

AMENDED IN ASSEMBLY APRIL 3, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 2800

Introduced by Assembly Member Huffman

February 22, 2008

An act to amend Section 1861.02 of, and add Section 1861.028 to, the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 2800, as amended, Huffman. Automobile insurance: rates.

Existing law, enacted by the voters in Proposition 103 at the November 8, 1988, statewide general election, requires insurers to set automotive insurance rates and premiums using specified factors, including the number of miles the insured drives annually and any factors the commissioner may specify that have a substantial relationship to the risk of loss.

This bill would provide that in determining the number of miles an insured drives, an insurer may apply different rating factors for voluntary insurance-verified annual mileage and applicant-estimated annual mileage. This bill would allow an insurer to obtain all information reasonably necessary to verify the miles driven for each insured that voluntarily participates in a insurance-verified mileage verification program, as specified. This bill would also make various findings and declarations.

Under existing law, Proposition 103 may not be amended by the Legislature except to further its purposes by a statute passed in each house by rollcall vote, $\frac{2}{3}$ of the membership concurring, or by a statute that becomes effective only when approved by the electorate.

~~This bill would state the intent of the Legislature to enact legislation to allow insurance providers to implement voluntary programs offering mileage-based insurance to drivers in California, and to provide these insurance providers with the authority to offer discounts based on the adoption of those programs, the reporting of miles traveled, and the reduction of vehicle miles traveled.~~

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. *The Legislature finds and declares all of the*
- 2 *following:*
- 3 (a) *The California Global Warming Solutions Act of 2006*
- 4 *(Division 25.5 (commencing with Section 38500) of the Health*
- 5 *and Safety Code) requires California to reduce statewide*
- 6 *greenhouse gas emissions to 1990 levels by the year 2020.*
- 7 (b) *A reduction in the average vehicle miles traveled per*
- 8 *California motorist may lead to a substantive reduction in*
- 9 *greenhouse gas emissions.*
- 10 (c) *Providing insurance-based incentives to motorists to drive*
- 11 *less may be a successful way to reduce overall vehicle miles*
- 12 *traveled.*
- 13 (d) *Current state automotive insurance rates may not accurately*
- 14 *reflect the miles that motorists drive.*
- 15 (e) *According to the United States Environmental Protection*
- 16 *Agency, once an individual purchases a car, roughly 88 percent*
- 17 *of their transportation costs remain much the same on a monthly*
- 18 *basis regardless of how much or how little he or she drives.*
- 19 (f) *The increase in traffic density from a typical additional driver*
- 20 *increases total statewide insurance costs of other drivers.*
- 21 (g) *Implementing new programs that offer insurance on a*
- 22 *mileage basis may effectively reduce vehicle miles traveled and*
- 23 *help the state achieve the goals outlined in the California Global*
- 24 *Warming Solutions Act of 2006.*
- 25 (h) *Verifying miles driven ensures insurance rates that more*
- 26 *accurately reflect vehicle miles traveled and provides incentives*
- 27 *for California drivers to reduce driving and emissions.*
- 28 SEC. 2. *Section 1861.02 of the Insurance Code is amended to*
- 29 *read:*

1 1861.02. (a) Rates and premiums for an automobile insurance
2 policy, as described in subdivision (a) of Section 660, shall be
3 determined by application of the following factors in decreasing
4 order of importance:

5 (1) The insured's driving safety record.

6 (2) The number of miles he or she drives annually. *In*
7 *determining automobile rates and premiums based on the number*
8 *of annual miles driven, an insurer may apply different rating*
9 *factors for insurer-verified annual milage obtained through*
10 *voluntary mileage based insurance programs and for*
11 *applicant-estimated annual mileage.*

12 (3) The number of years of driving experience the insured has
13 had.

14 (4) Those other factors that the commissioner may adopt by
15 regulation and that have a substantial relationship to the risk of
16 loss. The regulations shall set forth the respective weight to be
17 given each factor in determining automobile rates and premiums.
18 Notwithstanding any other provision of law, the use of any criterion
19 without approval shall constitute unfair discrimination.

20 (b) (1) Every person who meets the criteria of Section 1861.025
21 shall be qualified to purchase a Good Driver Discount policy from
22 the insurer of his or her choice. An insurer shall not refuse to offer
23 and sell a Good Driver Discount policy to any person who meets
24 the standards of this subdivision.

25 (2) The rate charged for a Good Driver Discount policy shall
26 comply with subdivision (a) and shall be at least 20% below the
27 rate the insured would otherwise have been charged for the same
28 coverage. Rates for Good Driver Discount policies shall be
29 approved pursuant to this article.

30 (3) (A) This subdivision shall not prevent a reciprocal insurer,
31 organized prior to November 8, 1988, by a motor club holding a
32 certificate of authority under Chapter 2 (commencing with Section
33 12160) of Part 5 of Division 2, and which requires membership in
34 the motor club as a condition precedent to applying for insurance
35 from requiring membership in the motor club as a condition
36 precedent to obtaining insurance described in this subdivision.

37 (B) This subdivision shall not prevent an insurer which requires
38 membership in a specified voluntary, nonprofit organization, which
39 was in existence prior to November 8, 1988, as a condition
40 precedent to applying for insurance issued to or through those

1 membership groups, including franchise groups, from requiring
2 such membership as a condition to applying for the coverage
3 offered to members of the group, provided that it or an affiliate
4 also offers and sells coverage to those who are not members of
5 those membership groups.

