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INSURANCE CODE - INS

DIVISION 2. CLASSES OF INSURANCE [1880 - 12880.8] (*Division 2 enacted by Stats. 1935, Ch. 145.*)

PART 3. LIABILITY, WORKERS' COMPENSATION, AND COMMON CARRIER LIABILITY INSURANCE [11550 - 11895] (*Heading of Part 3 amended by Stats. 1979, Ch. 373.*)

CHAPTER 1. General Regulations [11550 - 11629.88] (*Chapter 1 enacted by Stats. 1935, Ch. 145.*)

ARTICLE 5. Motor Vehicle Liability Insurance [11628 - 11629.5] (*Article 5 added by Stats. 1955, Ch. 125.*)

11628. (a) (1) No admitted insurer that is licensed to issue and issuing motor vehicle liability policies, as defined in Section 16450 of the Vehicle Code, shall fail or refuse to accept an application for that insurance, to issue that insurance to an applicant therefor, or issue or cancel that insurance under conditions less favorable to the insured than in other comparable cases, except for reasons applicable alike to persons of every characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code, including, but not limited to, language, or persons of the same geographic area; nor shall any characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code, including, but not limited to, language, or location within a geographic area, of itself, constitute a condition or risk for which a higher rate, premium, or charge may be required of the insured for that insurance.

(2) As used in this section "geographic area" means a portion of this state of not less than 20 square miles defined by description in the rating manual of an insurer or in the rating manual of a rating bureau of which the insurer is a member or subscriber. In order that geographic areas used for rating purposes may reflect homogeneity of loss experience, a record of loss experience for the geographic area shall include the breakdown of actual loss experience statistics by ZIP Code area (as designated by the United States Postal Service) within each geographic area for family owned private passenger motor vehicles and lightweight commercial motor vehicles, under 1¹/₂-ton load capacity, used for local service or retail delivery, normally within a 50-mile radius of garaging, and that are not part of a fleet of five or more motor vehicles under one ownership. A record of loss experience for the geographic area, including that statistical data by ZIP Code area, shall be submitted biennially to the commissioner for examination by each insurer licensed to issue and issuing motor vehicle liability policies, motor vehicle physical damage policies, or both. Loss experience shall include separate loss data for each type of coverage, including liability or physical damage coverage, underwritten. The biennial report shall include the insurer's statewide loss ratio, loss adjustment expense ratio, expense ratio, and combined ratio on its assigned-risk business. Statewide summary data shall be submitted annually to the commissioner. An insurer may satisfy its obligation to report statistical data under this subdivision by providing its loss experience data and statewide expense ratio and combined ratio on its assigned-risk business to a rating or advisory organization for submission to the commissioner. This data shall be made available to the public by the commissioner biennially after examination. However, the data shall be released in aggregate form by ZIP Code or statewide basis in order that no individual insurer's loss experience for any specific geographic area be revealed. Differentiation in rates between geographical areas shall not constitute unfair discrimination.

(3) All information reported to the department pursuant to this subdivision shall be confidential.

(4) As used in this section:

(A) "Language" means the inability to speak, read, write, or comprehend the English language.

(B) "Dependents" shall include, but not be limited to, issue regardless of generation.

(C) "Spouse" shall be determined without regard to current marital status.

(b) The commissioner may require insurers with combined ratios on statewide assigned-risk business that are 10 percent above the mean combined ratio for all plan participants to also report the following:

(1) The reason for the excessive ratio.

(2) A plan for reducing the ratio, and when the reduction can be expected to occur. The commissioner may require insurers subject to this subdivision to provide periodic reports on the progress in reducing the combined ratio.

(c) (1) No admitted insurer, licensed to issue and issuing motor vehicle liability insurance policies as defined in Section 16450 of the Vehicle Code, shall fail or refuse to accept an application for that insurance, refuse to issue that insurance to an applicant therefor, or cancel that insurance solely for the reason that the applicant for that insurance or any insured is employed in a specific occupation, or is on active duty service in the Armed Forces of the United States.

