

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001**

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**SENATE BILL 729  
House Committee Substitute Favorable 7/10/01**

Short Title: Motorcycle Insurance Rates.

(Public)

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Sponsors:

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Referred to:

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March 29, 2001

A BILL TO BE ENTITLED

1  
2 AN ACT TO PROVIDE THAT MOTORCYCLE INSURANCE RATES ARE SET IN  
3 ACCORDANCE WITH THE LAW REGULATING INSURANCE RATES  
4 RATHER THAN ESTABLISHED BY THE NORTH CAROLINA RATE  
5 BUREAU.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 58-36-1(3) reads as rewritten:

8 "(3) The Bureau shall promulgate and propose rates for insurance against  
9 loss to residential real property with not more than four housing units  
10 located in this State and any contents thereof or valuable interest  
11 therein and other insurance coverages written in connection with the  
12 sale of such property insurance; for insurance against theft of or  
13 physical damage to nonfleet private passenger motor vehicles; for  
14 liability insurance for such motor vehicles, automobile medical  
15 payments insurance, uninsured and underinsured motorists coverage  
16 and other insurance coverages written in connection with the sale of  
17 such liability insurance; and, as provided in G.S. 58-36-100, for loss  
18 costs and residual market rate filings for workers' compensation and  
19 employers' liability insurance written in connection therewith. This  
20 subdivision does not apply to motor vehicles operated under  
21 certificates of authority from the Utilities Commission, the Interstate  
22 Commerce Commission, or their successor agencies, where insurance  
23 or other proof of financial responsibility is required by law or by  
24 regulations specifically applicable to such certificated vehicles. The  
25 Bureau shall have no jurisdiction over excess workers' compensation  
26 insurance for employers qualifying as self-insurers as provided in  
27 Article 47 of this Chapter or Article 5 of Chapter 97 of the General  
28 Statutes; nor shall the Bureau's jurisdiction include farm buildings,  
29 farm dwellings and their appurtenant structures, farm personal

1 property or other coverages written in connection with farm real or  
2 personal property; travel or camper trailers designed to be pulled by  
3 private passenger motor vehicles, unless insured under policies  
4 covering nonfleet private passenger motor vehicles; motorcycles, as  
5 defined in G.S. 20-4.01(27)d.; mechanical breakdown insurance  
6 covering nonfleet private passenger motor vehicles and other  
7 incidental coverages written in connection with this insurance,  
8 including emergency road service assistance, trip interruption  
9 reimbursement, rental car reimbursement, and tire coverage;  
10 residential real and personal property insured in multiple line insurance  
11 policies covering business activities as the primary insurable interest;  
12 and marine, general liability, burglary and theft, glass, and animal  
13 collision insurance, except when such coverages are written as an  
14 integral part of a multiple line insurance policy for which there is an  
15 indivisible premium."

16 **SECTION 1.1.** Article 36 of Chapter 58 of the General Statutes is amended  
17 by adding a new section to read:

18 **"§ 58-36-3. Limitation of scope.**

19 Except as provided in G.S. 58-36-85, the term "nonfleet private passenger motor  
20 vehicle", as used in this Article, does not mean a motorcycle, as defined in G.S. 20-  
21 4.01(27)d."

22 **SECTION 2.** G.S. 58-36-65(m) is repealed.

23 **SECTION 2.1.** G.S. 58-37-1(6) reads as rewritten:

24 "(6) "Motor vehicle" means every self-propelled vehicle that is designed  
25 for use upon a highway, including trailers and semitrailers designed for  
26 use with such vehicles (except traction engines, road rollers, farm  
27 tractors, tractor cranes, power shovels, and well drillers). "Motor  
28 vehicle" also means a motorcycle, as defined in G.S. 20-4.01(27)d."

29 **SECTION 2.2.** G.S. 58-37-30(b) reads as rewritten:

30 "(b) It shall be the responsibility of the agent to write the coverage applied for at  
31 what he believes to be the appropriate rate level. If coverage is written at the Facility  
32 rate level and the company elects not to cede, the policy shall be rated at a rate under  
33 Article 36 or Article 40 of this Chapter. Chapter, whichever is appropriate. Coverage  
34 written at a rate under Article 36 or Article 40 of this Chapter that is not acceptable to  
35 the company must either be placed with another company or rated at the Facility rate  
36 level by the agent."

