

SENATE BILL NO. 65

BY SENATORS TALBOT, ABRAHAM, BARROW, BERNARD, BOUIE, CARTER, CATHEY, CLOUD, CONNICK, CORTEZ, FESI, HARRIS, HENRY, HENSGENS, HEWITT, JACKSON, JOHNS, LUNEAU, MCMATH, MILLIGAN, FRED MILLS, ROBERT MILLS, MIZELL, MORRIS, PEACOCK, POPE, PRICE, REESE, SMITH, TARVER, WARD AND WOMACK AND REPRESENTATIVE MINCEY

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AN ACT

To amend and reenact R.S. 22:1284.1 and 1964(7)(j) and R.S. 32:861.1, relative to automobile insurance; to provide for a definition of "lapse in coverage"; to provide for nondiscriminatory treatment of persons with a lapse in coverage; to provide for an unfair trade practice for discriminatory treatment of persons with a lapse in coverage; to provide for an exemption from the Motor Vehicle Safety Responsibility Law due to out-of-state services in the uniformed services; to provide for a notification procedure for the service member exemption; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 22:1284.1 and 1964(7)(j) are hereby amended and reenacted

to read as follows:

1 §1284.1. Motor vehicle insurance; consideration of lapse in coverage prohibited

2 A. No insurer shall increase the premium rate or increase or add a surcharge
 3 on any policy of motor vehicle insurance when such action is based solely on
 4 consideration of a lapse in coverage, as defined in this Section, ~~regarding the insured~~
 5 ~~as provided in this Section.~~

6 B. As used in this Section, a "lapse in coverage" is that period of time during
 7 which the owner of a motor vehicle ~~who formerly maintained~~ **ceases to maintain**
 8 liability coverage on a vehicle, as required ~~under~~ **by** the Motor Vehicle Safety
 9 Responsibility Law, **by complying with the requirements of either of the**
 10 **following:**

11 **(1) first voluntarily surrenders R.S. 32:861(A)(3) relative to surrendering**
 12 the vehicle's license plate to the office of motor vehicles ~~and then ceases to maintain~~
 13 a policy of insurance or other security as required by the Motor Vehicle Safety
 14 Responsibility Law.

15 **(2) R.S. 32:861.1 relative to notifying the office of motor vehicles of**
 16 **service out-of-state in the uniformed services.**

17 C. Any insurer who violates the provisions of this Section shall refund to the
 18 insured person the amount of premium ~~which was paid that exceeded~~ **in excess of**
 19 the amount of premium ~~which~~ **that** would have been charged if the insurer had
 20 complied with this Section. ~~The commissioner of insurance shall promulgate rules~~
 21 ~~and regulations to enforce the provisions of this Section.~~

22 D. Notwithstanding any other provisions of law to the contrary, one or more
 23 lapses in coverage, as defined in this Section, shall not be the sole basis for an
 24 insurer's denial of an application for a policy of motor vehicle insurance nor shall
 25 such lapse in coverage be considered by an insurer in determining the rates for such
 26 a policy. In addition, no insurer shall require that such coverage be provided by
 27 another insurer based solely upon such a lapse in coverage.

28 * * *

29 §1964. Methods, acts, and practices which are defined as unfair or deceptive

30 The following are declared to be unfair methods of competition and unfair

1 or deceptive acts or practices in the business of insurance:

2 * * *

3 (7) Unfair discrimination.

4 * * *

5 (j) Violating the provisions of R.S. 22:1284.1. ~~With regard to automobile~~
6 ~~liability insurance, refusing to issue insurance coverage or increasing insurance~~
7 ~~premiums solely based upon a lapse in insurance coverage where the insured is~~
8 ~~servicing in the military and has been deployed and has performed military services~~
9 ~~out of state and where the individual has previously surrendered his automobile~~
10 ~~license number plate to the office of motor vehicles in compliance with R.S.~~
11 ~~47:505(B). This Paragraph shall apply to all existing and new insurance policies as~~
12 ~~well as renewals of existing policies.~~

13 * * *

14 Section 2. R.S. 32:861.1 is hereby amended and reenacted to read as follows:

15 §861.1. Security required; exemption for active duty overseas out-of-state service
16 in the uniformed services

17 A. The registered owner of a motor vehicle who is a member of ~~the armed~~
18 and due to service out-of-state for more than thirty days in the uniformed
19 services is exempt from the provisions of Chapter 5 of this Title, while on active duty
20 overseas, provided if, prior to such service, the owner notifies the commissioner
21 that he wishes in writing of the intent to discontinue the use of a vehicle registered
22 in his name by ~~notarized affidavit within fifteen business days of cancellation of~~
23 ~~liability security on the vehicle.~~ Such affidavit notice shall set forth the date upon
24 which the vehicle will no longer be in use, the intended period of nonuse, and ~~site~~
25 the storage address of the vehicle. The owner shall attach a copy of his any orders
26 ~~to active duty overseas to his notarized affidavit~~ or other documentation that
27 substantiates nonuse of the vehicle due to service out-of-state in the uniformed
28 services.

29 B. ~~This~~ An exemption pursuant to Subsection A of this Section terminates
30 on the final date of nonuse as set forth in the affidavit notice or upon a subsequent

1 report of liability security on the vehicle to the office of motor vehicles, whichever
2 occurs first.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____