

GENERAL ASSEMBLY OF NORTH CAROLINA
1987 SESSION

CHAPTER 869
HOUSE BILL 1158

AN ACT TO AUTHORIZE AUTOMOBILE INSURANCE RATE DISCOUNTS FOR PERSONS WHO ARE 55 YEARS OF AGE OR OLDER; TO FACILITATE RECOVERY OF LOSSES OF THE MOTOR VEHICLE REINSURANCE FACILITY; TO REVISE AND IMPROVE THE SUBCLASSIFICATION PLAN FOR NONFLEET PRIVATE PASSENGER AUTOMOBILE INSURANCE; AND TO REQUIRE PROOF OF FINANCIAL RESPONSIBILITY UPON APPLICATIONS FOR DRIVERS' LICENSES AND LIMITED DRIVING PRIVILEGES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-124.23 is amended by adding the following:

"(d) Notwithstanding any other provision of law prohibiting insurance rate differentials based on age, with respect to nonfleet private passenger motor vehicle insurance under the jurisdiction of the Bureau, any member of the Bureau may apply for and use in this State, subject to the Commissioner's approval, a downward deviation in the rates for insureds who are 55 years of age or older."

Sec. 2. Article 25A of General Statute Chapter 58 is amended by adding the following section:

"§ 58-248.41. Modification of nonfleet private passenger motor vehicle insurance recoupment.—(a) During the period beginning on July 1, 1988, through June 30, 1989, eighty percent (80%) of the Facility's losses shall be recouped according to G.S. 58-248.34(f) and twenty percent (20%) shall be allocated among all policies.

(b) During the period beginning on July 1, 1989, through June 30, 1990, sixty percent (60%) of the Facility's losses shall be recouped according to G.S. 58-248.34(f) and forty percent (40%) shall be allocated among all policies.

(c) During the period beginning on July 1, 1990, through June 30, 1991, forty percent (40%) of the Facility's losses shall be recouped according to G.S. 58-248.34(f) and sixty percent (60%) shall be allocated among all policies.

(d) During the period beginning on July 1, 1991, through June 30, 1992, twenty percent (20%) of the Facility's losses shall be recouped according to G.S. 58-248.34(f) and eighty percent (80%) shall be allocated among all policies.

(e) Beginning on July 1, 1992, the Facility's losses shall be allocated among all policies.

(f) Recoupment and allocation of Facility losses under this section shall be made during the periods specified for the purpose of equitably distributing assessments made on member companies as a result of Facility losses. The recoupment and allocation of

such losses shall not be considered as the collection or imposition of rates or premiums for any purposes.

(g) This section applies only to losses from, recoupment on, and allocation among nonfleet private passenger motor vehicle insurance policies. This section does not in any way affect the procedures for recouping losses from other motor vehicle insurance policies reinsured by the Facility."

Sec. 3. G.S. 58-248.33(g)(8) is amended by inserting after "G.S. 58-248.34(f)" the following: "or which cannot be recouped or allocated under G.S. 58-248.41,".

Sec. 4. G.S. 58-248.33(1) is amended:

(1) In the third sentence by substituting "58-124.31" for "58-30.4"; and

(2) In the twelfth sentence by inserting immediately after "58-248.34(f)" the following: "or allocated pursuant to G.S. 58-248.41".

Sec. 5. G.S. 58-248.34(f) is amended:

(1) In the first sentence by substituting "a" for "an identifiable";

(2) In the third sentence by substituting "58-124.31" for "58-30.4"; and

(3) In the third sentence by inserting immediately after "said plan" the following: ", subject to the provisions of G.S. 58-124.33".

Sec. 6. Article 12B of General Statute Chapter 58 is amended by adding a new section to read:

"§ 58-124.33. At-fault accidents and certain moving traffic violations under the Safe Driver Incentive Plan.—(a) The subclassification plan promulgated pursuant to G.S. 58-124.31(b) may provide for separate surcharges for major, intermediate, and minor accidents. A 'major accident' is an at-fault accident that results in either (i) bodily injury or death or (ii) only property damage of two thousand dollars (\$2,000) or more. An 'intermediate accident' is an at-fault accident that results in only property damage of more than one thousand dollars (\$1,000) but less than two thousand dollars (\$2,000). A 'minor accident' is an at-fault accident that results in only property damage of one thousand dollars (\$1,000) or less. The subclassification plan may also exempt certain minor accidents from the Facility recoupment surcharge.

