fee from the client in excess of 20 percent of any recovery
38 in the small claims court unless upon court approval of a
39 higher fee. The court may, upon motion, increase the
40 allowable contingency fee if it finds that application of the



1 20 percent contingency fee would result in inadequate
 2 compensation given the amount of time actually and
 3 reasonably spent by the attorney on the case and given
 4 the difficulty of the matter.

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

8

9 CHAPTER 2.5. MANDATORY EXCHANGE OF CLAIMS
 10 INFORMATION

11

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

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

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

26 997.1. (a) The Judicial Council shall, on or before July
 27 1, 1996, design and develop an “Automobile Injury Case
 28 Questionnaire” form for use pursuant to this chapter to
 29 elicit fundamental information about each party’s case in
 30 a claim for damages arising from a motor vehicle
 31 accident. These forms shall be made available by the clerk
 32 of the county courts and by any self-insurer or insurer
 33 writing automobile liability insurance in this state.

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

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



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

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

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

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

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

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

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

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

39 (9) A description of all documents, photographs, or
40 physical evidence that relate to the party's claim for



1 damages, or defense to the claim, and their location. A
2 copy of all documents or photographs in the party's
3 possession which support its claim for damages or its
4 defense to the claim shall be attached to the case
5 questionnaire.

6 997.2. (a) Each party seeking damages or contesting
7 a claim for damages arising out of a motor vehicle
8 accident shall complete the Judicial Council form
9 questionnaire and serve the questionnaire upon the other
10 party, or if represented by counsel or an insurer, upon the
11 party's attorney or insurer.

12 (b) Upon filing a response to a filed claim for damages
13 against an insured for injuries arising out of a motor
14 vehicle accident, an insurer shall, within five business
15 days, inform the claimant or the claimant's
16 representative in writing of the claimant's responsibility
17 to complete an "Automobile Injury Case Questionnaire"
18 form within 30 days and to send it to the carrier. The
19 notice shall also inform the claimant of the carrier's
20 insured's responsibility to complete and send a similar
21 form to the claimant within 30 days. The insurer shall send
22 the Judicial Council prepared form to the claimant with
23 the notice.

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

32 (d) A party shall respond to each and every question
33 of the case questionnaire relevant to a claim for damages
34 or to a defense to the claim. A party contesting the claim
35 shall additionally respond to questions regarding
36 insurance applicable to the claim. Each response shall be
37 as complete as the information reasonably available to the
38 responding party permits. If a question cannot be
39 answered completely, it shall be answered to the extent
40 possible. If the responding party does not have personal



1 knowledge sufficient to respond fully to a question, that
2 party shall so state, but shall make a reasonable and good
3 faith effort to obtain the information by inquiry to other
4 natural persons or organizations. If a party declares that
5 he or she has insufficient information to answer the
6 questionnaire, the party shall have 30 additional days to
7 complete that part of the questionnaire.

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

20 (f) A party may move, upon showing of good cause, to
21 amend any response to the questionnaire. A party may
22 move for an order to compel compliance with this
23 chapter, and for monetary sanctions under Section 2023
24 for noncompliance. If a party represented by counsel
25 then fails to obey an order compelling compliance, the
26 court may make those orders that are just, including the
27 imposition of further monetary sanctions, an issue
28 sanction, an evidence sanction, or a terminating sanction
29 under Section 2023. Motions pursuant to this chapter are
30 governed by the time limits applicable to discovery
31 motions in general.

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

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

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



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

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

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

18 (2) As used in this section, “serious injury” means a
19 personal injury that results in a fracture, herniated discs,
20 laceration that results in scarring or permanent
21 disfigurement, internal organ injury, loss of sense or
22 senses that is not temporary, loss of body part, any
23 permanent nerve impairment, loss of fetus, paralysis,
24 permanent brain injury, or death. The determination of
25 whether an injury is serious or nonserious shall be made
26 by the court.

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

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

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

37 1141.115. Notwithstanding any other provision of this
38 chapter:

39 (a) In each municipal or superior court, all at-issue
40 civil actions pending on or filed after the operative date



1 of this section that involve third-party liability for bodily
2 injury resulting from an automobile collision shall be
3 submitted to arbitration, by the presiding judge or the
4 judge designated, under this chapter if the amount in
5 controversy in the opinion of the court will not exceed
6 fifty thousand dollars (\$50,000) for each plaintiff, which
7 decision shall not be appealable.

8 (b) If the settlement following a request for a trial de
9 novo or the judgment upon trial de novo is not at least 20
10 percent more favorable for the party electing trial de
11 novo than the damages awarded by arbitration, that party
12 shall pay to the other party's or parties' attorney's fees and
13 costs reasonably incurred by the other party as a result of
14 the party's request for trial de novo. This assessment shall
15 be in addition to any sanctions assessed under Section
16 1141.21. For purposes of assessing the reimbursement of
17 attorney's fees when a party is represented on a
18 contingency fee basis, the court shall, in its sole discretion,
19 determine the reasonable value of the services
20 performed by the attorney if performed on a per-hour
21 basis by an attorney retained by an insurer in defense of
22 those actions in the community where the claim is being
23 defended. Any reimbursement of attorney's fees and
24 costs pursuant to this section shall be paid to the party, or
25 to the insurer if the party's defense is handled by an
26 insurer, and shall be applied toward any fee and costs
27 obligation owed by the party to the attorney.

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

34 (d) As used in this section, "automobile collision"
35 means a collision between two automobiles whether
36 private passenger or commercial, between an automobile
37 and a pedestrian or bicyclist, between an automobile and
38 a motorcycle, between two motorcycles, or between a
39 motorcycle and a pedestrian or bicyclist.



1 (e) Nothing in this section shall preclude any party
2 from mediating the dispute or utilizing any other
3 voluntary dispute resolution process.

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

6 68616. Delay reduction rules shall not require shorter
7 time periods than as follows:

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

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

15 (c) Time for service of notice or other paper under
16 Sections 1005 and 1013 of the Code of Civil Procedure and
17 time to plead after service of summons under Section
18 412.20 of the Code of Civil Procedure shall not be
19 shortened except as provided in those sections.

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

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

29 (e) No status conference, or similar event, other than
30 a challenge to the jurisdiction of the court, may be
31 required to be conducted sooner than 30 days after
32 service of the first responsive pleadings, or no sooner than
33 30 days after expiration of a stipulated continuance, if any,
34 pursuant to subdivision (d).

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

39 (g) An order referring an action to arbitration or
40 mediation may be made at any status conference held in



1 accordance with subdivision (e), provided that any
2 arbitration ordered may not commence prior to 210 days
3 after the filing of the complaint, exclusive of the
4 stipulated period provided in subdivision (d). Any
5 mediation ordered pursuant to Section 1775.3 of the Code
6 of Civil Procedure may be commenced prior to 210 days
7 after the filing of the complaint, exclusive of the
8 stipulated period provided in subdivision (d). No rule
9 adopted pursuant to this article may contravene Sections
10 638 and 639 of the Code of Civil Procedure.

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

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

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

23 (k) This section shall remain in effect only until July 1,
24 1998, and as of that date is repealed, unless a later enacted
25 statute, which is enacted before July 1, 1998, deletes or
26 extends that date.

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

29 68616. Delay reduction rules shall not require shorter
30 time periods than as follows:

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

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

38 (c) Time for service of notice or other paper under
39 Sections 1005 and 1013 of the Code of Civil Procedure and
40 time to plead after service of summons under Section



1 412.20 of the Code of Civil Procedure shall not be
2 shortened except as provided in those sections.

