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INSURANCE

Georgia Motor Vehicle Accident Reparations Act: Repeal Provisions Requiring Personal Injury Protection Insurance Coverage and Related Provisions

CODE SECTIONS: O.C.G.A. §§ 33-1-9, -16 (amended), 33-7-11 (amended), 33-9-4, -21, -42 to -44 (new), 33-24-45 (amended), 33-34-1 to -8 (new), 40-6-270 (amended), 40-9-2 (amended), 44-14-474 (amended); 1991 Ga. Laws 1608 (new) (not codified)

BILL NUMBER: SB 110

ACT NUMBER: 538

SUMMARY: The Act repeals and adds a number of Code sections dealing with Georgia's automobile insurance legislation. The central measure of the Act repeals and revises provisions of the Georgia Motor Vehicle Accident Reparations Act that require personal injury protection insurance coverage. Other key features include a mandatory fifteen percent rollback of certain motor vehicle insurance rates and an additional ten percent discount for motorists with good driving records; tighter regulation of insurance rates by requiring prior approval by the Insurance Commissioner of any rating plan; adding powers to regulate fraud including provisions making it easier to report fraud, increasing the powers of the Insurance Commissioner to arrest persons for insurance fraud, and making fraud a felony offense; and providing guidelines to govern the cancellation or nonrenewal of automobile or motorcycle insurance policies.

EFFECTIVE DATE: October 1, 1991

History

Since 1974, when the Motor Vehicle Accident Reparations Act was passed, Georgia has had a no-fault automobile insurance system.¹ The

1. 1974 Ga. Laws 113, § 1. Prior to the enactment of no-fault in 1974, Georgia had

no-fault law provides that if a driver is involved in an automobile accident, personal injury expenses will be automatically reimbursed regardless of fault.² The basic personal injury benefit is \$5,000 per person per accident, which includes up to \$2,500 per person for medical expenses, up to \$200 a week for lost wages, and up to \$20 a day for personal care services.³ In exchange for these benefits, a driver gives up the right to file a negligence claim for noneconomic losses,⁴ unless the medical expenses are \$500 or more.⁵ The no-fault law was intended to drastically reduce lawsuits and in turn provide lower insurance premiums for motor vehicle owners in Georgia.⁶ But savings in Georgia were never realized in part because very few lawsuits were eliminated.⁷ The \$500 threshold for medical expenses was too low to restrict litigation significantly, and personal injury protection benefits were not adequate to fully reimburse accident victims for economic losses.⁸ The benefits were so low that they were quickly exhausted even by minor injuries, forcing injured drivers to file negligence claims for unreimbursed economic losses.⁹ The problems with no-fault spawned a multitude of

a strict fault system where a party, who was at fault in an automobile accident, compensated the party not at fault. Compare this with Georgia's no-fault law after 1974, where parties involved in automobile accidents were reimbursed for certain insurance benefits regardless of who was at fault.

2. 1974 Ga. Laws 113, § 3 (formerly found at O.C.G.A. § 33-34-4 (Supp. 1989)).

3. *Id.*

4. The Georgia Code defines "non-economic loss" as "pain, suffering, inconvenience, and other nonpecuniary damages recoverable under the tort law of this state." O.C.G.A. § 33-34-2(7) (Supp. 1989). "Economic loss" is defined as "pecuniary loss of the kind described in paragraph (2) of subsection (a) of Code Section 33-34-4." O.C.G.A. § 33-34-2(3) (Supp. 1989).

5. 1974 Ga. Laws 113, § 3 (formerly found at O.C.G.A. § 33-34-9(a) (Supp. 1989)).

