

HOUSE BILL No. 5079

August 1, 1991, Introduced by Reps. Hoffman and McNutt and referred to the Committee on Insurance.

A bill to amend section 2111 of Act No. 218 of the Public Acts of 1956, entitled as amended

"The insurance code of 1956,"

as amended by Act No. 24 of the Public Acts of 1991, being section 500.2111 of the Michigan Compiled Laws; and to add section 2110a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 2111 of Act No. 218 of the Public Acts
2 of 1956, as amended by Act No. 24 of the Public Acts of 1991,
3 being section 500.2111 of the Michigan Compiled Laws, is amended
4 and section 2110a is added to read as follows:

5 SEC. 2110A. (1) AN AUTOMOBILE INSURANCE INSURER SHALL
6 INQUIRE OF EACH APPLICANT FOR INSURANCE AND OF EACH INSURED AT
7 EACH RENEWAL OF THE INSURED'S AUTOMOBILE INSURANCE AS TO WHETHER

1 THE APPLICANT OR THE INSURED HAS A RADAR DETECTOR IN THE INSURED
2 MOTOR VEHICLE.

3 (2) IF AN APPLICANT HAS A RADAR DETECTOR IN A MOTOR VEHICLE
4 TO BE INSURED BY THE INSURER OR IF AN INSURED HAS A RADAR DETEC-
5 TOR IN AN INSURED MOTOR VEHICLE, THE AUTOMOBILE INSURANCE INSURER
6 MAY DO EITHER OF THE FOLLOWING:

7 (A) NOT ISSUE OR RENEW AN AUTOMOBILE INSURANCE POLICY FOR
8 THE APPLICANT OR INSURED.

9 (B) CHARGE THE APPLICANT OR INSURED WITH A HIGHER PREMIUM
10 PURSUANT TO SECTION 2111(2)(A)(ix).

11 (3) IF AN AUTOMOBILE INSURANCE INSURER ISSUES AN AUTOMOBILE
12 INSURANCE POLICY TO AN INSURED WHO SUBSEQUENTLY IS INVOLVED IN AN
13 ACCIDENT WITH THE INSURED MOTOR VEHICLE AND THE MOTOR VEHICLE IS
14 EQUIPPED WITH A RADAR DETECTOR OR IS CONVICTED FOR, DETERMINED TO
15 BE RESPONSIBLE FOR A CIVIL INFRACTION FOR, OR IS FOUND RESPONSI-
16 BLE IN PROBATE COURT FOR A CIVIL INFRACTION FOR A VIOLATION UNDER
17 CHAPTER VI OF THE MICHIGAN VEHICLE CODE, ACT NO. 300 OF THE
18 PUBLIC ACTS OF 1949, BEING SECTIONS 257.601 TO 257.750 OF THE
19 MICHIGAN COMPILED LAWS, AND THE MOTOR VEHICLE IS EQUIPPED WITH A
20 A RADAR DETECTOR, THE INSURER MAY DO EITHER OF THE FOLLOWING:

21 (A) NOT ISSUE OR RENEW AN AUTOMOBILE INSURANCE POLICY FOR
22 THE APPLICANT OR INSURED.

23 (B) CHARGE THE APPLICANT OR INSURED WITH A HIGHER PREMIUM
24 PURSUANT TO SECTION 2111(2)(A)(ix).

25 Sec. 2111. (1) Notwithstanding any provision of this act
26 and this chapter to the contrary, classifications and territorial
27 base rates used by any insurer in this state with respect to

1 automobile insurance or home insurance shall conform to the
2 applicable requirements of this section.

3 (2) Classifications established pursuant to this section for
4 automobile insurance shall be based only upon 1 or more of the
5 following factors, which shall be applied by an insurer on a uni-
6 form basis throughout the state:

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

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

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

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

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

16 (v) Vehicle characteristics, features, and options, such as
17 engine displacement, ability of vehicle and its equipment to pro-
18 tect passengers from injury and other similar items, including
19 vehicle make and model.

20 (vi) Daily or weekly commuting mileage.

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

25 (viii) Amount of insurance.

26 (ix) EQUIPPING AN INSURED MOTOR VEHICLE WITH A RADAR
27 DETECTOR.

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

3 (i) Earned income.

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

6 (iii) Coordination of benefits.

7 (iv) Use of a safety belt.

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

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

14 (ii) Vehicle make and model.

