

SENATE BILL NO. 392

INTRODUCED BY J. COBB

BY REQUEST OF THE STATE AUDITOR

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A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A MOTOR VEHICLE INSURANCE POLICY IS NOT SUBJECT TO CANCELLATION, TERMINATION, OR NONRENEWAL, ~~OR PREMIUM INCREASE~~ BECAUSE OF INJURY OR DAMAGE INCURRED BY THE INSURED OR OPERATOR OF A MOTOR VEHICLE IF THE INJURY OR DAMAGE WAS INCURRED THROUGH A COLLISION ~~OR AVOIDANCE OF A COLLISION~~ WITH A GAME ANIMAL, FUR-BEARING ANIMAL, OR PREDATORY ANIMAL, IF THE INSURED OR OPERATOR IS NOT OTHERWISE AT FAULT; AND AMENDING SECTION 33-18-210, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 33-18-210, MCA, is amended to read:

"33-18-210. Unfair discrimination and rebates prohibited -- property, casualty, and surety insurances. (1) A title, property, casualty, or surety insurer or an employee, representative, or insurance producer of an insurer may not, as an inducement to purchase insurance or after insurance has been effected, pay, allow, or give or offer to pay, allow, or give, directly or indirectly, a:

- (a) rebate, discount, abatement, credit, or reduction of the premium named in the insurance policy;
- (b) special favor or advantage in the dividends or other benefits to accrue on the policy; or
- (c) valuable consideration or inducement not specified in the policy, except to the extent provided for in an applicable filing with the commissioner as provided by law.

(2) An insured named in a policy or an employee of the insured may not knowingly receive or accept, directly or indirectly, a:

- (a) rebate, discount, abatement, credit, or reduction of premium;
- (b) special favor or advantage; or
- (c) valuable consideration or inducement.

(3) An insurer may not make or permit unfair discrimination in the premium or rates charged for insurance, in the dividends or other benefits payable on insurance, or in any other of the terms and conditions of the insurance either between insureds or property having like insuring or risk characteristics

1 or between insureds because of race, color, creed, religion, or national origin.

2 (4) This section may not be construed as prohibiting the payment of commissions or other
3 compensation to ~~du~~ licensed insurance producers or as prohibiting an insurer from allowing or returning
4 lawful dividends, savings, or unabsorbed premium deposits to its participating policyholders, members, or
5 subscribers.

6 (5) An insurer may not make or permit unfair discrimination between individuals or risks of the
7 same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or
8 limiting the amount of insurance coverage on a property or casualty risk because of the geographic location
9 of the risk, unless:

10 (a) the refusal, cancellation, or limitation is for a business purpose that is not a mere pretext for
11 unfair discrimination; or

12 (b) the refusal, cancellation, or limitation is required by law or regulatory mandate.

13 (6) An insurer may not make or permit unfair discrimination between individuals or risks of the
14 same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or
15 limiting the amount of insurance coverage on a residential property risk or on the personal property
16 contained in the residential property, because of the age of the residential property, unless:

17 (a) the refusal, cancellation, or limitation is for a business purpose that is not a mere pretext for
18 unfair discrimination; or

19 (b) the refusal, cancellation, or limitation is required by law or regulatory mandate.

20 (7) An insurer may not refuse to insure, refuse to continue to insure, or limit the amount of
21 coverage available to an individual because of the sex or marital status of the individual. However, an
22 insurer may take marital status into account for the purpose of defining persons eligible for dependents'
23 benefits.

24 (8) An insurer may not terminate or modify coverage or refuse to issue or refuse to renew a
25 property or casualty policy or contract of insurance solely because the applicant or insured or any
26 employee of either is mentally or physically impaired. However, this subsection does not apply to accident
27 and health insurance sold by a casualty insurer, and this subsection may not be interpreted to modify any
28 other provision of law relating to the termination, modification, issuance, or renewal of any insurance
29 policy or contract.

30 (9) An insurer may not refuse to insure, refuse to continue to insure, charge higher rates, or limit

1 the amount of coverage available to an individual based solely on adverse information contained in a
 2 driving record that is 3 years old or older. However, an insurer may provide discounts to an insured based
 3 on favorable aspects of an insured's claims history that is 3 years old or older.

4 (10) An insurer may not charge points or surcharge a private passenger motor vehicle policy
 5 because of a claim submitted under the insured's policy if the insured was not at fault.

6 (11) A motor vehicle policy, as required by 61-6-301, is not subject to cancellation, termination,
 7 OR nonrenewal, or premium increase because of injury or damage incurred by the insured or operator of
 8 a motor vehicle if the injury or damage was incurred through a collision or avoidance of a collision with
 9 a game animal, fur-bearing animal, or predatory animal, as defined in 87-2-101, and if the insured or
 10 operator:

11 (a) is not found to have violated a traffic law or ordinance of the state or a city;

12 (b) is not found negligent or contributorily negligent in a court of law or by an arbitration
 13 proceeding under Title 27, chapter 5; or

14 (c) does not pay damages to another party, whether by settlement or otherwise.

15 ~~(11)~~(12) (a) For the purposes of this subsection ~~(11)~~ (12), "credit history" means that portion of
 16 a credit report or background report that addresses the applicant's or insured's debt payment history or
 17 lack of history but does not include public information including convictions, lawsuits, bankruptcies, or
 18 similar public information.

19 (b) An insurer writing automobile or homeowner insurance may not refuse to insure, refuse to
 20 continue to insure, charge higher rates, or limit the scope or amount of coverage or benefits available to
 21 an individual based solely on the insurer's knowledge of the individual's credit history unless:

22 (i) the insurer possesses substantial documentation that credit history is significantly correlated
 23 with the types of risks insured or to be insured;

24 (ii) the insurer sends written communication to the individual disclosing that the insurance coverage
 25 was declined, not renewed, or limited in scope or amount of coverage or benefits because of credit
 26 information relating to the applicant or the insured; and

27 (iii) upon subsequent request of the individual, mailed within 10 days of receipt of the denial,
 28 nonrenewal, or limitation, the insurer provides the individual with a copy of the credit report at issue or
 29 the name and address of a third party from whom the individual may obtain a copy of the credit report,
 30 within 10 days of receipt of the request.

