

ACT 218

S.B. NO. 57

A Bill for an Act Relating to Seat Belts.

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

SECTION 1. The purpose of this Act is to eliminate the requirement that motor vehicle insurers provide a reduction of premium charges for no-fault benefits for motor vehicles equipped with seat belts, since virtually all motor vehicles are so equipped.

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, members, 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 such¹ 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 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) (e) Notwithstanding any other law to the contrary, no insurer shall agree, combine¹ 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

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apply to advisory organizations referred to in section 431:14-111 which are not involved in rate making under this article.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 25, 1990.)

Note

1. So in original.