STATE OF NEW YORK

7129

2023-2024 Regular Sessions

IN SENATE

May 18, 2023

Introduced by Sen. BRESLIN -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

AN ACT to amend the insurance law, in relation to the use of telematics systems by insurers

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The insurance law is amended by adding a new section 2354 to read as follows:

§ 2354. Use of telematics. (a) As used in this section, "telematics" or "usage-based insurance" means utilizing data collected relating to any of the following regarding a vehicle or driver using vehicle systems, recording sensors, or a telecommunications device for insurance operations including pricing, underwriting, claims, and customer service:

(1) Vehicle speed, location, mileage, and operating hours;

(2) Driver acceleration, braking, and cornering habits;

(3) Telephone screen touch-engagement, including but not limited to, handheld phone call and text usage during vehicle operation;

(4) Road and weather conditions;

(5) Engine diagnostics;

(6) Advanced driver assistance systems (ADAS), including motorized seat belts; and

(7) Any other data point related to the use and operation of the insured vehicle that has been filed with and approved by the superintendent.

(b) An insurer that issues, sells, or delivers private passenger or commercial automobile insurance or policies in the state may, with the consent of the participating driver, or the named insured if the participating driver is a minor, collect telematics data:

(1) For establishing an insurance premium for the policy that insures that vehicle and/or operator;

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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(2) For claims settlement purposes, including investigation of fraud;
(3) For rate filing purposes using aggregated telematics data; and
(4) For other customer service purposes, including but not limited to: safety, including crash detection; risk mitigation, including severe weather warnings; additional insurance protection; and convenience.
(c) With respect to private passenger motor vehicle insurance an insurer shall not require an applicant or a policyholder to participate in a program that measures the operation of an insured vehicle as a condition for pricing or underwriting a private passenger motor vehicle insurance risk unless the insurer:
(1) only offers private passenger motor vehicle insurance products that require insureds to participate in a program that measures the operation of an insured vehicle, and discloses such requirement to:
(i) an applicant at the time of application; and
(ii) a policyholder at the time of renewal; and
(2) includes the information required to be disclosed in paragraph one of this subsection in any advertising materials for the insurance products offered by the insurer.
(d) (1) This section shall not apply to a premium increase for a driver or vehicle due to a telematics program that measures driving behavior during the current policy period.
(2) Notice to a participating driver, or named insured if the participating driver is a minor, of a premium increase resulting from the use of telematics data shall be made pursuant to regulations promulgated by the superintendent in accordance with 15 U.S.C. § 1681m.
(e) Any premium increase established pursuant to subsection (d) of this section shall be made pursuant to the provisions of subsection (b) of section two thousand three hundred five of this chapter.
(f) An insurer may share data obtained through telematics:
(1) With the named insured;
(2) With a person, natural or legal, other than the named insured only if the named insured provides consent; or
(3) In accordance with a court order or subpoena.
(g) Any insurer that offers the use of telematics or usage-based insurance, or any such program that measures the operation of an insured vehicle during the current policy period, shall do so in accordance with the provisions of article twenty-six of this chapter applicable to private passenger auto insurance.
(h) The superintendent shall have the power to promulgate, from time to time, such regulations, not inconsistent with the provisions of this chapter, as may be appropriate to carry out the provisions of this section and, insofar as applicable to this section, other provisions of this chapter.

§ 2. Section 2324 of the insurance law is amended by adding a new subsection (c) to read as follows:

(c) This section shall not prohibit any insurer from offering participation in a loss prevention program that promotes and incentivizes safe driving behavior, with rewards, including through the use of telematics as defined under section two thousand three hundred fifty-four of this article, so long as participation in such program is offered both to members of the general public and to the insurer's policyholders.

§ 3. This act shall take effect on the ninetieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.