

Date of Hearing: April 30, 2008

ASSEMBLY COMMITTEE ON INSURANCE  
Joe Coto, Chair  
AB 2800 (Huffman) – As Amended: April 23, 2008

SUBJECT: Automobile Insurance: Mileage Rating Factor

SUMMARY: Authorizes insurers to apply a different rating factor for insurer-verified miles driven annually for purposes of automobile insurance rates. Specifically, this bill:

- 1) Finds and declares that reducing greenhouse gas emissions is the policy of the state, that vehicle mileage is a significant contributor to the greenhouse gas emissions produced, and that offering insurance on a verified mileage basis creates an incentive to drive less, assures more accurate insurance rates, and provides an incentive to reduce emissions.
- 2) Provides that, in determining the "number of miles driven annually" rating factor, insurers may apply different rating factors for insurer-verified annual mileage and applicant-estimated annual mileage. The insurer-verified annual mileage rating factor shall be a voluntary mileage-based insurance program.
- 3) Includes a declaration that the Legislature finds the bill to further the purposes of Proposition 103 (the 1988 initiative that established the regulatory structure that controls automobile insurance rates).

EXISTING LAW:

- 1) Provides that insurance rates for most property-casualty insurance, including automobile insurance, are regulated by the Insurance Commissioner (IC) on a prior approval basis.
- 2) Specifies that rates for private passenger automobile insurance shall be based on the insured's driving safety record, the number of miles the insured drives annually, the number of years driving experience of the insured, and such other factors that the IC by regulation adopts that have a substantial relationship to the risk of loss.
- 3) Establishes that the reduction of greenhouse gasses is the policy of the State of California.

FISCAL EFFECT: Undetermined costs to the Department of Insurance to review and approve mileage-based automobile insurance programs, if insurers take advantage of the bill's authorization.

COMMENTS:

- 1) Background. Statutory law requires that the insurance rates for private automobiles be based on the insured's driving safety record, *the number of miles which he or she drives annually*, the number of years of his or her driving experience, and other factors that the IC may adopt by regulation and that have a substantial relationship to the risk of loss. (Section 1861.02 of the Insurance Code.) This law was enacted by voter approval of Proposition 103 in 1988.

Current insurance regulations base automobile insurance premiums for drivers on their projections of future mileage. (Title 10, California Code of Regulations, Section 2632.1 et seq.) These projections may prove to be accurate or inaccurate. Although insurance companies may require some supporting information, such as the customer's self report of the number of miles driven to work, insurers do not have a reliable means to verify the customer's mileage. Insurers may request, but not require, mileage verification through odometer readings based on recent vehicle service records (e.g. oil change invoices) or mileage-tracking technology.

Mileage-based insurance programs vary auto insurance premiums based on the number of verified miles driven. In one type of a "mileage based program", customers pay a per-mile premium for the total number of miles they drive. In another, they receive a lower rate for verifying their mileage and driving less than average or less than they drove the prior year. In a third option, drivers receive a lower rate by agreeing to verify their mileage through the use of vehicle service records or data sources. In each of these programs, the customer's driving record is still a major factor in determining their insurance rate.

- 2) Purpose: The Author introduced this bill in an effort to provide financial incentives for people to drive less. By linking automobile insurance costs directly to each decision to drive the insured vehicle, the Author believes drivers will make the decision to drive less, reduce greenhouse gas emissions, and be rewarded with lower auto insurance costs.
- 3) Arguments in Support. The Natural Resources Defense Council (NRDC) supports this bill and states that is consistent with the recommendations of the AB 32 Economic and Technology Advancement Advisory Committee Report to the Air Resources Board since it will help California to reach global warming emission reduction targets. The Environmental Defense Fund points out that 28 percent of California's greenhouse gas emissions come from passenger automobiles, and the great increase in annual vehicle miles driven between 1990 and 2006 in California (31%) requires this type of legislation.

The Personal Insurance Federation of California (PIFC), which supports the bill, states that the Department of Insurance's (DOI) proposed "mileage verification regulations" do not allow insurers the adequate tools to achieve true mileage verification. PIFC notes that the proposed regulations allow insurers to request certain information, but there is no requirement for the insured to comply with the request. When PIFC asked for mileage verification tools, the DOI refused because it would be too "burdensome" on the customer. PIFC further states that allowing drivers to submit estimates of inaccurate mileage breaks the connection between conduct and consequences. Further, it allows high-mileage drivers to conceal their increased risk on the road and higher consumption of fuel which produces higher levels of pollution and inaccurate auto insurance rates.

- 4) Arguments in Opposition. The Consumer Watchdog (formerly the Foundation for Taxpayer & Consumer Rights), which opposes this bill, states that while the bill has a laudable goal of attempting to create an incentive to drive less, it will not serve that objective well because it improperly amends a voter-approved initiative and will be rejected by the courts. Consumer Watchdog states that this bill purports to amend one of Proposition 103's mandatory rating factors by creating multiple mileage factors and to do this outside of the IC's regulations on mileage verification, which are the within the purview of the IC.

Consumer Watchdog also states that the bill is illegal because it would allow a system of unfair discrimination in which similarly situated insureds would pay different prices (i.e., contrary to Section 1861.05 of the Insurance Code). This organization gives the following example: Consider two people who drive 4,000 miles a year. One insured person participates in the optional "green" plan of Company A, the other, also insured by Company A, does not. If everything about them is the same, the mere fact that one is not a participant in the plan (perhaps it was never marketed to him or her) would have that person paying a different premium under this bill. That would be unfair discrimination.

- 5) Notice to Public. In light of the concerns expressed by the opposition on the need to treat all customers equally, should this bill be amended to expressly require a specific notice be sent to each automobile insurance customer of an insurer that chooses to participate in a mileage verified system?

REGISTERED SUPPORT / OPPOSITION:

Support

Alliance of Automobile Manufacturers (Alliance)  
Environmental Defense Fund  
Natural Resources Defense Council (NRDC)  
Personal Insurance Federation of California (PIFC)  
Planning and Conservation League (PCL)  
Toyota Motor Sales, U.S.A

Opposition

Consumer Action  
Consumer Watchdog

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