

**STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
45 Fremont Street, 21st Floor
San Francisco, California 94105**

File No. RH06091489

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**Proposed Amendment of Title 10, Section 2632.5
Automobile Insurance Rating Factors: Mileage Verification**

FINAL STATEMENT OF REASONS

INTRODUCTION AND UPDATED INFORMATIVE DIGEST

California Insurance Code Section 1861.02(a), added by Proposition 103, provides in relevant part:

Rates and premiums for an automobile insurance policy . . . shall be determined by application of the following factors in decreasing order of importance:

- (1) The insured's driving safety record.
- (2) *The number of miles he or she drives annually.*
- (3) The number of years of driving experience the insured has had.
- (4) Those other factors that the commissioner may adopt by regulation and that have a substantial relationship to the risk of loss.

(emphasis added.) In relevant part, Title 10, California Code of Regulations, Section 2632.5(c)(2) provides that the number of miles driven annually means:

the estimated annual mileage for the insured vehicle during the 12 month period following inception of the policy.

The purpose of these regulations is to specifically indicate the information an insurer is allowed or required to collect to determine the number of miles driven annually, i.e., the second mandatory factor.

No revisions to the Informative Digest are required.

UPDATE OF INITIAL STATEMENT OF REASONS

No revisions to the Initial Statement of Reasons are required.

SPECIFIC PURPOSE AND REASONABLE NECESSITY OF REGULATION

The proposed amendment is reasonably necessary to carry out the requirements articulated in Insurance Code section 1861.02(a). The specific purpose of and rationale

for subsections (A) and (B) are set forth below. Implementation of this amendment to the regulations is necessary to clarify the types of information an insurer is allowed or required to collect to determine the estimated annual mileage pursuant to Insurance Code Section 1861.02(a).

Proposed subsections (A) through (F) are intended to implement Insurance Code Section 1861.02(a) and provide further specificity for Title 10 California Code of Regulations, Section 2632.5(c)(2) by ensuring uniformity of information an insurer is allowed or required to collect to determine estimated annual mileage.

In particular, proposed subsections (A) through (F) provide that:

- 1) An insurer shall use the applicant's estimated annual mileage except as set forth in the section.
- 2) During the application process/when a vehicle is being added or replaced during the term of the policy:
 - a. An applicant shall provide an estimate of annual mileage for the 12-month period following policy inception.
 - b. An insurer may require the information set forth in section (C) necessary to support the estimate.
 - c. An insurer may request but not require the information set forth in section (D) necessary to support the estimate.
 - d. An insurer may issue a policy using a reasonable objective mileage estimate based upon information provided pursuant to sections (C), (D) or (E) where: an applicant does not provide an estimate of annual miles; the information required pursuant to section (C); or the information provided does not support the applicant's estimate.
 - e. An insurer may use a default annual mileage figure that has been filed with and approved by the Commissioner where: an applicant does not provide an estimate of annual miles; the information required pursuant to section (C); or the information provided does not support the applicant's estimate *and* a reasonable estimate cannot be determined.
 - f. Before issuing a policy using reasonable objective mileage or a default annual mileage figure, an insurer must inform the applicant of the mileage figure it will use to rate the policy.
- 3) During the renewal process:
 - a. An insurer shall, at least every three years, request a policyholder provide an estimate of annual mileage for the 12-month period following policy renewal.
 - b. An insurer may require the information set forth in section (C) necessary to support the estimate.
 - c. An insurer may request but not require the information set forth in section (D) necessary to support the estimate.
 - d. An insurer may, if not requesting updated information, use the mileage figure from the expiring policy or use a reasonable objective mileage

estimate based solely upon the information set forth in sections (C), (D) and (E).

- e. If during the renewal process an insurer receives some or none of the information requested pursuant to section (C), that insurer may: 1) renew the policy using either the mileage figure from the expiring policy or a reasonable objective mileage figure based upon the information set forth in sections (C), (D) and (E), whichever the insurer determines is the most reasonable; or 2) if it lacks sufficient information to determine a reasonable estimate, renew the policy using a default annual mileage figure that has been filed with and approved by the Commissioner.
 - f. Before renewing a policy, the insurer must provide the applicant seeking renewal written notice that highlights the mileage figure for the expiring policy and the mileage figure for the renewal policy.
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- 4) The items an insurer is permitted to require from an applicant or policyholder pursuant to section (C) are: 1) If the vehicle is used for commute purposes, the location of the workplace, school, or other destination where the vehicle will be driven and, if applicable, an estimate of the number of miles the vehicle will be driven in the course of employment; 2) The number of days per week the vehicle will be used for commuting; 3) An estimate of the number of miles to be driven for pleasure or other purposes; 4) The approximate total number of miles driven for any time period within, but not to exceed, the previous 24 months; 5) The reason for any differences between the estimate for the upcoming 12 months and the miles driven the previous 12 months; and 6) The current odometer reading of the vehicle to be insured.
 - 5) The items an insurer is permitted to request but not to require from an applicant or policyholder pursuant to section (D) are: service records which document the odometer reading and the use of technology devices that accurately collect vehicle mileage information.
 - 6) An insurer is permitted to obtain and use smog check odometer readings from the California Bureau of Automotive Repair to estimate annual miles driven
 - 7) All mileage figures that direct the selection of mileage rating relativity shall be filed with and approved by the Commissioner in a class plan filing.
 - 8) In no event shall an insurer require a policyholder to provide information from a prior insurer to confirm mileage estimated or driven.
 - 9) Nothing in this section shall be construed to affect the ability of an insurer to decline to issue, cancel or non-renew a policy in accordance with any other applicable provision of California law.

UPDATE OF MATERIAL RELIED UPON

No technical studies, reports or similar documents were relied upon by the Department in proposing these regulations.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

Adoption of this amendment would not impose a mandate on local agencies or school districts.

ALTERNATIVES

The Commissioner has determined that no alternative would be more effective in carrying out the purpose for which the amendment is proposed or less burdensome to insurers without placing an unnecessary burden on consumers. These regulations are designed to implement Proposition 103 and Insurance Code section 1861.02. While the Commissioner received a number of comments from the public, none of the comments presented a reasonable alternative to the regulations. Likewise, the Commissioner believes there is no reasonable alternative. Because no conceivable alternative regulations would be less burdensome to affected insurer without unnecessarily burdening consumers or necessarily hampering the effective implementation of Proposition 103 and section 1861.02, or would be more effective in carrying out the purpose of clarifying the types of information an insurer is allowed or required to collect to determine the estimated annual mileage pursuant to Insurance Code Section 1861.02(a), the Commissioner proposes these amendments for adoption.

SUMMARY AND RESPONSE TO COMMENTS

The summary and response to comments are organized, bound and contained in the legal-sized manila folder marked Addenda to Tab S.

FORM 399

The Commissioner has determined that the changes made by the proposed amendment to Title 10, Section 2632.5 do not have a fiscal impact to state agencies, local agencies, school districts or federal funding. Accordingly, the Fiscal Impact Statement (Form 399) is still accurate.