

HOUSE BILL No. 4177

(As amended March 7, 2007)

January 30, 2007, Introduced by Reps. Spade, Mayes, Hammel, Gonzales, Clemente, Kathleen Law, Griffin, Dean, Wojno, Farrah, Alma Smith, Valentine, Angerer, Ebli, LeBlanc, Polidori, Bennett, Sak, Lemmons, Miller, Meadows, Accavitti, Byrnes, Sheltrown, McDowell, Tobocman, Hammon, Hopgood, Johnson, Constan and Rick Jones 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 [FAILED TO MAINTAIN INSURANCE REQUIRED
5 BY SECTION 3101 FOR A VEHICLE OWNED BY THE PERSON] DURING THE 6-MONTH
6 PERIOD IMMEDIATELY PRECEDING
7 APPLICATION IF THE PERSON CERTIFIES ON A FORM PROVIDED BY THE
8 INSURER THAT THE LAPSE IN COVERAGE WAS BECAUSE THE PERSON WAS ON
9 ACTIVE DUTY IN THE ARMED FORCES OF THE UNITED STATES [AND THAT THE
 VEHICLE WAS NOT DRIVEN OR MOVED DURING THE 6-MONTH PERIOD IMMEDIATELY
 PRECEDING APPLICATION OR DURING THE PERIOD OF TIME THE INSURANCE WAS NOT
 MAINTAINED, WHICHEVER PERIOD IS SHORTER]. THIS SECTION
 APPLIES ONLY TO AN ELIGIBLE PERSON.

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (h) For purposes of requiring comprehensive deductibles of not
27 more than \$150.00, or of refusing to insure if the person refuses

1 to accept a required deductible, the claim experience of the person
2 with respect to comprehensive coverage.

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

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

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

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

1 a rating plan of the insurer. Underwriting rules consistent with
2 this section ~~, section 2118, and section~~ **AND SECTIONS 2118 AND** 2119
3 shall be established to define the rating plan applicable to each
4 eligible person.

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

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

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

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

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

25 (e) A person's insurance eligibility point accumulation under
26 section 2103(1)(h), or the total insurance eligibility point
27 accumulation of all persons who account for 10% or more of the use

1 of 1 or more vehicles insured or to be insured under the policy.

2 (f) The type of vehicle insured or to be insured as provided

3 in section 2118(2)(e).