

# HOUSE BILL No. 5419

January 16, 2018, Introduced by Reps. Chang, LaGrand, Pagan, Hertel, Yaroach, Hammoud, Zemke, Inman, Howrylak, Love and Moss and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled  
"The insurance code of 1956,"  
by amending sections 2105, 2110a, 2111, 2111a, and 2151 (MCL  
500.2105, 500.2110a, 500.2111, 500.2111a, and 500.2151), sections  
2110a and 2111 as amended by 2012 PA 441, section 2111a as added by  
2006 PA 610, and section 2151 as added by 2012 PA 165.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 2105. (1) ~~No~~**A** policy of automobile insurance or home  
2 insurance ~~shall be~~ offered, bound, made, issued, delivered, or  
3 renewed in this state ~~on and after January 1, 1981, except in~~  
4 ~~conformity~~**MUST COMPLY** with this chapter. ~~This chapter shall not~~  
5 ~~apply to policies of automobile insurance or home insurance~~  
6 ~~offered, bound, made, issued, delivered or renewed in this state~~

1 ~~before January 1, 1981.~~

2 (2) ~~This~~ **EXCEPT AS PROVIDED IN SUBSECTION (3), THIS** chapter  
 3 ~~shall~~ **DOES** not apply to insurance written on a group, franchise,  
 4 blanket policy, or similar basis ~~which~~ **THAT** offers home insurance  
 5 or automobile insurance to all members of the group, franchise  
 6 plan, or blanket coverage who are eligible persons.

7 (3) **AN INSURER, INCLUDING, BUT NOT LIMITED TO, AN INSURER THAT**  
 8 **WRITES INSURANCE AS DESCRIBED IN SUBSECTION (2) AND AN INSURER THAT**  
 9 **IS EXEMPTED FROM ANY OF THE REQUIREMENTS OF THIS CHAPTER FOR ANY**  
 10 **REASON, INCLUDING AN EXEMPTION UNDER SECTION 2129, SHALL NOT**  
 11 **ESTABLISH OR MAINTAIN RATES OR RATING CLASSIFICATIONS FOR**  
 12 **AUTOMOBILE INSURANCE BASED ON ANY FACTORS OTHER THAN AS REQUIRED**  
 13 **UNDER SECTION 2111.**

14 Sec. 2110a. If uniformly applied to all its insureds, an  
 15 insurer may use factors in addition to those permitted by section  
 16 2111 for **HOME** insurance if the plan is consistent with the purposes  
 17 of this act and reflects reasonably anticipated reductions or  
 18 increases in losses or expenses. ~~This section does not affect~~  
 19 ~~benefits or obligations required under chapter 31. This section~~  
 20 ~~does not authorize an insurer to offer or prohibit an insurer from~~  
 21 ~~offering premium discount plans concerning any of the following:~~

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

24 ~~—— (b) Automobile repair providers.~~

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

26 Sec. 2111. (1) Notwithstanding any provision of this act ~~or~~  
 27 ~~this chapter~~ to the contrary, classifications and territorial base

1 rates used by an insurer in this state with respect to automobile  
2 insurance or home insurance ~~shall~~**MUST** conform to the applicable  
3 requirements of this section.

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

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

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

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

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

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

17 ~~—— (v) Vehicle characteristics, features, and options, such as~~  
18 ~~engine displacement, ability of the vehicle and its equipment to~~  
19 ~~protect passengers from injury, and other similar items, including~~  
20 ~~vehicle make and model.~~

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

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

26 ~~—— (viii) Amount of insurance.~~

27 ~~—— (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 shall include a minimum of 8 hours of classroom instruction.~~

~~—— (ii) The course shall 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.~~

~~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, an insured shall not be merit rated for a civil infraction  
21 under chapter VI of the Michigan vehicle code, 1949 PA 300, MCL  
22 257.601 to 257.750, for a period of time longer than that which the  
23 secretary of state's office carries points for that infraction on  
24 the insured's motor vehicle record.~~

**25 (2) RATES AND PREMIUMS FOR AUTOMOBILE INSURANCE MUST BE  
26 DETERMINED BY APPLICATION OF THE FOLLOWING FACTORS AS PROVIDED IN  
27 SUBSECTION (3).**

1 (A) THE INSURED'S DRIVING SAFETY RECORD.

