House
Legislative
Analysis
Section

Olds Plaza Building, 10th Floor
Lansing, Michigan 48909
Phone: 517/373-6466

**NO-FAULT AUTO INSURANCE**

**House Bill 4609**
**Sponsor: Rep. Pat Gagliardi**
**Committee: Insurance**

**Complete to 1-8-96**

## A SUMMARY OF HOUSE BILL 4609 AS INTRODUCED 3-16-95

The bill would amend various sections of the Insurance Code dealing with no-fault auto insurance. The bill's provisions include the following.

Loss ratios. Beginning April 1, 1996, an auto insurer's rates for each of its rating territories would have to be established in a manner that could reasonably be anticipated to produce an 80 percent loss ratio for comprehensive and collision coverages and an 80 percent loss ratio for all other coverages for each policy year. (The term "loss ratio" refers to incurred losses expressed as a percentage of earned premiums.)

Reporting of Revenue and Expenditures. Beginning March 1, 1996, and annually thereafter, each auto insurer authorized to transact insurance in the state would be required to file with the insurance commissioner and the National Association of Insurance Commissioners (NAIC) the following information about their auto insurance business in the state: direct earned premiums, earned premiums net of reinsurance, direct incurred losses, incurred losses net of reinsurance, incurred loss adjustment expenses, agents' commissions, additional operating expenses, dividends to policyholders, underwriting profit and the formula for calculating it, realized investment return from allocated reserves, realized investment return from allocated capital and surplus, realized investment return from balances due to agents, federal taxes, reserves attributable to auto insurance, capital and surplus attributable to automobile insurance, and anticipated losses.

The information listed above would have to be reported separately for each of the following lines of auto coverage: liability, personal protection, comprehensive, and collision. Each annual filing would have to include information for the policy year beginning eight years earlier and each policy year since then up to and including the year immediately preceding the filing. The insurer would have to annually reconcile previous filings to reflect new information. The insurance commissioner would have to develop a form for the filing of information before December 1, 1995.

Beginning May 1, 1996, and annually thereafter, the commissioner would have to prepare a report to the standing committees on insurance issues in the Senate and House of Representatives on the information received. In the report, the commissioner would have to reconcile the paid losses with premiums earned for the reported policy year. If the reconciliation showed that the insurer's loss ratios were anticipated to be less that those required, the commissioner would order the insurer to adjust and refile its premium rates to achieve the required loss ratios.

Moratorium on Rate Increases. Beginning March 1, 1995, and continuing until May 1, 1996, a rate filing for auto insurance package policies could not be modified unless the modification resulted in an overall premium reduction for the affected rating cells. Changes in risk symbols and changes in risk symbol applications and values could only be made in conjunction with a rate filing. (This would not prohibit changes to rates based on assessments levied under the statute for the catastrophic claims association and the insurance placement facility.)

Report on Medical Losses, Lawsuits, Etc. Beginning March 1, 1996, each auto insurer would have to report annually to the insurance commissioner on the dollar amount of losses paid and the dollar amount of losses incurred for work loss, survivor's loss, and medical and rehabilitation coverages and on the number of suits filed by insureds against the company, categorized according to whether a suit is a first party suit, a third party suit, or a combination of the two. The commissioner would be required to develop a form for the report by December 1, 1995.

Stolen Vehicles Report. Beginning March 1, 1996, each auto insurer would have to report annually to the insurance commissioner on automobile theft claims, including all of the following by vehicle identification number: all autos insured by the insurer reported stolen in the immediately preceding year; all payments made by the insurer for stolen vehicles in the immediately preceding year; and the number of recovered stolen vehicles insured by the insurer and their salvage value and any fees paid by the insurer for storage in the immediately preceding year. The commissioner would have to develop a form for the report by December 1, 1995. The commissioner would be required to report annually on this information to the standing committees on insurance issues in the state House and Senate.

Penalties for Essential Insurance Violations. If the insurance commissioner found that a person or organization had violated a provision of Chapter 21 or rules promulgated under the chapter, he or she could order any or all of: a civil fine of not more than $5,000 for each violation, and if the violation was willful, a fine of not more than $25,000 for each violation; a cease and desist order; an order to comply; and a refund of any overcharges with interest and penalties. (Chapter 21, sometimes referred to as the Essential Insurance Act, deals with underwriting and rate-setting for auto and home insurance.)

The commissioner could suspend the authority of a rating organization or insurer to do business in the state who failed to comply with a commissioner's order within the time specified, but the suspension would not affect the validity or continued effectiveness of rates previously filed and effective. However, the commissioner could not suspend a rating organization's or company's operating authority for failure to comply with an order until the time prescribed for an appeal of the order had expired or, if an appeal had been taken, until the order for suspension had been affirmed. The commissioner would determine when a suspension was to become effective and the suspension would remain in effect for the period fixed by the commissioner, unless the suspension was modified or rescinded or until the order upon which the suspension was based was modified or rescinded.

A civil fine could not be imposed and the authority to do business could not be suspended or revoked except upon a written order of the commissioner specifying the alleged violation and

stating his or her findings. The order could be made only after a hearing held with at least ten days' written notice to the person or organization. An order issued by the commissioner could not require the payment of civil fines exceeding $50,000.

The commissioner would have to report annually to the Senate and House standing committees on insurance issues regarding the fines collected.

Catastrophic Claims Association. Six members would be added to the board of the Michigan Catastrophic Claims Association (MCCA): three to represent the general public, and one each representing hospitals, rehabilitation facilities, and physicians. The code currently requires a five-member board whose members must contribute a total of at least 40 percent of the premium paid by members to support the association. That provision would be retained. (The MCCA is an association of all auto insurers and is responsible for personal injury protection claims that exceed $250,000.)

The business of the board would have to be conducted at public meetings held in compliance with the Open Meetings Act and a writing prepared, owned, used, in possession of, or retained by the board would be subject to the Freedom of Information Act.

Tort threshold. Under the no-fault act, a person remains subject to tort liability for non-economic loss caused by his or her ownership, maintenance, and use of a motor vehicle only if the injured person suffers death, serious impairment of body function, or permanent serious disfigurement. Under the bill, damages could not be assessed in favor of an injured person who was convicted of driving under the influence of intoxicating liquor or a controlled substance (or of causing death or a serious impairment of body function while driving intoxicated) and was more than 50 percent at fault. Further, the issue of whether an injured person had suffered serious impairment of body function or permanent serious disfigurement would not have to be met to recover non-economic loss if the injuries were caused by a driver convicted of driving under the influence.

MCL 500.2110 et al.



■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.