

HOUSE BILL No. 5878

September 21, 1988, Introduced by Rep. SCOTT and referred to the Committee on Insurance.

A bill to amend sections 2111 and 3107 of Act No. 218 of the Public Acts of 1956, entitled as amended "The insurance code of 1956," section 2111 as amended by Act No. 150 of the Public Acts of 1987, being sections 500.2111 and 500.3107 of the Michigan Compiled Laws; and to add section 2111d.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 2111 and 3107 of Act No. 218 of the
2 Public Acts of 1956, section 2111 as amended by Act No. 150 of
3 the Public Acts of 1987, being sections 500.2111 and 500.3107 of
4 the Michigan Compiled Laws, are amended and section 2111d is
5 added to read as follows:

6 Sec. 2111. (1) Notwithstanding any provision of this code
7 and this chapter to the contrary, classifications and territorial
8 base rates used by any insurer in this state with respect to

1 automobile insurance or home insurance shall conform to the
2 applicable requirements of this section.

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

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

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

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

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

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

16 (v) Vehicle characteristics, features, and options, such as
17 engine displacement, ability of vehicle and its equipment to pro-
18 tect passengers from injury; and other similar items, including
19 vehicle make and model.

20 (vi) Daily or weekly commuting mileage.

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

25 (viii) Amount of insurance.

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

1 (i) Earned income.

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

4 (iii) Coordination of benefits.

5 (iv) Use of a safety belt.

6 (v) THE WAIVER OF COVERAGE FOR WORK LOSS BENEFITS UNDER SEC-
7 TION 3107(B) PURSUANT TO SECTION 2111D.

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

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

14 (ii) Vehicle make and model.

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

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

19 (d) With respect to all automobile insurance coverage other
20 than comprehensive, successful completion by the individual
21 driver or drivers insured under the policy of an accident preven-
22 tion education course which meets the following criteria.

23 (i) The course shall include a minimum of 8 hours of class-
24 room instruction.

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

- 1 (A) The effects of aging on driving behavior.
- 2 (B) The shapes, colors, and types of road signs.
- 3 (C) The effects of alcohol and medication on driving.
- 4 (D) The laws relating to the proper use of a motor vehicle.
- 5 (E) Accident prevention measures.
- 6 (F) The benefits of safety belts and child restraints.
- 7 (G) Major driving hazards.
- 8 (H) Interaction with other highway users such as motorcy-
9 clists, bicyclists, and pedestrians.

10 (3) ~~Before February 1, 1987, each~~ EACH insurer shall
11 establish and maintain premium discount plans pursuant to the
12 following:

13 (a) An automobile theft prevention premium discount plan. A
14 premium discount plan required under this subdivision shall pro-
15 vide for a premium discount for automobile comprehensive coverage
16 based upon the installation of an approved automobile theft pre-
17 vention device. As used in this subdivision, "approved automo-
18 bile theft prevention device" means a device which is designed to
19 prevent the theft of an insured's automobile and which is
20 approved by the board of directors of the automobile theft pre-
21 vention authority.

22 (b) An automobile safety belt premium discount plan. A pre-
23 mium discount plan required under this subdivision shall provide
24 for a premium discount for automobile personal protection insur-
25 ance of not less than 20%. A premium discount plan established
26 pursuant to this subdivision may require the insured individual
27 to certify in writing that he or she will wear a safety belt

1 while operating the insured motor vehicle in compliance with
2 section 710e of the Michigan vehicle code, Act No. 300 of the
3 Public Acts of 1949, being section 257.710e of the Michigan
4 Compiled Laws, as a condition to receiving the premium discount.
5 If an insured receives a premium discount after providing such
6 certification and is injured while operating a motor vehicle
7 without wearing a safety belt at the time of the injury, an
8 insurer may subsequently deny to such insured the right to par-
9 ticipate in any premium discount plan established by the insurer
10 pursuant to this subdivision for a period of 12 months. An
11 insurer which reduces its personal protection insurance rates
12 after December 1, 1985 by not less than 20% and does not increase
13 such rates for a period of 12 months shall be considered to be in
14 compliance with this subdivision.

15 (c) This subsection shall ~~not~~ ONLY apply ~~on and after~~
16 UNTIL July 1, 1991.

17 (4) Each insurer shall establish a secondary or merit rating
18 plan for automobile insurance. A secondary or merit rating plan
19 required under this subsection shall provide for premium sur-
20 charges for any or all coverages for automobile insurance, based
21 upon any or all of the following, when that information becomes
22 available to the insurer:

23 (a) Substantially at-fault accidents.

