

HOUSE BILL NO. 53

INTRODUCED BY A. PERSON

BY REQUEST OF THE STATE AUDITOR

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING AN EXCEPTION FOR MEMBERS OF THE MILITARY AND CERTAIN FAMILY MEMBERS TO THE PROHIBITION ON PROPERTY OR CASUALTY INSURERS PROVIDING DISCOUNTS OR REBATES; AMENDING SECTION 33-18-210, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**NEW SECTION. Section 1. Military discount exception to rebate and discount prohibition for property or casualty insurance.** (1) The prohibition against rebates or discounts provided for in 33-18-210 does not apply with respect to property or casualty insurance sales to:

(a) an active, retired, or honorably separated member of the United States armed forces, including a member of a reserve component as defined in 37-1-138; or

(b) a spouse, surviving spouse, dependent, or heir of a United States armed forces member referred to in subsection (1)(a).

(2) This section does not permit unfair discrimination based on rank or pay grade.

**Section 2.** Section 33-18-210, MCA, is amended to read:

**"33-18-210. Unfair discrimination and rebates prohibited -- for title, property, casualty, and or surety insurances insurance -- exceptions -- limitations.** (1) ~~Except as provided in subsection (4), 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.

1           (2) An Except as provided in subsection (4), an insured named in a policy or an employee of the insured  
2 may not knowingly receive or accept, directly or indirectly, a:

3           (a) rebate, discount, abatement, credit, or reduction of premium;

4           (b) special favor or advantage; or

5           (c) valuable consideration or inducement.

6           (3) An insurer may not make or permit unfair discrimination in the premium or rates charged for  
7 insurance, in the dividends or other benefits payable on insurance, or in any other of the terms and conditions  
8 of the insurance either between insureds or property having like insuring or risk characteristics or between  
9 insureds because of race, color, creed, religion, or national origin.

10           (4) The prohibitions under subsections (1) and (2) do not apply to an active, retired, or honorably  
11 separated member of the United States armed forces or a spouse, surviving spouse, dependent, or heir of a  
12 United States armed forces member as provided in [section 1].

13           ~~(4)~~(5) This section may not be construed as prohibiting the payment of commissions or other  
14 compensation to licensed insurance producers or as prohibiting an insurer from allowing or returning lawful  
15 dividends, savings, or unabsorbed premium deposits to its participating policyholders, members, or subscribers.

16           ~~(5)~~(6) An insurer may not make or permit unfair discrimination between individuals or risks of the same  
17 class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or limiting the  
18 amount of insurance coverage on a property or casualty risk because of the geographic location of the risk,  
19 unless:

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

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

23           ~~(6)~~(7) An insurer may not make or permit unfair discrimination between individuals or risks of the same  
24 class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or limiting the  
25 amount of insurance coverage on a residential property risk or on the personal property contained in the  
26 residential property, because of the age of the residential property, unless:

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

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

30           ~~(7)~~(8) An insurer may not refuse to insure, refuse to continue to insure, or limit the amount of coverage

1 available to an individual because of the sex or marital status of the individual. However, an insurer may take  
2 marital status into account for the purpose of defining persons eligible for dependents' benefits.

3 ~~(8)(9)~~ An insurer may not terminate or modify coverage or refuse to issue or refuse to renew a property  
4 or casualty policy or contract of insurance solely because the applicant or insured or any employee of either is  
5 mentally or physically impaired. However, this subsection does not apply to accident and health insurance sold  
6 by a casualty insurer, and this subsection may not be interpreted to modify any other provision of law relating to  
7 the termination, modification, issuance, or renewal of any insurance policy or contract.

8 ~~(9)(10)~~ (a) An insurer may not refuse to insure, refuse to continue to insure, charge higher rates, or limit  
9 the amount of coverage available to an individual under a private passenger automobile policy based solely on  
10 adverse information contained in an individual's driving record that is 3 years old or older. An insurer may provide  
11 discounts to an insured under a private passenger automobile policy based on favorable aspects of an insured's  
12 claims history that is 3 years old or older.

13 (b) An insurer may not use more than the most recent 5 years of loss experience that is available when  
14 determining whether to refuse to insure, refuse to continue to insure, charge higher rates, or limit the amount of  
15 coverage available under a commercial automobile policy. An insurer may provide discounts to an insured under  
16 a commercial automobile policy based on favorable aspects of an insured's claims history that is 5 years old or  
17 older.

18 (c) As used in subsection ~~(9)(a)~~ ~~(10)(a)~~, "private passenger automobile policy" means an automobile  
19 insurance policy issued to individuals or families but does not include policies known as commercial automobile  
20 policies.

21 ~~(10)(11)~~ An insurer may not charge points or surcharge a private passenger motor vehicle policy because  
22 of a claim submitted under the insured's policy if the insured was not at fault."

23  
24 NEW SECTION. **Section 3. Codification instruction.** [Section 1] is intended to be codified as an  
25 integral part of Title 33, chapter 18, part 2, and the provisions of Title 33, chapter 18, part 2, apply to [section 1].

26  
27 NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

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