

HOUSE BILL No. 4138

February 4, 2009, Introduced by Rep. Angerer and referred to the Committee on Regulatory Reform.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending sections 2111, 3103, 3114, and 3177 (MCL 500.2111,
500.3103, 500.3114, and 500.3177), section 2111 as amended by 2002
PA 492, section 3103 as amended by 1986 PA 173, section 3114 as
amended by 2002 PA 38, and section 3177 as amended by 1984 PA 426.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

1 (2) Classifications established pursuant to this section for
2 automobile insurance shall be based only upon 1 or more of the
3 following factors, which shall be applied by an insurer on a
4 uniform basis throughout the state:

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

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

9 (ii) Driver primacy, based upon the proportionate use of each
10 vehicle insured under the policy by individual drivers insured or
11 to be insured under the policy.

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

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

14 (v) Vehicle characteristics, features, and options, such as
15 engine displacement, ability of vehicle and its equipment to
16 protect passengers from injury and other similar items, including
17 vehicle make and model.

18 (vi) Daily or weekly commuting mileage.

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

23 (viii) Amount of insurance.

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

26 (i) Earned income.

27 (ii) Number of dependents of income earners insured under the

1 policy.

2 (iii) Coordination of benefits.

3 (iv) Use of a safety belt.

4 (v) **FOR A MOTORCYCLIST, USE OF A CRASH HELMET. AS USED IN THIS**
5 **SUBPARAGRAPH, "CRASH HELMET" MEANS THAT TERM AS USED IN SECTION 658**
6 **OF THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.658.**

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

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

13 (ii) Vehicle make and model.

14 (iii) Vehicle design characteristics related to vehicle
15 damageability.

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

18 (d) With respect to all automobile insurance coverage other
19 than comprehensive, successful completion by the individual driver
20 or drivers insured under the policy of an accident prevention
21 education course that meets the following criteria:

22 (i) The course shall include a minimum of 8 hours of classroom
23 instruction.

24 (ii) The course shall include, but not be limited to, a review
25 of all of the following:

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

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

- 1 (C) The effects of alcohol and medication on driving.
2 (D) The laws relating to the proper use of a motor vehicle.
3 (E) Accident prevention measures.
4 (F) The benefits of safety belts and child restraints.
5 (G) Major driving hazards.
6 (H) Interaction with other highway users such as
7 motorcyclists, bicyclists, and pedestrians.

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

15 (a) Substantially at-fault accidents.

16 (b) Convictions for, determinations of responsibility for
17 civil infractions for, or findings of responsibility in probate
18 court for civil infractions for, violations under chapter VI of the
19 Michigan vehicle code, 1949 PA 300, MCL 257.601 to 257.750.

20 However, beginning ~~90 days after the effective date of this~~
21 ~~sentence~~ **MAY 28, 1996**, an insured shall not be merit rated for a
22 civil infraction under chapter VI of the Michigan vehicle code,
23 1949 PA 300, MCL 257.601 to 257.750, for a period of time longer
24 than that which the secretary of state's office carries points for
25 that infraction on the insured's motor vehicle record.

26 (4) An insurer shall not establish or maintain rates or rating
27 classifications for automobile insurance based upon sex or marital

1 status.

2 (5) Notwithstanding other provisions of this chapter,
3 automobile insurance risks may be grouped by territory.

4 (6) This section shall not be construed as limiting insurers
5 or rating organizations from establishing and maintaining
6 statistical reporting territories. This section shall not be
7 construed to prohibit an insurer from establishing or maintaining,
8 for automobile insurance, a premium discount plan for senior
9 citizens in this state who are 65 years of age or older, if the
10 plan is uniformly applied by the insurer throughout this state. If
11 an insurer has not established and maintained a premium discount
12 plan for senior citizens, the insurer shall offer reduced premium
13 rates to senior citizens in this state who are 65 years of age or
14 older and who drive less than 3,000 miles per year, regardless of
15 statistical data.

16 (7) Classifications established pursuant to this section for
17 home insurance other than inland marine insurance provided by
18 policy floaters or endorsements shall be based only upon 1 or more
19 of the following factors:

20 (a) Amount and types of coverage.

21 (b) Security and safety devices, including locks, smoke
22 detectors, and similar, related devices.

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

24 (d) Fire protection class.

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

27 (f) Loss experience of the insured, based upon prior claims

1 attributable to factors under the control of the insured that have
2 been paid by an insurer. An insured's failure, after written notice
3 from the insurer, to correct a physical condition that presents a
4 risk of repeated loss shall be considered a factor under the
5 control of the insured for purposes of this subdivision.

