

Department of Legislative Services
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FISCAL AND POLICY NOTE
First Reader

Senate Bill 1059

(Senators Kagan and Benson)

Finance

**Motor Vehicle Insurance – Discrimination in Underwriting and Rating – Use of
Marital Status or Gender**

This bill prohibits a private passenger motor vehicle insurer from using an applicant's or insured's gender or marital status to refuse to underwrite, cancel, refuse to renew, rate a risk, or increase the renewal premium of a motor vehicle insurance policy. In doing so, the bill repeals the prohibition on a private passenger motor vehicle insurer increasing the premium for an insured who becomes a surviving spouse based solely on the insured's change in marital status.

Fiscal Summary

State Effect: Minimal special fund revenue increase for the Maryland Insurance Administration (MIA) from the \$125 rate and form filing fee in FY 2019; review of additional filings may necessitate contractual support in FY 2019 only. MIA special fund expenditures increase minimally to the extent the bill results in complaints related to changes in rate making standards. General fund revenues may be affected, as discussed below.

Maryland Automobile Insurance Fund (MAIF) Effect: Although the bill changes the factors that a private passenger motor vehicle insurer may take into consideration to determine premiums, it is not expected to change the total amount of premiums collected by MAIF or any corresponding premium tax revenue attributable to MAIF policies. The bill's requirements can be handled with existing resources.

Local Effect: The bill does not directly affect local governmental operations or finances.

Small Business Effect: Minimal.

Analysis

Current Law: Insurance law does not explicitly prohibit (or authorize) a private passenger motor vehicle insurer from using an applicant's or insured's marital status or gender when underwriting and rating a policy.

A private passenger motor vehicle insurer may not (1) refuse to underwrite, cancel, refuse to renew, or increase the renewal premium based, in whole or in part, on the credit history of an insured or applicant or (2) require a particular payment plan based, in whole or in part, on the credit history of an insured or applicant. However, an insurer may use the credit history of an applicant to rate a new policy of private passenger automobile insurance if the insurer meets other specified requirements. For example, if the insurer uses credit history and doing so results in higher premiums for an insured, the insurer must review the insured's credit history every two years or on request of the insured. Based on this review, the insurer must adjust the premium to reflect any improvement in the insured's credit history.

In addition to the limitations on using credit history to underwrite and rate an insurance policy, Chapters 639 and 640 of 2017 prohibit insurers from increasing the premium for an insured who becomes a surviving spouse based solely on the insured's change in marital status.

An automobile liability insurer may not cancel, refuse to renew, or terminate insurance coverage because of a claim, traffic violation, or accident that occurred more than three years before the effective date of the policy application or renewal.

Background: In Maryland, auto insurers use complex formulas with numerous variables to determine premium rates for insurance policies. Insurers attempt to measure how likely an insured is to make claims or have accidents based on the characteristics of the driver and the insured vehicle. For example, the characteristics include driving records (*e.g.*, accidents and violations), county or zip code of residence, gender, age, occupation, education level, marital status, prior insurance coverage history, and age, make, and model of the vehicle being insured.

Many insurers also offer discounts for behaviors that correlate with good driving or less expensive claims in the event of an accident. For example, some insurers offer discounts for good driving records, safety devices installed in the vehicle, anti-theft devices installed in the vehicle, and good grades if the insured is a student.

MAIF Fiscal Effect: MAIF advises that it uses both marital status and gender as a factor when rating insurance policies. Under the bill, on average, annual premiums for MAIF insureds would (1) decrease by \$116 for single males; (2) increase by \$145 for single

females; (3) increase by \$16 for married males; and (4) increase by \$103 for married females. This results in no net impact on the total premiums collected by MAIF.

State Revenues: Title 6 of the Insurance Article imposes a 2% premium tax on each authorized insurance company, surplus lines broker, or unauthorized insurance company that sells, or an individual who independently procures, any type of insurance coverage upon a risk that is located in the State. Revenues accrue to the general fund.

Currently available information indicates that private passenger automobile insurers in the State are uncertain as to what effect the bill has on premiums for private passenger automobile insurance policies. Thus, the direction and extent of any impact on general fund revenues through the premium tax cannot be reliably estimated at this time.

Additional Information

Prior Introductions: None.

Cross File: HB 657 (Delegate Sydnor, *et al.*) - Economic Matters.

Information Source(s): Maryland Insurance Administration; Maryland Automobile Insurance Fund; Department of Legislative Services

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mm/jc

Analysis by: Richard L. Duncan

Direct Inquiries to:
(410) 946-5510
(301) 970-5510