

ACT 159

H.B. NO. 2294

A Bill for an Act Relating to Motor Vehicle Insurance Rates.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that motor vehicle insurance is a complex subject for the average consumer. It is not known by most consumers that motor vehicle insurers have a great deal of flexibility to alter the premium rates they charge by the use of surcharges and credits. Surcharges, which may be imposed for moving traffic violations or not having a prior motor vehicle insurance history, result in a higher rate for drivers the insurers believe are greater risks. Credits are used to help lower rates for drivers the insurers believe are low risks, such as those who completed a driver's education course or had no moving violations for a number of years. Insurers explain their use of surcharges and credits as a necessary means of ensuring that high risk drivers pay their fair share while providing responsible, safe drivers with a reasonable premium.

The legislature also finds that the types and rates of surcharges and credits vary tremendously from insurer to insurer, rendering comparative shopping efforts by consumers confusing, if not impossible. The legislature believes that surcharges and credits are an effective means of maintaining a healthy competitive motor vehicle insurance market which helps constrain insurance costs. However, in view of the disparities among insurers, there is a need for regulation of surcharges and credits to protect the interests of consumers.

The purpose of this Act is to ensure that surcharges and credits are reasonable and that consumers are properly informed about them.

SECTION 2. Section 431:10C-202, Hawaii Revised Statutes, is amended to read as follows:

“§431:10C-202 Making of motor vehicle insurance rates. (a) All premium rates for motor vehicle insurance shall be made in accordance with the following provisions:

- (1) Rates shall not be excessive, inadequate, or unfairly discriminatory;
 - (2) Due consideration shall be given to:
 - (A) Past and prospective loss experience in this State, catastrophe hazards, if any, reasonable margin for profit, and contingencies, dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members¹ or subscribers;
 - (B) Reasonable margin for profit from and contingencies in the administration of motor vehicle insurance sold;
 - (C) Past and prospective expenses in the sale and administration of motor vehicle insurance;
 - (D) Investment income from reserves, unearned insurance premiums, and other unearned proceeds received on account of motor vehicle insurance sold, and all other factors that may be deemed relevant, such as but not limited to types of vehicles, occupations, and involvement in past accidents, provided they are established to have a probable effect upon losses or expense, or rates; and
 - (E) Optionally, to past or prospective loss, sales, and administrative costs experience in the nation or regionally, whenever the consideration will serve to reduce rates;
 - (3) The systems of expense provisions included in the rates for use by any insurer or group of insurers may differ from those of other insurers or groups of insurers to reflect the requirements of the operating methods of any such¹ insurer or group with respect to any class of insurance, or with respect to any subdivision or combination thereof for which subdivision or combination separate expense provisions are applicable; and
 - (4) Risks may be grouped by classifications for the establishing 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. The standards may measure any differences among risks that can be demonstrated to have a probable effect upon losses or expenses.
- (b) Except to the extent necessary to meet the provisions of subsection (a)(4), uniformity among insurers in any matters within the scope of this section is neither required nor prohibited.
- (c) The commissioner shall be prohibited from setting, maintaining, or in any way fixing the rates charged by motor vehicle insurers for motor vehicle insurance issued in conformity with this article as either no-fault insurance or as optional additional insurance except as provided in part IV of this article. Each insurer licensed to underwrite no-fault insurance in the State shall establish its own rate schedule. The commissioner, however, shall monitor and survey the several companies' rate making methods and systems. The commissioner shall require of each insurer and of each self-insurer any and all information, data, internal memoranda, studies, and audits the commissioner deems desirable for the purpose of evaluation, comparison, and study of the methods and schedules.
- (d) Notwithstanding subsection (c), commencing on December 16, 1985 and ending on December 31, 1988, all insurers of any motor vehicle shall provide a ten per cent reduction off premium charges each insurer assesses for each new

and renewal policy for no-fault benefits and medical payment coverage for any motor vehicle which is equipped with seat belt assemblies as required under any federal motor vehicle safety standard issued pursuant to Public Law 89-563, the federal National Traffic and Motor Vehicle Safety Act of 1966, as amended, or which is so equipped even if not required to be under any federal motor vehicle standard.

(e) Notwithstanding subsection (c), and in addition to all other premium reductions required under this section, commencing on October 1, 1986 and ending on September 30, 1989, all insurers of any motor vehicle shall provide a 1.5 per cent reduction for bodily injury liability, property damage liability, no-fault benefits, uninsured motorist, and underinsured motorist coverages, and a 0.75 per cent reduction for collision coverage off premium charges each insurer assesses for each new and renewal policy, based on the anticipated effects of section 281-78. Commencing on October 1, 1989 and ending on September 30, 1990, at the discretion of and as determined by the commissioner, based on the difference between the actual and anticipated effects of section 281-78, all insurers of any motor vehicle shall provide a refund or credit to each insured at the time of renewal of a no-fault policy.

(f) Notwithstanding any other law to the contrary, no insurer shall agree, combine or conspire with any other private insurer or enter into, become a member of, or participate in any understanding, pool, or trust, to fix, control, or maintain, directly or indirectly, motor vehicle insurance rates. Any violation of this section shall subject the insurer and each of its officers and employees involved to the penalties of chapter 480 without benefit of any exemption otherwise permitted by section 480-11; provided that this subsection shall not apply to advisory organizations referred to in section 431:14-111 which are not involved in rate making under this article.

(g) Notwithstanding any provision in this section to the contrary, the plans and rates for any surcharge or credit included by an insurer as part of the rate filing shall be separately identified. Only surcharges and credits that the commissioner deems reasonable shall be used; provided that surcharges and credits shall be deemed reasonable if there is no objection by the commissioner within sixty days of their filing. Insurers shall furnish the prospective insured with a written explanation, in easily understandable language, clearly describing the reason for the surcharge or credit and how the amount of the surcharge or credit is determined."

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval; provided that for insurers with rate filings duly filed with the insurance commissioner as of the effective date of this Act, the provisions of this Act shall apply one year after the effective date or upon the next rate filing, whichever is earlier.

(Approved June 19, 1990.)

Note

1. So in original.