



# REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

# 7

915 I Street, Sacramento, CA 95814-2671

STAFF REPORT  
August 7, 2008

Honorable Members of the  
Law and Legislation Committee

**Subject:** Legislative Position: Support AB 2800 with regard to Automobile Insurance Rates

**Location/Council District:** Citywide

**Recommendation:** Adopt a support position on AB 2800.

**Contact:** Michelle Heppner, Office of the City Manager, (916) 808-1226

**Presenters:** Michelle Heppner, Special Projects Manager

**Department:** City Manager's Office

**Division:** Legislative Affairs

**Organization No.:** 09200

### **Description/Analysis**

**Issue:** Over 28 percent of California's greenhouse gas emissions come from passenger automobiles, and the great increase in annual vehicle miles driven between 1990 and 2006 in California (31 percent) requires immediate action.

By encouraging motorists to drive less, this bill will help Sacramento and all of California to reach our specific global warming emission reduction targets.

**Background:** This bill would provide a financial incentive for California motorists to drive less and directs insurers to verify miles actually driven (as opposed to estimated). By linking automobile insurance rates directly to verified miles driven, and by rewarding lower mileage with lower auto insurance costs, insurers can influence many motorists to drive less, thus reducing greenhouse gas emissions statewide. Preliminary estimates suggest an 8% reduction in miles driven and an annual savings per household of \$270 per car.

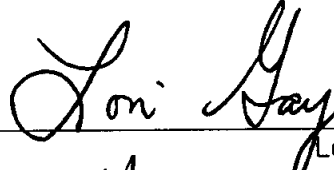
**Policy Considerations:** AB 2800 is consistent with the City of Sacramento's Sustainability Plan, the City Manager's operational principle of promoting public safety and livability, the Mayor's GO GREEN project to create a sustainable city and to mitigate the harmful effects of climate change, and the Neighborhood Services mission to promote healthy communities. Additionally, AB 2800 is consistent with global warming bill AB 32, which the City supported in 2006.

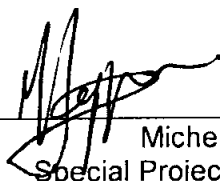
**Environmental Considerations: None.**

**Rationale for Recommendation:** AB 2800 is consistent with the City of Sacramento's Sustainability Master Plan, and, if implemented, would reduce our dependence on fossil fuels by conserving fuel and would improve our air quality by reducing pollution via decreased driving (an activity that generates smog and greenhouse gas emissions). Also, by financially rewarding the environmentally responsible choices of our motorists, the bill would empower Sacramento residents to contribute to a sustainable future and would promote an ethic of conservation and environmental stewardship.

**Financial Considerations: None.**

**Emerging Small Business Development (ESBD): N/A.**

Respectfully Submitted by:  Lori Gay

Approved by:  Michelle Heppner  
Special Projects Manager

Recommendation Approved:

  
for RAY KERRIDGE  
City Manager

Table of Contents:

Pg 1 Report  
Pg 3 Attachments

Attachments

Pg 3 Draft Position Letter  
Pg 4 Bill Text  
Pg 10 Bill Analysis

Subject: Support AB 2800 - Automobile Insurance Rates

August 7, 2008

Attachment 1: Draft Position Letter

August 7, 2008

The Honorable Jared Huffman  
California State Assembly  
State Capitol, Room 4139  
Sacramento, CA 95814

**RE: AB 2800 (Huffman) Automobile Insurance: Rates. NOTICE OF SUPPORT.**

Dear Assembly Member Huffman:

The City of Sacramento is pleased to support AB 2800.

On behalf of the City of Sacramento, I am pleased to express the City's support for Assembly Bill 2800, relating to automobile insurance rates. This bill would provide a financial incentive for California motorists to drive less, and for insurers to verify miles actually driven (as opposed to estimated). By linking automobile insurance rates directly to verified miles driven, and by rewarding lower mileage with lower auto insurance costs, insurers can influence many motorists to drive less, thus reducing greenhouse gas emissions statewide. Preliminary estimates suggest an 8% reduction in miles driven and an annual savings per household of \$270 per car.

By encouraging motorists to drive less, this bill will help Sacramento and all of California to reach our specific global warming emission reduction targets. Over 28 percent of California's greenhouse gas emissions come from passenger automobiles, and the great increase in annual vehicle miles driven between 1990 and 2006 in California (31 percent) requires this type of legislation.

This bill is good policy, is green, consumer friendly, and gets us one step closer to our long-term goal of halting global warming.

Thank you for introducing this important piece of legislation.

