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

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:

Notwithstanding any provision of the general or special laws to the contrary, In Chapter 90, Section 34A strike the words "; or the certificate of the state treasurer stating that cash or securities have been deposited with said treasurer as provided in section thirty-four D"

And in said Chapter 90, strike Section 34D in its entirety.

CHAPTER 90

MOTOR VEHICLES AND AIRCRAFT

Section 34ADefinitions

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

"Certificate", the certificate of an insurance company authorized to issue in the commonwealth a motor vehicle liability policy, stating that it has or will insure the applicant for registration of a motor vehicle with respect to such motor vehicle for a period at least coterminous with that of such registration under such a motor vehicle liability policy or a renewal or extension of such a policy, which conforms to the provisions of section one hundred and thirteen A of chapter one hundred and seventy-five or that it has executed a binder, as defined in said section one hundred and thirteen A, under and in conformity with said section covering such motor vehicle pending the issue of a motor vehicle liability policy; or the certificate of a surety company authorized to transact business in the commonwealth under section one hundred and five of said chapter one hundred and seventy-five as surety, stating that it has or will guarantee performance by the applicant for registration of a motor vehicle with

21 respect to such motor vehicle for a period at least coterminous with that of such registration
22 under a motor vehicle liability bond or renewal or extension thereof, payable to the
23 commonwealth, which conforms to the provisions of said section one hundred and thirteen A and
24 has been executed by such applicant as principal and by such surety company as surety; or the
25 certificate of the state treasurer stating that cash or securities have been deposited with said
26 treasurer as provided in section thirty-four D.

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

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

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

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

67 "Motor vehicle liability policy", a policy of liability insurance which provides indemnity
68 for or protection to the insured and any person responsible for the operation of the insured's
69 motor vehicle with his express or implied consent against loss by reason of the liability to pay
70 damages to others for bodily injuries, including death at any time resulting therefrom, or
71 consequential damages consisting of expenses incurred by a husband, wife, parent or guardian
72 for medical, nursing, hospital or surgical services, or for indemnity, in connection with or on
73 account of such bodily injuries or death, or by reason of the liability for contribution as a joint
74 tortfeasor, in connection with or on account of such bodily injuries, sustained during the term of
75 said policy by any person, other than a guest occupant of such motor vehicle or of any employee
76 of the owner or registrant of such vehicle or of such other person responsible as aforesaid who is
77 entitled to payments or benefits under the provisions of chapter one hundred and fifty-two, and
78 arising out of the ownership, operation, maintenance, control or use of such motor vehicle upon
79 the ways of the commonwealth or in any place therein to which the public has a right of access,
80 other than by an employee of the federal government while acting within the scope of his office
81 or employment and covered by the provisions of section 2679 of Title 28, United States Code, to
82 the amount or limit of at least twenty thousand dollars on account of injury to or death of any one
83 person, and, subject to such limits as respects injury to or death of one person, of at least forty
84 thousand dollars on account of any one accident resulting in injury to or death of more than one
85 person, or a binder as defined in section one hundred and thirteen A of said chapter one hundred
86 and seventy-five providing indemnity or protection as aforesaid pending the issue of such a
87 policy; provided, however, that in the case of a person who is engaged in the business of leasing
88 motor vehicles under any system referred to in section thirty-two C, the words "motor vehicle
89 liability policy" shall mean a policy of liability insurance as described herein and providing, in
90 addition, except in the case of vehicles leased for a term of more than thirty days, indemnity for
91 or protection to the insured and any person responsible for the operation of the insured's motor
92 vehicle with his express or implied consent, including such consent imputed under section thirty-
93 two E, against loss by reason of the liability to pay damages to others for injury to property or by
94 reason of the liability for indemnity, or for contribution as a joint tortfeasor, in connection with
95 or on account of such injury to property, other than by an employee of the federal government
96 while acting within the scope of his office or employment and covered by the provisions of
97 section 2679 of Title 28, United States Code, sustained during the term of the policy by any
98 person, and arising out of the ownership, operation, maintenance, control or use upon the ways

99 of the commonwealth of such motor vehicle, to the amount or limit of at least one thousand
100 dollars on account of any such injury to property.

