

2019 Regular Session

HOUSE BILL NO. 311

BY REPRESENTATIVE NORTON

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

INSURANCE/AUTOMOBILE: Creates the Louisiana Motor Vehicle Insurance Cost Reduction and Fairness Act

1 AN ACT

2 To enact Chapter 5-A of Title 32 of the Louisiana Revised Statutes of 1950, to be comprised
3 of R.S. 32:1101 through 1121, relative to motor vehicle liability policy premiums;
4 to provide for legislative findings and declarations; to require a premium rate
5 reduction; to provide for applicability; to prohibit the sole use of certain criteria for
6 rate determinations; to provide for penalties; to require rulemaking; to authorize a
7 personal right of action; to provide for an effective date; and to provide for related
8 matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Chapter 5-A of Title 32 of the Louisiana Revised Statutes of 1950,
11 comprised of R.S. 32:1101 through 1121, is hereby enacted to read as follows:

12 CHAPTER 5-A. THE LOUISIANA MOTOR VEHICLE INSURANCE

13 COST REDUCTION AND FAIRNESS ACT

14 PART I. GENERAL PROVISIONS

15 §1101. Short title

16 This Chapter shall be known as and may be cited as "The Louisiana Motor
17 Vehicle Insurance Cost Reduction and Fairness Act".

1 §1102. Legislative findings and declaration

2 A. The legislature hereby finds and affirms the following:

3 (1) The affordability of motor vehicle insurance is of great interest and
4 importance to the people and businesses of this state.

5 (2) Louisiana is the second most expensive state for motor vehicle insurance
6 in the nation and the average motor vehicle insurance premium for a Louisiana
7 resident is two thousand dollars a year with some residents paying as high as three
8 thousand dollars a year.

9 (3) In 2010, 2012, and 2013, Louisiana had the highest motor vehicle
10 insurance rates in the nation.

11 (4) In 2017, the Department of Insurance approved premium increases for
12 at least five insurers, the highest of which was almost twenty-two percent.

13 (5) Since 2016, at least five insurance companies have stopped writing
14 insurance policies in Louisiana which leaves residents with fewer options for buying
15 motor vehicle insurance and can lead to higher prices due to less competition.

16 (6) A major city such as Shreveport has considerably higher motor vehicle
17 insurance rates than other areas in the state.

18 (7) Louisiana law requires drivers to maintain proof of financial
19 responsibility in the form of a motor vehicle liability policy, in an amount not less
20 than twenty-five thousand dollars for property damage and not less than fifteen
21 thousand dollars for bodily injury, or other security prior to operating a motor
22 vehicle upon any public road, street, or highway in this state.

23 (8) Forty percent of Louisiana drivers get by with the minimum allowable
24 motor vehicle liability policy coverage and most cannot afford to buy a better option.

25 B. The legislature hereby declares that cost reduction and fairness in the
26 premiums of motor vehicle liability policies required by state law is an urgent fiscal
27 and public safety priority of this state.

1 PART II. MOTOR VEHICLE INSURANCE2 PREMIUM COST REDUCTION

3 §1111. Motor vehicle liability policy; reduction in premium rates; rate filing;
4 violations

5 A.(1) Every motor vehicle insurer authorized to transact business in the state
6 of Louisiana shall reduce its combined rates for bodily injury liability and for
7 property damage liability by a minimum of five percent in each of its respective
8 territorial service areas.

9 (2)(a) Every motor vehicle insurer authorized to transact business in the state
10 of Louisiana shall make a motor vehicle policy rate filing with the commissioner of
11 insurance for the rate reduction required by Paragraph (1) of this Subsection.

12 (b) The commissioner of insurance shall conclusively act on a rate filing
13 made pursuant to this Subsection within sixty days of receiving the rate filing.

14 B. The savings provided for in this Section shall be applicable to an insured
15 only upon policy renewal or policy issuance.

16 C. The commissioner of insurance shall immediately revoke the authority to
17 do business in this state of any insurer who fails to comply with this Section by
18 October 1, 2019.

