

2016 Regular Session

SENATE BILL NO. 34

BY SENATOR GATTI

INSURANCE POLICIES. Prohibits increase in motor vehicle liability insurance policies under certain circumstances. (8/1/16)

1 AN ACT

2 To enact R.S. 22:1284.2, relative to motor vehicle insurance; to prohibit an increase in  
3 premium rates in certain circumstances; and to provide for related matters.

4 Be it enacted by the Legislature of Louisiana:

5 Section 1. R.S. 22:1284.2 is hereby enacted to read as follows:

6 **§1284.2. Motor vehicle insurance; consideration of assertion of an affirmative**  
7 **defense prohibited**

8 **A. No insurer shall increase the premium rate of or increase or add a**  
9 **surcharge to any policy of motor vehicle insurance when such action is based on**  
10 **the assertion of the affirmative defense as permitted by the provisions of R.S.**  
11 **32:866(B).**

12 **B. Any insurer who violates this Section shall refund to the insured**  
13 **person the amount of premium paid in excess of the premium which would have**  
14 **been charged if the insurer had complied with this Section, together with a**  
15 **penalty payment in an amount equal to triple the amount of the refund or one**  
16 **thousand dollars, whichever is greater. The insured shall also be entitled to**  
17 **attorney fees should he prevail.**

---

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Cheryl Cooper.

---

SB 34 Original DIGEST 2016 Regular Session Gatti

Present law (R.S. 32:866(A)) prohibits any recovery for the first \$15,000 of bodily injury and no recovery for the first \$25,000 of property damage based on any cause or right of action arising out of a motor vehicle accident, for such injury or damages occasioned by an owner or operator of a motor vehicle involved in such accident who fails to own or maintain compulsory motor vehicle liability security.

Present law (R.S. 32:866(B)) provides each person who is involved in an accident in which the other motor vehicle was not covered by compulsory motor vehicle liability security and who is found to be liable for damages to the owner or operator of the other motor vehicle may assert as an affirmative defense the limitation of recovery provisions as stated in present law.

Proposed law prohibits an insurer from increasing the premium rate or increasing or adding a surcharge to any policy of motor vehicle insurance when such action is based on the assertion of the affirmative defense as provided in present law.

Effective August 1, 2016.

(Adds R.S. 22:1284.2)