

SENATE BILL No. 720

October 4, 2011, Introduced by Senators KAHN, MARLEAU and PAPPAGEORGE and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled

"The insurance code of 1956,"

by amending sections 2111, 3103, 3114, and 3177 (MCL 500.2111,

500.3103, 500.3114, and 500.3177), section 2111 as amended by 2002

PA 492, section 3103 as amended by 1986 PA 173, section 3114 as

amended by 2002 PA 38, and section 3177 as amended by 1984 PA 426.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 2111. (1) Notwithstanding any provision of this act and this chapter to the contrary, classifications and territorial base rates used by any insurer in this state with respect to automobile insurance or home insurance shall conform to the applicable requirements of this section.

(2) Classifications established ~~pursuant to~~ UNDER this section for automobile insurance shall be based only upon 1 or more of the following factors, which shall be applied by an insurer on a uniform basis throughout the state:

(a) With respect to all automobile insurance coverages:

(i) Either the age of the driver; the length of driving experience; or the number of years licensed to operate a motor vehicle.

(ii) Driver primacy, based upon the proportionate use of each vehicle insured under the policy by individual drivers insured or to be insured under the policy.

(iii) Average miles driven weekly, annually, or both.

(iv) Type of use, such as business, farm, or pleasure use.

(v) Vehicle characteristics, features, and options, such as engine displacement, ability of THE vehicle and its equipment to protect passengers from injury, and other similar items, including vehicle make and model.

(vi) Daily or weekly commuting mileage.

(vii) Number of cars insured by the insurer or number of licensed operators in the household. However, number of licensed operators shall not be used as an indirect measure of marital status.

(viii) Amount of insurance.

(b) In addition to the factors prescribed in subdivision (a), with respect to personal protection insurance coverage:

(i) Earned income.

(ii) Number of dependents of income earners insured under the policy.

(iii) Coordination of benefits.

(iv) Use of a safety belt.

(v) FOR A MOTORCYCLIST, USE OF A CRASH HELMET. AS USED IN THIS

SUBPARAGRAPH, "CRASH HELMET" MEANS THAT TERM AS USED IN SECTION 658 OF THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.658.

(c) In addition to the factors prescribed in subdivision (a), with respect to collision and comprehensive coverages:

(i) The anticipated cost of vehicle repairs or replacement, which may be measured by age, price, cost new, or value of the insured automobile, and other factors directly relating to that anticipated cost.

(ii) Vehicle make and model.

(iii) Vehicle design characteristics related to vehicle damageability.

(iv) Vehicle characteristics relating to automobile theft prevention devices.

(d) With respect to all automobile insurance coverage other than comprehensive, successful completion by the individual driver or drivers insured under the policy of an accident prevention education course that meets the following criteria:

(i) The course shall include a minimum of 8 hours of classroom instruction.

(ii) The course shall include, but not be limited to, a review of all of the following:

(A) The effects of aging on driving behavior.

(B) The shapes, colors, and types of road signs.

(C) The effects of alcohol and medication on driving.

(D) The laws relating to the proper use of a motor vehicle.

(E) Accident prevention measures.

(F) The benefits of safety belts and child restraints.

(G) Major driving hazards.

(H) Interaction with other highway users such as motorcyclists, bicyclists, and pedestrians.

(3) Each insurer shall establish a secondary or merit rating plan for automobile insurance, other than comprehensive coverage. A secondary or merit rating plan required under this subsection shall provide for premium surcharges for any or all coverages for automobile insurance, other than comprehensive coverage, based upon any or all of the following, when that information becomes available to the insurer:

(a) Substantially at-fault accidents.

(b) Convictions for, determinations of responsibility for civil infractions for, or findings of responsibility in probate court for civil infractions for, violations under chapter VI of the Michigan vehicle code, 1949 PA 300, MCL 257.601 to 257.750.

However, beginning ~~90 days after the effective date of this sentence~~ MAY 28, 1996, an insured shall not be merit rated for a civil infraction under chapter VI of the Michigan vehicle code, 1949 PA 300, MCL 257.601 to 257.750, for a period of time longer

than that which the secretary of state's office carries points for that infraction on the insured's motor vehicle record.

(4) An insurer shall not establish or maintain rates or rating classifications for automobile insurance based upon sex or marital status.

(5) Notwithstanding other provisions of this chapter, automobile insurance risks may be grouped by territory.

