

HOUSE BILL No. 5536

February 12, 2004, Introduced by Reps. Hunter, Hood, Farrah, Stallworth, Condino, Tobocman, Phillips, Elkins, Minore and Daniels and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending section 2111 (MCL 500.2111), as amended by 2002 PA 492, and by adding section 2110b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2110b. (1) An insurer or a third party on the
2 insurer's behalf shall not use collection accounts with a medical
3 industry code, if so identified on an insured's or applicant's
4 credit report, as a negative factor in any insurance score or in
5 reviewing credit information.

6 (2) As used in this section:

7 (a) "Consumer reporting agency" means any person which, for
8 monetary fees, dues, or on a cooperative nonprofit basis,
9 regularly engages in whole or in part in the practice of
10 assembling or evaluating consumer credit information or other

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1 information on consumers for the purpose of furnishing consumer
2 reports to third parties.

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

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

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

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

26 (2) Classifications established pursuant to this section for
27 automobile insurance shall be based only upon 1 or more of the

1 following factors, which shall be applied by an insurer on a
2 uniform basis throughout the state:

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

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

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

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

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

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

16 (vi) Daily or weekly commuting mileage.

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

21 (viii) Amount of insurance.

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

24 (i) Earned income.

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

27 (iii) Coordination of benefits.

1 (iv) Use of a safety belt.

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

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

8 (ii) Vehicle make and model.

9 (iii) Vehicle design characteristics related to vehicle
10 damageability.

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

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

17 (i) The course shall include a minimum of 8 hours of
18 classroom instruction.

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

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

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

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

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

25 (E) Accident prevention measures.

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

27 (G) Major driving hazards.

1 (H) Interaction with other highway users such as
2 motorcyclists, bicyclists, and pedestrians.

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

10 ~~—— (a) Substantially at fault accidents.~~

11 ~~—— (b) Convictions~~ **convictions** for, determinations of
12 responsibility for civil infractions for, or findings of
13 responsibility in probate court for civil infractions for,
14 violations under chapter VI of the Michigan vehicle code, 1949
15 PA 300, MCL 257.601 to 257.750. However, beginning 90 days after
16 the effective date of this sentence, an insured shall not be
17 merit rated for a civil infraction under chapter VI of the
18 Michigan vehicle code, 1949 PA 300, MCL 257.601 to 257.750, for a
19 period of time longer than that which the secretary of state's
20 office carries points for that infraction on the insured's motor
21 vehicle record.

22 (4) An insurer shall not establish or maintain rates or
23 rating classifications for automobile insurance based upon sex,
24 ~~or~~ marital status, **or claims made by the insured under the**
25 **policy.**

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

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

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

17 (a) Amount and types of coverage.

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

20 (c) Repairable structural defects reasonably related to
21 risk.

22 (d) Fire protection class.

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

25 (f) Loss experience of the insured, based upon prior claims
26 attributable to factors under the control of the insured that
27 have been paid by an insurer. An insured's failure, after

1 written notice from the insurer, to correct a physical condition
2 that presents a risk of repeated loss shall be considered a
3 factor under the control of the insured for purposes of this
4 subdivision.

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

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

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

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

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