(b) The subclassification plan promulgated pursuant to G.S. 58-124.31(b) shall provide that with respect to a conviction for any moving traffic violation that is not listed in subsection (c) of this section, there shall be no Motor Vehicle Reinsurance Facility recoupment surcharge pursuant to G.S. 58-248.34(f) unless (i) the vehicle owner, principal operator, or any licensed operator in the owner's household has a driving record consisting of one or more convictions for a moving traffic violation, other than the conviction for the exempt violation, or one or more at-fault accidents during the three-year period immediately preceding the date of the application for a policy or the date of the preparation of the renewal of a policy, or (ii) the moving traffic violation for which the operator has been convicted occurred at the time of an accident for which he was at fault. Nothing in this section affects any provisions in the subclassification plan for premium surcharges for moving traffic violations or at-fault accidents.

(c) The subclassification plan promulgated pursuant to G.S. 58-124.31(b) shall provide for facility recoupment surcharges pursuant to G.S. 58-248.34(f) and G.S. 58-248.41, in addition to premium surcharges, for convictions for the following moving traffic violations:

General Statute	Description of Offense
20-12.1	Being impaired while accompanying a permittee who is learning to drive
20-28	Driving while license is suspended or revoked
20-138.1	Driving a vehicle while impaired
20-138.3	Driving by provisional licensee after consuming alcohol or drugs
20-140(a)	Driving carelessly and heedlessly in willful or wanton disregard of the rights of others
20-140(b)	Driving without due caution in a manner so as to endanger other people or property
20-141(a)	Only driving at least 11 miles per hour over the posted speed limit or driving in excess of the speed limit established by the State Department of Transportation under G.S. 20-141(d)(2)
20-141(j)	Driving in excess of 55 mph and at least 15 mph over legal limit, while fleeing or attempting to elude arrest by a law enforcement officer
20-141(j1)	Driving more than 15 mph over legal limit
20-141.1	Speeding in a school zone
20-141.3(a)	Engaging in prearranged speed competition with another motor vehicle
20-141.3(b)	Willfully engaging in speed competition with another motor vehicle (not prearranged)
20-141.3(c)	Allowing or authorizing others to use one's motor vehicle in prearranged speed competition or placing or receiving a bet or wager on a prearranged speed competition
20-141.4(a1)	Death by vehicle (unintentionally causing death of another while engaged in impaired driving)
20-141.4(a2)	Death by vehicle (unintentionally causing death of another as a result of a violation of motor vehicle law intended to regulate traffic or used to control operation of a vehicle)
20-166(a)	Failure to stop by driver who knew or should have known he was involved in accident and that accident caused death or injury to any person

20-166(c)	Failure of driver involved in accident causing property damage or personal injury or death (if driver did not know of injury or death) to stop at scene of accident
20-175.2	Failure to yield right-of-way to blind person at crossings, intersections, and traffic control signal points
20-217	Failure to stop and remain stopped when approaching a stopped school bus engaged in receiving or discharging passengers and while bus has mechanical stop signal displayed
14-18	Voluntary manslaughter
14-18	Involuntary manslaughter

(d) There shall be no Facility recoupment surcharge under G.S. 58-248.34(f) for accidents or conviction for speeding violations occurring when operating a firefighting, rescue squad, or law enforcement vehicle in response to an emergency if the operator of the vehicle at the time of the accident or speeding violation was a paid or volunteer member of any fire department, rescue squad, or any law enforcement agency. This exception does not include an accident or speeding violation occurring after the vehicle ceases to be used in response to such emergency.

(e) There shall be no Facility recoupment surcharge under G.S. 58-248.34(f) for any accident involving only damage to the operator's vehicle or to the property of another for which full payment or compensation has been made by the operator at fault; and when the motor vehicle insurer of the operator has not made any payment under any kind of insurance policy for such property damage to or on behalf of such operator. Notwithstanding the provision of this subsection, an insured still has a duty to report such accident to his insurer and to law enforcement authorities if such duty is required by the insurance contract or by law.