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

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

11 (e) No status conference, or similar event, other than
12 a challenge to the jurisdiction of the court, may be
13 required to be conducted sooner than 30 days after
14 service of the first responsive pleadings, or no sooner than
15 30 days after expiration of a stipulated continuance, if any,
16 pursuant to subdivision (d).

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

21 (g) No case may be referred to arbitration prior to 210
22 days after the filing of the complaint, exclusive of the
23 stipulated period provided for in subdivision (d). No rule
24 adopted pursuant to this article may contravene Sections
25 638 and 639 of the Code of Civil Procedure.

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

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

36 (j) This section shall become operative on July 1, 1998.

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

39 68616.1. Notwithstanding subdivision (b) of Section
40 68616, prior to the filing of the answer and in addition to



1 the 15-day continuance permitted in that provision, in
2 any action subject to Section 1141.115 of the Code of Civil
3 Procedure the parties may stipulate to a continuance not
4 to exceed 15 days if the parties certify in the stipulation
5 that settlement offers have been exchanged and that the
6 parties believe that a settlement may be reached during
7 this period.

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

17 This section shall remain in effect only until January 1,
18 2000, and as of that date is repealed, unless a later enacted
19 statute, which is enacted before January 1, 2000, deletes
20 or extends that date.

21 SEC. 9. Article 6.59 (commencing with Section
22 790.60) is added to Chapter 1 of Part 2 of Division 1 of the
23 Insurance Code, to read:

24

25 Article 6.59. Health Care Cost Containment

26

27 790.60. (a) The charges for health care services that
28 are incurred as a result of an injury arising from a motor
29 vehicle accident shall not exceed the charges permissible
30 under the schedules prepared and established by the
31 administration of the Workers' Compensation Appeals
32 Board for industrial accidents. If the services are not
33 included in the schedules, the charges shall not exceed 80
34 percent of the provider's usual and customary charge.

35 (b) On or before January 1, 1997, the commissioner,
36 after consulting with the administration of the ~~Worker's~~
37 *Workers'* Compensation Appeals Board, shall adopt rules
38 and regulations implementing and coordinating the
39 provisions of this article and the workers' compensation
40 law with respect to charges for health services provided



1 to persons injured in a motor vehicle accident, including
2 the establishment of schedules for those services for
3 which schedules have not been prepared and established
4 by the administration of the Workers' Compensation
5 Appeals Board.

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

13 (d) This section shall become operative January 1,
14 1997, except that the commissioner shall adopt rules and
15 regulations under subdivision (b) prior to that date.

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

18 1871.9. (a) It is unlawful to do any of the following:

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

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

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

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

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

36 (6) Knowingly assist, abet, solicit, or conspire with (A)
37 any person who knowingly presents any false or
38 fraudulent claim for the payment of a loss, including
39 payment of a loss under a contract of insurance; (B) any
40 person who knowingly presents multiple claims for the



1 same loss or injury, including presentation of multiple
2 claims to more than one insurer, with an intent to
3 defraud; (C) any person who knowingly causes or
4 participates in a vehicular collision, or any other vehicular
5 accident, for the purpose of presenting any false or
6 fraudulent claim; and (D) any person who knowingly
7 prepares, makes, or subscribes any writing, with the
8 intent to present or use the same, or to allow it to be
9 presented in support on any such claim.

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

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

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

16 (10) Knowingly present for payment any
17 undercharges for health care benefits on behalf of a
18 specific claimant unless any known overcharges for
19 health care benefits for that claimant are presented for
20 reconciliation at that same time.

21 (b) (1) Every person who violates paragraph (1), (2),
22 (3), (4), (5), or (6) of subdivision (a) of this section shall
23 be punished by imprisonment in the state prison, for two,
24 three, or five years, or by a fine not exceeding fifty
25 thousand dollars (\$50,000), or by both, unless the value of
26 the fraud exceeds fifty thousand dollars (\$50,000), in
27 which event the fine may not exceed the value of the
28 fraud.

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

32 (A) Where the claim or amount at issue exceeds four
33 hundred dollars (\$400), the offense, upon conviction, is
34 punishable by imprisonment in the state prison for two,
35 three, or five years, or by a fine not exceeding fifty
36 thousand dollars (\$50,000), or by both, unless the value of
37 the fraud exceeds fifty thousand dollars (\$50,000), in
38 which event the fine may not exceed the value of the
39 fraud, or by imprisonment in a county jail not to exceed



1 one year or a fine of not more than one thousand dollars
2 (\$1,000), or by both the fine and imprisonment.

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

12 (c) Notwithstanding any other provision of law,
13 probation shall not be granted to, nor shall the execution
14 or imposition of a sentence be suspended for, any adult
15 person convicted of felony violations of this section who
16 has been previously convicted of felony violations of this
17 section as an adult under charges separately brought and
18 tried two or more times. The existence of any fact which
19 would make a person ineligible for probation under this
20 subdivision shall be alleged in the information or
21 indictment, and either admitted by the defendant in an
22 open court, or found to be true by the jury trying the issue
23 of guilt or by the court where guilt is established by plea
24 of guilty or nolo contendere or by trial by the court sitting
25 without a jury.

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

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

36 (d) Any person who violates subdivision (a) and who
37 has a prior felony conviction of the offense set forth in that
38 subdivision or in Section 548 of the Penal Code, shall
39 receive a two-year enhancement for each prior felony
40 conviction in addition to the sentence provided in



1 subdivision (b). The existence of any fact which would
2 subject a person to a penalty enhancement shall be
3 alleged in the information or indictment and either
4 admitted by the defendant in open court, or found to be
5 true by the jury trying the issue of guilt or by the court
6 where guilt is established by plea of guilty or nolo
7 contendere or by trial by the court sitting without a jury.

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

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

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

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

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

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

28 11580.02. No policy of automobile liability insurance
29 described in Section 16054 of the Vehicle Code covering
30 liability arising out of the ownership, maintenance, or use
31 of any motor vehicle shall be issued or delivered in this
32 state unless it provides insurance against liability because
33 of injury to or destruction of property subject to a limit of
34 three thousand dollars (\$3,000).

35 However, for an insured who is a good driver, as
36 defined in Section 1861.025, who purchases the minimum
37 personal injury liability coverage, the insurer and any
38 named insured may, prior to or subsequent to the
39 issuance or renewal of a policy, by agreement in writing,
40 in a form prescribed by the commissioner, delete the



1 provision covering liability for property damage.
2 Notwithstanding any other provision of law, a policy for
3 which the provision covering liability for property
4 damage has been waived shall for all purposes satisfy the
5 financial responsibility laws of this state.

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

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

13 11580.03. Every policy of automobile liability
14 insurance described in Section 16054 of the Vehicle Code
15 shall also include insurance covering insureds and
16 occupants of an insured vehicle against medical expenses
17 incurred as a result of injuries arising out of the operation
18 or use of the motor vehicle, subject to a limit of one
19 thousand dollars (\$1,000) per person.

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

22 11580.04. (a) Every policy of motor vehicle
23 third-party liability insurance sold in this state shall
24 include a provision, operative at the option of the insured,
25 in which the insured agrees to submit any third-party
26 claim involving property damage or a nonserious injury
27 to binding nonjudicial arbitration. The election by the
28 insured shall be made at the time of the policy application
29 or renewal, and may be changed in writing at any time.

