

HOUSE No. 19

So much of the recommendations of the Department of the State Treasurer (House, No. 17) as relates to motor vehicles and aircraft. Transportation.

The Commonwealth of Massachusetts

—————
In the Year Two Thousand Thirteen
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An Act relative to motor vehicles and aircraft.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

- 1 Notwithstanding any provision of the general or special laws to the contrary, In Chapter 90,
- 2 Section 34A strike the words “; or the certificate of the state treasurer stating that cash or
- 3 securities have been deposited with said treasurer as provided in section thirty-four D”
- 4 And in said Chapter 90, strike Section 34D in its entirety.

5 CHAPTER 90

6 MOTOR VEHICLES AND AIRCRAFT

7 Section 34A Definitions

- 8 Section 34A. The following words, as used in sections thirty-four A to thirty-four N, inclusive,
- 9 shall have the following meanings:—

- 10 “Certificate”, the certificate of an insurance company authorized to issue in the commonwealth a
- 11 motor vehicle liability policy, stating that it has or will insure the applicant for registration of a
- 12 motor vehicle with respect to such motor vehicle for a period at least coterminous with that of

13 such registration under such a motor vehicle liability policy or a renewal or extension of such a
14 policy, which conforms to the provisions of section one hundred and thirteen A of chapter one
15 hundred and seventy-five or that it has executed a binder, as defined in said section one hundred
16 and thirteen A, under and in conformity with said section covering such motor vehicle pending
17 the issue of a motor vehicle liability policy; or the certificate of a surety company authorized to
18 transact business in the commonwealth under section one hundred and five of said chapter one
19 hundred and seventy-five as surety, stating that it has or will guarantee performance by the
20 applicant for registration of a motor vehicle with respect to such motor vehicle for a period at
21 least coterminous with that of such registration under a motor vehicle liability bond or renewal or
22 extension thereof, payable to the commonwealth, which conforms to the provisions of said
23 section one hundred and thirteen A and has been executed by such applicant as principal and by
24 such surety company as surety; or the certificate of the state treasurer stating that cash or
25 securities have been deposited with said treasurer as provided in section thirty-four D.

26 “Guest occupant” or “guest occupant of such motor vehicle”, any person, other than an employee
27 of the owner or registrant of a motor vehicle or of a person responsible for its operation with the
28 owner’s or registrant’s express or implied consent, being in or upon, entering or leaving the
29 same, except a passenger for hire in the case of a motor vehicle registered as a taxicab or
30 otherwise for carrying passengers for hire.

31 “Motor vehicle”, shall, in addition to the meaning prescribed by section one, include a trailer, as
32 defined by said section one.

33 “Motor vehicle liability bond”, a bond conditioned that the obligor shall within thirty days after
34 the rendition thereof satisfy all judgments rendered against him or against any person responsible

35 for the operation of the obligor's motor vehicle with his express or implied consent in actions to
36 recover damages for bodily injuries, including death at any time resulting therefrom, and
37 judgments rendered as aforesaid for consequential damages consisting of expenses incurred by a
38 husband, wife, parent or guardian for medical, nursing, hospital or surgical services, or for
39 indemnity, in connection with or on account of such bodily injuries or death, and judgments
40 rendered as aforesaid for contribution as a joint tortfeasor in connection with or on account of
41 such bodily injuries, sustained during the term of said bond by any person, other than a guest
42 occupant of such motor vehicle or any employee of the owner or registrant of such vehicle or of
43 such other person responsible as aforesaid who is entitled to payments or benefits under the
44 provisions of chapter one hundred and fifty-two, and arising out of the ownership, operation,
45 maintenance, control or use of such motor vehicle upon the ways of the commonwealth or in any
46 place therein to which the public has a right of access, other than by an employee of the federal
47 government while acting within the scope of his office or employment and covered by the
48 provisions of section 2679 of Title 28, United States Code, to the amount or limit of at least
49 twenty thousand dollars on account of injury to or death of any one person, and, subject to such
50 limits as respects injury to or death of one person, of at least forty thousand dollars on account of
51 any one accident resulting in injury to or death of more than one person; provided, however, that
52 in the case of a person who is engaged in the business of leasing motor vehicles under any
53 system referred to in section thirty-two C, the words "motor vehicle liability bond" shall mean a
54 bond as described herein but conditioned further, except in the case of vehicles leased for a term
55 of more than thirty days, that the obligor shall within thirty days after the rendition thereof
56 satisfy all judgments rendered against him or against any person responsible for the operation of
57 the obligor's motor vehicle with his express or implied consent, including such consent imputed