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

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

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

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

12 (9) An insurer may utilize factors in addition to those
13 specified in this section, if the commissioner finds, after a
14 hearing held pursuant to the administrative procedures act of 1969,
15 1969 PA 306, MCL 24.201 to 24.328, that the factors would encourage
16 innovation, would encourage insureds to minimize the risks of loss
17 from hazards insured against, and would be consistent with the
18 purposes of this chapter.

19 Sec. 3103. (1) An owner or registrant of a motorcycle shall
20 provide security against loss resulting from liability imposed by
21 law for property damage, bodily injury, or death suffered by a
22 person arising out of the ownership, maintenance, or use of that
23 motorcycle. The security shall conform with the requirements of
24 section 3009(1).

25 (2) Each insurer transacting insurance in this state ~~which~~
26 **THAT** affords coverage for a motorcycle as described in subsection
27 (1) also shall offer, to an owner or registrant of a motorcycle **WHO**

1 AGREES TO WEAR A CRASH HELMET WHEN RIDING THE MOTORCYCLE, security
2 for the payment of first-party medical benefits only, in increments
3 of \$5,000.00, payable in the event the owner or registrant is
4 involved in a motorcycle accident. An insurer providing first-party
5 medical benefits may offer, at appropriate premium rates,
6 deductibles, provisions for the coordination of these benefits, and
7 provisions for the subtraction of other benefits provided or
8 required to be provided under the laws of any state or the federal
9 government, subject to the prior approval of the commissioner.
10 These deductibles and provisions shall apply only to benefits
11 payable to the person named in the policy, the spouse of the
12 insured, and any relative of either domiciled in the same
13 household.

14 (3) AN OWNER OR REGISTRANT OF A MOTORCYCLE WHO CHOOSES NOT TO
15 WEAR A CRASH HELMET WHEN RIDING THE MOTORCYCLE SHALL MAINTAIN
16 SECURITY FOR PAYMENT OF BENEFITS UNDER PERSONAL PROTECTION
17 INSURANCE AS PROVIDED IN SECTION 3107. EACH INSURER DESCRIBED IN
18 THIS STATE THAT AFFORDS COVERAGE FOR A MOTORCYCLE AS DESCRIBED IN
19 SUBSECTION (1) ALSO SHALL OFFER, TO AN OWNER OR REGISTRANT OF A
20 MOTORCYCLE, SECURITY FOR PAYMENT OF BENEFITS UNDER PERSONAL
21 PROTECTION INSURANCE AS PROVIDED IN SECTION 3107. A CERTIFICATE OF
22 INSURANCE SOLD PURSUANT TO THIS SUBSECTION SHALL BE IDENTIFIED AS
23 INSURANCE SATISFYING THIS SUBSECTION.

24 (4) AS USED IN THIS SECTION, "CRASH HELMET" MEANS THAT TERM AS
25 USED IN SECTION 658 OF THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL
26 257.658.

27 Sec. 3114. (1) Except as provided in subsections (2), (3), and

1 (5), a personal protection insurance policy described in section
2 3101(1) applies to accidental bodily injury to the person named in
3 the policy, the person's spouse, and a relative of either domiciled
4 in the same household, if the injury arises from a motor vehicle
5 accident. A personal injury insurance policy described in section
6 3103(2) applies to accidental bodily injury to the person named in
7 the policy, the person's spouse, and a relative of either domiciled
8 in the same household, if the injury arises from a motorcycle
9 accident. When personal protection insurance benefits or personal
10 injury benefits described in section 3103(2) are payable to or for
11 the benefit of an injured person under his or her own policy and
12 would also be payable under the policy of his or her spouse,
13 relative, or relative's spouse, the injured person's insurer shall
14 pay all of the benefits and is not entitled to recoupment from the
15 other insurer. **A PERSONAL PROTECTION INSURANCE POLICY DESCRIBED IN**
16 **SECTION 3103(3) APPLIES TO ACCIDENTAL BODILY INJURY TO THE PERSON**
17 **NAMED IN THE POLICY, THE PERSON'S SPOUSE, AND A RELATIVE OF EITHER**
18 **DOMICILED IN THE SAME HOUSEHOLD, IF THE INJURY ARISES FROM A MOTOR**
19 **VEHICLE ACCIDENT OR A MOTORCYCLE ACCIDENT.**

20 (2) A person suffering accidental bodily injury while an
21 operator or a passenger of a motor vehicle operated in the business
22 of transporting passengers shall receive the personal protection
23 insurance benefits to which the person is entitled from the insurer
24 of the motor vehicle. This subsection does not apply to a passenger
25 in the following, unless that passenger is not entitled to personal
26 protection insurance benefits under any other policy:

27 (a) A school bus, as defined by the department of education,

1 providing transportation not prohibited by law.