6. *Law Makers '91* (WGTV television broadcast, Feb. 22, 1991) (videotape available at Georgia State University College of Law Library) [hereinafter *Law Makers '91*]. The program involved Rep. Denmark Groover, Jr., House District No. 92, as a proponent of SB 110, and Rep. Tom Bordeaux, House District No. 122, as an opponent of SB 110, taking calls from the public. Rep. Groover stated that the General Assembly passed no-fault in 1974 in order to reduce litigation, since no-fault allowed people to sue only if their injuries exceeded \$500. *Id.*

7. *Id.* Rep. Groover explained the system has not worked because Georgia did not adopt a true no-fault system. He further added that the General Assembly has tried to bolster the Georgia no-fault law for the past three years but has not succeeded. *Id.*

8. The no-fault system in Georgia eliminated only 35% of car-crash-related lawsuits. *The Reckless Drive To Drop No-Fault*, ATLANTA CONST., Feb. 20, 1991, at A-10. Only one in 10 auto accidents produced no-fault claims. Douglas Lavin, *Georgia House Overwhelmingly Votes to End No-Fault Auto Insurance*, ATLANTA CONST., Feb. 12, 1991, at A-1.

The no-fault law allowed suits after medical bills exceeded \$500. Insurance companies sought to raise the dollar amount or replace the \$500 prerequisite with a restrictive description of actionable injuries. Steve Hendrix, *No-Fault Law Bedevils Capitol*, FULTON CO. DAILY REP., Feb. 8, 1991, at 5. There have been yearly attempts by legislators to change to a verbal threshold, all of which have failed. *Id.*, citing Rep. Denmark Groover, Jr.

9. Larry D. Gaunt, *Don't Kill No-Fault Insurance*, ATLANTA CONST., Feb. 17, 1991, at H-3.

litigation that resulted in higher premiums for motor vehicle insurance in Georgia.¹⁰

SB 110

After sixteen years of attempting to remedy the problems of no-fault auto insurance in Georgia, the General Assembly passed Senate Bill 110.¹¹ In response to consumer protest over the high cost of insurance,¹² the General Assembly passed the Act, which repealed and added a number of Code sections dealing with Georgia's auto insurance legislation.¹³

SB 110 amends Chapter 34 of Title 33 of the Georgia Code, the Georgia Motor Vehicle Accident Reparations Act, by striking sections dealing with personal injury protection (PIP) coverage requirements.¹⁴

10. See *Law Makers '91*, *supra* note 6. Rep. Groover stated that insurance premiums are so high in Georgia that the state has one of the highest numbers of uninsured motorists in the country. See also Gaunt, *supra* note 9, at H-1. The cost of insurance in Georgia is so high that it is increasing faster than the Consumer Price Index. *Id.*

11. Final Composite Status Sheet, Mar. 15, 1991. SB 110 was passed on Feb. 13, 1991 by the Senate. The House Insurance Committee then amended the bill by adding what was formerly HB 314 (the House no-fault bill) to SB 110. *Id.* The House passed the bill as SB 110 on Mar. 7, 1991 and the Senate agreed to the House substitute on Mar. 11, 1991. *Id.*

12. Telephone Interview with Sen. Pete Robinson, Senate District No. 16 (Apr. 3, 1991). "Basically, the public demand for reduction of insurance rates is what led to the passage of SB 110." *Id.* See Hendrix, *supra* note 8, at 5. Following the 1990 elections, in which pledges to lower insurance rates were included in almost every statewide race, the political pressure to act was high (*quoting* Gould B. Hagler, lobbyist for the Independent Insurance Agents of America). *Id.*

13. Another bill passed by the General Assembly in an effort to reduce the cost of insurance was SB 309. During Senate Floor Debate, Sen. Arthur B. "Skin" Edge, IV, Senate District No. 28, spoke in support of SB 309. Sen. Edge explained that the bill attempted to reduce excessive litigation by precluding public adjusters, who generally assist people making claims for losses due to fires, from branching out into motor vehicle accident claims. *Law Makers '91* (WGTV television broadcast, Feb. 24, 1991) (videotape available at Georgia State University College of Law Library).

