

SENATE NO 577

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

14 Association. No change in any such policy or bond as provided herein shall be approved except after
15 public notice and hearing in accordance with the procedure established for the promulgation of
16 regulations pursuant to section two of chapter thirty A. Not shall a motor vehicle liability policy, as
17 defined in section thirty-four A of chapter 90, be issued or delivered in the commonwealth if it
18 contains any exceptions or exclusions as to specified accidents or injuries or causes thereof, not unless
19 it contains in substance the following provisions:-

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

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

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

