

1999 SENATE BILL 160

May 18, 1999 - Introduced by Senator BURKE, cosponsored by Representative CULLEN. Referred to Committee on Insurance, Tourism, Transportation and Corrections.

1 **AN ACT to amend** 625.12 (1) (e), 625.12 (2), 625.15 (1) and 628.34 (3) (a); and **to**
2 **create** 632.39 of the statutes; **relating to:** setting rates for certain motor
3 vehicle insurance policies and granting rule-making authority.

Analysis by the Legislative Reference Bureau

This bill specifies how an insurer must determine rates for certain motor vehicle insurance policies. The bill applies specifically to those policies that cover private passenger automobiles, motorcycles or mopeds, that do not cover more than four vehicles and that are issued to individuals who reside in a federal metropolitan statistical area in this state that contains a 1st class city (Milwaukee). The insurer must first divide the federal metropolitan statistical area into separate contiguous areas, each containing at least one municipality, defined in the bill as a city, village or town. The insurer must charge the same rate for the same or similar type of coverage under all policies to which the bill applies and that are issued to insureds residing in the same contiguous area. The insurer may establish no more than two rate bands for each type of coverage under all of the policies to which the bill applies. The bill specifies restrictions on how much the rates may differ from each other within and between rate bands. After determining the rates according to the requirements specified in the bill, an insurer may modify the rates for individual risks using factors specified by the commissioner by rule. The factors include the driving safety record and experience of the drivers of the insured vehicle, the value of the insured vehicle and the number of miles that it is driven each year and any other factors that the commissioner determines are relevant. The zip code of the

SENATE BILL 160

insured or any other driver of the insured vehicle may not be a basis for modifying a rate for individual risk.

Current law specifies factors to be considered in determining whether insurance rates in general comply with standards related to excessiveness, inadequacy and unfair discrimination, but does not enumerate specific factors that may be used in determining auto insurance rates or place limits on the range of rates that may be set. Current law, however, does prohibit an insurer from using odometer reading data collected in the course of an emissions inspection as a factor in setting auto insurance rates.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 625.12 (1) (e) of the statutes is amended to read:

2 625.12 (1) (e) Subject to s. ss. 632.365 and 632.39, all other relevant factors,
3 including the judgment of technical personnel.

4 **SECTION 2.** 625.12 (2) of the statutes is amended to read:

5 625.12 (2) CLASSIFICATION. ~~Risks~~ Except as provided in s. 632.39, risks may be
6 classified in any reasonable way for the establishment of rates and minimum
7 premiums, except that no classifications may be based on race, color, creed or
8 national origin, and classifications in automobile insurance may not be based on
9 physical condition or developmental disability as defined in s. 51.01 (5). Subject to
10 ~~s. ss. 632.365 and 632.39~~, rates thus produced may be modified for individual risks
11 in accordance with rating plans or schedules that establish reasonable standards for
12 measuring probable variations in hazards, expenses, or both. Rates may also be
13 modified for individual risks under s. 625.13 (2).

14 **SECTION 3.** 625.15 (1) of the statutes is amended to read:

15 625.15 (1) RATE MAKING. An insurer may itself establish rates and
16 supplementary rate information for one or more market segments based on the

SENATE BILL 160

1 factors in s. 625.12 and, if the rates are for motor vehicle liability insurance, subject
2 to ~~s. ss. 632.365 and 632.39~~, or the insurer may use rates and supplementary rate
3 information prepared by a rate service organization, with average expense factors
4 determined by the rate service organization or with such modification for its own
5 expense and loss experience as the credibility of that experience allows.

6 **SECTION 4.** 628.34 (3) (a) of the statutes is amended to read:

7 628.34 (3) (a) No insurer may unfairly discriminate among policyholders by
8 charging different premiums or by offering different terms of coverage except on the
9 basis of classifications related to the nature and the degree of the risk covered or the
10 expenses involved, subject to ss. 625.12 (2), 632.365, 632.39, 632.746 and 632.748.
11 Rates are not unfairly discriminatory if they are averaged broadly among persons
12 insured under a group, blanket or franchise policy, and terms are not unfairly
13 discriminatory merely because they are more favorable than in a similar individual
14 policy.

15 **SECTION 5.** 632.39 of the statutes is created to read:

16 **632.39 Setting rates for certain motor vehicle insurance policies. (1)**

17 SCOPE. This section applies to every motor vehicle insurance policy that is issued or
18 delivered to an individual who resides in the federal metropolitan statistical area in
19 this state that contains a 1st class city.

20 **(2) DEFINITIONS.** In this section:

21 (a) “Federal metropolitan statistical area” means an area defined by the federal
22 office of management and budget under 44 USC 3504 (d) (3) as a metropolitan
23 statistical area or a primary metropolitan statistical area.

