

HOUSE BILL NO. 6331

November 12, 2020, Introduced by Rep. Clemente and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending section 3114 (MCL 500.3114), as amended by 2019 PA 21.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3114. (1) Except as **otherwise** provided in ~~subsections~~
2 ~~(2), (3), and (5),~~ **this section**, a personal protection insurance
3 policy described in section ~~3101(1)~~ **3101** applies to accidental
4 bodily injury to the person named in the policy, the person's
5 spouse, and a relative of either domiciled in the same household,

1 if the injury arises from a motor vehicle accident. A personal
2 injury insurance policy described in section 3103(2) applies to
3 accidental bodily injury to the person named in the policy, the
4 person's spouse, and a relative of either domiciled in the same
5 household, if the injury arises from a motorcycle accident. If
6 personal protection insurance benefits or personal injury benefits
7 described in section 3103(2) are payable to or for the benefit of
8 an injured person under his or her own policy and would also be
9 payable under the policy of his or her spouse, relative, or
10 relative's spouse, the injured person's insurer shall pay all of
11 the benefits up to the coverage level applicable under section
12 3107c to the injured person's policy, and is not entitled to
13 recoupment from the other insurer.

14 (2) ~~A~~**Subject to subsection (9)**, a person who suffers
15 accidental bodily injury while an operator or a passenger of a
16 motor vehicle operated in the business of transporting passengers
17 shall receive the personal protection insurance benefits to which
18 the person is entitled from the insurer of the motor vehicle. This
19 subsection does not apply to a passenger in any of the following,
20 unless the passenger is not entitled to personal protection
21 insurance benefits under any other policy:

22 (a) A school bus, as defined by the department of education,
23 providing transportation not prohibited by law.

24 (b) A bus operated by a common carrier of passengers certified
25 by the department of transportation.

26 (c) A bus operating under a government sponsored
27 transportation program.

28 (d) A bus operated by or providing service to a nonprofit
29 organization.

1 (e) A taxicab insured as prescribed in section 3101 or 3102.

2 (f) A bus operated by a canoe or other watercraft, bicycle, or
3 horse livery used only to transport passengers to or from a
4 destination point.

5 (g) A transportation network company vehicle.

6 (h) A motor vehicle insured under a policy for which the
7 person named in the policy has elected to not maintain coverage for
8 personal protection insurance benefits under section 3107d or as to
9 which an exclusion under section 3109a(2) applies.

10 (3) ~~An~~ **Subject to subsection (9),** an employee, his or her
11 spouse, or a relative of either domiciled in the same household,
12 who suffers accidental bodily injury while an occupant of a motor
13 vehicle owned or registered by the employer, shall receive personal
14 protection insurance benefits to which the employee is entitled
15 from the insurer of the furnished vehicle.

16 (4) Except as provided in subsections (2) and (3), a person
17 who suffers accidental bodily injury arising from a motor vehicle
18 accident while an occupant of a motor vehicle who is not covered
19 under a personal protection insurance policy as provided in
20 subsection (1) shall claim personal protection insurance benefits
21 under the assigned claims plan under sections 3171 to 3175. This
22 subsection does not apply to a person insured under a policy for
23 which the person named in the policy has elected to not maintain
24 coverage for personal protection insurance benefits under section
25 3107d or as to which an exclusion under section 3109(2) applies, or
26 who is not entitled to be paid personal protection benefits under
27 section 3107d(6)(c) or 3109a(2)(d)(ii).

28 (5) Subject to subsections (6), ~~and~~ (7), **and (9)(b),** a person
29 who suffers accidental bodily injury arising from a motor vehicle

1 accident that shows evidence of the involvement of a motor vehicle
2 while an operator or passenger of a motorcycle shall claim personal
3 protection insurance benefits from insurers in the following order
4 of priority:

5 (a) The insurer of the owner or registrant of the motor
6 vehicle involved in the accident.

7 (b) The insurer of the operator of the motor vehicle involved
8 in the accident.

9 (c) The motor vehicle insurer of the operator of the
10 motorcycle involved in the accident.

11 (d) The motor vehicle insurer of the owner or registrant of
12 the motorcycle involved in the accident.

13 (6) If an applicable insurance policy in an order of priority
14 under subsection (5) is a policy for which the person named in the
15 policy has elected to not maintain coverage for personal protection
16 insurance benefits under section 3107d, or as to which an exclusion
17 under section 3109(2) applies, the injured person shall claim
18 benefits only under other policies, subject to ~~subsection~~
19 **subsections (7) and (9) (b)**, in the same order of priority for which
20 no such election has been made. If there are no other policies for
21 which no such election has been made, the injured person shall
22 claim benefits under the next order of priority or, if there is not
23 a next order of priority, under **subsection (1) if the injured**
24 **person has coverage under subsection (1), or under** the assigned
25 claims plan under sections 3171 to 3175.

26 (7) If personal protection insurance benefits are payable
27 under subsection (5) under 2 or more insurance policies in the same
28 order of priority, the benefits are only payable up to an aggregate
29 coverage limit that equals the highest available coverage limit

1 under any 1 of the policies.

2 (8) Subject to subsections (6) and (7), if 2 or more insurers
3 are in the same order of priority to provide personal protection
4 insurance benefits under subsection (5), an insurer that pays
5 benefits due is entitled to partial recoupment from the other
6 insurers in the same order of priority, and a reasonable amount of
7 partial recoupment of the expense of processing the claim, in order
8 to accomplish equitable distribution of the loss among all of the
9 insurers.

10 (9) The application of subsections (2), (3), (5), and (6) are
11 limited as follows:

12 (a) Subsections (2) and (3) do not apply if the injured person
13 would not have coverage under the subsection for benefits under
14 section 3107(1)(a) because of an election under section 3107d or an
15 exclusion under section 3109(2) and the injured person would have
16 that coverage if subsection (1) applied.

17 (b) If the injured person's coverage under subsection (2),
18 (3), (5), or (6) for benefits under section 3107(1)(a) would be
19 limited under section 3107c(1)(a), (b), or (c) to a coverage level
20 that is less than what the injured person would have if subsection
21 (1) applied, the injured person is entitled to first receive the
22 benefits from the applicable insurer under subsection (2), (3),
23 (5), or (6) up to the coverage level of the applicable policy, and
24 then is entitled to receive the benefits up to the coverage level
25 applicable under subsection (1) from the insurer under subsection
26 (1).

27 (10) ~~(9)~~—As used in this section:

28 (a) "Personal vehicle", "transportation network company
29 digital network", and "transportation network company prearranged

1 ride" mean those terms as defined in section 2 of the limousine,
2 taxicab, and transportation network company act, 2016 PA 345, MCL
3 257.2102.

4 (b) "Transportation network company vehicle" means a personal
5 vehicle while the driver is logged on to the transportation network
6 company digital network or while the driver is engaged in a
7 transportation network company prearranged ride.