

2012

AUTO INSURANCE COMPANIES. PRICES
BASED ON DRIVER'S HISTORY OF
INSURANCE COVERAGE.

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AUTO INSURANCE COMPANIES. PRICES BASED ON DRIVER’S HISTORY OF INSURANCE COVERAGE. INITIATIVE STATUTE.

- Changes current law to allow insurance companies to set prices based on whether the driver previously carried auto insurance with any insurance company.
- Allows insurance companies to give proportional discounts to drivers with some history of prior insurance coverage.
- Will allow insurance companies to increase cost of insurance to drivers who have not maintained continuous coverage.
- Treats drivers with lapse as continuously covered if lapse is due to military service or loss of employment, or if lapse is less than 90 days.

Summary of Legislative Analyst’s Estimate of Net State and Local Government Fiscal Impact:

- Probably no significant fiscal effect on state insurance premium tax revenues.

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

Automobile insurance is one of the major types of insurance purchased by California residents. It accounted for about \$21 billion (40 percent) of all premiums collected by California insurers in 2011.

State Regulation of Automobile Insurance. In 1988, California voters passed Proposition 103, which requires the Insurance Commissioner to review and approve rate changes for certain types of insurance, including automobile insurance, before changes to the rates can take effect. Proposition 103 also requires that rates and premiums for automobile insurance policies be set by applying the following rating factors in decreasing order of importance: (1) the insured’s driving safety record, (2) the number of miles they drive each year, and (3) the number of years they have been driving.

The Insurance Commissioner may adopt additional rating factors to determine automobile rates and premiums. Currently, 16 optional rating factors may be used for these purposes. For example, insurance companies may provide discounts to individuals for maintaining coverage

with them. Insurance companies are prohibited, however, from offering this kind of discount to new customers who switch to them from other insurers.

Insurance Premium Tax. Insurance companies doing business in California currently pay an insurance premium tax instead of the state corporation income tax. The premium tax is based on the amount of gross insurance premiums earned in the state each year for automobile insurance as well as for other types of insurance coverage. In 2011, insurance companies paid about \$500 million in premium tax revenues on automobile policies in California. These revenues are deposited into the state General Fund.

PROPOSAL

This measure allows an insurance company to offer a “continuous coverage” discount on automobile insurance policies to new customers who switch their coverage from another insurer. Under this measure, continuous coverage generally means uninterrupted automobile insurance coverage with any insurer. Consumers with a lapse

in coverage would still be eligible for this discount, however, if the lapse was:

- Not more than 90 days in the past five years for any reason.
- For no more than 18 months in the last five years due to loss of employment resulting from layoff or furlough.
- Due to active military service.

Also, children residing with a parent could qualify for the discount based on their parent's eligibility.

If an insurance company chose to provide such a discount, it would be provided on a proportional basis. The discount would be based on the number of years in the immediate previous five years (rounded to a whole number) that the customer was insured. For example, if a customer was able to demonstrate that he or she had coverage for three of the five previous years, the customer

would receive 60 percent of the total continuous coverage discount.

FISCAL EFFECTS

This measure could result in a change in the total amount of automobile insurance premiums earned by insurance companies in California and, therefore, the amount of premium tax revenues received by the state. For example, introducing continuous coverage discounts could reduce the amount of premiums paid by those who are eligible for the discounts. However, this would generally be made up by additional premiums paid by those who are not eligible for such discounts. The net impact on state premium tax revenues from this measure would probably not be significant.

★ ARGUMENT IN FAVOR OF PROPOSITION 33 ★

CALIFORNIA CONSUMERS DESERVE A REWARD FOR FOLLOWING THE LAW AND PURCHASING CAR INSURANCE. PROPOSITION 33 LETS YOU SHOP YOUR DISCOUNT FOR A BETTER DEAL.

