

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Buoniconti, Stephen (SEN)

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to an appeal process of insurance premium surcharges under managed competition.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Buoniconti, Stephen (SEN)	Hampden
Paul J. Donato	35th Middlesex
Michael R. Knapik	Second Hampden and Hampshire
Menard, Joan (SEN)	First Bristol and Plymouth
David Holway	President NAGE
Scott P. Brown	Norfolk, Bristol and Middlesex

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO AN APPEAL PROCESS OF INSURANCE PREMIUM SURCHARGES UNDER MANAGED COMPETITION.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority
of the same, as follows:*

1 SECTION 1. Chapter 175E of the General Laws, as so appearing in the 2006 Official
2 Edition, is hereby amended by inserting after Section 7 the following new section:-
3 Section 7A. Any insured aggrieved by any determination of an insurer as to the application of
4 any provision of an insurer's merit rating plan filed and approved by the commissioner pursuant
5 to regulations promulgated in accordance with Section 10 of this chapter and section 15 of
6 Chapter 175A, may within thirty days thereafter, file a written complaint with the board of
7 appeals on motor vehicle policies and bonds, hereinafter called the board. Such complaint shall
8 be accompanied by a filing fee to be determined by the board. The board may deny such
9 appeal without a hearing on the basis of the standards of fault to be promulgated by the board.
10 In the notice of its decision to deny the complaint by the insured, the board shall notify the
11 insured that he has a right to a hearing on the application of the safe driver insurance plan.

12 The board shall provide the insurer and the insured with at least ten days notice of any
13 hearing held under this section. If, after a hearing, the board finds that the application of the
14 safe driver insurance plan was in accordance with the standards promulgated by the board and
15 an insurer's provisions of the safe driver insurance plan approved by the commissioner, it shall
16 deny the appeal. If the board finds that the insurer's application of the safe driver insurance
17 plan was not in accordance with said standards and provisions, it shall order the insurer to
18 make the appropriate premium adjustment. The board may designate a person to act as a
19 hearing officer pursuant to this section. The hearing officer shall file a memorandum of his
20 findings or order in the office of the board, and shall send a copy to the insurer and the insured.

21 Any person or company aggrieved by any finding or order of the board may appeal
22 therefrom to the superior court department of the trial court, pursuant to the provisions of
23 section fourteen of chapter thirty A. The appellant shall file with his appeal a duly certified
24 copy of the complaint and of the finding and order thereon, and, if the appeal is taken from a
25 finding and order of the board in respect to a cancellation, the clerk of such court shall
26 forthwith, upon the filing of such an appeal, give written notice of the filing thereof to the
27 registrar of motor vehicle and to the appellee. Said court shall, after such notice to the parties
28 as it deems reasonable, give a summary hearing on such appeal and shall have such
29 jurisdiction in equity to review all questions of fact and law, and to affirm or reverse such
30 finding or order and may make any appropriate decree. Said court or justice may allow such
31 appeal, finding or order to be amended. The decision of the court or justice shall be final. The
32 clerk of such court shall, within two days after entry thereof, send an attested copy of the
33 decree to each of the parties and the commissioner and to said registrar, or his office. Said

34 court or justice may make such order as to costs as it or he deems equitable. Said court may
35 make reasonable rules to secure prompt hearings on such appeals and a speedy disposition
36 thereof.