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



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

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

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

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

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

14 (5) The arbitration proceeding shall be set for hearing
15 no later than 90 days after selection of the arbitrator. The
16 arbitrator shall render the decision pursuant to the
17 evidence and the law no later than 20 days after
18 completion of the hearing. Nothing in this section shall
19 prohibit the arbitrator from making an award in excess of
20 policy limits.

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

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

36 (f) As used in this section, “nonserious injury” means
37 a personal injury that results in a concussion of a
38 nonpermanent nature or an impairment or injury of the
39 musculoskeletal system of a nonpermanent nature. It
40 includes sprains, strains, abrasions, bruises, lacerations



1 that are not permanently disfiguring, and injuries
2 commonly characterized in the automobile reparations
3 system as soft tissue.

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

5 (h) This section shall not prohibit a carrier from
6 asserting that it is not liable under the policy under which
7 the claim is made if, in the offer to submit the claim to
8 arbitration, the carrier makes that assertion and has
9 notified the claimant of the provisions of this section. The
10 carrier's claim that it is not liable under the policy shall be
11 decided by the arbitrator at the same time as the
12 underlying claim. Notwithstanding any other provision of
13 law, the arbitrator's decision regarding the carrier's
14 liability under the policy may be reviewed de novo in an
15 action for declaratory relief on the petition of any party
16 unless the parties have agreed in writing that the award
17 on that issue shall be final. The petition shall be filed and
18 served within 30 days after the award is mailed to the
19 parties. If a carrier fails to assert that it is not liable under
20 a policy in its offer to submit to arbitration as required by
21 this section, it shall be prohibited from seeking judicial
22 review of policy coverage for a claim submitted to
23 arbitration.

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

26 11580.1. (a) No policy of automobile liability
27 insurance described in Section 16054 of the Vehicle Code
28 covering liability arising out of the ownership,
29 maintenance, or use of any motor vehicle shall be issued
30 or delivered in this state on or after the effective date of
31 this section unless it contains the provisions set forth in
32 subdivision (b). However, none of the requirements of
33 subdivision (b) shall apply to the insurance afforded
34 under that policy (1) to the extent that the insurance
35 exceeds the limits specified in subdivision (a) of Section
36 16056 of the Vehicle Code, or (2) if the policy contains an
37 underlying insurance requirement, or provides for a
38 retained limit of self-insurance, equal to or greater than
39 the limits specified in subdivision (a) of Section 16056 of
40 the Vehicle Code.



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

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

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

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

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

18 (3) Designation by explicit description of the purposes
19 for which coverage for ~~that~~ *those* motor vehicles is
20 specifically excluded.

21 (4) Provision affording insurance to the named
22 insured with respect to any owned or leased motor
23 vehicle covered by that policy, and to the same extent
24 that insurance is afforded to the named insured, to any
25 other person using, or legally responsible for the use of,
26 the motor vehicle, provided the use is by the named
27 insured or with his or her permission, express or implied,
28 and within the scope of that permission, except that: (i)
29 with regard to insurance afforded for the loading or
30 unloading of that motor vehicle, the insurance may be
31 limited to apply only to the named insured, a relative of
32 the named insured who is a resident of the named
33 insured's household, a lessee or bailee of the motor
34 vehicle, or an employee of any of those persons; and (ii)
35 the insurance afforded to any person other than the
36 named insured need not apply to: (A) any employee with
37 respect to bodily injury sustained by a fellow employee
38 injured in the scope and course of his or her employment,
39 or (B) any person, or to any agent or employee thereof,
40 employed or otherwise engaged in the business of selling,



1 repairing, servicing, delivering, testing, road-testing,
2 parking, or storing automobiles with respect to any
3 accident arising out of the maintenance or use of a motor
4 vehicle in connection therewith. As used in this chapter,
5 “owned motor vehicle” includes all motor vehicles
6 described and rated in the policy.

7 (c) In addition to any exclusion as provided in
8 paragraph (3) of subdivision (b), the insurance afforded
9 by that policy of automobile liability insurance to which
10 subdivision (a) applies, including the insurer’s obligation
11 to defend, may, by appropriate policy provision, be made
12 inapplicable to any or all of the following:

13 (1) Liability assumed by the insured under contract.

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

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

18 (4) Liability for bodily injury to any employee of the
19 insured arising out of and in the course of his *or her*
20 employment.

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

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

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

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

35 The term “the insured” as used in paragraphs (1), (2),
36 (3), and (4) shall mean only that insured under the policy
37 against whom the particular claim is made or suit
38 brought. The term “an insured” as used in paragraphs (5)
39 and (6) shall mean any insured under the policy including
40 those persons who would have otherwise been included



1 within the policy's definition of an insured but, by
2 agreement, are subject to the limitations of paragraph (1)
3 of subdivision (d).

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

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

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

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

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

36 An agreement made by the insurer and any named
37 insured more than 60 days following the inception of the
38 policy excluding a designated person by name shall be
39 effective from the date of the agreement and shall, with



1 the signature of a named insured, be conclusive evidence
2 of the validity of the agreement.

3 That agreement shall remain in force as long as the
4 policy remains in force, and shall apply to any
5 continuation, renewal, or replacement of the policy by
6 the named insured, or reinstatement of the policy within
7 30 days of any lapse thereof.

8 (2) That with regard to any such policy issued to a
9 named insured engaged in the business of leasing vehicles
10 for those vehicles that are leased for a term in excess of
11 six months, or selling, repairing, servicing, delivering,
12 testing, road-testing, parking, or storing automobiles,
13 coverage shall not apply to any person other than the
14 named insured or his or her agent or employee, except to
15 the extent that the limits of liability of any other valid and
16 collectible insurance available to that person are not
17 equal to the limits of liability specified in subdivision (a)
18 of Section 16056 of the Vehicle Code. If the policy is issued
19 to a named insured engaged in the business of leasing
20 vehicles, which business includes the lease of vehicles for
21 a term in excess of six months, and the lessor includes in
22 the lease automobile liability insurance, the terms and
23 limits of which are not otherwise specified in the lease,
24 the named insured shall incorporate a provision in each
25 vehicle lease contract advising the lessee of the provisions
26 of this subdivision and the fact that this limitation is
27 applicable except as otherwise provided for by statute or
28 federal law.

29 (e) Nothing in this section or in Section 16054 or 16450
30 of the Vehicle Code shall be construed to constitute a
31 homeowner's policy, personal and residence liability
32 policy, personal and farm liability policy, general liability
33 policy, comprehensive personal liability policy,
34 manufacturers' and contractors' policy, premises liability
35 policy, special multiperil policy, or any policy or
36 endorsement where automobile liability coverage is
37 offered as incidental to some other basic coverage as an
38 "automobile liability policy" within the meaning of
39 Section 16054 of the Vehicle Code, or as a "motor vehicle
40 liability policy" within the meaning of Section 16450 of



1 the Vehicle Code, nor shall any provision of this section
2 apply to a policy that provides insurance covering liability
3 arising out of the ownership, maintenance, or use of any
4 motor vehicle in the Republic of Mexico issued or
5 delivered in this state by a nonadmitted Mexican insurer,
6 notwithstanding that any such policy may provide
7 automobile or motor vehicle liability coverage on insured
8 premises or the ways immediately adjoining.