15 (iii) Vehicle design characteristics related to vehicle
16 damageability.

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

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

23 (i) The course shall include a minimum of 8 hours of class-
24 room instruction.

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

- 1 (A) The effects of aging on driving behavior.
- 2 (B) The shapes, colors, and types of road signs.
- 3 (C) The effects of alcohol and medication on driving.
- 4 (D) The laws relating to the proper use of a motor vehicle.
- 5 (E) Accident prevention measures.
- 6 (F) The benefits of safety belts and child restraints.
- 7 (G) Major driving hazards.
- 8 (H) Interaction with other highway users such as motorcy-
- 9 clists, bicyclists, and pedestrians.

10 (3) Each insurer shall establish and maintain premium dis-
11 count plans pursuant to the following:

12 (a) Until January 1, 1992, an automobile theft prevention
13 premium discount plan. A premium discount plan required under
14 this subdivision shall provide for a premium discount for automo-
15 bile comprehensive coverage based upon the installation of an
16 approved automobile theft prevention device. As used in this
17 subdivision, "approved automobile theft prevention device" means
18 a device that is designed to prevent the theft of an insured's
19 automobile and that is approved by the board of directors of the
20 automobile theft prevention authority.

21 (b) Until January 1, 1992, an automobile safety belt premium
22 discount plan. A premium discount plan required under this sub-
23 division shall provide for a premium discount for automobile per-
24 sonal protection insurance of not less than 20%. A premium dis-
25 count plan established under this subdivision may require the
26 insured individual to certify in writing that he or she will wear
27 a safety belt while operating the insured motor vehicle in

1 compliance with section 710e of the Michigan vehicle code, Act
2 No. 300 of the Public Acts of 1949, being section 257.710e of the
3 Michigan Compiled Laws, as a condition to receiving the premium
4 discount. If an insured receives a premium discount after pro-
5 viding such certification and is injured while operating a motor
6 vehicle without wearing a safety belt at the time of the injury,
7 an insurer may subsequently deny to the insured the right to par-
8 ticipate in any premium discount plan established by the insurer
9 pursuant to this subdivision for a period of 12 months. An
10 insurer that reduces its personal protection insurance rates
11 after December 1, 1985 by not less than 20% and does not increase
12 those rates for a period of 12 months shall be considered to be
13 in compliance with this subdivision.

14 (4) Each insurer shall establish a secondary or merit rating
15 plan for automobile insurance, other than comprehensive
16 coverage. A secondary or merit rating plan required under this
17 subsection shall provide for premium surcharges for any or all
18 coverages for automobile insurance, other than comprehensive cov-
19 erage, based upon any or all of the following, when that informa-
20 tion becomes available to the insurer:

21 (a) Substantially at-fault accidents.

22 (b) Convictions for, determinations of responsibility for
23 civil infractions for, or findings of responsibility in probate
24 court for civil infractions for, violations under chapter VI of
25 the Michigan vehicle code, Act No. 300 of the Public Acts of
26 1949, as amended, being sections 257.601 to 257.750 of the
27 Michigan Compiled Laws.

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

4 (6) Notwithstanding other provisions of this chapter, auto-
5 mobile insurance risks shall be grouped by territory, and terri-
6 torial base rates for coverages shall be established as provided
7 in section 2111a and as follows:

8 (a) An insurer shall not be limited as to the number of ter-
9 ritories employed in its rating plan.

10 (b) Except during the period of time from February 28, 1986
11 to January 1, 1992, an insurer shall not employ more than 20 dif-
12 ferent territorial base rates for an automobile insurance
13 coverage.

14 (c) A territorial base rate may be made applicable in 1 or
15 more territories contained in the rating plan of the insurer.

16 (d) Except during the period of time from February 28, 1986
17 to January 1, 1992, an insurer shall not employ a territorial
18 base rate for an automobile insurance package policy that is less
19 than 45% of the highest territorial base rate for the same
20 policy, all other rating classifications being the same.

21 (e) Except during the period of time from February 28, 1986
22 to January 1, 1992, an insurer shall not employ a territorial
23 base rate in a territory for an automobile insurance package
24 policy that is less than 90% of the territorial base rate
25 employed in any adjacent territory for the same policy, all other
26 rating classifications being the same.

