

ESHB 2361 - S COMM AMD

By Committee on Financial Institutions, Housing & Insurance

ADOPTED 03/01/2012

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 by an  
6 insurer through a recording device as defined in RCW 46.35.010 to  
7 determine rates or premiums. Information in a filing of usage-based  
8 insurance about the usage-based component of the rate is confidential  
9 and must be withheld from public inspection.

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

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

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

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

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

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

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

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

34 (6) Examination reports and information obtained by the department  
35 of financial institutions from banks under RCW 30.04.075, from savings  
36 banks under RCW 32.04.220, from savings and loan associations under RCW  
37 33.04.110, from credit unions under RCW 31.12.565, from check cashers

1 and sellers under RCW 31.45.030(3), and from securities brokers and  
2 investment advisers under RCW 21.20.100, all of which is confidential  
3 and privileged information;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (17) Documents, materials, or information obtained by the insurance  
37 commissioner in the commissioner's capacity as receiver under RCW  
38 48.31.025 and 48.99.017, which are records under the jurisdiction and

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

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

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

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

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12 On page 1, line 2 of the title, after "inspection;" strike the  
13 remainder of the title and insert "and amending RCW 48.19.040 and  
14 42.56.400."

EFFECT: (1) Removes provision requiring an insurance company to  
disclose and obtain consent from an insured prior to collecting  
location data from the insured;

(2) Removes provision limiting the use and retention of  
individually identifiable information from a recording device;

(3) Removes provision restricting the disclosure of individually  
identifiable usage information retrieved from a recording device to  
third parties.

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