

SENATE BILL NO. 208

INTRODUCED BY J. WINDY BOY

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A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE USE OF CREDIT INFORMATION IN WRITING PERSONAL INSURANCE; AMENDING SECTIONS 33-18-210 AND 33-19-205, MCA; REPEALING SECTIONS 33-18-601, 33-18-602, 33-18-603, 33-18-604, 33-18-605, 33-18-606, 33-18-607, 33-18-608, 33-18-609, 33-18-610, 33-18-611, AND 33-18-612, 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 or between insureds because of race, color, creed, religion, or national origin.

(4) This section may not be construed as prohibiting the payment of commissions or other compensation to licensed insurance producers or as prohibiting an insurer from allowing or returning lawful dividends, savings,



1 or unabsorbed premium deposits to its participating policyholders, members, or subscribers.

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

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

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

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

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

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

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

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

24 (9) (a) An insurer may not refuse to insure, refuse to continue to insure, charge higher rates, or limit the  
25 amount of coverage available to an individual under a private passenger automobile policy based solely on  
26 adverse information contained in an individual's driving record that is 3 years old or older. An insurer may provide  
27 discounts to an insured under a private passenger automobile policy based on favorable aspects of an insured's  
28 claims history that is 3 years old or older.

29 (b) An insurer may not use more than the most recent 5 years of loss experience that is available when  
30 determining whether to refuse to insure, refuse to continue to insure, charge higher rates, or limit the amount of

1 coverage available under a commercial automobile policy. An insurer may provide discounts to an insured under  
 2 a commercial automobile policy based on favorable aspects of an insured's claims history that is 5 years old or  
 3 older.

4 (c) As used in subsection (9)(a), "private passenger automobile policy" means an automobile insurance  
 5 policy issued to individuals or families but does not include policies known as commercial automobile policies.

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

8 (11) (a) An insurer writing personal insurance may not refuse to insure or refuse to continue to insure an  
 9 individual, vary rates, or limit the scope or amount of coverage or benefits available to an individual based in any  
 10 part on the insurer's knowledge of the individual's credit history.

11 (b) For the purposes of this section:

12 (i) "credit history" means that portion of a credit report or background report that addresses the applicant's  
 13 or insured's debt payment history or lack of history, including how an applicant or insured uses credit and credit  
 14 scores based on factors such as amounts owed, payment history, length of credit, new credit, and types of credit  
 15 use; and

16 (ii) "personal insurance" means private passenger automobile, homeowner's, motorcycle, mobile home,  
 17 and noncommercial dwelling fire insurance policies and boat, personal watercraft, snowmobile, and recreational  
 18 vehicle policies. These policies must be individually underwritten for personal, family, or household use."

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20 **Section 2.** Section 33-19-205, MCA, is amended to read:

21 **"33-19-205. Investigative consumer reports.** (1) An insurance institution, insurance producer, or  
 22 insurance-support organization may not prepare or request an investigative consumer report about an individual  
 23 in connection with an insurance transaction involving an application for insurance, a policy renewal, a policy  
 24 reinstatement, or a change in insurance benefits unless the insurance institution or insurance producer informs  
 25 the individual:

26 (a) that the individual may request to be interviewed in connection with the preparation of the  
 27 investigative consumer report; and

28 (b) that upon a request pursuant to 33-19-301, the individual is entitled to receive a copy of the  
 29 investigative consumer report.

30 (2) If an investigative consumer report is to be prepared by an insurance institution or insurance

1 producer, the insurance institution or insurance producer shall institute reasonable procedures to conduct a  
2 personal interview requested by an individual.

3 (3) If an investigative consumer report is to be prepared by an insurance-support organization, the  
4 insurance institution or insurance producer desiring the report shall inform the insurance-support organization  
5 as to whether a personal interview has been requested by the individual. The insurance-support organization shall  
6 institute reasonable procedures to conduct the interview, if requested.

7 (4) Nothing in this chapter may be construed to allow an insurer to consider an individual's credit  
8 information in the rating of personal insurance."

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10 NEW SECTION. Section 3. Repealer. The following sections of the Montana Code Annotated are  
11 repealed:

12 33-18-601. Short title.  
13 33-18-602. Purpose.  
14 33-18-603. Scope.  
15 33-18-604. Definitions.  
16 33-18-605. Use of credit information.  
17 33-18-606. Dispute resolution and error correction.  
18 33-18-607. Initial notification.  
19 33-18-608. Adverse action notification.  
20 33-18-609. Filing.  
21 33-18-610. Indemnification.  
22 33-18-611. Sale of policy term information by consumer reporting agency.  
23 33-18-612. Refund for expunged record.

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