24 (b) Convictions for, determinations of responsibility for
25 civil infractions for, or findings of responsibility in probate
26 court for civil infractions for, violations under chapter VI of
27 the Michigan vehicle code, Act No. 300 of the Public Acts of

1 1949, as amended, being sections 257.601 to 257.750 of the
2 Michigan Compiled Laws.

3 (5) An insurer shall not establish or maintain rates or
4 rating classifications for automobile insurance based upon sex or
5 marital status.

6 (6) Notwithstanding other provisions of this chapter, auto-
7 mobile insurance risks shall be grouped by territory, and terri-
8 torial base rates for coverages shall be established as provided
9 in section 2111a and as follows:

10 (a) An insurer shall not be limited as to the number of ter-
11 ritories employed in its rating plan.

12 (b) An insurer shall not employ more than 20 different ter-
13 ritorial base rates for an automobile insurance coverage. This
14 subdivision shall not apply from February 28, 1986 to June 30,
15 1991.

16 (c) A territorial base rate may be made applicable in 1 or
17 more territories contained in the rating plan of the insurer.

18 (d) An insurer shall not employ a territorial base rate for
19 an automobile insurance package policy that is less than 45% of
20 the highest territorial base rate for the same policy, all other
21 rating classifications being the same. This subdivision shall
22 not apply from February 28, 1986 to June 30, 1991.

23 (e) An insurer shall not employ a territorial base rate in a
24 territory for an automobile insurance package policy that is less
25 than 90% of the territorial base rate employed in any adjacent
26 territory for the same policy, all other rating classifications

1 being the same. This subdivision shall not apply from February
2 28, 1986 to June 30, 1991.

3 (7) An insurer may elect at any time to exempt itself from
4 the requirements of subsection (6) by filing for an exemption
5 with the commissioner. An insurer electing this exemption shall
6 initially file a rating plan in which no territorial base rate
7 for an automobile insurance package policy is less than 45% of
8 the highest territorial base rate for the same policy, all other
9 rating classifications being the same. Five years from the date
10 of the initial filing the insurer shall be prohibited from using
11 a rating plan in which any territorial base rate for an automo-
12 bile insurance package policy will be less than 67% of the high-
13 est territorial base rate for that same policy, all other rating
14 classifications being the same. An insurer's election of an
15 exemption under this subsection is permanent, final, and not
16 subject to change. This subsection shall not apply from February
17 28, 1986 to June 30, 1991.

18 (8) ~~Beginning 1 year after the effective date of this sec-~~
19 ~~tion, if~~ IF an insurer can demonstrate to the commissioner,
20 after an opportunity for an evidentiary hearing held pursuant to
21 the administrative procedures act of 1969, Act No. 306 of the
22 Public Acts of 1969, as amended, being sections 24.201 to 24.328
23 of the Michigan Compiled Laws, that clear and significant finan-
24 cial impairment exists in the geographic territory or territories
25 in question because of the need for an additional territorial
26 base rate, or for a greater variance in the adjacent geographic
27 territory differential contained in subsection (6)(e), the

1 additional territorial base rate, a greater variance, or both,
2 shall be permitted for use by the insurer or a licensed rating
3 organization on behalf of that insurer, at such time as the need
4 exists. Evidence shall not include financial impairment result-
5 ing from exemptions granted to other insurers. This subsection
6 shall not apply from February 28, 1986 to June 30, 1991.

7 (9) If the commissioner finds, solely on the evidence
8 presented, that a greater variance in the adjacent geographic
9 territory differential than that authorized under subsection
10 (6)(e) is justified, the increase in variance shall not exceed
11 100% of that authorized under that subsection. If an increase in
12 variance in the adjacent geographic territory differential
13 greater than 100% of that authorized under subsection (6)(e) is
14 justified, the commissioner shall require the creation of an
15 additional territorial base rate. This subsection shall not
16 apply from February 28, 1986 to June 30, 1991.

17 (10) An exemption granted under subsections (8) and (9)
18 shall be applicable only to the geographic territory or territo-
19 ries in question, and only to the insurer requesting the
20 exemption. This subsection shall not apply from February 28,
21 1986 to June 30, 1991.

22 (11) An insurer shall not have more than 5 exemptions in
23 force at any 1 time. For purposes of determining the number of
24 existing exemptions, each additional territorial base rate or
25 each increase in variance in the adjacent geographic territory
26 differential granted, shall be considered to be a separate

1 exemption. This subsection shall not apply from February 28,
2 1986 to June 30, 1991.

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

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

19 (a) Amount and types of coverage.

