

Introduced by Senator Gaines

January 27, 2011

An act to amend Section 1872.8 of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 130, as introduced, Gaines. Insurance: fraud prevention.

Existing law requires an insurer doing business in this state to pay an annual special purpose assessment to be determined by the Insurance Commissioner, but not to exceed \$1.00 annually, for each vehicle insured under an insurance policy it issues in this state, in order to fund increased investigation and prosecution of fraudulent automobile insurance claims and economic automobile theft.

This bill would make technical, nonsubstantive changes to those provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
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 amended
- 2 to read:
- 3 1872.8. (a) An insurer doing business in this state shall pay
- 4 an annual special purpose assessment to be determined by the
- 5 commissioner, but not to exceed one dollar (\$1) annually, for each
- 6 vehicle insured under an insurance policy it issues in this state, in
- 7 order to fund increased investigation and prosecution of fraudulent
- 8 automobile insurance claims and economic automobile theft.
- 9 Thirty-four percent of those funds received from ninety-five cents

1 (\$0.95) of the special purpose assessment per insured vehicle shall
2 be distributed to the Fraud Division for enhanced investigative
3 efforts, 15 percent of that ninety-five cents (\$0.95) shall be
4 deposited in the Motor Vehicle Account for appropriation to the
5 Department of the California Highway Patrol for enhanced
6 prevention and investigative efforts to deter economic automobile
7 theft, and 51 percent of that ninety-five cents (\$0.95) shall be
8 distributed to district attorneys for purposes of investigation and
9 prosecution of automobile insurance fraud cases, including fraud
10 involving economic automobile theft.

11 (b) (1) The commissioner shall award funds to district attorneys
12 according to population. The commissioner may alter this
13 distribution formula as necessary to achieve the most effective
14 distribution of funds. A local district attorney desiring a portion
15 of those funds shall submit to the commissioner an application
16 detailing the proposed use of any moneys that may be provided.
17 The application shall include a detailed accounting of assessment
18 funds received and expended in prior years, including, at a
19 minimum, all of the following:

20 (A) The amount of funds received and expended.

21 (B) The uses to which those funds were put, including payment
22 of salaries and expenses, purchase of equipment and supplies, and
23 other expenditures by type.

24 (C) The results achieved as a consequence of expenditures made,
25 including the number of investigations, arrests, complaints filed,
26 convictions, and the amounts originally claimed in cases prosecuted
27 compared to payments actually made in those cases.

28 (D) Other relevant information as the commissioner may
29 reasonably require.

30 A district attorney who fails to submit an application by the
31 deadline set by the commissioner shall be subject to loss of
32 distribution of the moneys. The commissioner may consider
33 recommendations and advice of the Fraud Division and the
34 Commissioner of the California Highway Patrol in allocating
35 moneys to local district attorneys. A district attorney that receives
36 funds shall submit an annual report to the commissioner, which
37 may be made public, as to the success of the program administered.
38 The report shall provide information and statistics on the number
39 of active investigations, arrests, indictments, and convictions. Both
40 the application for moneys and the distribution of moneys shall

1 be public documents. The commissioner shall conduct a fiscal
2 audit of the programs administered under this subdivision at least
3 once every three years. The costs of a fiscal audit shall be shared
4 equally between the department and the district attorney.
5 Information submitted to the commissioner pursuant to this section
6 concerning criminal investigations, whether active or inactive,
7 shall be confidential. If the commissioner determines that a district
8 attorney is unable or unwilling to investigate and prosecute
9 automobile insurance fraud claims as provided by this subdivision
10 or Section 1874.8, the commissioner may discontinue the
11 distribution of funds allocated for that county and may redistribute
12 those funds to other eligible district attorneys.

13 (2) The Department of the California Highway Patrol shall
14 submit to the commissioner, for informational purposes only, a
15 report detailing the department's proposed use of funds under this
16 section and an annual report in the same format as required of
17 district attorneys under paragraph (1).

18 (c) The remaining five cents (\$0.05) shall be spent for enhanced
19 automobile insurance fraud investigation by the Fraud Division.

20 (d) Except for funds to be deposited in the Motor Vehicle
21 Account for allocation to the Department of the California Highway
22 Patrol for purposes of the Motor Vehicle Theft Prevention Act
23 (Chapter 5 (commencing with Section 10900) of Division 4 of the
24 Vehicle Code), the funds received under this section shall be
25 deposited in the Insurance Fund and be expended and distributed
26 when appropriated by the Legislature.

27 (e) In the course of its investigations, the Fraud Division shall
28 pursue aggressively all reported incidents of probable fraud and,
29 in addition, shall forward to the appropriate disciplinary body the
30 names of individuals licensed under the Business and Professions
31 Code who are suspected of actively engaging in fraudulent activity
32 along with all relevant supporting evidence.

33 (f) As used in this section, "economic automobile theft" means
34 automobile theft perpetrated for financial gain, including, but not
35 limited to, the following:

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

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

- 1 (3) Engaging in—~~any~~ *an* act prohibited by Chapter 3.5
- 2 (commencing with Section 10801) of Division 4 of the Vehicle
- 3 Code.
- 4 (4) Switching of vehicle identification numbers to obtain title
- 5 to a stolen motor vehicle.

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