

By Mr. Rushing of Boston, petition of Byron Rushing and other members of the General Court for legislation to further regulate the setting of motor vehicle insurance premium rates by the Commissioner of Insurance. Insurance.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Seven.

AN ACT RELATIVE TO LOWER AUTOMOBILE INSURANCE RATES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 113B of chapter 175 of the General Laws,
2 as appearing in the 1994 Official Edition, is hereby amended by
3 striking the first paragraph and inserting the following para-
4 graph:—

5 Section 113B. The commissioner shall, annually on or before
6 December fifteenth, after due hearing and investigation, fix and
7 establish fair and reasonable classifications of risks, including
8 classifications of risks based on accident involvement and ade-
9 quate, just, reasonable and nondiscriminatory premium charges
10 including commission allowance to be used and charged by com-
11 panies in connection with the issue or execution of motor vehicle
12 liability policies or bonds, both as defined in section thirty-four A
13 of chapter ninety, for the ensuing calendar year or any part
14 thereof. The commissioner upon the basis of information which
15 shall be filed by the Massachusetts Automobile Rating and
16 Accident Prevention Bureau or any successor organization
17 thereto, shall determine whether insurance companies utilize ade-
18 quate programs to control costs and expenses, in accordance with
19 standards determined or approved by the commissioner. At a min-
20 imum, such programs shall be designed to have a material impact
21 on premium charges by reducing costs and expenses incurred by
22 insurance companies. In the event the Massachusetts Automobile

23 Rating and Accident Prevention Bureau fails to make such filing,
24 or if the commissioner determines that the filing is deficient or
25 that the programs are inadequate, the commissioner shall limit in
26 any manner he determines to be appropriate the amount of any
27 adjustment in premium charges based upon changes in costs and
28 expenses. The commissioner shall direct the plan created under
29 section one hundred and thirteen H to establish procedures for the
30 implementation, monitoring and enforcement of programs to control
31 costs and expenses identified by the commissioner in accordance
32 with this paragraph, and shall report to the commissioner
33 annually on the effectiveness of and the implementation by the
34 various companies of the programs to control costs and expenses
35 identified by the commissioner. In fixing and establishing premium
36 charges in accordance with the provisions of this section, if
37 an insured having paid the premium on the insurance policy to the
38 company or its agent, cancels his insurance policy within thirty
39 days of the effective date or within thirty days of receipt of his
40 insurance policy, whichever is later, the commissioner shall authorize
41 that the insured receive a return premium prorated based on
42 the actual calendar days of coverage; but if the insured cancels his
43 insurance policy later than thirty days from its effective date or
44 later than thirty days from receipt of the policy, whichever is later,
45 the insured shall be entitled to a return premium after the monthly
46 short rates, as determined by the commissioner, have been
47 deducted from the time the policy shall have been in force. In
48 fixing and establishing premium charges in accordance with the
49 provisions of this section, the deficit of the plan, established under
50 section one hundred and thirteen H, shall not be distributed to
51 risks based on classification or territory. The effective dates of
52 procurement or cancellation of insurance from insurance companies
53 shall determine the cost to the insured for such coverage on
54 an equal per diem basis established for the calendar year cost of
55 insurance policies. He shall, on or before said date, sign memoranda
56 of the classifications and premium charges fixed and established
57 by him in such form as he may prescribe and file the same
58 in his office and cause a duly certified copy of such classifications
59 and schedule of premium charges forthwith to be transmitted to
60 each company authorized to issue such policies or to execute such
61 bonds. During said calendar year, the classifications and premium

62 charges fixed and established by the commissioner for such poli-
63 cies shall be used by all companies issuing such policies, and the
64 classifications and premium charges for such bonds shall be used
65 by all companies acting as surety on such bonds, except that any
66 such company may make written application to the commissioner
67 for permission to use, in place of the premium charges fixed and
68 established by him as aforesaid, a percentage decrease from said
69 premium charges which shall be uniform for all such classifica-
70 tions throughout the commonwealth. Such deviations shall be
71 allowed only if the commissioner finds that the premium charges
72 the applicant desires to use are adequate, just, reasonable and
73 nondiscriminatory and will not be used by the applicant as a
74 means of attracting only such risks as are regarded as presenting
75 less hazard of loss than other risks in the same classification. Such
76 deviations may vary among the driver classifications established
77 by the safe driver insurance plan established pursuant to this
78 section. Every application for permission to deviate shall be filed
79 with the commissioner and shall specify the basis therefor and
80 shall be accompanied by the data upon which the applicant relies.
81 A copy of the application and data shall be sent by such company
82 simultaneously to the Massachusetts Automobile Rating and
83 Accident Prevention Bureau or any successor organization thereto.
84 The commissioner shall then set the time and the place for a
85 hearing on such application at which the applicant and said
86 Bureau or any member thereof may be heard and shall give the
87 applicant and said Bureau not less than ten days written notice
88 thereof. The time so established for the hearing shall not be later
89 than thirty days after receipt by the commissioner of the applica-
90 tion. If the commissioner finds that the deviation is justified and
91 the resulting premium charges satisfy the requirements of this
92 section, he shall issue an order permitting the deviation to be used
93 by the applicant and such premium charges shall be used for the
94 entire calendar year, beginning January first, in which the devia-
95 tion is to be used and shall only be modified upon application to
96 the commissioner in accordance with the provisions of this para-
97 graph; provided that said modification shall be of a greater per-
98 centage decrease and retroactively applicable to the entire
99 calendar year, and provided further that no deviation or modifica-

100 tion of a deviation shall increase the premium of any insured in
101 any calendar year.

1 SECTION 2. The commissioner of insurance is hereby directed
2 to undertake a study, in consultation with representatives of the
3 property and casualty industry and of the independent insurance
4 agents, of appropriate factors and classifications that may be uti-
5 lized as a basis for percentage decreases from fixed and estab-
6 lished premium charges. Said commissioner shall report to the
7 general court the results of its investigation and study and its rec-
8 ommendations, if any, together with drafts of legislation to the
9 clerk of the senate who shall forward the same to the joint com-
10 mittee on insurance and the house and senate committees on ways
11 and means by the first of July, nineteen hundred and ninety-seven.