9 (f) On and after January 1, 1976, no policy of
10 automobile liability insurance described in subdivision
11 (a) shall be issued, amended, or renewed in this state if
12 it contains any provision that expressly or impliedly
13 excludes from coverage under the policy the operation or
14 use of an insured motor vehicle by the named insured in
15 the performance of volunteer services for a nonprofit
16 charitable organization or governmental agency by
17 providing social service transportation. This subdivision
18 shall not apply in any case in which the named insured
19 receives any remuneration of any kind other than
20 reimbursement for actual mileage driven in the
21 performance of those services at a rate not to exceed the
22 following:

23 (1) For the 1980–81 fiscal year, the maximum rate
24 authorized by the State Board of Control, which shall also
25 be known as the “base rate.”

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

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

36 For the purposes of this section, “social service
37 transportation” means transportation services provided
38 by private nonprofit organizations or individuals to either
39 individuals who are senior citizens or individuals or
40 groups of individuals who have special transportation



1 needs because of physical or mental conditions and
2 supported in whole or in part by funding from private or
3 public agencies.

4 (g) Notwithstanding the provisions of paragraph (4)
5 of subdivision (b) of this section, or the provisions of
6 Article 2 (commencing with Section 16450) of Chapter 3
7 of Division 7 of, or Article 2 (commencing with Section
8 17150) of Chapter 1 of Division 9 of, the Vehicle Code, a
9 Mexican nonadmitted insurer and any named insured
10 may, by the terms of any policy of automobile insurance
11 for use solely in the Republic of Mexico to which
12 subdivision (a) applies, or by a separate writing relating
13 thereto, agree to the limitation that coverage under that
14 policy shall not apply to any person riding in or occupying
15 a vehicle owned by the insured or driven by another
16 person with the permission of the insured. The
17 agreement shall be binding upon every insured to whom
18 that policy applies and upon any third-party claimant.

19 (h) No policy of automobile insurance that provides
20 insurance covering liability arising out of the ownership,
21 maintenance or use of any motor vehicle solely in the
22 Republic of Mexico issued by a nonadmitted Mexican
23 insurance company, shall be subject to, or provide
24 coverage for, those coverages provided in Section
25 11580.2.

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

28 11580.2. (a) (1) No policy of bodily injury liability
29 insurance covering liability arising out of the ownership,
30 maintenance, or use of any motor vehicle, except for
31 policies which provide insurance in the Republic of
32 Mexico issued or delivered in this state by nonadmitted
33 Mexican insurers, shall be issued or delivered in this state
34 to the owner or operator of a motor vehicle, or shall be
35 issued or delivered by any insurer licensed in this state
36 upon any motor vehicle then principally used or
37 principally garaged in this state, unless the policy
38 contains, or has added to it by endorsement, a provision
39 with coverage limits at least equal to the limits specified
40 in subdivision (m) and in no case less than the financial



1 responsibility requirements specified in Section 16056 of
2 the Vehicle Code insuring the insured, the insured's heirs
3 or legal representative for all sums within the limits which
4 he, she, or they, as the case may be, shall be legally
5 entitled to recover as damages for bodily injury or
6 wrongful death from the owner or operator of an
7 uninsured motor vehicle. The insurer and any named
8 insured, prior to or subsequent to the issuance or renewal
9 of a policy, may, by agreement in writing, in the form
10 specified in paragraph (2) or paragraph (3), (1) delete
11 the provision covering damage caused by an uninsured
12 motor vehicle completely, or (2) delete the coverage
13 when a motor vehicle is operated by a natural person or
14 persons designated by name, or (3) agree to provide the
15 coverage in an amount less than that required by
16 subdivision (m) but not less than the financial
17 responsibility requirements specified in Section 16056 of
18 the Vehicle Code. Any of these agreements by any named
19 insured or agreement for the amount of coverage shall be
20 binding upon every insured to whom the policy or
21 endorsement provisions apply while the policy is in force,
22 and shall continue to be so binding with respect to any
23 continuation or renewal of the policy or with respect to
24 any other policy which extends, changes, supersedes, or
25 replaces the policy issued to the named insured by the
26 same insurer, or with respect to reinstatement of the
27 policy within 30 days of any lapse thereof. A policy shall
28 be excluded from the application of this section if the
29 automobile liability coverage is provided only on an
30 excess or umbrella basis. Nothing in this section shall
31 require that uninsured motorist coverage be offered or
32 provided in any homeowner policy, personal and
33 residents' liability policy, comprehensive personal
34 liability policy, manufacturers' and contractors' policy,
35 premises liability policy, special multiperil policy, or any
36 other policy or endorsement where automobile liability
37 coverage is offered as incidental to some other basic
38 coverage, notwithstanding that the policy may provide
39 automobile or motor vehicle liability coverage on insured
40 premises or the ways immediately adjoining.



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

7 “The California Insurance Code requires an insurer to
8 provide uninsured motorists coverage in each bodily
9 injury liability insurance policy it issues covering liability
10 arising out of the ownership, maintenance, or use of a
11 motor vehicle. Those provisions also permit the insurer
12 and the applicant to delete the coverage completely or to
13 delete the coverage when a motor vehicle is operated by
14 a natural person or persons designated by name.
15 Uninsured motorists coverage insures the insured, his or
16 her heirs, or legal representatives for all sums within the
17 limits established by law, which the person or persons are
18 legally entitled to recover as damages for bodily injury,
19 including any resulting sickness, disease, or death, to the
20 insured from the owner or operator of an uninsured
21 motor vehicle not owned or operated by the insured or
22 a resident of the same household. An uninsured motor
23 vehicle includes an underinsured motor vehicle as
24 defined in subdivision (p) of Section 11580.2 of the
25 Insurance Code.”

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

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

34 “The California Insurance Code requires an insurer to
35 provide uninsured motorists coverage in each bodily
36 injury liability insurance policy it issues covering liability
37 arising out of the ownership, maintenance, or use of a
38 motor vehicle. Those provisions also permit the insurer
39 and the applicant to agree to provide the coverage in an
40 amount less than that required by subdivision (m) of



1 Section 11580.2 of the Insurance Code but not less than
2 the financial responsibility requirements. Uninsured
3 motorists coverage insures the insured, his or her heirs, or
4 legal representatives for all sums within the limits
5 established by law, which the person or persons are
6 legally entitled to recover as damages for bodily injury,
7 including any resulting sickness, disease, or death, to the
8 insured from the owner or operator of an uninsured
9 motor vehicle not owned or operated by the insured or
10 a resident of the same household. An uninsured motor
11 vehicle includes an underinsured motor vehicle as
12 defined in subdivision (p) of Section 11580.2 of the
13 Insurance Code.”

14 The agreement may contain additional statements not
15 in derogation of or in conflict with this paragraph.
16 However, it shall be presumed that an application for a
17 policy of bodily injury liability insurance containing
18 uninsured motorist coverage in an amount less than that
19 required by subdivision (m), signed by the named
20 insured and approved by the insurer, with a policy
21 effective date after January 1, 1985, shall be a valid
22 agreement as to the amount of uninsured motorist
23 coverage to be provided.

