

HOUSE BILL No. 5664

February 9, 2006, Introduced by Reps. Spade, Jones, Polidori, Wojno, Anderson, Clemente, Mortimer, Gaffney, Gleason, Bennett, Plakas, Stahl, Farrah, Hune, Byrnes, Miller, Kathleen Law, Bieda, Accavitti, Brown, Gonzales, David Law, Kahn, Pavlov, Ward, Hansen, Waters, Cushingberry, Tobocman, Gillard, Mayes, Meisner, Espinoza, Dillon, Lipsey, Hood, Sak, Leland, Lemmons, Jr., Hunter, Clack, Adamini, Sheltroun, McDowell, Garfield, Vagnozzi, Pearce, Green and Lemmons, III and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending sections 2118 and 2120 (MCL 500.2118 and 500.2120),
section 2118 as amended by 2002 PA 492 and section 2120 as amended
by 1984 PA 350, and by adding section 2116a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 2116A. AN AUTOMOBILE INSURER SHALL NOT REFUSE TO INSURE,
2 REFUSE TO CONTINUE TO INSURE, LIMIT COVERAGE AVAILABLE TO, CHARGE A
3 REINSTATEMENT FEE FOR, OR INCREASE THE PREMIUMS FOR AUTOMOBILE
4 INSURANCE SOLELY BECAUSE A PERSON DID NOT MAINTAIN AUTOMOBILE
5 INSURANCE DURING THE 6-MONTH PERIOD IMMEDIATELY PRECEDING
6 APPLICATION IF THE PERSON CERTIFIES ON A FORM PROVIDED BY THE
7 INSURER THAT THE LAPSE IN COVERAGE WAS BECAUSE THE PERSON WAS ON
8 ACTIVE DUTY IN THE ARMED FORCES OF THE UNITED STATES. THIS SECTION

1 **APPLIES ONLY TO AN ELIGIBLE PERSON.**

2 Sec. 2118. (1) As a condition of maintaining its certificate
3 of authority, an insurer shall not refuse to insure, refuse to
4 continue to insure, or limit coverage available to an eligible
5 person for automobile insurance, except in accordance with
6 underwriting rules established pursuant to this section and
7 sections 2119 and 2120.

8 (2) The underwriting rules that an insurer may establish for
9 automobile insurance shall be based only on the following:

10 (a) Criteria identical to the standards set forth in section
11 2103(1).

12 (b) The insurance eligibility point accumulation in excess of
13 the amounts established by section 2103(1) of a member of the
14 household of the eligible person insured or to be insured, if the
15 member of the household usually accounts for 10% or more of the use
16 of a vehicle insured or to be insured. For purposes of this
17 subdivision, a person who is the principal driver for 1 automobile
18 insurance policy shall be rebuttably presumed not to usually
19 account for more than 10% of the use of other vehicles of the
20 household not insured under the policy of that person.

21 (c) With respect to a vehicle insured or to be insured,
22 substantial modifications from the vehicle's original manufactured
23 state for purposes of increasing the speed or acceleration
24 capabilities of the vehicle.

25 (d) ~~Failure~~ **EXCEPT AS OTHERWISE PROVIDED IN SECTION 2116A,**
26 **FAILURE** by the person to provide proof that insurance required by
27 section 3101 was maintained in force with respect to any vehicle

1 ~~which~~ **THAT** was both owned by the person and driven or moved by the
2 person or by a member of the household of the person during the 6-
3 month period immediately preceding application. Such proof shall
4 take the form of a certification by the person on a form provided
5 by the insurer that the vehicle was not driven or moved without
6 maintaining the insurance required by section 3101 during the 6-
7 month period immediately preceding application.

8 (e) Type of vehicle insured or to be insured, based on 1 of
9 the following, without regard to the age of the vehicle:

10 (i) The vehicle is of limited production or of custom
11 manufacture.