37 **SECTION 2.3.** G.S. 58-37-35(l) reads as rewritten:

38 "(l) The classifications, rules, rates, rating plans and policy forms used on motor  
39 vehicle insurance policies reinsured by the Facility may be made by the Facility or by  
40 any licensed or statutory rating organization or bureau on its behalf and shall be filed  
41 with the Commissioner. The Board of Governors shall establish a separate  
42 subclassification within the Facility for "clean risks". For the purpose of this Article, a

1 "clean risk" is any owner of a nonfleet private passenger motor vehicle as defined in  
2 G.S. 58-40-10, if the owner, principal operator, and each licensed operator in the  
3 owner's household have two years' driving experience as licensed drivers and if none of  
4 the persons has been assigned any Safe Driver Incentive Plan points under Article 36 of  
5 this Chapter during the three-year period immediately preceding either (i) the date of  
6 application for a motor vehicle insurance policy or (ii) the date of preparation of a  
7 renewal of a motor vehicle insurance policy. The filings may incorporate by reference  
8 any other material on file with the Commissioner. Rates shall be neither excessive,  
9 inadequate nor unfairly discriminatory. If the Commissioner finds, after a hearing, that a  
10 rate is either excessive, inadequate or unfairly discriminatory, the Commissioner shall  
11 issue an order specifying in what respect it is deficient and stating when, within a  
12 reasonable period thereafter, the rate is no longer effective. The order is subject to  
13 judicial review as set out in Article 2 of this Chapter. Pending judicial review of said  
14 order, the filed classification plan and the filed rates may be used, charged and collected  
15 in the same manner as set out in G.S. 58-40-45 of this Chapter. The order shall not  
16 affect any contract or policy made or issued before the expiration of the period set forth  
17 in the order. All rates shall be on an actuarially sound basis and shall be calculated,  
18 insofar as is possible, to produce neither a profit nor a loss. However, the rates made by  
19 or on behalf of the Facility with respect to "clean risks" shall not exceed the rates  
20 charged "clean risks" who are not reinsured in the Facility. The difference between the  
21 actual rate charged and the actuarially sound and self-supporting rates for "clean risks"  
22 reinsured in the Facility may be recouped in similar manner as assessments under G.S.  
23 58-37-40(f). Rates shall not include any factor for underwriting profit on Facility  
24 business, but shall provide an allowance for contingencies. There shall be a strong  
25 presumption that the rates and premiums for the business of the Facility are neither  
26 unreasonable nor excessive. As used in this subsection, "nonfleet private passenger  
27 motor vehicle" does not mean a motorcycle, as defined in G.S. 20-4.01(27)d."

28 **SECTION 3.** G.S. 58-40-15 reads as rewritten:

29 **"§ 58-40-15. Scope of application.**

30 The provisions of this Article shall apply to all insurance on risks or on operations in  
31 this State, except:

- 32 (1) Reinsurance, other than joint reinsurance to the extent stated in G.S.  
33 58-40-60;
- 34 (2) Any policy of insurance against loss or damage to or legal liability in  
35 connection with property located outside this State, or any motor  
36 vehicle or aircraft principally garaged and used outside of this State, or  
37 any activity wholly carried on outside this State;
- 38 (3) Insurance of vessels or craft, their cargoes, marine builders' risks,  
39 marine protection and indemnity, or other risks commonly insured  
40 under marine, as distinguished from inland marine, insurance policies;
- 41 (4) Accident, health, or life insurance;
- 42 (5) Annuities;

- 1 (6) Repealed by Session Laws 1985, c. 666, s. 43.  
2 (7) Mortgage guaranty insurance;  
3 (8) Workers' compensation and employers' liability insurance written in  
4 connection therewith;  
5 (9) For private passenger (nonfleet) motor vehicle liability insurance,  
6 automobile medical payments insurance, uninsured motorists'  
7 coverage and other insurance coverages written in connection with the  
8 sale of such liability insurance; except this Article applies to liability  
9 insurance on motorcycles, as defined in G.S. 20-4.01(27)d.;  
10 (10) Theft of or physical damage to private passenger (nonfleet) motor  
11 vehicles; except this Article applies to theft of or physical damage to  
12 motorcycles, as defined in G.S. 20-4.01(27)d.; and  
13 (11) Insurance against loss to residential real property with not more than  
14 four housing units located in this State or any contents thereof or  
15 valuable interest therein and other insurance coverages written in  
16 connection with the sale of such property insurance. Provided,  
17 however, that this Article shall apply to insurance against loss to farm  
18 dwellings, farm buildings and their appurtenant structures, farm  
19 personal property and other coverages written in connection with farm  
20 real or personal property; travel or camper trailers designed to be  
21 pulled by private passenger motor vehicles unless insured under  
22 policies covering nonfleet private passenger motor vehicles; residential  
23 real and personal property insured in multiple line insurance policies  
24 covering business activities as the primary insurable interest; and  
25 marine, general liability, burglary and theft, glass, and animal collision  
26 insurance except when such coverages are written as an integral part of  
27 a multiple line insurance policy for which there is an indivisible  
28 premium.

29 The provisions of this Article shall not apply to hospital service or medical service  
30 corporations, investment companies, mutual benefit associations, or fraternal  
31 beneficiary associations."

32 **SECTION 4.** This act becomes effective January 1, 2002. Rates, rating  
33 systems, territories, classifications, and policy forms lawfully in use on January 1, 2002,  
34 may continue to be used thereafter.