

HOUSE BILL NO. 531

INTRODUCED BY T. JACOBSON

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

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 or otherwise consider any of the prohibited underwriting and rating factors in subsection (3). This includes but is not limited to prohibiting an insurer from using any factor 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 premium paid by an insured or covered driver.

(2) An insurer may not use any of the prohibited underwriting and rating factors 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, prohibited underwriting and rating factors include:

- (a) sex;
- (b) marital status;
- (c) race;
- (d) creed;
- (e) national origin;
- (f) religion;
- (g) consumer credit information or credit score;
- (h) any measure of a consumer's price elasticity of demand;
- (i) employment or occupation;
- (j) the level of income or wealth;
- (k) education level attained; and
- (l) home ownership.

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

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

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

7 **"33-18-210. Unfair discrimination and rebates prohibited -- property, casualty, and surety**
8 **insurances.** (1) A title, property, casualty, or surety insurer or an employee, representative, or insurance
9 producer of an insurer may not, as an inducement to purchase insurance or after insurance has been effected,
10 pay, allow, or give or offer to pay, allow, or give, directly or indirectly, a:

11 (a) rebate, discount, abatement, credit, or reduction of the premium named in the insurance policy;

12 (b) special favor or advantage in the dividends or other benefits to accrue on the policy; or

13 (c) valuable consideration or inducement not specified in the policy, except to the extent provided for in
14 an applicable filing with the commissioner as provided by law.

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

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

18 (b) special favor or advantage; or

19 (c) valuable consideration or inducement.

20 (3) An insurer may not make or permit unfair discrimination in the premium or rates charged for
21 insurance, in the dividends or other benefits payable on insurance, or in any other of the terms and conditions
22 of the insurance either between insureds or property having like insuring or risk characteristics or between
23 insureds because of race, color, creed, religion, or national origin. This subsection is in addition to prohibited
24 underwriting practices for private passenger automobile policies as provided in [section 1].

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

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

1 unless:

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

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

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

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

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

12 (7) An insurer may not refuse to insure, refuse to continue to insure, or limit the amount of coverage
13 available to an individual because of the sex or marital status of the individual. However, an insurer may take
14 marital status into account for the purpose of defining persons eligible for dependents' benefits. This subsection
15 is in addition to prohibited underwriting practices for private passenger automobile policies as provided in [section
16 1].

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

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

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

1 older.

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

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

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

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

10 **"33-18-603. Scope.** ~~This~~ (1) Except as provided in subsection (2), this part applies to personal insurance
11 and not to commercial insurance. For purposes of this part, "personal insurance" means ~~private passenger~~
12 ~~automobile~~, home owners, motorcycle, mobile home owners, and noncommercial dwelling fire insurance policies
13 and boat, personal watercraft, snowmobile, and recreational vehicle policies. These policies must be individually
14 underwritten for personal, family, or household use. Other types of insurance may not be included as personal
15 insurance for the purpose of this part.

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

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

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