24 (b) As used in subdivision (a), “bodily injury” includes
25 sickness or disease, including death, resulting therefrom;
26 “named insured” means only the individual or
27 organization named in the declarations of the policy of
28 motor vehicle bodily injury liability insurance referred to
29 in subdivision (a); as used in subdivision (a) if the named
30 insured is an individual, “insured” means the named
31 insured and the spouse of the named insured and, while
32 residents of the same household, relatives of either while
33 occupants of a motor vehicle or otherwise, heirs and any
34 other person while in or upon or entering into or alighting
35 from an insured motor vehicle and any person with
36 respect to damages he or she is entitled to recover for care
37 or loss of services because of bodily injury to which the
38 policy provisions or endorsement apply; as used in
39 subdivision (a), if the named insured is an entity other
40 than an individual, “insured” means any person while in



1 or upon or entering into or alighting from an insured
2 motor vehicle and any person with respect to damages he
3 or she is entitled to recover for care or loss of services
4 because of bodily injury to which the policy provisions or
5 endorsement apply. As used in this subdivision,
6 “individual” shall not include persons doing business as
7 corporations, partnerships, or associations. As used in this
8 subdivision “insured motor vehicle” means the motor
9 vehicle described in the underlying insurance policy of
10 which the uninsured motorist endorsement or coverage
11 is a part, a temporary substitute automobile for which
12 liability coverage is provided in the policy or a newly
13 acquired automobile for which liability coverage is
14 provided in the policy if the motor vehicle is used by the
15 named insured or with his or her permission or consent,
16 express or implied, and any other automobile not owned
17 by or furnished for the regular use of the named insured
18 or any resident of the same household, or by a natural
19 person or persons for whom coverage has been deleted in
20 accordance with subdivision (a) while being operated by
21 the named insured or his or her spouse if a resident of the
22 same household, but “insured motor vehicle” shall not
23 include any automobile while used as a public or livery
24 conveyance. As used in this section, “uninsured motor
25 vehicle” means a motor vehicle with respect to the
26 ownership, maintenance or use of which there is no
27 bodily injury liability insurance or bond applicable at the
28 time of the accident, or there is the applicable insurance
29 or bond but the company writing the insurance or bond
30 denies coverage thereunder or refuses to admit coverage
31 thereunder except conditionally or with reservation, or
32 an “underinsured motor vehicle” as defined in
33 subdivision (p), or a motor vehicle used without the
34 permission of the owner thereof if there is no bodily
35 injury liability insurance or bond applicable at the time
36 of the accident with respect to the owner or operator
37 thereof, or the owner or operator thereof be unknown,
38 provided that, with respect to an “uninsured motor
39 vehicle” whose owner or operator is unknown:



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

5 (2) The insured or someone on his or her behalf has
6 reported the accident within 24 hours to the police
7 department of the city where the accident occurred or,
8 if the accident occurred in unincorporated territory then
9 either to the sheriff of the county where the accident
10 occurred or to the local headquarters of the California
11 Highway Patrol, and has filed with the insurer within 30
12 days thereafter a statement under oath that the insured
13 or his or her legal representative has or the insured's heirs
14 have a cause of action arising out of the accident for
15 damages against a person or persons whose identity is
16 unascertainable and set forth facts in support thereof. As
17 used in this section, "uninsured motor vehicle" shall not
18 include a motor vehicle owned or operated by the named
19 insured or any resident of the same household or
20 self-insured within the meaning of the Financial
21 Responsibility Law of the state in which the motor vehicle
22 is registered or which is owned by the United States of
23 America, Canada, a state or political subdivision of any
24 such government or an agency of any of the foregoing, or
25 a land motor vehicle or trailer while located for use as a
26 residence or premises and not as a vehicle, or any
27 equipment or vehicle designed or modified for use
28 primarily off public roads, except while actually upon
29 public roads.

30 As used in this section, "uninsured motor vehicle" also
31 means an insured motor vehicle where the liability
32 insurer thereof is unable to make payment with respect
33 to the legal liability of its insured within the limits
34 specified therein because of insolvency. An insurer's
35 solvency protection shall be applicable only to accidents
36 occurring during a policy period in which its insured's
37 motor vehicle coverage is in effect where the liability
38 insurer of the tortfeasor becomes insolvent within one
39 year of the accident. In the event of payment to any
40 person under the coverage required by this section and



1 subject to the terms and conditions of the coverage, the
2 insurer making the payment, shall to the extent thereof,
3 be entitled to any proceeds which may be recoverable
4 from the assets of the insolvent insurer through any
5 settlement or judgment of the person against the
6 insolvent insurer.

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

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

15 (1) To property damage sustained by the insured.

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

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

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

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

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



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

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

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

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

23 (f) The policy or an endorsement added thereto shall
24 provide that the determination as to whether the insured
25 shall be legally entitled to recover damages, and if so
26 entitled, the amount thereof, shall be made by agreement
27 between the insured and the insurer or, in the event of
28 disagreement, by arbitration. The arbitration shall be
29 conducted by a single neutral arbitrator. An award or a
30 judgment confirming an award shall not be conclusive on
31 any party in any action or proceeding between (i) the
32 insured, his or her insurer, his or her legal representative,
33 or his or her heirs and (ii) the uninsured motorist to
34 recover damages arising out of the accident upon which
35 the award is based. If the insured has or may have rights
36 to benefits, other than nonoccupational disability
37 benefits, under any workers' compensation law, the
38 arbitrator shall not proceed with the arbitration until the
39 insured's physical condition is stationary and ratable. In
40 those cases in which the insured claims a permanent



1 disability, the claims shall, unless good cause be shown, be
2 adjudicated by award or settled by compromise and
3 release before the arbitration may proceed. Any demand
4 or petition for arbitration shall contain a declaration,
5 under penalty of perjury, stating whether (i) the insured
6 has a workers' compensation claim; (ii) the claim has
7 proceeded to findings and award or settlement on all
8 issues reasonably contemplated to be determined in that
9 claim; and (iii) if not, what reasons amounting to good
10 cause are grounds for the arbitration to proceed
11 immediately. The arbitration shall be deemed to be a
12 proceeding and the hearing before the arbitrator shall be
13 deemed to be the trial of an issue therein for purposes of
14 issuance of a subpoena by an attorney of a party to the
15 arbitration under Section 1985 of the Code of Civil
16 Procedure. Article 3 (commencing with Section 2016) of
17 Chapter 3 of Title 3 of Part 4 of the Code of Civil
18 Procedure shall be applicable to these determinations,
19 and all rights, remedies, obligations, liabilities and
20 procedures set forth in Article 3 shall be available to both
21 the insured and the insurer at any time after the accident,
22 both before and after the commencement of arbitration,
23 if any, with the following limitations:

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

35 (2) Any proper court to which application is first made
36 by either the insured or the insurer under Article 3 for any
37 discovery or other relief or remedy, shall thereafter be
38 the only court to which either of the parties shall make
39 any applications under Article 3 with respect to the same
40 accident, subject, however, to the right of the court to



1 grant a change of venue after a hearing upon notice, upon
2 any of the grounds upon which change of venue might be
3 granted in an action filed in the superior court.

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

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

13 (5) For the purposes of discovery under this section,
14 the insured and the insurer shall each be deemed to be “a
15 party to the record of any civil action or proceedings,”
16 where that phrase is used in paragraph (2) of subdivision
17 (b) of Section 2019 of the Code of Civil Procedure.

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

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

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

34 (h) An insured entitled to recovery under the
35 uninsured motorist endorsement or coverage shall be
36 reimbursed within the conditions stated herein without
37 being required to sign any release or waiver of rights to
38 which he or she may be entitled under any other
39 insurance coverage applicable; nor shall payment under
40 this section to the insured be delayed or made contingent



1 upon the decisions as to liability or distribution of loss costs
2 under other bodily injury liability insurance or any bond
3 applicable to the accident. Any loss payable under the
4 terms of the uninsured motorist endorsement or
5 coverage to or for any person may be reduced:

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

11 (2) By the amount the insured is entitled to recover
12 from any other person insured under the underlying
13 liability insurance policy of which the uninsured motorist
14 endorsement or coverage is a part, including any amounts
15 tendered to the insured as advance payment on behalf of
16 the other person by the insurer providing the underlying
17 liability insurance.

