



February 23, 1999

SENATE BILL No. 156

DIGEST OF SB 156 (Updated February 22, 1999 6:38 pm - DI 100)

Citations Affected: IC 27-1; IC 27-4; noncode.

Synopsis: Insurer notice concerning auto body parts. Requires the insurance commissioner to annually determine the cost savings to an insurer that is attributable to using used body parts for motor vehicle repairs, and to determine what portion of that savings should be passed on to the consumer. Requires an insurer to give notice to an insured regarding body parts to be used in repair if the make of the motor vehicle being repaired is a current motor vehicle model year or the immediate two preceding model years.

Effective: June 30, 1999; July 1, 1999.

Wheeler

January 6, 1999, read first time and referred to Committee on Insurance and Financial Institutions.
February 22, 1999, amended, reported favorably — Do Pass.

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SB 156—LS 6563/DI 100+



February 23, 1999

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

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SENATE BILL No. 156



A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 27-1-22-3 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) Rates shall be made in
3 accordance with the following provisions:
4 (1) Due consideration shall be given to the past and prospective
5 loss experience within and outside this state, to conflagration and
6 catastrophe hazards, if any, to a reasonable margin for
7 underwriting profit and contingencies, to dividends or savings
8 allowed or returned by insurers to their policyholders or members,
9 to past and prospective expenses both countrywide and those
10 specifically applicable to this state, to all other relevant factors,
11 including trend factors, within and outside this state, and in the
12 case of fire insurance rates, to the underwriting experience of the
13 fire insurance business during a period of not less than the most
14 recent five (5) year period for which such experience is available
15 and relevant.
16 (2) Risks may be grouped by classifications, by rating schedules,
17 or by any other reasonable methods, for the establishment of rates

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1 and minimum premiums. Classification rates may be modified to
 2 produce rates for individual risks in accordance with rating plans
 3 which establish standards for measuring variations in hazards or
 4 expense provisions, or both. Such standards may measure any
 5 difference among risks that can be demonstrated to have a
 6 probable effect upon losses or expenses.

7 (3) The systems of expense provisions included in the rates for
 8 use by any insurer or group of insurers may differ from those of
 9 other insurers or groups of insurers to reflect the requirements of
 10 the operating methods of any such insurer or group with respect
 11 to any kind of insurance, or with respect to any subdivision or
 12 combination thereof for which subdivision or combination
 13 separate expense provisions are applicable.

14 (4) Rates shall not be excessive, inadequate, or unfairly
 15 discriminatory.

16 No rate shall be held to be excessive unless such rate is unreasonably
 17 high for the insurance coverage provided and a reasonable degree of
 18 competition does not exist in the area with respect to the classification
 19 to which such rate is applicable. No rate shall be held to be inadequate
 20 unless such rate is unreasonably low for the insurance coverage
 21 provided and is insufficient to sustain projected losses and expenses,
 22 or unless such rate is unreasonably low for the insurance coverage
 23 provided and the use of such rate has, or if continued, will have, the
 24 effect of destroying competition or creating a monopoly.

25 (b) Except to the extent necessary to meet the provisions of
 26 subsection (a)(4), uniformity among insurers in any matters within the
 27 scope of this section is neither required nor prohibited.

28 (c) For the purpose of making rates upon automobiles and other
 29 motor vehicles under the provisions of this chapter, the terms "fleet" or
 30 "fleet policy" shall mean an insurance risk of five (5) or more
 31 automobiles and other vehicles of any kind, all owned by one (1)
 32 insured and all under one (1) direct operating management; provided,
 33 that automobiles and other motor vehicles owned by employees may
 34 not be included or insured under a fleet policy of an employer under
 35 any circumstances.

36 **(d) There is a rebuttable presumption that rates filed under this**
 37 **chapter are excessive if the rates fail to take into account the**
 38 **reduced costs for motor vehicle repair as determined by the**
 39 **commissioner under section 3.2 of this chapter.**

40 SECTION 1. IC 27-1-22-3.2 IS ADDED AS A NEW SECTION TO
 41 READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 3.2. The**
 42 **commissioner shall annually review the impact of IC 27-4-1.5 to**

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1 **determine what, if any:**

2 **(1) cost savings to an insurer are attributable to the use of**
 3 **used body parts under IC 27-4-1.5; and**

4 **(2) portion of the cost savings should be passed on to**
 5 **consumers under section 3(d) of this chapter.**

6 SECTION 2. IC 27-4-1.5-8 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 8. (a) An insurer that
 8 is obligated to pay at least part of the cost of repairing the exterior of
 9 a motor vehicle under an insurance policy issued by the insurer may not
 10 direct a body shop to repair the motor vehicle until the insurer has
 11 presented the insured with a written notice that meets the requirements
 12 set forth in subsections (b) and (c).

