

HOUSE No. 873

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

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:

1 SECTION 1. Chapter 175 of the General Laws of Massachusetts, as appearing in the
2 2006 Official Edition, is hereby amended by striking out section 22E, and inserting in place
3 thereof the following section: Section 22E. No insurance company, and no officer or agent
4 thereof on its behalf, shall refuse to issue, renew or execute as surety a motor vehicle liability
5 policy or bond, or any other insurance based on the ownership or operation of a motor vehicle
6 because of any factor other than driving record, which shall reflect only the number and severity
7 of an insured's at-fault accidents and the number and type of an insured's moving traffic
8 violations. For purposes of this section, "insurance company" shall mean all members of the
9 same insurance company group. A particular company may make a general reduction in volume
10 of automobile insurance in the commonwealth if such a reduction is determined by the
11 commissioner not to be an attempt to circumvent the purposes of this section and that the
12 company's refusal to write motor vehicle liability policies or bonds is not contrary to the public
13 interest by disrupting the market for such insurance in the commonwealth. Any company which
14 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.

SECTION 2. Section 193R of chapter 175 of the General Laws, as so appearing, is hereby amended by striking out the second-to-last paragraph and inserting in place thereof the following paragraph:

Rates for such policies shall be determined in accordance with the provisions of this chapter, chapter one hundred seventy-five E, chapter one hundred and seventy-four A, or chapter one hundred and seventy-five A applicable to the type of insurance provided, except that in addition to the applicable provisions of said chapter every insurer providing insurance in accordance with this section shall keep and maintain separate data on the losses and expenses for each employer, trade union, association or organization so insured and shall not be allowed to offer any such insured a modification of the rates so determined for such insured until and unless data of such losses and expenses for at least three policy years shows, to the satisfaction of the commissioner, that such modification is in fact justified based solely on direct reductions in losses resulting entirely from cost-saving measures undertaken by the group or on direct reductions in expenses resulting from the group marketing technique or both. For the purposes of this section, deviations approved during the first three years of a group marketing plan by the commissioner based solely on direct reductions in expenses resulting from the group marketing technique shall be permitted. The justification required under this paragraph shall be provided simultaneously to the commissioner and to the attorney general, either of whom may require a hearing on such modification of rates, which shall be held pursuant to the provisions of this chapter, chapter one hundred seventy-five E, chapter one hundred and seventy-four A or chapter one hundred and seventy-five A applicable to the type of insurance provided. Every mutual

company providing insurance in accordance with this section shall constitute each group marketing plan which has been in effect three policy years as a separate class of business for the purpose of paying dividends and any dividends on such plan shall be declared on the profits of the company from said class of business.

SECTION 3. Section 4 of chapter 175E of the General Laws, as so appearing, is hereby amended by striking out, in lines 32 to 39, inclusive, the words “Risks may be grouped by classification for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Such standards may measure any difference among risks that have a probable effect upon losses or expenses. Such classifications and modifications shall apply to all risks under the same or substantially the same circumstances or conditions.” and inserting in place thereof the following words:

Motor vehicle insurance premium charges shall be determined solely by application of the following principally user-controllable factors:

- (i) the insured’s territory;
- (ii) the number and severity of an insured’s at-fault accidents;
- (iii) the number and type of an insured’s moving traffic violations;
- (iv) the status of the insured’s driver’s license;
- (v) the number of miles an insured drives annually;

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

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

(viii) the number of vehicles insured, except that the impact of this factor shall not be larger than it was in the rates fixed and established for policy year 2007; (ix) a qualifying driver education program;

(x) qualifying mass transit system usage; (xi) a discount approved pursuant to section 193R of chapter 175; and (xii) any other factors contained in this subsection (d).

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

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

Every insurer or rating organization authorized to file on behalf of such insurer shall file 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 20 days' notice.
87 During any proceeding on such a filing, the attorney general may: conduct discovery of each
88 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 10 days.

91 SECTION 5. This act shall take effect immediately upon its enactment. Any actions on
92 the part of any insurance company or group that have taken place since March 31st of 2008 and
93 are not in compliance with the provisions of this act shall be brought into compliance with these
94 provisions.