

SENATE BILL 72

C4, K1

7lr1002

(PRE-FILED)

By: **Senators Klausmeier, Eckardt, and Middleton**

Requested: October 27, 2016

Introduced and read first time: January 11, 2017

Assigned to: Finance

A BILL ENTITLED

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.

20 (a) Each workers' compensation insurer shall:

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

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

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

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

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

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

18 **1. ESTABLISH DISCRETE TIERS FOR THE ACCEPTANCE
19 OF RISKS BASED ON DEFINED RISK ATTRIBUTES; AND**

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

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

25 **(IV) IF AN INSURER FAILS TO DEMONSTRATE THAT THE DATA
26 PRODUCED UNDER A TIERED RATING PLAN CAN BE REPORTED IN A MANNER
27 CONSISTENT WITH THE UNIFORM CLASSIFICATION SYSTEM AND THE UNIFORM
28 STATISTICAL PLAN, THE COMMISSIONER SHALL DISAPPROVE THE TIERED RATING
29 PLAN.**

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

33 (d) (1) Subject to the approval of the Commissioner, each rating organization
34 shall develop and file rules reasonably related to the recording and reporting of data under

1 the uniform classification system, uniform statistical plan, and uniform experience rating
2 plan.

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

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

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

10 (1) reasonable eligibility standards;

11 (2) adequate incentives for loss prevention; and

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

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

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

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

26 (4) (i) Except as provided in subparagraph (ii) of this paragraph, in
27 addition to any premium adjustment allowed under paragraphs (1) [and], (2), AND (3) 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 a premium discount for appropriate classifications or subclassifications of a risk of up to
31 4% to an insured that has an alcohol- and drug-free workplace policy that may include one
32 or more of the following programs:

33 1. an alcohol and drug testing program;

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

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

14 [(4)](5) An insurer may file a rating plan that provides for retrospective
15 premium adjustments based on an insured's past experience.

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