

HOUSE BILL No. 5111

October 12, 2017, Introduced by Reps. Gay-Dagnogo, Wittenberg, Byrd, Scott, Green, Yanez, Zemke, Sowerby, Chirkun, Geiss, Ellison, Sneller, Faris, Pagan, Chang, Camilleri, Sabo, Moss, LaGrand, Brinks, Liberati, Howrylak, Love, Lasinski, Yaroch, Hammoud, Robinson, Rabhi, Hertel, Peterson and Jones and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending sections 2105, 2110a, 2111, 2118, and 2151 (MCL 500.2105, 500.2110a, 500.2111, 500.2118, and 500.2151), sections 2110a and 2111 as amended by 2012 PA 441, section 2118 as amended by 2007 PA 35, and section 2151 as added by 2012 PA 165, and by adding sections 2110c and 2111b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2105. (1) ~~No~~**A** policy of automobile insurance or home
 2 insurance ~~shall~~**MUST NOT** be offered, bound, made, issued, delivered
 3 or renewed in this state ~~on and after January 1, 1981, except in~~
 4 ~~conformity with~~**UNLESS THE POLICY CONFORMS TO** this chapter. ~~This~~
 5 ~~chapter shall not apply to policies of automobile insurance or home~~
 6 ~~insurance offered, bound, made, issued, delivered or renewed in~~
 7 ~~this state before January 1, 1981.~~

1 (2) This chapter ~~shall~~**DOES** not apply to insurance written on
2 a group, franchise, blanket policy, or similar basis ~~which~~**THAT**
3 offers home insurance or automobile insurance to all members of the
4 group, franchise plan, or blanket coverage who are eligible
5 persons. **HOWEVER, SECTION 2111 APPLIES TO AUTOMOBILE INSURANCE**
6 **WRITTEN ON A GROUP, FRANCHISE, BLANKET POLICY, OR SIMILAR BASIS.**

7 Sec. 2110a. **(1)** If uniformly applied to all its insureds, an
8 insurer may use factors in addition to those permitted by section
9 2111 for insurance if the plan is consistent with the purposes of
10 this act and reflects reasonably anticipated reductions or
11 increases in losses or expenses.

12 **(2)** This section does not affect benefits or obligations
13 required under chapter 31.

14 **(3)** This section does not authorize an insurer to offer or
15 prohibit an insurer from offering premium discount plans concerning
16 any of the following:

17 (a) Health care services, health care providers, or health
18 care facilities.

19 (b) Automobile repair providers.

20 (c) Materials used in the repair of an automobile.

21 **(4) THIS SECTION DOES NOT AUTHORIZE AN INSURER TO USE A FACTOR**
22 **IN ESTABLISHING OR MAINTAINING RATES OR RATING CLASSIFICATIONS IF**
23 **USE OF THE FACTOR IS EXPRESSLY PROHIBITED BY THIS ACT.**

24 **SEC. 2110C. (1) AN INSURER SHALL NOT REFUSE TO ISSUE OR RENEW**
25 **AN AUTOMOBILE INSURANCE POLICY BASED IN WHOLE OR IN PART ON ANY OF**
26 **THE UNDERWRITING AND RATING FACTORS THAT ARE PROHIBITED UNDER**
27 **SECTION 2111B, OR USE THE FACTORS TO DETERMINE THE TERMS OF**

1 COVERAGE OR PLACEMENT IN A PARTICULAR AFFILIATE WITHIN A GROUP OF
 2 INSURERS. THIS SUBSECTION DOES NOT PROHIBIT AN INSURER FROM
 3 REFUSING TO ISSUE OR RENEW AN AUTOMOBILE INSURANCE POLICY TO AN
 4 INDIVIDUAL WHO IS NOT AN ELIGIBLE PERSON UNDER SECTION 2103(1)(F).

