

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 181
Second Edition Engrossed 4/18/13

Short Title: Auto Insurance/Young Driver Classification. (Public)

Sponsors: Senator Apodaca (Primary Sponsor).

Referred to: Insurance.

March 6, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO ALIGN AUTO INSURANCE RISK AND RATES IN NORTH CAROLINA BY
3 ALLOWING THE CLASSIFICATION OF YOUNG DRIVERS AS A FACTOR IN THE
4 SETTING OF RATES.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 58-3-25 reads as rewritten:

7 "§ 58-3-25. Discriminatory practices prohibited.

8 (a) Except as specified in G.S. 58-36-65 and G.S. 58-37-35, ~~No~~ no insurer shall ~~after~~
9 ~~September 1, 1975,~~ base any standard or rating plan for private passenger automobiles or
10 motorcycles, in whole or in part, directly or indirectly, upon the age or sex of the persons
11 insured."

12 SECTION 2. G.S. 58-36-65 reads as rewritten:

13 "§ 58-36-65. Classifications and Safe Driver Incentive Plan for nonfleet private passenger
14 motor vehicle insurance.

15 (a) The Bureau shall file, subject to review, modification, and promulgation by the
16 Commissioner, such rate classifications, schedules, or rules that the Commissioner deems to be
17 desirable and equitable to classify drivers of nonfleet private passenger motor vehicles for
18 insurance purposes. Subsequently, the Commissioner may require the Bureau to file
19 modifications of the classifications, schedules, or rules. If the Bureau does not file the
20 modifications within a reasonable time, the Commissioner may promulgate the modifications.
21 In promulgating or modifying these classifications, schedules, or rules, the Commissioner may
22 give consideration to the following:

- 23 (1) Uses of vehicles, including without limitation to farm use, pleasure use,
24 driving to and from work, and business use;
- 25 (2) Principal and occasional operation of vehicles;
- 26 (3) ~~Years of driving experience of insureds as;~~ Whether any licensed drivers are
27 under 19 years of age;
- 28 (4) The characteristics of vehicles; or
- 29 (5) Any other factors, not in conflict with any law, deemed by the
30 Commissioner to be appropriate.

31 ...

32 (g) If an applicant for the issuance or renewal of a nonfleet private passenger motor
33 vehicle insurance policy knowingly makes a material misrepresentation ~~of the years of driving~~
34 ~~experience~~ as to whether the applicant is 19 years of age or older or as to the driving record of
35 any named insured or of any other operator who resides in the same household and who
36 customarily operates a motor vehicle to be insured under the policy, the insurer may:



- 1 (1) Cancel or refuse to renew the policy;
2 (2) Surcharge the policy in accordance with rules to be adopted by the Bureau
3 and approved by the Commissioner; or
4 (3) Recover from the applicant the appropriate amount of premium or surcharge
5 that would have been collected by the insurer had the applicant furnished the
6 correct information.

7 (h) If an insured disputes his insurer's determination that the operator of an insured
8 vehicle was at fault in an accident, such dispute shall be resolved pursuant to G.S. 58-36-1(2),
9 unless there has been an adjudication or admission of negligence of such operator.

10 (i) As used in this section, "conviction" means a conviction as defined in G.S. 20-279.1
11 and means an infraction as defined in G.S. 14-3.1.

12 (j) Subclassification plan surcharges shall be applied to a policy for a period of not less
13 nor more than three policy years.

14 (k) The subclassification plan may provide for premium surcharges for insureds ~~having~~
15 ~~less than three years' driving experience as licensed drivers who are less than 19 years old.~~

16 (l) Except as provided in this section and G.S. 58-36-30(d), no classification or
17 subclassification plan for nonfleet private passenger motor vehicle insurance shall be based, in
18 whole or in part, directly or indirectly, upon the age or gender of insureds.

19 (m) Notwithstanding any other provision of law, with respect to motorcycle insurance
20 under the jurisdiction of the Bureau, any member of the Bureau may apply for and use in this
21 State, subject to the Commissioner's approval, a downward deviation in the rates of insureds
22 who show proof of satisfactory completion of the Motorcycle Safety Instruction Program or a
23 comparable motorcycle safety program provided by federally certified instructors for members
24 of the military."

25 **SECTION 3.** G.S. 58-37-35 reads as rewritten:

26 **"§ 58-37-35. The Facility; functions; administration.**

27 ...

28 (l) The classifications, rules, rates, rating plans and policy forms used on motor vehicle
29 insurance policies reinsured by the Facility may be made by the Facility or by any licensed or
30 statutory statistical organization or bureau on its behalf and shall be filed with the
31 Commissioner. The Board of Governors shall establish a separate subclassification within the
32 Facility for "clean risks". For the purpose of this Article, a "clean risk" is any owner of a
33 nonfleet private passenger motor vehicle as defined in G.S. 58-40-10, if the owner, principal
34 operator, and each licensed operator in the owner's household ~~have two years' driving~~
35 ~~experience as licensed drivers~~ are 18 years of age or older and if none of the persons has been
36 assigned any Safe Driver Incentive Plan points under Article 36 of this Chapter during the
37 three-year period immediately preceding either (i) the date of application for a motor vehicle
38 insurance policy or (ii) the date of preparation of a renewal of a motor vehicle insurance policy.
39 The filings may incorporate by reference any other material on file with the Commissioner.
40 Rates shall be neither excessive, inadequate nor unfairly discriminatory. If the Commissioner
41 finds, after a hearing, that a rate is either excessive, inadequate or unfairly discriminatory, the
42 Commissioner shall issue an order specifying in what respect it is deficient and stating when,
43 within a reasonable period thereafter, the rate is no longer effective. The order is subject to
44 judicial review as set out in Article 2 of this Chapter. Pending judicial review of said order, the
45 filed classification plan and the filed rates may be used, charged and collected in the same
46 manner as set out in G.S. 58-40-45 of this Chapter. The order shall not affect any contract or
47 policy made or issued before the expiration of the period set forth in the order. All rates shall be
48 on an actuarially sound basis and shall be calculated, insofar as is possible, to produce neither a
49 profit nor a loss. However, the rates made by or on behalf of the Facility with respect to "clean
50 risks" shall not exceed the rates charged "clean risks" who are not reinsured in the Facility. The
51 difference between the actual rate charged and the actuarially sound and self-supporting rates

1 for "clean risks" reinsured in the Facility may be recouped in similar manner as assessments
2 under G.S. 58-37-40(f). Rates shall not include any factor for underwriting profit on Facility
3 business, but shall provide an allowance for contingencies. There shall be a strong presumption
4 that the rates and premiums for the business of the Facility are neither unreasonable nor
5 excessive.

6 (m) In addition to annual premiums, the rules of the Facility shall allow semiannual and
7 quarterly premium terms."

8 **SECTION 4.** This act becomes effective January 1, 2014, and applies to policies
9 issued or renewed on or after that date.