14. O.C.G.A. §§ 33-34-1 to -8 (Supp. 1991). See Telephone Interview with Sen. Harrill Dawkins, Senate District 45 (Apr. 11, 1991) [hereinafter Dawkins Interview]. SB 110, as passed, contains a 100% rollback on personal injury protection. *Id.* See also *Law Makers '91* (WGTV television broadcast, Mar. 7, 1991) (videotape available at Georgia State University College of Law Library) [hereinafter House Floor Debate]. During House Floor Debate over SB 110, Rep. Groover stated that SB 110 completely abolishes PIP coverage. *Id.*

The section of the Act, abolishing personal injury protection coverage, was not in the original SB 110. See SB 110, as introduced, 1991 Ga. Gen. Assem. This section is essentially HB 314 inserted into SB 110 by the House Insurance Committee. Dawkins Interview, *supra* note 14. Sen. Dawkins stated that the original SB 110 was intended as a modification of Georgia no-fault law, increasing from \$500 to \$2000 the threshold medical costs that must be incurred before suits can be brought against an insurance company. *Id.* However, SB 110, as revised by the House Insurance Committee, abolished no-fault. *Id.*

Consistent with this change, the Act amends Code sections in Title 40 and Title 44 by deleting reference to personal injury protection coverage.¹⁵ The Act also adds a new section to Chapter 34 which establishes that the Commissioner of Insurance shall provide rules and regulations for expeditious and efficient first party property damage claims.¹⁶

The new chapter incorporates several aspects of the previous statute. The Act retains the requirement of minimum liability insurance coverage for owners of motor vehicles in Georgia.¹⁷ The owner of a motor vehicle required to be registered in this state cannot operate the motor vehicle unless the owner has purchased at least the minimum liability insurance coverage.¹⁸ Further, the State will not license a vehicle unless proof is shown that the vehicle is at least minimally insured as required by this Code section.¹⁹ The minimum coverage must be obtained for at least a six month period²⁰ with advance payments for the first sixty days of coverage.²¹ Insurers authorized to do business in this state must offer the minimum required coverage,²² but may also offer greater coverage.²³

The Act grants the Insurance Commissioner greater powers in the investigation of fraudulent insurance acts, relating to all lines of insurance.²⁴ If an insured²⁵ or insurer has reasonable grounds to believe

15. The Act amends O.C.G.A. § 40-6-270(b) and (c)(1), relating to the duty of a driver to stop or return to the scene of an accident by deleting the phrase "serious injury as defined by Code section 33-34-2" from both subsections. O.C.G.A. § 40-6-270(b), (c)(1) (1991).

The Act amends O.C.G.A. § 40-9-2(5), which defines the phrase "proof of financial responsibility" by deleting paragraph (B) detailing the coverage requirements prescribed by the no-fault laws, and in its place inserting a new paragraph (B) that provides for threshold coverage for persons operating automobiles in Georgia under a probationary driver's license. O.C.G.A. § 40-9-2(5)(B) (1991).

The Act amends O.C.G.A. § 44-14-474, relating to liens of hospitals, by deleting the phrase "nor shall this part apply to benefits for loss of income or earnings which are provided pursuant to Chapter 34 of Title 33." O.C.G.A. § 44-14-474 (Supp. 1991).

16. O.C.G.A. § 33-34-8 (Supp. 1991). This would include, but not be limited to, fair market values on total losses, aftermarket crash parts, loss of use reimbursements, time limitations and would provide an arbitration panel for disputed property damage claims on total losses. *Id.*

17. O.C.G.A. § 40-9-2(5)(A) (Supp. 1991).

18. O.C.G.A. § 33-34-4 (Supp. 1991).

19. O.C.G.A. § 33-34-5 (Supp. 1991).

20. O.C.G.A. § 33-34-3(a)(1) (Supp. 1991).

21. O.C.G.A. § 33-34-3(a)(4) (Supp. 1991).

22. O.C.G.A. § 33-34-3(a)(2) (Supp. 1991).

23. O.C.G.A. § 33-34-3(b) (Supp. 1991). Under O.C.G.A. § 33-34-3(e), the Act changes the requirement for notice of a claim to an insured from 45 days to 30 days from the date of the accident, when an injured third party can file a claim as if she were the insured. O.C.G.A. § 33-34-3(e) (Supp. 1991).

24. O.C.G.A. § 33-1-16(a) (Supp. 1991). Prior law was restricted to insurance fraud as it related to automobile insurance. 1990 Ga. Laws 1477, § 1 (formerly found at O.C.G.A. § 33-1-16(1) (Supp. 1989)).