(6) This section ~~shall~~ DOES not ~~be construed as limiting~~ LIMIT insurers or rating organizations from establishing and maintaining statistical reporting territories. This section ~~shall~~ DOES not ~~be construed to prohibit~~ an insurer from establishing or maintaining, for automobile insurance, a premium discount plan for senior citizens in this state who are 65 years of age or older, if the plan is uniformly applied by the insurer throughout this state. If an insurer has not established and maintained a premium discount plan for senior citizens, the insurer shall offer reduced premium rates to senior citizens in this state who are 65 years of age or older and who drive less than 3,000 miles per year, regardless of statistical data.

(7) Classifications established ~~pursuant to~~ UNDER this section for home insurance other than inland marine insurance provided by policy floaters or endorsements shall be based only upon 1 or more of the following factors:

(a) Amount and types of coverage.

(b) Security and safety devices, including locks, smoke detectors, and similar, related devices.

(c) Repairable structural defects reasonably related to risk.

(d) Fire protection class.

(e) Construction of structure, based on structure size, building material components, and number of units.

(f) Loss experience of the insured, based upon prior claims attributable to factors under the control of the insured that have been paid by an insurer. An insured's failure, after written notice from the insurer, to correct a physical condition that presents a risk of repeated loss shall be considered a factor under the control of the insured for purposes of this subdivision.

(g) Use of smoking materials within the structure.

(h) Distance of the structure from a fire hydrant.

(i) Availability of law enforcement or crime prevention services.

(8) Notwithstanding other provisions of this chapter, home insurance risks may be grouped by territory.

(9) An insurer may utilize factors in addition to those specified in this section, if the commissioner finds, after a hearing held pursuant to UNDER the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, that the factors would encourage innovation, would encourage insureds to minimize the

risks of loss from hazards insured against, and would be consistent with the purposes of this chapter.

Sec. 3103. (1) An owner or registrant of a motorcycle shall provide security against loss resulting from liability imposed by law for property damage, bodily injury, or death suffered by a person arising out of the ownership, maintenance, or use of that motorcycle. The security shall conform with the requirements of section 3009(1).

(2) Each insurer transacting insurance in this state ~~which~~ THAT affords coverage for a motorcycle as described in subsection (1) also shall offer, to an owner or registrant of a motorcycle WHO AGREES TO WEAR A CRASH HELMET WHEN RIDING THE MOTORCYCLE, security for the payment of first-party medical benefits only, in increments of \$5,000.00, payable ~~in the event~~ IF the owner or registrant is involved in a motorcycle accident. An insurer providing first-party medical benefits may offer, at appropriate premium rates, deductibles, provisions for the coordination of these benefits, and provisions for the subtraction of other benefits provided or required to be provided under the laws of any state or the federal government, subject to the prior approval of the commissioner. These deductibles and provisions shall apply only to benefits payable to the person named in the policy, the spouse of the insured, and any relative of either domiciled in the same household.

(3) AN OWNER OR REGISTRANT OF A MOTORCYCLE WHO DOES NOT AGREE TO WEAR A CRASH HELMET WHEN RIDING THE MOTORCYCLE SHALL MAINTAIN SECURITY FOR PAYMENT OF BENEFITS UNDER PERSONAL PROTECTION INSURANCE AS PROVIDED IN SECTION 3107. EACH INSURER DESCRIBED IN THIS STATE THAT AFFORDS COVERAGE FOR A MOTORCYCLE AS DESCRIBED IN SUBSECTION (1) ALSO SHALL OFFER, TO AN OWNER OR REGISTRANT OF A MOTORCYCLE, SECURITY FOR PAYMENT OF BENEFITS UNDER PERSONAL PROTECTION INSURANCE AS PROVIDED IN SECTION 3107. A CERTIFICATE OF INSURANCE SOLD UNDER THIS SUBSECTION SHALL STATE THAT THE INSURANCE SATISFIES THIS SUBSECTION.

(4) AS USED IN THIS SECTION, "CRASH HELMET" MEANS THAT TERM AS USED IN SECTION 658 OF THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.658.

