



Fact Sheet on Petition to Insurance Commissioner to Stop Illegal “Affinity Group” Auto Insurance Overcharges

The Issue: Insurance companies have been marketing what they call “affinity groups” to offer some California residents special premium benefits at the expense of others who don’t qualify. Examples of “affinity groups” include lawyers, doctors, business professionals, college graduates, and homeowners. Those who don’t qualify for “affinity group” status – those who hold jobs in fields other than elite professions, people who have lost jobs or are otherwise unemployed, students, and retired people – are required to pay higher premiums to subsidize those who are members of these elite groups.

Proposition 103 Bars Illegal Surcharges: Insurance reform Proposition 103 bars the use of unapproved rating factors such as occupation and education. Insurance Code section 1861.02(a) requires that premiums be determined principally by three specified rating factors – the insured’s driving safety record; annual mileage, and years of driving experience – and, to a lesser extent, by any optional rating factors that “the commissioner may *adopt by regulation* and that have a substantial relationship to the risk of loss” (§ 1861.02(a)(4) [emphasis added].) The current list of authorized optional rating factors can be found at California Code of Regulations, title 10, section 2632.5(d). The use of any rating factor that has not adopted by the Insurance Commissioner by regulation – that does not appear on the authorized optional rating factor list – “shall constitute unfair discrimination,” which is a violation of section 1861.05(a).

The Commissioner has never authorized, by regulation, any “affinity group” classification as an optional automobile rating factor. Nor has any insurance company presented *any evidence* that any education level, occupation or any other “affinity group” criterion bears *any* relationship to the risk of loss, much less the “substantial relationship to risk of loss” required by the statute. Thus, the use of occupation, education level or other “affinity groups” is unlawful.

Moreover, because “affinity groups” have not been subjected to automobile rating factor rules, it is possible that these classifications have a greater weight and impact on premiums than the three mandatory factors – a result that would also violate Proposition 103.

Proposed Action: A group of public interest organizations is formally petitioning the Insurance Commissioner to immediately initiate a rulemaking and promulgate an amendment to the Proposition 103 Automobile Rating Factor regulations (California Code of Regulations, title 10, § 2632 et seq.) to prohibit auto insurance companies from surcharging motorists based on their occupation, educational status, membership in elite organizations and other unauthorized rating factors. Under California law, the Commissioner must respond to the Petition within thirty days.

Background: According to a study by by Consumer Federation of America (CFA) last year,¹ several of the largest auto insurers have adopted rating methods that directly base rates upon education and occupation. For example, according to the CFA analysis, in Oakland, CA, GEICO charges a factory worker with a high school degree 33% more in annual premiums (\$922 vs. \$693) than an executive with a college degree, and Liberty Mutual charges a factory worker 20% more than an executive (\$1074 vs. \$892).

As also noted in the CFA analysis, research has shown that both education and occupation are highly correlated with income and ethnicity. Because of the direct correlation between income and ethnicity and educational levels attained, insurers who market “affinity groups” based on educational and occupational status are effectively also basing rates on income level and ethnicity in violation of Proposition 103.²

Contact: Harvey Rosenfield, Consumer Watchdog (310) 392-0522 x 303

¹ “Major Auto Insurers Charge Higher Rates to High School Graduates and Blue Collar Workers,” national survey by Consumer Federation of America (CFA), July 2013.

² According to the 2000 U.S. Census data, the percentage of Caucasian people age 25 who have achieved a four-year college degree was 27.6% compared to 17.3% of adult African Americans.