2 (B) THE NUMBER OF MILES THE INSURED DRIVES ANNUALLY.

3 (C) THE NUMBER OF YEARS OF DRIVING EXPERIENCE THE INSURED HAS  
4 HAD.

5 (D) ANY OTHER FACTORS THAT THE DIRECTOR ADOPTS BY RULE, AS  
6 PROVIDED IN SUBSECTION (4).

7 (3) IN APPLYING FACTORS UNDER SUBSECTION (2), AN INSURER SHALL  
8 GIVE THE GREATEST WEIGHT TO THE FACTOR IN SUBSECTION (2) (A), THE  
9 SECOND GREATEST WEIGHT TO THE FACTOR IN SUBSECTION (2) (B), THE  
10 THIRD GREATEST WEIGHT TO THE FACTOR IN SUBSECTION (2) (C), AND THE  
11 LEAST WEIGHT TO THE FACTORS ALLOWED UNDER THE RULES PROMULGATED  
12 UNDER SUBSECTION (2) (D).

13 (4) SUBJECT TO SUBSECTION (5), THE FACTORS ADOPTED BY THE  
14 DIRECTOR UNDER SUBSECTION (2) (D) MAY INCLUDE ANY FACTOR THAT IS  
15 EXPRESSLY ALLOWED FOR ESTABLISHING RATES FOR AUTOMOBILE INSURANCE  
16 UNDER ANOTHER SECTION OF THIS CHAPTER OR ANY OTHER FACTOR THAT HAS  
17 A SUBSTANTIAL RELATIONSHIP TO THE RISK OF LOSS. THE RULES  
18 PROMULGATED UNDER SUBSECTION (2) (D) MUST PRESCRIBE THE METHOD FOR  
19 MEASURING THE RESPECTIVE WEIGHT TO BE GIVEN TO EACH FACTOR IN  
20 DETERMINING AUTOMOBILE INSURANCE RATES AND PREMIUMS.

21 (5) ~~(4) An insurer shall not establish or maintain~~ DETERMINE  
22 ~~rates or rating classifications~~ AND PREMIUMS for automobile  
23 insurance based IN ANY WAY on ~~sex~~ THE FOLLOWING:

24 (A) SEX or marital status.

25 (B) CREDIT INFORMATION, AS THAT TERM IS DEFINED IN SECTION  
26 2151.

27 ~~— (5) Notwithstanding other provisions of this chapter,~~

1 ~~automobile insurance risks may be grouped by territory.~~

2       **(6) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE**  
 3 **CONTRARY, THE USE OF ANY FACTOR TO DETERMINE RATES AND PREMIUMS FOR**  
 4 **AUTOMOBILE INSURANCE OTHER THAN A FACTOR LISTED IN SUBSECTION(2) (A)**  
 5 **TO (C) OR A FACTOR CONTAINED IN RULES PROMULGATED UNDER SUBSECTION**  
 6 **(2) (D) IS UNFAIR DISCRIMINATION FOR PURPOSES OF CHAPTER 20.**

7       **(7) ~~(6)~~**—This section does not limit insurers or rating  
 8 organizations from establishing and maintaining statistical  
 9 reporting territories. This section does not prohibit an insurer  
 10 from establishing or maintaining, for automobile insurance, a  
 11 premium discount plan for senior citizens in this state who are 65  
 12 years of age or older, **IF THE PLAN IS APPLIED IN ACCORDANCE WITH**  
 13 **SUBSECTIONS (2) TO (4) AND** if the plan is uniformly applied by the  
 14 insurer throughout this state. If an insurer has not established  
 15 and maintained a premium discount plan for senior citizens, the  
 16 insurer shall offer reduced premium rates to senior citizens in  
 17 this state who are 65 years of age or older and who drive less than  
 18 3,000 miles per year, ~~regardless of statistical data.~~**IN ACCORDANCE**  
 19 **WITH SUBSECTIONS (2) TO (4) .**

20       **(8) ~~(7)~~**—Classifications established under this section for  
 21 home insurance other than inland marine insurance provided by  
 22 policy floaters or endorsements ~~shall~~**MUST** be based only on 1 or  
 23 more of the following factors:

24       (a) Amount and types of coverage.

25       (b) Security and safety devices, including locks, smoke  
 26 detectors, and similar, related devices.