25. O.C.G.A. § 33-1-16(g) (Supp. 1991) defines the term "insured" to mean:

that a person committed a fraudulent insurance act,²⁶ she may notify a law enforcement agency²⁷ of her belief.²⁸ A reporting individual will not be subject to civil liability for libel, slander, or related causes of action for filing reports of fraud, unless such individual acts in bad faith or with an intention to defraud.²⁹ Personnel employed by the Insurance Commissioner under this Code section may make arrests for criminal violations as a result of investigations, execute arrest and search warrants, serve subpoenas, and make arrests upon probable cause.³⁰ Any person found guilty of a fraudulent insurance act shall be guilty of a felony.³¹

The Act also provides for prior approval by the Insurance Commissioner of any rating plans that Georgia insurers wish to implement.³² Under the Act, any insurer authorized to underwrite any

any person who is named insured or beneficiary under a policy or contract of insurance or a person who is not a named insured or beneficiary under a policy or contract of insurance due to the fraudulent action of another but who in good faith believes himself to be such an insured or beneficiary.

Id.

26. O.C.G.A. § 33-1-16(a) (Supp. 1991) provides that a person commits a "fraudulent insurance act" if he:

(1) Knowingly and with intent to defraud presents, causes to be presented, or prepares with knowledge or belief that it will be presented, to or by an insurer, purported insurer, broker, or agent thereof, any written statement as part of, or in support of, or the rating of, an insurance policy, or a claim for payment or other benefit pursuant to an insurance policy, which he knows to contain materially false information concerning any fact material thereto or if he conceals, for the purpose of misleading another, information concerning any fact material thereto; or

(2) Knowingly and willfully transacts any contract, agreement, or instrument which violates this title.

Id.

27. O.C.G.A. § 33-1-16(g) (Supp. 1991), defines "law enforcement agency" as "any federal, state, county or consolidated police or law enforcement department and any prosecuting official of the federal, state, county, local, or consolidated government." *Id.*

28. O.C.G.A. § 33-1-16(g) (Supp. 1991). By allowing both insurers and insured to report fraud, this section provides for expanded regulation of insurers by insured and of insured by the insurers. Prior law had no such provisions. *See* House Floor Debate, *supra* note 14. Rep. Denmark Groover, Jr., in summarizing the intent of the Act, stated that the insurance fraud sections of the Act were inserted at the behest of the Insurance Commissioner to reduce fraud and effect lower premiums. *Id.* Sen. Dawkins stated that the fraud provisions in the Act are intended to police both the insurer and the insured. Dawkins Interview, *supra* note 14.

29. O.C.G.A. § 33-1-16(g) (Supp. 1991).

30. O.C.G.A. § 33-1-16(h) (Supp. 1991).

31. O.C.G.A. § 33-1-9(c)(2) (Supp. 1991). Prior to the enactment of this Code section, insurance fraud was a misdemeanor. 1960 Ga. Laws 289, § 1 (formerly found at O.C.G.A. § 33-1-9(c)(2) (Supp. 1989)).

32. Sen. Dawkins stated that Georgia has never required prior approval. Dawkins Interview, *supra* note 14. Insurers could make rate increases, and the Commissioner only had minimal bureaucratic powers to regulate the insurers. *Id.*

insurance in Georgia must file with the Insurance Commissioner any rate, rating plan, rating system, or underwriting rules for all personal private passenger motor vehicles.³³ The rate, rule, or form will not become effective, nor can any premiums be collected by any insurer unless the filing has been received and approved by the Commissioner or if there has been no disapproval after forty-five days from the initial filing.³⁴ The Commissioner has the discretion to extend the forty-five day period for an additional ten business days.³⁵ If the Commissioner disapproves the filing, notice must be given to the insurer specifying how the filing fails to meet the requirements of the Act.³⁶ The insurer then has thirty days after the disapproval notice to make a request for a hearing.³⁷ The insurer will have the burden of persuasion to establish that the rates filed were adequate.³⁸ After the hearing, the Commissioner may affirm, modify, or reverse the previous action.³⁹

