

SENATE BILL NO. 279

INTRODUCED BY T. JACOBSON

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A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING CERTAIN UNDERWRITING FACTORS AND PRACTICES FOR PRIVATE PASSENGER MOTOR VEHICLE POLICIES; AMENDING SECTIONS 33-18-210 AND 33-18-603, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

**NEW SECTION. Section 1. Prohibited underwriting and rating practices.** (1) For private passenger automobile policies, an insurer may not issue, renew, or refuse to issue or renew a policy based in whole or in part on the prohibited underwriting and rating factor in subsection (3). This includes but is not limited to prohibiting an insurer from using the measure in subsection (3), based in whole or in part, for classifying plans, rating plans, considering as rating tier placement factors, scoring models, rules, rates, premiums, or any other method of establishing premiums paid by an insured or covered driver.

(2) An insurer may not use the prohibited underwriting and rating factor in subsection (3) to determine the terms of coverage or placement in a particular affiliate within an insurance company group.

(3) For purposes of this section, a prohibited underwriting and rating factor includes any measure of a consumer's price elasticity of demand.

(4) The prohibited underwriting and rating factor in subsection (3) is in addition to other prohibited practices in 33-16-201, 33-18-206, 33-18-210, and 49-2-309.

(5) For purposes of this section, "private passenger automobile policy" means an automobile insurance policy issued to individuals or families but does not include policies known as commercial automobile policies.

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

**"33-18-210. Unfair discrimination and rebates prohibited for title, property, casualty, or surety insurance -- exceptions -- limitations.** (1) Except as provided in subsections (3), (4), and (11)(a), 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:

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

5 (2) Except as provided in subsections (3), (4), and (11)(a), an insured named in a policy or an employee  
6 of the insured may not knowingly receive or accept, directly or indirectly, a:

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

8 (b) special favor or advantage; or

9 (c) valuable consideration or inducement.

10 (3) The prohibitions in subsections (1) and (2) do not apply to a benefit provided for by a telematics  
11 agreement as provided in 33-23-221 through 33-23-226.

12 (4) The prohibitions under subsections (1) and (2) do not apply to an active, retired, or honorably  
13 separated member of the United States armed forces as described in 33-18-217(1)(a) or to a spouse, surviving  
14 spouse, dependent, or heir of a United States armed forces member as provided in 33-18-217.

15 (5) An insurer may not make or permit unfair discrimination in the premium or rates charged for  
16 insurance, in the dividends or other benefits payable on insurance, or in any other of the terms and conditions  
17 of the insurance either between insureds or property having like insuring or risk characteristics or between  
18 insureds because of race, color, creed, religion, or national origin. The provisions of this subsection are in addition  
19 to prohibited underwriting practices for private passenger automobile policies provided for in [section 1].

20 (6) This section may not be construed as prohibiting the payment of commissions or other compensation  
21 to licensed insurance producers or as prohibiting an insurer from allowing or returning lawful dividends, savings,  
22 or unabsorbed premium deposits to its participating policyholders, members, or subscribers.

23 (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 property or casualty risk because of the geographic location of the risk,  
26 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 (8) An insurer may not make or permit unfair discrimination between individuals or risks of the same

1 class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or limiting the  
2 amount of insurance coverage on a residential property risk or on the personal property contained in the  
3 residential property, because of the age of the residential property, unless:

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

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

7 (9) An insurer may not refuse to insure, refuse to continue to insure, or limit the amount of coverage  
8 available to an individual because of the sex or marital status of the individual. However, an insurer may take  
9 marital status into account for the purpose of defining persons eligible for dependents' benefits. The provisions  
10 of this subsection are in addition to prohibited underwriting practices for private passenger automobile policies  
11 provided for in [section 1].

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

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

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

27 ~~(c) As used in subsection (11)(a), "private passenger automobile policy" means an automobile insurance~~  
28 ~~policy issued to individuals or families but does not include policies known as commercial automobile policies.~~

29 (12) An insurer may not charge points or surcharge a private passenger ~~motor vehicle~~ automobile policy  
30 because of a claim submitted under the insured's policy if the insured was not at fault.

1 (13) (a) An insurer that provides personal lines insurance for an insured may not consider the insured's  
 2 inquiries or claims made to any insurer that did not result in a payment by any insurer in considering an  
 3 application for, renewal of, or change in an insurance policy as defined in 33-15-102.

4 (b) This subsection (13) does not apply to an insurer's consideration of a claim that was the basis for a  
 5 criminal or civil insurance fraud action by a state or regulatory enforcement entity.

6 (c) (i) For the purposes of this subsection (13), the term "personal lines insurance" means vehicle  
 7 insurance under 33-1-206(1)(a) and property insurance under 33-1-210 that is sold by an insurer for personal,  
 8 family, or household purposes.

9 (ii) The term does not include disability insurance or insurance for commercial, business, or professional  
 10 services, products, or activities.

11 (14) As used in this section, "private passenger automobile policy" means an automobile insurance policy  
 12 issued to individuals or families but does not include policies known as commercial automobile policies."

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14 **Section 3.** Section 33-18-603, MCA, is amended to read:

15 **"33-18-603. Scope.** (1) This part applies to personal insurance and not to commercial insurance. For  
 16 purposes of this part, "personal insurance" means ~~private passenger automobile~~, home owners, motorcycle,  
 17 mobile home owners, and noncommercial dwelling fire insurance policies and boat, personal watercraft,  
 18 snowmobile, and recreational vehicle policies. These policies must be individually underwritten for personal,  
 19 family, or household use. Other types of insurance may not be included as personal insurance for the purpose  
 20 of this part.

21 (2) This part does not apply to prohibited underwriting practices for private passenger automobile policies  
 22 as provided in [section 1]."

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24 NEW SECTION. **Section 4. Codification instruction.** [Section 1] is intended to be codified as an  
 25 integral part of Title 33, chapter 18, and the provisions of Title 33, chapter 18, apply to [section 1].

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27 NEW SECTION. **Section 5. Applicability.** [This act] applies to private passenger automobile insurance  
 28 policies issued or renewed on or after October 1, 2019.

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