
 DIGEST

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SB 212 Engrossed

2019 Regular Session

Appel

Proposed law requires each auto insurance company to submit information regarding commercial motor vehicles to the commissioner each year by May first for the prior calendar year, beginning in 2020. Requires the commissioner to aggregate and publish the information by ZIP code and parish on the dept.'s website and to post a general description of the rate-making methodology used for commercial motor vehicles.

Proposed law provides that "commercial motor vehicle" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle meets one of the following requirements:

- (1) Has a gross combination weight rating of more than 26,000 pounds inclusive of a towed unit with a gross vehicle weight rating of more than ten thousand pounds.
- (2) Has a gross vehicle weight rating of more than 26,000 pounds.
- (3) Is designed to transport 16 or more passengers, including the driver.
- (4) Is of any size and is used in the transportation of hazardous materials.

Proposed law specifies that the information shall include:

- (1) The total amount of direct paid losses less all deductibles.
- (2) The number of policies written.
- (3) The direct written premiums.

Proposed law allows the commissioner to authorize late submission. Requires the commissioner to notify a company that fails to report that the company has 30 days to come into compliance. Mandates a \$10,000-per-month fine for continued failure to comply. Provides that fines collected are deposited in the state general fund. Specifies that fines may be waived or reduced only by legislative act.

Requires the commissioner to waive or modify the reporting requirements of proposed law if an insurance company does not store the information; must make material changes to computer systems to provide the information; or must significantly divert limited resources to provide the information.

Proposed law requires the information reported pursuant to proposed law to be treated as confidential, to be used solely for the purposes authorized in proposed law, and to be exempt from the Public Records Law.

Proposed law excludes creditor-placed automobile insurance from the requirements of proposed law.

Proposed law provides that proposed law shall be void on May 1, 2025.

Proposed law creates the Omnibus Premium Reduction Act of 2019, which has as its general purpose the reduction of the cost of motor vehicle insurance by legislating in regard to civil law and insurance policies.

Present law provides a general one-year liberative prescriptive period for delictual actions (C.C. Art. 3492), and a two-year period for delictual actions for damages arising from an act

defined as a crime of violence, except for any act of sexual assault which is subject to a liberative prescription of three years. (C.C. Art. 3493.10).

Proposed law increases the general one-year prescriptive period for delictual actions to a two-year prescriptive period and retains the liberative prescription of three years for any act of sexual assault.

Present law (C.C.P. Art. 1732) authorizes a jury trial when the amount in controversy exceeds \$50,000.

Proposed law reduces the threshold for a jury trial to \$5,000.

Proposed law (R.S. 9:2800.25) provides that reductions in medical bills based upon the write-offs or write-downs by insurance companies or Medicare are not collateral sources and are therefore not recoverable as damages in civil litigation.

Proposed law provides that when a plaintiff's medical expenses have been paid by a health insurance company or Medicare, plaintiff's recovery of medical expenses is limited to the amount actually paid to the healthcare provider by the insurer or Medicare, and not the amount billed.

Proposed law provides that if the plaintiff pays the medical expenses directly to the healthcare provider when health insurance is available, recovery is limited to the amount that would have been paid by the insurer or Medicare.

Proposed law provides that payment for medical expenses is limited to the amount payable pursuant to the fee schedule of the present law Workers' Compensation Law when that present law is applicable, and provides that if the plaintiff pays those expenses directly to the healthcare provider, the plaintiff's recovery for medical expenses is limited to the amount that would have been paid pursuant to the Workers' Compensation Law fee schedule.

Present law (R.S. 22:1269) provides that the insolvency or bankruptcy of an insured shall not release an insurer from the payment of damages for injuries sustained or loss occasioned during the existence of a policy. Present law further provides that any judgment rendered against the insured for which the insurer is liable which has become executory shall be deemed prima facie evidence of the insolvency of the insured, and an action may thereafter be maintained within the terms and limits of the policy by the injured person or his survivors or heirs against the insurer.

Proposed law retains present law.

Present law authorizes an injured person or his survivors or heirs to sue the liability insurer either alone or jointly and in solido with the insured who caused the injury. Present law further provides that a direct action may be brought against the insurer alone if one of the following occurs:

- (1) The insured has been adjudged bankrupt by a court of competent jurisdiction or proceedings to adjudge an insured bankrupt have been commenced before a court of competent jurisdiction.
- (2) The insured is insolvent.
- (3) Service of citation or other process cannot be made on the insured.
- (4) The cause of action is for damages resulting from an offense or quasi offense between children and parents or between married persons.
- (5) The insurer is an uninsured motorist carrier.
- (6) The insured is deceased.

Proposed law repeals present law.

It is the intent of present law that any action brought pursuant to present law shall be subject to all of the lawful conditions of the policy or contract and the defenses which could be urged by the insurer to a direct action brought by the insured, provided the terms and conditions of the policy or contract are not in violation of the laws of this state.

Proposed law repeals present law.

It is also the intent of present law that all liability policies within their terms and limits are executed for the benefit of all injured persons and their survivors or heirs to whom the insured is liable. Present law further provides that it is the purpose of all liability policies to give protection and coverage to all insureds, whether they are named insured or additional insureds under the omnibus clause, for any legal liability the insured may have as or for a tortfeasor within the terms and limits of the policy.

Proposed law retains present law but makes a technical change.

Present law (R.S. 22:333) provides that the transacting of business in this state by a foreign or alien insurer pursuant to a certificate of authority issued pursuant to present law shall constitute a consent to being sued by the injured person or his heirs in a direct action, whether the policy of insurance sued upon was written or delivered in the state of La. or not, and whether or not the policy contains a provision forbidding a direct action, if the accident or injury occurred within La.

Proposed law repeals present law.

Proposed law requires every motor vehicle insurer authorized to transact business in La. to make a motor vehicle policy rate filing with the Dept. of Insurance at least once every 12 months for the 36 months following the effective date of proposed law and to reduce rates when actuarially justified.

The provisions of the Omnibus Premium Reduction Act of 2019 and the relative provisions of Act 371 of the 2018 Regular Session are effective January 1, 2020.

(Amends C.C. Art. 3493.10, C.C.P. Art. 1732(1), R.S. 22:1269, and R.S. 44:4.1(B)(11) and 4.1(B)(11) as amended by Acts 2018, No. 371, §2; Adds R.S. 9:2800.25 and R.S. 22:1290.1; Repeals C.C. Art. 3492 and R.S. 22:333(E))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Insurance to the original bill

1. Makes technical corrections.

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Insurance to the engrossed bill:

1. Incorporate the provisions of HB 372, also known as the Omnibus Premium Reduction Act of 2019.
2. Make technical changes.