2 (b) A bus operated by a common carrier of passengers certified
3 by the department of transportation.

4 (c) A bus operating under a government sponsored
5 transportation program.

6 (d) A bus operated by or providing service to a nonprofit
7 organization.

8 (e) A taxicab insured as prescribed in section 3101 or 3102.

9 (f) A bus operated by a canoe or other watercraft, bicycle, or
10 horse livery used only to transport passengers to or from a
11 destination point.

12 (3) An employee, his or her spouse, or a relative of either
13 domiciled in the same household, who suffers accidental bodily
14 injury while an occupant of a motor vehicle owned or registered by
15 the employer, shall receive personal protection insurance benefits
16 to which the employee is entitled from the insurer of the furnished
17 vehicle.

18 (4) Except as provided in subsections (1) to (3), a person
19 suffering accidental bodily injury arising from a motor vehicle
20 accident while an occupant of a motor vehicle shall claim personal
21 protection insurance benefits from insurers in the following order
22 of priority:

23 (a) The insurer of the owner or registrant of the vehicle
24 occupied.

25 (b) The insurer of the operator of the vehicle occupied.

26 (5) A person suffering accidental bodily injury arising from a
27 motor vehicle accident which shows evidence of the involvement of a

1 motor vehicle while an operator or passenger of a motorcycle shall
2 claim personal protection insurance benefits from insurers in the
3 following order of priority:

4 (A) FOR A PERSONAL PROTECTION INSURANCE POLICY DESCRIBED IN
5 SECTION 3103(3), THE MOTOR VEHICLE INSURER OF THE OWNER OR
6 REGISTRANT OF THE MOTORCYCLE INVOLVED IN THE ACCIDENT.

7 (B) ~~(a)~~—The insurer of the owner or registrant of the motor
8 vehicle involved in the accident.

9 (C) ~~(b)~~—The insurer of the operator of the motor vehicle
10 involved in the accident.

11 (D) ~~(c)~~—The motor vehicle insurer of the operator of the
12 motorcycle involved in the accident.

13 (E) ~~(d)~~—The motor vehicle insurer of the owner or registrant
14 of the motorcycle involved in the accident.

15 (6) If 2 or more insurers are in the same order of priority to
16 provide personal protection insurance benefits under subsection
17 (5), an insurer paying benefits due is entitled to partial
18 recoupment from the other insurers in the same order of priority,
19 together with a reasonable amount of partial recoupment of the
20 expense of processing the claim, in order to accomplish equitable
21 distribution of the loss among all of the insurers.

22 Sec. 3177. (1) An insurer obligated to pay personal protection
23 insurance benefits for accidental bodily injury to a person arising
24 out of the ownership, maintenance, or use of an uninsured motor
25 vehicle as a motor vehicle may recover such benefits paid and
26 appropriate loss adjustment costs incurred from the owner or
27 registrant of the uninsured motor vehicle or from his or her

1 estate. Failure of such a person to make payment within 30 days
2 after judgment is a ground for suspension or revocation of his or
3 her motor vehicle registration and license as defined in section 25
4 of the Michigan vehicle code, ~~Act No. 300 of the Public Acts of~~
5 ~~1949, being section 257.25 of the Michigan Compiled Laws 1949 PA~~
6 **300, MCL 257.25**. An uninsured motor vehicle for the purpose of this
7 section is a motor vehicle **OR MOTORCYCLE** with respect to which
8 security is required by ~~sections~~ **SECTION 3101, and 3102, OR 3103(3)**
9 is not in effect at the time of the accident.

10 (2) The motor vehicle registration and license shall not be
11 suspended or revoked and the motor vehicle registration and license
12 shall be restored if the debtor enters into a written agreement
13 with the secretary of state permitting the payment of the judgment
14 in installments, if the payment of any installments is not in
15 default.

16 (3) The secretary of state upon receipt of a certified
17 abstract of court record of a judgment or notice from the insurer
18 of an acknowledgment of debt shall notify the owner or registrant
19 of an uninsured vehicle of the provisions of subsection (1) at that
20 person's last recorded address with the secretary of state and
21 inform that person of the right to enter into a written agreement
22 with the secretary of state for the payment of the judgment or debt
23 in installments.