

SB3388



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004
SB3388

Introduced 7/23/2004, by Sen. John J. Cullerton

SYNOPSIS AS INTRODUCED:

215 ILCS 5/143e new
625 ILCS 5/7-317

from Ch. 95 1/2, par. 7-317

Amends the Illinois Insurance Code. Provides that an insurer that delivers, issues for delivery, or renews a policy of automobile insurance in this State must offer the State, units of local government, and school districts automobile insurance coverage from that insurer a choice between a mile-based rating plan and a time-based rating plan for coverage for losses caused by collision or other driving-related accidents. Amends the Vehicle Code to include a reference to the mile-base rating plans.

LRB093 22835 AMC 52644 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning automobile insurance.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Insurance Code is amended by adding
5 Section 143e as follows:

6 (215 ILCS 5/143e new)

7 Sec. 143e. Mile-based rating plans.

8 (a) As used in this Section:

9 "Insurer" means any person duly licensed in this State as
10 an insurance company pursuant to Articles II, III, III 1/2, IV,
11 V, VI, and XVII of this Code.

12 "Mile-based rating plan" means a rating plan for which a
13 unit of exposure is one mile traveled by the insured motor
14 vehicle.

15 "Time-based rating plan" means a rating plan for which a
16 unit of exposure is a unit of time.

17 (b) An insurer that delivers, issues for delivery, or
18 renews a policy of automobile insurance, as defined in
19 subsection (a) of Section 143.13, in this State on or after the
20 effective date of this amendatory Act of the 93rd General
21 Assembly must offer the State, units of local government, and
22 school districts automobile insurance coverage from that
23 insurer a choice between a mile-based rating plan and a
24 time-based rating plan for coverage for losses caused by
25 collision or other driving-related accidents.

26 The insurer may require the State, units of local
27 government, and school districts to use the same rating plan
28 for all vehicles covered under its automobile insurance policy.

29 (c) Each insurer that offers the mile-based rating plan
30 under this Section shall annually file with the Director for
31 the Director's approval a schedule of the insurer's premium
32 rates for automobile insurance based on the mile-based rating

1 plan and the time-based rating plan used by that insurer. The
2 insurer shall file with the rate schedule a statement of any
3 fee to be charged for participation in the mile-based rating
4 plan.

5 (d) The Director shall analyze the premium rates filed by
6 an insurer under subsection (c). If the Director determines
7 that the filed rates are excessive in comparison to the premium
8 rates charged for similar coverage under a time-based rating
9 plan used by the insurer, the Director shall reject the rates
10 after notice to the insurer and an opportunity for a hearing.
11 The Director must notify the insurer that the rates are
12 rejected not later than the 60th day after the date on which
13 the rates are filed under subsection (c). An insurer may not
14 use rates rejected by the Director under this subsection.

15 (e) The Director shall:

16 (1) compile information regarding:

17 (A) the number of insurers writing motor vehicle
18 insurance based on mile-based rating plans;

19 (B) the geographic areas of this State in which
20 mile-based rating plans are used; and

21 (C) the premium rates for mile-based rating plans
22 compared to standard time-based rating plans; and

23 (2) analyze the effect of mile-based rating plans on
24 premium rates offered for motor vehicle insurance based on
25 time-based rating plans.

26 (f) The Director shall adopt rules as necessary or
27 appropriate to govern the use of a mile-based rating plan under
28 this Section, including rules regarding:

29 (1) prepayment arrangements;

30 (2) proof of financial responsibility;

31 (3) auditing of the odometer of a vehicle for the
32 purpose of determining whether coverage is in force; and

33 (4) policy forms.

34 Section 10. The Illinois Vehicle Code is amended by
35 changing Section 7-317 as follows:

1 (625 ILCS 5/7-317) (from Ch. 95 1/2, par. 7-317)

2 Sec. 7-317. "Motor vehicle liability policy" defined. (a)
3 Certification. -A "motor vehicle liability policy", as that
4 term is used in this Act, means an "owner's policy" or an
5 "operator's policy" of liability insurance, certified as
6 provided in Section 7-315 or Section 7-316 as proof of
7 financial responsibility for the future, and issued, except as
8 otherwise provided in Section 7-316, by an insurance carrier
9 duly authorized to transact business in this State, to or for
10 the benefit of the person named therein as insured.

11 (b) Owner's Policy. --Such owner's policy of liability
12 insurance:

13 1. Shall designate by explicit description or by
14 appropriate reference, all motor vehicles with respect to which
15 coverage is thereby intended to be granted;

16 2. Shall insure the person named therein and any other
17 person using or responsible for the use of such motor vehicle
18 or vehicles with the express or implied permission of the
19 insured;

20 3. Shall insure every named insured and any other person
21 using or responsible for the use of any motor vehicle owned by
22 the named insured and used by such other person with the
23 express or implied permission of the named insured on account
24 of the maintenance, use or operation of any motor vehicle owned
25 by the named insured, within the continental limits of the
26 United States or the Dominion of Canada against loss from
27 liability imposed by law arising from such maintenance, use or
28 operation, to the extent and aggregate amount, exclusive of
29 interest and cost, with respect to each motor vehicle, of
30 \$20,000 for bodily injury to or death of one person as a result
31 of any one accident and, subject to such limit as to one
32 person, the amount of \$40,000 for bodily injury to or death of
33 all persons as a result of any one accident and the amount of
34 \$15,000 for damage to property of others as a result of any one
35 accident.