(f) The subclassification plan shall provide that with respect to a conviction for a 'violation of speeding 10 miles per hour or less over the speed limit' there shall be no premium surcharge nor any assessment of points unless there is a driving record consisting of a conviction or convictions for a moving traffic violation or violations, except for a prayer for judgment continued for any moving traffic violation, during the three years immediately preceding the date of application or the preparation of the renewal. The subclassification plan shall also provide that with respect to a prayer for judgment continued for any moving traffic violation, there shall be no premium surcharge nor any assessment of points unless the vehicle owner, principal operator, or any licensed operator in the owner's household has a driving record consisting of a prayer or prayers for judgment continued for any moving traffic violation or violations during the three years immediately preceding the date of application or the preparation of the renewal. For the purpose of this subsection, a 'prayer for judgment continued' means a determination of guilt by a jury or a court though no sentence has been imposed. For the purpose of this subsection, a 'violation of speeding 10 miles per hour

or less over the speed limit' does not include the offense of speeding in a school zone in excess of the posted school zone speed limit nor any offense of speeding in excess of 65 miles per hour.

(f1) The subclassification plan shall provide that in the event an insured is at fault in an accident and is convicted of a moving traffic violation in connection with the accident, only the higher plan premium surcharge between the accident and the conviction shall be assessed on the policy.

(g) As used in this section 'conviction' means a conviction as defined in G.S. 20-279.1 and means an infraction as defined in G.S. 14-3.1."

Sec. 7. G.S. 58-30.4 is repealed.

Sec. 8. G.S. 58-30.5 is repealed.

Sec. 9. G.S. 58-124.31 is amended:

(1) By adding the following subsections:

"(h) If an insured disputes his insurer's determination that the operator of an insured vehicle was at fault in an accident, such dispute shall be resolved pursuant to G.S. 58-124.17(2), unless there has been an adjudication or admission of negligence of such operator.

(i) As used in this section, 'conviction' means a conviction as defined in G.S. 20-279.1 and means an infraction as defined in G.S. 14-3.1.

(j) Subclassification plan surcharges shall be applied to a policy for a period of not less nor more than three policy years.

(k) The subclassification plan may provide for premium surcharges for insureds having less than three years' driving experience as licensed drivers.

(l) Except as provided in G.S. 58-124.23(d), no classification or subclassification plan for nonfleet private passenger motor vehicle insurance shall be based, in whole or in part, directly or indirectly, upon the age or gender of insureds."; and

(2) By amending the first sentence of subsection (b) by substituting "at-fault" for "chargeable".

Sec. 10. G.S. 20-7 is amended by adding the following subsection:

"(c1) In addition to the other requirements of this section, no person shall be issued a driver's license until such person has furnished proof that he is financially responsible. Proof of financial responsibility shall be in the form of a written certificate of any insurance carrier duly authorized to do business in this State certifying that there is in effect a nonfleet private passenger motor vehicle liability policy for the benefit of the person required to furnish proof of financial responsibility. Such certificate shall state that the policy is in effect on the date of the issuance of the driver's license but shall not in and of itself constitute a binder or policy of insurance.

The preceding provisions of this subsection do not apply to applicants who do not own motor vehicles and who do not operate nonfleet private passenger motor vehicles that are owned by other persons and who do not reside in a household wherein any other household member owns a motor vehicle. In such cases, the applicant shall sign a written certificate to that effect. Such certificate shall be furnished by the Division and may be incorporated into the license application form. Any material misrepresentation

made by such person on such certificate shall be grounds for suspension of that person's license for a period of 90 days.

For the purpose of this subsection, the term 'nonfleet private passenger motor vehicle' has the definition ascribed to it in Article 13C of General Statute Chapter 58.

The Commissioner may require that certificates required by this subsection be on a form approved by the Commissioner.

Nothing in this subsection precludes any person from showing proof of financial responsibility in any other manner authorized by Articles 9A and 13 of this Chapter."

