

AMENDED IN ASSEMBLY AUGUST 24, 1999

AMENDED IN ASSEMBLY AUGUST 16, 1999

AMENDED IN ASSEMBLY JULY 1, 1999

AMENDED IN SENATE APRIL 5, 1999

**SENATE BILL**

**No. 940**

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**Introduced by Senator Speier**

February 25, 1999

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~~An act to amend Section 12978 of, to amend and add Section 1872.8 of, to add Section 1872.81 to, and to add and repeal Section 1874.8 of, the Insurance Code, relating to insurance. An act to amend Section 12978 of, and to add and repeal Sections 1872.81 and 1874.8 of, the Insurance Code, relating to insurance.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 940, as amended, Speier. Insurers: fees.

Existing law requires each insurer doing business in this state to pay an annual fee not to exceed \$1 for each vehicle it insures, in order to fund increased investigation and prosecution of fraudulent automobile insurance claims and economic automobile theft. Revenues from the fee are available for distribution by the Insurance Commissioner to the Bureau of Fraudulent Claims of the Department of Insurance, to the Department of the California Highway Patrol, and to district attorneys, as specified.

~~This bill would instead require each insurer to pay an annual fee of \$1.50 for each vehicle it insures for these automobile~~

~~insurance fraud and automobile theft investigation and prosecution purposes, as specified. It would require that the allocation and expenditure of revenues generated from this increased fee be made in a specified manner, which requirement would not become operative until January 1, 2007, if AB 1050 of the 1999 2000 Regular Session is enacted and becomes operative, and AB 1050 also increases insurer fees to target the successful prosecution and elimination of automobile insurance fraud. It would enact related provisions contingent upon the enactment of AB 1050, including a requirement that the commissioner conduct a fiscal audit of the programs administered by district attorneys in this regard at least once every 3 years. This bill would also require each insurer, until January 1, 2007, to pay an additional annual fee of 30¢ for each vehicle it insures to fund certain consumer operations of the Department of Insurance related to automobile insurance. This bill would also require the department to report to the Legislature's insurance committees on plans for use of the new revenues and on the opportunities for improving the fraud programs funded by the existing revenues, as specified.~~

*This bill would also require each insurer, until January 1, 2007, to pay an additional annual fee, not to exceed 50¢, for each vehicle it insures, to fund the Bureau of Fraudulent Claims and an Organized Automobile Fraud Activity Interdiction Program.*

Existing law establishes various fees to be charged by the Department of Insurance in connection with its licensing and regulatory activities relating to the business of insurance. Existing law authorizes the Insurance Commissioner to increase or decrease those statutory fees according to a specified procedure, and establishes limitations on the amount that fees may be increased or decreased.

This bill would require the department to annually project forward its workload for the subsequent 3 years in order to project appropriate fee levels, and to annually make adjustments to those fees, if necessary, based on actual workload experience.



Existing law also provides that any increase or decrease in those statutory fees shall be by a uniform percentage for all fees, rounded to the nearest whole dollar.

This bill would delete that provision.

*This bill would provide that its provisions would become operative only if AB 1050 of the 1999–2000 Regular Session is enacted and becomes effective on or before January 1, 2000, in which case certain provisions of AB 1050 would prevail over provisions of this bill, as specified.*

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 1872.8 of the Insurance Code is~~  
2    ~~amended to read:~~  
3    ~~1872.8. (a) Each insurer doing business in this state~~  
4    ~~shall pay to the commissioner an annual fee of one dollar~~  
5    ~~and fifty cents (\$1.50) for each vehicle insured under an~~  
6    ~~insurance policy it issues in this state, in order to fund~~  
7    ~~increased investigation and prosecution of fraudulent~~  
8    ~~automobile insurance claims and economic automobile~~  
9    ~~theft.~~  
10    ~~A percentage amount equivalent to fifty five and~~  
11    ~~ninety six one hundredths cents (\$0.5596) of the one~~  
12    ~~dollar and fifty cent (\$1.50) assessment fee per insured~~  
13    ~~vehicle shall be distributed to the Bureau of Fraudulent~~  
14    ~~Claims for enhanced investigative efforts, of which a~~  
15    ~~percentage amount equivalent to not less than six cents~~  
16    ~~(\$0.06) of the assessment fee shall be spent for enhanced~~  
17    ~~automobile insurance fraud investigation by the bureau.~~  
18    ~~A percentage amount equivalent to twenty one and~~  
19    ~~thirty seven one hundredths cents (\$0.2137) of the one~~  
20    ~~dollar and fifty cent (\$1.50) assessment fee per insured~~  
21    ~~vehicle shall be deposited in the Motor Vehicle Account~~  
22    ~~for appropriation to the Department of the California~~  
23    ~~Highway Patrol for enhanced prevention and~~  
24    ~~investigative efforts to deter economic automobile theft.~~  
25    ~~A percentage amount equivalent to seventy two and~~  
26    ~~sixty seven one hundredths cents (\$0.7267) of the one~~



