



SPONSOR: Rep. Paradee & Rep. Carson & Sen. Henry &
Sen. Pettyjohn
Reps. Heffernan, Keeley, Lynn, Mitchell, Osienski,
K. Williams; Sen. Ennis

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 80

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO INSURANCE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Chapter 25, Title 18, of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 2535 Rating Factors for Motor Vehicle Insurance; Good Driver Discount Plan.

4 (a) Rates and premiums for an automobile insurance policy, as described in § 3903(a)(3) of this title, shall be
5 determined by application of the following factors in decreasing order of importance:

6 (1) The insured's at-fault claims experience.

7 (2) The insured's driving safety record.

8 (3) The number of miles he or she drives annually.

9 (4) The number of years of driving experience the insured has had.

10 (b) In addition to the rating factors required by subsection (a) of this section, an insurer's class plan, and all rates
11 and premiums determined in accordance therewith, may utilize the following optional rating factors:

12 (1) Type of vehicle.

13 (2) Vehicle performance capabilities, including alterations made subsequent to original manufacture.

14 (3) Type of use of vehicle (pleasure only, commute, business, farm, commute mileage, etc.)

15 (4) Percentage of use of the vehicle by the rated driver.

16 (5) Multi-vehicle households.

17 (6) Completion of driver training or defensive driving courses by rated driver.

18 (7) Vehicle characteristics, including engine size, safety and protective devises, damageability, repairability,
19 and theft deterrent devices.

20 (8) Persistency.

21 a. At policy renewal, persistency credit may be applied by an insurer or affiliate for the current named
22 insured. Persistency credit may also be applied when issuing a separate new automobile policy for a person who is
23 not the named insured on a policy, but is otherwise currently insured.

24 b. An insurer shall not apply a persistency credit for a new policy issued to an individual, unless that
25 individual is currently insured. Nor shall any insurer apply persistency, at any time, when based in whole or in
26 part upon automobile insurance coverage provided by a non-affiliated insurer.

27 c. This subsection shall not be construed to expand or restrict an insurer's ability to obtain evidence of a
28 person's driving safety record. However, when such evidence concerns proof of prior insurance, this subsection
29 shall apply.

30 d. For purposes of this subsection, "currently insured" means a person who is presently covered for
31 automobile insurance by the insurer or an affiliate, other than as an unnamed person who is covered under a
32 permissive user or similar provision.

33 (9) Non-smoker status.

34 (10) Secondary driver characteristics. For drivers not assigned as a primary or secondary driver to another
35 vehicle, this factor may be composed of a combination of the following factors: safety record, years licensed and driver
36 training.

37 (11) Multi-policies with the same, or an affiliated, company.

38 (12) Relative claims frequency. This factor shall contain a maximum of 20 categories and shall reflect where
39 the insured vehicle is garaged. These categories shall be based on grouping the zip codes in the state into bands.
40 Alternately, the bands could be based on grouping the census tracts in the State. Each band shall contain areas with a
41 similar average claims frequency. In the event that the data for a zip code or census tract is not fully credible, the
42 adjustment process described by the regulations promulgated pursuant to this section shall be followed.

43 (13) Relative claims severity. This factor shall contain a maximum of 20 categories and shall reflect where the
44 insured vehicle is garaged. These categories shall be based on grouping the zip codes in the state into bands.
45 Alternately, the bands could be based on grouping the census tracts in the State. Each band shall contain areas with a
46 similar average claims severity. In the event that the data for a zip code or census tract is not fully credible, the
47 adjustment process described by the regulations promulgated pursuant to this section shall be followed.

48 (c) The Commissioner shall adopt regulations setting forth the respective weight to be given each factor in
49 determining automobile rates and premiums. Notwithstanding any other provision of law, the use of any criterion without
50 approval shall constitute unfair discrimination.

51 (d) Except as expressly set forth in this subsection, the four mandatory factors set forth in subsection (a) of this
52 subsection may not be combined with any other factor. Optional rating factors for percent use and driver training may be
53 combined with number of years of driving experience. If an insurer elects to combine number of years of driving
54 experience with percent use or driver training, the insurer shall demonstrate in its class plan that the rating factors used in
55 combination, when considered individually, comply with the weight ordering requirements the Commissioner shall
56 establish by regulation.

57 (e) (1) Every person who meets the criteria of subsection (h) of this section shall be qualified to purchase a Good
58 Driver Discount policy from the insurer of his or her choice. An insurer shall not refuse to offer and sell a Good Driver
59 Discount policy to any person who meets the standards of this section.

60 (2) The rate charged for a Good Driver Discount policy shall comply with subsection (a) of this section and
61 shall be at least 10 percent below the rate the insured would otherwise have been charged for the same coverage. Rates
62 for Good Driver Discount policies shall be approved pursuant to this chapter.

