DATE OF HEARING: April 21, 1993 SB 957

SENATE COMMITTEE ON INSURANCE, CLAIMS AND CORPORATIONS
ART TORRES, CHAIRMAN

SB 957 (Johnston), as Amended April 15, 1993

SUBJECT: Automobile Insurance: Intermediate Rates

DIGEST:

Current law, enacted by the passage of Proposition 103 in 1988, requires auto insurance premium rates to be determined by applying the following factors, in priority order: 1) the insured's driving safety record, 2) the number of miles driven annually, 3) the number of years of driving experience, and 4) other factors which the Insurance Commissioner adopts by regulation that have a substantial relationship to the risk of loss. Current law also requires insurers to sell Good Driver Discount policies (which are at least a 20% discount from the rate otherwise chargeable for the same coverage) to any person who meets all the following criteria:

a) the driver has been licensed for the previous three years and

b) during the previous three years, the driver has not done any of the following: 1) had more than one violation point, 2) had more then one dismissal of a driving complaint due to attendance at court-approved driving instruction, 3) was convicted of driving under the influence of alcohol (0.05% or more) when under 18 years of age, and 4) caused an accident resulting in bodily injury or death.

This bill permits insurers to file an auto insurance rate for insureds who do not qualify as good drivers for an amount less than the Good Driver Discount rate where the insurer can demonstrate actuarially credible experience that justifies that lower rate.

FISCAL EFFECT

No fiscal effect.

COMMENTS

1) The sponsor of this bill is Mercury Casualty Company.

2) According to the sponsor, the purpose of this bill is to permit insurers to file rates for persons who do not qualify as good drivers in an amount less than that required for bad drivers where the insurer can provide actuarially credible experience that justifies a lower rate. Pursuant to Proposition 103, rates would then be subject to approval by the Insurance Commissioner just as any other rate.

3) The sponsor believes there are many drivers who though they technically

belong by statute in the bad driver category are nonetheless paying rates which are higher than credible actuarial data would require and, thus, are paying rates which are "excessive" and "unfairly discriminatory" contrary to Proposition 103.

As examples, these are drivers who have been involved in a minor fender bender or rear end collision and in which a bodily injury claim may depend more on the conduct or character of the other driver rather than their own driving record.

4) The Department of Insurance is opposed to this bill on the grounds that it would effectively repeal one of the primary provisions of Proposition 103 -- the benefit of a 20% discount for good drivers -- and that it may be unconstitutional to so amend the statute since in its opinion the change does not "further the statute's purposes." The Department states that the bill purports to offer the opportunity for lower rates for some drivers but that this necessarily implies higher rates for other drivers. Insurers' rating plans -- the manner in which they determine which drivers pay how much -- are necessarily "zero sum games": for every winner there is a loser.

ISSUES

1) Error in Drafting?

The bill is drafted to permit insurers to file for rates lower than the 20% discount rate for good drivers. This lowest rate would be for insureds who do not qualify as good drivers. This is contrary to Proposition 103.

Given the expressed intent of the bill: to allow for an intermediate rate between the good drivers and other drivers, the redrafting of page 2, lines 32 and 33 appears to be in order. One option is on page 2, line 32, to substitute the word "more" for the word "less".

2) What is Meant by Actuarially Credible Experience?

The bill would allow an insurer to file a lower rate for persons who do not qualify as good drivers when the insurer demonstrates "actuarially credible experience" that justifies a lower rate for that class of insureds. The term is not defined in the bill and could include a fairly wide variety of factors such as age, occupation, health, and geography which are central to the meaning of the bill.

Should the bill define the term "actuarially credible experience"?

3) Intermediate Rates Between Good Drivers and Other Drivers.

Establishing an intermediate rate between the good drivers and the bad drivers can be viewed as fair to the somewhat good drivers but that would do away with the 20% reward for the good drivers (the gap would no longer be 20%), and there could be pressure on insurance companies to move away from insuring the good drivers and the bad drivers. If companies begin to redirect their business to certain areas or age groups, with payment of higher premiums, this would occupy more of their time and energy (and that of their agents or brokers), and thereby detract attention from insuring other drivers.

Should intermediate rates be allowed? If so, should there be any protections against large-scale shifts in business?

POSITIONS

Support
Mercury Casualty Company (Sponsor)
Alliance of American Insurers

Opposition
Voter Revolt

Consultant: Manuel Hernandez
sinsclcorp