



Ohio Legislative Service Commission

Bill Analysis

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Sub. H.B. 278*

129th General Assembly

(As Reported by S. Insurance, Commerce and Labor)

Reps. Stebelton and Okey, R. Adams, Bubp, Combs, Foley, Grossman, Hollington, Huffman, Letson, Maag, McGregor, McKenney, Murray, Antonio, Ashford, Beck, Blessing, Carney, Celebreeze, Damschroder, Fende, Garland, Hackett, R. Hagan, Hayes, Heard, Henne, Hottinger, Lynch, Mallory, McClain, Newbold, Pillich, Sears, Sprague, Stinziano, Szollosi, Yuko, Batchelder

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.

* This analysis was prepared before the report of the Senate Insurance, Commerce and Labor Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

- Restricts the enforcement of intrafamily exclusions in motor vehicle insurance policies.
- Enables an insurer and a salvage motor vehicle auction to obtain a salvage title for a wrecked vehicle that the insurer or salvage motor vehicle auction possesses without holding the original title.
- Creates a study committee for the purpose of studying the feasibility of requiring insurance companies issuing motor vehicle insurance to report certain policy information to the Registrar of Motor Vehicles.

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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

¹ R.C. 4509.101(A)(1).

² R.C. 4509.01(K).

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

These increases take effect nine months after the bill's effective date. A policy in effect on the effective date of the increase continues to constitute proof of financial responsibility for the remainder of the term of that policy.⁴

Unfair and deceptive acts or practices in the business of insurance

Under the bill, it is an unfair and deceptive act or practice in the business of insurance to charge premium rates, with respect to private passenger automobile insurance, 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, with respect to private passenger automobile insurance, to persons residing within the limits of any municipal corporation based solely on the location of the residence of the insured within those limits.⁵

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 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

³ R.C. 4509.01, 4509.20, 4509.41, and 4509.51.

⁴ Section 3(B) of the bill.

⁵ R.C. 3901.21(BB).

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.⁶

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

⁶ R.C. 3901.20 and 3901.22(A), (D), (E), and (F), not in the bill.

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.⁷

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.⁸

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.⁹ This change takes effect six months after the bill's effective date.¹⁰

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 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 of a material fact to this circumstance under which a policy may be canceled. Additionally, under existing law, a policy may be canceled for loss of

⁷ R.C. 3937.30(A).

⁸ R.C. 3937.30(B).

⁹ R.C. 3937.31.

¹⁰ Section 3(A) of the bill.

driving privileges, and the bill adds license revocation to the existing list of license suspension or expiration.¹¹

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.¹²

Intrafamily liability exclusion restrictions

The bill restricts the enforcement of intrafamily liability exclusions in motor-vehicle insurance policies. Under the bill, an insurer can enforce an intrafamily exclusion in the liability portion of an insurance policy against the owner or operator of a motor vehicle in a claim or wrongful death suit against the owner or operator only if

¹¹ R.C. 3937.31(A)(1) and (2).

¹² R.C. 3937.35 and a conforming change in R.C. 3937.32(F).

the insurance policy also includes uninsured/underinsured motorist (UM) coverage and such an intrafamily claim would *not* be denied because of an intrafamily exclusion under the UM portion of the policy.

Put more simply, an insurer cannot do either of the following:

- Enforce an intrafamily liability exclusion for an insured person that only has liability insurance and DOES NOT have UM coverage;
- Enforce an intrafamily liability exclusion for an insured person if the exclusion applies to both the liability coverage and UM coverage portions of the policy.

The insurer can, however, do all of the following:

- Enforce an intrafamily liability exclusion in the liability portion of motor-vehicle insurance if the covered person has UM coverage and the claim would not be denied in the UM portion of the coverage because of an intrafamily liability exclusion;
- Enforce an intrafamily liability exclusion in the UM coverage portion of a policy without enforcing such an exclusion in the liability portion of the policy;
- Enforce an intrafamily liability exclusion in the liability portion of a policy that includes UM coverage without a UM intrafamily exclusions, but contains *another* provision that would still deny the claim under the UM portion of the policy.¹³

The bill defines an "intrafamily liability exclusion" as any provision included in an automobile insurance policy that excludes liability insurance coverage for the owner or operator of a motor vehicle against a claim for injury or death suffered by a family member of that owner or operator.¹⁴

These changes apply to motor-vehicle insurance policies issued or renewed nine or more months after the bill's effective date. A policy in effect on the effective date of the change remains in effect for the remainder of the term of that policy.¹⁵

¹³ R.C. 3937.46(A) and (B) and a conforming change in R.C. 3937.18(I).

¹⁴ R.C. 3937.47(C).

¹⁵ Section 3(C) of the bill.

Titles for unclaimed vehicles

The bill enables an insurer and a salvage motor vehicle auction to obtain a salvage certificate of title (salvage title) for a wrecked vehicle that the insurer or salvage motor vehicle auction possesses without holding the original certificate of title (original title). Under current law, an insurer must obtain the original title to a wrecked vehicle and the wrecked vehicle prior to applying for a salvage title for the vehicle. The insurer must do so within 30 days; the bill changes this to 30 business days. Current law makes no similar provision for a salvage motor vehicle auction.