13 (b) An insurer described in subsection (a) shall present the insured
 14 with a written notice that does the following:

15 (1) Informs the insured that the insured has a right to approve the
 16 type of body parts to be used in the repair of the motor vehicle.

17 (2) Gives the insured an opportunity, in approving the type of
 18 body parts to be used in the repair of the motor vehicle, to select
 19 from among the following:

20 (A) New body parts manufactured by or for the manufacturer
 21 of the motor vehicle.

22 (B) New body parts that were not manufactured by or for the
 23 manufacturer of the motor vehicle.

24 (C) Used body parts.

25 (c) An insurer described in subsection (a) shall give the insured an
 26 opportunity to indicate in writing the type of body part that the insured
 27 approves for use in the repair of the motor vehicle.

28 (d) This section applies only ~~in the five (5) years after the model~~
 29 ~~year of the to the most current~~ motor vehicle ~~model year and the~~
 30 ~~immediate two (2) preceding model years.~~

31 SECTION 3. [EFFECTIVE JUNE 30, 1999] (a) **Notwithstanding**
 32 **IC 27-4-1.5-8, as amended by this act, if a claim is filed before July**
 33 **1, 1999, IC 27-4-1.5-8, as amended by this act, applies only in the**
 34 **five (5) years after the model year of the motor vehicle.**

35 (b) **This SECTION expires July 1, 2004.**

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COMMITTEE REPORT

Mr. President: The Senate Committee on Insurance and Financial Institutions, to which was referred Senate Bill No. 156, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 27-1-22-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) Rates shall be made in accordance with the following provisions:

(1) Due consideration shall be given to the past and prospective loss experience within and outside this state, to conflagration and catastrophe hazards, if any, to a reasonable margin for underwriting profit and contingencies, to dividends or savings allowed or returned by insurers to their policyholders or members, to past and prospective expenses both countrywide and those specifically applicable to this state, to all other relevant factors, including trend factors, within and outside this state, and in the case of fire insurance rates, to the underwriting experience of the fire insurance business during a period of not less than the most recent five (5) year period for which such experience is available and relevant.

(2) Risks may be grouped by classifications, by rating schedules, or by any other reasonable methods, for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Such standards may measure any difference among risks that can be demonstrated to have a probable effect upon losses or expenses.

(3) The systems of expense provisions included in the rates for use by any insurer or group of insurers may differ from those of other insurers or groups of insurers to reflect the requirements of the operating methods of any such insurer or group with respect to any kind of insurance, or with respect to any subdivision or combination thereof for which subdivision or combination separate expense provisions are applicable.

(4) Rates shall not be excessive, inadequate, or unfairly discriminatory.

No rate shall be held to be excessive unless such rate is unreasonably high for the insurance coverage provided and a reasonable degree of

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competition does not exist in the area with respect to the classification to which such rate is applicable. No rate shall be held to be inadequate unless such rate is unreasonably low for the insurance coverage provided and is insufficient to sustain projected losses and expenses, or unless such rate is unreasonably low for the insurance coverage provided and the use of such rate has, or if continued, will have, the effect of destroying competition or creating a monopoly.

(b) Except to the extent necessary to meet the provisions of subsection (a)(4), uniformity among insurers in any matters within the scope of this section is neither required nor prohibited.

(c) For the purpose of making rates upon automobiles and other motor vehicles under the provisions of this chapter, the terms "fleet" or "fleet policy" shall mean an insurance risk of five (5) or more automobiles and other vehicles of any kind, all owned by one (1) insured and all under one (1) direct operating management; provided, that automobiles and other motor vehicles owned by employees may not be included or insured under a fleet policy of an employer under any circumstances.

(d) There is a rebuttable presumption that rates filed under this chapter are excessive if the rates fail to take into account the reduced costs for motor vehicle repair as determined by the commissioner under section 3.2 of this chapter.

SECTION 2. IC 27-1-22-3.2 IS ADDED AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 3.2. The commissioner shall annually review the impact of IC 27-4-1.5 to determine what, if any:**

- (1) cost savings to an insurer are attributable to the use of used body parts under IC 27-4-1.5; and**
- (2) portion of the cost savings should be passed on to consumers under section 3(d) of this chapter."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 156 as introduced.)

PAUL, Chairperson

Committee Vote: Yeas 5, Nays 4.

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