

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 362

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Carlos R. Cisneros

AN ACT

RELATING TO INSURANCE; PROHIBITING AUTOMOBILE INSURERS FROM
USING NOT-AT-FAULT ACCIDENTS IN THE UNDERWRITING OF NEW
POLICYHOLDERS; PROHIBITING CERTAIN POLICY FEES IN AUTOMOBILE
AND HOMEOWNERS INSURANCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 59A-17-7.1 NMSA 1978 (being Laws 1987,
Chapter 80, Section 1, as amended) is amended to read:

"59A-17-7.1. MOTOR VEHICLE LIABILITY--NOT-AT-FAULT
ACCIDENTS.--

A. The rates of a motor vehicle liability insurer
shall not provide for an increase in the premium if based upon
an accident in which the insured or applicant for motor vehicle
liability insurance is not at fault in any manner as determined
by either the accident report or the insurer. If the insurer

.184240.1

underscoring material = new
~~[bracketed material] = delete~~

underscored material = new
[bracketed material] = delete

1 determines that its insured or the applicant is at fault
2 contrary to the specific finding of an accident report that the
3 insured or applicant is not at fault, the insurer shall reach
4 its conclusion only after an investigation.

5 B. A motor vehicle liability insurer shall not
6 cancel an insurance policy or use as a basis for [~~nonrenewal~~]
7 not renewing or not issuing an insurance policy if such
8 cancellation [~~or~~], nonrenewal or nonissuance is based upon an
9 accident in which the insured or applicant is not at fault in
10 any manner as determined by either the accident report or the
11 insurer. If the insurer determines that its insured or the
12 applicant is at fault contrary to the specific finding of an
13 accident report that the insured or applicant is not at fault,
14 the insurer shall reach its conclusion only after an
15 investigation. For the purposes of this section, an offer of
16 placement with an affiliate insurer shall not constitute a
17 nonissuance.

18 C. As used in this section, "motor vehicle
19 liability insurer" means an insurer authorized to transact in
20 this state the business of automobile and motor vehicle bodily
21 injury, property damage liability and physical damage
22 insurance.

23 D. This section shall not apply if other factors
24 exist, exclusive of the accident in which the insured or
25 applicant is not at fault, that allow for a premium increase,

.184240.1

underscored material = new
[bracketed material] = delete

1 cancellation [~~or~~], nonrenewal or nonissuance of an insurance
2 policy under the Insurance Code or rules pursuant to the
3 Insurance Code."

4 SECTION 2. Section 59A-17-12 NMSA 1978 (being Laws 1984,
5 Chapter 127, Section 308, as amended) is amended to read:

6 "59A-17-12. INSURER MUST ADHERE TO RATES--PROHIBITION OF
7 CERTAIN FEES--CONSENT TO RATE.--

8 A. No insurer shall make or issue a contract or
9 policy of insurance except in accordance with filings or rates
10 that are lawfully in effect for the insurer as provided in the
11 Insurance Rate Regulation Law.

12 B. No insurer or insurance agent shall charge a
13 purchaser of any kind of property or casualty insurance for
14 personal, family or household needs a fee or other charge in
15 addition to the premium derived in accordance with the rating
16 methods filed by the insurer. Nothing in this subsection
17 prohibits insurers from charging reasonable fees for the
18 failure of the insured to pay the premium in full by the stated
19 due date.

20 [~~B-~~] C. Upon written application of the insured,
21 stating the underlying reasons, that is filed with and approved
22 by the superintendent, a rate in excess of or below that
23 otherwise applicable may be used as to a specific risk."