

E2SSB 5730 - H COMM AMD

By Committee on Business & Financial Services

1 Strike everything after the enacting clause and insert the
2 following:

3 "**Sec. 1.** RCW 48.19.040 and 1994 c 131 s 8 are each amended to read
4 as follows:

5 (1) Every insurer or rating organization shall, before using, file
6 with the commissioner every classifications manual, manual of rules and
7 rates, rating plan, rating schedule, minimum rate, class rate, and
8 rating rule, and every modification of any of the foregoing which it
9 proposes. The insurer need not so file any rate on individually rated
10 risks as described in subdivision (1) of RCW 48.19.030; except that any
11 such specific rate made by a rating organization shall be filed.

12 (2) Every such filing shall indicate the type and extent of the
13 coverage contemplated and must be accompanied by sufficient information
14 to permit the commissioner to determine whether it meets the
15 requirements of this chapter. An insurer or rating organization shall
16 offer in support of any filing:

17 (a) The experience or judgment of the insurer or rating
18 organization making the filing;

19 (b) An exhibit detailing the major elements of operating expense
20 for the types of insurance affected by the filing;

21 (c) An explanation of how investment income has been taken into
22 account in the proposed rates; and

23 (d) Any other information which the insurer or rating organization
24 deems relevant.

25 (3) If an insurer has insufficient loss experience to support its
26 proposed rates, it may submit loss experience for similar exposures of
27 other insurers or of a rating organization.

28 (4) Every such filing shall state its proposed effective date.

29 (5)(a) A filing made pursuant to this chapter shall be exempt from
30 the provisions of RCW 48.02.120(3). However, the filing and all

1 supporting information accompanying it shall be open to public
2 inspection only after the filing becomes effective, except as provided
3 in (b) of this subsection.

4 (b) For the purpose of this section, "usage-based insurance" means
5 private passenger automobile coverage that uses data gathered from any
6 recording device as defined in RCW 46.35.010, or a system, or business
7 method that records and preserves data arising from the actual usage of
8 a motor vehicle to determine rates or premiums. Information in a
9 filing of usage-based insurance about the usage-based component of the
10 rate is confidential and must be withheld from public inspection.

11 (6) Where a filing is required no insurer shall make or issue an
12 insurance contract or policy except in accordance with its filing then
13 in effect, except as is provided by RCW 48.19.090.

14 **Sec. 2.** RCW 42.56.400 and 2011 c 188 s 21 are each amended to read
15 as follows:

16 The following information relating to insurance and financial
17 institutions is exempt from disclosure under this chapter:

18 (1) Records maintained by the board of industrial insurance appeals
19 that are related to appeals of crime victims' compensation claims filed
20 with the board under RCW 7.68.110;

21 (2) Information obtained and exempted or withheld from public
22 inspection by the health care authority under RCW 41.05.026, whether
23 retained by the authority, transferred to another state purchased
24 health care program by the authority, or transferred by the authority
25 to a technical review committee created to facilitate the development,
26 acquisition, or implementation of state purchased health care under
27 chapter 41.05 RCW;

28 (3) The names and individual identification data of either all
29 owners or all insureds, or both, received by the insurance commissioner
30 under chapter 48.102 RCW;

31 (4) Information provided under RCW 48.30A.045 through 48.30A.060;

32 (5) Information provided under RCW 48.05.510 through 48.05.535,
33 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and 48.46.600
34 through 48.46.625;

35 (6) Examination reports and information obtained by the department
36 of financial institutions from banks under RCW 30.04.075, from savings
37 banks under RCW 32.04.220, from savings and loan associations under RCW

1 33.04.110, from credit unions under RCW 31.12.565, from check cashers
2 and sellers under RCW 31.45.030(3), and from securities brokers and
3 investment advisers under RCW 21.20.100, all of which is confidential
4 and privileged information;

5 (7) Information provided to the insurance commissioner under RCW
6 48.110.040(3);

7 (8) Documents, materials, or information obtained by the insurance
8 commissioner under RCW 48.02.065, all of which are confidential and
9 privileged;

10 (9) Confidential proprietary and trade secret information provided
11 to the commissioner under RCW 48.31C.020 through 48.31C.050 and
12 48.31C.070;

13 (10) Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and
14 7.70.140 that, alone or in combination with any other data, may reveal
15 the identity of a claimant, health care provider, health care facility,
16 insuring entity, or self-insurer involved in a particular claim or a
17 collection of claims. For the purposes of this subsection:

18 (a) "Claimant" has the same meaning as in RCW 48.140.010(2).