For all motor vehicle insurance other than personal private passenger motor vehicle insurance, the insurer must file a rate, rule, or form at least forty-five days prior to the effective date.⁴⁰ If the rate filing results in an overall increase of ten percent or more within any twelve month period, the Commissioner will order an examination of that insurer to determine the accuracy of any component upon which the rate filing is based.⁴¹ If the overall increase is under twenty-five percent for a twelve month period, and if the Commissioner determines that she has sufficient information to evaluate the rate increase and the cost of the examination is not justified, the Commissioner may waive all or part of the examination.⁴²

33. O.C.G.A. § 33-9-21(b) (Supp. 1991). When a rate filing is not accompanied by the information upon which the insurer supports the filing, and the Commissioner does not have sufficient information to determine whether the filing meets the requirements of the Act, the insurer will be required by the Commissioner to furnish such information. *Id.* at O.C.G.A. § 33-9-21(c) (Supp. 1991). Sen. Dawkins stated that with the Act insurers must provide legitimate information to justify rate increases. Dawkins Interview, *supra* note 14.

34. O.C.G.A. § 33-9-21(b) (Supp. 1991).

35. *Id.*

36. *Id.*

37. *Id.*

38. *Id.*

39. *Id.* The Act adds new subsections (d), (e), and (f) to section 33-9-21, which maintain the file and use provisions for all other lines, except private passenger auto. O.C.G.A. § 33-9-21(d)-(f) (Supp. 1991).

40. O.C.G.A. § 33-9-21(d) (Supp. 1991).

41. O.C.G.A. § 33-9-21(e) (Supp. 1991). Under the Act, rates will not be considered excessive, unless the rate is unreasonably high for the type of insurance provided and a reasonable degree of competition does not exist in the area with respect to the classification to which the rate is applicable. O.C.G.A. § 33-9-4(2) (Supp. 1991). With regard to personal private passenger motor vehicle insurance, however, rates will not be excessive unless the rate is unreasonably high for the insurance provided. *Id.*

42. O.C.G.A. § 33-9-21(e) (Supp. 1991).

The Act provides that all insurers filing rating plans with the Commissioner must include optional medical payments coverage with their plans, or the filing will be disapproved.⁴³ The filings must also reflect a reduction of rates for coverage on file as of January 28, 1991, of not less than fifteen percent.⁴⁴ If an insurer has not filed a rating plan by October 1, 1991, the Commissioner will, after a hearing, automatically reduce the rates of such policies by fifteen percent or more.⁴⁵

Guidelines are given for an insurer who wishes to cancel or not renew a policy. The insurer must specify in writing the reasons for the nonrenewal or cancellation.⁴⁶ Also, the basis for the cancellation or the nonrenewal cannot be based on accidents or violations that occurred more than thirty-six months before the expiration date of the policy or solely for claims paid during the preceding thirty-six months which were not more than \$750.⁴⁷

An insured who believes that a policy has been cancelled or not renewed in violation of the Act may file a written request for a hearing

43. 1991 Ga. Laws 1608 (not codified; see Editor's Notes, O.C.G.A. § 33-9-42 (Supp. 1991)). This section was inserted in response to the concerns of the opponents of SB 110 that with no-fault abolished and personal injury protection coverage no longer required, insurers will not offer personal injury protection coverage as an option to the insured. See *Law Makers '91*, *supra* note 6.

A proposed amendment by Sen. Charles Walker, Senate District No. 22, would have required that insurers inform the insured of the difference in premiums without the personal injury protection coverage, and if the insured did not want the coverage, require the insured to reject the personal injury protection in writing. This amendment was not incorporated into the final version of SB 110. Sen. Dawkins stated that the amendment by Sen. Walker was introduced too late in the session to be incorporated into the final bill. Dawkins Interview, *supra* note 14.

