

August 17, 2009

Hon. Edmund G. Brown Jr.
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Krystal Paris
Initiative Coordinator

Dear Attorney General Brown:

Pursuant to Elections Code Section 9005, we have reviewed a proposed statutory initiative relating to auto insurance discounts (A.G. File No. 09-0021).

Background

State Regulation of Automobile Insurance. State law—as enacted in 1988 by Proposition 103—requires rates and premiums for automobile insurance policies to be determined by the application of the following factors, in decreasing order of importance: (1) the insured’s driving record, (2) the number of miles driven annually, and (3) the number of years of driving experience. The Insurance Commissioner may adopt by regulation additional factors that have a substantial relationship to the risk of an insurer having to pay claims for a loss suffered by an insured person. Existing regulations set forth 16 such optional rating factors that may be used in determining automobile rates and premiums. Included among these optional rating factors is “persistency,” which allows an insurer to reward individuals for being long-term customers of theirs. Insurers are prohibited, however, from offering a persistency discount to new customers. In addition, under current law, the fact that someone did not previously have automobile insurance may not be used as a criterion for determining automobile rates and premiums. The Department of Insurance is responsible for reviewing and approving automobile insurance rate changes submitted by insurance companies.

Insurance Premium Tax. Under current law, insurance companies doing business in California pay an insurance premium tax in lieu of a state corporate income tax. The tax is based on the amount of insurance premiums the insurer earned in the state each year for automobile insurance as well as for other types of coverage, such as fire and health insurance. In 2007, insurance companies paid about \$450 million in premium taxes on automobile insurance policies in California.

Major Provisions

This measure amends Proposition 103 to authorize the use of an additional discount on premiums for automobile insurance policies. In particular, it would allow an insurer to offer a “continuous coverage” discount to new customers who have maintained their coverage while they previously were customers of other insurers. Continuous coverage is defined to also include (1) applicants who experienced a lapse in coverage due to military service in another country, and (2) applicants who experienced up to a 90-day lapse in coverage in the past five years for any reason other than nonpayment of their insurance premiums. Children residing with a parent may qualify for the discount based on their parent’s eligibility. In determining eligibility and calculating the continuous coverage discount, insurers would be allowed to take into account the insured’s claims experience.

Under the measure, the current prohibition against using the absence of prior automobile insurance as a criterion for determining automobile rates and premiums would be eliminated.

Fiscal Effect

The measure could result in a change in the total amount of insurance premiums. This impact is unknown, but probably minor. This is because overall premiums are largely determined by other factors—such as driver safety, the number of miles driven, and years of driving experience—which are largely unaffected by the measure.

Summary

- The measure would have no significant fiscal impact on state and local governments.

Sincerely,

Mac Taylor
Legislative Analyst

Michael C. Genest
Director of Finance