19 (b) "Health care facility" has the same meaning as in RCW
20 48.140.010(6).

21 (c) "Health care provider" has the same meaning as in RCW
22 48.140.010(7).

23 (d) "Insuring entity" has the same meaning as in RCW 48.140.010(8).

24 (e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);

25 (11) Documents, materials, or information obtained by the insurance
26 commissioner under RCW 48.135.060;

27 (12) Documents, materials, or information obtained by the insurance
28 commissioner under RCW 48.37.060;

29 (13) Confidential and privileged documents obtained or produced by
30 the insurance commissioner and identified in RCW 48.37.080;

31 (14) Documents, materials, or information obtained by the insurance
32 commissioner under RCW 48.37.140;

33 (15) Documents, materials, or information obtained by the insurance
34 commissioner under RCW 48.17.595;

35 (16) Documents, materials, or information obtained by the insurance
36 commissioner under RCW 48.102.051(1) and 48.102.140 (3) and (7)(a)(ii);

37 (17) Documents, materials, or information obtained by the insurance
38 commissioner in the commissioner's capacity as receiver under RCW

1 48.31.025 and 48.99.017, which are records under the jurisdiction and
2 control of the receivership court. The commissioner is not required to
3 search for, log, produce, or otherwise comply with the public records
4 act for any records that the commissioner obtains under chapters 48.31
5 and 48.99 RCW in the commissioner's capacity as a receiver, except as
6 directed by the receivership court;

7 (18) Documents, materials, or information obtained by the insurance
8 commissioner under RCW 48.13.151; (~~and~~)

9 (19) Data, information, and documents provided by a carrier
10 pursuant to section 1, chapter 172, Laws of 2010; and

11 (20) Information in a filing of usage-based insurance about the
12 usage-based component of the rate pursuant to RCW 48.19.040(5)(b).

13 NEW SECTION. Sec. 3. A new section is added to chapter 48.18 RCW
14 to read as follows:

15 (1) For the purposes of this section, "usage-based insurance" has
16 the same meaning as defined in RCW 48.19.040.

17 (2) Location data gathered in connection with usage-based insurance
18 may not be collected without:

19 (a) Written disclosure to the insured:

20 (i) That such information is being collected;

21 (ii) If a recording device, system, or business method has the
22 ability to record or transmit information, that the recording device,
23 system, or business method can record or transmit information, and the
24 type of information that the device may record or transmit; and

25 (b) The insured's consent.

26 (3) Individually identifiable usage information may be used and/or
27 retained for usage-based insurance only:

28 (a) For purposes of determining premiums;

29 (b) Upon a court order or pursuant to discovery provided that any
30 information recorded or transmitted by a recording device, system, or
31 business method and obtained by a court order or pursuant to discovery
32 is private and confidential and is not subject to public disclosure;

33 (c) With the consent of the owner, given for a specific instance of
34 access, for any purpose;

35 (d) For improving motor vehicle safety, including medical research
36 on the human body's reaction to motor vehicle collisions, if the

1 identity of the motor vehicle or the owner or driver of the motor
2 vehicle is not disclosed in connection with the retrieved information;
3 or

4 (e) For determining the need for or facilitating emergency medical
5 response if a motor vehicle collision occurs, provided that the
6 information retrieved is used solely for medical purposes.

7 (4) Individually identifiable usage information from a recording
8 device, system, or business method may not be sold to any third party
9 unless the owner of the information explicitly grants permission for
10 the sale."

11 Correct the title.

EFFECT: Prohibits the collection of location information without disclosure and the consent of the insured. Individually identifiable usage information may only be used for determining premiums or as specifically allowed. Individually identifiable usage information may not be sold except with explicit permission of the owner of the information.

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