



General Assembly
January Session, 2009

Raised Bill No. 6444

LCO No. 3370

03370_____INS

Referred to Committee on Insurance and Real Estate

Introduced by:

(INS)

AN ACT CONCERNING AUTOMOBILE INSURANCE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 38a-686 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

The following standards, methods and criteria shall apply to the making and use of rates pertaining to personal risk insurance:

(a) Rates shall not be excessive, inadequate or unfairly discriminatory.

(1) A rate in a competitive market is not excessive. A rate in a noncompetitive market including a rate for insurance provided pursuant to sections 38a-328, 38a-329 and 38a-670 is excessive if it is unreasonably high for the insurance provided.

(2) No rate shall be held inadequate unless (A) it is unreasonably low for the insurance provided, and (B) continued use of it would endanger solvency of the insurer, or unless (C) such rate is unreasonably low for the insurance provided and the use of such rate by the insurer using same has, or, if continued will have, the effect of destroying competition or creating a monopoly.

(b) In determining whether rates comply with the excessiveness standard in a noncompetitive market under subdivision (1) of subsection (a) of this section, the inadequacy standard under subdivision (2) of subsection (a) of this section and the requirement that rates not be unfairly discriminatory, the following criteria shall apply:

(1) Consideration may be given, to the extent possible, to past and prospective loss experience within and outside this state, to conflagration and catastrophe hazards, to a reasonable margin

for underwriting profit and contingencies, to past and prospective expenses both country-wide and those specially applicable to this state, to investment income earned or realized by insurers both from their unearned premium and loss reserve funds, and to all other factors, including judgment factors, deemed relevant within and outside this state and in the case of fire insurance rates, consideration may be given to the experience of the fire insurance business during the most recent five-year period for which such experience is available. Consideration may be given in the making and use of rates to dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers.

(2) (A) The systems of expense provisions included in the rates for use by an insurer or group of insurers may differ from those of other insurers or groups of insurers to reflect the operating methods of any such insurer or group with respect to any kind of insurance, or with respect to any subdivision or combination thereof.

(B) (i) With respect to private passenger nonfleet automobile insurance, an insurer shall not allocate as flat dollar amounts to base rates: (I) Producer commissions, (II) premium taxes, (III) underwriting profits, or (IV) contingencies.

(ii) With respect to private passenger nonfleet automobile insurance, an insurer may allocate as flat dollar amounts to base rates: (I) General expenses, including administration and overhead costs, (II) other acquisition costs for marketing and agent field offices, and (III) miscellaneous taxes, licenses and fees.

(iii) Each insurer shall allocate such flat dollar amounts specified in this subparagraph after any classification factors set forth in subdivisions (3) and (4) of this subsection are applied to base rates.

(3) Risks may be grouped by classifications for the establishment of rates and minimum premiums, provided that with respect to private passenger nonfleet automobile insurance, **[any change in territorial classifications shall be subject to prior approval by the Insurance Commissioner, and provided]** no surcharge on any motor vehicle liability or physical damage insurance premium **[may]** shall be assigned for (A) any accident involving only property damage of one thousand dollars or less, **[or]** (B) the first accident involving only property damage of more than one thousand dollars which would otherwise result in a surcharge to the policy of the insured, within the experience period set forth in the insurer's safe driver classification plan, **[or]** (C) any violation of section 14-219 unless such violation results in the suspension or revocation of the operator's license under section 14-111b, **[or]** (D) less than three violations of section 14-218a within any one-year period, **[or]** (E) any accident caused by an operator other than the named insured, a relative residing in the named insured's household, or a person who customarily operates the insured vehicle, **[or]** (F) the first or second accident within the current experience period in relation to which the insured was not convicted of a moving traffic violation and was not at fault, or (G) any motor vehicle infraction. Subparagraph (G) of this subdivision shall not be applicable to any plan established pursuant to section 38a-329. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which provide for recognition of variations in hazards or expense provisions or both. Such rating plans may include application of the

judgment of the insurer and may measure any differences among risks that can be demonstrated to have a probable effect upon losses or expenses.