58 under section thirty-two E, in actions to recover damages for injury to property, and judgments
59 rendered as aforesaid for indemnity, or for contribution as a joint tortfeasor, in connection with
60 or on account of such injury to property, sustained during the term of said bond by any person,
61 and arising out of the ownership, operation, maintenance, control or use upon the ways of the
62 commonwealth of such motor vehicle, other than by an employee of the federal government
63 while acting within the scope of his office or employment and covered by the provisions of
64 section 2679 of Title 28, United States Code, to the amount or limit of at least one thousand
65 dollars on account of any such injury to property.

66 “Motor vehicle liability policy”, a policy of liability insurance which provides indemnity for or
67 protection to the insured and any person responsible for the operation of the insured’s motor
68 vehicle with his express or implied consent against loss by reason of the liability to pay damages
69 to others for bodily injuries, including death at any time resulting therefrom, or consequential
70 damages consisting of expenses incurred by a husband, wife, parent or guardian for medical,
71 nursing, hospital or surgical services, or for indemnity, in connection with or on account of such
72 bodily injuries or death, or by reason of the liability for contribution as a joint tortfeasor, in
73 connection with or on account of such bodily injuries, sustained during the term of said policy by
74 any person, other than a guest occupant of such motor vehicle or of any employee of the owner
75 or registrant of such vehicle or of such other person responsible as aforesaid who is entitled to
76 payments or benefits under the provisions of chapter one hundred and fifty-two, and arising out
77 of the ownership, operation, maintenance, control or use of such motor vehicle upon the ways of
78 the commonwealth or in any place therein to which the public has a right of access, other than by
79 an employee of the federal government while acting within the scope of his office or
80 employment and covered by the provisions of section 2679 of Title 28, United States Code, to

81 the amount or limit of at least twenty thousand dollars on account of injury to or death of any one
82 person, and, subject to such limits as respects injury to or death of one person, of at least forty
83 thousand dollars on account of any one accident resulting in injury to or death of more than one
84 person, or a binder as defined in section one hundred and thirteen A of said chapter one hundred
85 and seventy-five providing indemnity or protection as aforesaid pending the issue of such a
86 policy; provided, however, that in the case of a person who is engaged in the business of leasing
87 motor vehicles under any system referred to in section thirty-two C, the words “motor vehicle
88 liability policy” shall mean a policy of liability insurance as described herein and providing, in
89 addition, except in the case of vehicles leased for a term of more than thirty days, indemnity for
90 or protection to the insured and any person responsible for the operation of the insured’s motor
91 vehicle with his express or implied consent, including such consent imputed under section thirty-
92 two E, against loss by reason of the liability to pay damages to others for injury to property or by
93 reason of the liability for indemnity, or for contribution as a joint tortfeasor, in connection with
94 or on account of such injury to property, other than by an employee of the federal government
95 while acting within the scope of his office or employment and covered by the provisions of
96 section 2679 of Title 28, United States Code, sustained during the term of the policy by any
97 person, and arising out of the ownership, operation, maintenance, control or use upon the ways
98 of the commonwealth of such motor vehicle, to the amount or limit of at least one thousand
99 dollars on account of any such injury to property.