California law requires all drivers to buy automobile insurance. Approximately 85% of California drivers follow the law and buy insurance. If you follow the law and maintain continuous automobile insurance coverage, you are currently eligible for a discount, *but only if you stay with the same insurance company.*

Current law punishes you for seeking better insurance or trying to get a better deal by taking away your discount for being continuously insured.

Proposition 33 corrects this problem and offers this discount to consumers who maintain automobile insurance with any company. Proposition 33 allows you to shop for a better insurance deal.

Leaders from both parties, Democrats and Republicans, the Veterans of Foreign Wars (VFW), the American GI Forum of California, firefighters, small business owners, individual consumers, and Chambers of Commerce join in their support of Proposition 33. VOTE YES ON PROPOSITION 33. It rewards those who follow the law.

The reward you get for being responsible and following the law is yours to keep under Proposition 33, even if you exercise your right to move to a different insurance company. That is why some insurance companies like Proposition 33 and others don't. It creates competition. Your neighborhood insurance agents support Proposition 33 because it will force insurance companies to compete for your business.

We encourage you to read Proposition 33. It is simple. It makes sense.

VOTE YES ON PROPOSITION 33 because you should get the discount that you have earned, regardless of which insurance company you pick.

Proposition 33 also encourages those who don't have insurance to obtain it, because Proposition 33 makes it easier to earn the continuous coverage discount. You get a share of the discount for every full year you are insured. The longer you are insured, the greater the discount. This encourages uninsured drivers to become insured and make our roads safer.

Proposition 33 provides other protections as well:

- If you are active military, Proposition 33 says you will not lose the discount. That's why our military families, led by the American GI Forum and Veterans of Foreign Wars, say Yes on Proposition 33.
- If you are laid off or furloughed, Proposition 33 allows you to keep your status as a continuously covered driver for up to 18 months.
- Under Proposition 33, driving age children get the discount whether they are living with their parents or are away at school.
- Proposition 33 allows you to miss payments for 90 days for any reason and remain eligible for this discount.

Proposition 33 will result in more competition between insurance companies and better insurance rates because you will be able to shop around for insurance without losing your discount.

In California, you must have automobile insurance. You deserve a reward for following the law. VOTE YES ON PROPOSITION 33.

ROBERT T. WOLF, President

CDF Firefighters

ESTERCITA ALDINGER

Small Business Owner

DEAN LEE

Veterans of Foreign Wars (VFW)

★ REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 33 ★

Working Californians have it hard enough these days. We shouldn't have to pay more for auto insurance because of another insurance industry trick.

Proposition 33 is funded 99% by one insurance industry billionaire who says he wants to save drivers money on their auto insurance.

When was the last time an insurance company executive spent \$8 million on a ballot initiative to save you money?

Prop. 33 will raise rates on drivers with perfect driving records. This initiative unfairly punishes people who stopped driving for legitimate reasons—like going to college, recovering from a serious injury or taking public transportation—when they return to the insurance market.

California law prevents auto insurance companies from charging people more simply because they had not driven previously or were too poor to drive in the past. Prop. 33 will allow insurance companies to start surcharging millions of Californians.

Voters already said No in 2010 when this billionaire's insurance company spent \$16 million to pass a similar initiative. Now he's at it again.

People who take mass transit to work shouldn't pay more for their auto insurance when they start driving again.

Unemployed Californians shouldn't pay more when they get another job and start driving again.

People who have to drop their insurance because of a serious illness shouldn't pay more when they recover and get back on the road.

Proposition 33 will raise auto insurance rates. Tell this insurance company billionaire it's not okay to deregulate auto insurance.

Vote No On Proposition 33.

DeANN McEWEN, RN, President

California Nurses Association

RICHARD HOLOBER, Executive Director

Consumer Federation of California

JAMIE COURT, President

Consumer Watchdog

★ ARGUMENT AGAINST PROPOSITION 33 ★

Consumer advocates agree: NO ON PROPOSITION 33—It's another deceptive insurance company trick to raise auto insurance rates for millions of responsible drivers in California.

Mercury Insurance spent \$16 million on a similar initiative in 2010. Californians rejected it.