(2) Nothing in this section shall prohibit an insurer from doing any of the following:

(A) Considering the occupation of the applicant or insured as a condition or risk for which a higher rate or discounted rate may be required or offered for coverage in the course and scope of his or her occupation.

(B) Charging a deviated rate to any classification of risks involving a specific occupation, or grouping thereof, if the rate meets the requirements of Chapter 9 (commencing with Section 1850.4) of Part 2 of Division 1 and is based upon actuarial data that demonstrates a significant actual historical differential between past losses or expenses attributable to the specific occupation, or grouping thereof, and the past losses or expenses attributable to other classification of risks. For purposes of compiling that actuarial data for a specific occupation or grouping thereof, a person shall be deemed employed in the occupation in which that data is compiled if any of the following is true:

(i) The majority of his or her employment during the previous year was in the occupation.

(ii) The majority of his or her aggregate earnings for the immediate preceding three-year period were derived from the occupation.

(iii) The person is a member in good standing of a union that is an authorized collective bargaining agent for persons engaged in the occupation.

(3) Nothing in this section shall be construed to include in the definition of "occupation" any status or activity that does not result in remuneration for work done or services performed, or self-employment in a business operated out of an applicant's or insured's place of residence or persons engaged in the renting, leasing, selling, repossessing, rebuilding, wrecking, or salvaging of motor vehicles.

(d) Nothing in this section shall limit or restrict the ability of an insurer to refuse to accept an application for or refuse to issue or cancel insurance for the reason that it is a commercial vehicle or based upon the consideration of a vehicle's size, weight, design, or intended use.

(e) It is the intent of the Legislature that actuarial data by occupation may be examined for credibility by the commissioner on the same basis as any other automobile insurance data that he or she is empowered to examine.

(f) (1) Except as provided in Article 4 (commencing with Section 11620), nothing in this section or in Article 10 (commencing with Section 1861.01) of Chapter 9 of Part 2 of Division 1 or in any other provision of this code, shall prohibit an insurer from limiting the issuance or renewal of insurance, as defined in subdivision (a) of Section 660, to persons who engage in, or have formerly engaged in, governmental or military service or segments of categories thereof, and their spouses, dependents, direct descendants, and former dependents or spouses.

(2) The term "military service" includes, but is not limited to, officers, warrant officers, and enlisted persons, officer and warrant officer candidates, cadets or midshipmen at a service academy, cadets or midshipmen in advance Reserve Officer Training Corps programs or on Reserve Officer Training Corps program scholarships, National Guard officer candidates, students in government-sponsored precommissioning programs, and foreign military officers while on temporary duty in the United States.

(g) Any person subject to regulation by the commissioner pursuant to this code who fails to comply with a data call required by the department pursuant to subdivision (a) shall be liable to the state for a civil penalty in an amount not exceeding five thousand dollars (\$5,000) for each 30-day period that the person is not in compliance, unless the failure to comply is willful, in which case the civil penalty shall be in an amount not to exceed ten thousand dollars (\$10,000) for each 30-day period that the person is not in compliance, but not to exceed an aggregate amount of one hundred thousand dollars (\$100,000). The commissioner shall collect the amount so payable and may bring an action in the name of the people of the State of California to enforce collection. These penalties shall be in addition to other penalties provided by law.

(h) This section shall be known and may be cited as the "Rosenthal Auto Insurance Nondiscrimination Law."

(Amended by Stats. 2014, Ch. 362, Sec. 6. (AB 2734) Effective January 1, 2015.)

11628.3. (a) Based on the actuarial and loss experience data available to each insurer, including the driving records of mature driver improvement course graduates, as recorded by the Department of Motor Vehicles, every admitted insurer shall provide for an appropriate percentage of reduction in premium rates for motor vehicle liability insurance for principal operators who are 55 years of

age or older and who produce proof of successful completion of the mature driver improvement course provided for and approved by the Department of Motor Vehicles pursuant to Section 1675 of the Vehicle Code.

(b) The insured shall enroll in and successfully complete the course described in subdivision (a) once every three years in order to continue to be eligible for an appropriate percentage of reduced premium.

