

HOUSE BILL NO. 5990

April 12, 2022, Introduced by Rep. Anthony and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending sections 2110a, 2111, 2111a, 2118, 2120, and 2151 (MCL
500.2110a, 500.2111, 500.2111a, 500.2118, 500.2120, and 500.2151),
section 2110a as amended by 2012 PA 441, sections 2111, 2118, 2120,
and 2151 as amended by 2019 PA 21, and section 2111a as added by
2006 PA 610; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 2110a. If uniformly applied to all its insureds, an
- 2 insurer may use factors in addition to those permitted by section

2111 for **home** insurance if the plan is consistent with the purposes of this act and reflects reasonably anticipated reductions or increases in losses or expenses. ~~This section does not affect benefits or obligations required under chapter 31. This section does not authorize an insurer to offer or prohibit an insurer from offering premium discount plans concerning any of the following:~~

~~(a) Health care services, health care providers, or health care facilities.~~

~~(b) Automobile repair providers.~~

~~(c) Materials used in the repair of an automobile.~~

Sec. 2111. (1) Notwithstanding any provision of this act ~~or this chapter~~ to the contrary, classifications and territorial base rates used by an insurer in this state with respect to automobile insurance or home insurance must conform to the applicable requirements of this section.

~~(2) Classifications established under this section for automobile insurance must be based only on 1 or more of the following factors, which must be applied by an insurer on a uniform basis throughout this state:~~

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

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

~~(ii) Driver primacy, based on the proportionate use of each vehicle insured under the policy by individual drivers insured or to be insured under the policy.~~

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

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

~~(v) Vehicle characteristics, features, and options, such as~~

~~engine displacement, ability of the vehicle and its equipment to protect passengers from injury, and other similar items, including vehicle make and model.~~

~~(vi) Daily or weekly commuting mileage.~~

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

~~(viii) Amount of insurance.~~

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

~~(i) Earned income.~~

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

~~(iii) Coordination of benefits.~~

~~(iv) Use of a safety belt.~~

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

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

~~(ii) Vehicle make and model.~~

~~(iii) Vehicle design characteristics related to vehicle damageability.~~

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

~~(d) With respect to all automobile insurance coverage other than comprehensive, successful completion by the individual driver~~

~~or drivers insured under the policy of an accident prevention education course that meets the following criteria:~~

~~(i) The course must include a minimum of 8 hours of classroom instruction.~~

~~(ii) The course must include, but not be limited to, a review of all of the following:~~

~~(A) The effects of aging on driving behavior.~~

~~(B) The shapes, colors, and types of road signs.~~

~~(C) The effects of alcohol and medication on driving.~~

~~(D) The laws relating to the proper use of a motor vehicle.~~

~~(E) Accident prevention measures.~~

~~(F) The benefits of safety belts and child restraints.~~

~~(G) Major driving hazards.~~

~~(H) Interaction with other highway users, such as motorcycleists, bicyclists, and pedestrians.~~

~~(3) Each insurer shall establish a secondary or merit rating plan for automobile insurance, other than comprehensive coverage. A secondary or merit rating plan required under this subsection must provide for premium surcharges for all coverages for automobile insurance, other than comprehensive coverage, based on any of the following, when that information becomes available to the insurer:~~

~~(a) Substantially at-fault accidents.~~

~~(b) Convictions for, determinations of responsibility for civil infractions for, or findings of responsibility in probate court for civil infractions for violations under chapter VI of the Michigan vehicle code, 1949 PA 300, MCL 257.601 to 257.750. However, an insured must not be merit rated for a civil infraction under chapter VI of the Michigan vehicle code, 1949 PA 300, MCL 257.601 to 257.750, for a period of time longer than that which the~~

~~secretary of state's office carries points for that infraction on the insured's motor vehicle record.~~

(2) Rates and premiums for automobile insurance must be determined by application of the following factors as provided in subsection (3):

(a) The insured's driving safety record of at-fault accidents.

(b) The number of miles the insured drives annually.

(c) The number of years of driving experience the insured has had.

(d) For personal protection insurance under chapter 31, coordination of benefits.