Now they're at it again. Mercury Insurance's billionaire chairman George Joseph has already spent \$8 million to fund Proposition 33. When was the last time an insurance company billionaire spent a fortune to save you money?

Proposition 33 unfairly punishes anyone who stopped driving for a good reason but now needs insurance to get back behind the wheel. Proposition 33 "will allow insurance companies to increase cost of insurance," according to the Attorney General's Official Summary—even on motorists with perfect driving records.

Proposition 33 is a cleverly worded initiative that says one thing and does another. Beware: the California Department of Insurance has said the so-called "continuous coverage discount" scheme "will result in a surcharge" for many California drivers. That's why Consumers Union, the policy and advocacy division of Consumer Reports, opposes Prop. 33.

Proposition 33 raises insurance rates for students completing college who now need to drive to a new job.

Proposition 33 raises insurance rates for people who dropped their coverage while recuperating from a serious illness or injury that kept them off the road.

Prop. 33 deregulates the insurance industry, making big insurance companies less accountable—which is why this measure is 99% funded by an insurance billionaire whose company, Mercury Insurance, has a record of overcharging consumers. The California Department of Insurance says Mercury has "a deserved reputation for abusing its customers and intentionally violating the law with arrogance and indifference."

No on 33: It penalizes responsible drivers who did not need auto insurance in the past.

Prop. 33 allows insurance companies to charge dramatically higher rates to customers with perfect driving records, just because they had not purchased auto insurance at some point during the past five years. Drivers must pay this unfair penalty even if they did not own a car or need insurance at the time.

No on 33: It hurts California's middle-class families.

In states where the Proposition 33 surcharge is legal, the result is HIGHER PREMIUMS:

- Texans can pay 61% more.
- Nevadans, 79% more.
- Floridians, 103% more.

No on 33: It leads to more uninsured motorists, costing us all more.

According to the California Department of Insurance, the financial penalty insurance companies want to impose "discourages [people] from buying insurance, which may add to the number of uninsured motorists and ultimately drives up the cost of the uninsured motorist coverage for every insured."

MORE UNINSURED DRIVERS hurts taxpayers and the state.

No on Prop. 33: Californians already rejected a nearly identical proposal in 2010. Let's make it clear to these powerful special interests that No means No.

Don't give insurance companies more power to raise our rates. VOTE NO on PROP. 33. *It's too good to be true.*

Learn more at <http://www.StopTheSurcharge.org>

HARVEY ROSENFELD, Founder
Consumer Watchdog

ELISA ODABASHIAN, Director
West Coast Office and State Campaigns, Consumers Union,
the policy and advocacy division of Consumer Reports

NAN BRASMER, President
California Alliance for Retired Americans

★ REBUTTAL TO ARGUMENT AGAINST PROPOSITION 33 ★

Californians with car insurance earn a discount for following the law—but under current law, if you switch companies, you lose your discount.

Proposition 33 fixes this by allowing you to keep this reward and shop for a better deal with another company.

The opposition is using scare tactics and ugliness. Yes, Proposition 33 supporter and World War II Vet George Joseph built a successful company by providing customer service and low rates that Californians support.

Read Proposition 33 for the truth.

Firefighters and the California Association of Highway Patrolmen support Proposition 33 because they want everyone insured and the opportunity for all Californians to shop for a better automobile insurance deal.

The Greenlining Institute—a consumer group founded to fight unfair business practices—supports Proposition 33 because it protects consumers and allows this discount to everyone who has followed the law.

- Proposition 33 allows drivers to switch insurance companies and keep their continuous coverage discount.
- Proposition 33 rewards drivers for following the law and maintaining car insurance with any company you choose.

- Proposition 33 makes it easier to switch insurance companies, leading to more competition and lower rates for all.
- Proposition 33 protects consumers and applies the continuous coverage discount to everyone who follows the law.
- Proposition 33 protects military families, consumers who are unemployed or furloughed, and student drivers, and would provide incentives for uninsured drivers to purchase insurance.

