

HB1166\_L.001

## HOUSE COMMITTEE OF REFERENCE REPORT

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 Chairman of Committee

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 Date
Committee on Business Affairs and Labor.

After consideration on the merits, the Committee recommends the following:

HB09-1166 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and  
2 substitute the following:

3           **"SECTION 1. Legislative declaration.** (1) The general  
4 assembly hereby finds and determines that:

5           (a) Under current rating practices, drivers who are similar with  
6 respect to age, gender, and driving record may pay roughly the same  
7 premiums regardless of the number of miles they drive each year;

8           (b) The likelihood of being involved in a collision increases with  
9 each mile driven, so a miles driven rating product may better take into  
10 account the increased risk of high-mileage drivers;

11           (c) Pay-as-you-drive, or "PAYD", rate structures encourage  
12 drivers to drive less, thereby improving road safety and reducing traffic  
13 congestion, harmful emissions, and energy consumption;

14           (d) It is therefore important to allow and encourage insurers  
15 selling automobile insurance in this state to offer consumers the choice  
16 of a PAYD rate structure that takes into account miles driven along with  
17 existing rate factors to more accurately reflect the costs of providing  
18 insurance coverage to a given driver and to make insurance more  
19 affordable to low-mileage drivers.

20           **SECTION 2.** Part 6 of article 4 of title 10, Colorado Revised



1 Statutes, is amended BY THE ADDITION OF A NEW SECTION to  
2 read:

3 **10-4-644. Pay-as-you-drive rate structure - premium tax**  
4 **credit - report.** (1) (a) AN INSURER MAY OFFER INSURED'S A  
5 USAGE-BASED RATE STRUCTURE FOR AUTOMOBILE INSURANCE ISSUED IN  
6 THIS STATE, REFERRED TO IN THIS SECTION AS A "PAY-AS-YOU-DRIVE" OR  
7 "PAYD" RATE STRUCTURE. AN INSURER OFFERING A PAYD RATE  
8 STRUCTURE:

9 (I) SHALL USE AN INSURED'S MILES DRIVEN AS A FACTOR IN  
10 DETERMINING RATES;

11 (II) SHALL INCLUDE A METHOD FOR ALLOWING AN INSURED,  
12 BETWEEN POLICY RENEWAL PERIODS, TO DETERMINE THE EFFECT OF HIS OR  
13 HER DRIVING HABITS ON THE AMOUNT OF THE INSURANCE PREMIUM;

14 (III) MAY REQUIRE INSURED'S, AS A CONDITION OF SELECTING A  
15 PAYD RATE STRUCTURE, TO USE AN ELECTRONIC DEVICE OR OTHER  
16 APPROPRIATE MECHANISM TO ACCURATELY RECORD AND REPORT MILES  
17 DRIVEN FOR A SPECIFIED PERIOD; AND

18 (IV) MAY DEVELOP PREPAYMENT ARRANGEMENTS BASED ON  
19 ESTIMATED MILEAGE FOR THE TERM OF THE POLICY OR A PROGRAM BASED  
20 ON ACTUAL MILES DRIVEN, AS APPROPRIATE.

21 (b) AN INSURER MAY CANCEL A POLICY OR CONVERT A PAYD  
22 RATE STRUCTURE TO ANOTHER RATE STRUCTURE USED BY THE INSURER IF  
23 AN INSURED INACCURATELY REPORTS OR FAILS TO REPORT MILEAGE, FAILS  
24 TO COOPERATE IN THE COLLECTION OF MILEAGE DATA, OR TAMPERS WITH  
25 A DEVICE USED TO RECORD MILEAGE.

26 (c) AN INSURER SHALL MARKET AUTOMOBILE INSURANCE POLICIES  
27 AS USING A PAYD RATE STRUCTURE ONLY IF THE POLICY CONFORMS TO  
28 THIS SECTION.

29 (d) NOTWITHSTANDING SECTION 10-4-629, AN INSURER MAY  
30 CANCEL OR CONVERT A POLICY THAT USES A PAYD RATE STRUCTURE, AS  
31 SPECIFIED IN PARAGRAPH (b) OF THIS SUBSECTION (1), OR INCREASE RATES  
32 BASED ON A CHANGE IN THE NUMBER OF MILES DRIVEN BY THE INSURED,  
33 WITHOUT FIRST NOTIFYING THE INSURED OF THE PROPOSED ACTION