19 PART III. MOTOR VEHICLE INSURANCE20 PREMIUM FAIRNESS

21 §1121. Discrimination prohibited; penalties; right of action

22 A. In accordance with R.S. 22:35, no insurer shall refuse to issue or fail to
23 renew any motor vehicle liability insurance policy to a person or business, solely
24 because of the race of the applicant or the economic condition of the area in which
25 the property sought to be insured is located, unless such refusal to issue or failure to
26 renew is based on sound actuarial principles or is related to actual experience.

27 B. No insurer shall determine the rate for a motor vehicle liability policy, or
28 any portion of coverage of the policy, solely based upon any of the following:

29 (1) The make and model of the motor vehicle.

1 (2) The primary residence of the insured or the location of the motor vehicle.

2 (3) The credit information of the insured as provided by law.

3 (4) The use of a single United States Postal Service ZIP Code or a
4 combination of ZIP Codes as a rating territory.

5 C. Any insurer violating this Section shall be fined ten thousand dollars for
6 each occurrence.

7 D.(1) The commissioner of insurance shall promulgate all rules and
8 regulations necessary for the enforcement of this Section.

9 (2) The rules and regulations shall, at a minimum, contain both of the
10 following:

11 (a) A mechanism in which complaints concerning alleged discriminatory
12 practices by insurers can be received and investigated.

13 (b) A provision allowing for an administrative hearing in accordance with
14 the Administrative Procedure Act, R.S. 49:950 et seq., prior to the imposition of the
15 penalty provided for in Subsection C of this Section.

16 E. Any person discriminated against in violation of this Section shall have
17 a personal right of action against the insurer and may file suit against the insurer in
18 a court of competent jurisdiction. Upon a finding of discrimination on the part of the
19 insurer, the insurer shall be responsible for actual damages suffered by the injured
20 party and reasonable attorney fees.

21 Section 2. This Act shall become effective upon signature by the governor or, if not
22 signed by the governor, upon expiration of the time for bills to become law without signature
23 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
24 vetoed by the governor and subsequently approved by the legislature, this Act shall become
25 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 311 Original

2019 Regular Session

Norton

Abstract: Prohibits an insurer from making motor vehicle liability policy decisions based solely upon certain criteria and requires a reduction in premiums by a minimum of 5% for insurance policies covering bodily injury and property damage.

Present law requires drivers to maintain proof of minimum financial responsibility in the form of a motor vehicle liability insurance policy in the following amounts:

- (1) \$25,000 for property damage.
- (2) \$15,000 for bodily injury.

Proposed law retains present law.

Proposed law requires a motor vehicle insurance premium rate reduction of 5% for bodily injury liability and property damage liability coverage which will apply upon the issuance or renewal of a policy.

Proposed law prohibits, in accordance with present law, an insurer from refusing to issue or failing to renew any motor vehicle liability insurance policy to a person or business, solely because of the race of the applicant or the economic condition of the area in which the property sought to be insured is located, unless the refusal to issue or failure to renew is based on sound actuarial principles or is related to actual experience.

Proposed law further prohibits an insurer from determining the rate for a motor vehicle liability policy, or any portion of coverage of the policy, solely based upon any of the following:

- (1) The make and model of the motor vehicle.
- (2) The primary residence of the insured or the location of the motor vehicle.
- (3) The credit information of the insured as provided by present law, R.S. 22:1501 et seq.
- (4) The use of a single U.S. Postal Service ZIP Code or a combination of ZIP Codes as a rating territory.

Proposed law provides that an insurer shall be fined \$10,000 for each violation.

Proposed law requires the commissioner of insurance to promulgate all rules and regulations necessary for the enforcement of proposed law including, at a minimum, both of the following:

- (1) A mechanism in which complaints concerning alleged discriminatory practices by insurers can be received and investigated.
- (2) A provision allowing for an administrative hearing prior to the imposition of the penalty provided for in proposed law.

Proposed law grants any person discriminated against in violation of proposed law a personal right of action against the insurer and authorizes the filing of a suit against the insurer in a court of competent jurisdiction. Further provides that, upon a finding of discrimination on the part of the insurer, the insurer shall be responsible for actual damages suffered by the injured party and reasonable attorney fees.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 32:1101-1121)