A second amendment, proposed on the Senate Floor by Sen. Cathey Steinberg, Senate District No. 42, would have added a provision requiring that a person be informed in writing of optional medical coverage, and if she does not want the coverage, to reject it by signing a form. In this way, everyone would know about the option of purchasing medical payment coverage. See *Law Makers '91* (WGTV television broadcast, Mar. 11, 1991) (videotape available at Georgia State University College of Law Library). This amendment was also rejected. *Id.*

44. 1991 Ga. Laws 1608 (not codified; see Editor's Notes, O.C.G.A. § 33-9-42 (Supp. 1991)). Sen. Dawkins stated that the 15% rollback in rates was in both Chambers' versions of the no-fault bill. Dawkins Interview, *supra* note 14. This section was in response to public demand for lower automobile insurance premiums. *Id.* It is helpful to remember that a reduction in rates is an across-the-board reduction, after which individual factors, such as driving record, age, and address, are mixed in to determine an individual's premiums. See *Law Makers '91*, *supra* note 6. Rep. Groover provided that the 15% reduction in rates would result in a 12% reduction in premiums. *Id.*

45. 1991 Ga. Laws 1608 (not codified; see Editor's Notes, O.C.G.A. § 33-9-42 (Supp. 1991)).

46. O.C.G.A. § 33-24-45(e)(2) (Supp. 1991). Prior law did not require that reasons for the nonrenewal of a policy be in writing. 1968 Ga. Laws 1126, § 1 (formerly found at O.C.G.A. § 33-24-45(e)(2) (Supp. 1989)).

47. O.C.G.A. § 33-24-45(e)(3)(H) (Supp. 1991).

with the Commissioner within fifteen days of receipt of the notice of cancellation or non-renewal.⁴⁸ A hearing will be scheduled within twenty days of the request, and a written determination must be issued by the Commissioner within ten days of the hearing.⁴⁹ During the appeal process, the policy will remain in effect, and premiums paid for the policy will be held by the Commissioner in an escrow account until a final determination is made.⁵⁰

The Act also contains provisions providing for higher deductibles for uninsured motorist coverage,⁵¹ for guidelines for primary and excess insurance coverage for persons or firms engaged in the business of selling at retail new and used motor vehicles,⁵² and for discounts for good drivers⁵³ and for persons under twenty-five years of age who are

48. O.C.G.A. § 33-24-45(o) (Supp. 1991).

49. *Id.*

50. *Id.*

51. The Act amends paragraph (2) of subsection (a) of O.C.G.A. § 33-7-11 by making available at the insured's option bodily injury and property damage uninsured motorist deductibles at the amount of \$250, \$500, and \$1000. Deductibles above \$1000 may be offered at the Commissioner's approval; however, deductibles under \$250 cannot be offered. O.C.G.A. § 33-7-11(a)(2) (Supp. 1991). *See* House Floor Debate, *supra* note 14. Rep. Groover stated that the extra deductibles were inserted to save people money. *Id.*

52. O.C.G.A. § 33-34-3(d) (Supp. 1991) provides:

Each policy of liability insurance issued in this state providing coverage to motor vehicles owned by a person, firm, or corporation engaged in the business of selling at retail new and used motor vehicles shall provide that, when an accident involves the operation of a motor vehicle by a person who is neither the owner of the vehicle involved in the accident nor an employee of the owner and the operator of the motor vehicle is an insured under a complying policy insuring the motor vehicle involved in the accident, primary coverage as to all coverage provided in the policy under which the operator is an insured shall be afforded by the liability policy insuring the said operator, and any liability policy under which the owner is an insured shall be afforded excess coverage. If the liability policy under which the owner is an insured and which affords excess coverage based on the existence of coverage provided in the operator's liability policy, such provision of the owner's liability policy shall be void.

Id.

53. O.C.G.A. § 33-9-42(a)-(h) (Supp. 1991). This provision of the Act provides for mandatory discounts of not less than 10% off premiums if all named drivers of a policy meet the following qualifications:

- 1) Have committed no traffic offenses for the prior three years;
- 2) Have had no claims based on fault against an insurer for the prior three years; and
- 3) Complete one of the following types of driving courses:
 - (A) A course in defensive driving of not less than six hours of commercial or non-commercial driving schools approved by and under the jurisdiction of the Department of Public Safety;
 - (B) An emergency vehicles operations course at the Georgia Public Safety Training Center; or
 - (C) A course in defensive driving of not less than six hours from a driver

honor students and have a good driving record.⁵⁴

In exchange for a one percent reduction in premiums, Georgia drivers give up medical payment coverage.⁵⁵ Opponents of the Act argue this

improvement program which is administered by a nonprofit organization . . .

