

SENATE BILL No. 1255

September 11, 2012, Introduced by Senator YOUNG and referred to the Committee on Insurance.

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 2111b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2111. (1) ~~Notwithstanding~~ **EXCEPT AS PROVIDED IN SECTION**
 2 **2111B, NOTWITHSTANDING** any provision of this act and this chapter
 3 to the contrary, classifications and territorial base rates used by
 4 ~~any~~ **AN** insurer in this state with respect to automobile insurance
 5 or home insurance shall conform to the applicable requirements of
 6 this section.

7 (2) Classifications established ~~pursuant to~~ **UNDER** this section
 8 for automobile insurance shall be based only ~~upon~~ **ON** 1 or more of

1 the following factors, which shall be applied by an insurer on a
2 uniform basis throughout ~~the~~**THIS** state:

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

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

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

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

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

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

16 (vi) Daily or weekly commuting mileage.

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

21 (viii) Amount of insurance.

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

24 (i) Earned income.

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

27 (iii) Coordination of benefits.

1 (iv) Use of a safety belt.

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

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

8 (ii) Vehicle make and model.

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

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

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

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

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

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

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

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

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

25 (E) Accident prevention measures.

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

27 (G) Major driving hazards.

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

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

10 (a) Substantially at-fault accidents.

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

15 However, ~~beginning 90 days after the effective date of this~~
16 ~~sentence,~~ an insured shall not be merit rated for a civil
17 infraction under chapter VI of the Michigan vehicle code, 1949 PA
18 300, MCL 257.601 to 257.750, for a period of time longer than that
19 which the secretary of state's office carries points for that
20 infraction on the insured's motor vehicle record.

21 (4) An insurer shall not establish or maintain rates or rating
22 classifications for automobile insurance based ~~upon~~ **ON** sex or
23 marital status.

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

26 (6) This section ~~shall~~ **DOES** not be construed as limiting **LIMIT**
27 insurers or rating organizations from establishing and maintaining

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

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

15 (a) Amount and types of coverage.

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

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

19 (d) Fire protection class.

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

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

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

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

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

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

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

14 **SEC. 2111B. (1) AN AUTOMOBILE INSURER MAY OFFER EACH PERSON**
15 **WHO PURCHASES AUTOMOBILE INSURANCE FROM THE INSURER A CHOICE**
16 **BETWEEN A MILE-BASED RATING PLAN AND A TIME-BASED RATING PLAN FOR**
17 **AUTOMOBILE INSURANCE.**

18 **(2) AN INSURER OFFERING A CHOICE UNDER SUBSECTION (1) MAY**
19 **REQUIRE A PERSON PURCHASING AUTOMOBILE INSURANCE TO USE THE SAME**
20 **RATING PLAN FOR ALL VEHICLES COVERED UNDER THE PERSON'S AUTOMOBILE**
21 **INSURANCE POLICY.**

22 **(3) AN INSURER THAT OFFERS THE CHOICE UNDER SUBSECTION (1)**
23 **SHALL INCLUDE WITH ANY RATE FILINGS REQUIRED BY THIS ACT A**
24 **STATEMENT OF ANY FEE TO BE CHARGED TO POLICYHOLDERS OR APPLICANTS**
25 **FOR INSURANCE FOR PARTICIPATION IN THE MILE-BASED RATING PLAN.**

26 **(4) THE COMMISSIONER SHALL ANALYZE MILE-BASED AND TIME-BASED**
27 **RATES FILED BY AN INSURER WHO OFFERS A CHOICE UNDER SUBSECTION (1).**

1 IF THE COMMISSIONER DETERMINES THAT THE INSURER'S FILED RATES FOR A
2 MILE-BASED RATING PLAN ARE EXCESSIVE IN COMPARISON TO THE PREMIUM
3 RATES CHARGED FOR SIMILAR COVERAGE UNDER THE INSURER'S TIME-BASED
4 RATING PLAN, THE COMMISSIONER SHALL REJECT THE RATES UNDER
5 PROCEDURES PROVIDED IN THIS ACT.

6 (5) SUBSECTION (1) DOES NOT APPLY TO AN ASSESSMENT RELATING TO
7 THE MICHIGAN CATASTROPHIC CLAIMS ASSOCIATION UNDER SECTION 3104.

8 (6) THE COMMISSIONER SHALL DO ALL OF THE FOLLOWING:

9 (A) COMPILE INFORMATION REGARDING BOTH OF THE FOLLOWING:

10 (i) THE NUMBER OF INSURERS WRITING MOTOR VEHICLE INSURANCE
11 BASED ON MILE-BASED RATING PLANS.

12 (ii) THE PREMIUM RATES FOR MILE-BASED RATING PLANS COMPARED TO
13 STANDARD TIME-BASED RATING PLANS.

14 (B) ANALYZE THE EFFECT OF MILE-BASED RATING PLANS ON BOTH OF
15 THE FOLLOWING:

16 (i) PREMIUM RATES OFFERED FOR MOTOR VEHICLE INSURANCE BASED ON
17 TIME-BASED RATING PLANS.

18 (ii) THE NUMBER OF UNINSURED MOTORISTS IN THIS STATE.

19 (C) ADOPT RULES AS NECESSARY TO GOVERN THE USE OF MILE-BASED
20 RATING PLANS, INCLUDING RULES REGARDING ALL OF THE FOLLOWING:

21 (i) PREPAYMENT ARRANGEMENTS.

22 (ii) AUDITING OF THE ODOMETER OF A VEHICLE FOR THE PURPOSE OF
23 DETERMINING WHETHER COVERAGE IS IN FORCE.

24 (iii) THE APPLICABILITY OF FACTORS UNDER SECTION 2111 TO MILE-
25 BASED RATING PLANS.

26 (7) AS USED IN THIS SECTION:

27 (A) "MILE-BASED RATING PLAN" MEANS A RATING PLAN FOR WHICH A

1 UNIT OF EXPOSURE IS 1 MILE TRAVELED BY THE INSURED MOTOR VEHICLE.
2 (B) "TIME-BASED RATING PLAN" MEANS A RATING PLAN FOR WHICH A
3 UNIT OF EXPOSURE IS A UNIT OF TIME.