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

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

24 (d) Fire protection class.

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

1 (f) Loss experience of the insured, based upon prior claims
2 attributable to factors under the control of the insured which
3 have been paid by an insurer.

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

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

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

8 (14) Notwithstanding other provisions of this chapter, home
9 insurance risks shall be grouped by territory, and territorial
10 base rates for coverages shall be established as follows:

11 (a) An insurer shall not be limited as to the number of ter-
12 ritories employed in its rating plan. However, an insurer shall
13 not employ more than 3 different territorial base rates for a
14 home insurance coverage. A territorial base rate may be made
15 applicable in 1 or more territories contained in the rating plan
16 of the insurer.

17 (b) An insurer shall not employ a territorial base rate for
18 home insurance for owner-occupied dwelling policies that is less
19 than 70% of the highest territorial base rate for the same
20 policy, all other rating classifications being the same.

21 (c) An insurer shall not employ a territorial base rate for
22 home insurance for renter or tenant policies that is less than
23 65% of the highest territorial base rate for the same policy, all
24 other rating classifications being the same.

25 ~~(15) An insurer shall not utilize factors other than those~~
26 ~~prescribed in this section in establishing classifications for~~
27 ~~automobile insurance and home insurance until January 1, 1982.~~

1 ~~However, on and after January 1, 1982, an~~ AN insurer may utilize
2 factors in addition to those specified in this section, if the
3 commissioner finds, after a hearing held pursuant to the adminis-
4 trative procedures act of 1969, Act No. 306 of the Public Acts of
5 1969, as amended, being sections 24.201 to 24.328 of the Michigan
6 Compiled Laws, that the factors would encourage innovation, would
7 encourage insureds to minimize the risks of loss from hazards
8 insured against, and would be consistent with the purposes of
9 this chapter.

10 SEC. 2111D. (1) A PERSON WHO IS 60 YEARS OF AGE OR OLDER
11 AND, IN THE EVENT OF AN ACCIDENTAL BODILY INJURY WOULD NOT
12 RECEIVE WORK LOSS BENEFITS UNDER SECTION 3107(B) MAY WAIVE COVER-
13 AGE FOR WORK LOSS BENEFITS FOR HIMSELF OR HERSELF ONLY UNDER SEC-
14 TION 3107(B).

15 (2) AN INSURER SHALL OFFER A REDUCED PREMIUM RATE TO A
16 PERSON WHO IS 60 YEARS OF AGE OR OLDER WHO WAIVES COVERAGE FOR
17 WORK LOSS BENEFITS UNDER SECTION 3107(B) PURSUANT TO THIS
18 SECTION.

19 Sec. 3107. Personal protection insurance benefits are pay-
20 able for the following:

21 (a) Allowable expenses consisting of all reasonable charges
22 incurred for reasonably necessary products, services, and accom-
23 modations for an injured person's care, recovery, or
24 rehabilitation. Allowable expenses within personal protection
25 insurance coverage shall not include charges for a hospital room
26 in excess of a reasonable and customary charge for semiprivate
27 accommodations except when the injured person requires special or

1 intensive care, or charges for funeral and burial expenses in
2 excess of \$1,000.00.

3 (b) ~~Work~~ EXCEPT AS OTHERWISE PROVIDED IN SECTION 2111D,
4 WORK loss consisting of loss of income from work an injured
5 person would have performed during the first 3 years after the
6 date of the accident if he OR SHE had not been injured and
7 expenses not exceeding \$20.00 per day, reasonably incurred in
8 obtaining ordinary and necessary services in lieu of those that,
9 if he OR SHE had not been injured, an injured person would have
10 performed during the first 3 years after the date of the acci-
11 dent, not for income but for the benefit of himself OR HERSELF or
12 of his OR HER dependent. Work loss does not include any loss
13 after the date on which the injured person dies. Because the
14 benefits received from personal protection insurance for loss of
15 income are not taxable income, the benefits payable for such loss
16 of income shall be reduced 15% unless the claimant presents to
17 the insurer in support of his OR HER claim reasonable proof of a
18 lower value of the income tax advantage in his OR HER case, in
19 which case the lower value shall apply. The benefits payable for
20 work loss sustained in a single 30-day period and the income
21 earned by an injured person for work during the same period
22 together shall not exceed \$1,000.00, which maximum shall apply
23 pro rata to any lesser period of work loss. The maximum shall be
24 adjusted annually to reflect changes in the cost of living under
25 rules prescribed by the commissioner but any change in the maxi-
26 mum shall apply only to benefits arising out of accidents
27 occurring subsequent to the date of change in the maximum.