

# SENATE BILL 195

C4

0lr1539  
CF HB 270

---

By: **Senators Feldman and Hershey**  
Introduced and read first time: January 15, 2020  
Assigned to: Finance

---

Committee Report: Favorable with amendments  
Senate action: Adopted  
Read second time: February 24, 2020

---

## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Automobile Insurance – Usage–Based Insurance – ~~Application and Notice~~**

3 FOR the purpose of establishing that the application of a certain insurance program on  
4 vehicle operation is not a violation of certain restrictions on classification for private  
5 passenger motor vehicle insurance; excluding the application of certain provisions  
6 on exclusion of drivers to a certain insurance program on vehicle operation; requiring  
7 that a certain notice include certain information for a premium increase due to a  
8 certain insurance program on vehicle operation; prohibiting a certain insurer from  
9 requiring an applicant or a policyholder to participate in a certain insurance program  
10 on vehicle operation as a condition for underwriting a private passenger motor  
11 vehicle insurance risk except under certain circumstances; and generally relating to  
12 private passenger motor vehicle insurance and usage–based automobile insurance  
13 programs.

14 BY repealing and reenacting, with amendments,  
15 Article – Insurance  
16 Section 11–318(b), 27–609, and 27–614(c)  
17 Annotated Code of Maryland  
18 (2017 Replacement Volume and 2019 Supplement)

19 BY adding to  
20 Article – Insurance  
21 Section 27–501(t)  
22 Annotated Code of Maryland  
23 (2017 Replacement Volume and 2019 Supplement)

---

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

3 **Article – Insurance**

4 11–318.

5 (b) (1) An insurer under an automobile liability insurance policy may not  
6 classify or maintain an insured for a period longer than 3 years in a classification that  
7 entails a higher premium:

8 (i) because of a specific claim; or

9 (ii) because of the insured’s driving record.

10 (2) For the purpose of determining whether to classify an insured in a  
11 classification that entails a higher premium, an insurer may review only a period not  
12 greater than 3 years before:

13 (i) if the policy has not yet been issued:

14 1. the date of the application; or

15 2. the proposed effective date of the policy; or

16 (ii) on renewal of a policy, the effective date of the renewal.

17 (3) (i) The removal of a discount is not a violation of this subsection.

18 **(II) THE APPLICATION OF A PROGRAM THAT MEASURES THE**  
19 **OPERATION OF AN INSURED VEHICLE DURING THE CURRENT POLICY PERIOD IS NOT**  
20 **A VIOLATION OF THIS SUBSECTION.**

21 ~~[(ii)]~~ **(III)** Subparagraph (i) of this paragraph may not be construed  
22 to prevent an insurer from granting a claim-free discount to an insured.

23 27–501.

24 **(T) WITH RESPECT TO PRIVATE PASSENGER MOTOR VEHICLE INSURANCE,**  
25 **AN INSURER MAY NOT REQUIRE AN APPLICANT OR A POLICYHOLDER TO**  
26 **PARTICIPATE IN A PROGRAM THAT MEASURES THE OPERATION OF AN INSURED**  
27 **VEHICLE AS A CONDITION FOR UNDERWRITING A PRIVATE PASSENGER MOTOR**  
28 **VEHICLE INSURANCE RISK UNLESS THE INSURER:**

1           **(1) ONLY OFFERS PRIVATE PASSENGER MOTOR VEHICLE INSURANCE**  
2 **PRODUCTS THAT REQUIRE INSURED TO PARTICIPATE IN A PROGRAM THAT**  
3 **MEASURES THE OPERATION OF AN INSURED VEHICLE;**

4           **(2) DISCLOSES THE INFORMATION IN ITEM (1) OF THIS SUBSECTION**  
5 **TO:**

6                   **(I) THE APPLICANT AT THE TIME OF APPLICATION; AND**

7                   **(II) THE POLICYHOLDER AT THE TIME OF RENEWAL; AND**

8           **(3) INCLUDES THE INFORMATION IN ITEM (1) OF THIS SUBSECTION IN**  
9 **ANY ADVERTISING MATERIALS FOR THE INSURANCE PRODUCTS OFFERED BY THE**  
10 **INSURER.**

11 27-609.

12           (a) ~~THIS SECTION DOES NOT APPLY TO A CANCELLATION, NONRENEWAL, OR~~  
13 **PREMIUM INCREASE FOR A DRIVER OR VEHICLE DUE TO A PROGRAM THAT**  
14 **MEASURES THE OPERATION OF AN INSURED VEHICLE DURING THE CURRENT**  
15 **POLICY PERIOD.**

16           **(B)** (1) (i) This paragraph applies to a private passenger motor vehicle  
17 liability insurance policy issued in the State under which more than one individual is  
18 insured.

19                   (ii) If an insurer is authorized under this article to cancel, nonrenew,  
20 or increase the premiums on a policy of private passenger motor vehicle liability insurance  
21 subject to this paragraph because of the claim experience or driving record of one or more  
22 but less than all of the individuals insured under the policy, the insurer, instead of  
23 cancellation, nonrenewal, or premium increase, shall offer to continue or renew the  
24 insurance, but to exclude all coverage when a motor vehicle is operated by the specifically  
25 named excluded individual or individuals whose claim experience or driving record could  
26 have justified the cancellation, nonrenewal, or premium increase.

27                   (2) (i) This paragraph applies to a motor vehicle liability insurance  
28 policy issued in the State, other than a policy subject to paragraph (1) of this subsection,  
29 under which more than one individual is insured.

