

**STATE OF CALIFORNIA  
DEPARTMENT OF INSURANCE  
45 Fremont Street, 21<sup>st</sup> Floor  
San Francisco, California 94105**

**File No. RH06091489**

**Date: April 14, 2006**

**Proposed Amendment of Section 2632.5  
Automobile Insurance Rating Factors: Mileage Verification**

**NOTICE OF PROPOSED ACTION AND NOTICE OF PUBLIC HEARING**

**SUBJECT OF HEARING**

Notice is hereby given that Insurance Commissioner John Garamendi ("Commissioner") proposes to amend California Code of Regulations, Title 10, Chapter 5, Subchapter 4.7, Article 3, Section 2632.5(c)(2) to add subsections (A) and (B) to clarify the types of information an insurer is allowed or required to collect to determine estimated annual mileage.

California Insurance Code Section 1861.02(a), added by Proposition 103, provides that rates and premiums for an automobile insurance policy shall be determined by applying three mandatory factors and various optional factors. Annual miles driven is one of the mandatory rating factors. The current regulations do not specifically indicate the information an insurer is allowed or required to collect to determine the number of miles driven annually.

**AUTHORITY AND REFERENCE**

The Commissioner proposes to amend California Code of Regulations, Title 10, Chapter 5, Subchapter 4.7, Article 3, Section 2632.5(c)(2) under the express authority of California Insurance Code Section 1861.02(e). The proposed amendment implements, interprets, and makes specific California Insurance Code Section 1861.02(a).

**HEARING DATE AND LOCATION**

A workshop with respect to this amendment is not being held. The proposed amendment does not involve complex proposals or a large number of proposals that cannot easily be reviewed during the comment period.

The Commissioner will hold a public hearing to provide all interested persons an opportunity to present statements or arguments, either orally or in writing, with respect to this amendment at the following date, time, and place:

**Tuesday, June 13, 2006 – 10:00 a.m.  
California Department of Insurance Hearing Room  
45 Fremont Street, 22<sup>nd</sup> Floor, San Francisco, CA 94105**

## **SUBMISSION OF COMMENTS; CONTACT PERSONS**

All persons are invited to present oral and/or written comments at the hearing. Written comments not presented at the hearing must be addressed to the following contact person:

Kim Morimoto  
California Department of Insurance  
45 Fremont Street, 21<sup>st</sup> Floor  
San Francisco, CA 94105  
Telephone: (415) 538-4143  
[morimotok@insurance.ca.gov](mailto:morimotok@insurance.ca.gov)

Questions regarding the hearing and comments on the substance of the proposed action should be addressed to the above contact person. If the contact person is unavailable, inquiries may be sent to the backup contact person:

Elizabeth Mohr  
California Department of Insurance  
45 Fremont Street, 21<sup>st</sup> Floor  
San Francisco, CA 94105  
Telephone: (415) 538-4112  
[mohre@insurance.ca.gov](mailto:mohre@insurance.ca.gov)

## **DEADLINE FOR WRITTEN COMMENTS**

All written materials submitted must be received by the Commissioner, in care of the contact person, at the address listed above, by no later than **5:00 p.m. on Tuesday, June 13, 2006**. Any materials received after that time will not be considered.

## **COMMENTS TRANSMITTED BY ELECTRONIC COMMUNICATION**

The Commissioner will accept written comments transmitted by e-mail sent to the following e-mail address: [morimotok@insurance.ca.gov](mailto:morimotok@insurance.ca.gov) or [mohre@insurance.ca.gov](mailto:mohre@insurance.ca.gov). The Commissioner will also accept written comments transmitted by facsimile provided they are directed to the attention of the contact person for this proceeding using the following fax number: (415) 904-5490. **Comments shall be transmitted by one method only and are subject to the deadline for written comments set forth above.**

**Comments sent to other e-mail addresses or other facsimile numbers will not be accepted.**

## **ACCESS TO HEARING ROOMS**

The facilities to be used for the public hearing are accessible to persons with mobility impairments. Persons with sight or hearing impairments are requested to notify the contact person for this hearing in order to make special arrangements, if necessary.

## **ADVOCACY OR WITNESS FEES**

Persons or groups representing the interests of consumers may be entitled to reasonable advocacy fees, witness fees, and other reasonable expenses, in accordance with the provisions of California Code of Regulations, Title 10, Subchapter 4.9 in connection with their participation in this matter. Persons interested in inquiring about the appropriate procedures should contact the Office of the Public Advisor at the following address:

California Department of Insurance  
Office of the Public Advisor  
300 Capitol Mall, 17<sup>th</sup> Floor  
Sacramento, CA 95814  
(916) 492-3559

A copy of any written materials submitted to the Public Advisor regarding this rulemaking shall also be submitted to the contact person for this hearing. Please contact the Office of the Public Advisor for further information.

## **INFORMATIVE DIGEST**

### **Summary of Existing Law**

California Insurance Code Section 1861.02(a), added by Proposition 103, provides that rates and premiums for an automobile insurance policy shall be determined by applying three mandatory factors and various optional factors. The second mandatory factor is the number of miles driven annually.

California Code of Regulations, Title 10, Section 2632.5(c)(2) defines the second mandatory factor to mean the estimated annual mileage for the insured vehicle during the 12 month period following inception of the policy.

Existing law does not specifically indicate the information an insurer is allowed or required to collect to determine estimated annual mileage.

### **Policy Statement Overview and Effect of Proposed Action**

The existing regulations do not explicitly set forth the information collected by an insurer to determine estimated annual mileage pursuant to California Insurance Code Section 1861.02(a).

