

SENATE BILL REPORT

ESB 5730

As Reported by Senate Committee On:
Financial Institutions, Housing & Insurance, January 18, 2012

Title: An act relating to usage-based automobile insurance and exempting certain usage-based insurance information from public inspection.

Brief Description: Concerning usage-based automobile insurance.

Sponsors: Senator Rockefeller.

Brief History:

Committee Activity: Financial Institutions, Housing & Insurance: 2/15/11, 2/16/11 [DPS-WM, w/oRec]; 1/11/12, 1/18/12 [DP2S, DNP].

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

Majority Report: That Second Substitute Senate Bill No. 5730 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Hobbs, Chair; Benton, Ranking Minority Member; Fain, Keiser and Litzow.

Minority Report: Do not pass.

Signed by Senator Haugen.

Staff: Edward Redmond (786-7471)

Background: The Insurance Commissioner (Commissioner) regulates insurance in Washington, including motor vehicle liability insurance. This oversight includes regulation of rates, forms, financial conditions, claims practices, and other issues related to the business of insurance.

All drivers of vehicles registered in Washington State must be insured under an insurance liability policy, a liability bond, a certificate of deposit, or else be self-insured. In determining rates, motor vehicle insurance companies must give consideration to the impacts of safety and anti-theft devices. Insurance companies are required to file their rate plans with the Commissioner, and these rate plans must not be excessive, inadequate, or unfairly discriminatory.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Presently, no provisions exist in the motor vehicle liability code specifically addressing usage based liability insurance products.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Recommended Second Substitute): The term usage-based insurance is defined as private passenger automobile coverage that uses data gathered by an insurer through a recording device to determine rates or premiums. The provisions regarding the filing of insurance rates open to public inspection are amended. The usage-based insurance component of the rate filing is confidential and must be withheld from public inspection.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Proposed Second Substitute: PRO: This is a simple bill. The entire purpose of the bill is to protect proprietary information from being disclosed to competitors. This is the simplest and least controversial version of the bill that has circulated. In regards to public disclosure issues, that should be left to the Thurston County Court to decide; the Commissioner should not have to spend any legal time on this issue. The risk that arises from listing out what should or should not be exempt from public disclosure is that such language may be sufficient to protect one company's product today, but may be lacking in scope to protect another product that has yet to be developed.

OTHER: The Commissioner is concerned with the trade secret provision because it can generate great legal expenses to the state if the Commissioner misinterprets what is or is not a trade secret. The Commissioner is usually an integral part in such public disclosure disputes. Trade secret as used in this bill is a factual determination, which can be undone by the court. The bill should clearly define what can be kept confidential and what is subject to public disclosure in order to avoid any subjective, and potentially costly, misinterpretation by the Commissioner.

Persons Testifying on Proposed Second Substitute: PRO: Carrie Tellefson, Progressive Insurance; Mel Sorenson, Allstate Insurance Company.

OTHER: Drew Bouton, Marta DeLion, OIC.