

Measure R395

INSTRUCTIONS:

Please carefully read the following description of a ballot measure that was written by a disinterested expert. Feel free to take notes or outline passages as you read.

This measure is quite long and may take as long as 15 minutes to read.

BALLOT MEASURE R395

BACKGROUND

Various types of insurance are sold in California, including automobile, liability, fire, health and life. In 1987, insurance companies collected about \$50 billion in premiums from the sale of insurance. In turn they paid about \$1 billion to the state in a tax on these premiums.

Motor vehicle insurance is one of the major types of insurance purchased in the state. It accounted for about \$12 billion (24 percent) of all premiums collected during 1987. Such insurance may include protection for:

- Liability and property damage (which covers claims for bodily injury and property damage to others when the insured person was at fault);
- Medical (which covers the insured person and others in the automobile, regardless of fault, for "excess" medical expenses, meaning those expenses not covered by other insurance);
- Collision (which covers collision damage to the insured's car regardless of the fault of the insured);
- Comprehensive (which covers damage other than collision, such as fire, theft, glass breakage and vandalism, to the insured's car); and
- Uninsured and underinsured motorist (which covers claims for bodily injury and/or property damage caused by a motorist who is at fault and who has no insurance or inadequate insurance).

Rate-Setting by Insurance Companies. Currently, insurance companies set rates for various types of insurance, using a number of factors. For motor vehicle insurance, these factors generally include the age, sex, marital status, driving record, type of vehicle and home address of the insured. The insurance companies also take into consideration other factors such as their claims experience, income and expenses. Insurance companies are not required to tell the public what relative weight they give to these factors when setting rates. In addition, insurance companies are not subject to the state's antitrust laws.

Role of the Department of Insurance in Reviewing Rates. Currently, the Department of Insurance does not review and approve insurance rates before they take effect. Instead, the Department of Insurance can request insurance companies to justify such rates after they take

effect, as part of the rate examination process or in response to complaints from consumers. Historically, the scope and frequency of rate examinations has been limited.

Current Method of Settling Claims. Currently the party who is “at-fault” in an accident is responsible for paying compensation for both bodily injury and property damage.

If a claim for damages is filed and one or more of the parties involved in an accident is insured, insurance companies attempt to determine who is at fault. These claims are usually settled by negotiations or by court action. After it is determined which party is at fault, the insurance company of that party pays the damages, not to exceed the limits of the insurance policy.

Attorney Fees. Attorney fees in motor vehicle accident cases are usually based on a percentage of the amount the client recovers and are referred to as “contingency fees.” The fees are fixed by a contract between the attorney and client. There are no dollar limits on contingency fees in these cases.

PROPOSAL

In summary, this measure:

- Requires insurance companies to reduce motor vehicle insurance rates for "good drivers" and makes other changes related to motor vehicle insurance.
- Requires the Department of Insurance to review and approve certain rates and subsequent changes to those rates for certain types of insurance.
- Affirms the current at-fault system of motor vehicle liability and thereby may restrict the implementation of other systems, such as no-fault insurance.
- Provides that attorney fees for all types of cases are to be negotiated by the attorney and the client, and are not to be set by law.
- Creates an Office of Insurance Consumer Advocate in the State Department of Justice, and
- Establishes a Senior Bureau of Investigations in the Department of Insurance to assist senior citizens with health-care insurance.

Good Driver and Other Motor Vehicle Insurance Provisions

1. ***Rate Reductions.*** This measure requires insurance companies to reduce motor vehicle insurance rates for good drivers on January 2, 1989. The reductions would:

- Lower rates 20 percent below those charged on January 1, 1988;
- Apply to private passenger vehicles, trucks with a load capacity of 1,500 pounds or less, and motorcycles; and
- Apply to the liability, medical payment and collision portions of the insurance rates.

This measure generally defines a good driver as a person who during the last three years (1) held a valid driver’s license, (2) had no more than one moving violation, and (3) had no accident in which he or she was principally at fault. Additionally, the person can never have been convicted of various crimes including driving under the influence of alcohol or drugs, automobile insurance fraud, or theft of a motor vehicle.

This measure allows the Insurance Commissioner to Exempt a company from this rate reduction under certain conditions and after a public hearing.

2. ***Territorial Rating.*** The measure prohibits insurance companies from setting automobile insurance rates based on where the insured person lives (referred to as "territorial rating"), unless there is clear and convincing evidence that such a method is a valid indicator of claims experience.

3. ***Consumer Assistance.*** The measure requires the Department of Insurance to establish a statewide system to provide individuals with information comparing the prices of automobile insurance. As part of this system, the Department of Motor Vehicles would notify individuals that information on automobile insurance prices is available from the Department of Insurance.

4. ***Investigations of Fraud.*** Currently, the Department of Insurance investigates various types of insurance fraud. This measure requires insurance companies to pay an annual fee to finance increased investigations of automobile insurance fraud.

At-Fault Liability System

This measure declares that "... persons who wrongfully cause damages to others in the ownership or operation of a motor vehicle should be held legally responsible for the future extent of the injuries they cause." This could be interpreted to affirm the current system of at-fault motor vehicle liability, thereby restricting other systems such as "no-fault" insurance.

Review and Approval of Insurance Rate Filings

This measure requires insurance companies to provide the Department of Insurance with information on how they determine their insurance rates by January 2, 1989. Additionally, this information must be provided whenever rates are changed. This requirement applies to such insurance as motor vehicle (including rates for good drivers), fire, liability and disability. The principal exceptions are life and workers' compensation insurance. In general, the measure requires the Department of Insurance to hold a hearing and review and approve rate changes whenever the proposed rate increase exceeds specified percentages. The department may exempt certain types of insurance-except private passenger automobile insurance-from the department's rate review and approval process.

Office of the Insurance Consumer Advocate

This measure establishes this office in the State Department of Justice to participate in insurance-related proceedings. The Attorney General-who is the head of the Department of Justice-would appoint the Insurance Consumer Advocate.

Seniors Bureau of Investigations

This measure establishes this bureau in the Department of Insurance to assist senior citizens with healthcare insurance policies. It also regulates various business practices relating to seniors' health-care insurance.

Other Provisions

1. **Attorney Fees.** The measure provides that, except for existing statutory limits on attorney fees, fees for all types of cases shall not be set by law, but are to be negotiated without restriction by the attorney and client.
2. **Claims Settlement Practices.** The measure requires an insurance company to act in good faith toward, and to deal fairly with, its policyholders and third persons.
3. **Conflict-of-Interest Employment.** The measure prohibits the Insurance Commissioner and the Insurance Consumer Advocate from being employed by an insurance company, insurance trade association, or any broker or agent licensed by the Department of Insurance for a period of 12 months after leaving their respective positions.
4. **State Antitrust Laws.** The measure makes insurance companies subject to the state's antitrust laws.
5. **Sale of Insurance by Banks.** The measure also expands the authority of commercial banks to sell all types of insurance. Generally, under current insurance law, banks can only sell insurance which pays off a loan in the event of the disability or death of a borrower.
6. **Discounts or Rebates.** The measure permits insurance agents and brokers to give certain discounts or rebates to those who buy insurance from them. It does so by eliminating the prohibition in current law against such discounts or rebates.



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Please go to the online survey, enter the 4-character code for this ballot measure (printed at the top and bottom of this page) and answer the survey questions.