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Florio Uses Emergency Powers to Enact Auto Insurance Reforms

TRENTON -- Gov. Jim Florio announced today that he will use emergency powers of the governor Monday to sign nine key regulations needed to put New Jersey's sweeping automobile insurance reform in place sooner than would otherwise be possible.

"Drivers have waited too long for the fair treatment and protection they deserve," Florio said. "These regulations rewrite the insurance rules in favor of New Jersey drivers. And we'll make sure the insurance companies play by the rules."

The nine regulations accomplish the goals of the Fair Automobile Insurance Reform Act (FAIR Act) signed into law by Gov. Florio on March 12, 1990. The emergency action allows the rules to become effective immediately, rather than waiting out

the normal regulatory process that would take a minimum of about four months.

"I promised to abolish the Joint Underwriting Association and the \$222-per-car surcharge all drivers pay into the JUA. I also promised to restore fairness to our car insurance system," Florio said. "The JUA is abolished, the surcharges come off April 1, and these tough new regulations fulfill the rest of my promise."

The regulations give companies some time to abide by the new rules, and take effect on varying dates over the next four months, according to Insurance Commissioner Samuel F. Fortunato.

"For the first time, this state is defining what good drivers are and guaranteeing them fair rates on the basis of their driving records. No longer will drivers be judged by irrelevant factors, such as what they do for a living. And drivers are no longer being dumped into the JUA. The JUA is dead," Florio said.

The rules require insurance companies to develop two sets of rates -- one for good drivers and one for those who have between one and eight points on their records. They also require insurers to use uniformly fair rules to determine who they will cover.

The rules limit the fees charged by towing and storage facilities and the fees charged by doctors and other health care providers for treating accident victims. Another rule requires photo inspections of cars insured for collision or theft -- a weapon against fraudulent claims.

Another rule allows drivers the option of using their own health insurance to cover auto accident injuries -- in exchange for a savings.

The regulations also establish strict standards governing when an insurance company may refuse to renew a policy.

Finally, a regulation lays out stringent guidelines for what kind of data companies may use when determining their rates, and what kind of data they must file and tests they must meet when they seek to raise rates in certain circumstances.

Good Driver Definition

One of the key regulations establishes, for the first time, a good driver definition that uses objective criteria to define good drivers, and guarantees they get more favorable rates.

Drivers are defined by the number of points, violations or at-fault accidents on their driving records.

For example, driving while intoxicated would garner a driver nine points, while violations such as speeding up to 14 miles over the speed limit, making an improper U-turn or failing to obey a stop sign would each result in two points.

Those with no points, violations or accidents are eligible for the best rates, while those with fewer than nine points are eligible, but at higher rates. The highest rates will be charged only to those who have nine or more points on their driving records.

"About 75 percent of the drivers in New Jersey have perfectly clean records, and another 15 percent have fewer than nine points on their record," said Fortunato. "These drivers deserve the protection that these objective criteria offer."

Young drivers also get protection, for the first time, under the good driver definition system. Inexperienced, new drivers will start out with three points and slightly higher rates than experienced, good drivers. Each year they drive violation-free, one point will be removed, and in their fourth year ultimately they will get the same rates as experienced drivers.

The good driver definition takes effect April 1, 1991 for those renewing their policies, and will begin applying to new policies beginning April 1, 1992.

Good Driver Rates

Another central regulation requires auto insurers to file two sets of rates that will include rates for good drivers and slightly higher rates for those who have between one and eight points on their records. All rates will be subject to review by Fortunato.

This rule was altered significantly from original proposals so a driver with only one or two points on his record will not pay the same rates as a driver with eight points on his record.

Instead, insurers are required to establish graduated rates, charging lower rates to those with fewer points and increasing gradually for drivers with up to eight points.

The regulation requires companies to file their good driver rates no later than March 1.

Good Driver Guarantee

A third rule essential to consumer protection lays out strict new guidelines -- through so-called "underwriting rules" -- for how companies may determine who they write insurance for.

"This will bar insurance companies from turning drivers down for insurance on the basis of where they live, or what they do for a living," Florio said.

"It also stops insurance companies from turning down drivers on the basis of whether they bought their homeowner insurance through the same company, whether they just moved into the state, whether they were once insured by the JUA, or what kind of car they drive," Florio said.

"The bottom line is that this regulation requires insurers to base their rules on specific and objective criteria, and not on subjective judgments," Fortunato said.

Under the FAIR Act, the JUA was abolished October 1 and the insurance industry is required to write policies for most of those drivers over the next two years.

