

HOUSE BILL NO. 6564

December 07, 2022, Introduced by Rep. Rabhi and referred to the Committee on Rules and Competitiveness.

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending sections 3107c, 3107d, 3109a, and 3114 (MCL 500.3107c, 500.3107d, 500.3109a, and 500.3114), sections 3107c and 3107d as added and section 3109a as amended by 2019 PA 22 and section 3114 as amended by 2019 PA 21.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3107c. (1) Except as provided in sections 3107d and
2 3109a, and subject to subsection (5), for an insurance policy that

1 provides the security required under section ~~3101(1)~~**3101** and is
2 issued or renewed after July 1, 2020, the applicant or named
3 insured shall, in a way required under section 3107e and on a form
4 approved by the director, select 1 of the following coverage levels
5 for personal protection insurance benefits under section
6 3107(1) (a) :

7 (a) A limit of \$50,000.00 per individual per loss occurrence
8 for any personal protection insurance benefits under section
9 3107(1) (a). The selection of a limit under this subdivision is only
10 available to an applicant or named insured if both of the following
11 apply:

12 (i) The applicant or named insured is enrolled in Medicaid, as
13 that term is defined in section 3157.

14 (ii) The applicant's or named insured's spouse and any relative
15 of either who resides in the same household has qualified health
16 coverage, as that term is defined in section 3107d, is enrolled in
17 Medicaid, or has coverage for the payment of benefits under section
18 3107(1) (a) from an insurer that provides the security required by
19 section ~~3101(1)~~**3101**.

20 (b) A limit of \$250,000.00 per individual per loss occurrence
21 for any personal protection insurance benefits under section
22 3107(1) (a) .

23 (c) A limit of \$500,000.00 per individual per loss occurrence
24 for any personal protection insurance benefits under section
25 3107(1) (a) .

26 (d) No limit for personal protection insurance benefits under
27 section 3107(1) (a) .

28 (2) The form required under subsection (1) must do all of the
29 following:

1 (a) State, in a conspicuous manner, the benefits and risks
2 associated with each coverage option.

3 (b) Provide a way for the applicant or named insured to mark
4 the form to acknowledge that he or she has read the form and
5 understands the options available.

6 (c) Allow the applicant or named insured to mark the form to
7 make the selection of coverage level under subsection (1).

8 (d) Require the applicant or named insured to sign the form.

9 (3) If an insurance policy is issued or renewed as described
10 in subsection (1) and the applicant or named insured has not made
11 an effective selection under subsection (1) but a premium or
12 premium installment has been paid, there is a rebuttable
13 presumption that the amount of the premium or installment paid
14 accurately reflects the level of coverage applicable to the policy
15 under subsection (1).

16 (4) If an insurance policy is issued or renewed as described
17 in subsection (1), the applicant or named insured has not made an
18 effective selection under subsection (1), and a presumption under
19 subsection (3) does not apply, subsection (1)(d) applies to the
20 policy.

21 (5) The coverage level selected under subsection (1) applies
22 to the named insured, the named insured's spouse, and a relative of
23 either domiciled in the same household, and any other person with a
24 right to claim personal protection insurance benefits under the
25 policy.

26 (6) If benefits are payable under section 3107(1)(a) under 2
27 or more insurance policies, the benefits are only payable up to an
28 aggregate coverage limit that equals the highest available coverage
29 limit under any 1 of the policies.

1 (7) ~~This section applies for~~ **For** a transportation network
 2 company vehicle, ~~but an applicant or named insured that is a~~
 3 ~~transportation network company shall only select~~ **while the**
 4 **transportation network company driver is logged on to the**
 5 **transportation network company digital network or while the driver**
 6 **is engaged in a transportation network company prearranged ride,**
 7 **the insurance that provides the security required under section**
 8 **3101, whether provided by the transportation network company, the**
 9 **transportation network company driver, or a combination of both, as**
 10 **required by section 23 of the limousine, taxicab, and**
 11 **transportation network company act, 2016 PA 345, MCL 257.2123, must**
 12 **provide** limits under ~~either subsection (1) (b), (c), or (d).~~ **(1) (d).**
 13 As used in this subsection:

14 (a) "Transportation network company", ~~means that term~~
 15 **"transportation network company digital network", "transportation**
 16 **network company driver", and "transportation network company**
 17 **prearranged ride" mean those terms** as defined in section 2 of the
 18 limousine, taxicab, and transportation network company act, 2016 PA
 19 345, MCL 257.2102.