Sincerely,

**SANDY SHEEDY, CHAIR**  
Law and Legislation Committee

cc: Senator Dave Cox  
Senator Darrell Steinberg  
Assembly Member Dave Jones  
Assembly Member Alan Nakanishi  
Assembly Member Roger Niello  
Mayor Fargo and Members of the City Council  
David Jones, Emanuels and Jones and Associates

Attachment 2: Bill Text

AMENDED IN SENATE JUNE 24, 2008

AMENDED IN ASSEMBLY APRIL 23, 2008

AMENDED IN ASSEMBLY APRIL 3, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2800**

---

**Introduced by Assembly Member Huffman**  
*(Coauthors: Assembly Members Adams, Aghazarian, Berryhill,  
Blakeslee, Plescia, and Smyth)*  
~~(Coauthor: Senator Maldonado)~~ *Coauthors: Senators Kehoe, Lowenthal,  
Maldonado, and Scott)*

February 22, 2008

---

An act to amend Section 1861.02 of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 2800, as amended, Huffman. Automobile insurance: rates.

Existing law, enacted by the voters in Proposition 103 at the November 8, 1988, statewide general election, requires insurers to set automotive insurance rates and premiums using specified factors, including the number of miles the insured drives annually and any factors the commissioner may specify that have a substantial relationship to the risk of loss.

This bill would provide that in determining the number of miles an insured drives, an insurer may apply different rating factors for voluntary insurance-verified annual mileage and applicant-estimated annual mileage. This bill would also make various findings and declarations.

Under existing law, Proposition 103 may not be amended by the Legislature except to further its purposes by a statute passed in each

AB 2800

— 2 —

house by roll call vote,  $\frac{2}{3}$  of the membership concurring, or by a statute that becomes effective only when approved by the electorate.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares all of the  
2 following:
- 3 (a) The California Global Warming Solutions Act of 2006  
4 (Division 25.5 (commencing with Section 38500) of the Health  
5 and Safety Code) requires California to reduce statewide  
6 greenhouse gas emissions to 1990 levels by the year 2020.
- 7 (b) A reduction in the average vehicle miles traveled per  
8 California motorist may lead to a substantive reduction in  
9 greenhouse gas emissions.
- 10 (c) Providing insurance-based incentives to motorists to drive  
11 less may be a successful way to reduce overall vehicle miles  
12 traveled.
- 13 (d) Current state automotive insurance rates may not accurately  
14 reflect the miles that motorists drive.
- 15 (e) According to the United States Environmental Protection  
16 Agency, once an individual purchases a car, roughly 88 percent  
17 of their transportation costs remain much the same on a monthly  
18 basis regardless of how much or how little he or she drives.
- 19 (f) The increase in traffic density from a typical additional driver  
20 increases total statewide insurance costs of other drivers.
- 21 (g) Implementing new programs that offer insurance on a  
22 mileage basis may effectively reduce vehicle miles traveled and  
23 help the state achieve the goals outlined in the California Global  
24 Warming Solutions Act of 2006.
- 25 (h) Verifying miles driven ensures insurance rates that more  
26 accurately reflect vehicle miles traveled and provides incentives  
27 for California drivers to reduce driving and emissions.
- 28 (i) (1) *Proposition 103 created a system of setting motor vehicle*  
29 *insurance rates based on specified criteria:*
- 30 (A) *Prior to Proposition 103 in 1988, motor vehicle insurance*  
31 *ratesetting factors generally included the age, sex, marital status,*  
32 *driving record, type of vehicle and home address of the insured.*

1 *Insurance companies also took into consideration other factors*  
2 *such as their claims experience, income, and expenses.*

3 *(B) The November 1988 Ballot Pamphlet provided to voters by*  
4 *the Secretary of State included an analysis of Proposition 103 by*  
5 *the Legislative Analyst which provided, "In general, the measure*  
6 *requires that rates and premiums for automobile insurance be*  
7 *determined on the basis of the insured person's driving record,*  
8 *miles driven and number of years of driving experience."*

9 *(C) Section 2 of Proposition 103 states, "The purpose of this*  
10 *chapter is to protect consumers from arbitrary insurance rates*  
11 *and practices, to encourage a competitive insurance marketplace,*  
12 *to provide for an accountable Insurance Commissioner, and to*  
13 *ensure that insurance is fair, available, and affordable for all*  
14 *Californians."*

15 *(2) As greenhouse environmental concerns have increased and*  
16 *as the price of gasoline has reached historic high prices, there are*  
17 *environmental and economic public policy reasons to encourage*  
18 *motorists to drive less. These reasons are consistent with the*  
19 *purpose of Proposition 103. Proposition 103 provides that as*  
20 *motorists drive less, their motor vehicle insurance rates are*  
21 *reduced.*

22 *(3) However, insurance companies overcharge motorists who*  
23 *overestimate the miles driven and undercharge motorists who*  
24 *underestimate the miles driven. Verifying miles driven will better*  
25 *enable insurance companies to charge accurate rates based on*  
26 *actual miles driven.*

27 SEC. 2. Section 1861.02 of the Insurance Code is amended to  
28 read:

29 1861.02. (a) Rates and premiums for an automobile insurance  
30 policy, as described in subdivision (a) of Section 660, shall be  
31 determined by application of the following factors in decreasing  
32 order of importance:

33 (1) The insured's driving safety record.