The FAIR Act ultimately requires insurance companies to cover nine out of ten drivers -- or those considered eligible drivers because they have fewer than nine points. The remaining 10 percent will be covered by an Assigned Risk Pool.

Companies must file their guidelines by March 1.

Limits on Towing and Storage Fees

This rule limits how much towing and storage operations may charge when handling vehicles involved in accidents.

"We need to control the costs that drive premiums up, and this regulation helps do that," Fortunato said.

The rules allows towing operations in the southern part of the state to charge \$35 for the first mile or less, and \$1.75 for each additional mile, for tows provided on weekdays between 8 a.m. and 4:30 p.m. During other hours and on weekends and holidays, they may charge \$45 for the first mile and \$1.75 for each additional mile.

In the state's northern region, tow truck operators may charge \$40 for the first mile and \$1.75 for each additional mile during daytime, weekday hours, and \$50 for the first mile at all other times.

Rates charged by storage facilities also are subject to the new fee schedule.

In the southern region, storage facilities may charge between \$7 and \$22 per day, depending upon the size of the facility and whether it is outdoors or indoors and secured with fences, an alarm system and night lighting.

In the northern region, storage facilities may charge between \$8 and \$25 per day, depending on those factors.

This rule also prohibits towing and storage operations to require customers to pay any charges above these limits.

The southern region encompasses Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Monmouth, Ocean and Salem counties.

The northern region covers Bergen, Essex, Hudson, Hunterdon, Middlesex, Morris, Passaic, Somerset, Sussex, Union and Warren counties.

This rule takes effect Jan. 1.

Limits on Medical Fees

Physicians, chiropractors, physical therapists and other medical professionals also are subject to limits on their fees when they treat accident victims whose medical bills are being paid through their auto insurance.

The medical fee schedule limits health care providers to charging no more than the "reasonable and prevailing" fees of 75 percent of the providers in a region.

It divides the state into three regions, and lists fees for over 1,000 medical procedures as well as medical equipment, home health care and other medical expenses.

The regulation also prohibits billing patients in excess of the limits. Only New York also prohibits this practice.

This rule takes effect Jan. 1.

Photo Inspections

This rule requires cars to be inspected and photographed before they are insured for collision or theft.

Under the rule, new cars accompanied by a dealer's sticker are exempt, as are vehicles more than seven years old.

Whenever a car, other than new cars right off a dealer's lot, is placed on a policy, an inspection is required. Insurers must perform random annual inspections on one seventh of their fleets.

"This rule seeks to eliminate the phantom car phenomenon, when car thieves insure a vehicle that exists only on paper, or a late-model BMW that may already be in a junkyard, which is then reported stolen for an insurance claim," Fortunato said. "Fraud adds about \$80 to the average policy."

"New York State requires photo inspection, and officials there have told us that after they passed their law all their phantom thefts moved to New Jersey. We want these thieves out of New Jersey," Florio said.

Insurers also are required to submit their own plans for battling fraud to the department no later than March 7. If they fail to do so, they are subject to a mandatory 20 percent rollback in their collision and comprehensive rates.

The photo inspection rule takes effect March 1.

Cost-Saving Health Insurance Option

This rule allows drivers to save premium dollars by using their own health insurance to cover injuries sustained in auto accidents, rather than pay for duplicate coverage through their auto insurance.

Insurers have been ordered to reduce their rates for no-fault coverage by 25 percent for those who select this option, for a savings of about \$40.

This rule takes effect January 1.

Nonrenewal Rules

This regulation allows companies to consider only the past three years of a driver's record.

It also bars insurers from refusing to renew a motorist only because another driver with a poor record happens to live in the same house. Companies may consider the driving records of other members of a household only if the person accounts for 10 percent or more of a vehicle's use.

Insurers may continue to nonrenew up to 2 percent of the vehicles they insure each year, providing they meet state requirements to take their fair share of drivers out of the JUA and state-operated Market Transition Facility.

This rule takes effect for policies renewed after April 1.

Disclosure of Company Finances

This regulation establishes stringent guidelines for what kind of information companies may exchange when calculating rates. It prohibits companies from exchanging, through rating organizations, information about their expenses or projections about future losses.

The rule also requires companies to file specific data about their business and profits and to meet financial tests whenever they seek certain types of rate increases. In addition, they must produce all internal audits conducted during the year and any other supporting data the commissioner requests.

This rule takes effect immediately.

Under the governor's emergency powers, the regulations can take effect immediately and the state has 60 days to adopt them by regular procedures through the Office of Administrative Law.