

AMENDED IN ASSEMBLY MARCH 8, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1597

Introduced by Assembly Member Jones
(Coauthors: Assembly Members Blumenfeld, Conway, Coto, Nielsen, Portantino, Salas, and Torres)
(Coauthor: Senator Wiggins)

January 4, 2010

An act to amend ~~Section 11629.84~~ Sections 11620, 11622.5, 11629.84, and 11629.85 of the Insurance Code, relating to automobile insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 1597, as amended, Jones. ~~Low-cost automobile insurance.~~
Automobile insurance: assigned risk plans: low-cost automobile insurance.

(1) Existing law provides for the formation of the California Automobile Assigned Risk Plan for automobile bodily injury and property damage liability insurance.

The Insurance Commissioner, after a public hearing, is required to approve or issue a reasonable plan for the equitable apportionment, among insurers admitted to transact liability insurance, of those applicants for automobile bodily injury and property damage liability insurance who are, in good faith, entitled to but are unable to procure that insurance through ordinary methods. Notice of the public hearing is required to be published at least 60 days prior to the hearing or close of the public comment period on the adoption, amendment, or repeal of a regulation, in 2 newspapers of general circulation, one published

in the City and County of San Francisco, and the other published in the City of Los Angeles.

This bill would delete the notice requirement.

Existing law requires the assigned risk plan to provide for effective dates of coverage, consistent with the required elements, including execution of the application forms and an electronic effective date procedure established by the plan. The insurance application form is also required to include a disclosure regarding the effective date of coverage.

This bill would modify the notice and the effective dates of coverage requirements, as provided.

Existing

(2) *Existing law establishes, within the California Automobile Assigned Risk Plan, a low-cost automobile insurance program. Existing law establishes the low-cost automobile insurance program in several specified counties and makes the expansion to all other counties in California subject to a determination of need made by the Insurance Commissioner commissioner following a public meeting, as specified. Existing law provides for the issuance of automobile liability policies pursuant to this program under specified terms and conditions, and provides that a policy so issued satisfies specified requirements regarding financial responsibility. Existing law provides that the low-cost automobile insurance program shall remain in effect only until January 1, 2011.*

This bill would provide that the low-cost automobile insurance program would remain in effect until January 1, 2016.

Existing law requires the commissioner, on or before March 1 of each year, to prepare and propose a plan to the Senate Committee on Banking, Finance, and Insurance and the Assembly Committee on Insurance setting forth the methods the commissioner intends to implement to inform households eligible for the program about the availability of low-cost automobile insurance. The plan is required to contain specified information, including the most recent annual report to the Legislature on the status of the low-cost automobile insurance program from the California Automobile Assigned Risk Plan.

This bill would delete the most recent annual report to the Legislature on the status of the low-cost automobile insurance program from the California Automobile Assigned Risk Plan from the information required to be contained in the plan.

(3) This bill would make conforming changes and delete obsolete provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Section 11620 of the Insurance Code is amended
2 to read:

3 11620. (a) The commissioner, after a public hearing, shall
4 approve or issue a reasonable plan for the equitable apportionment,
5 among insurers admitted to transact liability insurance, of those
6 applicants for automobile bodily injury and property damage
7 liability insurance who are in good faith entitled to but are unable
8 to procure that insurance through ordinary methods. The
9 commissioner shall require the payment of five hundred ninety
10 dollars (\$590), in advance, as a fee for the filing of amendments
11 to the plan with the commissioner. The commissioner may approve
12 or issue reasonable amendments to the plan if he or she first holds
13 a public hearing to determine whether the amendments are in
14 keeping with the intent and purpose of this section. All such
15 insurers shall subscribe to the plan and its amendments and, subject
16 to Section 11621, participate therein *participate in the plan.*

17 ~~(b) Notice of the public hearings required by this section shall~~
18 ~~be published at least 60 days prior to the hearing or close of the~~
19 ~~public comment period on the adoption, amendment, or repeal of~~
20 ~~a regulation, in two newspapers of general circulation, one~~
21 ~~published in the City and County of San Francisco, and the other~~
22 ~~published in the City of Los Angeles.~~

23 (e)

24 (b) Judicial review of rate revision proceedings shall be in
25 accordance with Section 1858.6.

26 SEC. 2. Section 11622.5 of the Insurance Code is amended to
27 read:

28 11622.5. The plan shall provide for effective dates for coverage
29 consistent with all of the following:

30 (a) Except as provided in this section, in no event shall coverage
31 be effective prior to the date and time of execution of the
32 application forms. Postage meter or United States Postal Service

1 postmarks shall not be recognized by the plan as establishing
2 effective dates.