Sec. 3114. (1) Except as provided in subsections (2), (3), and (5), a personal protection insurance policy described in section 3101(1) applies to accidental bodily injury to the person named in the policy, the person's spouse, and a relative of either domiciled in the same household, if the injury arises from a motor vehicle accident. A personal injury insurance policy described in section 3103(2) applies to accidental bodily injury to the person named in the policy, the person's spouse, and a relative of either domiciled in the same household, if the injury arises from a motorcycle accident. When personal protection insurance benefits or personal

injury benefits described in section 3103(2) are payable to or for the benefit of an injured person under his or her own policy and would also be payable under the policy of his or her spouse, relative, or relative's spouse, the injured person's insurer shall pay all of the benefits and is not entitled to recoupment from the other insurer. A PERSONAL PROTECTION INSURANCE POLICY DESCRIBED IN SECTION 3103(3) APPLIES TO ACCIDENTAL BODILY INJURY TO THE PERSON NAMED IN THE POLICY, THE PERSON'S SPOUSE, AND A RELATIVE OF EITHER DOMICILED IN THE SAME HOUSEHOLD, IF THE INJURY ARISES FROM A MOTOR VEHICLE ACCIDENT OR A MOTORCYCLE ACCIDENT.

(2) A person suffering accidental bodily injury while an operator or a passenger of a motor vehicle operated in the business of transporting passengers shall receive the personal protection insurance benefits to which the person is entitled from the insurer of the motor vehicle. This subsection does not apply to a passenger in the following, unless that passenger is not entitled to personal protection insurance benefits under any other policy:

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

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

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

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

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

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

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

(4) Except as provided in subsections (1) to (3), a person suffering accidental bodily injury arising from a motor vehicle accident while an occupant of a motor vehicle shall claim personal protection insurance benefits from insurers in the following order of priority:

(a) The insurer of the owner or registrant of the vehicle occupied.

(b) The insurer of the operator of the vehicle occupied.

(5) A person suffering accidental bodily injury arising from a motor vehicle accident ~~which~~ THAT shows evidence of the involvement of a motor vehicle while an operator or passenger of a motorcycle

shall claim personal protection insurance benefits from insurers in the following order of priority:

(A) FOR A PERSONAL PROTECTION INSURANCE POLICY DESCRIBED IN SECTION 3103(3), THE MOTOR VEHICLE INSURER OF THE OWNER OR REGISTRANT OF THE MOTORCYCLE INVOLVED IN THE ACCIDENT.

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

(C) ~~(b)~~ The insurer of the operator of the motor vehicle involved in the accident.

(D) ~~(c)~~ The motor vehicle insurer of the operator of the motorcycle involved in the accident.

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

(6) If 2 or more insurers are in the same order of priority to provide personal protection insurance benefits under subsection (5), an insurer paying benefits due is entitled to partial recoupment from the other insurers in the same order of priority, ~~together with~~ AND a reasonable amount of partial recoupment of the expense of processing the claim, in order to accomplish equitable distribution of the loss among all of the insurers.

Sec. 3177. (1) An insurer obligated to pay personal protection insurance benefits for accidental bodily injury to a person arising out of the ownership, maintenance, or use of an uninsured motor vehicle as a motor vehicle OR MOTORCYCLE, AS APPLICABLE, may

recover such benefits paid and appropriate loss adjustment costs incurred from the owner or registrant of the uninsured motor vehicle or from his or her estate. Failure of ~~such a person~~ **LIABLE TO AN INSURER UNDER THIS SUBSECTION** to make payment within 30 days after A judgment **IS ENTERED** is a ground for suspension or revocation of his or her motor vehicle **OR MOTORCYCLE** registration and license as defined in section 25 of the Michigan vehicle code, ~~Act No. 300 of the Public Acts of 1949, being section 257.25 of the Michigan Compiled Laws. An uninsured motor vehicle for the purpose of this section is a motor vehicle with respect to which security is required by sections 3101 and 3102 is not in effect at the time of the accident.~~ 1949 PA 300, MCL 257.25.

(2) ~~The~~ A motor vehicle **OR MOTORCYCLE** registration and license shall not be suspended or revoked ~~and the motor vehicle registration and license~~ **UNDER SUBSECTION (1), OR IF SUSPENDED OR REVOKED** shall be restored, if the debtor enters into a written agreement with the secretary of state permitting the payment of the judgment in installments, if the payment of any installments is not in default.

(3) The secretary of state upon receipt of a certified abstract of court record of a judgment or notice from the insurer of an acknowledgment of debt shall notify the owner or registrant of an uninsured **MOTOR** vehicle of the provisions of subsection (1) at that person's last recorded address with the secretary of state

and inform that person of the right to enter into a written agreement with the secretary of state for the payment of the judgment or debt in installments.

(4) AS USED IN THIS SECTION, "UNINSURED MOTOR VEHICLE" MEANS A MOTOR VEHICLE OR MOTORCYCLE FOR WHICH SECURITY AS REQUIRED BY SECTION 3101, 3102, OR 3103(3) IS NOT IN EFFECT AT THE TIME OF THE ACCIDENT.