

HOUSE No. 873

The Commonwealth of Massachusetts

PRESENTED BY:

William N. Brownsberger

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act to stress user-controllable factors in automobile insurance premiums.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
William N. Brownsberger	24th Middlesex
John Hayes	5 Colonial Terrace Belmont, MA 02478

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT TO STRESS USER-CONTROLLABLE FACTORS IN AUTOMOBILE INSURANCE PREMIUMS.

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. Chapter 175 of the General Laws of Massachusetts, as
2 appearing in the 2006 Official Edition, is hereby amended by striking out section
3 22E, and inserting in place thereof the following section:
4 Section 22E. No insurance company, and no officer or agent thereof on its behalf,
5 shall refuse to issue, renew or execute as surety a motor vehicle liability policy or
6 bond, or any other insurance based on the ownership or operation of a motor
7 vehicle because of any factor other than driving record, which shall reflect only the
8 number and severity of an insured's at-fault accidents and the number and type of
9 an insured's moving traffic violations. For purposes of this section, "insurance
10 company" shall mean all members of the same insurance company group. A
11 particular company may make a general reduction in volume of automobile
12 insurance in the commonwealth if such a reduction is determined by the
13 commissioner not to be an attempt to circumvent the purposes of this section and
14 that the company's refusal to write motor vehicle liability policies or bonds is not
15 contrary to the public interest by disrupting the market for such insurance in the
16 commonwealth. Any company which does not intend to issue a renewal policy
17 shall give written notice of its intent not to issue a policy for the ensuing policy
18 period in accordance with section 113F and such notice shall provide the specific
19 reasons for such nonrenewal.

20 SECTION 2. Section 193R of chapter 175 of the General Laws, as so appearing, is
21 hereby amended by striking out the second-to-last paragraph and inserting in place
22 thereof the following paragraph:

23 Rates for such policies shall be determined in accordance with the provisions
24 of this chapter, chapter one hundred seventy-five E, chapter one hundred and
25 seventy-four A, or chapter one hundred and seventy-five A applicable to the type
26 of insurance provided, except that in addition to the applicable provisions of said
27 chapter every insurer providing insurance in accordance with this section shall
28 keep and maintain separate data on the losses and expenses for each employer,
29 trade union, association or organization so insured and shall not be allowed to offer
30 any such insured a modification of the rates so determined for such insured until
31 and unless data of such losses and expenses for at least three policy years shows, to
32 the satisfaction of the commissioner, that such modification is in fact justified
33 based solely on direct reductions in losses resulting entirely from cost-saving
34 measures undertaken by the group or on direct reductions in expenses resulting
35 from the group marketing technique or both. For the purposes of this section,
36 deviations approved during the first three years of a group marketing plan by the
37 commissioner based solely on direct reductions in expenses resulting from the
38 group marketing technique shall be permitted. The justification required under this
39 paragraph shall be provided simultaneously to the commissioner and to the
40 attorney general, either of whom may require a hearing on such modification of
41 rates, which shall be held pursuant to the provisions of this chapter, chapter one
42 hundred seventy-five E, chapter one hundred seventy-four A or chapter one
43 hundred and seventy-five A applicable to the type of insurance provided. Every
44 mutual company providing insurance in accordance with this section shall
45 constitute each group marketing plan which has been in effect three policy years as
46 a separate class of business for the purpose of paying dividends and any dividends
47 on such plan shall be declared on the profits of the company from said class of
48 business.

49 SECTION 3. Section 4 of chapter 175E of the General Laws, as so appearing, is
50 hereby amended by striking out, in lines 32 to 39, inclusive, the words “Risks may
51 be grouped by classification for the establishment of rates and minimum
52 premiums. Classification rates may be modified to produce rates for individual
53 risks in accordance with rating plans which establish standards for measuring

54 variations in hazards or expense provisions, or both. Such standards may measure
55 any difference among risks that have a probable effect upon losses or expenses.
56 Such classifications and modifications shall apply to all risks under the same or
57 substantially the same circumstances or conditions.” and inserting in place thereof
58 the following words:

59 Motor vehicle insurance premium charges shall be determined solely by
60 application of the following principally user-controllable factors:

- 61 (i) the insured’s territory;
- 62 (ii) the number and severity of an insured’s at-fault accidents;
- 63 (iii) the number and type of an insured’s moving traffic violations;
- 64 (iv) the status of the insured’s driver’s license;
- 65 (v) the number of miles an insured drives annually;
- 66 (vi) the number of years that the insured has been driving, as long as
67 this factor does not receive more weight in the determination of classification rates
68 than it did in the rates fixed and established for policy year 2007;
- 69 (vii) the make, model, and age of the insured vehicle, except that this
70 factor shall not explicitly or implicitly reflect the loss or expense experience
71 associated with the individuals who tend to operate that type of vehicle;
- 72 (viii) the number of vehicles insured, except that the impact of this
73 factor shall not be larger than it was in the rates fixed and established for policy
74 year 2007;
- 75 (ix) a qualifying driver education program;
- 76 (x) qualifying mass transit system usage;
- 77 (xi) a discount approved pursuant to section 193R of chapter 175; and
78 (xii) any other factors contained in this subsection (d).

79 All insurers that are affiliated or that are members of the same insurance
80 holding company system as defined by section 206 of chapter 175 or that are
81 otherwise under common ownership or management may use only one set of rates,

82 including any discounts, credits, surcharges, dividends, rating plans, or other
83 mechanisms that affect the amount an insured is charged.

84 SECTION 4. Section 7 of said chapter 175E, as so appearing, is hereby further
85 amended by striking out the first 3 paragraphs and inserting in place thereof the
86 following 3 paragraphs:-

87 Every insurer or rating organization authorized to file on behalf of such
88 insurer shall file with the commissioner, or his designated representative, and the
89 attorney general, or his designated representative, every manual of its
90 classifications, rules and rates, rating plans and modifications of any of the
91 foregoing not less than 45 days before the effective date thereof. Every such filing
92 shall state the effective date thereof, and such filing shall indicate the character and
93 extent of the coverage contemplated. The commissioner or the attorney general
94 may require such insurer or rating organization to furnish the information upon
95 which it supports such filing.

96 The commissioner may specify the form to be used for any filing or
97 submission pursuant to this chapter.

98 The commissioner may in his discretion, and shall on the motion of the
99 attorney general, initiate a hearing on any such filing prior to its effective date after
100 at least 20 days' notice. During any proceeding on such a filing, the attorney
101 general may: conduct discovery of each insurer or rating authorization relative to
102 any such filing; call witnesses; cross examine witnesses; present evidence; and file
103 pleadings, motions and other papers. An insurer or rating organization shall
104 respond to any discovery request filed pursuant to this section within 10 days.

105 SECTION 5. This act shall take effect immediately upon its enactment. Any
106 actions on the part of any insurance company or group that have taken place since
107 March 31st of 2008 and are not in compliance with the provisions of this act shall
108 be brought into compliance with these provisions.