3 (b) (1) ~~Beginning July 1, 1995, when~~ *When* the applicant
4 requires that coverage be effective immediately, the effective date
5 and time shall be established using an electronic effective date
6 procedure established by the plan. The plan shall establish a future
7 effective date using the electronic effective date procedure. The
8 future effective date option shall be available upon request by an
9 applicant. An applicant may request a future effective date of ~~15~~
10 *45* days or less from the date of application completion.

11 (2) The manager of the plan shall ~~establish and maintain a~~
12 ~~toll-free telephone number~~ *ensure access at no cost to the user* as
13 part of the electronic effective date procedure. The manager shall
14 maintain sufficient capacity to service, in a timely manner,
15 applications received by means of the electronic effective date
16 procedure.

17 (3) The electronic effective date procedure shall be available
18 only to producers of record who are certified by the plan *and shall*
19 *include a procedure to prevent fraudulent applications.*

20 (4) A producer of record shall have a duty to comply with the
21 requirements of this section within 24 hours of the date and time
22 the application is completed and executed.

23 (c) Coverage for vehicles shall become effective at the date and
24 time the application is transmitted through the plan's electronic
25 effective date procedure if and only if all of the following
26 requirements are met:

27 (1) The producer of record and the applicant certify under
28 penalty of perjury on the application the date and time that the
29 application forms were completed and executed.

30 (2) The producer of record uses the electronic effective date
31 procedure adopted pursuant to subdivision (b) ~~and inserts the~~
32 ~~reference number or other required verification code on the~~
33 ~~application.~~

34 (3) The application forms and required deposit are ~~mailed~~
35 *submitted* to the plan manager no later than two working days
36 following the date the application forms are completed and
37 executed. The mailing date is established ~~by the United States~~
38 ~~Postal Service postmark on the envelope enclosing the application~~
39 *in accordance with the procedure established by the plan.*

1 (d) If the application is made without using the electronic
2 effective date procedure or if there is not compliance with the
3 provisions of subdivision (c), coverage shall be effective ~~as of~~ *in*
4 *accordance with an alternative procedure established by the plan,*
5 *but not later than 12:01 a.m. on the date following receipt of the*
6 application in the plan office unless a later date is requested.

7 (e) If the applicant desires coverage on a date later than that
8 which would otherwise be fixed pursuant to this section, the
9 applicant shall indicate that date and the plan manager shall fix
10 the effective date of coverage as of 12:01 a.m. on the desired date
11 of coverage. However, no date shall be later than 45 days after the
12 date of application.

13 (f) The effective date for coverage for an additional vehicle to
14 be added to an in-force policy or for other coverage to be added
15 to an in-force policy shall not be subject to the requirements of
16 this section, but shall be governed by the terms of the policy and
17 other applicable laws and regulations.

18 (g) In order to provide evidence of a requested effective date,
19 ~~the producer of record shall maintain~~ *plan shall establish a*
20 *procedure for the maintenance of* appropriate records of all risks
21 for which ~~he or she~~ *the producer of record* has designated the time
22 and date of coverage. ~~That evidence shall be in the form of~~
23 ~~completed applications, eligibility certification forms, a mail log,~~
24 ~~a check copy, a check register, a receipt, and other records created~~
25 ~~contemporaneously with the application, and shall permit~~
26 ~~inspection or photocopying of those records by the plan manager~~
27 ~~or the assigned insurer. The inspection or photocopying shall be~~
28 ~~limited to situations where the effective date is an issue.~~

29 (h) Where the plan's electronic effective date procedure is
30 disrupted due to failure of transmission or receiving equipment
31 due to fire, earthquake, explosion, civil unrest, or similar disaster
32 or emergency, the producer of record may bind coverage up to one
33 day prior to the time the application forms and required deposit
34 are mailed to the plan manager, as established by the United States
35 Postal Service postmark on the envelope in which the application
36 was enclosed.

37 (i) Notwithstanding any other provision of this section, where
38 the producer of record discovers a material error in an application,
39 the producer of record shall be authorized to rescind coverage
40 bound for a period up to 24 hours after the date and time

1 established pursuant to the plan’s electronic effective date
2 procedure.

3 (j) To ensure compliance with the electronic effective date
4 procedure, application forms shall contain the following statement
5 in 12-point boldface type:

6
7 **IMPORTANT NOTICE**
8

9 THIS POLICY IS NOT EFFECTIVE UNTIL YOUR
10 APPLICATION IS ELECTRONICALLY TRANSMITTED TO
11 THE PLAN BY YOUR AGENT OR BROKER. THE
12 FOLLOWING CONDITIONS MUST ALSO BE MET:

13 (1) BOTH YOU AND YOUR AGENT OR BROKER MUST
14 SIGN AND DATE A PROPERLY COMPLETED
15 APPLICATION.