1 (7) Except during the period of time from February 28, 1986
2 to January 1, 1992, an insurer may elect at any time to exempt
3 itself from the requirements of subsection (6) by filing for an
4 exemption with the commissioner. An insurer electing this exemp-
5 tion shall initially file a rating plan in which no territorial
6 base rate for an automobile insurance package policy is less than
7 45% of the highest territorial base rate for the same policy, all
8 other rating classifications being the same. Five years from the
9 date of the initial filing the insurer shall be prohibited from
10 using a rating plan in which any territorial base rate for an
11 automobile insurance package policy will be less than 67% of the
12 highest territorial base rate for that same policy, all other
13 rating classifications being the same. An insurer's election of
14 an exemption under this subsection is permanent, final, and not
15 subject to change.

16 (8) Except during the period of time from February 28, 1986
17 to January 1, 1992, if an insurer can demonstrate to the commis-
18 sioner, after an opportunity for an evidentiary hearing held pur-
19 suant to the administrative procedures act of 1969, Act No. 306
20 of the Public Acts of 1969, as amended, being sections 24.201 to
21 24.328 of the Michigan Compiled Laws, that clear and significant
22 financial impairment exists in the geographic territory or terri-
23 tories in question because of the need for an additional territo-
24 rial base rate, or for a greater variance in the adjacent geo-
25 graphic territory differential contained in subsection (6)(e),
26 the additional territorial base rate, a greater variance, or
27 both, shall be permitted for use by the insurer or a licensed

1 rating organization on behalf of that insurer, at such time as
2 the need exists. Evidence shall not include financial impairment
3 resulting from exemptions granted to other insurers.

4 (9) Except during the period of time from February 28, 1986
5 to January 1, 1992, if the commissioner finds, solely on the evi-
6 dence presented, that a greater variance in the adjacent geo-
7 graphic territory differential than that authorized under subsec-
8 tion (6)(e) is justified, the increase in variance shall not
9 exceed 100% of that authorized under that subsection. Except
10 during the period of time from February 28, 1986 to January 1,
11 1992, if an increase in variance in the adjacent geographic ter-
12 ritory differential greater than 100% of that authorized under
13 subsection (6)(e) is justified, the commissioner shall require
14 the creation of an additional territorial base rate.

15 (10) Except during the period of time from February 28, 1986
16 to January 1, 1992, an exemption granted under subsections (8)
17 and (9) shall be applicable only to the geographic territory or
18 territories in question, and only to the insurer requesting the
19 exemption.

20 (11) Except during the period of time from February 28, 1986
21 to January 1, 1992, an insurer shall not have more than 5 exemp-
22 tions in force at any 1 time. For purposes of determining the
23 number of existing exemptions, each additional territorial base
24 rate or each increase in variance in the adjacent geographic ter-
25 ritory differential granted, shall be considered to be a separate
26 exemption.

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

13 (13) Classifications established pursuant to this section
14 for home insurance other than inland marine insurance provided by
15 policy floaters or endorsements shall be based only upon 1 or
16 more 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
21 risk.

22 (d) Fire protection class.

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

25 (f) Loss experience of the insured, based upon prior claims
26 attributable to factors under the control of the insured that
27 have been paid by an insurer.

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 (14) Notwithstanding other provisions of this chapter, home
6 insurance risks shall be grouped by territory, and territorial
7 base rates for coverages shall be established as follows:

8 (a) An insurer shall not be limited as to the number of ter-
9 ritories employed in its rating plan. However, an insurer shall
10 not employ more than 3 different territorial base rates for a
11 home insurance coverage. A territorial base rate may be made
12 applicable in 1 or more territories contained in the rating plan
13 of the insurer.

14 (b) An insurer shall not employ a territorial base rate for
15 home insurance for owner-occupied dwelling policies that is less
16 than 70% of the highest territorial base rate for the same
17 policy, all other rating classifications being the same.

18 (c) An insurer shall not employ a territorial base rate for
19 home insurance for renter or tenant policies that is less than
20 65% of the highest territorial base rate for the same policy, all
21 other rating classifications being the same.

22 (15) An insurer may utilize factors in addition to those
23 specified in this section, if the commissioner finds, after a
24 hearing held pursuant to the administrative procedures act of
25 1969, Act No. 306 of the Public Acts of 1969, as amended, being
26 sections 24.201 to 24.328 of the Michigan Compiled Laws, that the
27 factors would encourage innovation, would encourage insureds to

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