Proposed subsections (A) and (B) to Title 10, Code of Regulations, Section 2632.5(c)(2) are intended to clarify the types of information an insurer is allowed or required to collect to determine estimated annual mileage to comply with California Insurance Code Section 1861.02(a).

**MANDATES ON LOCAL AGENCIES OR SCHOOL DISTRICTS OR COSTS WHICH MUST BE REIMBURSED PURSUANT TO GOVERNMENT CODE SECTIONS 17500 THROUGH 17630**

This proposed amendment does not impose any mandate on local agencies or school districts. There are no costs to local agencies or school districts for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement, and no other nondiscretionary cost or savings imposed on local agencies.

**COST OR SAVINGS TO ANY STATE AGENCY; FEDERAL FUNDING**

The Commissioner has determined that the proposed amendment will result in no cost or savings to any state agency, and no cost or savings in federal funding to the State.

**ECONOMIC IMPACT ON BUSINESSES AND THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE WITH BUSINESSES IN OTHER STATES**

The Commissioner has made an initial determination that adoption of the proposed amendment will not have a significant impact on reporting requirements, recordkeeping requirements or other compliance requirements.

The Commissioner has made an initial determination that adoption of the proposed amendment will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, because the proposed amendment simply clarifies and makes specific existing legal requirements.

However, the Commissioner invites comment on proposed alternatives designed to lessen any adverse economic impact on business while ensuring compliance with all applicable legal requirements.

The types of businesses affected by the proposed amendment are insurers transacting automobile insurance in the State of California.

**POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES**

The Commissioner is not aware of any cost impacts a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**BUSINESS REPORT**

The proposed amendment does not require a report.

## **EFFECT ON JOBS/BUSINESSES IN CALIFORNIA**

The Commissioner is required to assess any impact the amendment may have on the creation or elimination of jobs in the State of California, the creation of new businesses, the elimination of existing businesses, and the expansion of businesses currently operating in the state. The Commissioner does not foresee that the proposed amendment will have an impact on any of the above but invites interested parties to comment on this issue.

## **IMPACT ON HOUSING COSTS**

The proposed amendment will have no significant effect on housing costs.

## **ALTERNATIVES**

The Commissioner must determine that no reasonable alternative considered by the Commissioner or that has otherwise been identified and brought to the attention of the Commissioner would be more effective in carrying out the purpose for which the amendment is proposed or would be as effective as and less burdensome to affected private persons than the proposed amendment. The Commissioner invites interested persons to present statements or arguments with respect to alternatives to the proposed amendment at the scheduled hearing or during the written comment period.

## **IMPACT ON SMALL BUSINESS**

The matters proposed herein will affect insurance companies and, therefore, will not affect small business. (Gov. Code Section 11342.610, subd. (b), para. (2).)

## **COMPARABLE FEDERAL LAW**

There are no existing federal regulations or statutes comparable to, or mandating, the proposed amendment.

## **OTHER STATUTORY REQUIREMENTS**

There are no other specific statutory requirements applicable to the proposed amendment.

## **TEXT OF AMENDMENT AND STATEMENT OF REASONS**

The Commissioner has prepared an initial statement of reasons that sets forth the reasons for the proposed action. The Commissioner also has available all the information upon which this proposed action is based as well as the express terms of the proposed action. Upon request, the proposed text and initial statement of reasons will be made available for inspection and copying. Requests for the initial statement of reasons or questions regarding this proceeding should be directed to the contact person listed above.

The file for this proceeding, which includes a copy of the proposed amendment, the statement of reasons, the information upon which the proposed action is based, and any supplemental information contained in the rulemaking file, is available for inspection and copying **by prior appointment** at 45 Fremont Street, 21<sup>st</sup> Floor, San Francisco, California 94105, between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday. Written requests for the rulemaking file or questions regarding this proceeding should be directed to the contact person listed above.

### **FINAL STATEMENT OF REASONS**

A final statement of reasons will be prepared at the conclusion of this proceeding. Upon written or e-mail request to the contact person listed above, the final statement of reasons will be made available for inspection and copying once it has been prepared. A copy of the final statement of reasons will also be posted on the Department's website.

### **AUTOMATIC MAILING**

A copy of this notice, including the informative digest, which contains the general substance of the proposed amendment, will automatically be sent to all persons on the Commissioner's mailing list.

### **WEBSITE POSTINGS**

Documents concerning this proceeding are available on the Department's website, <http://www.insurance.ca.gov>. As of the date of this Notice, the steps required to access these documents are as follows. In the "Quick Links" section, click on Legal Information, then on Proposed Regulations. When the "Search" screen appears, enter RH06091489 (the Department's regulation file number for this proceeding) in the "Search for" field.

### **AVAILABILITY OF MODIFIED TEXT OF AMENDMENT**

In response to public comment, the Commissioner may determine that changes to the proposal are appropriate. If those changes are sufficiently related to the original text that the public had adequate notice of the proposal, as amended, copies of the amended text will be sent to all persons who testified or presented comments at the public hearing or submitted written comments during the comment period, and to anyone who requested information regarding the proposal. Thereafter, the Commissioner will accept written comments, arguments, evidence and testimony concerning the changes only, for a period of at least 15 days prior to adoption.

At least 45 days notice will be given if the changes are not sufficiently related to the original text that the public was adequately placed on notice that the change could result from the originally proposed regulatory action.

Dated: April 14, 2006

JOHN GARAMENDI  
Insurance Commissioner

By: /s/  
Kim Morimoto  
Staff Counsel

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