30                   (ii) If an insurer is authorized under this article to cancel, nonrenew,  
31 or increase the premiums on a policy of motor vehicle liability insurance subject to this  
32 paragraph because of the claim experience or driving record of one or more but less than  
33 all of the individuals insured under the policy, the insurer, instead of cancellation,  
34 nonrenewal, or premium increase, may offer to continue or renew the insurance, but to  
35 exclude all coverage when a motor vehicle is operated by the specifically named excluded

1 individual or individuals whose claim experience or driving record could have justified the  
2 cancellation, nonrenewal, or premium increase.

3 **[(b)] (C)** If an insurer legally could refuse to issue a policy of motor vehicle  
4 liability insurance under which more than one individual is insured because of the claim  
5 experience or driving record of one or more but less than all of the individuals applying to  
6 be insured under the policy, the insurer may issue the policy but exclude all coverage when  
7 a motor vehicle is operated by the specifically named excluded individual or individuals  
8 whose claim experience or driving record could have justified the refusal to issue.

9 **[(c)] (D)** A policy described in subsection **[(a) or] (b) OR (C)** of this section may  
10 be endorsed to exclude specifically all coverage for any of the following when the named  
11 excluded driver is operating a motor vehicle covered under the policy whether or not that  
12 operation or use was with the express or implied permission of an individual insured under  
13 the policy:

14 (1) the excluded operator or user;

15 (2) the motor vehicle owner;

16 (3) family members residing in the household of the excluded operator or  
17 user or motor vehicle owner; and

18 (4) any other person, except for the coverage required by §§ 19–505 and  
19 19–509 of this article if that coverage is not available under another motor vehicle policy.

20 **[(d)] (E)** The premiums charged on a policy that excludes a named driver or  
21 drivers under this section may not reflect the claim experience or driving record of the  
22 excluded named driver or drivers.

23 27–614.

24 (c) (1) Except as provided in paragraph (2) of this subsection, at least 45 days  
25 before the effective date of an increase in the total premium for a policy of private passenger  
26 motor vehicle liability insurance, the insurer shall send written notice of the premium  
27 increase to the insured at the last known address of the insured by a first-class mail  
28 tracking method.

29 (2) The notice required by paragraph (1) of this subsection need not be  
30 given if the premium increase is part of a general increase in premiums that is filed in  
31 accordance with Title 11 of this article and does not result from a reclassification of the  
32 insured.

33 (3) The notice may accompany or be included in the renewal offer or policy.

34 (4) The notice must be in duplicate and on a form approved by the  
35 Commissioner.

- 1           (5)    The notice must state in clear and specific terms:
- 2                   (i)    the premium for the current policy period;
- 3                   (ii)   the premium for the renewal policy period;
- 4                   (iii)  the basis for the action, including, at a minimum:
- 5                           1.    if the premium increase is due wholly or partly to an  
6 accident:
- 7                                A.   the name of the driver;
- 8                                B.   the date of the accident; and
- 9                                C.   if fault is a material factor for the insurer's action, a  
10 statement that the driver was at fault;
- 11                           2.   if the premium increase is due wholly or partly to a  
12 violation of the Maryland Vehicle Law or the vehicle laws of another state or territory of  
13 the United States:
- 14                                A.   the name of the driver;
- 15                                B.   the date of the violation; and
- 16                                C.   a description of the violation;
- 17                           3.   if the premium increase is due wholly or partly to the  
18 claims history of an insured, a description of each claim; [and]
- 19                           4.    **IF THE PREMIUM INCREASE IS DUE TO A PROGRAM**  
20 **THAT MEASURES THE OPERATION OF AN INSURED VEHICLE DURING THE CURRENT**  
21 **POLICY PERIOD:**
- 22                                **A.   A SPECIFIC DESCRIPTION OF THE FACTOR OR**  
23 **FACTORS IN THE PROGRAM RESULTING IN THE PREMIUM INCREASE; AND**
- 24                                **B.   THE AMOUNT OF THE PREMIUM INCREASE THAT IS**  
25 **ATTRIBUTABLE TO THE PROGRAM; AND**
- 26                           [4.] 5. any other information that is the basis for the insurer's  
27 action;

1 (iv) that the insured should contact the insured's insurance producer  
 2 or insurer for a review of the premium if the insured has a question about the increase in  
 3 premium or believes the information in the notice is incorrect;

4 (v) the right of the insured to protest the premium increase and, in  
 5 the case of a premium increase of more than 15% for the entire policy, to request a hearing  
 6 before the Commissioner by mailing or transmitting by facsimile to the Commissioner:

7 1. a copy of the notice;

8 2. the insured's address and daytime telephone number; and

9 3. a statement of the reason that the insured believes the  
 10 premium increase is incorrect;

11 (vi) the address and facsimile number of the Administration; and

12 (vii) that the Commissioner shall order the insurer to pay reasonable  
 13 attorney's fees incurred by the insured for representation at a hearing if the Commissioner  
 14 finds that:

15 1. the actual reason for the proposed action is not stated in  
 16 the notice or the proposed action is not in accordance with this article or the insurer's filed  
 17 rating plan; and

18 2. the insurer's conduct in maintaining or defending the  
 19 proceeding was in bad faith or the insurer acted willfully in the absence of a bona fide  
 20 dispute.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
 22 October 1, 2020.

Approved:

---

Governor.

---

President of the Senate.

---

Speaker of the House of Delegates.