20 (b) "Transportation network company vehicle" means that term
 21 as defined in section 3114.

22 (8) An insurer shall offer, for a policy that provides the
 23 security required under section ~~3101(1)~~ **3101** to which a limit under
 24 subsection (1) (a) to (c) applies, a rider that will provide
 25 coverage for attendant care in excess of the applicable limit.

26 Sec. 3107d. (1) For an insurance policy that provides the
 27 security required under section ~~3101(1)~~ **3101** and is issued or
 28 renewed after July 1, 2020, the applicant or named insured may, in
 29 a way required under section 3107e and on a form approved by the

1 director, elect to not maintain coverage for personal protection
2 insurance benefits payable under section 3107(1) (a) if the
3 applicant or named insured is a qualified person, and if the
4 applicant's or named insured's spouse and any relative of either
5 that resides in the same household have qualified health coverage
6 or have coverage for benefits payable under section 3107(1) (a) from
7 an insurer that provides the security required by section
8 ~~3101(1)~~.**3101**.

9 (2) An applicant or named insured shall, when requesting
10 issuance or renewal of a policy under subsection (1), provide to
11 the insurer a document from the person that provides the qualified
12 health coverage stating the names of all persons covered under the
13 qualified health coverage.

14 (3) The form required under subsection (1) must do all of the
15 following:

16 (a) Require the applicant or named insured to mark the form to
17 certify whether all persons required to be qualified persons under
18 subsection (1) are qualified persons.

19 (b) Disclose in a conspicuous manner that qualified persons
20 are not obligated to but may purchase coverage for personal
21 protection insurance coverage benefits payable under section
22 3107(1) (a).

23 (c) State, in a conspicuous manner, the coverage levels
24 available under section 3107c.

25 (d) State, in a conspicuous manner, the benefits and risks
26 associated with not maintaining the coverage.

27 (e) State, in a conspicuous manner, that if during the term of
28 the policy the qualified health coverage ceases, the person has 30
29 days after the effective date of the termination of qualified

1 health coverage to obtain insurance that provides coverage under
2 section 3107(1)(a) or the person will be excluded from all personal
3 protection insurance coverage benefits under section 3107(1)(a)
4 during the period in which coverage under this section was not
5 maintained.

6 (f) Provide a way for the applicant or named insured to mark
7 the form to acknowledge that he or she has read the form and
8 understands it and that he or she understands the options available
9 to him or her.

10 (g) If all persons required to be qualified persons under
11 subsection (1) are qualified persons, provide the person a way to
12 mark the form to elect to not maintain the coverage.

13 (h) Require the applicant or named insured to sign the form.

14 (4) If an insurance policy is issued or renewed as described
15 in subsection (1) and the applicant or named insured has not made
16 an effective election under subsection (1), the policy is
17 considered to provide personal protection benefits under section
18 3107c(1)(d).

19 (5) An election under this section applies to the applicant or
20 named insured, the applicant or named insured's spouse, a relative
21 of either domiciled in the same household, and any other person who
22 would have had a right to claim personal protection insurance
23 benefits under the policy but for the election.

24 (6) If, during the term of an insurance policy under which
25 coverage for personal protection insurance benefits payable under
26 section 3107(1)(a) are not maintained under this section, the
27 persons required to have qualified health coverage under subsection
28 (1) cease to have qualified health coverage, all of the following
29 apply under this subsection:

1 (a) Within 30 days after the effective date of the termination
2 of qualified health coverage, the named insured shall obtain
3 insurance that includes coverage under section 3107(1)(a).

