

Chapter 144

(House Bill 270)

AN ACT concerning

Automobile Insurance – Usage–Based Insurance – ~~Application and Notice~~

FOR the purpose of establishing that the application of a certain insurance program on vehicle operation is not a violation of certain restrictions on classification for private passenger motor vehicle insurance; excluding the application of certain provisions on exclusion of drivers to a certain insurance program on vehicle operation; requiring that a certain notice include certain information for a premium increase due to a certain insurance program on vehicle operation; prohibiting a certain insurer from requiring an applicant or a policyholder to participate in a certain insurance program on vehicle operation as a condition for underwriting a private passenger motor vehicle insurance risk except under certain circumstances; and generally relating to private passenger motor vehicle insurance and usage–based automobile insurance programs.

BY repealing and reenacting, with amendments,
 Article – Insurance
 Section 11–318(b), 27–609, and 27–614(c)
 Annotated Code of Maryland
 (2017 Replacement Volume and 2019 Supplement)

BY adding to
Article – Insurance
Section 27–501(t)
Annotated Code of Maryland
(2017 Replacement Volume and 2019 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 That the Laws of Maryland read as follows:

Article – Insurance

11–318.

(b) (1) An insurer under an automobile liability insurance policy may not classify or maintain an insured for a period longer than 3 years in a classification that entails a higher premium:

- (i) because of a specific claim; or
- (ii) because of the insured’s driving record.

(2) For the purpose of determining whether to classify an insured in a classification that entails a higher premium, an insurer may review only a period not greater than 3 years before:

- (i) if the policy has not yet been issued:
 - 1. the date of the application; or
 - 2. the proposed effective date of the policy; or
 - (ii) on renewal of a policy, the effective date of the renewal.
- (3) (i) The removal of a discount is not a violation of this subsection.

(II) THE APPLICATION OF A PROGRAM THAT MEASURES THE OPERATION OF AN INSURED VEHICLE DURING THE CURRENT POLICY PERIOD IS NOT A VIOLATION OF THIS SUBSECTION.

[(ii)] (III) Subparagraph (i) of this paragraph may not be construed to prevent an insurer from granting a claim-free discount to an insured.

27-501.

(T) WITH RESPECT TO PRIVATE PASSENGER MOTOR VEHICLE INSURANCE, AN INSURER MAY NOT REQUIRE AN APPLICANT OR A POLICYHOLDER TO PARTICIPATE IN A PROGRAM THAT MEASURES THE OPERATION OF AN INSURED VEHICLE AS A CONDITION FOR UNDERWRITING A PRIVATE PASSENGER MOTOR VEHICLE INSURANCE RISK UNLESS THE INSURER:

(1) ONLY OFFERS PRIVATE PASSENGER MOTOR VEHICLE INSURANCE PRODUCTS THAT REQUIRE INSUREDS TO PARTICIPATE IN A PROGRAM THAT MEASURES THE OPERATION OF AN INSURED VEHICLE;

(2) DISCLOSES THE INFORMATION IN ITEM (1) OF THIS SUBSECTION TO:

(I) THE APPLICANT AT THE TIME OF APPLICATION; AND

(II) THE POLICYHOLDER AT THE TIME OF RENEWAL; AND

(3) INCLUDES THE INFORMATION IN ITEM (1) OF THIS SUBSECTION IN ANY ADVERTISING MATERIALS FOR THE INSURANCE PRODUCTS OFFERED BY THE INSURER.

27-609.

(a) ~~THIS SECTION DOES NOT APPLY TO A CANCELLATION, NONRENEWAL, OR PREMIUM INCREASE FOR A DRIVER OR VEHICLE DUE TO A PROGRAM THAT MEASURES THE OPERATION OF AN INSURED VEHICLE DURING THE CURRENT POLICY PERIOD.~~

(B) (1) (i) This paragraph applies to a private passenger motor vehicle liability insurance policy issued in the State under which more than one individual is insured.

(ii) If an insurer is authorized under this article to cancel, nonrenew, or increase the premiums on a policy of private passenger motor vehicle liability insurance subject to this paragraph because of the claim experience or driving record of one or more but less than all of the individuals insured under the policy, the insurer, instead of cancellation, nonrenewal, or premium increase, shall offer to continue or renew the insurance, but to exclude all coverage when a motor vehicle is operated by the specifically named excluded individual or individuals whose claim experience or driving record could have justified the cancellation, nonrenewal, or premium increase.

(2) (i) This paragraph applies to a motor vehicle liability insurance policy issued in the State, other than a policy subject to paragraph (1) of this subsection, under which more than one individual is insured.

