



## **Mercury Insurance's Deceptive Initiative: An Attack on Consumers, Working Families and the Newly Unemployed**

### **Proposal Will Increase the Number of Uninsured Motorists and Raise Premiums**

The deceptively-titled "Continuous Coverage Auto Insurance Discount Act" would impose massive premium surcharges on Californians who were previously uninsured. The purpose of the initiative is to repeal Proposition 103's anti-discrimination provision that states: "The absence of prior automobile insurance coverage, in and of itself, *shall not be a criterion... for automobile rates, premiums, or insurability.*"

Under this proposal, people who stop driving and cancel their auto insurance – after being laid off, for example – will face a steep penalty when they need to restart their insurance for a new job.

A California Court of Appeal decision struck down Mercury Insurance's last attempt to squeeze higher premiums out of the previously uninsured. The court estimated that if such a law took effect, these drivers could face a 40% surcharge on auto insurance premiums.

### **Who will be harmed by this initiative?**

Drivers who have a lapse in auto insurance coverage of more than 90 days in the past five years will face penalties in the range of hundreds of dollars per year when they restart insurance. Drivers cancel coverage for many reasons: a layoff may cause someone to stop driving in order to cut back on gas and insurance costs, or a family may cancel insurance during the upheaval of a foreclosure. Students, stay-at-home spouses or others may simply choose not to drive a motor vehicle for a time. All of these people will pay a penalty under this initiative, even if they have an excellent driving record. With unemployment in California at a record 11.5%, people who are forced by their economic circumstances to drop insurance would now be penalized for restarting their auto insurance coverage.

It's not just those in difficult financial circumstances who will pay more. When newly uninsured drivers face barriers to re-entering the insurance market, all insured drivers in California end up paying more for insurance in the form of higher premiums for "uninsured motorist coverage."

### **Who is funding the initiative, and why?**

This proposed initiative is sponsored by Mercury Insurance and its billionaire owner George Joseph. Joseph has long sought to end Prop. 103's protections against insurance discrimination and excessive prices. In the past, he and his company sponsored legislation to restore "territorial rating," in which insurance companies base auto premiums primarily upon a motorist's zip code, a practice outlawed by Proposition 103.

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In 2003, Mercury distributed millions of dollars in campaign contributions to elected officials in Sacramento in order to pass legislation that legalized surcharges for those who experienced a lapse in coverage. A California Court of Appeal tossed the law out, writing:

Mercury concedes that “uninsured persons will always be excluded” from the premium discount that Sen. Bill 841’s prior-insurance rating factor accomplishes. This runs contrary to the declared purposes of Proposition 103 and contravenes the voters’ directive against insurance rates that are “excessive, inadequate [or] unfairly discriminatory.” 132 Cal. App. 4th 1352, 1367-1369

This is not the only Mercury practice that has run afoul of the law. Mercury recently was found to be allowing its agents to impose tens of millions of dollars in illegal broker fees on consumers; it is currently facing a Department of Insurance prosecution to hold the company accountable for its lawbreaking.

Mercury is also commonly recognized by consumer advocates as being among the worst insurers when it comes to paying claims promptly and in full. (Consumer Watchdog is investigating these and other unlawful Mercury practices and will issue a report.)

### **Why does Mercury claim its initiative will offer discounts and not explain that there is a corresponding surcharge for many drivers?**

This is a deceptive campaign meant to hide the proposal's inherent attack on families struggling in these tough times. As the Court of Appeal explained, citing the California Department of Insurance’s senior actuary:

"The premiums for policyholders who, because of their characteristics, do not qualify for a particular discount must be *surcharged* in an amount *equal to the total of the discounts* given to the policyholders that qualified for the discount." [Emphasis in original] 132 Cal. App. 4th 1352, 1367-1369

The political consultants running Joseph’s latest anti-consumer campaign know that concerned Californians won't stand for an initiative that imposes an insurance surcharge, so they conveniently fail to disclose this fact. That is why the Mercury initiative does not disclose that it deletes a key Proposition 103 protection against the practice of using prior insurance status in the setting of rates and premiums.

### **What will this do to the premiums of insured drivers in California?**

The Insurance Information Institute anticipates that there will be a 16.7% increase in the number of uninsured drivers by 2010 as a result of the economic downturn. California, already among the top 10 states with the most uninsured drivers, will face a dramatic increase in the number of uninsured motorists: more than 1 in every 5 drivers. In addition to making it substantially more expensive for the uninsured to reenter the insurance pool, the Mercury initiative will lead to higher premiums for those who remain insured. When there are more uninsured, the price of “uninsured motorist coverage” goes up for everyone else.

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## **Mercury claims that its initiative will put California in line with other states. Is that a good thing?**

In 1988, Californians voted for the most sweeping insurance consumer protections in the nation by passing Proposition 103. Since then, California drivers have saved more than \$62 billion on auto insurance alone, according to a 2008 study by the Consumer Federation of America. Our rules remain far stronger and more protective than any state in the nation. The Mercury Insurance proposal would send us back to the old discriminatory practice (still allowed in too many states where insurance companies have blocked reforms) of arbitrarily surcharging the most financially vulnerable citizens.

Mercury claims that this will make California a more competitive auto insurance marketplace. In fact, according to an analysis of state auto insurance markets using the Herfindahl-Hirshman Index (HHI), the index used by the U.S. Dep't of Justice to calculate market concentration, California is already the fourth most competitive market in the nation. Mercury notes that states such as New York, Florida and Texas use the proposed surcharge/discount scheme, but fails to acknowledge that those states fall in the bottom half of states when it comes to competitive markets. Additionally, with this alleged discount in place, Floridians spend about 26% more on average than do Californians for auto insurance, New Yorkers spend about 33% more and Texans spend about the same as Californians.

## **Why are Mercury Insurance and George Joseph funding this attack on consumers now?**

In 2008, Mercury had its first annual loss in many years. The company is looking for opportunities to raise premiums at a time when most Californians are tightening their belts. The company knows that there will be a substantial increase in drivers with insurance lapses and sees this as an opportunity to cash in on the state's suffering.

The alleged discount proposed in the law is a marketing gimmick that will provide only marginal savings to those who qualify (if 80% of policyholders are previously insured and 20% previously uninsured the surcharge on the uninsured will be four times the size of the discount). It is possible that any discount will be entirely spent on increased uninsured motorist premiums.

## **Where can I get more information?**

Consumer Watchdog, the non-profit whose advocates wrote and defend Proposition 103, has written a letter to George Joseph asking him to withdraw the initiative. The letter is available at <http://www.consumerwatchdog.org/resources/GJoseph061909.pdf>. You can reach us at 310-392-0522, via e-mail at [MercuryDeception@consumerwatchdog.org](mailto:MercuryDeception@consumerwatchdog.org) or on the web at [ConsumerWatchdog.org](http://ConsumerWatchdog.org).