Sec. 11. G.S. 20-7(f) is amended by adding the following paragraphs:

"Provided further, that no person who applies for the renewal of his driver's license and who must take the written examination pursuant to this section shall be issued a renewed license unless such person has furnished proof that he is financially responsible. Proof of financial responsibility shall be in the form of a written certificate of any insurance carrier duly authorized to do business in this State certifying that there is in effect a nonfleet private passenger motor vehicle liability policy for the benefit of the person required to furnish proof of financial responsibility. Such certificate shall state that the policy is in effect on the date of the renewal of the driver's license but shall not in and of itself constitute a binder or policy of insurance.

The provisions of the preceding paragraph do not apply to applicants who do not own motor vehicles and who do not operate nonfleet private passenger motor vehicles that are owned by other persons and who do not reside in a household wherein any other household member owns a motor vehicle. In such cases, the applicant shall sign a written certificate to that effect. Such certificate shall be furnished by the Division and may be incorporated into the license application form. Any material misrepresentation made by such person on such certificate shall be grounds for suspension of that person's license for a period of 90 days.

For the purpose of this subsection, the term 'nonfleet private passenger motor vehicle' has the definition ascribed to it in Article 13C of General Statute Chapter 58.

The Commissioner may require that certificates required by this subsection be on a form approved by the Commissioner.

Nothing in this subsection precludes any person from showing proof of financial responsibility in any other manner authorized by Articles 9A and 13 of this Chapter."

Sec. 12. G.S. 20-13.2 and G.S. 20-19 are each amended by respectively adding new subsections (e) and (k) to read:

"Before the Division restores a driver's license that has been suspended or revoked under any provision of this Article, the person seeking to have his driver's license restored shall submit to the Division proof that he has notified his insurance agent or company of his seeking the restoration and that he is financially responsible. Proof of financial responsibility shall be in the form of a written certificate of any insurance carrier duly authorized to do business in this State certifying that there is in effect a nonfleet private passenger motor vehicle liability policy for the benefit of the person required to furnish proof of financial responsibility. Such certificate shall state that the policy is in effect on the date of the restoration of the driver's license but shall not in and of itself constitute a binder or policy of insurance.

The preceding provisions of this subsection do not apply to applicants who do not own motor vehicles and who do not operate nonfleet private passenger motor vehicles that are owned by other persons and who do not reside in a household wherein any other household member owns a motor vehicle. In such cases, the applicant shall sign a written certificate to that effect. Such certificate shall be furnished by the Division and may be incorporated into the license application form. Any material misrepresentation made by such person on such certificate shall be grounds for suspension of that person's license for a period of 90 days.

For the purposes of this subsection, the term 'nonfleet private passenger motor vehicle' has the definition ascribed to it in Article 13C of General Statute Chapter 58.

The Commissioner may require that certificates required by this subsection be on a form approved by the Commissioner. The financial responsibility required by this subsection shall be kept in effect for not less than three years after the date that the license is restored. Failure to maintain financial responsibility as required by this subsection shall be grounds for suspending the restored driver's license for a period of thirty (30) days. Nothing in this subsection precludes any person from showing proof of financial responsibility in any other manner authorized by Articles 9A and 13 of this Chapter."

Sec. 13. G.S. 20-16.1 and G.S. 20-179.3 are each amended by respectively adding new subsections (g) and (l) to read:

"Any judge granting limited driving privileges under this section shall, prior to granting such privileges, be furnished proof and be satisfied that the person being granted such privileges is financially responsible. Proof of financial responsibility shall be in the form of a written certificate of any insurance carrier duly authorized to do business in this State certifying that there is in effect a nonfleet private passenger motor vehicle liability policy for the benefit of the person required to furnish proof of financial responsibility. Such certificate shall state that the policy is in effect on the date such privileges are granted but shall not in and of itself constitute a binder or policy of insurance.

The preceding provisions of this subsection do not apply to applicants who do not own motor vehicles and who do not operate nonfleet private passenger motor vehicles that are owned by other persons and who do not reside in a household wherein any other household member owns a motor vehicle. In such cases, the applicant shall sign a written certificate to that effect. Such certificate shall be furnished by the Division. Any material misrepresentation made by such person on such certificate shall be grounds for suspension of that person's license for a period of 90 days.