6 (C) However, all of the following conditions shall be applicable
7 to the insurance authorized by subparagraphs (A) and (B):

8 (i) Membership, if conditioned, is conditioned only on timely
9 payment of membership dues and other bona fide criteria not based
10 upon driving record or insurance, provided that membership in a
11 motor club may not be based on residence in any area within the
12 state.

13 (ii) Membership dues are paid solely for and in consideration
14 of the membership and membership benefits and bear a reasonable
15 relationship to the benefits provided. The amount of the dues shall
16 not depend on whether the member purchases insurance offered
17 by the membership organization. None of those membership dues
18 or any portion thereof shall be transferred by the membership
19 organization to the insurer, or any affiliate of the insurer,
20 attorney-in-fact, subsidiary, or holding company thereof, provided
21 that this provision shall not prevent any bona fide transaction
22 between the membership organization and those entities.

23 (iii) Membership provides bona fide services or benefits in
24 addition to the right to apply for insurance. Those services shall
25 be reasonably available to all members within each class of
26 membership.

27 Any insurer that violates clause (i), (ii), or (iii) shall be subject
28 to the penalties set forth in Section 1861.14.

29 (c) The absence of prior automobile insurance coverage, in and
30 of itself, shall not be a criterion for determining eligibility for a
31 Good Driver Discount policy, or generally for automobile rates,
32 premiums, or insurability. However, notwithstanding subdivision
33 (a), an insurer may use persistency of automobile insurance
34 coverage with the insurer, an affiliate, or another insurer as an
35 optional rating factor. The Legislature hereby finds and declares
36 that it furthers the purpose of Proposition 103 to encourage
37 competition among carriers so that coverage overall will be priced
38 competitively. The Legislature further finds and declares that
39 competition is furthered when insureds are able to claim a discount
40 for regular purchases of insurance from any carrier offering this

1 discount irrespective of whether or not the insured has previously
2 purchased from a given carrier offering the discount. Persistency
3 of coverage may be demonstrated by coverage under the low-cost
4 automobile insurance program pursuant to Article 5.5 (commencing
5 with Section 11629.7) and Article 5.6 (commencing with Section
6 11629.9) of Chapter 1 of Part 3 of Division 2, or by coverage under
7 the assigned risk plans pursuant to Article 4 (commencing with
8 Section 11620) of Chapter 1 of Part 3 of Division 2. Persistency
9 shall be deemed to exist even if there is a lapse of coverage of up
10 to two years due to an insured's absence from the state while in
11 military service, and up to 90 days in the last five years for any
12 other reason.

13 (d) An insurer may refuse to sell a Good Driver Discount policy
14 insuring a motorcycle unless all named insureds have been licensed
15 to drive a motorcycle for the previous three years.

16 (e) This section shall become operative on November 8, 1989.
17 The commissioner shall adopt regulations implementing this
18 section and insurers may submit applications pursuant to this article
19 which comply with those regulations prior to that date, provided
20 that no such application shall be approved prior to that date.

21 *SEC. 3. Section 1861.028 is added to the Insurance Code, to*
22 *read:*

23 *1861.028. (a) In determining automobile rates and premiums*
24 *based on the number of annual miles driven, an insurer may obtain*
25 *all information reasonably necessary to verify the miles driven for*
26 *each insured that participates in a voluntary mileage-based*
27 *program.*

28 *(b) To verify miles driven by insureds that participate in the*
29 *voluntary program, insurers may obtain the following information*
30 *from an applicant for insurance or an insured or from a third-party*
31 *source:*

32 *(1) Service records that document the odometer reading of the*
33 *vehicle insured or to be insured.*

34 *(2) Smog check odometer reading for the vehicle insured or to*
35 *be insured.*

36 *(3) Information from a prior insurer about the odometer reading*
37 *for the vehicle insured or to be insured.*

38 *(4) The odometer reading of the vehicle insured or to be insured.*

39 *(5) Other information that accurately reflects the odometer*
40 *reading of the vehicle insured or to be insured.*

1 (c) To be eligible to participate in a voluntary mileage-based
2 insurance program, an insurer may require an insured to have a
3 technological device provided by the insurer or otherwise made
4 available to the insured to be installed on the vehicle insured, or
5 to be insured that accurately collects vehicle mileage information.
6 The information collected by this device shall be limited to mileage.

7 SEC. 4. If any provision of this act is held to be invalid for any
8 reason, the remaining provisions shall not be affected, but shall
9 remain in full force and effect, and to this end the provisions of
10 this act are severable.

11 SEC. 5. The Legislature finds and declares that this act furthers
12 the purpose of Proposition 103.

13 ~~SECTION 1. It is the intent of the Legislature to enact~~
14 ~~legislation to allow insurance providers to implement voluntary~~
15 ~~programs offering mileage-based insurance to drivers in California,~~
16 ~~and to provide these insurance providers with the authority to offer~~
17 ~~discounts based on the adoption of such programs, the reporting~~
18 ~~of miles traveled, and the reduction of vehicle miles traveled.~~

19 ~~SEC. 2. The Legislature finds and declares that this act furthers~~
20 ~~the purpose of Proposition 103.~~