101 "Personal injury protection," provisions of a motor vehicle liability policy or motor
102 vehicle liability bond which provide for payment to the named insured in any such motor vehicle
103 liability policy, the obligor of any motor vehicle liability bond, members of the insured's or
104 obligor's household, any authorized operator or passenger of the insured's or obligor's motor
105 vehicle including a guest occupant, and any pedestrian struck by the insured's or obligor's motor
106 vehicle, unless any of the aforesaid is a person entitled to payments or benefits under the
107 provisions of chapter one hundred and fifty-two, of all reasonable expenses incurred within two
108 years from the date of accident for necessary medical, surgical, x-ray, and dental services,
109 including prosthetic devices and necessary ambulance, hospital, professional nursing and funeral
110 services, and in the case of persons employed or self-employed at the time of an accident of any
111 amounts actually lost by reason of inability to work and earn wages or salary or their equivalent,
112 but not other income, that would otherwise have been earned in the normal course of an injured
113 person's employment, and for payments in fact made to others, not members of the injured
114 person's household and reasonably incurred in obtaining from those others ordinary and
115 necessary services in lieu of those that, had he not been injured, the injured person would have
116 performed not for income but for the benefit of himself and/or members of his household, and in
117 the case of persons not employed or self-employed at the time of an accident of any loss by
118 reason of diminution of earning power and for payments in fact made to others, not members of
119 the injured person's household and reasonably incurred in obtaining from those others ordinary
120 and necessary services in lieu of those that, had he not been injured, the injured person would
121 have performed not for income but for the benefit of himself and/or members of his household,
122 as a result of bodily injury, sickness or disease, including death at any time resulting therefrom,
123 caused by accident and not suffered intentionally while in or upon, or while entering into or
124 alighting from, or being struck as a pedestrian by, the insured's or obligor's motor vehicle,
125 without regard to negligence or gross negligence or fault of any kind, to the amount or limit of at
126 least eight thousand dollars on account of injury to or death of any one person, except that
127 payments for loss of wages or salary or their equivalent or, in the case of persons not employed,
128 loss by reason of diminution of earning power, shall be limited to amounts actually lost by
129 reason of the accident and further limited (1) in the case of persons entitled to wages or salary of
130 their equivalent under any program for continuation of said wages or salary or their equivalent to
131 an amount that, together with any payments due under such a program, will provide seventy-five
132 per cent of any such person's average weekly wage or salary or its equivalent for the year
133 immediately preceding the accident, provided that the insurer shall reimburse those wage
134 continuation programs or their equivalent which provide for accumulated benefits which can be
135 converted into either cash or additional retirement credit for the amount said program or its
136 equivalent actually pays to the insured, not to exceed seventy-five per cent of the insured's
137 average weekly wages or salary or its equivalent for the year immediately preceding the
138 accident, or (2) in the case of persons not entitled to wages or salary or their equivalent under

139 any program for continuation of said wages or salary or their equivalent to an amount that will
140 provide seventy-five per cent of any such person's average weekly wage or salary or its
141 equivalent for the year immediately preceding the accident. In any case where amounts paid for
142 loss of wage, salary or their equivalent are reduced as a result of any program for continuation of
143 the same and such reduction produces a subsequent loss, as when the limit of any such program
144 for continuation of wage or salary or their equivalent is exhausted with the result that an injured
145 person cannot recover for a later injury or illness as he would have been entitled to but for such a
146 reduction, such subsequent loss to an amount equalling the reduction in personal injury
147 protection made in accordance with this section shall, if incurred within one year after the receipt
148 of the last benefit provided under this section, be treated as a loss of wages, salary or their
149 equivalent incurred as a result of the injury to which personal injury protection applied. In all
150 cases where an insured is compensated under such a wage continuation program and also
151 recovers these benefits from another source, he shall be entitled to reimburse the wage
152 continuation program with no loss in standing under such a program.