4 (b) An insurer that issues policies that provide the security
5 required by section ~~3101(1)~~**3101** shall not refuse to prospectively
6 insure, limit coverage available to, charge a reinstatement fee to,
7 or increase the insurance premiums for a person who is an eligible
8 person, as that term is defined in section 2103, solely because the
9 person previously failed to obtain insurance that provides coverage
10 for benefits under section 3107(1)(a) in the time required under
11 subdivision (a).

12 (c) If the applicant or named insured does not obtain
13 insurance as required under subdivision (a) and a person to whom
14 the election under this section applies as described in subsection
15 (5) suffers accidental bodily injury arising from a motor vehicle
16 accident within the 30-day period, unless the injured person is
17 entitled to coverage under some other policy, the injured person is
18 not entitled to be paid personal protection insurance benefits
19 under section 3107(1)(a) for the injury but is entitled to claim
20 benefits under the assigned claims plan.

21 **(7) This section does not apply to an insurance policy that**
22 **provides the security required under section 3101 for a**
23 **transportation network company vehicle, as that term is defined in**
24 **section 3114.**

25 **(8) ~~(7)~~—As used in this section:**

26 (a) "Consumer Price Index" means the most comprehensive index
27 of consumer prices available for this state from the United States
28 Department of Labor, Bureau of Labor Statistics.

29 (b) "Qualified health coverage" means either of the following:

1 (i) Other health or accident coverage to which both of the
2 following apply:

3 (A) The coverage does not exclude or limit coverage for
4 injuries related to motor vehicle accidents.

5 (B) Any annual deductible for the coverage is \$6,000.00 or
6 less per individual. The director shall adjust the amount in this
7 sub-subparagraph on July 1 of each year by the percentage change in
8 the medical component of the Consumer Price Index for the preceding
9 calendar year. However, the director shall not make the adjustment
10 unless the adjustment, or the total of the adjustment and previous
11 unadded adjustments, is \$500.00 or more.

12 (ii) Coverage under parts A and B of the federal Medicare
13 program established under subchapter XVIII of the social security
14 act, 42 USC 1395 to 1395III.

15 (c) "Qualified person" means a person who has qualified health
16 coverage under subdivision (b) (ii).

17 Sec. 3109a. (1) An insurer that provides personal protection
18 insurance benefits under this chapter may offer deductibles and
19 exclusions reasonably related to other health and accident coverage
20 on the insured. Any deductibles and exclusions offered under this
21 section must be offered at a reduced premium that reflects
22 reasonably anticipated reductions in losses, expenses, or both, are
23 subject to prior approval by the director, and must apply only to
24 benefits payable to the person named in the policy, the spouse of
25 the insured, and any relative of either domiciled in the same
26 household.

27 (2) For an insurance policy issued or renewed after July 1,
28 2020, the insurer shall offer to an applicant or named insured that
29 selects a personal protection benefit limit under section

1 3107c(1)(b) an exclusion related to qualified health coverage. All
2 of the following apply to that exclusion:

3 (a) If the named insured has qualified health coverage as
4 defined in section ~~3107d(7)(b)(i)~~ **3107d(8)(b)(i)** that will cover
5 injuries that occur as the result of a motor vehicle accident and
6 if the named insured's spouse and any relatives of either the named
7 insured or the spouse domiciled in the same household have
8 qualified health coverage that will cover injuries that occur as
9 the result of a motor vehicle accident, the premium for the
10 personal protection insurance benefits payable under section
11 3107(1)(a) under the policy must be reduced by 100%.

12 (b) If a member, but not all members, of the household covered
13 by the insurance policy has qualified health coverage that will
14 cover injuries that occur as the result of a motor vehicle
15 accident, the insurer shall offer a reduced premium that reflects
16 reasonably anticipated reductions in losses, expenses, or both. The
17 reduction must be in addition to the rate rollback required by
18 section 2111f and the share of the premium reduction for the policy
19 attributable to any person with qualified health coverage must be
20 100%.

21 (c) Subject to subdivision (d), a person subject to an
22 exclusion under this subsection is not eligible for personal
23 protection benefits under the insurance policy.