1 dollar and fifty cent (\$1.50) assessment fee per insured  
2 vehicle shall be distributed to district attorneys for  
3 purposes of investigation and prosecution of automobile  
4 insurance fraud cases, including fraud involving  
5 economic automobile theft.

6 (b) The commissioner shall award funds to district  
7 attorneys according to population. The commissioner  
8 may alter this distribution formula as necessary to achieve  
9 the most effective distribution of funds. Each local district  
10 attorney desiring a portion of those funds shall submit to  
11 the commissioner an application detailing the proposed  
12 use of any moneys that may be provided. The application  
13 shall include a detailed accounting of assessment funds  
14 received and expended in prior years, including at a  
15 minimum (1) the amount of funds received and  
16 expended; (2) the uses to which those funds were put,  
17 including payment of salaries and expenses, purchase of  
18 equipment and supplies, and other expenditures by type;  
19 (3) results achieved as a consequence of expenditures  
20 made, including the number of investigations, arrests,  
21 complaints filed, convictions, and the amounts originally  
22 claimed in cases prosecuted compared to payments  
23 actually made in those cases; and (4) other relevant  
24 information as the commissioner may reasonably require.  
25 Any district attorney who fails to submit an application  
26 within 90 days of the commissioner's deadline for  
27 applications shall be subject to loss of distribution of the  
28 money. The commissioner may consider  
29 recommendations and advice of the bureau and the  
30 Commissioner of the California Highway Patrol in  
31 allocating moneys to local district attorneys. Any district  
32 attorney that receives funds shall submit an annual report  
33 to the commissioner, which may be made public, as to the  
34 success of the program administered. The report shall  
35 provide information and statistics on the number of  
36 active investigations, arrests, indictments, and  
37 convictions. Both the application for moneys and the  
38 distribution of moneys shall be public documents.  
39 Information submitted to the commissioner pursuant to



1 ~~this section concerning criminal investigations, whether~~  
2 ~~active or inactive, shall be confidential.~~

3 ~~(e) Except for funds to be deposited in the Motor~~  
4 ~~Vehicle Account for allocation to the California Highway~~  
5 ~~Patrol for purposes of the Motor Vehicle Prevention Act,~~  
6 ~~(Chapter 5 (commencing with Section 10900) of Division~~  
7 ~~4 of the Vehicle Code), the funds received under this~~  
8 ~~section shall be deposited in the Insurance Fund and be~~  
9 ~~expended and distributed when appropriated by the~~  
10 ~~Legislature.~~

11 ~~(d) In the course of its investigations, the Bureau of~~  
12 ~~Fraudulent Claims shall aggressively pursue all reported~~  
13 ~~incidents of probable fraud and, in addition, shall forward~~  
14 ~~to the appropriate disciplinary body the names of any~~  
15 ~~individuals licensed under the Business and Professions~~  
16 ~~Code who are suspected of actively engaging in~~  
17 ~~fraudulent activity along with all relevant supporting~~  
18 ~~evidence.~~

19 ~~(e) As used in this section “economic automobile~~  
20 ~~theft” means automobile theft perpetrated for financial~~  
21 ~~gain, including, but not limited to, the following:~~

- 22 ~~(1) Theft of a motor vehicle for financial gain.~~
- 23 ~~(2) Reporting that a motor vehicle has been stolen for~~  
24 ~~the purpose of filing a false insurance claim.~~
- 25 ~~(3) Engaging in any act prohibited by Chapter 3.5~~  
26 ~~(commencing with Section 10801) of Division 4 of the~~  
27 ~~Vehicle Code.~~
- 28 ~~(4) Switching of vehicle identification numbers to~~  
29 ~~obtain title to a stolen motor vehicle.~~

30 ~~(f) The Department of Insurance shall submit an~~  
31 ~~annual report to the Assembly and Senate Committees on~~  
32 ~~Insurance identifying, at a minimum, the opportunities~~  
33 ~~for improving the fraud programs funded by this section~~  
34 ~~through greater coordination of investigative efforts~~  
35 ~~between agencies and through strengthening of financial~~  
36 ~~controls.~~

37 ~~SEC. 2. Section 1872.8 is added to the Insurance Code,~~  
38 ~~to read:~~

39 ~~1872.8. (a) Each insurer doing business in this state~~  
40 ~~shall pay to the commissioner an annual fee of one dollar~~



1 and fifty cents (\$1.50) for each vehicle insured under an  
2 insurance policy it issues in this state, in order to fund  
3 increased investigation and prosecution of fraudulent  
4 automobile insurance claims and economic automobile  
5 theft.