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

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

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

26 (3) The insured has formally instituted arbitration
27 proceedings.

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

37 (k) Notwithstanding subdivision (i), any insurer
38 whose insured has made a claim under his or her
39 uninsured motorist coverage, and the claim is pending,
40 shall, at least 30 days before the expiration of the



1 applicable statute of limitation, notify its insured in
2 writing of the statute of limitation applicable to the injury
3 or death. Failure of the insurer to provide the written
4 notice shall operate to toll any applicable statute of
5 limitation or other time limitation for a period of 30 days
6 from the date the written notice is actually given. The
7 notice shall not be required if the insurer has received
8 notice that the insured is represented by an attorney.

9 (l) As used in subdivision (b), “public or livery
10 conveyance,” or terms of similar import, shall not include
11 the operation or use of a motor vehicle by the named
12 insured in the performance of volunteer services for a
13 nonprofit charitable organization or governmental
14 agency by providing social service transportation as
15 defined in subdivision (f) of Section 11580.1. This
16 subdivision shall apply only to policies of insurance issued,
17 amended, or renewed on or after January 1, 1976.

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

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

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

31 (n) Underinsured motorist coverage shall be offered
32 with limits equal to the limits of liability for the insured’s
33 uninsured motorist limits in the underlying policy, and
34 may be offered with limits in excess of the uninsured
35 motorist coverage. For the purposes of this section,
36 uninsured and underinsured motorist coverage shall be
37 offered as a single coverage. However, an insurer may
38 offer coverage for damages for bodily injury or wrongful
39 death from the owner or operator of an underinsured



1 motor vehicle at greater limits than an uninsured motor
2 vehicle.

3 (o) If an insured has failed to provide an insurer with
4 wage loss information or medical treatment record
5 releases within 15 days of the insurer's request or has
6 failed to submit to a medical examination arranged by the
7 insurer within 20 days of the insurer's request, the insurer
8 may, at any time prior to 30 days before the actual
9 arbitration proceedings commence, request, and the
10 insured shall furnish, wage loss information or medical
11 treatment record releases, and the insurer may require
12 the insured, except during periods of hospitalization, to
13 make himself or herself available for a medical
14 examination. The wage loss information or medical
15 treatment record releases shall be submitted by the
16 insured within 10 days of request and the medical
17 examination shall be arranged by the insurer no sooner
18 than 10 days after request, unless the insured agrees to an
19 earlier examination date, and not later than 20 days after
20 the request. If the insured fails to comply with the
21 requirements of this subdivision, the actual arbitration
22 proceedings shall be stayed for at least 30 days following
23 compliance by the insured. The proceedings shall be
24 scheduled as soon as practicable following expiration of
25 the 30-day period.

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

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

36 (2) "Underinsured motor vehicle" means a motor
37 vehicle that is an insured motor vehicle but insured for an
38 amount that is less than the uninsured motorist limits
39 carried on the motor vehicle of the injured person.



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

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

14 (5) The insurer paying a claim under this subdivision
15 shall, to the extent of the payment, be entitled to
16 reimbursement or credit in the amount received by the
17 insured from the owner or operator of the underinsured
18 motor vehicle or the insurer of the owner or operator.

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

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

35 (q) Regardless of the number of vehicles involved
36 whether insured or not, persons covered, claims made,
37 premiums paid or the number of premiums shown on the
38 policy, in no event shall the limit of liability for two or
39 more motor vehicles or two or more policies be added



1 together, combined, or stacked to determine the limit of
2 insurance coverage available to injured persons.

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

5 11580.7. (a) Any policy of automobile insurance or
6 motor vehicle insurance issued or renewed in this state on
7 or after July 1, 1996, may contain provisions requiring
8 insureds to obtain any repair of vehicular damage
9 occurring in this state that is a repairable loss, and for
10 which there is liability, collision, comprehensive, or other
11 coverage under the policy, at a facility under contract to
12 the insurer pursuant to subdivision (b). Whenever that
13 claim is allowed, the insurer shall refer the claimant to
14 three or more of these repair facilities within reasonable
15 proximity where the claimant requests that the repairs be
16 performed. If the claimant elects to not repair the vehicle
17 at one of the referral facilities, any monetary benefit or
18 compensation paid under the policy shall be limited to
19 the cost of repairs at a facility under contract to the
20 insurer pursuant to subdivision (b). If the insurer is not
21 able to provide the required referrals, the policy
22 requirements requiring repairs at a referral facility shall
23 not apply.

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

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

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

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



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

3 11580.71. Every insurer issuing policies of automobile
4 or motor vehicle insurance that refers claimants to
5 automotive body or repair shops for repairs shall develop
6 a plan to assure that the repairs were completed properly
7 and within a reasonable time. The insurer shall submit the
8 plan to the commissioner by July 1, 1996, and at least every
9 three years thereafter.

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

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

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

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

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

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

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

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

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

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

39 (C) Any person who knowingly causes or participates
40 in a vehicular collision, or any other vehicular accident,



1 for the purpose of presenting any false or fraudulent
2 claim.

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

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

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

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

12 (10) Knowingly present for payment any
13 undercharges for health care benefits on behalf of a
14 specific claimant unless any known overcharges for
15 health care benefits for that claimant are presented for
16 reconciliation at that same time.

17 (b) (1) Every person who violates paragraph (1), (2),
18 (3), (4), (5), or (6) of subdivision (a) shall be punished
19 by imprisonment in the state prison for two, three, or five
20 years, or by a fine not exceeding fifty thousand dollars
21 (\$50,000), or by both that imprisonment and fine, unless
22 the value of the fraud is fifty thousand dollars (\$50,000)
23 or more. Whenever the value of the fraud is fifty thousand
24 dollars (\$50,000) or more, the fine may be double the
25 amount of the value of the fraud.

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

28 (A) Where the claim or amount at issue exceeds four
29 hundred dollars (\$400), the offense is punishable by
30 imprisonment in the state prison for two, three, or five
31 years, by a fine not exceeding fifty thousand dollars
32 (\$50,000), or by both that imprisonment and fine, unless
33 the value of the fraud exceeds fifty thousand dollars
34 (\$50,000), in which event the fine may not exceed the
35 value of the fraud, or by imprisonment in a county jail not
36 to exceed one year, by a fine of not more than one
37 thousand dollars (\$1,000), or by both that imprisonment
38 and fine.

39 (B) Where the claim or amount at issue is four
40 hundred dollars (\$400) or less, the offense is punishable



1 by imprisonment in a county jail not to exceed six months,
2 by a fine of not more than one thousand dollars (\$1,000),
3 or by both that imprisonment and fine unless the
4 aggregate amount of the claims or amount at issue
5 exceeds four hundred dollars (\$400) in any 12 consecutive
6 month period, in which case the claims or amounts may
7 be charged as in subparagraph (A).

8 (c) Notwithstanding any other provision of law,
9 probation shall not be granted to, nor shall the execution
10 or imposition of a sentence be suspended for, any adult
11 person convicted of felony violations of this section who
12 previously has been convicted of felony violations of this
13 section as an adult under charges separately brought and
14 tried two or more times. The existence of any fact which
15 would make a person ineligible for probation under this
16 subdivision shall be alleged in the information or
17 indictment, and either admitted by the defendant in an
18 open court, or found to be true by the jury trying the issue
19 of guilt or by the court where guilt is established by plea
20 of guilty or nolo contendere or by trial by the court sitting
21 without a jury.