1 (c) Operator's Policy. --When an operator's policy is
2 required, it shall insure the person named therein as insured
3 against the liability imposed by law upon the insured for
4 bodily injury to or death of any person or damage to property
5 to the amounts and limits above set forth and growing out of
6 the use or operation by the insured within the continental
7 limits of the United States or the Dominion of Canada of any
8 motor vehicle not owned by him.

9 (d) Required Statements in Policies. --Every motor vehicle
10 liability policy must specify the name and address of the
11 insured, the coverage afforded by the policy, the premium
12 charged therefor, the policy period if the policy premium is
13 computed using a time-based rating plan or the amount of miles
14 covered if the policy premium is computed using a mile-based
15 rating plan, and the limits of liability, and shall contain an
16 agreement that the insurance thereunder is provided in
17 accordance with the coverage defined in this Act, as respects
18 bodily injury and death or property damage or both, and is
19 subject to all the provisions of this Act.

20 (e) Policy Need Not Insure Workers' Compensation. --Any
21 liability policy or policies issued hereunder need not cover
22 any liability of the insured assumed by or imposed upon the
23 insured under any workers' compensation law nor any liability
24 for damage to property in charge of the insured or the
25 insured's employees.

26 (f) Provisions Incorporated in Policy. --Every motor
27 vehicle liability policy is subject to the following provisions
28 which need not be contained therein:

29 1. The liability of the insurance carrier under any such
30 policy shall become absolute whenever loss or damage covered by
31 the policy occurs and the satisfaction by the insured of a
32 final judgment for such loss or damage shall not be a condition
33 precedent to the right or obligation of the carrier to make
34 payment on account of such loss or damage.

35 2. No such policy may be cancelled or annulled as respects
36 any loss or damage, by any agreement between the carrier and

1 the insured after the insured has become responsible for such
2 loss or damage, and any such cancellation or annulment shall be
3 void.

4 3. The insurance carrier shall, however, have the right to
5 settle any claim covered by the policy, and if such settlement
6 is made in good faith, the amount thereof shall be deductible
7 from the limits of liability specified in the policy.

8 4. The policy, the written application therefor, if any,
9 and any rider or endorsement which shall not conflict with the
10 provisions of this Act shall constitute the entire contract
11 between the parties.

12 (g) Excess or Additional Coverage. --Any motor vehicle
13 liability policy may, however, grant any lawful coverage in
14 excess of or in addition to the coverage herein specified or
15 contain any agreements, provisions, or stipulations not in
16 conflict with the provisions of this Act and not otherwise
17 contrary to law.

18 (h) Reimbursement Provision Permitted. --The policy may
19 provide that the insured, or any other person covered by the
20 policy shall reimburse the insurance carrier for payment made
21 on account of any loss or damage claim or suit involving a
22 breach of the terms, provisions or conditions of the policy;
23 and further, if the policy shall provide for limits in excess
24 of the limits specified in this Act, the insurance carrier may
25 plead against any plaintiff, with respect to the amount of such
26 excess limits of liability, any defense which it may be
27 entitled to plead against the insured.

28 (i) Proration of Insurance Permitted. --The policy may
29 provide for the pro-rating of the insurance thereunder with
30 other applicable valid and collectible insurance.

31 (j) Binders. --Any binder pending the issuance of any
32 policy, which binder contains or by reference includes the
33 provisions hereunder shall be sufficient proof of ability to
34 respond in damages.

35 (k) Copy of Policy to Be Filed with Department of
36 Insurance--Approval. --A copy of the form of every motor

1 vehicle liability policy which is to be used to meet the
2 requirements of this Act must be filed, by the company offering
3 such policy, with the Department of Insurance, which shall
4 approve or disapprove the policy within 30 days of its filing.
5 If the Department approves the policy in writing within such 30
6 day period or fails to take action for 30 days, the form of
7 policy shall be deemed approved as filed. If within the 30 days
8 the Department disapproves the form of policy filed upon the
9 ground that it does not comply with the requirements of this
10 Act, the Department shall give written notice of its decision
11 and its reasons therefor to the carrier and the policy shall
12 not be accepted as proof of financial responsibility under this
13 Act.

14 (l) Insurance Carrier Required to File Certificate. --An
15 insurance carrier who has issued a motor vehicle liability
16 policy or policies or an operator's policy meeting the
17 requirements of this Act shall, upon the request of the insured
18 therein, deliver to the insured for filing, or at the request
19 of the insured, shall file direct, with the Secretary of State
20 a certificate, as required by this Act, which shows that such
21 policy or policies have been issued. No insurance carrier may
22 require the payment of any extra fee or surcharge, in addition
23 to the insurance premium, for the execution, delivery or filing
24 of such certificate.

25 (m) Proof When Made By Endorsement. --Any motor vehicle
26 liability policy which by endorsement contains the provisions
27 required hereunder shall be sufficient proof of ability to
28 respond in damages.

29 (Source: P.A. 85-730.)