(e) Any other factors that the director adopts by rule, as provided in subsection (4).

(3) In applying factors under subsection (2), an insurer shall give the greatest weight to the factor in subsection (2)(a), the second greatest weight to the factor in subsection (2)(b), the third greatest weight to the factor in subsection (2)(c), and the fourth greatest weight to the factor in subsection (2)(d), and the combined weight of all factors applied under the rules promulgated under subsection (2)(e) must be less than the weight given to the factor in subsection (2)(d).

(4) Subject to subsection (5), the factors adopted by the director under subsection (2)(e) may include any factor that is expressly allowed for establishing rates for automobile insurance under another section of this chapter or any other factor that has a substantial relationship to the risk of loss. The rules promulgated under subsection (2)(e) must prescribe the method for measuring the respective weight to be given to each factor in determining automobile insurance rates and premiums.

1 (5) ~~(4)~~ An insurer shall not ~~establish or maintain~~ **determine**
2 rates ~~or rating classifications and premiums~~ for automobile
3 insurance based **in any way** on any of the following:

4 (a) Sex.

5 (b) Marital status.

6 (c) Home ownership.

7 (d) Educational level attained.

8 (e) Occupation.

9 (f) The postal zone, **zip code, city, village, township, census**
10 **tract, neighborhood, or any other territory that is smaller than**
11 **the city, village, or township** in which the insured resides.

12 (g) Credit **information, credit score, or insurance** score, as
13 ~~provided in section 2162. those terms are defined in section 2151.~~

14 ~~(5) Notwithstanding other provisions of this chapter,~~
15 ~~automobile insurance risks may be grouped by territory.~~

16 (h) Any measure of a consumer's price elasticity of demand. As
17 used in this subdivision, "price elasticity of demand" means the
18 change in consumption of a product, including, but not limited to,
19 an insurance policy, in relation to a change in the product's
20 price, including, but not limited to, the premium charged for an
21 insurance policy.

22 (6) Notwithstanding any other provision of law to the
23 contrary, the use of any factor to determine rates and premiums for
24 automobile insurance other than a factor listed in subsection
25 (2) (a) to (d) or a factor contained in rules promulgated under
26 subsection (2) (e) is unfair discrimination for purposes of chapter
27 20.

28 (7) ~~(6)~~ This section does not limit insurers or rating
29 organizations from establishing and maintaining statistical

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

12 (8) ~~(7)~~ Classifications established under this section for
13 home insurance other than inland marine insurance provided by
14 policy floaters or endorsements must be based only on 1 or more of
15 the following factors:

16 (a) Amount and types of coverage.

17 (b) Security and safety devices, including locks, smoke
18 detectors, and similar, related devices.

19 (c) Repairable structural defects reasonably related to risk.

20 (d) Fire protection class.

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

23 (f) Loss experience of the insured, based on prior claims
24 attributable to factors under the control of the insured that have
25 been paid by an insurer. An insured's failure, after written notice
26 from the insurer, to correct a physical condition that presents a
27 risk of repeated loss is a factor under the control of the insured
28 for purposes of this subdivision.

29 (g) Use of smoking materials within the structure.

(h) Distance of the structure from a fire hydrant.

(i) Availability of law enforcement or crime prevention services.

(9) ~~(8)~~ Notwithstanding other provisions of this chapter, home insurance risks may be grouped by territory.

(10) ~~(9)~~ An insurer may use factors in addition to those permitted by this section for **home** insurance if the plan is consistent with the purposes of this act and reflects reasonably anticipated reductions or increases in losses or expenses.

Sec. 2111a. (1) ~~Notwithstanding~~ **If the discount is applied in accordance with** section 2111, an automobile insurer may offer a premium discount to insureds ~~50 years of age and older who~~ successfully complete a traffic accident prevention course that ~~an~~ **the** automobile insurer determines meets all of the criteria listed in subsection (3).

(2) An automobile insurer may provide the discount under subsection (1) for 3 years after successful completion of an initial or refresher traffic accident prevention course.

