June 11, 2009

09-0017

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INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

VIA PERSONAL DELIVERY

The Honorable Edmund G. Brown, Jr.
Attorney General
1300 I Street
Sacramento, CA 95814

Attention: Krystal Paris, Initiative Coordinator

Re: Request for Title and Summary- Initiative Statutory Amendment

Dear Mr. Brown:

Pursuant to Article II, Section 10(d) of the California Constitution and Section 9002 of the Elections Code, I hereby request that a title and summary be prepared for the attached initiative entitled "The Continuous Coverage Auto Insurance Discount Act" as provided by law. Included with this submission is the required proponent affidavit signed by myself as proponent of this measure pursuant to section 9608 of the California Elections Code. My address as a registered voter is provided and attached to this letter, along with a check for $200.00.

All inquires or correspondence relative to this initiative should be directed to Nielsen, Merksamer, Parrinello, Mueller & Naylor, LLP, 1415 L Street, Suite 1200, Sacramento, CA 95814, (916) 446-6752, Attention: Steve Lucas (telephone: 415/389-6800).

Thank you for your assistance.

Sincerely,

Christina L. Wilson, Proponent

Enclosure: Proposed Initiative

SECTION 1. Title

This measure shall be known as the Continuous Coverage Auto Insurance Discount Act.

SECTION 2. The People of the State of California find and declare that:

(a) Under California law, the state Department of Insurance regulates insurance rates and determines what discounts auto insurance companies can give drivers.

(b) However, an inconsistency in California's insurance laws allows insurers to provide a discount for drivers who continue with the same insurer, but prohibits them from offering this discount to new customers. Drivers who maintain insurance coverage are not able to keep a continuous coverage discount if they change insurers.

(c) This measure corrects that inconsistency and ensures that all drivers who continually maintain their automobile insurance are eligible for this discount even if they change their insurance company.

(d) This measure does not change the provisions in current law, which require insurers to base their rates primarily on driving safety record, miles driven annually, and driving experience. This measure simply allows all companies to offer the expanded continuous coverage discount to new applicants who have maintained their auto insurance.

(e) Extending the continuous coverage discount to people who change insurance companies will provide drivers with more options and choices, increase competition and drive down rates for all responsibly insured drivers.

(f) The vast majority of states allow insurers to offer a discount to ALL drivers who maintain on-going auto insurance. This measure will simply bring California into line with other states like Texas, New York, Oregon, Washington and Florida.

SECTION 3. Purpose

The purpose of this measure is to provide an additional discount for drivers who are continuously insured for automobile liability coverage.

SECTION 4. Section 1861.024 is added to the Insurance Code to read:

Sec. 1861.024. (a) Notwithstanding section 1861.02, and in addition to discounts permitted or required by law or regulation, an insurer may offer applicants or insureds an additional discount, for a policy to which Insurance Code Section 1861.02(a) applies, applicable to each coverage provided by the policy, based on the length of time the applicant or insured has been continuously insured for bodily injury liability coverage, with one or more insurers, affiliated or not. The insurer may consider the years of experience preceding the policy effective or renewal

date. This discount is called a continuity discount. When calculating the discount or determining the eligibility for a continuity discount an insurer may also take into account the applicant's or insured's claims experience. Children residing with a parent may be provided the same discount based on their parents' eligibility for a continuity discount.

(b) The applicant or insured may demonstrate continuity of coverage, for a policy to which Insurance Code Section 1861.02(a) applies, by providing proof of coverage under the low-cost automobile insurance program pursuant to Article 5.5 (commencing with Section 11629.7) of Chapter 1 of Part 3 of Division 2, or by proof of coverage under the assigned risk plans pursuant to Article 4 (commencing with section 11620) of Chapter 1, Part 3 of Division 2, or by proof of coverage from the prior insurer or insurers or other objective evidence. Proof of coverage shall be copies of policies, billings or other documents evidencing coverage, issued by the prior insurer or insurers or other objective evidence. Continuity of coverage shall be deemed to exist even if there is a lapse of coverage due to an applicant's or insured's absence from the United States while in military service, or if an applicant's or insured's coverage has lapsed for up to 90 days in the last five years for any reason other than nonpayment of premium. This provision does not limit an insurer's ability to offer additional grace periods for lapses.

SECTION 5. Section 1861.02 of the Insurance Code is amended to read:

(a) Rates and premiums for an automobile insurance policy, as described in subdivision (a) of Section 660, shall be determined by application of the following factors in decreasing order of importance:

(1) The insured's driving safety record.

(2) The number of miles he or she drives annually.

(3) The number of years of driving experience the insured has had.