Veterans groups, including the Veterans of Foreign Wars and GI Forum support Proposition 33.

Vote Yes on Proposition 33.

ROBERT T. WOLF, President
CDF Firefighters

JULIAN CANETE, President
California Hispanic Chamber of Commerce

SAMUEL KANG, General Counsel
The Greenlining Institute

benefit, health, life, death or disability insurance, or other similar benefit, nor shall it apply to an employee's voluntary deduction for the benefit of a charitable organization organized under Section 501(c)(3) of Title 26 of the United States Code.

85152. *For purposes of this article, the following definitions apply:*

(a) *“Corporation” means every corporation organized under the laws of this state, any other state of the United States, or the District of Columbia, or under an act of the Congress of the United States.*

(b) *“Government contractor” means any person, other than an employee of a government employer, who is a party to a contract between the person and a government employer to provide goods, real property, or services to a government employer. Government contractor includes a public employee labor union that is a party to a contract with a government employer.*

(c) *“Government employer” means the State of California or any of its political subdivisions, including, but not limited to, counties, cities, charter counties, charter cities, charter city and counties, school districts, the University of California, special districts, boards, commissions, and agencies, but not including the United States government.*

(d) *“Labor union” means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.*

(e) *“Political purposes” means a payment made to influence or attempt to influence the action of voters for or against the nomination or election of a candidate or candidates, or the qualification or passage of any measure; or any payment received by or made at the behest of a candidate, a controlled committee, a committee of a political party, including a state central committee, and county central committee, or an organization formed or existing primarily for political purposes, including, but not limited to, a political action committee established by any membership organization, labor union, public employee labor union, or corporation.*

(f) *“Public employee labor union” means a labor union in which the employees participating in the labor union are employees of a government employer.*

(g) *All other terms used this article that are defined by the Political Reform Act of 1974, as amended (Title 9 (commencing with Section 81000)), or by regulation enacted by the Fair Political Practices Commission, shall have the same meaning as provided therein, as they existed on January 1, 2011.*

SEC. 3. Implementation

(a) If any provision of this measure, or part of it, or the application of any such provision or part to any person, organization, or circumstance, is for any reason held to be invalid or unconstitutional, then the remaining provisions, parts, and applications shall remain in effect without the invalid provision, part, or application.

(b) This measure is not intended to interfere with any existing contract or collective bargaining agreement. Except as governed by the National Labor Relations Act, no new or

amended contract or collective bargaining agreement shall be valid if it violates this measure.

(c) This measure shall be liberally construed to further its purposes. In any legal action brought by an employee or union member to enforce the provisions of this act, the burden shall be on the employer or labor union to prove compliance with the provisions herein.

(d) Notwithstanding Section 81012 of the Government Code, the provisions of this measure may not be amended by the Legislature. This measure may only be amended or repealed by a subsequent initiative measure or pursuant to subdivision (c) of Section 10 of Article II of the California Constitution.

PROPOSITION 33

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure adds a section to the Insurance Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. Title

This measure shall be known as the 2012 Automobile Insurance Discount Act.

SEC. 2. The people of the State of California find and declare that:

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

(b) It is in the best interest of California insurance consumers to be allowed to receive discounted prices if they have continuously followed the state's mandatory insurance laws, regardless of which insurance company they have used.

(c) A consumer discount for continuous automobile coverage rewards responsible behavior. That discount should belong to the consumer, not the insurance company.

(d) A personal discount for maintaining continuous coverage creates competition among insurance companies and is an incentive for more consumers to purchase and maintain automobile insurance.

SEC. 3. Purpose

The purpose of this measure is to allow California insurance consumers to obtain discounted insurance rates if they have continuously followed the mandatory insurance law.

SEC. 4. Section 1861.023 is added to the Insurance Code, to read:

1861.023. (a) Notwithstanding paragraph (4) of subdivision (a) of Section 1861.02, an insurance company may use continuous coverage as an optional auto insurance rating factor for any insurance policy subject to Section 1861.02.