(ii) If an insurer is authorized under this article to cancel, nonrenew, or increase the premiums on a policy of motor vehicle liability insurance subject to this paragraph because of the claim experience or driving record of one or more but less than all of the individuals insured under the policy, the insurer, instead of cancellation, nonrenewal, or premium increase, may offer to continue or renew the insurance, but to exclude all coverage when a motor vehicle is operated by the specifically named excluded individual or individuals whose claim experience or driving record could have justified the cancellation, nonrenewal, or premium increase.

[(b)] (C) If an insurer legally could refuse to issue a policy of motor vehicle liability insurance under which more than one individual is insured because of the claim experience or driving record of one or more but less than all of the individuals applying to be insured under the policy, the insurer may issue the policy but exclude all coverage when a motor vehicle is operated by the specifically named excluded individual or individuals whose claim experience or driving record could have justified the refusal to issue.

[(c)] (D) A policy described in subsection **[(a) or] (b) OR (C)** of this section may be endorsed to exclude specifically all coverage for any of the following when the named excluded driver is operating a motor vehicle covered under the policy whether or not that operation or use was with the express or implied permission of an individual insured under the policy:

- (1) the excluded operator or user;
- (2) the motor vehicle owner;
- (3) family members residing in the household of the excluded operator or user or motor vehicle owner; and
- (4) any other person, except for the coverage required by §§ 19–505 and 19–509 of this article if that coverage is not available under another motor vehicle policy.

[(d)] (E) The premiums charged on a policy that excludes a named driver or drivers under this section may not reflect the claim experience or driving record of the excluded named driver or drivers.

27–614.

(c) (1) Except as provided in paragraph (2) of this subsection, at least 45 days before the effective date of an increase in the total premium for a policy of private passenger motor vehicle liability insurance, the insurer shall send written notice of the premium increase to the insured at the last known address of the insured by a first-class mail tracking method.

(2) The notice required by paragraph (1) of this subsection need not be given if the premium increase is part of a general increase in premiums that is filed in accordance with Title 11 of this article and does not result from a reclassification of the insured.

(3) The notice may accompany or be included in the renewal offer or policy.

(4) The notice must be in duplicate and on a form approved by the Commissioner.

(5) The notice must state in clear and specific terms:

- (i) the premium for the current policy period;
- (ii) the premium for the renewal policy period;
- (iii) the basis for the action, including, at a minimum:

1. if the premium increase is due wholly or partly to an accident:

- A. the name of the driver;
- B. the date of the accident; and

C. if fault is a material factor for the insurer's action, a statement that the driver was at fault;

2. if the premium increase is due wholly or partly to a violation of the Maryland Vehicle Law or the vehicle laws of another state or territory of the United States:

- A. the name of the driver;
- B. the date of the violation; and
- C. a description of the violation;

3. if the premium increase is due wholly or partly to the claims history of an insured, a description of each claim; [and]

4. IF THE PREMIUM INCREASE IS DUE TO A PROGRAM THAT MEASURES THE OPERATION OF AN INSURED VEHICLE DURING THE CURRENT POLICY PERIOD:

A. A SPECIFIC DESCRIPTION OF THE FACTOR OR FACTORS IN THE PROGRAM RESULTING IN THE PREMIUM INCREASE; AND

B. THE AMOUNT OF THE PREMIUM INCREASE THAT IS ATTRIBUTABLE TO THE PROGRAM; AND

[4.] **5.** any other information that is the basis for the insurer's action;

(iv) that the insured should contact the insured's insurance producer or insurer for a review of the premium if the insured has a question about the increase in premium or believes the information in the notice is incorrect;

(v) the right of the insured to protest the premium increase and, in the case of a premium increase of more than 15% for the entire policy, to request a hearing before the Commissioner by mailing or transmitting by facsimile to the Commissioner:

- 1. a copy of the notice;
- 2. the insured's address and daytime telephone number; and
- 3. a statement of the reason that the insured believes the premium increase is incorrect;

(vi) the address and facsimile number of the Administration; and

(vii) that the Commissioner shall order the insurer to pay reasonable attorney's fees incurred by the insured for representation at a hearing if the Commissioner finds that:

1. the actual reason for the proposed action is not stated in the notice or the proposed action is not in accordance with this article or the insurer's filed rating plan; and

2. the insurer's conduct in maintaining or defending the proceeding was in bad faith or the insurer acted willfully in the absence of a bona fide dispute.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2020.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 8, 2020.