

HOUSE BILL REPORT

EHB 1561

As Amended by the Senate

Title: An act relating to prohibiting discrimination in life insurance based on lawful travel destinations.

Brief Description: Prohibiting discrimination in life insurance based on lawful travel destinations.

Sponsors: By Representatives Appleton, Roach, Santos, Kirby, Schual-Berke, Condotta, Williams and Chase.

Brief History:

Committee Activity:

Financial Institutions & Insurance: 2/8/05, 2/10/05 [DP].

Floor Activity:

Passed House: 3/9/05, 96-0.

Senate Amended.

Passed Senate: 4/7/05, 49-0.

Brief Summary of Engrossed Bill

- Prohibits life insurers from taking underwriting actions or charging different rates based upon the applicant's or insured person's past or future lawful travel unless bona fide statistical differences in risk or exposure have been substantiated.

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: Do pass. Signed by 6 members: Representatives Kirby, Chair; Ericks, Vice Chair; Santos, Schual-Berke, Simpson and Williams.

Minority Report: Do not pass. Signed by 5 members: Representatives Roach, Ranking Minority Member; Tom, Assistant Ranking Minority Member; Newhouse, Serben and Strow.

Staff: Jon Hedegard (786-7127).

Background:

The Office of the Insurance Commissioner (OIC) is responsible for the regulation of life insurance in the state of Washington. The OIC is authorized to regulate both the rates and contracts of the companies doing business in this state.

Under current law, insurers are not allowed to make or permit any unfair discrimination between insureds or subjects of insurance that have "substantially like insuring, risk, and exposure factors, and expense elements" in contract terms, rates or benefits. A life insurer is allowed to "fairly" discriminate between individuals having unequal expectation of life.

Summary of Engrossed Bill:

Generally, a life insurer may not take the following actions if the actions are based upon the applicant or insured person's past or future lawful travel destinations:

- deny or refuse to accept an application for insurance;
- refuse to insure;
- refuse to renew;
- cancel;
- restrict;
- otherwise terminate a policy of insurance; or
- charge a different rate for the same coverage.

A life insurer may exclude or limit coverage of specific lawful travel, or charge a differential rate for the coverage, when bona fide statistical differences in risk or exposure have been substantiated.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment removes a provision regarding how an insurer must substantiate a risk or exposure before the insurer can take an underwriting action or charge a different rate based on travel. The provision required the insurer to demonstrate that the risk or exposure is greater than in all other countries where the insurer does not exclude or limit coverage.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: The bill prohibits discrimination based on lawful travel. This could protect hundreds of thousands of Washingtonians. This is a civil rights issue. The United States Department of State's Advisories do not quantify risk. Entire countries are put on the list when only one small area of the country poses risks. The list is currently at 26 countries, including Israel, Kenya, Nepal, and Indonesia. The United States Department of State's list is being used as a litmus test. The list is not based on statistical data. Insurers can assess the risk of hobbies but risk is not being assessed here. A country or area may be safe to travel today but destabilize in a decade. Insurers 10 years from now could discriminate based on travel that was safe at the time. Israel is statistically safer than the United States. Risk should be

properly assessed and that is not happening today. Past travel is not predictive of future travel. Insurers are not adding riders or charging more based on risk. They are not quantifying risk. They are denying applicants for insurance.

Testimony Against: Insurers do not want to make one risk subsidize another risk. This bill would make those who are lower risks for life insurance pay more to subsidize higher risks. Life insurers are not allowed to reevaluate risk after a policy is issued. It is important to properly assess the risk before the policy is issued. In order to assess risk, insurers ask applicants about possible risk factors. An insurer might ask if the applicant about their hobbies, like mountain climbing or travel. Lifestyle choices do indicate a willingness to accept risk. Only Cuba and North Korea are unlawful travel destinations. There is a different risk going to Denmark than in going to Afghanistan. The bill would eliminate an insurer's ability to properly account for that difference. A compromise may be achievable regarding past travel.

Persons Testifying: (In support) Representative Appleton, prime sponsor; David Cohen and Robert Jacobs, Anti-Defamation League; and Remy Trupin, Jewish Federation.

(Opposed) Mel Sorensen, American Council of Life Insurers and National Association of Insurers and Financial Advisors; and Mike Kappahn, Farmers Insurance.

Persons Signed In To Testify But Not Testifying: None.