(b) For purposes of this section, “continuous coverage” shall mean uninterrupted automobile insurance coverage with any admitted insurer or insurers, including coverage provided pursuant to the California Automobile Assigned Risk Plan or the California Low-Cost Automobile Insurance Program.

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(1) *Continuous coverage shall be deemed to exist if there is a lapse in coverage due to an insured’s active military service.*

(2) *Continuous coverage shall be deemed to exist even if there is a lapse in coverage of up to 18 months in the last five years due to loss of employment resulting from a layoff or furlough.*

(3) *Continuous coverage shall be deemed to exist even if there is a lapse of coverage of not more 90 days in the previous five years for any reason.*

(4) *Children residing with a parent shall be provided a discount for continuous coverage based upon the parent’s eligibility for a continuous coverage discount.*

(c) *Consumers who are unable to demonstrate continuous coverage shall be granted a proportional discount. This discount shall be a proportion of the amount of the rate of reduction that would have been granted if the consumer had been able to demonstrate continuous coverage. The proportion shall reflect the number of whole years in the immediately preceding five years for which the consumer was insured.*

SEC. 5. 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.

SEC. 6. 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.

SEC. 7. 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.

PROPOSITION 34

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends and repeals sections of the Penal Code and adds sections to the Government Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

The SAFE California Act

SECTION 1. Title

This initiative shall be known and may be cited as “The Savings, Accountability, and Full Enforcement for California

Act,” or “The SAFE California Act.”

SEC. 2. Findings and Declarations

The people of the State of California do hereby find and declare all of the following:

1. Murderers and rapists need to be stopped, brought to justice, and punished. Yet, on average, a shocking 46 percent of homicides and 56 percent of rapes go unsolved every year. Our limited law enforcement resources should be used to solve more crimes, to get more criminals off our streets, and to protect our families.

2. Police, sheriffs, and district attorneys now lack the funding they need to quickly process evidence in rape and murder cases, to use modern forensic science such as DNA testing, or even hire enough homicide and sex offense investigators. Law enforcement should have the resources needed for full enforcement of the law. By solving more rape and murder cases and bringing more criminals to justice, we keep our families and communities safer.

3. Many people think the death penalty is less expensive than life in prison without the possibility of parole, but that’s just not true. California has spent \$4 billion on the death penalty since 1978 and death penalty trials are 20 times more expensive than trials seeking life in prison without the possibility of parole, according to a study by former death penalty prosecutor and judge, Arthur Alarcon, and law professor Paula Mitchell. By replacing the death penalty with life in prison without the possibility of parole, California taxpayers would save well over \$100 million every year. That money could be used to improve crime prevention and prosecution.

4. Killers and rapists walk our streets free and threaten our safety, while we spend hundreds of millions of taxpayer dollars on a select few who are already behind bars forever on death row. These resources would be better spent on violence prevention and education, to keep our families safe.

5. By replacing the death penalty with life in prison without the possibility of parole, we would save the state \$1 billion in five years without releasing a single prisoner—\$1 billion that could be invested in law enforcement to keep our communities safer, in our children’s schools, and in services for the elderly and disabled. Life in prison without the possibility of parole ensures that the worst criminals stay in prison forever and saves money.

6. More than 100 innocent people have been sentenced to death in this country and some innocent people have actually been executed. Experts concluded that Cameron Todd Willingham was wrongly executed for a fire that killed his three children. With the death penalty, we will always risk executing innocent people.

7. Experts have concluded that California remains at risk of executing an innocent person. Innocent people are wrongfully convicted because of faulty eyewitness identification, outdated forensic science, and overzealous prosecutions. We are not doing what we need to do to protect the innocent. State law even protects a prosecutor if he or she intentionally sends an innocent person to prison, preventing accountability to taxpayers and victims. Replacing the death penalty with life in prison without the possibility of parole will at least ensure that we do not execute an innocent person.

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