
ENGROSSED SUBSTITUTE HOUSE BILL 2361

State of Washington

62nd Legislature

2012 Regular Session

By House Business & Financial Services (originally sponsored by Representatives Kirby, Bailey, Kelley, Parker, Rivers, Buys, Blake, Hurst, Condotta, and Pollet)

READ FIRST TIME 01/31/12.

1 AN ACT Relating to usage-based automobile insurance and exempting
2 certain usage-based insurance information from public inspection;
3 amending RCW 48.19.040 and 42.56.400; and adding a new section to
4 chapter 48.18 RCW.

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

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

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

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

1 (a) The experience or judgment of the insurer or rating
2 organization making the filing;

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

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

7 (d) Any other information which the insurer or rating organization
8 deems relevant.

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

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

13 (5)(a) A filing made pursuant to this chapter shall be exempt from
14 the provisions of RCW 48.02.120(3). However, the filing and all
15 supporting information accompanying it shall be open to public
16 inspection only after the filing becomes effective, except as provided
17 in (b) of this subsection.

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

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

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

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

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

35 (2) Information obtained and exempted or withheld from public
36 inspection by the health care authority under RCW 41.05.026, whether
37 retained by the authority, transferred to another state purchased

1 health care program by the authority, or transferred by the authority
2 to a technical review committee created to facilitate the development,
3 acquisition, or implementation of state purchased health care under
4 chapter 41.05 RCW;

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

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

9 (5) Information provided under RCW 48.05.510 through 48.05.535,
10 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and 48.46.600
11 through 48.46.625;

12 (6) Examination reports and information obtained by the department
13 of financial institutions from banks under RCW 30.04.075, from savings
14 banks under RCW 32.04.220, from savings and loan associations under RCW
15 33.04.110, from credit unions under RCW 31.12.565, from check cashers
16 and sellers under RCW 31.45.030(3), and from securities brokers and
17 investment advisers under RCW 21.20.100, all of which is confidential
18 and privileged information;

19 (7) Information provided to the insurance commissioner under RCW
20 48.110.040(3);

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

24 (9) Confidential proprietary and trade secret information provided
25 to the commissioner under RCW 48.31C.020 through 48.31C.050 and
26 48.31C.070;

27 (10) Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and
28 7.70.140 that, alone or in combination with any other data, may reveal
29 the identity of a claimant, health care provider, health care facility,
30 insuring entity, or self-insurer involved in a particular claim or a
31 collection of claims. For the purposes of this subsection:

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

33 (b) "Health care facility" has the same meaning as in RCW
34 48.140.010(6).

35 (c) "Health care provider" has the same meaning as in RCW
36 48.140.010(7).

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

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

- 1 (11) Documents, materials, or information obtained by the insurance
2 commissioner under RCW 48.135.060;
- 3 (12) Documents, materials, or information obtained by the insurance
4 commissioner under RCW 48.37.060;
- 5 (13) Confidential and privileged documents obtained or produced by
6 the insurance commissioner and identified in RCW 48.37.080;
- 7 (14) Documents, materials, or information obtained by the insurance
8 commissioner under RCW 48.37.140;
- 9 (15) Documents, materials, or information obtained by the insurance
10 commissioner under RCW 48.17.595;
- 11 (16) Documents, materials, or information obtained by the insurance
12 commissioner under RCW 48.102.051(1) and 48.102.140 (3) and (7)(a)(ii);
- 13 (17) Documents, materials, or information obtained by the insurance
14 commissioner in the commissioner's capacity as receiver under RCW
15 48.31.025 and 48.99.017, which are records under the jurisdiction and
16 control of the receivership court. The commissioner is not required to
17 search for, log, produce, or otherwise comply with the public records
18 act for any records that the commissioner obtains under chapters 48.31
19 and 48.99 RCW in the commissioner's capacity as a receiver, except as
20 directed by the receivership court;
- 21 (18) Documents, materials, or information obtained by the insurance
22 commissioner under RCW 48.13.151; (~~and~~)
- 23 (19) Data, information, and documents provided by a carrier
24 pursuant to section 1, chapter 172, Laws of 2010; and
- 25 (20) Information in a filing of usage-based insurance about the
26 usage-based component of the rate pursuant to RCW 48.19.040(5)(b).

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

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

31 (2) Location data may not be collected without:

32 (a) Disclosure to the insured that such information is being
33 collected as required by RCW 46.35.020; and

34 (b) The insured's consent.

35 (3) Individually identifiable usage information retrieved from a
36 recording device may only be used and/or retained:

37 (a) For purposes of determining premiums; or

1 (b) As allowed by law in RCW 46.35.030.

2 (4) Individually identifiable usage information retrieved from a
3 recording device may not be disclosed to any third party except as
4 allowed by RCW 46.35.030.

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