

Senator Delores G. Kelley
Chairwoman, Senate Finance Committee
Miller Senate Office Building, 3 East Wing
11 Bladen St., Annapolis, MD 21401 - 1991

March 16, 2020

Re: NAMIC Opposed to HB 267 – Use of Telematics

Chairwoman Kelley and Members of the Senate Finance Committee:

The National Association of Mutual Insurance Companies (NAMIC)ⁱ appreciates the opportunity to register its opposition to HB 267. For the reasons laid out below, NAMIC requests that the Senate Finance Committee return an unfavorable report on HB 267.

Since the introduction of HB 267 early in the 2020 legislative session, NAMIC has worked with both the House sponsor and Maryland Insurance Administration (MIA) to improve the introduced version of HB 267. While we believe that all stakeholders have worked in good faith, to date we have been unable to find language that, in our view, accomplishes the stated goals without placing unnecessary and burdensome restrictions on insurers.

With additional time, NAMIC would continue to work with the sponsor, the MIA, and the rest of the industry to improve HB 267. Given the current posture of the bill and the time constraints under which the Committee is now operating, however, we believe it would be prudent to revisit this issue during the 2021 legislative session. As such, NAMIC asks the committee to return an unfavorable report on HB 267 for the following reasons:

1. HB 267 Would Significantly Restrict The Use of Telematic Data and Invade the Contract Between a Policyholder and Insurer.

Before diving into our opposition to this provision, it is important to keep in mind that all telematics programs in Maryland are voluntary. In other words, an insurer and its policyholders must both agree to engage in the telematics program. As such, when a policyholder is provided with the opportunity to engage in a telematics program, they are informed of the insurer's use or potential of the data.

HB 267 would largely restrict an insurer's ability to use telematic data – permitting use of telematic data only for the enumerated reasons contained in the bill - despite the fact that a policyholder has agreed that the insurer may use that data for other reasons. For example, the bill appears to prohibit an insurer using telematic data in a marketing partnership with an outside entity – even where a policyholder has agreed to the practice.

Because the relationship between an insured and a policyholder is completely voluntary, the prohibition on an insurer's use of telematic data outside of the enumerated uses in the bill is inappropriate and unnecessarily burdensome. The bill would invade the relationship between the policyholder and the insurer and potentially deprive the policyholder of the entire universe of benefits it could receive under a telematics program.

2. HB 267 Would Prohibit Insurers From Using Telematic Data in Underwriting Decisions

The language of HB 267 could stifle future technological advances in telematics and seeks to codify a power that the MIA already has by prohibiting insurers' ability to use telematics data to make underwriting decisions, including decisions to refuse to write, cancel or nonrenew a policy.

Under existing law, the MIA already has the authority and charge to review all rate and product filings and it may disallow the use of telematics data to make underwriting decisions where such use would be unfairly discriminatory. An example of this authority in the telematics space is that in the early days of telematics, insurers used (and some still use) car "plug in" devices. These devices monitor and return a wide range of information. Because these devices stay with the car as opposed to a specific driver, we understand that the MIA might have concerns about an insurer's use of that data to cancel or non-renew a specific driver. Thus, under existing law, the MIA can prohibit insurers from using telematic data to make underwriting decisions.

However, it is our understanding that today some insurers using telematics have developed and employed technologies – with policyholder consent – that can utilize smartphone applications that can more closely tied to an individual driver as opposed to a car (again through voluntary telematics programs). While this advancement may not yet meet the threshold for MIA approval for use in underwriting decisions, the insurance industry is consistently evolving and we believe codifying the MIA's current interpretation could limit insurer's efforts to use telematics data in the future. Importantly, if the proposed underwriting restriction of HB 267 were to be removed, the MIA would still review every insurer's telematics program and would be able to prohibit this practice if they felt that the telematics technology was not tied closely enough to an individual driver to warrant an underwriting decision.

This provision contained in HB 267 would unnecessarily restrict the private contract between an insurer and its policyholder and could stifle future innovation in the telematics space.

3. HB 267 Would Require Prior Approval for Telematics Data.

The current language of HB 267 would require insurers to gain prior approval from the MIA for telematics data they collect and use in their telematics programs. While this change is seemingly innocuous, in reality it would flip the current system for new products on its head

and may restrict an insurer's ability to compete, potentially leading to negative impacts for policyholders.

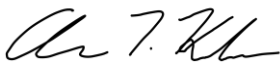
Under existing law, Maryland operates as a "file and use" state, meaning that an insurer can file a product with the MIA and then use the product before gaining approval from the regulator. There are a number of policy reasons for this system including speed to market and potential delays in approval, but importantly the MIA still has the authority and charge to review each of these products. In addition, insurers frequently work with the MIA after submitting draft product filings in order to gain feedback and make the process as smooth as possible.

If HB 267 is passed, insurers and their policyholders would be required to wait on the MIA to approve telematic product filings before using them, which could lead to a delay in getting these innovative products in the hands of consumers.

For all of the reasons stated above, NAMIC requests that you return an unfavorable report on HB 267.

Thank you again for the opportunity to lend feedback on HB 267. Please contact me if you have questions or comments about our position.

Sincerely,



Andrew Kirkner

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ⁱ NAMIC is the largest property/casualty insurance trade association in the country with more than 1,400 member companies. NAMIC supports regional and local mutual insurance companies on main streets across America and many of the country's largest national insurers. NAMIC members represent roughly 40 percent of the total property/casualty insurance market, serve more than 170 million policyholders, and write nearly \$225 billion in annual premiums. At present, 11 NAMIC member companies are domiciled in Maryland and more than 200 member companies do business here, comprising a market share of approximately 40%.