1 PURSUANT TO SECTION 10-4-629.

2 (2) (a) AN INSURER OFFERING A PAYD RATE STRUCTURE IN  
3 POLICIES ISSUED OR RENEWED ON OR AFTER THE EFFECTIVE DATE OF THIS  
4 SECTION SHALL BE ALLOWED A CREDIT AGAINST TAXES OWED PURSUANT  
5 TO SECTION 10-3-209 OF ONE HUNDRED DOLLARS PER VEHICLE INSURED  
6 UNDER A POLICY USING A PAYD RATE STRUCTURE, NOT TO EXCEED THREE  
7 HUNDRED DOLLARS FOR EACH POLICY THAT USES A PAYD RATE  
8 STRUCTURE, FOR ALL SUCH POLICIES ISSUED OR RENEWED IN THE  
9 CALENDAR YEAR PRECEDING THE YEAR IN WHICH THE TAXES ARE DUE.  
10 THE CREDIT SHALL BE ALLOWED ONLY ONCE PER POLICY UPON INITIAL  
11 ISSUANCE OF A POLICY USING A PAYD RATE STRUCTURE. AN INSURER  
12 SHALL NO LONGER BE ELIGIBLE FOR THE CREDIT ALLOWED BY THIS  
13 SUBSECTION (2) AFTER THE INSURER HAS ISSUED MORE THAN FIVE  
14 THOUSAND POLICIES USING A PAYD RATE STRUCTURE FOR AT LEAST  
15 THREE CONSECUTIVE YEARS.

16 (b) THE CREDIT ALLOWED PURSUANT TO THIS SUBSECTION (2)  
17 SHALL NOT EXCEED THE INSURER'S TAX LIABILITY FOR TAXES OWED  
18 PURSUANT TO SECTION 10-3-209 IN A GIVEN CALENDAR YEAR AND SHALL  
19 NOT BE CARRIED FORWARD TO A SUBSEQUENT CALENDAR YEAR.

20 (c) NOTWITHSTANDING THE CREDIT AMOUNTS SPECIFIED IN  
21 PARAGRAPH (a) OF THIS SUBSECTION (2), THE TOTAL AMOUNT OF ALL  
22 CREDITS ALLOWED TO ALL INSURERS PURSUANT TO THIS SUBSECTION (2)  
23 SHALL NOT EXCEED ONE MILLION DOLLARS IN ANY GIVEN CALENDAR YEAR.  
24 IF THE CAP ON THE TOTAL AMOUNT OF CREDITS ALLOWED PURSUANT TO  
25 THIS SUBSECTION (2) IS REACHED IN ANY GIVEN CALENDAR YEAR, THE  
26 AMOUNT OF THE CREDITS ALLOWED TO INSURERS SHALL BE PRORATED  
27 BASED ON EACH ELIGIBLE INSURER'S PROPORTIONATE SHARE OF ALL  
28 POLICIES USING A PAYD RATE STRUCTURE SOLD IN THE STATE.

29 (3) (a) WITHIN ONE YEAR AFTER THE EFFECTIVE DATE OF THIS  
30 SECTION, AND EACH YEAR THEREAFTER, THE COMMISSIONER SHALL  
31 SUBMIT A REPORT TO THE BUSINESS AFFAIRS AND LABOR COMMITTEE OF  
32 THE HOUSE OF REPRESENTATIVES AND THE BUSINESS, LABOR, AND  
33 TECHNOLOGY COMMITTEE OF THE SENATE, OR THEIR SUCCESSOR  
34 COMMITTEES, ON THE UTILIZATION OF THE PAYD RATE STRUCTURE. THE  
35 REPORT SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING  
36 INFORMATION:



1 (I) THE NUMBER OF INSURERS OFFERING A PAYD RATE  
2 STRUCTURE;

3 (II) THE GEOGRAPHIC AREAS OF THE STATE IN WHICH PAYD RATE  
4 STRUCTURES ARE USED;

5 (III) THE NUMBER OF POLICIES ISSUED IN THE STATE USING A  
6 PAYD RATE STRUCTURE;

7 (IV) THE AVERAGE PREMIUM RATES FOR POLICIES USING A PAYD  
8 RATE STRUCTURE AS COMPARED TO THE AVERAGE PREMIUM RATES FOR  
9 COMPARABLE POLICIES USING A TRADITIONAL RATE STRUCTURE;

10 (V) THE TOTAL AMOUNT OF TAX CREDITS PROVIDED TO INSURERS  
11 PURSUANT TO SUBSECTION (2) OF THIS SECTION AND THE AMOUNT  
12 PROVIDED TO EACH ELIGIBLE INSURER; AND

13 (VI) ANY OTHER INFORMATION THE COMMISSIONER DEEMS  
14 APPROPRIATE.

15 (b) INSURERS SHALL ASSIST THE COMMISSIONER AS NECESSARY IN  
16 PREPARING THE REPORT AND SHALL PROVIDE THE COMMISSIONER WITH  
17 INFORMATION REQUIRED TO BE REPORTED PURSUANT TO THIS SECTION.

18 **SECTION 3. Act subject to petition - effective date.** This act  
19 shall take effect at 12:01 a.m. on the day following the expiration of the  
20 ninety-day period after final adjournment of the general assembly that is  
21 allowed for submitting a referendum petition pursuant to article V,  
22 section 1 (3) of the state constitution, (August 4, 2009, if adjournment  
23 sine die is on May 6, 2009); except that, if a referendum petition is filed  
24 against this act or an item, section, or part of this act within such period,  
25 then the act, item, section, or part, if approved by the people, shall take  
26 effect on the date of the official declaration of the vote thereon by  
27 proclamation of the governor."

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