6 A percentage amount equivalent to fifty five and  
7 ninety-six one hundredths cents (\$0.5596) of the one  
8 dollar and fifty cent (\$1.50) assessment fee per insured  
9 vehicle shall be distributed to the Bureau of Fraudulent  
10 Claims for enhanced investigative efforts, of which a  
11 percentage amount equivalent to not less than six cents  
12 (\$0.06) of the assessment fee shall be spent for enhanced  
13 automobile insurance fraud investigation by the bureau.  
14 A percentage amount equivalent to twenty-one and  
15 thirty-seven one hundredths cents (\$0.2137) of the one  
16 dollar and fifty cent (\$1.50) assessment fee per insured  
17 vehicle shall be deposited in the Motor Vehicle Account  
18 for appropriation to the Department of the California  
19 Highway Patrol for enhanced prevention and  
20 investigative efforts to deter economic automobile theft.  
21 A percentage amount equivalent to seventy-two and  
22 sixty-seven one hundredths cents (\$0.7267) of the one  
23 dollar and fifty cent (\$1.50) assessment fee per insured  
24 vehicle shall be distributed to district attorneys for  
25 purposes of investigation and prosecution of automobile  
26 insurance fraud cases, including fraud involving  
27 economic automobile theft.

28 (b) The commissioner shall award funds to district  
29 attorneys according to population. The commissioner  
30 may alter this distribution formula as necessary to achieve  
31 the most effective distribution of funds. Each local district  
32 attorney desiring a portion of those funds shall submit to  
33 the commissioner an application detailing the proposed  
34 use of any moneys that may be provided. The application  
35 shall include a detailed accounting of assessment funds  
36 received and expended in prior years, including at a  
37 minimum (1) the amount of funds received and  
38 expended; (2) the uses to which those funds were put,  
39 including payment of salaries and expenses, purchase of  
40 equipment and supplies, and other expenditures by type;



1 ~~(3) results achieved as a consequence of expenditures~~  
2 ~~made, including the number of investigations, arrests,~~  
3 ~~complaints filed, convictions, and the amounts originally~~  
4 ~~claimed in cases prosecuted compared to payments~~  
5 ~~actually made in those cases; and (4) other relevant~~  
6 ~~information as the commissioner may reasonably require.~~  
7 ~~Any district attorney who fails to submit an application~~  
8 ~~within 90 days of the commissioner's deadline for~~  
9 ~~applications shall be subject to loss of distribution of the~~  
10 ~~money. The commissioner may consider~~  
11 ~~recommendations and advice of the bureau and the~~  
12 ~~Commissioner of the California Highway Patrol in~~  
13 ~~allocating moneys to local district attorneys. Any district~~  
14 ~~attorney that receives funds shall submit an annual report~~  
15 ~~to the commissioner, which may be made public, as to the~~  
16 ~~success of the program administered. The report shall~~  
17 ~~provide information and statistics on the number of~~  
18 ~~active investigations, arrests, indictments, and~~  
19 ~~convictions. Both the application for moneys and the~~  
20 ~~distribution of moneys shall be public documents. The~~  
21 ~~commissioner shall conduct a fiscal audit of the programs~~  
22 ~~administered under this subdivision at least once every~~  
23 ~~three years. The cost of a fiscal audit shall be shared~~  
24 ~~equally between the department and the district~~  
25 ~~attorney. Information submitted to the commissioner~~  
26 ~~pursuant to this section concerning criminal~~  
27 ~~investigations, whether active or inactive, shall be~~  
28 ~~confidential.~~

29 ~~(e) Except for funds to be deposited in the Motor~~  
30 ~~Vehicle Account for allocation to the California Highway~~  
31 ~~Patrol for purposes of the Motor Vehicle Prevention Act,~~  
32 ~~(Chapter 5 (commencing with Section 10900) of Division~~  
33 ~~4 of the Vehicle Code), the funds received under this~~  
34 ~~section shall be deposited in the Insurance Fund and be~~  
35 ~~expended and distributed when appropriated by the~~  
36 ~~Legislature.~~

37 ~~(d) In the course of its investigations, the Bureau of~~  
38 ~~Fraudulent Claims shall aggressively pursue all reported~~  
39 ~~incidents of probable fraud and, in addition, shall forward~~  
40 ~~to the appropriate disciplinary body the names of any~~



1 individuals licensed under the Business and Professions  
2 Code who are suspected of actively engaging in  
3 fraudulent activity along with all relevant supporting  
4 evidence.