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

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

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

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

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

168 Notwithstanding the foregoing, personal injury protection provisions shall not provide for
169 payment of more than two thousand dollars of expenses incurred within two years from the date
170 of accident for medical, surgical, X-ray and dental services, including prosthetic devices and
171 necessary ambulance, hospital, professional nursing and funeral services if, and to the extent
172 that, such expenses have been or will be compensated, paid or indemnified pursuant to any
173 policy of health, sickness or disability insurance or any contract or agreement of any group,
174 organization, partnership or corporation to provide, pay for or reimburse the cost of medical,
175 hospital, dental or other health care services. No policy of health, sickness or disability insurance

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

194 CHAPTER 90MOTOR VEHICLES AND AIRCRAFT

195 Section 34DRegistration application; cash deposit in lieu of liability bond or policy;
196 satisfaction of judgment

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

215 registration is engaged in the business of leasing motor vehicles under any system referred to in
216 section thirty-two C, such applicant shall deposit with said treasurer additional security in the
217 amount or value of at least one thousand dollars for the payment by such applicant or by any
218 person responsible for the operation of such applicant's motor vehicle with his express or
219 implied consent, including such consent imputed under section thirty-two E, of all judgments
220 rendered against such applicant or against such person in actions to recover damages for injury to
221 property and judgments rendered as aforesaid for indemnity, or for contribution as a joint
222 tortfeasor, sustained during the term of registration by any person, and arising out of the
223 ownership, operation, maintenance, control or use upon the ways of the commonwealth of such
224 motor vehicle, to the amount or limit of at least one thousand dollars on account of any such
225 judgment and provided further that no such deposit shall be required in the case of vehicles
226 leased for a term of more than thirty days and the depositor shall in writing authorize the state
227 treasurer to pay over to the insurer assigned a claim under section thirty-four N any and all
228 amounts, including without limitation the reasonable costs of investigating and settling any such
229 claim and such other reasonable expenses expended by it to satisfy a claim for personal injury
230 protection made against it by any person, other than the depositor or members of his household,
231 who is entitled to such payments as a result of the unavailability of personal injury protection
232 benefits on said depositor's motor vehicle. The depositor shall be entitled to the interest accruing
233 on his deposit and to the income payable on the securities deposited and may from time to time
234 with the consent of the state treasurer change such securities. Upon presentation to the state
235 treasurer by an officer qualified to serve civil process or an execution issued on any such
236 judgment against the registrant or other person responsible as aforesaid, said treasurer shall pay,
237 out of the cash deposited by the registrant as herein provided, the amount of the execution,
238 including costs and interest, up to but not in excess of ten thousand dollars. If the registrant has
239 deposited bonds, stocks or other evidences of indebtedness, the state treasurer shall, on
240 presentation of an execution as aforesaid, cause the said securities or such part thereof as may be
241 necessary to satisfy the judgment to be sold at public auction, giving the registrant three days'
242 notice in writing of the time and place of said sale, and from the proceeds of said sale the state
243 treasurer shall, after paying the expenses thereof, satisfy the execution as hereinbefore provided
244 when a cash deposit has been made. Any payment upon an execution by the state treasurer in
245 accordance with the provisions of this section shall discharge him from all official and personal
246 liability whatever to the registrant to the extent of such payment. The state treasurer shall,
247 whenever the amount of such deposit from any cause falls below the amount required by this
248 section, require, at the option of the registrants, the deposit of additional cash or securities up to
249 the amount required by this section or a motor vehicle liability bond or policy as provided in this
250 chapter. Money or securities deposited with the state treasurer under the provisions of this
251 section shall not be subject to attachment or execution except as provided in this section. The
252 state treasurer shall deposit any cash received under the provisions of this section in a savings
253 bank or the savings department of a trust company or of a national bank within the
254 commonwealth, or on paid-up shares and accounts of and in co-operative banks, or shall use

255 such cash to purchase share accounts in federal savings and loan associations located in the
256 commonwealth.