(3) ~~A~~ **To qualify under subsection (1), a** traffic accident prevention course ~~shall provide for~~ **must meet** all of the following requirements:

(a) For an initial traffic accident prevention course, ~~includes~~ **include** not less than 8 hours of classroom instruction taught by an instructor certified by the ~~entity~~ **person** offering the course. For a refresher traffic accident prevention course, ~~includes~~ **include** not less than 4 hours of classroom instruction taught by an instructor certified by the ~~entity~~ **person** offering the course.

(b) ~~Includes,~~ **Include,** but ~~is not~~ **be** limited to, instruction

1 in all of the following areas:

2 (i) The effects of aging on driving behavior.

3 (ii) The shapes, colors, and types of road signs.

4 (iii) The effects of alcohol and other drugs, including
5 medications, on older drivers.

6 (iv) Laws relating to the proper use of a motor vehicle and
7 safe driving behavior.

8 (v) Traffic crash avoidance and prevention measures.

9 (vi) The benefits and proper use of motor vehicle occupant
10 protection systems.

11 (vii) Major driving hazards and risk factors associated with
12 traffic crash prevention.

13 (viii) Interaction with other highway users, such as emergency
14 vehicles, trucks, motorcyclists, bicyclists, and pedestrians.

15 (c) ~~Provides, upon~~ **Provide, on** successful completion of the
16 course, a certificate of completion that may be used in applying
17 for an automobile insurance premium discount under subsection (1).

18 Sec. 2118. (1) As a condition of maintaining its certificate
19 of authority, an insurer shall not refuse to insure, refuse to
20 continue to insure, or limit coverage available to an eligible
21 person for automobile insurance, except in accordance with
22 underwriting rules established as provided in this section and
23 sections 2119 and 2120.

24 (2) The underwriting rules that an insurer may establish for
25 automobile insurance must be based only on the following:

26 (a) Criteria identical to the standards set forth in section
27 2103(1).

28 (b) The insurance eligibility point accumulation in excess of
29 the amounts established by section 2103(1) of a member of the

1 household of the eligible person insured or to be insured, if the
2 member of the household usually accounts for 10% or more of the use
3 of a vehicle insured or to be insured. For purposes of this
4 subdivision, a person who is the principal driver for 1 automobile
5 insurance policy is rebuttably presumed not to usually account for
6 more than 10% of the use of other vehicles of the household not
7 insured under the policy of that person.

8 (c) 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 (d) Except as otherwise provided in section 2116a or 2116b,
13 failure by the person to provide proof that insurance required by
14 section 3101 was maintained in force with respect to any vehicle
15 that was both owned by the person and driven or moved by the person
16 or by a member of the household of the person during the 6-month
17 period immediately preceding application. The proof must take the
18 form of a certification by the person on a form provided by the
19 insurer that the vehicle was not driven or moved without
20 maintaining the insurance required by section 3101 during the 6-
21 month period immediately preceding application.

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

24 (i) The vehicle is of limited production or of custom
25 manufacture.

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

28 (iii) The vehicle represents exposure to extraordinary expense
29 for repair or replacement under comprehensive or collision

1 coverage.

2 (f) Use of a vehicle insured or to be insured for
3 transportation of passengers for hire, for rental purposes, or for
4 commercial purposes. Rules under this subdivision must not be based
5 on the use of a vehicle for volunteer or charitable purposes or for
6 which reimbursement for normal operating expenses is received.

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

11 (h) For purposes of requiring comprehensive deductibles of not
12 more than \$150.00, or of refusing to insure if the person refuses
13 to accept a required deductible, the claim experience of the person
14 with respect to comprehensive coverage.

15 (i) Total abstinence from the consumption of alcoholic
16 beverages except if such beverages are consumed as part of a
17 religious ceremony. However, an insurer shall not use an
18 underwriting rule based on this subdivision unless the insurer was
19 authorized to transact automobile insurance in this state before
20 January 1, 1981, and has consistently used such an underwriting
21 rule as part of the insurer's automobile insurance underwriting
22 since being authorized to transact automobile insurance in this
23 state.

24 (j) One or more incidents involving a threat, harassment, or
25 physical assault by the insured or applicant for insurance on an
26 insurer employee, agent, or agent employee while acting within the
27 scope of his or her employment, if a report of the incident was
28 filed with an appropriate law enforcement agency.