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

1 (d) Fire protection class.

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

4 (f) Loss experience of the insured, based on prior claims  
5 attributable to factors under the control of the insured that have  
6 been paid by an insurer. An insured's failure, after written notice  
7 from the insurer, to correct a physical condition that presents a  
8 risk of repeated loss ~~shall be considered~~ **IS** a factor under the  
9 control of the insured for purposes of this subdivision.

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

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

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

14 **(9)** ~~(8)~~ Notwithstanding other provisions of this chapter, home  
15 insurance risks may be grouped by territory.

16 **(10)** ~~(9)~~ An insurer may use factors in addition to those  
17 permitted by this section for **HOME** insurance if the plan is  
18 consistent with the purposes of this act and reflects reasonably  
19 anticipated reductions or increases in losses or expenses.

20 Sec. 2111a. (1) ~~Notwithstanding~~ **IF THE DISCOUNT IS APPLIED IN**  
21 **ACCORDANCE WITH** section 2111, an automobile insurer may offer a  
22 premium discount to insureds 50 years of age and older who  
23 successfully complete a traffic accident prevention course that ~~an~~  
24 **THE** automobile insurer determines meets all of the criteria listed  
25 in subsection (3).

26 (2) An automobile insurer may provide the discount under  
27 subsection (1) for 3 years after successful completion of an



1 initial or refresher traffic accident prevention course.

2 (3) ~~A~~ **TO QUALIFY UNDER SUBSECTION (1), A** traffic accident  
3 prevention course ~~shall provide for~~ **MUST MEET** all of the following  
4 **REQUIREMENTS:**

5 (a) For an initial traffic accident prevention course,  
6 ~~includes~~ **INCLUDE** not less than 8 hours of classroom instruction  
7 taught by an instructor certified by the ~~entity~~ **PERSON** offering the  
8 course. For a refresher traffic accident prevention course,  
9 ~~includes~~ **INCLUDE** not less than 4 hours of classroom instruction  
10 taught by an instructor certified by the ~~entity~~ **PERSON** offering the  
11 course.

12 (b) ~~Includes,~~ **INCLUDE**, but ~~is not~~ **BE** limited to, instruction  
13 in all of the following areas:

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

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

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

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

20 (v) Traffic crash avoidance and prevention measures.

21 (vi) The benefits and proper use of motor vehicle occupant  
22 protection systems.

23 (vii) Major driving hazards and risk factors associated with  
24 traffic crash prevention.

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

27 (c) ~~Provides, upon~~ **PROVIDE, ON** successful completion of the

1 course, a certificate of completion that may be used in applying  
2 for an automobile insurance premium discount under subsection (1).

3 Sec. 2151. As used in this chapter:

4 (a) "Adverse action" means an increase in any charge for, or a  
5 reduction or other adverse or unfavorable change in the terms of  
6 coverage or amount of, any personal insurance, existing or applied  
7 for.

8 (b) "Consumer reporting agency" means any person ~~which,~~ **THAT**,  
9 for monetary fees or dues or on a cooperative nonprofit basis,  
10 regularly engages in whole or in part in the practice of assembling  
11 or evaluating consumer credit information or other information on  
12 consumers for the purpose of furnishing consumer reports to third  
13 parties.

14 (c) "Credit information" means any credit-related information  
15 derived from a credit report, found on a credit report itself, or  
16 provided on an application for personal insurance. Information that  
17 is not credit-related ~~shall~~ **IS** not ~~be considered~~ credit  
18 information, regardless of whether it is contained in a credit  
19 report or in an application, or is used to calculate an insurance  
20 score.

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

27 (e) "Insurance score" means a number or rating that is derived

1 from an algorithm, computer application, model, or other process  
2 that is based in whole or in part on credit information for the  
3 purposes of predicting the future insurance loss exposure of an  
4 individual applicant or insured.

5 (f) "Personal insurance" means property/casualty insurance  
6 written for personal, family, or household use, including  
7 ~~automobile~~, home, motorcycle, mobile home, noncommercial dwelling  
8 fire, boat, personal watercraft, snowmobile, and recreational  
9 vehicle, whether written on an individual, group, franchise,  
10 blanket policy, or similar basis. **PERSONAL INSURANCE DOES NOT**  
11 **INCLUDE AUTOMOBILE INSURANCE.**