Ohio Legislative Service Commission

Bill Analysis

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Sub. H.B. 278

129th General Assembly
(As Reported by H. Insurance)

Reps. Stebelton and Okey, R. Adams, Bubp, Combs, Foley, Grossman, Hollington, Huffman, Letson, Maag, McGregor, McKenney, Murray

BILL SUMMARY

- Increases, nine months after the bill's effective date, the minimum dollar amounts of motor vehicle public liability insurance coverage required for a driver to have a valid proof of financial responsibility.
- Makes it an unfair and deceptive act or practice in the business of insurance to charge excessive, inadequate, or unfairly discriminatory premium rates in private passenger automobile insurance based solely on the insured's residence location.
- Revises the definition of an "automobile insurance policy."
- Reduces from two years to one year the minimum policy period for automobile insurance policies.
- Adds fraud, concealment, and license revocation to the list of reasons why an insurer may cancel an automobile insurance policy.
- Makes several changes to the process by which the Superintendent of Insurance reviews the cancellation of an insured's automobile insurance policy upon written notice by the insured.

CONTENT AND OPERATION

Motor vehicle financial responsibility

Existing law prohibits a person from operating a motor vehicle or permitting the operation of, a motor vehicle in Ohio, unless the person maintains proof of financial responsibility continuously throughout the registration period with respect to that

vehicle, or, in the case of a driver who is not the owner, with respect to that driver's operation of that vehicle.[1]

Existing law defines "proof of financial responsibility" as proof of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of such proof, arising out of the ownership, maintenance, or use of a motor vehicle in specified amounts.[2]

There are various ways that a person may provide proof of financial responsibility including giving a fidelity bond. For most individuals, however, proof of financial responsibility is met by taking out a policy of liability insurance covering the ownership or operation of a motor vehicle.

The bill increases the amounts necessary to meet proof of financial responsibility requirements as follows:[3]

Type of injury	Existing law	The bill
Bodily injury to or death of one person in any one accident	$12,500	$25,000
Bodily injury to or death of two or more in any one accident	$25,000	$50,000
Injury to property of others in any one accident	$7,500	$25,000

Unfair and deceptive acts or practices

Under the bill, it is an unfair and deceptive act or practice in the business of insurance to charge premium rates that are excessive, inadequate, or unfairly discriminatory based solely on the location of the residence of the insured. The bill eliminates the provision that prohibited an insurer from charging different premium rates to persons residing within the limits of any municipal corporation based solely on the location of the residence of the insured within those limits.[4]

Continuing law prohibits a person from engaging in Ohio in any trade practice that is defined as, or determined to be, an unfair or deceptive act or practice in the

[1] R.C. 4509.101(A)(1).

[2] R.C. 4509.01.

[3] R.C. 4509.01, 4509.20, 4509.41, and 4509.51; Section 3 of the bill.

[4] R.C. 3901.21(BB).

business of insurance. The Superintendent of Insurance may conduct hearings to determine whether violations of this prohibition have occurred. If the Superintendent finds that a person has violated the prohibition, the Superintendent must issue a cease and desist order. In addition, the Superintendent may impose any of the following administrative remedies:

(1) Suspend or revoke the person's license to engage in the business of insurance;

(2) Order an insurance company or insurance agency to not employ the person or permit the person to serve in any capacity for a period of time as serves the public interest;

(3) Order the person to return any payments received as a result of the violation and pay statutory interest on those payments;

(4) Order the person to pay to the state treasury for credit to the Department of Insurance Operating Fund an amount, up to $100,000, equal to one-half of the expenses reasonably incurred by the Superintendent to retain attorneys and other experts to assist in any investigations and hearings conducted with respect to violations.

If the Superintendent has reasonable cause to believe that an administrative remedy order has been violated, the Superintendent may request the Attorney General to commence an appropriate action or proceeding in the name of the state against the person. In addition to any other penalties imposed pursuant to the Ohio Insurance Law, in the action the court may impose any of the following:

(1) For each act or practice found to be in violation of the prohibition, a civil penalty of not more than $3,500 for each violation (but not to exceed an aggregate penalty of $35,000 in any six-month period);

(2) For each violation of a cease and desist order issued by the Superintendent, a civil penalty of not more than $10,000;

(3) In addition to any other appropriate relief, any or all of the administrative remedies the Superintendent is authorized to impose.[5]

[5] R.C. 3901.20 and 3901.22(A), (D), (E), and (F), not in the bill.