5 (2) A CLASSIFICATION PLAN, RATING PLAN, RATING TIER PLACEMENT
 6 FACTOR, SCORING MODEL, RULE, RATE, PREMIUM, OR ANY OTHER METHOD OF
 7 ESTABLISHING THE PREMIUM TO BE PAID BY AN AUTOMOBILE INSURANCE
 8 POLICYHOLDER OR COVERED DRIVER, AND THE MODIFICATION OF ANY SUCH
 9 PLAN, FACTOR, MODEL, RULE, RATE, PREMIUM, OR METHOD, BASED IN WHOLE
 10 OR IN PART ON ANY OF THE UNDERWRITING AND RATING FACTORS THAT ARE
 11 PROHIBITED UNDER SECTION 2111B, IS UNFAIRLY DISCRIMINATORY FOR
 12 PURPOSES OF SECTION 2109(1)(C).

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

18 (2) Classifications established under this section for
 19 automobile insurance ~~shall~~**MUST** be based only on 1 or more of the
 20 following factors, which **THE INSURER** shall ~~be applied by an insurer~~
 21 **APPLY** on a uniform basis throughout this state:

22 (a) With respect to all automobile insurance coverages:

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

26 (ii) Driver primacy, based on the proportionate use of each
 27 vehicle insured under the policy by individual drivers insured or

1 to be insured under the policy.

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

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

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

8 (vi) Daily or weekly commuting mileage.

9 (vii) Number of cars insured by the insurer or number of
10 licensed operators in the household. However, **THE INSURER SHALL NOT**
11 **USE THE** number of licensed operators ~~shall not be used as an~~
12 indirect measure of marital status.

13 (viii) Amount of insurance.

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

16 (i) Earned income, **SOLELY FOR PURPOSES OF DETERMINING THE RISK**
17 **OF LOSS RELATED TO WAGE LOSS BENEFITS.**

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

20 (iii) Coordination of benefits.

21 (iv) Use of a safety belt.

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

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

1 (ii) Vehicle make and model.

2 (iii) Vehicle design characteristics related to vehicle
3 damageability.

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

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

10 (i) The course ~~shall~~**MUST** include a minimum of 8 hours of
11 classroom instruction.

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

14 (A) The effects of aging on driving behavior.

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

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

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

18 (E) Accident prevention measures.

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

20 (G) Major driving hazards.

21 (H) Interaction with other highway users, such as

22 motorcyclists, bicyclists, and pedestrians.

23 (3) ~~Each~~**AN** insurer shall establish a secondary or merit
24 rating plan for automobile insurance, other than comprehensive
25 coverage. A secondary or merit rating plan required under this
26 subsection ~~shall~~**MUST** provide for premium surcharges for any or all
27 coverages for automobile insurance, other than comprehensive

1 coverage, based ~~upon~~ **ON** any or all of the following, when that
2 information becomes available to the insurer:

3 (a) Substantially at-fault accidents.

4 (b) Convictions for, determinations of responsibility for
5 civil infractions for, or findings of responsibility in probate
6 court for civil infractions for violations under chapter VI of the
7 Michigan vehicle code, 1949 PA 300, MCL 257.601 to 257.750.
8 However, an insured shall not be merit rated for a civil infraction
9 under chapter VI of the Michigan vehicle code, 1949 PA 300, MCL
10 257.601 to 257.750, for a period of time longer than that which the
11 secretary of state's office carries points for that infraction on
12 the insured's motor vehicle record.

13 (4) An insurer shall not establish or maintain rates or rating
14 classifications for automobile insurance based on ~~sex or marital~~
15 ~~status.~~ **A FACTOR THAT IS PROHIBITED UNDER SECTION 2111B.**

16 (5) ~~Notwithstanding other provisions of this chapter, AN~~
17 **INSURER SHALL NOT ESTABLISH OR MAINTAIN RATES OR RATING**
18 **CLASSIFICATIONS FOR** automobile insurance ~~risks may be grouped by~~
19 **BASED ON THE** territory **IN WHICH THE INSURED RESIDES OR WORKS.**

20 (6) This section does not limit insurers or rating
21 organizations from establishing and maintaining statistical
22 reporting territories. This section does not prohibit an insurer
23 from establishing or maintaining, for automobile insurance, a
24 premium discount plan for senior citizens in this state who are 65
25 years of age or older, if the plan is uniformly applied by the
26 insurer throughout this state. If an insurer has not established
27 and maintained a premium discount plan for senior citizens, the

1 insurer shall offer reduced premium rates to senior citizens in
2 this state who are 65 years of age or older and who drive less than
3 3,000 miles per year, regardless of statistical data.