100 “Personal injury protection,” provisions of a motor vehicle liability policy or motor vehicle
101 liability bond which provide for payment to the named insured in any such motor vehicle
102 liability policy, the obligor of any motor vehicle liability bond, members of the insured’s or
103 obligor’s household, any authorized operator or passenger of the insured’s or obligor’s motor

104 vehicle including a guest occupant, and any pedestrian struck by the insured's or obligor's motor
105 vehicle, unless any of the aforesaid is a person entitled to payments or benefits under the
106 provisions of chapter one hundred and fifty-two, of all reasonable expenses incurred within two
107 years from the date of accident for necessary medical, surgical, x-ray, and dental services,
108 including prosthetic devices and necessary ambulance, hospital, professional nursing and funeral
109 services, and in the case of persons employed or self-employed at the time of an accident of any
110 amounts actually lost by reason of inability to work and earn wages or salary or their equivalent,
111 but not other income, that would otherwise have been earned in the normal course of an injured
112 person's employment, and for payments in fact made to others, not members of the injured
113 person's household and reasonably incurred in obtaining from those others ordinary and
114 necessary services in lieu of those that, had he not been injured, the injured person would have
115 performed not for income but for the benefit of himself and/or members of his household, and in
116 the case of persons not employed or self-employed at the time of an accident of any loss by
117 reason of diminution of earning power and for payments in fact made to others, not members of
118 the injured person's household and reasonably incurred in obtaining from those others ordinary
119 and necessary services in lieu of those that, had he not been injured, the injured person would
120 have performed not for income but for the benefit of himself and/or members of his household,
121 as a result of bodily injury, sickness or disease, including death at any time resulting therefrom,
122 caused by accident and not suffered intentionally while in or upon, or while entering into or
123 alighting from, or being struck as a pedestrian by, the insured's or obligor's motor vehicle,
124 without regard to negligence or gross negligence or fault of any kind, to the amount or limit of at
125 least eight thousand dollars on account of injury to or death of any one person, except that
126 payments for loss of wages or salary or their equivalent or, in the case of persons not employed,

127 loss by reason of diminution of earning power, shall be limited to amounts actually lost by
128 reason of the accident and further limited (1) in the case of persons entitled to wages or salary of
129 their equivalent under any program for continuation of said wages or salary or their equivalent to
130 an amount that, together with any payments due under such a program, will provide seventy-five
131 per cent of any such person's average weekly wage or salary or its equivalent for the year
132 immediately preceding the accident, provided that the insurer shall reimburse those wage
133 continuation programs or their equivalent which provide for accumulated benefits which can be
134 converted into either cash or additional retirement credit for the amount said program or its
135 equivalent actually pays to the insured, not to exceed seventy-five per cent of the insured's
136 average weekly wages or salary or its equivalent for the year immediately preceding the
137 accident, or (2) in the case of persons not entitled to wages or salary or their equivalent under
138 any program for continuation of said wages or salary or their equivalent to an amount that will
139 provide seventy-five per cent of any such person's average weekly wage or salary or its
140 equivalent for the year immediately preceding the accident. In any case where amounts paid for
141 loss of wage, salary or their equivalent are reduced as a result of any program for continuation of
142 the same and such reduction produces a subsequent loss, as when the limit of any such program
143 for continuation of wage or salary or their equivalent is exhausted with the result that an injured
144 person cannot recover for a later injury or illness as he would have been entitled to but for such a
145 reduction, such subsequent loss to an amount equalling the reduction in personal injury
146 protection made in accordance with this section shall, if incurred within one year after the receipt
147 of the last benefit provided under this section, be treated as a loss of wages, salary or their
148 equivalent incurred as a result of the injury to which personal injury protection applied. In all
149 cases where an insured is compensated under such a wage continuation program and also

150 recovers these benefits from another source, he shall be entitled to reimburse the wage
151 continuation program with no loss in standing under such a program.

