



MEMORANDUM IN OPPOSITION

A4668B (Weprin) / S5764A (Breslin)

AN ACT to amend the insurance law, in relation to using driving history as a rating or underwriting factor for private passenger motor vehicle insurance.

The New York Insurance Association (NYIA), the state trade association that has represented the property and casualty insurance industry in New York for more than 140 years, **strongly OPPOSES** the above-captioned bill to mandate that any insurer who utilizes an applicant's driving history as a rating or underwriting factor must verify such driving history through a third party database prior to binding or accepting any portion of a premium for such insurance.

More specifically, this bill would add a new section 2327 to the insurance law, to provide that no insurer who utilizes an applicant's driving history as a rating or underwriting factor for private passenger motor vehicle insurance in this state shall bind a policy of insurance, or accept a percentage of the annual premium due for a policy, without first making a good faith effort to verify said applicant's driving history, as well as the driving history of all named drivers that are used to rate the policy and are listed by the applicant on the private passenger motor vehicle insurance application, through the use of a third-party database.

This bill would additionally require that the insurer must also verify, through the third-party database, the driving history of a named driver used to rate the policy when added during the policy period, and must further verify the driving history of all drivers used to rate the policy at policy renewal, unless the driving history is unavailable at the time of the initial inquiry due to a temporary website outage, service interruption or other circumstances beyond the control of the insurer, producer or third-party representative.

This bill is deficient and defective at a number of levels.

First, there are a number of reasons why it might be imprudent to require an insurer to verify a driver's history at the time of binding an auto insurance policy. Such a verification has a cost (indeed this bill would cost insureds millions in extra dollars in policy expense every year) and the mere fact a policy has been bound, does not mean it has yet been rated. A binding is based upon a quote, which may or may not prove to be the insured's final rate.

Second, there may be technical issues with accessing the third party's verification system. Additionally, it is also important to note, that an individual is nearly always asked about their driving history when requesting an insurance quote, so a motor vehicle report is typically thereafter acquired by the prospective insurer to verify the information provided by the prospective policyholder is accurate, and not pulled before the quote is afforded. If such policyholder provides accurate information, the price would thereby remain consistent with the quote.

Moreover, there are a wide range of potential scenarios that exist where a verification would not be available to provide the information on an individual to whom the policy might ultimately be issued. Worse yet, in some scenarios the verification mandated under this bill may not be available at any point. In other scenarios the requirement of this bill could cause delays in a policyholder securing auto insurance as mandated by New York State, pursuant to the vehicle and traffic law and insurance law requirements. These delays could also result in a policyholder not being able to take possession of a vehicle. All of these would lead to significant customer complaints, dissatisfaction, and citizen anger at both the state and insurers.

Specific issues raised by this bill include, but are not limited to, situations involving out of country licenses or licenses for immigrants; situations involving out-of-state licenses, particularly when applicant is newly licensed in New York; situations involving newly issued licenses; situations where the verification system is not available; and situations where inaccurate driver license numbers or other vehicle identification information is mistakenly provided.

Although the noble intent of this bill might be able to be corrected by the use of appropriate chapter amendments, as drafted, this bill contains far too many legal and logistical problems for both insurers, insureds, the Department of Motor Vehicles, and the State of New York, in general. It would simply, currently cause far more problems than the issue it seeks to correct. As drafted, it is ill considered, demonstrates a lack of understanding of the motor vehicle rating and driver history verification system, and has a total disregard for the substantial costs that would be incurred.

For all the foregoing reasons stated above, NYIA strongly urges the Governor to veto this bill in its current form.