63 (f) The absence of prior automobile insurance coverage, in and of itself, shall not be a criterion for determining
64 eligibility for a Good Driver Discount policy, or generally for automobile rates, premiums or insurability.

65 (g) An insurer may refuse to sell a Good Driver Discount Policy insuring a motorcycle unless all named insureds
66 have been licensed to drive a motorcycle for the previous three years.

67 (h) A person is qualified to purchase a Good Driver Discount policy if he or she meets all of the following criteria:

68 (1) He or she has been licensed to drive a motor vehicle for the previous three years.

69 (2) During the previous three years, he or she has not committed any of the acts specified in §§ 3904(a)(7)d.,
70 3904(a)(7)g., or 3904(a)(7)h. of this title;

71 (3) During the period commencing on January 1, 2001, or the date 10 years prior to the date of application for
72 the issuance or renewal of the Good Driver Discount policy, whichever is later, and ending on the date of the
73 application for the issuance or renewal of the Good Driver Discount policy, he or she has not been convicted of a
74 violation of §§ 4177 or 4177L of Title 21 or §§ 629 or 630A of Title 11 (whether during operation of a motor vehicle
75 or vessel).

76 (4) Any person who claims that he or she meets the criteria of paragraphs (h)(1), (2) and (3) of this section
77 based entirely or partially on a driver's license and driving experience acquired anywhere other than in the United
78 States or Canada is rebuttably presumed to be qualified to purchase a Good Driver Discount policy if he or she has
79 been licensed to drive in the United States or Canada for at least the previous 18 months and meets the criteria of
80 paragraphs (h)(1), (2) and (3) of this section for that period.

81 (i) This section shall become operative on January 1, 2018. The Commissioner shall adopt regulations
82 implementing this section and insurers may submit rate filings pursuant to this chapter which comply with those regulations
83 prior to that date, provided that no such rate filing shall be approved prior to that date.

84 Section 2. Amend §3903, Title 18 of the Delaware Code by making deletions as shown by strike through and
85 insertions as shown by underline as follows:

86 § 3903 Cancellation or nonrenewal of automobile policy; definitions; scope.

87 (c)(1) Notwithstanding § 3911 of this title, the transfer of a policyholder between authorized insurers within the
88 same insurance group is not a cancellation or nonrenewal if the policyholder's premium does not increase and the
89 policyholder does not experience a reduction in coverage. A policyholder so transferred must be provided with written
90 notice of the transfer.

91 ~~(2) A transfer under this subsection shall be treated as a renewal for purposes of the use of credit information~~
92 ~~pursuant to Chapter 83 of this title.~~

93 ~~(3)~~ The notice required under this subsection shall be made no less than 20 days before the effective date of
94 the proposed transfer. The notice may be a part of a renewal form sent to the policyholder renewing the coverage by
95 the new insurer.

96 Section 3. Amend Chapter 39, Title 18 of the Delaware Code by making deletions as shown by strike through and
97 insertions as shown by underline as follows:

98 § 3919 Good Driver Discounts; Minimum Financial Responsibility Coverage Policies.

99 (a) An insurer issuing policies as described in § 3903(a)(3) of this title shall, as a condition of obtaining and
100 maintaining a certificate of authority to transact the business of insurance in this state, offer to persons who qualify for a
101 good driver discount pursuant to § 2535 of this title automobile liability coverage in the minimum financial responsibility
102 coverage amounts specified in § 2118(a) of Title 21 of the Delaware Code, and sell that coverage to those who request it.

103 (b) In soliciting the issuance or renewal of a policy of automobile liability insurance, an insurer, broker, agent or
104 any other employee of the insurer shall disclose to persons eligible for a good driver discount the minimum financial
105 responsibility coverage amounts required pursuant to § 2118(a) of Title 21 of the Delaware Code, and that the insurer is
106 legally required to furnish coverage in those minimum amounts, if requested.

107 (c) Nothing in this section shall be construed to affect any obligation imposed on any insurer by law to offer and
108 sell any other kind or amount of insurance.

109 Section 4. Amend §8302, Title 18 of the Delaware Code by making deletions as shown by strike through and
110 insertions as shown by underline as follows:

111 § 8302 Applicability.

112 This chapter applies to all policies of ~~automobile, motorcycle~~, boat and personal watercraft, recreational vehicle,
113 homeowners, mobile-homeowners, manufactured homeowners insurance, and noncommercial dwelling fire insurance
114 issued by an insurer for personal or family protection.

115 Section 5. This Act shall take effect on January 1, 2018.

SYNOPSIS

This legislation establishes permissible rating factors for insurance companies to use in the rating of automobile insurance and requires the offering of a good driver discount plan for qualified drivers.