SENATE DOCKET, NO. 223 FILED ON: 1/15/2013

SENATE . . . . . No. 420

The Commonwealth of Massachusetts

PRESENTED BY:

William N. Brownsberger

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act to stress user-controllable factors in automobile insurance premiums.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
William N. Brownsberger	*Second Suffolk and Middlesex*
David M. Rogers	*24th Middlesex*

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By Mr. Brownsberger, a petition (accompanied by bill, Senate, No. 420) of William N. Brownsberger and David M. Rogers relative to the setting of rates for automobile insurance policies. Financial Services.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
HOUSE
, NO. *278* OF 2011-2012.]

The Commonwealth of Massachusetts

An Act to stress user-controllable factors in automobile insurance premiums.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 175 of the General Laws of Massachusetts, as appearing in the 2010 Official Edition, is hereby amended by striking out section 22E, and inserting in place thereof the following section:

Section 22E. No insurance company, and no officer or agent thereof on its behalf, shall refuse to issue, renew or execute as surety a motor vehicle liability policy or bond, or any other insurance based on the ownership or operation of a motor vehicle because of any factor other than driving record, which shall reflect only the number and severity of an insured's at-fault accidents and the number and type of an insured's moving traffic violations. For purposes of this section, "insurance company" shall mean all members of the same insurance company group. A particular company may make a general reduc-tion in volume of automobile insurance in the commonwealth if such a reduction is determined by the commissioner not to be an attempt to circumvent the purposes of this section and that the company's refusal to write motor vehicle liability policies or bonds is not contrary to the public interest by disrupting the market for such insurance in the commonwealth. Any company which does not intend to issue a renewal policy shall give written notice of its intent not to issue a policy for the ensuing policy period in accordance with section 113F and such notice shall provide the specific reasons for such nonrenewal.

18 SECTION 2. Section 193R of chapter 175 of the General Laws, as so appearing, is
19 hereby amended by striking out the second-to-last paragraph starting with "Rates for such
20 policies …" and inserting in place thereof the following paragraph:

21 Rates for such policies shall be determined in accordance with the provisions of this
22 chapter, chapter one hundred seventy-five E, chapter one hundred and seventy-four A, or chapter
23 one hundred and seventy-five A applicable to the type of insurance provided, except that in
24 addition to the applicable provisions of said chapter every insurer providing insurance in
25 accordance with this section shall keep and maintain separate data on the losses and expenses for
26 each employer, trade union, association or organization so insured and shall not be allowed to
27 offer any such insured a modification of the rates so determined for such insured until and unless
28 data of such losses and expenses for at least three policy years shows, to the satisfaction of the
29 commissioner, that such modification is in fact justified based solely on direct reductions in
30 losses resulting entirely from cost-saving measures undertaken by the group or on direct
31 reductions in expenses resulting from the group marketing technique or both. For the purposes
32 of this section, deviations approved during the first three years of a group marketing plan by the
33 commissioner based solely on direct reductions in expenses resulting from the group marketing
34 technique shall be permitted. The justification required under this paragraph shall be provided
35 simultaneously to the commissioner and to the attorney general, either of whom may require a
36 hearing on such modification of rates, which shall be held pursuant to the provisions of this
37 chapter, chapter one hundred seventy-five E, chapter one hundred seventy-four A or chapter one
38 hundred and seventy-five A applicable to the type of insurance provided. Every mutual
39 company providing insurance in ac-cordance with this section shall constitute each group
40 marketing plan which has been in effect three policy years as a separate class of business for the
41 purpose of paying dividends and any dividends on such plan shall be declared on the profits of
42 the company from said class of business.

43 SECTION 3. Section 4 of chapter 175E of the General Laws, as so appearing, is hereby
44 amended by striking out lines 32 to 39, and inserting in place thereof the following words:

45 Motor vehicle insurance premium charges shall be determined solely by application of
46 any combination of some or all of the following factors which primarily are user-controllable and
47 are directly related to the operation of a motor vehicle:

48 (i) the insured's territory;

49 (ii) the number and severity of an insured's at-fault accidents;

50 (iii) the number and type of an insured's moving traffic violations;

51 (iv) the status of the insured's driver's license;

52 (v) the number of miles an insured drives annually;

53 (vi) the number of years that the insured has been driving, as long as this factor does not
54 receive more weight in the determination of classification rates than it did in the rates fixed and
55 established for policy year two thousand and seven (2007);

56 (vii) the make, model, and age of the insured vehicle, except that this factor shall not
57 explicitly or implicitly reflect the loss or expense experience associated with the individuals who
58 tend to operate that type of vehicle;

59 (viii) the number of vehicles insured, except that the impact of this factor shall not be
60 larger than it was in the rates fixed and established for policy year 2007;

61 (ix) a qualifying driver education program;

62 (x) a qualifying mass transit system usage;

63 (xi) a discount approved pursuant to section 193R of chapter 175; and

64 (xii) any other factors contained in this subsection (d).

65 Additional factors, such as the use of telematics (e.g., so-called "black boxes" that record
66 a driver's operation of the vehicle) may be added to this group by the submission of such factors
67 to the Legislature by the Commissioner of Insurance, and by the approval of the Legislature.

68 All insurers that are affiliated or that are members of the same insurance holding
69 company system as defined by section 206 of chapter 175 or that are otherwise under common
70 ownership or management may use only one set of rates, including any discounts, credits,
71 surcharges, dividends, rating plans, or other mechanisms that affect the amount an insured is
72 charged.

73 SECTION 4. Section 7 of said chapter 175E, as so appearing, is hereby further amended
74 by striking out the first three (3) paragraphs and inserting in place thereof the following three (3)
75 paragraphs:-

76 Every insurer or rating organization authorized to file on behalf of such insurer shall file
77 with the commissioner, or his designated representative, and the attorney general, or his
78 designated representative, every manual of its classifications, rules and rates, rating plans and
79 modifications of any of the foregoing not less than 45 days before the effective date thereof.
80 Every such filing shall state the effective date thereof, and such filing shall indicate the character
81 and extent of the coverage contemplated. The commissioner or the attorney general may require
82 such insurer or rating organization to furnish the information upon which it supports such filing.

83 The commissioner may specify the form to be used for any filing or submission pursuant
84 to this chapter.

85 The commissioner may in his discretion, and shall on the motion of the attorney general,
86 initiate a hearing on any such filing prior to its effective date after at least twenty (20) days'
87 notice. During any proceeding on such a filing, the attorney general may: conduct discovery of
88 each insurer or rating authorization relative to any such filing; call witnesses; cross examine
89 witnesses; present evidence; and file pleadings, motions and other papers. An insurer or rating
90 organization shall respond to any discovery request filed pursuant to this section within ten (10)
91 days.

92 SECTION 5. This act shall take effect six (6) months following the date of its enactment.
93 Any actions on the part of any insurance company or group that have taken place since March
94 31st of the year two thousand and twelve (2012) and are not in compliance with the provisions of
95 this act shall be brought into compliance with these provisions.