(4) Each rating plan for private passenger nonfleet automobile insurance that includes territorial classifications shall:

(A) Effective January 1, 2010, assign a weight of seventy-two and one-half per cent to individual territorial loss cost data and twenty-seven and one-half per cent to the state-wide average loss cost data;

(B) Effective January 1, 2011, assign a weight of seventy per cent to individual territorial loss cost data and thirty per cent to the state-wide average loss cost data;

(C) Effective January 1, 2012, assign a weight of sixty-seven and one-half per cent to individual territorial loss cost data and thirty-two and one-half per cent to the state-wide average loss cost data;

(D) Effective January 1, 2013, assign a weight of sixty-five per cent to individual territorial loss cost data and thirty-five per cent to the state-wide average loss cost data;

(E) Effective January 1, 2014, assign a weight of sixty-two and one-half per cent to individual territorial loss cost data and thirty-seven and one-half per cent to the state-wide average loss cost data;

(F) Effective January 1, 2015, assign a weight of sixty per cent to individual territorial loss cost data and forty per cent to the state-wide average loss cost data;

(G) Effective January 1, 2016, assign a weight of fifty-seven and one-half per cent to individual territorial loss cost data and forty-two and one-half per cent to the state-wide average loss cost data;

(H) Effective January 1, 2017, assign a weight of fifty-five per cent to individual territorial loss cost data and forty-five per cent to the state-wide average loss cost data;

(I) Effective January 1, 2018, assign a weight of fifty-two and one-half per cent to individual territorial loss cost data and forty-seven and one-half per cent to the state-wide average loss cost data;

(J) Effective January 1, 2019, assign a weight of fifty per cent to individual territorial loss cost data and fifty per cent to the state-wide average loss cost data.

[(4)] (5) Each rating plan shall establish appropriate eligibility criteria for determining significant risks which are to qualify under the plan. Rating plans which comply with the provisions of this subdivision shall be deemed to produce rates which are not unfairly discriminatory.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, (1) no rate shall include any adjustment designed to recover underwriting or operating losses incurred out-of-state, and (2) no rate for private passenger nonfleet automobile vehicles shall be based, in whole or in part, on information contained in an applicant's credit history or credit rating.

(d) The commissioner ~~[may]~~ shall adopt regulations, in accordance with the provisions of chapter 54, concerning rating plans to effectuate the provisions of this section.

Sec. 2. Section 38a-358 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

The declination, cancellation or nonrenewal of a policy for private passenger nonfleet automobile insurance is prohibited if the declination, cancellation or nonrenewal is based: (1) On the race, religion, nationality or ethnicity of the applicant or named insured; (2) solely on the lawful occupation or profession of the applicant or named insured, except that this provision shall not apply to any insurer which limits its market to one lawful occupation or profession or to several related lawful occupations or professions; (3) on the principal location of the insured motor vehicle unless such decision is for a business purpose which is not a mere pretext for unfair discrimination; (4) solely on the age, sex or marital status of an applicant or an insured, except that this subdivision shall not apply to an insurer in an insurer group if one or more other insurers in the group would not decline an application for essentially similar coverage based upon such reasons; (5) on the fact that the applicant or named insured previously obtained insurance coverage through a residual market; (6) on the fact that another insurer previously declined to insure the applicant or terminated an existing policy in which the applicant was the named insured; ~~[or]~~ (7) the first or second accident within the current experience period in relation to which the applicant or insured was not convicted of a moving traffic violation and was not at fault; or (8) in whole or in part, on information contained in an applicant's credit history or credit rating.

Sec. 3. Section 38a-343 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(a) No notice of cancellation of a policy to which section 38a-342 applies ~~[may]~~ shall be effective unless sent, by registered or certified mail or by mail evidenced by a certificate of mailing, or delivered by the insurer to the named insured, and any third party designated pursuant to section 38a-323a, at least forty-five days before the effective date of cancellation, except that (1) where cancellation is for nonpayment of the first premium on a new policy, at least fifteen days' notice of cancellation accompanied by the reason for cancellation shall be given, and (2) where cancellation is for nonpayment of any other premium, at least ten days' notice of cancellation accompanied by the reason for cancellation shall be given. No notice of cancellation of a policy which has been in effect for less than sixty days ~~[may]~~ shall be effective unless mailed or delivered by the insurer to the insured and any third party designee at least forty-five days before the effective date of cancellation, provided (A) at least fifteen days' notice shall be given where cancellation is for nonpayment of the first premium on a new policy, and (B) at least ten days' notice shall be given where cancellation is for nonpayment of any other premium or material misrepresentation. The notice of cancellation shall state or be

accompanied by a statement specifying the reason for such cancellation. Any notice of cancellation for nonpayment of the first premium on a new policy may be retroactive to the effective date of such policy, provided at least fifteen days' notice has been given to the insured and any third party designee and payment of such premium has not been received during such notice period.