24 (b) “Midpoint rate” means the arithmetic average of the lowest premium rate
25 and the highest premium rate within a rate band.

SENATE BILL 160**SECTION 5**

1 (c) “Motor vehicle insurance policy” means an insurance policy issued or
2 delivered in this state to an individual that provides motor vehicle physical damage
3 or collision coverage or coverage for the insured’s liability for loss or damage to a
4 person or property resulting from a motor vehicle accident, or any combination of
5 those types of coverage, and under which each motor vehicle designated as insured
6 is any of the following types:

7 1. A private passenger automobile that is not used as a public or livery
8 conveyance for passengers or rented to others.

9 2. Any other 4-wheel motor vehicle that is designed for travel on public roads
10 and that has a load capacity of no more than 1,500 pounds.

11 3. A motorcycle or moped.

12 (d) “Municipality” means a city, village or town.

13 **(3) DETERMINING RATES.** For all types of coverage under a policy that is subject
14 to this section, an insurer shall determine initial rates as follows:

15 (a) The insurer shall first divide the federal metropolitan statistical area
16 specified in sub. (1) into separate contiguous areas. Each such contiguous area must
17 include one or more municipalities and may not include less than all of any
18 municipality that is included in the contiguous area.

19 (b) All motor vehicle insurance policies subject to this section, of all insureds
20 residing within a contiguous area designated by the insurer under par. (a), shall
21 constitute a class.

22 (c) Except for modifications for individual risks as permitted by rule under sub.
23 (4) (a), the insurer shall charge the same rate for the same or similar type of coverage
24 under all policies within the same class.

SENATE BILL 160

1 (d) For each type of coverage, the insurer may establish no more than 2 rate
2 bands for all motor vehicle insurance policies subject to this section.

3 (e) No rate within a rate band may vary from the midpoint rate within the rate
4 band by more than 7.5% of that midpoint rate.

5 (f) If the insurer establishes 2 rate bands for a type of coverage, the highest rate
6 within one rate band may not vary from the highest rate within the other rate band
7 by more than 15% of the higher of those 2 rates.

8 **(4) RULES FOR MODIFICATIONS FOR INDIVIDUAL RISKS.** (a) The commissioner shall
9 promulgate rules specifying factors that an insurer, after determining rates as
10 provided in sub. (3), may consider in modifying such rates for individual risks. The
11 factors shall include all of the following:

12 1. Subject to s. 632.36 (1), the driving safety record, including accidents and
13 tickets, of the drivers of the insured motor vehicle.

14 2. The amount of driving experience of the drivers of the insured motor vehicle.

15 3. The number of miles that the insured motor vehicle is driven each year.

16 4. The value of the insured motor vehicle.

17 5. Subject to par. (b), any other factors that the commissioner determines are
18 relevant.

19 (b) Rates determined under sub. (3) may not be modified on the basis of the zip
20 code of the insured or the zip code of any other driver of the insured motor vehicle.

21 (c) Notwithstanding sub. (3) (e) and (f), a rate determined under sub. (3) that
22 is modified for individual risks in accordance with rules promulgated under par. (a)
23 may fall outside a rate band established under sub. (3).

24 **(5) RATE SERVICE ORGANIZATIONS.** If an insurer uses rates for motor vehicle
25 insurance policies that are prepared by a rate service organization designated under

SENATE BILL 160

1 s. 625.15, rates filed by the rate service organization on behalf of the insurer must
2 comply with this section.

3 **(6) EXCEPTIONS.** This section does not apply to a motor vehicle insurance policy
4 that insures more than 4 vehicles or that is issued under a risk-sharing plan
5 established under s. 619.01 (1) or continued under s. 619.01 (6).

6 **SECTION 6. Nonstatutory provisions; insurance.**

7 (1) The commissioner of insurance shall submit in proposed form the rules
8 required under section 632.39 (4) (a) of the statutes, as created by this act, to the
9 legislative council staff under section 227.15 (1) of the statutes no later than the first
10 day of the 10th month beginning after the effective date of this subsection.

11 **SECTION 7. Initial applicability; insurance.**

12 (1) This act first applies to rates and premiums for motor vehicle insurance
13 policies, as defined in section 632.39 (2) (c) of the statutes, as created by this act, that
14 are issued or renewed on the effective date of this subsection.

15 **SECTION 8. Effective dates; insurance.** This act takes effect on the first day
16 of the 13th month beginning after publication, except as follows:

17 (1) The treatment of section 632.39 (4) (a) and (b) of the statutes and SECTION
18 6 (1) of this act take effect on the day after publication.

19 (END)