34 (2) The number of miles he or she drives annually. In  
35 determining automobile *insurance* rates and premiums based on  
36 the number of annual miles driven, an insurer may apply different  
37 rating factors for insurer-verified annual milage obtained through  
38 voluntary mileage based insurance programs ~~and approved by the~~  
39 *department* for applicant-estimated annual mileage.

AB 2800

— 4 —

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

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

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

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

19 (3) (A) This subdivision shall not prevent a reciprocal insurer,  
20 organized prior to November 8, 1988, by a motor club holding a  
21 certificate of authority under Chapter 2 (commencing with Section  
22 12160) of Part 5 of Division 2, and which requires membership in  
23 the motor club as a condition precedent to applying for insurance  
24 from requiring membership in the motor club as a condition  
25 precedent to obtaining insurance described in this subdivision.

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

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

37 (i) Membership, if conditioned, is conditioned only on timely  
38 payment of membership dues and other bona fide criteria not based  
39 upon driving record or insurance, provided that membership in a

1 motor club may not be based on residence in any area within the  
2 state.

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

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

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

19 (c) The absence of prior automobile insurance coverage, in and  
20 of itself, shall not be a criterion for determining eligibility for a  
21 Good Driver Discount policy, or generally for automobile rates,  
22 premiums, or insurability. However, notwithstanding subdivision  
23 (a), an insurer may use persistency of automobile insurance  
24 coverage with the insurer, an affiliate, or another insurer as an  
25 optional rating factor. The Legislature hereby finds and declares  
26 that it furthers the purpose of Proposition 103 to encourage  
27 competition among carriers so that coverage overall will be priced  
28 competitively. The Legislature further finds and declares that  
29 competition is furthered when insureds are able to claim a discount  
30 for regular purchases of insurance from any carrier offering this  
31 discount irrespective of whether or not the insured has previously  
32 purchased from a given carrier offering the discount. Persistency  
33 of coverage may be demonstrated by coverage under the low-cost  
34 automobile insurance program pursuant to Article 5.5 (commencing  
35 with Section 11629.7) and Article 5.6 (commencing with Section  
36 11629.9) of Chapter 1 of Part 3 of Division 2, or by coverage under  
37 the assigned risk plans pursuant to Article 4 (commencing with  
38 Section 11620) of Chapter 1 of Part 3 of Division 2. Persistency  
39 shall be deemed to exist even if there is a lapse of coverage of up  
40 to two years due to an insured's absence from the state while in

**AB 2800**

— 6 —

1 military service, and up to 90 days in the last five years for any  
2 other reason.

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

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

11 SEC. 3. The Legislature finds and declares that this act furthers  
12 the purpose of Proposition 103.

O

Attachment 3: Bill Analysis

```

-----
|SENATE RULES COMMITTEE           |                               | AB 2800|
|Office of Senate Floor Analyses  |                               |        |
|1020 N Street, Suite 524         |                               |        |
|(916) 651-1520                   | Fax: (916)                   |        |
|327-4478                         |                               |        |
-----

```

THIRD READING

Bill No: AB 2800  
 Author: Huffman (D), et al  
 Amended: 6/25/08 in Senate  
 Vote: 27

SEN. BANKING, FINANCE, AND INS. COMMITTEE : 10-1, 6/18/08  
 AYES: Machado, Runner, Correa, Cox, Hollingsworth, Kehoe,  
 Lowenthal, Margett, Scott, Wiggins  
 NOES: Florez

ASSEMBLY FLOOR : 72-2, 5/22/08 - See last page for vote

SUBJECT : Automobile insurance: rates

SOURCE : Author

DIGEST : This bill allows insurers to apply a different rating factor for insurer-verified miles driven annually for purposes of automobile insurance rates.

ANALYSIS :

Existing Law

1. Provides that insurance rates for most property-casualty insurance, including insurance, are regulated by the Insurance Commissioner (Commissioner) on a prior approval basis.

2. Specifies that rates for private passenger automobile

CONTINUED

insurance shall be based on the insured's driving safety record, the number of miles the insured drives annually, the number of years driving experience of the insured, and such other factors that the Commissioner by regulation adopts that have a substantial relationship to the risk of loss.

