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:

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

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

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

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

(2) The insured's driving safety record.

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

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

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

(1) Type of vehicle.

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

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

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

(5) Multi-vehicle households.

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

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

(8) Persistency.

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

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

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

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

(9) Non-smoker status.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 8302 Applicability.

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

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.