

Act No. 288
Public Acts of 1995
Approved by the Governor
January 9, 1996
Filed with the Secretary of State
January 9, 1996

**STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1995**

Introduced by Senator Bouchard

ENROLLED SENATE BILL No. 777

AN ACT to amend sections 3020 and 3101a of Act No. 218 of the Public Acts of 1956, entitled as amended "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to repeal certain acts and parts of acts; to repeal certain acts and parts of acts on specific dates; to repeal certain parts of this act on specific dates; and to provide penalties for the violation of this act," section 3020 as amended by Act No. 170 of the Public Acts of 1990 and section 3101a as added by Act No. 461 of the Public Acts of 1980, being sections 500.3020 and 500.3101a of the Michigan Compiled Laws; and to add sections 3101b and 3101c.

The People of the State of Michigan enact:

Section 1. Sections 3020 and 3101a of Act No. 218 of the Public Acts of 1956, section 3020 as amended by Act No. 170 of the Public Acts of 1990 and section 3101a as added by Act No. 461 of the Public Acts of 1980, being sections 500.3020 and 500.3101a of the Michigan Compiled Laws, are amended and sections 3101b and 3101c are added to read as follows:

Sec. 3020. (1) A policy of casualty insurance, except worker's compensation, including all classes of motor vehicle coverage, shall not be issued or delivered in this state by an insurer authorized to do business in this state for which a premium or advance assessment is charged, unless the policy contains the following provisions:

(a) That the policy may be canceled at any time at the request of the insured, in which case the insurer shall refund the excess of paid premium or assessment above the pro rata rates for the expired time, except as otherwise provided in subsections (2), (3), and (4).

(b) That the policy may be canceled at any time by the insurer by mailing to the insured at the insured's address last known to the insurer or an authorized agent of the insurer, with postage fully prepaid, a not less than 10 days' written notice of cancellation with or without tender of the excess of paid premium or assessment above the pro rata premium for the expired time.

(c) That the minimum earned premium on any policy canceled pursuant to this subsection, other than automobile insurance as defined in section 2102(2)(a) and (b), shall not be less than the pro rata premium for the expired time or \$25.00, whichever is greater.

(2) An insurer may file a rule with the commissioner providing for a minimum retention of premium for automobile insurance as defined in section 2102(2)(a) and (b). The rule shall describe the circumstances under which the retention shall be applied and shall set forth the amount to be retained, which shall be subject to the approval of the commissioner. The rule shall include, but need not be limited to, the following provisions:

(a) That a minimum retention shall be applied only when the amount exceeds the amount which would have been retained had the policy been canceled on a pro rata basis.

(b) That a minimum retention shall not apply to renewal policies.

(c) That a minimum retention shall not apply when a policy is canceled for the following reasons:

(i) The insured is no longer required to maintain security pursuant to section 3101(1).

(ii) The insured has replaced the automobile insurance policy being canceled with an automobile insurance policy from another insurer and provides proof of the replacement coverage to the canceling insurer.

(3) Notwithstanding subsection (1), an insurer may issue a noncancelable, nonrefundable, 6-month prepaid automobile insurance policy in order for an insured to meet the registration requirements of section 227a of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.227a of the Michigan Compiled Laws.

(4) An insurer may provide for a short rate premium for insurance on a motorcycle, watercraft, off-road vehicle, or snowmobile. As used in this subsection:

(a) "Motorcycle" means that term as defined in section 3101.

(b) "Off-road vehicle" means an ORV as defined in section 81101 of part 811 (off-road recreation vehicles) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being section 324.81101 of the Michigan Compiled Laws.

(c) "Snowmobile" means that term as defined in section 82101 of part 821 (snowmobiles) of Act No. 451 of the Public Acts of 1994, being section 324.82101 of the Michigan Compiled Laws.

(d) "Watercraft" means that term as defined in section 80301 of part 801 (watercraft transfer and certificate of title) of Act No. 451 of the Public Acts of 1994, being section 324.80301 of the Michigan Compiled Laws.

(5) Cancellation as prescribed in this section shall be without prejudice to any claim originating before the cancellation. The mailing of notice shall be prima facie proof of notice. Delivery of written notice shall be equivalent to mailing.

(6) A notice of cancellation, including a cancellation notice under section 3224, shall be accompanied by a statement that the insured shall not operate or permit the operation of the vehicle to which notice of cancellation is applicable, or operate any other vehicle, unless the vehicle is insured as required by law.

(7) An insurer who wishes to provide for a short rate premium under subsection (4) shall file with the commissioner pursuant to chapter 24 or 26 a rule establishing a short rate premium. The rule shall describe the circumstances under which the short rate shall be applied and shall set forth the amount or percentage to be retained.

Sec. 3101a. (1) An insurer, in conjunction with the issuance of an automobile insurance policy, as defined in section 3303, shall provide 2 certificates of insurance for each insured vehicle. The insurer shall mark 1 of the certificates as the secretary of state's copy, which copy, except as otherwise provided in subsection (3), shall be filed with the secretary of

state by the policyholder upon application for a vehicle registration. The secretary of state shall not maintain the certificate of insurance received under this subsection on file.

(2) The secretary of state shall accept as proof of vehicle insurance a transmission, in the format required by the secretary of state, of the insured vehicle's vehicle identification number. Vehicle identification numbers received by the secretary of state under this subsection are confidential and shall not be disclosed to any person except pursuant to an order by a court of competent jurisdiction in connection with a claim or fraud investigation or prosecution. The transmission to the secretary of state of a vehicle identification number is proof of insurance to the secretary of state for motor vehicle registration purposes only and is not evidence that a policy of insurance actually exists between an insurer and an individual.

(3) A person who supplies false information to the secretary of state under this section or who issues or uses an altered, fraudulent, or counterfeit certificate of insurance is guilty of a misdemeanor punishable by imprisonment for not more than 1 year, or a fine of not more than \$1,000.00, or both.

Sec. 3101b. All insurers who choose to provide proof of vehicle insurance to the secretary of state pursuant to section 3101a(2) shall do so through the insurance verification board created in section 227b of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.227b of the Michigan Compiled Laws, or the organization selected by the board. If that board or the organization selected by the board is not operational and able to transmit to the secretary of state by June 1, 1996 or if the board or organization stops transmitting proof of vehicle insurance by vehicle identification number to the secretary of state, an insurer who chooses to provide proof of vehicle insurance to the secretary of state pursuant to section 3101a(2) may do so directly and is not required to do so through the board or organization. Choosing to provide proof of vehicle insurance pursuant to section 227b of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.227b of the Michigan Compiled Laws is not a state mandate and may not be identified on the automobile insurance declarations page as a state mandate or a state mandated assessment. Automobile insurers in this state shall not charge their policyholders more than a sufficient amount to cover the cost of any assessment for this program.

Sec. 3101c. The commissioner shall prescribe a standard certified statement that automobile insurers shall use to show pursuant to section 227a(1)(a) of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.227a of the Michigan Compiled Laws, that a vehicle is insured under a 6-month prepaid, noncancelable policy.

Section 2. This amendatory act shall not take effect unless Senate Bill No. 776 of the 88th Legislature is enacted into law.

This act is ordered to take immediate effect.

Secretary of the Senate.

Clerk of the House of Representatives.

Approved _____

Governor.