152 Personal injury protection shall also provide for payment, to the named insured or obligor and
153 members of their households, all amounts defined in this section in any case where such persons
154 incur such expense or loss as a result of such injury while in, upon, entering into or alighting
155 from, or by being struck as a pedestrian by, a motor vehicle not insured by a policy or bond
156 providing personal injury protection unless such person recovers such expenses or loss in an
157 action of tort. Insurers may exclude a person from personal injury protection benefits if such
158 person's conduct contributed to his injury in any of the following ways while operating a motor
159 vehicle in the commonwealth:

160 (1) while under the influence of alcohol or a narcotic drug as defined in section one hundred and
161 ninety-seven of chapter ninety-four;

162 (2) while committing a felony or seeking to avoid lawful apprehension or arrest by a police
163 officer; or

164 (3) with the specific intent of causing injury or damage to himself or others.

165 The term "pedestrian" shall include persons operating bicycles, tricycles and similar vehicles and
166 persons upon horseback or in vehicles drawn by horses or other draft animals.

167 Notwithstanding the foregoing, personal injury protection provisions shall not provide for
168 payment of more than two thousand dollars of expenses incurred within two years from the date
169 of accident for medical, surgical, X-ray and dental services, including prosthetic devices and
170 necessary ambulance, hospital, professional nursing and funeral services if, and to the extent

171 that, such expenses have been or will be compensated, paid or indemnified pursuant to any
172 policy of health, sickness or disability insurance or any contract or agreement of any group,
173 organization, partnership or corporation to provide, pay for or reimburse the cost of medical,
174 hospital, dental or other health care services. No policy of health, sickness or disability insurance
175 and no contract or agreement of any group, organization, partnership or corporation to provide,
176 pay for or reimburse the cost of medical, hospital, dental or other health care services, shall deny
177 coverage for said expenses because of the existence of personal injury protection benefits.

178 Notwithstanding the provisions of section seventy A of chapter one hundred and eleven of the
179 General Laws, no entity which is the source of the provision, payment or reimbursement of said
180 expenses shall recover any amount against the claimant nor shall it be subrogated to the rights of
181 the claimant for more than two thousand dollars of personal injury protection benefits, nor shall
182 it have a lien against the claimant's personal injury protection benefits on account of its
183 provision payment of reimbursement of said expenses. Within two years from the date of the
184 accident, if the claimant has a policy of insurance which provides health benefits or income
185 disability coverage, and the claimant is unwilling or unable to pay the costs of renewing or
186 continuing that policy of insurance in force, the insurer providing personal injury protection
187 coverage to the claimant may tender to the claimant the cost of maintaining the said policy in
188 force for the two year period. Upon receipt of such tender, the claimant shall continue such
189 policy of insurance; or an equivalent policy in force for the two year period. Nothing in this
190 subsection shall be construed to compel a claimant to renew or maintain any policy of insurance
191 in force prior to receipt of the said tender, or to interfere in any way with the claimant's choice of
192 physician or course of medical treatment.