12 (ii) The insurer does not have a rate lawfully in effect for
13 the type of vehicle.

14 (iii) The vehicle represents exposure to extraordinary expense
15 for repair or replacement under comprehensive or collision
16 coverage.

17 (f) Use of a vehicle insured or to be insured for
18 transportation of passengers for hire, for rental purposes, or for
19 commercial purposes. Rules under this subdivision shall not be
20 based on the use of a vehicle for volunteer or charitable purposes
21 or for which reimbursement for normal operating expenses is
22 received.

23 (g) Payment of a minimum deposit at the time of application or
24 renewal, not to exceed the smallest deposit required under an
25 extended payment or premium finance plan customarily used by the
26 insurer.

27 (h) For purposes of requiring comprehensive deductibles of not

1 more than \$150.00, or of refusing to insure if the person refuses
2 to accept a required deductible, the claim experience of the person
3 with respect to comprehensive coverage.

4 (i) Total abstinence from the consumption of alcoholic
5 beverages except ~~when~~ **IF** such beverages are consumed as part of a
6 religious ceremony. However, an insurer shall not utilize an
7 underwriting rule based on this subdivision unless the insurer has
8 been authorized to transact automobile insurance in this state
9 prior to January 1, 1981, and has consistently utilized such an
10 underwriting rule as part of the insurer's automobile insurance
11 underwriting since being authorized to transact automobile
12 insurance in this state.

13 (j) One or more incidents involving a threat, harassment, or
14 physical assault by the insured or applicant for insurance on an
15 insurer employee, agent, or agent employee while acting within the
16 scope of his or her employment so long as a report of the incident
17 was filed with an appropriate law enforcement agency.

18 Sec. 2120. (1) Affiliated insurers may establish underwriting
19 rules so that each affiliate will provide automobile insurance only
20 to certain eligible persons. This subsection shall apply only if an
21 eligible person can obtain automobile insurance from 1 of the
22 affiliates. The underwriting rules shall be in compliance with this
23 section ~~—, section 2118, and section~~ **AND SECTIONS 2118 AND** 2119.

24 (2) An insurer may establish separate rating plans so that
25 certain eligible persons are provided automobile insurance under 1
26 rating plan and other eligible persons are provided automobile
27 insurance under another rating plan. This subsection shall apply

1 only if all eligible persons can obtain automobile insurance under
2 a rating plan of the insurer. Underwriting rules consistent with
3 this section ~~—, section 2118, and section~~ **AND SECTIONS 2118 AND**
4 2119 shall be established to define the rating plan applicable to
5 each eligible person.

6 (3) Underwriting rules under this section shall be based only
7 on the following:

8 (a) With respect to a vehicle insured or to be insured,
9 substantial modifications from the vehicle's original manufactured
10 state for purposes of increasing the speed or acceleration
11 capabilities of the vehicle.

12 (b) ~~Failure~~ **EXCEPT AS OTHERWISE PROVIDED IN SECTION 2116A,**
13 **FAILURE** of the person to provide proof that insurance required by
14 section 3101 was maintained in force with respect to any vehicle
15 owned and operated by the person or by a member of the household of
16 the person during the 6-month period immediately preceding
17 application or renewal of the policy. Such proof shall take the
18 form of a certification by the person that the required insurance
19 was maintained in force for the 6-month period with respect to such
20 vehicle.

21 (c) For purposes of insuring persons who have refused a
22 deductible lawfully required under section 2118(2)(h), the claim
23 experience of the person with respect to comprehensive coverage.

24 (d) Refusal of the person to pay a minimum deposit required
25 under section 2118(2)(g).

26 (e) A person's insurance eligibility point accumulation under
27 section 2103 (1)(h), or the total insurance eligibility point

1 accumulation of all persons who account for 10% or more of the use
2 of 1 or more vehicles insured or to be insured under the policy.

3 (f) The type of vehicle insured or to be insured as provided
4 in section 2118(2)(e).