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**SUBSTITUTE SENATE BILL 5708**

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**State of Washington**

**61st Legislature**

**2009 Regular Session**

**By** Senate Financial Institutions, Housing & Insurance (originally sponsored by Senators Eide, Franklin, and Kline)

READ FIRST TIME 02/25/09.

1       AN ACT Relating to authorizing usage-based rating factors for motor  
2 vehicle insurance; adding a new section to chapter 48.19 RCW; and  
3 creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5       NEW SECTION. **Sec. 1.** The legislature finds that:

6       (1) Recent increases in gasoline prices have inflated the costs of  
7 transportation, requiring Washington families to spend more of their  
8 income on transportation and further stretching families' limited  
9 budgets;

10       (2) Consistent with chapter 348, Laws of 2007, climate change, due  
11 in part to vehicles emitting greenhouse gases, is expected to have  
12 significant impacts in the Pacific Northwest region in the near and  
13 long-term future, including: Increased temperatures; declining  
14 snowpack; more frequent heavy rainfall and flooding; receding glaciers;  
15 rising sea levels; increased risks to public health due to insect and  
16 rodent-borne diseases; declining salmon populations; and increased  
17 drought and risk of forest fires;

18       (3) Consistent with chapter 14, Laws of 2008, the state intends to

1 take steps to limit and reduce emissions of greenhouse gas and reduce  
2 emissions at the lowest cost to Washington's economy;

3 (4) A reduction in the average vehicle miles traveled per  
4 Washington motorist may lead to a substantive reduction in greenhouse  
5 gas emissions;

6 (5) Providing insurance-based incentives to motorists to drive less  
7 may reduce overall vehicle miles traveled;

8 (6) Current state automotive insurance rates do not necessarily  
9 reflect the actual miles that motorists drive;

10 (7) According to the United States environmental protection agency,  
11 once an individual purchases a car, roughly eighty-eight percent of his  
12 or her transportation costs remain much the same on a monthly basis  
13 regardless of how much or how little he or she drives;

14 (8) The increase in traffic density from a typical additional  
15 driver increases total statewide insurance costs of other drivers;

16 (9) Implementing new programs that offer insurance on a usage basis  
17 may effectively reduce vehicle miles traveled and help the state  
18 achieve its goals to reduce gas emissions;

19 (10) Verifying miles driven ensures insurance rates that more  
20 accurately reflect vehicle miles traveled and provides incentives for  
21 Washington drivers to reduce driving and emissions; and

22 (11) Verifying miles driven will better enable insurance companies  
23 to charge accurate rates based on actual miles driven.

24 NEW SECTION. **Sec. 2.** A new section is added to chapter 48.19 RCW  
25 to read as follows:

26 (1) This section applies to private passenger automobile insurance  
27 and commercial automobile insurance.

28 (2) As used in this section:

29 (a) "Recording device" means an electronic system, and the physical  
30 device or mechanism containing the electronic system, that primarily or  
31 incidental to its primary function, preserves or records, in electronic  
32 form, data collected by sensors or provided by other systems within a  
33 motor vehicle. "Recording device" includes event data recorders,  
34 sensing and diagnostic modules, electronic control modules, automatic  
35 crash notification systems, geographic information systems, and any  
36 other device that records and preserves data that can be accessed  
37 related to the usage of that motor vehicle.

1 (b) "Usage-based algorithm" means any algorithm or formula that is  
2 used in the calculation of insurance rates and is based on data that is  
3 collected from a recording device that is continuously or temporarily  
4 installed in the insured vehicle and is not available from any other  
5 source. A usage-based algorithm may also include adjustments  
6 acceptable to the commissioner that are designed to prevent the  
7 insurer's use of the algorithm from causing rates to be unfairly  
8 discriminatory.

9 (c) "Usage-based insurance" means automobile insurance in which the  
10 premium is based in part on a usage-based algorithm or other  
11 information reflecting how the vehicle was operated in the reported  
12 period including, but not necessarily limited to, information reported  
13 by an insured.

14 (3) Before selling usage-based insurance, an insurer must file the  
15 usage-based insurance with the commissioner and obtain the  
16 commissioner's approval. For usage-based insurance incorporating a  
17 usage-based algorithm:

18 (a) The insurer may include the usage-based algorithm in its rate  
19 filing. In this case, the entire rate filing, including the usage-  
20 based algorithm, is open to public inspection after the filing becomes  
21 effective as provided under RCW 48.19.040(5).

22 (b) Alternatively, the insurer may keep the usage-based algorithm  
23 confidential by filing it separately from its rates and rules. In this  
24 case, RCW 48.19.040(5) does not apply, and the usage-based algorithm is  
25 withheld from public inspection and is considered a trade secret under  
26 RCW 48.02.120(3).

27 (4) The commissioner may adopt rules to implement this section.

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