29 **(3) An insurer shall not refuse to insure, refuse to continue**

1 to insure, or limit coverage available to an eligible person for
2 automobile insurance based on a factor that is not listed in
3 subsection (2), including, but not limited to, a factor listed in
4 section 2111(5).

5 Sec. 2120. (1) Affiliated insurers may establish underwriting
6 rules so that each affiliate will provide automobile insurance only
7 to certain eligible persons. This subsection applies only if an
8 eligible person can obtain automobile insurance from 1 of the
9 affiliates. The underwriting rules must be in compliance with this
10 section and sections 2118 and 2119.

11 (2) An insurer may establish separate rating plans so that
12 certain eligible persons are provided automobile insurance under 1
13 rating plan and other eligible persons are provided automobile
14 insurance under another rating plan. This subsection applies only
15 if all eligible persons can obtain automobile insurance under a
16 rating plan of the insurer. Underwriting rules consistent with this
17 section and sections 2118 and 2119 must be established to define
18 the rating plan applicable to each eligible person.

19 (3) Underwriting rules under this section must be based only
20 on the following:

21 (a) 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 (b) Except as otherwise provided in section 2116a or 2116b,
26 failure of the person to provide proof that insurance required by
27 section 3101 was maintained in force with respect to any vehicle
28 owned and operated by the person or by a member of the household of
29 the person during the 6-month period immediately preceding

1 application or renewal of the policy. The proof must take the form
2 of a certification by the person that the required insurance was
3 maintained in force for the 6-month period with respect to the
4 vehicle.

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

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

10 (e) A person's insurance eligibility point accumulation under
11 section 2103(1)(h), or the total insurance eligibility point
12 accumulation of all persons who account for 10% or more of the use
13 of 1 or more vehicles insured or to be insured under the policy.

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

16 **(4) An insurer shall not establish underwriting rules under**
17 **this section based on a factor that is not listed in subsection**
18 **(3), including, but not limited to, a factor listed in section**
19 **2111(5).**

20 Sec. 2151. As used in this chapter:

21 (a) "Adverse action" means an increase in any charge for, or a
22 reduction or other adverse or unfavorable change in the terms of
23 coverage or amount of, any personal insurance, existing or applied
24 for.

25 (b) "Consumer reporting agency" means any person that, for
26 monetary fees or dues or on a cooperative nonprofit basis,
27 regularly engages in whole or in part in the practice of assembling
28 or evaluating consumer credit information or other information on
29 consumers for the purpose of furnishing consumer reports to third

1 parties.

2 (c) "Credit information" means any credit-related information
3 derived from a credit report, found on a credit report itself, or
4 provided on an application for personal insurance. Information that
5 is not credit-related must not be considered credit information,
6 regardless of whether it is contained in a credit report or in an
7 application, or is used to calculate an insurance score.

8 (d) "Credit report" means any written, oral, or other
9 communication of information by a consumer reporting agency bearing
10 on a consumer's credit worthiness, credit standing, or credit
11 capacity that is used or expected to be used or collected in whole
12 or in part for the purpose of serving as a factor in the rating of
13 personal insurance.

14 (e) "Credit score" means the numerical score ranging from 300
15 to 850 assigned by a consumer reporting agency to measure credit
16 risk and includes FICO credit score.

17 (f) "Insurance score" means a number or rating that is derived
18 from an algorithm, computer application, model, or other process
19 that is based in whole or in part on credit information for the
20 purposes of predicting the future insurance loss exposure of an
21 individual applicant or insured.

22 (g) "Personal insurance" means property/casualty insurance
23 written for personal, family, or household use, including
24 ~~automobile~~, home, motorcycle, mobile home, noncommercial dwelling
25 fire, boat, personal watercraft, snowmobile, and recreational
26 vehicle, whether written on an individual, group, franchise,
27 blanket policy, or similar basis. **Personal insurance does not**
28 **include automobile insurance.**

29 Enacting section 1. Section 2162 of the insurance code of

1 1956, 1956 PA 218, MCL 500.2162, is repealed.