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

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

32 (d) Any person who violates subdivision (a) and who
33 has a prior felony conviction of the offense set forth in that
34 subdivision or in Section 548 shall receive a two-year
35 enhancement for each prior felony conviction in addition
36 to the sentence provided in subdivision (b). The
37 existence of any fact which would subject a person to a
38 penalty enhancement shall be alleged in the information
39 or indictment and either admitted by the defendant in
40 open court, or found to be true by the jury trying the issue



1 of guilt or by the court where guilt is established by plea
2 of guilty or nolo contendere or by trial by the court sitting
3 without a jury.

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

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

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

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

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

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

24 4750.3. Unless the department has received evidence
25 of financial responsibility that shows that the motor
26 vehicle is covered by a motor vehicle liability policy or an
27 automobile liability policy that satisfies the financial
28 responsibility requirements, the department shall refuse
29 registration or renewal of registration of a motor vehicle
30 on which registration fees are due. For purposes of this
31 subdivision, evidence of financial responsibility is a copy
32 or facsimile copy of any one of the following:

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

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

37 (3) A certificate of self-insurance.

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



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

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

6 SEC. 20. Section 9250.5 is added to the Vehicle Code,
7 to read:

8 9250.5. (a) In addition to any other fees specified in
9 this code and the Revenue and Taxation Code, a fee of
10 one dollar (\$1) shall be paid at the time of registration or
11 renewal of registration of every vehicle subject to
12 registration under this code, except those vehicles that
13 are expressly exempted under this code from the
14 payment of registration fees.

15 (b) The money collected pursuant to this section shall,
16 upon appropriation by the Legislature, be used to
17 reimburse the department for its costs incurred in
18 implementing Section 4750.3.

19 SEC. 21. Section 12810 of the Vehicle Code is
20 amended to read:

21 12810. In determining the violation point count, the
22 following shall apply:

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

26 (b) Any conviction of a violation of Section 23152 or
27 23153 shall be given a value of two points.

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

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

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

38 (e) Except as provided in subdivision (g), any other
39 traffic conviction involving the safe operation of a motor



1 vehicle upon the highway shall be given a value of one
2 point.

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

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

10 (2) Any conviction of a violation of subdivision (a) of
11 Section 21116, Section 21207.5, 21708, 21710, 21716, 23120,
12 24800, 26707, or 27315 shall not be given a violation point
13 count.

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

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

20 (i) Any conviction of a violation of Section 14601,
21 14601.1, 14601.2, or 14601.3 shall be given a value of two
22 points.

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

26 SEC. 22. Section 16006 is added to the Vehicle Code,
27 to read:

28 16006. (a) Every person required to make a report to
29 the department by this chapter shall, at the same time
30 that report is required, make a report of the accident to
31 his or her insurer providing liability insurance.

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

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

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

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



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

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

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

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

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

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

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

34 SEC. 23. Section 16056 of the Vehicle Code is
35 amended to read:

36 16056. (a) No policy or bond shall be effective under
37 Section 16054 unless issued by an insurance company or
38 surety company authorized to do business in this state,
39 except as provided in subdivision (b) of this section, nor
40 unless the policy or bond is subject, if the accident has



1 resulted in bodily injury or death, to a limit, exclusive of
2 interest and costs, of not less than ten thousand dollars
3 (\$10,000) because of bodily injury to or death of one
4 person in any one accident and, subject to that limit for
5 one person, to a limit of not less than twenty thousand
6 dollars (\$20,000) because of bodily injury to or death of
7 two or more persons in any one accident, and, if the
8 accident has resulted in injury to, or destruction of
9 property, to a limit of not less than three thousand dollars
10 (\$3,000) because of injury to or destruction of property of
11 others in any one accident. However, the property
12 damage liability requirements of this section do not apply
13 if that coverage has been waived under Section 11580.02
14 of the Insurance Code.

15 (b) No policy or bond shall be effective under Section
16 16054 with respect to any vehicle which was not
17 registered in this state or was a vehicle which was
18 registered elsewhere than in this state at the effective
19 date of the policy or bond or the most recent renewal
20 thereof, unless the insurance company or surety company
21 issuing the policy or bond is authorized to do business in
22 this state, or if the company is not authorized to do
23 business in this state, unless it executes a power of
24 attorney authorizing the department to accept service on
25 its behalf of notice or process in any action upon the policy
26 or bond arising out of an accident mentioned in
27 subdivision (a).

28 SEC. 24. Section 16377 of the Vehicle Code is
29 amended to read:

30 16377. Every judgment shall for the purposes of this
31 chapter be deemed satisfied:

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

37 (b) When, subject to the limit of ten thousand dollars
38 (\$10,000) as to one person, the sum of twenty thousand
39 dollars (\$20,000) has been credited, upon any judgment
40 in excess of that amount, or upon all judgments,



1 collectively, which together total in excess of that
2 amount, for personal injury to or death of more than one
3 person as a result of any one accident.

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

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

16 SEC. 25. Section 16430 of the Vehicle Code is
17 amended to read:

18 16430. Proof of financial responsibility when required
19 by this code means proof of financial responsibility
20 resulting from the ownership or operation of a motor
21 vehicle and arising by reason of personal injury to, or
22 death of, any one person, of at least ten thousand dollars
23 (\$10,000), and, subject to the limit of ten thousand dollars
24 (\$10,000) for each person injured or killed, of at least
25 twenty thousand dollars (\$20,000) for the injury to, or the
26 death of, two or more persons in any one accident, and for
27 damages to property (in excess of five hundred dollars
28 (\$500)), of at least three thousand dollars (\$3,000)
29 resulting from any one accident. Proof of financial
30 responsibility may be given in any manner authorized in
31 this chapter. However, the property damage liability
32 requirements of this section do not apply if that coverage
33 has been waived under Section 11580.02 of the Insurance
34 Code, and such a policy shall constitute proof of financial
35 responsibility for all purposes, notwithstanding that
36 waiver.

37 SEC. 26. Section 16451 of the Vehicle Code is
38 amended to read:

39 16451. An owner's policy of motor vehicle liability
40 insurance shall insure the named insured and any other



1 person using any motor vehicle registered to the named
2 insured with the express or implied permission of the
3 named insured, against loss from the liability imposed by
4 law for damages arising out of ownership, maintenance,
5 or use of the motor vehicle within the continental limits
6 of the United States to the extent and aggregate amount,
7 exclusive of interest and costs, with respect to each motor
8 vehicle, of ten thousand dollars (\$10,000) for bodily injury
9 to or death of each person as a result of any one accident
10 and, subject to the limit as to one person, the amount of
11 twenty thousand dollars (\$20,000) for bodily injury to or
12 death of all persons as a result of any one accident and,
13 unless waived pursuant to Section 11580.02 of the
14 Insurance Code, the amount of three thousand dollars
15 (\$3,000) for damage to property of others as a result of any
16 one accident.

17 SEC. 27. Section 17151 of the Vehicle Code is
18 amended to read:

19 17151. (a) The liability of an owner, bailee of an
20 owner, or personal representative of a decedent imposed
21 by this chapter and not arising through the relationship
22 of principal and agent or master and servant is limited to
23 the amount of ten thousand dollars (\$10,000) for the
24 death of or injury to one person in any one accident and,
25 subject to the limit as to one person, is limited to the
26 amount of twenty thousand dollars (\$20,000) for the
27 death of or injury to more than one person in any one
28 accident and is limited to the amount of three thousand
29 dollars (\$3,000) for damage to property of others in any
30 one accident.

