

**HOUSE . . . . . No. 869**

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**The Commonwealth of Massachusetts**

**In the Year Two Thousand Nine**

An Act To Protect Consumers In the Issuance of Automobile Insurance Policies and Bonds..

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

1 SECTION 1. Section 113A of chapter 175 of the General Laws, as appearing in the 2004  
2 Official Edition, is hereby amended by striking out lines one through 14 and inserting in place 3.

3 Notwithstanding the provisions of section 2B 193F through 193H of this chapter, or any  
4 other contrary provision of law, no motor vehicle liability policy or bond, both as defined in  
5 section thirty-four A of chapter ninety, including any coverage contained in the plan provided for  
6 by section one hundred thirteen H of this chapter, shall be issued or delivered in the  
7 commonwealth, or changed in any coverage, condition of definition in such policy or bond,  
8 except by approval of the commissioner following a recommendation to him by an advisory  
9 committee consisting of eight persons representing insurers, producers, consumers, and  
10 claimants' counsel, appointed by him. There shall be appointed two members upon nomination  
11 by the Automobile Insurers Bureau, two upon nomination by the Professional Independent  
12 Insurance Agents of Massachusetts, one each upon nomination by Massachusetts Citizen Action  
13 and the Massachusetts Public Interest Research Group and one each upon nomination by the  
14 Massachusetts Academy of Trial Attorneys and the Massachusetts Bar Association. No change

15 in any such policy or bond as provided herein shall be approved except after public notice and  
16 hearing in accordance with the procedure established for the promulgation of regulations  
17 pursuant to section two of chapter thirty A. Not shall a motor vehicle liability policy, as defined  
18 in section thirty-four A of chapter 90, be issued or delivered in the commonwealth if it contains  
19 any exceptions or exclusions as to specified accidents or injuries or causes thereof, not unless it  
20 contains in substance the following provisions:-

21 SECTION 2. Said section 113A is hereby further amended by adding the following  
22 paragraph:-

23 In any case in which a person or entity claiming benefits under a motor vehicle liability  
24 policy, as defines in section thirty-four A of chapter ninety, challenged the wording of said motor  
25 vehicle liability policy as being contrary to the laws of the commonwealth, or challenges the  
26 interpretations urged by the insurer underwriting said policy as being contrary to the wording of  
27 the policy or to the laws of the commonwealth, and it is finally adjudged that the wording of said  
28 policy is contrary to the laws of the commonwealth or the interpretation urged by the insurer  
29 underwriting said policy is contrary to the wording of the policy or laws of the commonwealth,  
30 then the insurer underwriting said policy shall be liable to the person or entity claiming benefits  
31 thereunder for reasonable costs and attorneys' fees. Nothing in the first paragraph of this section  
32 shall be construed to prohibit otherwise appropriate suites for declaratory relief. For the  
33 purposed of this section the term "motor vehicle liability policy" shall include a motor vehicle  
34 liability bond.

35           SECTION 3. Section one of this act shall apply to all proposed changes in motor vehicle  
36 liability bonds or policies submitted on or after the effective date of this act. Section two of this  
37 act shall apply to all final adjudications made after the effective date of this act.