


Senate Fiscal Agency
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BILL
ANALYSIS

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Senate Bill 168 (as reported without amendment)
 Sponsor: Senator Rick Jones
 Committee: Insurance

Date Completed: 3-24-17

RATIONALE

In 2015, Attorney General Schuette issued Opinion No. 7284 in which he determined that under the Insurance Code, the Automobile Theft Prevention Authority (ATPA) has the statutory authority to assess fees on every insurance policy written in Michigan, not just policies for private passenger vehicles, that provides security for payment of benefits under personal protection insurance, property protection insurance, and residual liability insurance. It has been suggested that Attorney General Opinion No. 7284 be codified to allow the ATPA to collect the assessment from commercial motor vehicles.

CONTENT

The bill would amend the Insurance Code to refer to "written" car years, rather than "earned" car years, in the formula for calculating the assessment an automobile insurer must pay to the Automobile Theft Prevention Authority.

The Code requires the owner or registrant of a motor vehicle required to be registered in Michigan to maintain security for payment of benefits under personal protection insurance, property protection insurance, and residual liability insurance. As a condition of an insurer's authority to transact insurance in Michigan, each insurer engaged in writing insurance coverage that provides this security annually must pay to the ATPA an assessment equal to \$1 multiplied by the insurer's total "earned car years" of insurance providing that security written in Michigan during the preceding year. The Authority must segregate and deposit the money in the Automobile Theft Prevention Fund (which provides financial support to the Michigan State Police and local law enforcement agencies, local prosecutors, judicial agencies, neighborhood or community organizations and business organizations, and educational programs, for automobile theft prevention efforts).

The bill would refer to "written" rather than "earned" car years, and would define "written car year" as the portion of a year during which a vehicle is insured as determined by the Michigan Catastrophic Claims Association (MCCA) and used to calculate premium charges under Section 3104. (That section requires each automobile insurer to be an MCCA member, and requires the MCCA to provide and each member to accept indemnification for 100% of the amount of ultimate loss sustained under personal protection insurance coverage in excess of prescribed amounts, which vary depending on when the policy was issued. The MCCA must calculate and charge to members a total premium sufficient to cover the Association's expected losses and expenses that it likely will incur during the applicable period.)

MCL 500.6107

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Each year, the Automobile Theft Prevention Authority awards grants to law enforcement agencies, prosecutor's offices, and nonprofit organizations to assist in investigations of motor vehicle theft related crimes. The grants are funded by the \$1 annual assessment on each insured noncommercial vehicle, plus interest earned on the investment of those funds. The amendments would add additional assessment funding, which would enable motor vehicle theft prevention teams to investigate trucking companies and semi-truck trailers.

Additionally, the "earned years" formula requires data that over one-third of commercial insurance companies do not maintain. Unlike private passenger automobile insurance policies that are rated on a per-vehicle basis, many commercial policies are rated on other factors, such as receipts from trucking operations or costs of hiring vehicles to deliver products. Under currently statutory language, in many cases insurers may have to make up their own formulas for converting policies on a gross receipts basis to an estimated earned car year basis.

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

The bill is not expected to have a significant fiscal impact on State or local government. It would not create new costs at the State or local level. It could create revenue for the Auto Theft Prevention Authority, an independent body housed within the Department of State Police that disburses grants to local law enforcement entities.

Currently, the Code requires an assessment from insurance companies of \$1 multiplied by the number of earned car insurance policies on vehicles registered in the State of Michigan. "Earned" policies are not defined in the Code, but are quantified by the ATPA as \$1 (\$1 per car/per year) per private passenger vehicle.¹ For example, one passenger vehicle, insured for an entire year, will yield \$1 for the ATPA. Likewise, two passenger vehicles, insured for six months each, also will yield \$1 for the ATPA.

The bill would replace the word "earned" with the word "written", and add a definition for "written car year". It is not certain whether this would result in a significant increase in \$1 assessments for the ATPA. As noted above, the Attorney General, in Opinion 7284, issued in June 2015, determined that the ATPA may "assess fees on all motor vehicles insured under MCL 500.3101 of the Code, not just private passenger vehicles." This opinion, in conjunction with the language of the bill, could cause the ATPA to alter its plan of operation and begin assessing fees on additional classifications of vehicle and vehicles that are not insured for an entire year.

Fiscal Analyst: Michael Siracuse

¹ Auto Theft Prevention Authority, *Plan of Operation*, p. 1, Revised May 2012; available at: http://www.michigan.gov/documents/mspatpa_PlanOperation_8775_7.pdf.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.