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

39 SEC. 28. Section 17709 of the Vehicle Code is
40 amended to read:



1 17709. (a) No person, or group of persons
2 collectively, shall incur liability for a minor's negligent or
3 wrongful act or omission under Sections 17707 and 17708
4 in any amount exceeding ten thousand dollars (\$10,000)
5 for injury to or death of one person as a result of any one
6 accident or, subject to the limit as to one person,
7 exceeding twenty thousand dollars (\$20,000) for injury to
8 or death of all persons as a result of any one accident or
9 exceeding three thousand dollars (\$3,000) for damage to
10 property of others as a result of any one accident.

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

17 SEC. 29. Section 20002 of the Vehicle Code is
18 amended to read:

19 20002. (a) The driver of any vehicle involved in an
20 accident resulting in damage to any property, including
21 vehicles, shall immediately stop the vehicle at the scene
22 of the accident and shall then and there do one of the
23 following:

24 (1) Locate and notify the owner or person in charge of
25 that property of the name and address of the driver and
26 owner of the vehicle involved and, upon locating the
27 driver of any other vehicle involved or the owner or
28 person in charge of any damaged property, present his or
29 her driver's license, vehicle registration, and evidence of
30 financial responsibility as specified in subparagraph (B)
31 of paragraph (2) to the other driver, property owner, or
32 person in charge of that property. The information
33 presented shall include the current residence address of
34 the driver and of the registered owner. If the registered
35 owner of an involved vehicle is present at the scene, he
36 or she shall also, upon request, present his or her driver's
37 license information, if available, or other valid
38 identification to the other involved parties, and evidence
39 of financial responsibility to the other involved parties.



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

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

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

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

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

33 (c) (1) Any person willfully failing to comply with all
34 the requirements of paragraph (1) or (3) of subdivision
35 (a), or subdivision (b) is guilty of a misdemeanor and,
36 upon conviction thereof, shall be punished by
37 imprisonment in a county jail for not to exceed six
38 months, or by a fine not exceeding one thousand dollars
39 (\$1,000), or by both.



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

5 (d) The department shall advise motorists of the
6 requirements of this section in its “Driver Information
7 Handbook” and its annual notice for vehicle registration
8 and shall test for knowledge of this section in its testing
9 of applicants for a new or renewed driver’s license.

10 SEC. 30. Section 20003 of the Vehicle Code is
11 amended to read:

12 20003. (a) The driver of any vehicle involved in an
13 accident resulting in injury to or death of any person shall
14 also give his or her name, current residence address, the
15 registration number of the vehicle he or she is driving,
16 and the name and current residence address of the
17 registered owner of the vehicle, evidence of financial
18 responsibility as specified in Section 16021, to the person
19 struck or the driver or occupants of any vehicle involved
20 in the vehicle collision. The driver also shall give the
21 information to any traffic or police officer at the scene of
22 the accident and shall render to any person injured in the
23 accident reasonable assistance, including transporting, or
24 making arrangements for transporting that person to a
25 physician, surgeon, or hospital for medical or surgical
26 treatment if it is apparent that treatment is necessary or
27 if that transportation is requested by the injured person.

28 (b) Any driver subject to the provisions of subdivision
29 (a) shall also exhibit his or her driver’s license, if available,
30 to the person struck or to the driver or occupants of any
31 vehicle collided with, and to any traffic or police officer
32 at the scene of the accident.

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

39 (d) The department shall advise motorists of the
40 requirements of this section in its “Driver Information



1 Handbook” and its annual notice for vehicle registration
2 and shall test for knowledge of this section in its testing
3 of applicants for a new or renewed driver’s license.

4 SEC. 31. ~~(a)~~ The Legislature finds and declares that
5 the reforms made by this act will result in substantial
6 savings and reduced costs for private passenger
7 automobile insurance. More particularly, the Legislature
8 finds that this act, and the enactment of related provisions
9 to prevent insurance fraud and enhance vehicle safety,
10 will make it more affordable for all Californians to
11 purchase required insurance coverage.

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

14 ~~(1) Result in the availability to good drivers in all areas
15 of the state of a policy providing the minimum required
16 insurance at a price of less than four hundred fifty dollars
17 (\$450) if property damage liability coverage is included,
18 and less than three hundred fifty dollars (\$350) if
19 property damage liability coverage is waived, as set by
20 the Insurance Commissioner in between five and eight
21 territories. If the commissioner determines that the
22 target price is not achievable as desired in between five
23 and eight territories, he or she may select a lower number
24 of territories in which to set the price. Savings flowing
25 from the enactment of measures in the 1995-96 Regular
26 Session shall be considered by the commissioner in setting
27 the price of the minimum insurance policy.~~

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

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

33 ~~(1) In setting the price for the minimum policy and in
34 setting rates, consider ways to recapture any subsidy of
35 the basic policy when an insured buys additional
36 coverage, beginning when more than forty thousand
37 dollars (\$40,000) in bodily injury liability coverage is
38 purchased and consider establishment of prices for
39 policies other than those described in paragraph (1) of
40 subdivision (b), including policies sold to persons who are~~



1 ~~not good drivers and policies sold through the assigned~~
2 ~~risk plan, that are not lower than the price for the~~
3 ~~minimum policy sold to good drivers.~~

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

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

13 ~~(d) Accordingly, the Insurance Commissioner shall~~
14 ~~take those steps consistent with Proposition 103 to~~
15 ~~implement the legislative intent expressed in this section,~~
16 ~~including, where an amendment of Proposition 103 is~~
17 ~~required in order to implement that intent, reporting to~~
18 ~~the Legislature on that additional legislation necessary to~~
19 ~~effectuate that intent.~~

20 SEC. 32. If any provision of this act or the application
21 thereof to any person or circumstances is held invalid,
22 that invalidity shall not affect other provisions or
23 applications of the act which can be given effect without
24 the invalid provision or application, and to this end the
25 provisions of this act are severable.

26 SEC. 33. (a) Except as otherwise provided in this act,
27 this act shall become operative January 1, 1997.

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

33 (c) Sections 3, 5, 7, 8, 16, 17, 29, and 30 of this act shall
34 become operative July 1, 1996.

35 (d) Sections 1, 10, 18, 21, and 31 of this act shall become
36 operative January 1, 1996.

37 SEC. 34. No reimbursement is required by this act
38 pursuant to Section 6 of Article XIII B of the California
39 Constitution for those costs which may be incurred by a
40 local agency or school district because this act creates a



1 new crime or infraction, eliminates a crime or infraction,
2 changes the penalty for a crime or infraction, within the
3 meaning of Section 17556 of the Government Code, or
4 changes the definition of a crime within the meaning of
5 Article XIII B of the California Constitution.

6 However, notwithstanding Section 17580 of the
7 Government Code, if the Commission on State Mandates
8 determines that this act contains other costs mandated by
9 the state, reimbursement to local agencies and school
10 districts for those costs shall be made pursuant to Part 7
11 (commencing with Section 17500) of Division 4 of Title
12 2 of the Government Code. If the statewide cost of the
13 claim for reimbursement does not exceed one million
14 dollars (\$1,000,000), reimbursement shall be made from
15 the State Mandates Claims Fund.

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