5 (e) As used in this section “economic automobile  
6 theft” means automobile theft perpetrated for financial  
7 gain, including, but not limited to, the following:

8 (1) Theft of a motor vehicle for financial gain.

9 (2) Reporting that a motor vehicle has been stolen for  
10 the purpose of filing a false insurance claim.

11 (3) Engaging in any act prohibited by Chapter 3.5  
12 (commencing with Section 10801) of Division 4 of the  
13 Vehicle Code.

14 (4) Switching of vehicle identification numbers to  
15 obtain title to a stolen motor vehicle.

16 (f) The Department of Insurance shall submit an  
17 annual report to the Assembly and Senate Committees on  
18 Insurance identifying, at a minimum, the opportunities  
19 for improving the fraud programs funded by this section  
20 through greater coordination of investigative efforts  
21 between agencies and through strengthening of financial  
22 controls.

23 (g) This section shall become operative on January 1,  
24 2007.

25 ~~SEC. 3.~~

26 *SECTION 1.* Section 1872.81 is added to the Insurance  
27 Code, to read:

28 1872.81. (a) In addition to the fee imposed pursuant  
29 to Section 1872.8, each insurer doing business in this state  
30 shall pay to the commissioner an annual fee of thirty cents  
31 (\$0.30) for each vehicle insured under an insurance  
32 policy it issues in this state, for expenditure as follows:

33 (a)

34 (1) An amount equivalent to twenty cents (\$0.20) of  
35 the fee imposed per insured vehicle by this section shall  
36 be used for the purpose of paying for consumer service  
37 functions of the department that are related to  
38 automobile insurance. The revenues under this  
39 subdivision shall be used to improve service to consumers  
40 through the rating and underwriting services bureau, the



1 claims services bureau, the investigations bureau, or any  
2 successor bureaus of the department that may assume the  
3 consumer service functions of these bureaus. It is the  
4 intent of the Legislature that the highest priority for use  
5 of these revenues during the 1999–00 and 2000–01 fiscal  
6 years shall be to eliminate the backlog of consumer  
7 complaints relative to automobile insurance policies,  
8 insurers selling automobile policies, and agents and  
9 brokers selling those policies. The department shall  
10 develop a plan for the use of the revenues available under  
11 this subdivision for the purposes authorized, and shall  
12 submit the plan to the Assembly and Senate Committees  
13 on Insurance.

14 ~~(b)~~

15 (2) An amount equivalent to ten cents (\$0.10) of the  
16 fee imposed per insured vehicle by this section shall be  
17 used for the purpose of improving consumer functions of  
18 the department related to automobile insurance.  
19 Revenues available under this subdivision shall be used to  
20 improve consumer functions through one or more of the  
21 following: ~~—(1) (A) the rating and underwriting services~~  
22 ~~bureau, (2) the claims services bureau, (3) the bureau,~~  
23 ~~(B) the claims services bureau, (C) the investigations~~  
24 ~~bureau, and—(4) (D) any successor bureau of the~~  
25 ~~department that may assume automobile insurance~~  
26 ~~consumer functions of these bureaus. These revenues~~  
27 ~~may also be used for improving the ability of the~~  
28 ~~department to respond to consumer complaints and~~  
29 ~~information requests through the department’s toll-free~~  
30 ~~telephone number, and for improving the ability of the~~  
31 ~~department to offer information about automobile~~  
32 ~~insurance rates to the public. The department shall~~  
33 ~~develop a plan for the use of the revenues available under~~  
34 ~~this subdivision for the purpose authorized, and shall~~  
35 ~~submit the plan to the Assembly and Senate Committees~~  
36 ~~on Insurance.~~

37 *(b) This section shall remain in effect only until*  
38 *January 1, 2007, and as of that date is repealed, unless a*  
39 *later enacted statute, that is enacted before January 1,*  
40 *2007, deletes or extends that date.*



1 ~~SEC. 4.~~

2 *SEC. 2.* Section 1874.8 is added to the Insurance Code,  
3 to read:

4 1874.8. (a) Each insurer doing business in this state  
5 shall pay an annual fee to be determined by the  
6 commissioner, but not to exceed fifty cents (\$0.50)  
7 annually for each vehicle insured under an insurance  
8 policy it issues in this state, in order to fund the Bureau  
9 of Fraudulent Claims and an Organized Automobile  
10 Fraud Activity Interdiction Program.