24 (d) If a person subject to an exclusion under this subsection
25 is no longer covered by the qualified health coverage, the named
26 insured shall notify the insurer that the named insured or resident
27 relative is no longer eligible for an exclusion. All of the
28 following apply under this subdivision:

29 (i) The named insured shall, within 30 days after the effective

1 date of the termination of the qualified health coverage, obtain
2 insurance that provides the security required under section ~~3101(1)~~
3 **3101** that includes coverage that was excluded under this
4 subsection.

5 (ii) During the period described in subparagraph (i), if any
6 person excluded suffers accidental bodily injury arising from a
7 motor vehicle accident, the person is entitled to claim benefits
8 under the assigned claims plan.

9 (e) If the named insured does not obtain insurance that
10 provides the security required under section ~~3101(1)~~**3101** that
11 includes the coverage excluded under this subsection during the
12 period described in subdivision (d) (i) and the named insured or any
13 person excluded under the policy suffers accidental bodily injury
14 arising from a motor vehicle accident, unless the injured person is
15 entitled to coverage under some other policy, the injured person is
16 not entitled to be paid personal protection insurance benefits
17 under section 3107(1) (a) for the injury that occurred during the
18 period in which coverage under this section was excluded.

19 (3) An automobile insurer shall not refuse to prospectively
20 insure, limit coverage available to, charge a reinstatement fee
21 for, or increase the premiums for automobile insurance for an
22 eligible person, as that term is defined in section 2103, solely
23 because the person previously failed to obtain insurance that
24 provides the security required under section ~~3101(1)~~**3101** in the
25 time period provided under subsection (2) (d) (i).

26 (4) The amount of a premium reduction under subsection (1)
27 must appear in a conspicuous manner in the declarations for the
28 policy, and be expressed as a dollar amount or a percentage.

29 **(5) Subsection (2) does not apply to an insurance policy that**

1 provides the security required under section 3101 for a
2 transportation network company vehicle, as that term is defined in
3 section 3114.

4 (6) ~~(5)~~—As used in this section, "qualified health coverage"
5 means that term as defined in section 3107d.

6 Sec. 3114. (1) Except as provided in subsections (2), (3), and
7 (5), a personal protection insurance policy described in section
8 ~~3101(1)~~—**3101** applies to accidental bodily injury to the person
9 named in the policy, the person's spouse, and a relative of either
10 domiciled in the same household, if the injury arises from a motor
11 vehicle accident. A personal injury insurance policy described in
12 section 3103(2) applies to accidental bodily injury to the person
13 named in the policy, the person's spouse, and a relative of either
14 domiciled in the same household, if the injury arises from a
15 motorcycle accident. If personal protection insurance benefits or
16 personal injury benefits described in section 3103(2) are payable
17 to or for the benefit of an injured person under his or her own
18 policy and would also be payable under the policy of his or her
19 spouse, relative, or relative's spouse, the injured person's
20 insurer shall pay all of the benefits up to the coverage level
21 applicable under section 3107c to the injured person's policy, and
22 is not entitled to recoupment from the other insurer.

23 (2) A person who suffers accidental bodily injury while an
24 operator or a passenger of a motor vehicle operated in the business
25 of transporting passengers shall receive the personal protection
26 insurance benefits to which the person is entitled from the insurer
27 of the motor vehicle. This subsection does not apply to a passenger
28 in any of the following, unless the passenger is not entitled to
29 personal protection insurance benefits under any other policy:

1 (a) A school bus, as defined by the department of education,
2 providing transportation not prohibited by law.

3 (b) A bus operated by a common carrier of passengers certified
4 by the department of transportation.

5 (c) A bus operating under a government sponsored
6 transportation program.

7 (d) A bus operated by or providing service to a nonprofit
8 organization.

9 (e) A taxicab insured as prescribed in section 3101 or 3102.

10 (f) A bus operated by a canoe or other watercraft, bicycle, or
11 horse livery used only to transport passengers to or from a
12 destination point.