(4) Those other factors that the commissioner may adopt by regulation and that have a substantial relationship to the risk of loss. The regulations shall set forth the respective weight to be given each factor in determining automobile rates and premiums. Notwithstanding any other provision of law, the use of any criterion without approval shall constitute unfair discrimination.

(b)(1) Every person who meets the criteria of Section 1861.025 shall be qualified to purchase a Good Driver Discount policy from the insurer of his or her choice. An insurer shall not refuse to offer and sell a Good Driver Discount policy to any person who meets the standards of this subdivision.

(2) The rate charged for a Good Driver Discount policy shall comply with subdivision (a) and shall be at least 20% below the rate the insured would otherwise have been charged for the same coverage. Rates for Good Driver Discount policies shall be approved pursuant to this article.

(3)(A) This subdivision shall not prevent a reciprocal insurer, organized prior to November 8, 1988, by a motor club holding a certificate of authority under Chapter 2 (commencing with Section 12160) of Part 5 of Division 2, and which requires membership in the motor club as a condition precedent to applying for insurance from requiring membership in the motor club as a condition precedent to obtaining insurance described in this subdivision.

(B) This subdivision shall not prevent an insurer which requires membership in a specified voluntary, nonprofit organization, which was in existence prior to November 8, 1988, as a condition precedent to applying for insurance issued to or through those membership groups, including franchise groups, from requiring such membership as a condition to applying for the coverage offered to members of the group, provided that it or an affiliate also offers and sells coverage to those who are not members of those membership groups.

(C) However, all of the following conditions shall be applicable to the insurance authorized by subparagraphs (A) and (B):

(i) Membership, if conditioned, is conditioned only on timely payment of membership dues and other bona fide criteria not based upon driving record or insurance, provided that membership in a motor club may not be based on residence in any area within the state.

(ii) Membership dues are paid solely for and in consideration of the membership and membership benefits and bear a reasonable relationship to the benefits provided. The amount of the dues shall not depend on whether the member purchases insurance offered by the membership organization. None of those membership dues or any portion thereof shall be transferred by the membership organization to the insurer, or any affiliate of the insurer, attorney-in-fact, subsidiary, or holding company thereof, provided that this provision shall not prevent any bona fide transaction between the membership organization and those entities.

(iii) Membership provides bona fide services or benefits in addition to the right to apply for insurance. Those services shall be reasonably available to all members within each class of membership.

Any insurer that violates clause (i), (ii), or (iii) shall be subject to the penalties set forth in Section 1861.14.

(c) The absence of prior automobile insurance coverage, in and of itself, shall not be a criterion for determining eligibility for a Good Driver Discount policy. ~~, or generally for automobile rates, premiums, or insurability. However, notwithstanding subdivision (a), an insurer may use persistency of automobile insurance coverage with the insurer, an affiliate, or another insurer as an optional rating factor. The Legislature hereby finds and declares that it furthers the purpose of Proposition 103 to encourage competition among carriers so that coverage overall will be priced competitively. The Legislature further finds and declares that competition is furthered when insureds are able to claim a discount for regular purchases of insurance from any carrier offering this discount irrespective of whether or not the insured has previously purchased from a given~~

~~carrier offering the discount. Persistency of coverage may be demonstrated by coverage under the low-cost automobile insurance program pursuant to Article 5.5 (commencing with Section 11629.7) and Article 5.6 (commencing with Section 11629.9) of Chapter 1 of Part 3 of Division 2, or by coverage under the assigned risk plans pursuant to Article 4 (commencing with Section 11620) of Chapter 1 of Part 3 of Division 2. Persistency shall be deemed to exist even if there is a lapse of coverage of up to two years due to an insured's absence from the state while in military service, and up to 90 days in the last five years for any other reason.~~

(d) An insurer may refuse to sell a Good Driver Discount policy insuring a motorcycle unless all named insureds have been licensed to drive a motorcycle for the previous three years.

(e) This section shall become operative on November 8, 1989. The commissioner shall adopt regulations implementing this section and insurers may submit applications pursuant to this article which comply with those regulations prior to that date, provided that no such application shall be approved prior to that date.

SECTION 6. Conflicting Ballot Measures

In the event that this measure and another measure or measures relating to continuity of coverage shall appear on the same statewide election ballot, the provisions of the other measures shall be deemed to be in conflict with this measure. In the event that this measure shall receive a greater number of votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other measures shall be null and void.

SECTION 7. Amendment

The provisions of this act shall not be amended by the Legislature except to further its purposes by a statute passed in each house by roll call vote entered in the journal, two-thirds of the membership concurring.

SECTION 8. Severability

It is the intent of the People that the provisions of this Act are severable and that if any provision of this Act, or the application thereof to any person or circumstance, is held invalid such invalidity shall not affect any other provision or application of this Act which can be given effect without the invalid provision or application.