11 (b) This section shall remain in effect only until  
12 January 1, 2007, and as of that date is repealed, unless a  
13 later enacted statute, that is enacted before January 1,  
14 2007, deletes or extends that date.

15 ~~SEC. 5.~~

16 *SEC. 3.* Section 12978 of the Insurance Code is  
17 amended to read:

18 12978. Notwithstanding any other provision of law,  
19 the commissioner may increase or decrease the fees set  
20 forth in this code as necessary to allow the department to  
21 meet the appropriation authorized by the annual Budget  
22 Act. However, any increase or decrease so made shall be  
23 made only in accordance with this section, and a fee  
24 increase shall not exceed 10 percent without the prior  
25 approval of the Legislature.

26 A single annual increase or decrease in fees, on a fiscal  
27 year basis, may be made by the department at any time  
28 during the year provided it is announced by bulletin  
29 issued at least 90 days prior to the effective date of that  
30 increase or decrease. The bulletin shall be sent to all  
31 affected parties and to both houses of the Legislature.  
32 That fee increase or decrease may be rescinded by a  
33 majority vote of both houses of the Legislature not later  
34 than 60 days after the issuance of the bulletin announcing  
35 the increase or decrease.

36 In the event the bulletin is issued during the period  
37 between August 1 and December 1 of any year, the  
38 department shall provide notice in writing of the  
39 necessity of any fee increase or decrease as proposed in  
40 the bulletin upon issuance of the bulletin to the



1 chairperson of the committee in each house which  
2 considers appropriations and the Chairperson of the Joint  
3 Legislative Budget Committee.

4 If written notice is provided to the commissioner  
5 within 60 days of the issuance of the bulletin announcing  
6 the increase or decrease by any of the chairpersons that  
7 there is an objection to the fee increase or decrease, the  
8 increase or decrease shall take effect February 1 of the  
9 following year unless rescinded by a majority vote of both  
10 houses of the Legislature by that date, rather than 60 days  
11 after issuance of the bulletin.

12 The department shall annually project forward its  
13 workload for the subsequent three years in order to  
14 project appropriate fee levels, and shall annually make  
15 adjustments to those fees, if necessary, based on actual  
16 workload experience.

17 The limit on the cumulative amount that the fees may  
18 be increased or decreased shall be the amount necessary  
19 to provide sufficient moneys to carry out the projected  
20 workload within the appropriations contained in the  
21 Governor's Budget for the next succeeding fiscal year, or,  
22 to the extent that moneys received or projected to be  
23 received by the department are insufficient to carry out  
24 the projected workload within the appropriation  
25 authorized by the annual Budget Act during the then  
26 current fiscal year, an amount necessary to meet that  
27 appropriation and consistent with that projected  
28 workload.

29 ~~SEC. 6. (a) Section 1 of this bill shall become~~  
30 ~~operative only if Assembly Bill 1050 of the 1999-2000~~  
31 ~~Regular Session is not enacted, in which case Sections 2~~  
32 ~~and 4 of this bill shall not become operative.~~

33 ~~(b) Sections 2 and 4 of this bill shall become operative~~  
34 ~~only if this bill and Assembly Bill 1050 of the 1999-2000~~  
35 ~~Regular Session are enacted and become effective on or~~  
36 ~~before January 1, 2000, and Assembly Bill 1050 adds~~  
37 ~~Section 1874.8 to the Insurance Code, in which case~~  
38 ~~Section 1 of this bill shall not become operative.~~

39 ~~(c) If Section 4 of this bill becomes operative pursuant~~  
40 ~~to subdivision (b), then Section 1874.8 of the Insurance~~



1    *SEC. 4. This act shall become operative only if*  
2    *Assembly Bill 1050 of the 1999–2000 Regular Session is*  
3    *enacted and becomes effective on or before January 1,*  
4    *2000, in which case Section 1874.8 of the Insurance Code,*  
5    *as added by Assembly Bill 1050 of the 1999–2000 Regular*  
6    *Session, shall prevail to the extent that it provides for the*  
7    *allocation and distribution of funds under the program*  
8    *established to target organized automobile fraud activity.*