13 (g) A transportation network company vehicle. **However, if the**
14 **injured person does not have coverage for benefits under section**
15 **3107(1) (a) because of an election under section 3107d or an**
16 **exclusion under section 3109(2), this subsection applies, or if the**
17 **injured person's coverage is limited under section 3107c(1) (a),**
18 **(b), or (c), this subsection applies to allowable expenses in**
19 **excess of the applicable limit.**

20 (h) A motor vehicle insured under a policy for which the
21 person named in the policy has elected to not maintain coverage for
22 personal protection insurance benefits under section 3107d or as to
23 which an exclusion under section 3109a(2) applies.

24 (3) An employee, his or her spouse, or a relative of either
25 domiciled in the same household, who suffers accidental bodily
26 injury while an occupant of a motor vehicle owned or registered by
27 the employer, shall receive personal protection insurance benefits
28 to which the employee is entitled from the insurer of the furnished
29 vehicle.

1 (4) Except as provided in subsections (2) and (3), a person
2 who suffers accidental bodily injury arising from a motor vehicle
3 accident while an occupant of a motor vehicle who is not covered
4 under a personal protection insurance policy as provided in
5 subsection (1) shall claim personal protection insurance benefits
6 under the assigned claims plan under sections 3171 to 3175. This
7 subsection does not apply to a person insured under a policy for
8 which the person named in the policy has elected to not maintain
9 coverage for personal protection insurance benefits under section
10 3107d or as to which an exclusion under section 3109(2) applies, or
11 who is not entitled to be paid personal protection benefits under
12 section 3107d(6) (c) or 3109a(2) (d) (ii) .

13 (5) Subject to subsections (6) and (7), a person who suffers
14 accidental bodily injury arising from a motor vehicle accident that
15 shows evidence of the involvement of a motor vehicle while an
16 operator or passenger of a motorcycle shall claim personal
17 protection insurance benefits from insurers in the following order
18 of priority:

19 (a) The insurer of the owner or registrant of the motor
20 vehicle involved in the accident.

21 (b) The insurer of the operator of the motor vehicle involved
22 in the accident.

23 (c) The motor vehicle insurer of the operator of the
24 motorcycle involved in the accident.

25 (d) The motor vehicle insurer of the owner or registrant of
26 the motorcycle involved in the accident.

27 (6) If an applicable insurance policy in an order of priority
28 under subsection (5) is a policy for which the person named in the
29 policy has elected to not maintain coverage for personal protection

1 insurance benefits under section 3107d, or as to which an exclusion
2 under section 3109(2) applies, the injured person shall claim
3 benefits only under other policies, subject to subsection (7), in
4 the same order of priority for which no such election has been
5 made. If there are no other policies for which no such election has
6 been made, the injured person shall claim benefits under the next
7 order of priority or, if there is not a next order of priority,
8 under the assigned claims plan under sections 3171 to 3175.

9 (7) If personal protection insurance benefits are payable
10 under subsection (5) under 2 or more insurance policies in the same
11 order of priority, the benefits are only payable up to an aggregate
12 coverage limit that equals the highest available coverage limit
13 under any 1 of the policies.

14 (8) Subject to subsections (6) and (7), if 2 or more insurers
15 are in the same order of priority to provide personal protection
16 insurance benefits under subsection (5), an insurer that pays
17 benefits due is entitled to partial recoupment from the other
18 insurers in the same order of priority, and a reasonable amount of
19 partial recoupment of the expense of processing the claim, in order
20 to accomplish equitable distribution of the loss among all of the
21 insurers.

22 (9) As used in this section:

23 (a) "Personal vehicle", "transportation network company
24 digital network", and "transportation network company prearranged
25 ride" mean those terms as defined in section 2 of the limousine,
26 taxicab, and transportation network company act, 2016 PA 345, MCL
27 257.2102.

28 (b) "Transportation network company vehicle" means a personal
29 vehicle while the driver is logged on to the transportation network

- 1 company digital network or while the driver is engaged in a
- 2 transportation network company prearranged ride.