

# SENATE BILL No. 267

February 19, 2009, Introduced by Senators HUNTER, BASHAM, SCOTT, BRATER and THOMAS and referred to the Committee on Economic Development and Regulatory Reform.

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending section 2111 (MCL 500.2111), as amended by 2002 PA 492, and by adding section 2110c.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           SEC. 2110C. (1) AN INSURER OR A THIRD PARTY ON THE INSURER'S  
2 BEHALF SHALL NOT USE COLLECTION ACCOUNTS WITH A MEDICAL INDUSTRY  
3 CODE, IF SO IDENTIFIED ON AN INSURED'S OR APPLICANT'S CREDIT  
4 REPORT, AS A NEGATIVE FACTOR IN ANY INSURANCE SCORE OR IN REVIEWING  
5 CREDIT INFORMATION.

6           (2) AS USED IN THIS SECTION:

7           (A) "CONSUMER REPORTING AGENCY" MEANS ANY PERSON WHICH, FOR  
8 MONETARY FEES, DUES, OR ON A COOPERATIVE NONPROFIT BASIS, REGULARLY

1 ENGAGES IN WHOLE OR IN PART IN THE PRACTICE OF ASSEMBLING OR  
2 EVALUATING CONSUMER CREDIT INFORMATION OR OTHER INFORMATION ON  
3 CONSUMERS FOR THE PURPOSE OF FURNISHING CONSUMER REPORTS TO THIRD  
4 PARTIES.

5 (B) "CREDIT INFORMATION" MEANS ANY CREDIT-RELATED INFORMATION  
6 DERIVED FROM A CREDIT REPORT, FOUND ON A CREDIT REPORT ITSELF, OR  
7 PROVIDED ON AN APPLICATION FOR PERSONAL INSURANCE. INFORMATION THAT  
8 IS NOT CREDIT-RELATED SHALL NOT BE CONSIDERED CREDIT INFORMATION,  
9 REGARDLESS OF WHETHER IT IS CONTAINED IN A CREDIT REPORT OR IN AN  
10 APPLICATION, OR IS USED TO CALCULATE AN INSURANCE SCORE.

11 (C) "CREDIT REPORT" MEANS ANY WRITTEN, ORAL, OR OTHER  
12 COMMUNICATION OF INFORMATION BY A CONSUMER REPORTING AGENCY BEARING  
13 ON A CONSUMER'S CREDIT WORTHINESS, CREDIT STANDING, OR CREDIT  
14 CAPACITY USED OR EXPECTED TO BE USED OR COLLECTED IN WHOLE OR IN  
15 PART FOR THE PURPOSE OF SERVING AS A FACTOR IN THE RATING OR  
16 UNDERWRITING OF PERSONAL INSURANCE.

17 (D) "INSURANCE SCORE" MEANS A NUMBER OR RATING THAT IS DERIVED  
18 FROM AN ALGORITHM, COMPUTER APPLICATION, MODEL, OR OTHER PROCESS  
19 THAT IS BASED IN WHOLE OR IN PART ON CREDIT INFORMATION FOR THE  
20 PURPOSES OF PREDICTING THE FUTURE INSURANCE LOSS EXPOSURE OF AN  
21 INDIVIDUAL APPLICANT OR INSURED.

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

27 (2) Classifications established pursuant to this section for

1 automobile insurance shall be based only upon 1 or more of the  
2 following factors, which shall be applied by an insurer on a  
3 uniform basis throughout the state:

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

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

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

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

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

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

17 (vi) Daily or weekly commuting mileage.

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

22 (viii) Amount of insurance.

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

25 (i) Earned income.

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

1 (iii) Coordination of benefits.

2 (iv) Use of a safety belt.

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

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

9 (ii) Vehicle make and model.

10 (iii) Vehicle design characteristics related to vehicle  
11 damageability.

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

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

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

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

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

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

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

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

26 (E) Accident prevention measures.

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

1 (G) Major driving hazards.

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

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

11 ~~—— (a) Substantially at fault accidents.~~

12 ~~—— (b) Convictions~~ **CONVICTIONS** for, determinations of  
13 responsibility for civil infractions for, or findings of  
14 responsibility in probate court for civil infractions for,  
15 violations under chapter VI of the Michigan vehicle code, 1949 PA  
16 300, MCL 257.601 to 257.750. However, beginning ~~90 days after the~~  
17 ~~effective date of this sentence~~ **MAY 28, 1996**, an insured shall not  
18 be merit rated for a civil infraction under chapter VI of the  
19 Michigan vehicle code, 1949 PA 300, MCL 257.601 to 257.750, for a  
20 period of time longer than that which the secretary of state's  
21 office carries points for that infraction on the insured's motor  
22 vehicle record.

23 (4) An insurer shall not establish or maintain rates or rating  
24 classifications for automobile insurance based upon sex, ~~or~~ marital  
25 status, **OR CLAIMS MADE BY THE INSURED UNDER THE POLICY.**

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

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

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

17           (a) Amount and types of coverage.

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

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

21           (d) Fire protection class.

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

24           (f) Loss experience of the insured, based upon prior claims  
25 attributable to factors under the control of the insured that have  
26 been paid by an insurer. An insured's failure, after written notice  
27 from the insurer, to correct a physical condition that presents a

1 risk of repeated loss shall be considered a factor under the  
2 control of the insured for purposes of this subdivision.

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

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

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

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

9 (9) An insurer may utilize factors in addition to those  
10 specified in this section, if the commissioner finds, after a  
11 hearing held pursuant to the administrative procedures act of 1969,  
12 1969 PA 306, MCL 24.201 to 24.328, that the factors would encourage  
13 innovation, would encourage insureds to minimize the risks of loss  
14 from hazards insured against, and would be consistent with the  
15 purposes of this chapter.