4 (7) Classifications established under this section for home
5 insurance other than inland marine insurance provided by policy
6 floaters or endorsements ~~shall~~**MUST** be based only on 1 or more of
7 the following factors:

8 (a) Amount and types of coverage.

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

11 (c) Repairable structural defects reasonably related to risk.

12 (d) Fire protection class.

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

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

21 (g) Use of smoking materials within the structure.

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

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

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

27 (9) An insurer may use factors in addition to those permitted

1 by this section for insurance if the plan is consistent with the
2 purposes of this act and reflects reasonably anticipated reductions
3 or increases in losses or expenses. **THIS SUBSECTION DOES NOT PERMIT**
4 **AN INSURER TO USE A FACTOR IF THE USE OF THE FACTOR IS EXPRESSLY**
5 **PROHIBITED BY THIS ACT.**

6 **SEC. 2111B. AN INSURER SHALL NOT USE ANY OF THE FOLLOWING**
7 **FACTORS IN UNDERWRITING OR ESTABLISHING RATES FOR AUTOMOBILE**
8 **INSURANCE:**

9 (A) SEX.

10 (B) MARITAL STATUS.

11 (C) RACE.

12 (D) CREED.

13 (E) NATIONAL ORIGIN.

14 (F) RELIGION.

15 (G) AGE. THIS SUBDIVISION DOES NOT PROHIBIT AN INSURER FROM
16 OFFERING A PREMIUM DISCOUNT PLAN ON THE BASIS OF AGE THAT IS
17 EXPRESSLY ALLOWED UNDER THIS ACT.

18 (H) EMPLOYMENT OR OCCUPATION.

19 (I) EDUCATION LEVEL ATTAINED.

20 (J) HOME OWNERSHIP.

21 (K) CONSUMER CREDIT INFORMATION OR CREDIT SCORE.

22 (L) THE ABSENCE OF PRIOR INSURANCE.

23 (M) ANY MEASURE OF A CONSUMER'S PRICE ELASTICITY OF DEMAND.

24 (N) LEVEL OF INCOME OR WEALTH. THIS SUBDIVISION DOES NOT
25 PROHIBIT AN INSURER FROM BASING A RATING CLASSIFICATION FOR
26 PERSONAL PROTECTION INSURANCE COVERAGE ON EARNED INCOME AS PROVIDED
27 IN SECTION 2111(2)(B)(i).

1 Sec. 2118. (1) As a condition of maintaining its certificate
2 of authority, an insurer shall not refuse to insure, refuse to
3 continue to insure, or limit coverage available to an eligible
4 person for automobile insurance, except in accordance with
5 underwriting rules established ~~pursuant to~~ **UNDER** this section and
6 sections 2119 and 2120.

7 (2) The underwriting rules that an insurer may establish for
8 automobile insurance ~~shall~~ **MUST** be based only on the following:

9 (a) Criteria identical to the standards set forth in section
10 2103(1).

11 (b) The insurance eligibility point accumulation in excess of
12 the amounts established by section 2103(1) of a member of the
13 household of the eligible person insured or to be insured, if the
14 member of the household usually accounts for 10% or more of the use
15 of a vehicle insured or to be insured. For purposes of this
16 subdivision, a person who is the principal driver for 1 automobile
17 insurance policy ~~shall be~~ **IS** rebuttably presumed not to usually
18 account for more than 10% of the use of other vehicles of the
19 household not insured under the policy of that person.

20 (c) With respect to a vehicle insured or to be insured,
21 substantial modifications from the vehicle's original manufactured
22 state for purposes of increasing the speed or acceleration
23 capabilities of the vehicle.

24 ~~— (d) Except as otherwise provided in section 2116a, failure by~~
25 ~~the person to provide proof that insurance required by section 3101~~
26 ~~was maintained in force with respect to any vehicle that was both~~
27 ~~owned by the person and driven or moved by the person or by a~~

1 ~~member of the household of the person during the 6-month period~~
2 ~~immediately preceding application. Such proof shall take the form~~
3 ~~of a certification by the person on a form provided by the insurer~~
4 ~~that the vehicle was not driven or moved without maintaining the~~
5 ~~insurance required by section 3101 during the 6-month period~~
6 ~~immediately preceding application.~~

7 **(D)** ~~(e)~~—Type of vehicle insured or to be insured, based on 1
8 of the following, without regard to the age of the vehicle:

9 (i) The vehicle is of limited production or of custom
10 manufacture.