Automobile insurance policies

Defined

The bill modifies the definition of "automobile insurance policy," by eliminating the requirement that such a policy insure only private passenger motor vehicles or other four-wheeled motor vehicles that are classified or rated as private passenger vehicles and are not used as public or private livery, or rental conveyances. The bill also eliminates the limit that an automobile insurance policy insure not more than four motor vehicles. The bill maintains the following definition from existing law: An "automobile insurance policy" is an insurance policy delivered or issued in this state or covering a motor vehicle required to be registered in this state that: (1) provides automobile bodily injury or property damage liability, or related coverage, (2) insures any one person or husband and wife resident in the same household as the named insured, (3) does not cover garage, automobile sales agency, repair shop, service station, or public parking operation hazards, and (4) is not issued under an assigned risk plan under the Motor Vehicle Financial Responsibility Law.[6]

Additionally, for the purposes of the definition of "automobile insurance policy," the bill defines "motor vehicle" as a self-propelled vehicle designed for and principally used on public roads, including an automobile, truck, motorcycle, and a motor home, provided the motor home is not stationary and is not being used as a temporary or permanent residence or office. "Motor vehicle" does not include a trailer, motorized bicycle, golf cart, off-road recreational vehicle, snowmobile, watercraft, construction equipment, farm tractor or other vehicle designed and principally used for agricultural purposes, mobile home, vehicle traveling on treads or rails, or any similar vehicle.[7]

Policy periods

The bill reduces the minimum policy and renewal periods from two years to one year. Thus, under the bill, every automobile insurance policy must be issued for a period no less than one year, or guaranteed renewable for successive policy periods totaling no less than one year.[8]

Cancellation process

Existing law provides that no insurer may cancel an automobile insurance policy except pursuant to the terms of the policy, and only under certain circumstances. One

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[6] R.C. 3937.30(A).

[7] R.C. 3937.30(B).

[8] R.C. 3937.31.

such circumstance is misrepresentation by the insured to the insurer of any material fact in the procurement or renewal of the insurance or in the submission of claims. The bill adds fraud and concealment to this circumstance under which a policy may be canceled. Additionally, under existing law, a policy may be canceled for loss of driving privileges, and the bill adds license revocation to the existing list of license suspension or expiration.[9]

Under existing law, if there is cause to believe the cancellation is based on erroneous information, or is contrary to law or the terms of the policy, the insured is entitled to have the matter reviewed at a hearing by the Superintendent of Insurance, upon written application to the Superintendent made no later than the effective date of the cancellation of the policy. If the Superintendent holds a hearing, the insured must deposit $5, to be refunded if the Superintendent finds in favor of the insured.

The bill eliminates the requirement that the Superintendent of Insurance hold a hearing on the cancellation of an automobile insurance policy upon written application by an insured, as well as the corresponding $5 deposit for the hearing. The bill also eliminates the requirement that, if the Superintendent approves a cancellation within ten days prior to the effective date of the cancellation, the policy continues in force for ten days or until the insured secures other coverage, whichever occurs first. However, the bill maintains existing requirements that the Superintendent do one of the following upon receipt of a written application for review from an insured:

(1) If the Superintendent finds that there is cause to believe that such cancellation is based on erroneous information, or is contrary to law or the terms of the policy, the Superintendent must determine whether the cancellation is effective and give written notice of the finding to the insured and the insurer. If the determination is that the cancellation is contrary to law or the terms of the policy, the Superintendent must issue a written finding that disapproves the cancellation and state why the cancellation is improper. In such case, the policy will continue in force if within ten days (as opposed to the time of the hearing under existing law) the insured tenders to the insurer any premium refund made by the insurer.

(2) If the Superintendent finds that the cancellation is in accordance with law and the terms of the policy, the Superintendent must issue a written finding approving the cancellation.[10]

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[9] R.C. 3937.31(A)(1) and (2).

[10] R.C. 3937.35.

Technical changes

The bill makes a number of technical changes of a nonsubstantive nature.[11]

Delayed effective date

The bill's provisions take effect nine months after the effective date of the bill.[12]

HISTORY

ACTION	DATE
Introduced	06-22-11
Reported, H. Insurance	11-28-12

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[11] R.C. 3937.32(D) and (E), 3937.33, and 3937.34,

[12] Section 3 of the bill.