(c) The percentage of premium reduction required by subdivision (a) shall be reassessed by the insurer upon renewal of the insured's policy. The insured's eligibility for any percentage of premium reduction shall be effective for a three-year period from the date of successful completion of the course described in subdivision (a), except that the insurer may discontinue the reduced premium rate if the insured is in any case:

(1) Involved in an accident for which the insured is at fault, as determined by the insurer.

(2) Convicted of a violation of Division 11 (commencing with Section 21000) of the Vehicle Code, except Chapter 9 (commencing with Section 22500) of that division, or of a traffic related offense involving alcohol or narcotics.

(d) The percentage of premium rate reduction required by subdivision (a) does not apply in the event the insured enrolls in, and successfully completes, an approved course pursuant to a court order provided for in Section 42005 of the Vehicle Code. Nothing in this subdivision precludes an insured from also enrolling in a driver improvement course.

(Added by Stats. 1986, Ch. 1325, Sec. 2. Operative July 1, 1987, by Sec. 8 of Ch. 1325.)

11628.5. No admitted insurer, licensed to issue motor vehicle liability policies as defined in Section 16450 of the Vehicle Code, shall fail or refuse to accept an application from a handicapped person for such insurance, or to issue such insurance to a handicapped applicant therefor solely because of handicap, or to issue or cancel such insurance under conditions less favorable to handicapped persons than nonhandicapped persons; nor shall a handicap itself constitute a condition or risk for which a higher rate, premium, or charge may be required of a handicapped person for such insurance.

As used in this section, "handicapped person" and "handicapped applicant" refer only to persons who have suffered an impairment of physical ability because of amputation or loss of function which impairment has been compensated for, when necessary, by vehicle equipment adaptation or modification; or who have suffered an impairment of hearing which impairment has been compensated for, when necessary, either by sensory equipment adaptation or modification; or who have suffered an impairment of speech; provided, that the insurer may require a handicapped applicant for such insurance or the renewal of such insurance to furnish proof that he or she has qualified for a new or renewed drivers license through the California Department of Motor Vehicles since the occurrence of the handicapping condition.

If such insurer can justify a higher rate, premium, or charge for handicapped persons with actuarial evidence, a higher rate, premium, or charge may be required.

(Added by Stats. 1979, Ch. 524.)

11628.7. No admitted insurer, licensed to issue motor vehicle liability policies as defined in Section 16450 of the Vehicle Code, shall fail or refuse to accept an application for that insurance, or to issue that insurance, on the basis that the owner of the motor vehicle to be insured is blind. However, notwithstanding any other provision of law, an admitted insurer may exclude from coverage under the policy the unlicensed owner of a motor vehicle who is blind for injuries and damages incurred while the insured vehicle is operated by an unlicensed owner who is blind.

Nothing in this section shall prohibit an insurer from applying its usual and customary underwriting and rating criteria with respect to the operators of the vehicle to be insured, including, but not limited to, the loss experience the insurer has had with respect to the insured vehicle.

No insurer shall raise the premiums of an insured blind person or shall cancel the policy of an insured blind person solely on the basis that the operators of the insured vehicle are changed frequently.

(Added by Stats. 1981, Ch. 330, Sec. 1.)

11629. Each separate act of an insurer or its agent in violation of Section 11628 or 11628.5 shall render the insurer liable in damages in the amount of one hundred dollars (\$100), plus a reasonable allowance for attorneys' fees incurred in connection with the prosecution of the action, which may be recovered in an action at law brought for that purpose by the person aggrieved by any such act.

(Amended by Stats. 1984, Ch. 193, Sec. 93.)

11629.5. Any insurer which has refused to issue to an applicant a policy of insurance in violation of Section 11628 or 11628.5 and which has been required to pay damages for the violation pursuant to Section 11629 shall pay as additional damages the amount by which the rates which the applicant found it necessary to pay to obtain other insurance exceed the rates of the insurer.

(Amended by Stats. 1984, Ch. 193, Sec. 94.)

