

HOUSE BILL NO. 545

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; AND 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 for title, property, casualty, or surety insurance -- exceptions -- limitations -- definitions. (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:

- (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) Except as provided in subsections (3), (4), and (11)(a), 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) The prohibitions in subsections (1) and (2) do not apply to a benefit provided for by a telematics agreement as provided in 33-23-221 through 33-23-226.

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

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

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

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

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

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

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

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

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

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

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

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

1 amount of coverage available to an individual under a private passenger automobile policy based solely on
 2 adverse information contained in an individual's driving record that is 3 years old or older. An insurer may provide
 3 discounts to an insured under a private passenger automobile policy based on favorable aspects of an insured's
 4 claims history that is 3 years old or older.

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

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

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

14 (13) An insurer writing personal insurance may not refuse to insure or refuse to continue to insure an
 15 individual, vary rates, or limit the scope or amount of coverage or benefits available to an individual based on any
 16 part of the insurer's knowledge of the individual's credit history.

17 (14) As used in this section, the following definitions apply:

18 (a) "Credit history" means that portion of a credit report or background report that addresses the
 19 applicant's or insured's debt payment history or lack of history, including how an applicant or insured uses credit
 20 and credit scores on factors such as amounts owed, payment history, length of credit, new credit, and types of
 21 credit use.

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

25 (c) "Private passenger automobile policy" means an automobile insurance policy issued to individuals
 26 or families but does not include policies known as commercial automobile policies."

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

29 **"33-19-205. Investigative consumer reports.** (1) An insurance institution, insurance producer, or
 30 insurance-support organization may not prepare or request an investigative consumer report about an individual

1 in connection with an insurance transaction involving an application for insurance, a policy renewal, a policy
 2 reinstatement, or a change in insurance benefits unless the insurance institution or insurance producer informs
 3 the individual:

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

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

8 (2) If an investigative consumer report is to be prepared by an insurance institution or insurance
 9 producer, the insurance institution or insurance producer shall institute reasonable procedures to conduct a
 10 personal interview requested by an individual.

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

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

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 18 **NEW SECTION. Section 3. Repealer.** The following sections of the Montana Code Annotated are
 19 repealed:

- 20 33-18-601. Short title.
 21 33-18-602. Purpose.
 22 33-18-603. Scope.
 23 33-18-604. Definitions.
 24 33-18-605. Use of credit information.
 25 33-18-606. Dispute resolution and error correction.
 26 33-18-607. Initial notification.
 27 33-18-608. Adverse action notification.
 28 33-18-609. Filing.
 29 33-18-610. Indemnification.
 30 33-18-611. Sale of policy term information by consumer reporting agency.

1 33-18-612. Refund for expunged record.

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