(b) Where a private passenger motor vehicle liability insurance company sends a notice of cancellation under subsection (a) of this section to the named insured of a private passenger motor vehicle liability insurance policy, or a third party designee, such company shall provide with such notice a warning, in a form approved by the Commissioner of Motor Vehicles and the Insurance Commissioner, which informs the named insured that (1) the cancellation will be reported to the Commissioner of Motor Vehicles; (2) the named insured may be receiving one or more mail inquiries from the Commissioner of Motor Vehicles, concerning whether or not required insurance coverage is being maintained, and that the named insured must respond to these inquiries; (3) if the required insurance coverage lapses at any time, the Commissioner of Motor Vehicles may suspend the registration or registrations for the vehicle or vehicles under the policy and the number plates will be subject to confiscation and any person operating any such vehicle will be subject to legal penalties for operating a motor vehicle with a suspended registration; (4) the named insured will not be able to have the registration restored or obtain a new registration, or any other registration or renewal in the insured's name, except upon presentation to the Commissioner of Motor Vehicles of evidence of required security or coverage and the entering into of a consent agreement with the commissioner in accordance with the provisions of section 14-12g.

(c) If a passenger motor vehicle liability insurance company cancels a private passenger motor vehicle liability insurance policy pursuant to section 38a-342, such company shall send a written notice of such cancellation to any lienholder shown on the records of such company as having a legal interest in such motor vehicle.

[(c)] (d) This section shall not apply to nonrenewal or if the private passenger motor vehicle liability insurance policy is transferred from an insurer to an affiliate of such insurer for another policy with no interruption of coverage and contains the same terms, conditions and provisions, including policy limits, as the transferred policy, except that the insurer to which the policy is transferred shall not be prohibited from applying its rates and rating plans at the time of renewal.

Sec. 4. Section 14-12h of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(a) The Commissioner of Motor Vehicles shall compile and maintain a record of all registrations suspended in accordance with the provisions of sections 14-12c and 14-12g. The commissioner shall update the information contained in such record not less than once per week and shall make available to all law enforcement agencies in this state a list of all registration number plates for vehicles whose registration has been suspended. Such list shall contain the number plate numbers, letters or number and letter combinations and the address at which the vehicle was registered. The commissioner may make available the entire list or a

portion thereof and may utilize one or more formats for presenting the information contained therein to facilitate its use.

(b) (1) If any police officer observes a motor vehicle being operated upon the public highway, and such motor vehicle is displaying registration number plates identified as suspended on the list made available by the commissioner, such police officer may (A) stop or detain such vehicle and its occupants, (B) issue to the operator a complaint for operating an unregistered motor vehicle, or expired registration if the vehicle is not being operated, in violation of section 14-12, and (C) remove the registration number plates from the vehicle and return them to any branch office of the Department of Motor Vehicles. If any police officer, motor vehicle inspector or constable observes a motor vehicle parked in any parking area, as defined in section 14-212, and such motor vehicle is displaying registration number plates identified as suspended on the list made available by the commissioner, such police officer, motor vehicle inspector or constable is authorized to remove the registration number plates from the vehicle and to return them to any branch office of the Department of Motor Vehicles. If a number plate is identified as suspended on the list provided by the commissioner and such identification is in error, the state shall indemnify any police officer, motor vehicle inspector or constable for any claim for damages made against that individual as a result of such individual's good faith reliance on the accuracy of the list provided by the commissioner regarding the confiscation of number plates.

(2) If any police officer observes a motor vehicle being operated upon the public highway or parked in any parking area, as defined in section 14-212, displaying registration number plates identified on the list made available by the commissioner as being suspended, such police officer may seize and impound the vehicle. If a police officer seizes and impounds a vehicle pursuant to this subdivision, such officer shall give notice to the commissioner in such form as the commissioner may require. The police officer shall give such notice not later than three days after seizing and impounding the vehicle.

(c) Any motor vehicle [which] that has been impounded in accordance with the provisions of subdivision (2) of subsection (b) of this section shall not be released to the owner or person otherwise entitled to possession of the vehicle unless such owner or person presents a valid registration and a current automobile insurance identification card. Any such impounded motor vehicle that is not reclaimed by the owner of such motor vehicle within forty-five days after impounding, shall be subject to forfeiture to the state.

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| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | October 1, 2009 | 38a-686 |
| Sec. 2 | October 1, 2009 | 38a-358 |
| Sec. 3 | October 1, 2009 | 38a-343 |
| Sec. 4 | October 1, 2009 | 14-12h |

Statement of Purpose:

To clarify the method and allocation of certain expenses to base rates for automobile insurance policies, to specify the ratio of individual territorial loss cost data to the state-wide average loss cost data, to prohibit the use of an applicant's credit history or credit rating as a criterion in setting motor vehicle insurance premiums or in the declination, cancellation or nonrenewal of an automobile insurance policy, to direct the Insurance Commissioner to adopt regulations concerning rating plans, to require insurers to provide notice to a lienholder when an automobile insurance policy is cancelled, to require valid registration and proof of insurance to be presented before an impounded vehicle can be released.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]