



# Personal Insurance Federation of California

California's Personal Lines Trade Association

REPRESENTING THE LEADING AUTOMOBILE AND HOMEOWNERS INSURERS

State Farm • Farmers • 21st Century Insurance Group • SAFECO • Progressive • NAMIC

## MEMORANDUM

### STAFF

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**Date:** June 9, 2005

**To:** The Honorable Jackie Speier, Chair  
Members, Senate Banking, Finance and Insurance Committee

**From:** Dan C. Dunmoyer, President  
Rex D. Frazier, Vice President & General Counsel  
Michael A. Gunning, Senior Legislative Advocate  
Michael A. Paiva, Senior Legislative Advocate

**Re:** AB 778 (Mullin): Auto Insurance: In Home Supportive Services  
As Amended June 6, 2005  
Senate Banking, Finance and Insurance Committee: June 15, 2005  
**PIFC Position: Oppose unless Amended**

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The Personal Insurance Federation of California, representing insurers who write over 45% of the auto insurance sold in the state, including State Farm, Farmers, Safeco, 21<sup>st</sup> Century, Progressive, and NAMIC, is **opposed unless amended to AB 778** by Assembly Member Mullin.

AB 778 would prohibit an auto liability policy from containing any provision that excludes from coverage the operation or use of an insured motor vehicle by the named insured in the performance of any in-home supportive services and would prohibit insurers from rating, denying, or canceling a policy for this use of the vehicle. The bill alters the rating factors applicable to auto insurance under Proposition 103. We have tried extensively to work with the author and sponsors to address their concerns while allowing the industry to follow the guidelines of Proposition 103, but to no avail.

Proposition 103 requires insurance companies to determine premium rates based upon three key factors: the insured's driving safety record, number of miles driven annually, and years of driving experience. AB 778 could prevent PIFC member companies from properly rating our insureds, because it states that policies cannot be rated based on a named insured's use of the insured vehicle in providing in-home supportive services. This could be interpreted to mean that miles driven providing in-home support services could not be included in rating considerations, which would violate Proposition 103. We offer the following amendments:

*(i) On and after January 1, 2006, no policy of automobile liability insurance described in subdivision (a) shall be issued, amended, or renewed in this state if it contains any provision that expressly or impliedly excludes from coverage under the policy the operation or use of an insured motor vehicle by the named insured in the performance of any in-home supportive services described in Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code. No policy of*

*insurance issued under this section or application for such policy may ~~be rated or~~ canceled or declined by an insurer ~~solely nor shall an insurer refuse to insure any applicant for insurance,~~ solely for the reason that the named insured or applicant is operating or using an insured motor vehicle to provide transportation incident to the provision of in-home supportive services. ~~This subdivision shall not prohibit an insurer from considering, for the purposes of rating, the number of miles driven in the provision of in-home supportive services if that number exceeds 2,000 miles per year.~~*

By reinserting "solely" in the bill, insurers would be able to apply their general underwriting guidelines to insureds who use the insured vehicle to provide in-home supportive services, but the insurer would be prohibited from basing an underwriting decision *solely* on the fact that the insured vehicle is being used to provide in-home supportive services. If insurers cannot apply their general underwriting guidelines to this group of customers, they will receive favorable treatment as compared to other customers who may use their vehicles in a unique way.

In addition, by eliminating references to "rating" in AB 778, issues related to Proposition 103 would be avoided. There is a similar provision in existing law, which limits insurers' ability to exclude or cancel coverage because an insured is using the insured vehicle to perform volunteer services. This provision, Section 11580.1(f), uses the word "solely" and does not reference rating. By making AB 778 similar to existing law at 11580.1(f), key parts of the sponsors' goals could be achieved without violating Proposition 103.

PIFC also suggests that the author specifically define what are "in-home supportive services." California law describes supportive services, but it does not define "in-home supportive services."

For all of these reasons, **PIFC is opposed unless amended to AB 778 and urges a no vote** on this bill. If you have any additional questions regarding our position, please do not hesitate to contact Michael A. Gunning at (916) 442-6646.

cc: Honorable Gene Mullin, Author  
Brian Perkins, Senate Banking, Finance and Insurance Committee  
Tim Conaghan, Senate Republican Caucus  
Cynthia Bryant, Deputy Legislative Secretary, Office of the Governor  
Scott Reid, Office of the Insurance Advisor  
Senate Floor Analyses

4.AB778-SBF1