Under the bill, if an insurance company obtains possession of a wrecked motor vehicle, but is unable to obtain the original title for the motor vehicle, within 30 business days following the vehicle's owner or lienholder's acceptance of the insurance company's payment, the insurance company may apply to the clerk of a court of common pleas for a salvage title without delivering the original title for the vehicle. The application must be accompanied by evidence that the insurance company has paid a total loss claim on the vehicle, a copy of the written request for the original title on the insurance company's letterhead, and the original certified mail, return receipt notice, addressed to the last known owner of the vehicle and any known lienholder, to obtain the original title.¹⁶ Upon receipt of such an application, the clerk is required to issue a salvage title as requested.¹⁷

With regard to a salvage motor vehicle auction, if an insurer requests that such an auction take possession of a vehicle that is the subject of an insurance claim, and subsequently does not pay the claim or otherwise take ownership of the vehicle, then the auction may request a salvage title in a similar manner. After the auction has possession of the vehicle for 45 days, the auction may apply to the clerk of a court of common pleas for a salvage title for the vehicle without delivering the original title. The application must be accompanied by a copy of the written request that the vehicle be removed from the facility on the auction's letterhead, and the original certified mail, return receipt notice, addressed to the last known owner of the vehicle and any known lienholder, requesting that the vehicle be removed from the facility of the auction. Upon receipt of a properly completed application, the clerk is required to provide a salvage title to the auction. The bill specifies that such a salvage title is free and clear of all liens.¹⁸

¹⁶ R.C. 4505.11(C)(1)(b).

¹⁷ R.C. 4505.11(C)(1)(c).

¹⁸ R.C. 4505.11(C)(2).

The bill requires that when a salvage motor vehicle is sold at auction or through a salvage motor vehicle pool, the salvage motor vehicle auction or pool must provide either a salvage title or a title marked "FOR DESTRUCTION."¹⁹

The bill applies those provisions related to wrecked vehicles and titles to all-purpose vehicles and off-highway motorcycles.²⁰

Financial responsibility study committee

The bill creates a study committee to study the feasibility of requiring insurance companies issuing motor vehicle liability insurance policies in Ohio to report certain policy information to the Registrar of Motor Vehicles. The study committee is to consist of 12 members, including the Director of Public Safety or the Director's designee, the Superintendent of Insurance or the Superintendent's designee, six members appointed by the Governor, two members appointed by the Speaker of the House of Representatives, and two members appointed by the President of the Senate. The Governor is to appoint the following members:

- One representative of an Ohio-based automobile insurance company or organization;
- One automobile insurance agent;
- One representative of the Buckeye State Sheriffs' Association;
- One representative of the Ohio Association of Chiefs of Police;
- One representative of the Ohio Clerk of Courts Association;
- One representative of Ohio's municipal judges.

Of the members appointed by the Speaker of the House of Representatives, both are to be members of the House of Representatives and only one may be of the same political party as the Speaker. Of the members appointed by the President of the Senate, both are to be members of the Senate and only one may be of the same political party as the President. The Governor, Speaker, and President are to make their appointments within two weeks after the bill's effective date. The Director of Public Safety or the Director's designee and the Superintendent of Insurance or the Superintendent's designee are to serve as co-chairpersons of the study committee.

¹⁹ R.C. 4505.11(B)(2).

²⁰ R.C. 4505.11.

The study committee is to begin meeting as soon as practicable after the bill's effective date and is to consider all of the following:

- Whether insurers should be required to report all motor vehicle liability insurance renewals, cancellations, or lapses to the Registrar and, if so, the time within which the report should be made;
- Whether insurers should be required to report the issuance of new motor vehicle policies to the Registrar and, if so, the time within which the report should be made;
- The impact of such required reporting on the costs incurred by the insurance industry and the potential for increased insurance premiums;
- The form and content of any recommended reports;
- Whether the Director of Public Safety, the Superintendent of Insurance, or the Registrar should be required or authorized to adopt rules to implement any recommended reporting requirements;
- What sanctions should be imposed for any failure by an insurer to timely file any required report;
- What uses should be made of the reported information, including whether the information should be excluded from the Public Records Law;
- What notice, if any, should be provided to the person whose insurance has been reported lapsed or canceled;
- Whether the insurer should be granted immunity from civil liability for failure to make a report;
- Any other related issues the Registrar or the members of the study committee consider relevant.

The bill requires the committee to consider provisions contained in the laws or regulations of other states regarding motor vehicle liability insurance verification.

Not later than one year after the bill's effective date, the study committee is to prepare a comprehensive report, including findings and recommendations, and is to submit the report to the Governor, the Registrar of Motor Vehicles, the Speaker of the House of Representatives, the President of the Senate, and the Chairpersons of the

Insurance and Transportation committees of the House of Representatives and the Senate. After submitting its report, the study committee is to be disbanded.²¹

Technical changes

The bill makes a number of technical changes of a nonsubstantive nature.²²

HISTORY

ACTION	DATE
Introduced	06-22-11
Reported, H. Insurance	11-28-12
Passed House (85-7)	12-04-12
Reported, S. Insurance, Commerce & Labor	---

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²¹ Section 4 of the bill.

²² R.C. 3937.32(D) and (E), 3937.33, and 3937.34.