For the purpose of this subsection 'nonfleet private passenger motor vehicle' has the definition ascribed to it in Article 13C of General Statute Chapter 58.

The Commissioner may require that certificates required by this subsection be on a form approved by the Commissioner. Such granting of limited driving privileges shall be conditioned upon the maintenance of such financial responsibility during the period of the limited driving privilege. Nothing in this subsection precludes any person from showing proof of financial responsibility in any other manner authorized by Articles 9A and 13 of this Chapter."

Sec. 14. G.S. 20-13(e) and G.S. 20-16.1(f) are repealed.

Sec. 15. G.S. 58-248.33(g)(6) is amended by rewriting the second paragraph to read:

"With respect to business produced by designated agents, adequate provision shall be made by the Facility to assure that such business is rated using Facility rates. All business produced by designated agents may be ceded to the Facility, except designated agents appointed prior to September 1, 1987, may place liability insurance policies with a voluntary carrier, provided that all policies written by the voluntary carrier are retained by the voluntary carrier unless ceded to the Facility using Facility rates. Designated agents must provide the Facility with a list of such policies written by the voluntary carrier at least annually, or as requested by the Facility, on a form approved by the Facility. If no insurer is willing to contract with any such agent on terms acceptable to the Board, the Facility shall license such agent to write directly on behalf of the Facility. However, for this purpose the Facility does not act as an insurer, but acts only as the statutory agent of all of the members of the Facility, which shall be bound on risks written by the Facility's appointed agent. The Facility may contract with one or more servicing carriers and shall promulgate fair and reasonable underwriting procedures to require that business produced by Facility agents and written through said servicing carriers shall be rated using Facility rates. All business produced by Facility agents may be ceded to the Facility."

Sec. 16. G.S. 20-26 is amended by adding two new subsections to read:

"(e) In the event of a mistake on the part of any person in ordering license records under subsection (c) of this section, the Commissioner may refund or credit to that person up to sixty-five percent (65%) of the amount paid for the license records.

(f) On and after July 1, 1988, the Division shall expeditiously furnish to insurance agents, insurance companies, and to insurance support organizations as defined in G.S. 58-383(12), for the purpose of rating nonfleet private passenger motor vehicle insurance policies, through electronic data processing means or otherwise, copies of or information pertaining to license records that are required to be kept pursuant to subsection (a) of this section."

Sec. 17. The North Carolina Rate Bureau shall file in accordance with G.S. 58-124.31, a revised subclassification plan to reflect the provisions of this act. The Bureau shall make the filing no later than February 1, 1988, and such plan shall become effective six months after the date the plan is approved by the Commissioner. Such revised plan shall apply only to new and renewal nonfleet private passenger motor vehicle insurance policies written on and after the effective date of the plan. With respect to any moving traffic violations that occur before the effective date of the plan, the surcharge levied under G.S. 58-248.34(f) shall be determined by the revised subclassification plan. With respect to at fault accidents that occur before the effective date of the plan, the premium surcharges under the plan shall be determined by the subclassification plan in effect at the time such at fault accidents occur.

Sec. 18. Any adjustments in rates for nonfleet private passenger motor vehicle insurance that are necessary to offset any change in premium level due to the implementation of the provisions of this act shall be made through adjustments in the

base rates for the affected coverages. Such adjustments shall be filed by the Bureau with the Commissioner in accordance with Articles 12B and 25A of General Statute Chapter 58.

Sec. 19. In the event any provision of this act is held to be invalid by any court of competent jurisdiction, the court's holding as to that provision shall not affect the validity or operation of other provisions of this act; and to that end the provisions of this act are severable.

Sec. 20. Sections 4(1), 5(2), 5(3), 6, 7, 8, and 9 of this act shall become effective six months after the date the revised subclassification plan is approved by the Commissioner of Insurance as provided in Section 17 of this act. Sections 10 through 14 of this act shall become effective January 1, 1988. The remaining sections of this act are effective upon ratification.

In the General Assembly read three times and ratified this the 14th day of August, 1987.