

SENATE BILL 72

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(PRE-FILED)

7lr1002
CF HB 1315

By: Senators Klausmeier, Eckardt, ~~and Middleton~~ Middleton, Benson, Feldman,
Hershey, Mathias, Reilly, and Rosapepe

Requested: October 27, 2016

Introduced and read first time: January 11, 2017

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 3, 2017

CHAPTER _____

1 AN ACT concerning

2 **Workers' Compensation – Tiered Rating Plans and Merit Rating Plans**

3 FOR the purpose of authorizing a workers' compensation insurer to develop a certain tiered
4 rating plan; requiring a workers' compensation insurer to submit a certain tiered
5 rating plan to the Insurance Commissioner at least a certain number of days in
6 advance of the tiered rating plan's use; requiring the Commissioner to disapprove a
7 certain tiered rating plan under certain circumstances; authorizing a workers'
8 compensation insurer to use a certain merit rating plan under certain circumstances;
9 and generally relating to workers' compensation insurance.

10 BY repealing and reenacting, with amendments,

11 Article – Insurance

12 Section 11–329

13 Annotated Code of Maryland

14 (2011 Replacement Volume and 2016 Supplement)

15 (As enacted by Chapter 394 of the Acts of the General Assembly of 2016)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
17 That the Laws of Maryland read as follows:

18 **Article – Insurance**

19 11–329.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (a) Each workers' compensation insurer shall:

2 (1) be a member of a workers' compensation rating organization; and

3 (2) adhere to the policy forms filed by the rating organization.

4 (b) (1) Each workers' compensation insurer shall adhere to a uniform
5 classification system and uniform experience rating plan filed with the Commissioner by a
6 rating organization designated by and subject to disapproval by the Commissioner.

7 (2) (i) An insurer may develop subclassifications of the uniform
8 classification system on which a rate may be made.

9 (ii) Any subclassification developed under subparagraph (i) of this
10 paragraph shall be filed with the Commissioner at least 30 days before its use.

11 (iii) If the insurer fails to demonstrate that the data produced under
12 a subclassification can be reported in a manner consistent with the uniform classification
13 system and uniform statistical plan, the Commissioner shall disapprove the
14 subclassification.

15 **(3) (I) AN INSURER MAY DEVELOP A TIERED RATING PLAN
16 CONTAINING TWO OR MORE RISK TIERS TO BE APPLIED TO THE INSURER'S
17 ACCEPTANCE OF RISKS UNDER THE UNIFORM CLASSIFICATION SYSTEM ON WHICH A
18 RATE MAY BE MADE.**

19 **(II) A TIERED RATING PLAN UNDER SUBPARAGRAPH (I) OF THIS
20 PARAGRAPH SHALL:**

21 **1. ESTABLISH DISCRETE TIERS FOR THE ACCEPTANCE
22 OF RISKS BASED ON DEFINED RISK ATTRIBUTES THAT:**

23 **A. ARE NOT ARBITRARY, CAPRICIOUS, OR UNFAIRLY**
24 **DISCRIMINATORY; AND**

25 **B. ARE REASONABLY RELATED TO THE INSURER'S**
26 **BUSINESS AND ECONOMIC PURPOSES; AND**

27 **2. REQUIRE THAT EACH INSURED BE PLACED IN THE
28 HIGHEST QUALITY TIER FOR WHICH THAT INSURED QUALIFIES.**

29 **(III) AN INSURER SHALL FILE A TIERED RATING PLAN
30 DEVELOPED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH WITH THE
31 COMMISSIONER AT LEAST 30 DAYS BEFORE THE TIERED RATING PLAN'S USE.**

1 **(IV) IF AN INSURER FAILS TO DEMONSTRATE THAT THE DATA**
2 **PRODUCED UNDER A TIERED RATING PLAN CAN BE REPORTED IN A MANNER**
3 **CONSISTENT WITH THE UNIFORM CLASSIFICATION SYSTEM AND THE UNIFORM**
4 **STATISTICAL PLAN, THE COMMISSIONER SHALL DISAPPROVE THE TIERED RATING**
5 **PLAN.**

6 (c) Each workers' compensation insurer shall record and report its workers'
7 compensation experience to a rating organization as set forth in the uniform statistical plan
8 approved by the Commissioner.

9 (d) (1) Subject to the approval of the Commissioner, each rating organization
10 shall develop and file rules reasonably related to the recording and reporting of data under
11 the uniform classification system, uniform statistical plan, and uniform experience rating
12 plan.

13 (2) In writing and reporting its business, each workers' compensation
14 insurer shall adhere to the approved rules and experience rating plan.

15 (3) An insurer may not agree with another insurer or rating organization
16 to adhere to rules that are not reasonably related to the recording and reporting of data
17 under the uniform classification system or uniform statistical plan.

18 (e) The experience rating plan methodology required under § 11-330(d)(4) of this
19 subtitle shall be based on:

20 (1) reasonable eligibility standards;

21 (2) adequate incentives for loss prevention; and

22 (3) sufficient premium differentials so as to encourage safety.

23 (f) (1) Except as provided in paragraphs (2) [and], (3), AND (4) of this
24 subsection, the uniform experience rating plan shall be the exclusive means of providing
25 prospective premium adjustment based on measurement of the loss-producing
26 characteristics of an individual insured.

27 (2) In addition to any premium adjustment allowed under paragraph (1) of
28 this subsection and pursuant to a filing made by a rating organization and approved by the
29 Commissioner, an insurer may file a rating plan with the Commissioner that provides for
30 prospective premium adjustments up to 25% based upon characteristics of a risk that are
31 not reflected in the uniform experience rating plan.

32 (3) **AN INSURER MAY FILE A RATING PLAN WITH THE COMMISSIONER**
33 **THAT PROVIDES FOR PROSPECTIVE PREMIUM ADJUSTMENTS BASED ON MERIT FOR**
34 **AN INSURED THAT DOES NOT MEET MINIMUM PREMIUM REQUIREMENTS TO QUALIFY**
35 **FOR A UNIFORM EXPERIENCE RATING PLAN.**

1 **(4)** (i) Except as provided in subparagraph (ii) of this paragraph, in
 2 addition to any premium adjustment allowed under paragraphs (1) [and], (2), **AND (3)** of
 3 this subsection and pursuant to a filing made by a rating organization and approved by the
 4 Commissioner, an insurer may file a rating plan with the Commissioner that provides for
 5 a premium discount for appropriate classifications or subclassifications of a risk of up to
 6 4% to an insured that has an alcohol- and drug-free workplace policy that may include one
 7 or more of the following programs:

- 8 1. an alcohol and drug testing program;
- 9 2. an employee education program on alcohol and drug
 10 abuse;
- 11 3. a supervisor education program on alcohol and drug
 12 abuse;
- 13 4. an employee assistance program that includes referrals of
 14 employees for appropriate diagnosis, treatment, and assistance;
- 15 5. a program requiring an employee who has caused or
 16 contributed to an accident while at work to undergo alcohol or drug testing; and
- 17 6. any other program that the insurer deems effective to
 18 encourage an alcohol- and drug-free workplace.

19 (ii) An insurer is not required to provide a premium discount under
 20 this paragraph if the insured is required under federal or State law to test its employees
 21 for drugs or otherwise provide an alcohol- and a drug-free workplace.

22 **[(4)] (5)** An insurer may file a rating plan that provides for retrospective
 23 premium adjustments based on an insured's past experience.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 25 October 1, 2017.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.