16 (2) YOUR AGENT OR BROKER MUST ~~MAIL~~ TRANSMIT
17 YOUR APPLICATION TO THE PLAN WITHIN TWO DAYS
18 OF ITS COMPLETION.

19 YOU MAY REQUEST THAT YOUR AGENT OR BROKER
20 TRANSMIT THE DOCUMENTS IN YOUR PRESENCE TO
21 ENSURE IMMEDIATE COVERAGE, PROVIDED THE ABOVE
22 REQUIREMENTS ARE MET.

23 IF THE ABOVE REQUIREMENTS ARE NOT MET, *THE*
24 *EFFECTIVE DATE OF YOUR COVERAGE* ~~WILL TAKE~~
25 ~~EFFECT THE DAY AFTER THE PLAN OFFICE RECEIVES~~
26 ~~YOUR APPLICATION. YOU MAY REQUEST THAT YOUR~~
27 ~~AGENT OR BROKER NOTIFY YOU WHEN YOUR~~
28 ~~COVERAGE IS EFFECTIVE~~ *MAY BE DELAYED.*

29 **SECTION 1.**

30 *SEC. 3.* Section 11629.84 of the Insurance Code is amended
31 to read:

32 11629.84. This article shall remain in effect only until January
33 1, 2016, and as of that date is repealed, unless a later enacted
34 statute, that is enacted before January 1, 2016, deletes or extends
35 that date.

36 *SEC. 4.* Section 11629.85 of the Insurance Code is amended
37 to read:

38 11629.85. (a) On or before March 1 of each year, the
39 commissioner shall prepare and propose a plan to the Senate
40 Committee on Banking, Finance, and Insurance and the Assembly

1 Committee on Insurance setting forth the methods the
2 commissioner intends to implement to inform households eligible
3 for the program about the availability of low-cost automobile
4 insurance. To be eligible for funding through the budget process,
5 the plan shall be reviewed by the Senate Committee on Banking,
6 Finance, and Insurance and the Assembly Committee on Insurance.
7 The information required under subdivision (c) shall also be
8 provided to the Senate Committee on Transportation and Housing
9 and the Assembly Committee on Transportation.

10 (b) The plan shall include, at a minimum, a brief description of
11 methods proposed to be used, anticipated costs, sources of revenue,
12 goals, targets, objectives, and a justification of the proposed
13 methods. The plan shall also explain how the department proposes
14 to work in cooperation with the California Automobile Assigned
15 Risk Plan, the social service departments in eligible counties, the
16 Department of Motor Vehicles, and community-based
17 organizations in order to inform eligible households of the
18 existence of the program.

19 (c) The plan shall also include all of the following:

20 (1) The commissioner's determination regarding whether the
21 program has been successful, based on the criteria specified in
22 subdivision (d), and an explanation regarding that success or lack
23 thereof.

24 (2) In cooperation with the California Automobile Assigned
25 Risk Plan, structural characteristics of the program that may require
26 statutory revision in order for the program to succeed or to improve
27 upon existing success.

28 (3) Impediments to success of the program that can reasonably
29 be overcome by revision to the strategies adopted by the
30 department.

31 (4) A detailed explanation of the department's use for the
32 program of funds assessed pursuant to Section 1872.81.

33 (5) For the previous calendar year, a list of the total low-cost
34 auto premium for each county in which the program was available.

35 ~~(6) The most recent annual report to the Legislature on the status
36 of the low-cost automobile insurance program from the California
37 Automobile Assigned Risk Plan.~~

38 (d) The program is successful if the following occur:

39 (1) The program generated sufficient premiums to cover losses
40 incurred under policies issued under the program, and expenses

1 incurred by the program, as calculated pursuant to subdivision (c)
2 of Section 11629.72.

3 (2) The program served the public purpose of offering access
4 to automobile insurance to otherwise underserved communities in
5 the program areas.

6 (3) The program offered access to automobile insurance to
7 previously uninsured motorists seeking affordable coverage in the
8 program areas.

9 (e) Any written or oral advertisements, including, but not limited
10 to, paid or unpaid commercial or noncommercial advertising, by
11 the department with reference to the low-cost automobile insurance
12 program shall reference the department and shall not reference the
13 commissioner by name or office, or include the commissioner's
14 voice, image, or likeness. The department shall not participate with
15 any nongovernmental entity that produces or intends to produce
16 advertisements or educational material that include the name of
17 the commissioner or his or her voice, image or likeness, and that
18 are intended to make eligible households aware of the existence
19 of low-cost automobile insurance.