11 (ii) The insurer does not have a rate lawfully in effect for
12 the type of vehicle.

13 (iii) The vehicle represents exposure to extraordinary expense
14 for repair or replacement under comprehensive or collision
15 coverage.

16 **(E)** ~~(f)~~—Use of a vehicle insured or to be insured for
17 transportation of passengers for hire, for rental purposes, or for
18 commercial purposes. Rules under this subdivision shall ~~shall~~ **MUST** not be
19 based on the use of a vehicle for volunteer or charitable purposes
20 or for which reimbursement for normal operating expenses is
21 received.

22 **(F)** ~~(g)~~—Payment of a minimum deposit at the time of
23 application or renewal, not to exceed the smallest deposit required
24 under an extended payment or premium finance plan customarily used
25 by the insurer.

26 **(G)** ~~(h)~~—For purposes of requiring comprehensive deductibles of
27 not more than \$150.00, or of refusing to insure if the person

1 refuses to accept a required deductible, the claim experience of
2 the person with respect to comprehensive coverage.

3 **(H)** ~~(i)~~—Total abstinence from the consumption of alcoholic
4 beverages ~~except if such~~ **UNLESS THE** beverages are consumed as part
5 of a religious ceremony. However, an insurer shall not utilize an
6 underwriting rule based on this subdivision unless the insurer has
7 been authorized to transact automobile insurance in this state
8 ~~prior to~~ **BEFORE** January 1, 1981, and has consistently utilized such
9 an underwriting rule as part of the insurer's automobile insurance
10 underwriting since being authorized to transact automobile
11 insurance in this state.

12 **(I)** ~~(j)~~—One or more incidents involving a threat, harassment,
13 or physical assault by the insured or applicant for insurance on an
14 insurer employee, agent, or agent employee while acting within the
15 scope of his or her employment, ~~so long as~~ **IF** a report of the
16 incident was filed with an appropriate law enforcement agency.

17 Sec. 2151. As used in this chapter:

18 (a) "Adverse action" means an increase in any charge for, or a
19 reduction or other adverse or unfavorable change in the terms of
20 coverage or amount of, any personal insurance, existing or applied
21 for.

22 (b) "Consumer reporting agency" means any person ~~which,~~ **THAT,**
23 for monetary fees or dues or on a cooperative nonprofit basis,
24 regularly engages in whole or in part in the practice of assembling
25 or evaluating consumer credit information or other information on
26 consumers for the purpose of furnishing consumer reports to third
27 parties.

1 (c) "Credit information" means any credit-related information
2 derived from a credit report, found on a credit report itself, or
3 provided on an application for personal insurance. Information that
4 is not credit-related ~~shall~~ **IS** not be considered credit
5 information, regardless of whether it is contained in a credit
6 report or in an application, or is used to calculate an insurance
7 score.

8 (d) "Credit report" means any written, oral, or other
9 communication of information by a consumer reporting agency bearing
10 on a consumer's credit worthiness, credit standing, or credit
11 capacity that is used or expected to be used or collected in whole
12 or in part for the purpose of serving as a factor in the rating of
13 personal insurance.

14 (e) "Insurance score" means a number or rating that is derived
15 from an algorithm, computer application, model, or other process
16 that is based in whole or in part on credit information for the
17 purposes of predicting the future insurance loss exposure of an
18 individual applicant or insured.

19 (f) "Personal insurance" means property/casualty insurance
20 written for personal, family, or household use, including
21 ~~automobile, home, motorcycle, mobile home, noncommercial dwelling~~
22 fire, boat, personal watercraft, snowmobile, and recreational
23 vehicle, whether written on an individual, group, franchise,
24 blanket policy, or similar basis. **PERSONAL INSURANCE DOES NOT**
25 **INCLUDE AUTOMOBILE INSURANCE.**