193 CHAPTER 90MOTOR VEHICLES AND AIRCRAFT

194 Section 34D Registration application; cash deposit in lieu of liability bond or policy; satisfaction
195 of judgment

196 Section 34D. The applicant for registration may, in lieu of procuring a motor vehicle liability
197 bond or policy, deposit with the state treasurer cash in the amount of ten thousand dollars or
198 bonds, stocks or other evidences of indebtedness satisfactory to said treasurer of a market value
199 of not less than ten thousand dollars as security for the payment by such applicant or by any
200 person responsible for the operation of such applicant's motor vehicle with his express or
201 implied consent of all judgments rendered against such applicant or against such person in
202 actions to recover damages for bodily injuries, including death at any time resulting therefrom,
203 judgments rendered as aforesaid for consequential damages consisting of expenses incurred by a
204 husband, wife, parent or guardian for medical, nursing, hospital or surgical services, or for
205 indemnity, in connection with or on account of such bodily injuries or death, and judgments
206 rendered as aforesaid for contribution as a joint tortfeasor in connection with or on account of
207 such bodily injuries, sustained during the term of registration by any person other than a guest
208 occupant of such motor vehicle or any employee of the owner or registrant of such motor vehicle
209 or of such other person responsible as aforesaid who is entitled to payments or benefits under the
210 provisions of chapter one hundred and fifty-two, and arising out of the ownership, operation,
211 maintenance, control or use of such motor vehicle upon the ways of the commonwealth or in any
212 place therein to which the public has a right of access, to the amount or limit of at least ten
213 thousand dollars on account of any such judgment; provided, however, that if the applicant for
214 registration is engaged in the business of leasing motor vehicles under any system referred to in
215 section thirty-two C, such applicant shall deposit with said treasurer additional security in the
216 amount or value of at least one thousand dollars for the payment by such applicant or by any

217 person responsible for the operation of such applicant's motor vehicle with his express or
218 implied consent, including such consent imputed under section thirty-two E, of all judgments
219 rendered against such applicant or against such person in actions to recover damages for injury to
220 property and judgments rendered as aforesaid for indemnity, or for contribution as a joint
221 tortfeasor, sustained during the term of registration by any person, and arising out of the
222 ownership, operation, maintenance, control or use upon the ways of the commonwealth of such
223 motor vehicle, to the amount or limit of at least one thousand dollars on account of any such
224 judgment and provided further that no such deposit shall be required in the case of vehicles
225 leased for a term of more than thirty days and the depositor shall in writing authorize the state
226 treasurer to pay over to the insurer assigned a claim under section thirty-four N any and all
227 amounts, including without limitation the reasonable costs of investigating and settling any such
228 claim and such other reasonable expenses expended by it to satisfy a claim for personal injury
229 protection made against it by any person, other than the depositor or members of his household,
230 who is entitled to such payments as a result of the unavailability of personal injury protection
231 benefits on said depositor's motor vehicle. The depositor shall be entitled to the interest accruing
232 on his deposit and to the income payable on the securities deposited and may from time to time
233 with the consent of the state treasurer change such securities. Upon presentation to the state
234 treasurer by an officer qualified to serve civil process or an execution issued on any such
235 judgment against the registrant or other person responsible as aforesaid, said treasurer shall pay,
236 out of the cash deposited by the registrant as herein provided, the amount of the execution,
237 including costs and interest, up to but not in excess of ten thousand dollars. If the registrant has
238 deposited bonds, stocks or other evidences of indebtedness, the state treasurer shall, on
239 presentation of an execution as aforesaid, cause the said securities or such part thereof as may be

240 necessary to satisfy the judgment to be sold at public auction, giving the registrant three days'
241 notice in writing of the time and place of said sale, and from the proceeds of said sale the state
242 treasurer shall, after paying the expenses thereof, satisfy the execution as hereinbefore provided
243 when a cash deposit has been made. Any payment upon an execution by the state treasurer in
244 accordance with the provisions of this section shall discharge him from all official and personal
245 liability whatever to the registrant to the extent of such payment. The state treasurer shall,
246 whenever the amount of such deposit from any cause falls below the amount required by this
247 section, require, at the option of the registrants, the deposit of additional cash or securities up to
248 the amount required by this section or a motor vehicle liability bond or policy as provided in this
249 chapter. Money or securities deposited with the state treasurer under the provisions of this
250 section shall not be subject to attachment or execution except as provided in this section. The
251 state treasurer shall deposit any cash received under the provisions of this section in a savings
252 bank or the savings department of a trust company or of a national bank within the
253 commonwealth, or on paid-up shares and accounts of and in co-operative banks, or shall use
254 such cash to purchase share accounts in federal savings and loan associations located in the
255 commonwealth.