If the insured meets all the above requirements, the driver will remain eligible for the discounts for three years, provided any named driver under the policy does not commit a traffic offense or have a claim against the policy based on any such driver's fault. O.C.G.A. § 33-9-42(c) (Supp. 1991). Drivers 25 years or older need only meet requirements 1 and 2 above. O.C.G.A. § 33-9-42(d) (Supp. 1991).

54. O.C.G.A. § 33-9-42(a)-(c) (Supp. 1991). This section of the Act provides for reduction of premiums for drivers under the age of 25, if that driver:

- (1) Is unmarried;
- (2) Is enrolled as a full-time student in:
 - (A) High school in the junior or senior year;
 - (B) Academic courses in a college or university; or
 - (C) Vocational technical school;
- (3) Is an honor student because the scholastic records for the immediately preceding quarter, a semester, or comparable segment show that such person:
 - (A) Ranks scholastically in the upper 20 percent of the class;
 - (B) Has a 'B' average or better;
 - (C) Has a 3.0 average or better; or
 - (D) Is on the 'Dean's List' or 'Honor Roll'; and
- (4) Is a driver whose use of the automobile is considered by the insurer in determining the applicable classification.

Id.

An insurer does not have to offer the premiums reduction to a driver who, at any time within a period of three years prior to the beginning of the policy year has:

- (1) Been involved in any motor vehicle accident in which that person has been determined to have been at fault;
- (2) Been finally convicted of, pleaded nolo contendere to, or been found to have committed a delinquent act constituting any of the following offenses:
 - (A) Any serious traffic offense described in Article 15 of Chapter 6 of Title 40;
 - (B) Any traffic offense for which three or more points may be assessed pursuant to Code Section 40-5-57; or
 - (C) Any felony or any offense prohibited pursuant to Chapter 13 of Title 16, relating to dangerous drugs, marijuana, and controlled substances; or
- (3) Had that person's driver's license suspended for refusal to submit to chemical tests pursuant to Code Section 40-5-55 and that suspension has been reversed, if appealed from.

O.C.G.A. § 33-9-44(c) (Supp. 1991).

The Act further provides:

It is specifically intended that the discounts provided in Code Sections 33-9-42 and 33-9-43 shall be provided by the insurer to any person who qualifies for such discounts. It is further intended that any similar discounts granted to qualified persons under Chapter 34 of this title as such chapter existed on Sept. 30, 1991 shall not be discontinued nor duplicated by the enactment of Code Section 33-9-42 and 33-9-43 for policies in effect on Sept. 30, 1991.

O.C.G.A. § 33-9-44 (Supp. 1991).

55. Rep. Bordeaux, speaking against SB 110, stated that people will not realize that a one percent decrease in premiums (or about \$18) is not that much for what they are losing in coverage. *See Law Makers '91, supra* note 6.

exchange leaves motorists with inadequate medical coverage⁵⁶ and lost wage coverage,⁵⁷ and results in more litigation.⁵⁸ The proponents point to the last sixteen years of no-fault in Georgia and reply that no-fault, as it existed after the Motor Vehicle Reparations Act of 1974, produced too much litigation and some of the highest premiums in the country.⁵⁹ The Act will likely create as much controversy as the 1974 Act, but for now the automobile insurance system in Georgia is without no-fault.

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56. *Id.* Rep. Bordeaux argued that a problem with SB 110 is that people with little or no health insurance, who are injured in an automobile accident, will not have enough personal injury coverage to pay their medical bills. *Id.* These people will turn to indigent care, which forces all taxpayers to bear the burden. *Id.*

57. *Id.* Rep. Bordeaux argued that workers, who are injured in automobile accidents and are covered by some type of company group insurance plan, will still be left without lost wage coverage. *Id.*

58. *Id.* Rep. Bordeaux argued that litigation will increase because suits will have to be filed in order for people to recover for their personal injuries. *Id.* Further, because most people need this relief quickly, attorneys will have to quickly file the claims. *Id.* Finally, under no-fault, claims were paid within 30 days; without no-fault, medical bills will not be paid until a party is proven to be at fault. *Id.*

59. *See supra* notes 6-9 and accompanying text.