3. Establishes that the reduction of greenhouse gases is the policy of the State of California.

This bill:

1. Finds and declares that reducing greenhouse gas emissions is the policy of the state, that vehicle mileage is a significant contributor to the greenhouse gas emissions produced, and that offering insurance on a verified mileage basis creates an incentive to drive less, assures more accurate insurance rates, and provides an incentive to reduce emissions.
2. Provides that, in determining the "number of miles driven annually" rating factor, insurers may apply different rating factors for insurer-verified annual mileage and applicant-estimated annual mileage. The insurer-verified annual mileage rating factor shall be a voluntary mileage-based insurance program.
3. Includes a declaration that the Legislature finds the bill to further the purposes of Proposition 103 (the 1988 initiative that established the regulatory structure that controls automobile insurance rates).

Background

Statutory law (Proposition 103 in 1988) requires that the insurance rates for private automobiles be based on the following for each individual motorist and vehicle:

1. Driving record.
2. Number of miles driven annually.
3. Number of years of driving experience.

CONTINUED

AB 2800

Page 3

4. Other factors that the Commissioner may adopt by regulation that have a substantial relationship to the risk of loss.

Current insurance regulations base automobile insurance premiums for drivers on the projections of future mileage. These projections may prove to be accurate or inaccurate. Although insurance companies may require some supporting information, such as the customer's self report on the number of miles driven to work, insurers do not have a reliable means to verify the customer's mileage. Insurers may request, but not require, mileage verification through odometer readings based on recent vehicle service reports (e.g., oil change invoices) or mileage-tracking technology.

FISCAL EFFECT : Appropriation: No Fiscal Com.: No  
Local: No

SUPPORT : (Verified 6/24/08)

Alliance of Automobile Manufacturers  
American Lung Association  
Association of California Insurance Companies  
California League for Environmental Enforcement Now  
California Secure Transportation Energy Partnership  
Environment California  
Environmental Defense Fund  
Ford Motor Company  
National Parks Conservation Association  
Natural Resources Defense Council  
Personal Insurance Federation of California  
Planning and Conservation League  
Sierra Club California  
Toyota Motor Sales, U.S.A.  
Union of Concerned Scientists

OPPOSITION : (Verified 6/24/08)

Consumer Watchdog  
Consumer Action  
Consumer Federation of California  
Electronic Frontier Foundation

ARGUMENTS IN SUPPORT : According to the author's office,

CONTINUED

this bill provides a financial incentive for California motorists to drive less, and for insurers to verify miles actually driven. By linking automobile insurance costs directly to each decision to drive the insured vehicle, the author's office believes drivers will make the decision to drive less, reduce greenhouse gas emissions, and be rewarded with lower auto insurance costs.

The Natural Resources Defense Council supports this bill and states that it is consistent with the recommendations of the AB 32 Economic and Technology Advancement Advisory Committee report to the Air Resources board since it will help California to reach global warming emission reduction targets. The Environmental Defense Fund points out that 28 percent of California's greenhouse gas emissions come from passenger automobiles, and the great increase in annual vehicle miles driven between 1990 and 2006 in California (31 percent) requires this type of legislation.

The Personal Insurance Federation of California, which supports the bill, states that the Department of Insurance's proposed "mileage verification regulations" do not allow insurers the adequate tools to achieve true miles.

ARGUMENTS IN OPPOSITION : The Consumer Watchdog (formerly the Foundation for Taxpayer and Consumer Rights), which opposes this bill, states that while the bill has a laudable goal of attempting to create an incentive to drive less, it will not serve that objective well because it improperly amends a voter approved initiative and will be rejected by the courts. Consumer Watchdog states that this bill purports to amend one of Proposition 103's mandatory rating factors by creating multiple mileage factors and to do this outside of the Commission's regulations on mileage verification, which are within the purview of the Commission.

ASSEMBLY FLOOR :  
AYES: Adams, Aghazarian, Arambula, Beall, Benoit, Berg, Berryhill, Blakeslee, Brownley, Caballero, Charles Calderon, Carter, Cook, Coto, Davis, De La Torre, De Leon, DeSaulnier, DeVore, Duvall, Emmerson, Eng, Evans, Feuer, Fuentes, Fuller, Furutani, Gaines, Galgiani,

CONTINUED

AB 2800

Page 5

Garcia, Garrick, Hancock, Hayashi, Hernandez, Horton,  
Houston, Huff, Huffman, Jones, Keene, Krekorian, La  
Malfa, Laird, Leno, Levine, Lieber, Lieu, Ma, Maze,  
Mullin, Nakanishi, Nava, Niello, Plescia, Portantino,  
Price, Sharon Runner, Ruskin, Salas, Saldana, Silva,  
Smyth, Solorio, Spitzer, Strickland, Swanson, Torrico,  
Tran, Villines, Walters, Wolk, Bass

NOES: Anderson, Parra

NO VOTE RECORDED: Dymally, Jeffries, Karnette, Mendoza,  
Nunez, Soto

GFC:cm 6/24/08 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

\*\*\*\* END \*\*\*\*