

HOUSE BILL NO. 450

1/23 Introduced  
1/23 Referred to Business & Labor  
1/31 Hearing  
Died in Committee

1 HOUSE BILL NO. 450  
2 INTRODUCED BY Thomas

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS  
5 RELATING TO DRIVER'S LICENSE RECORDS AND AUTOMOBILE  
6 INSURANCE; REQUIRING THE DIVISION OF MOTOR VEHICLES TO KEEP  
7 SEPARATE PERSONAL AND COMMERCIAL DRIVING RECORDS FOR EACH  
8 INDIVIDUAL; PROHIBITING THE USE OF AN INDIVIDUAL'S  
9 COMMERCIAL DRIVING RECORD, EXCEPT INSTANCES OF REVOCATION OR  
10 SUSPENSION OF A LICENSE, FOR PURPOSES OF UNDERWRITING  
11 PERSONAL AUTOMOBILE INSURANCE; AMENDING SECTIONS 33-16-201,  
12 61-6-107, 61-11-101, AND 61-11-102, MCA; AND PROVIDING AN  
13 APPLICABILITY DATE."  
14

15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16 Section 1. Section 33-16-201, MCA, is amended to read:

17 "33-16-201. Standards applicable to rates. The  
18 following standards shall apply to the making and use of  
19 rates pertaining to all classes of insurance to which the  
20 provisions of this chapter are applicable:

21 (1) (a) Rates shall not be excessive or inadequate, as  
22 herein defined, nor shall they be unfairly discriminatory.

23 (b) No rate shall be held to be excessive unless such  
24 rate is unreasonably high for the insurance provided and a  
25 reasonable degree of competition does not exist in the area

1 with respect to the classification to which such rate is  
2 applicable.

3 (c) No rate shall be held to be inadequate unless such  
4 rate is unreasonably low for the insurance provided and the  
5 continued use of such rate endangers the solvency of the  
6 insurer using the same or unless such rate is unreasonably  
7 low for the insurance provided and the use of such rate by  
8 the insurer using same has, or if continued will have, the  
9 effect of destroying competition or creating a monopoly.

10 (2) (a) Consideration shall be given, to the extent  
11 applicable, to past and prospective loss experience within  
12 and outside this state, to revenues and profits from  
13 reserves, to conflagration and catastrophe hazards, if any,  
14 to a reasonable margin for underwriting profit and  
15 contingencies, to past and prospective expenses, both  
16 countrywide and those specially applicable to this state,  
17 and to all other factors, including judgment factors, deemed  
18 relevant within and outside this state. In the case of fire  
19 insurance rates, consideration may be given to the  
20 experience of the fire insurance business during the most  
21 recent 5-year period for which such experience is available.

22 (b) Consideration may also be given in the making and  
23 use of rates to dividends, savings, or unabsorbed premium  
24 deposits allowed or returned by insurers to their  
25 policyholders, members, or subscribers.

1 (3) The systems of expense provisions included in the  
 2 rates for use by any insurer or group of insurers may differ  
 3 from those of other insurers or groups of insurers to  
 4 reflect the operating methods of any such insurer or group  
 5 with respect to any kind of insurance or with respect to any  
 6 subdivision or combination thereof.

7 (4) Risks may be grouped by classifications for the  
 8 establishment of rates and minimum premiums. Classification  
 9 rates may be modified to produce rates for individual risks  
 10 in accordance with rating plans which establish standards  
 11 for measuring variations in hazards or expense provisions,  
 12 or both. Such standards may measure any difference among  
 13 risks that have a probable effect upon losses or expenses.  
 14 Classifications or modifications of classifications of risks  
 15 may be established, based upon size, expense, management,  
 16 individual experience, location or dispersion of hazard, or  
 17 any other reasonable considerations, ~~except that.~~ However,  
 18 no special risk classification may be established based on  
 19 anything adverse to the insured in a driving record which is  
 20 3 years old or older or, in the case of personal automobile  
 21 insurance, on anything reflected in an individual's  
 22 commercial driving record. Such classifications and  
 23 modifications shall apply to all risks under the same or  
 24 substantially the same circumstances or conditions."

25 Section 2. Section 61-6-107, MCA, is amended to read:

1 "61-6-107. Division to furnish operating record.  
 2 (1) The division shall upon request furnish any person a  
 3 certified abstract of the operating record of any person  
 4 subject to the provisions of this part, which abstract shall  
 5 also fully designate the motor vehicles, if any, registered  
 6 in the name of such person and if there shall be no record  
 7 of any conviction of such person of violating any law  
 8 relating to the operation of a motor vehicle or of any  
 9 injury or damage caused by such person, the division shall  
 10 so certify. A fee of \$2 shall be paid for said certified  
 11 abstract.

12 (2) A person requesting a certified abstract must  
 13 indicate in the request whether the information contained in  
 14 the abstract is intended to be used for purposes of  
 15 underwriting automobile insurance of an individual or of an  
 16 employer. If the information is intended to be used for  
 17 purposes of underwriting personal automobile insurance, the  
 18 division may not include the individual's commercial driving  
 19 record in the abstract. If the information is intended to be  
 20 used for purposes of underwriting automobile insurance of an  
 21 employer, the division shall include the personal and  
 22 commercial driving record of each individual to be covered  
 23 by the insurance policy."

24 Section 3. Section 61-11-101, MCA, is amended to read:  
 25 "61-11-101. Report of convictions and suspension or

1 revocation of driver's licenses -- surrender of licenses.  
 2 (1) Whenever any person is convicted of any offense for  
 3 which chapter 5 makes mandatory the revocation of the  
 4 operator's or chauffeur's license of such person by the  
 5 division, the court in which such conviction is had shall  
 6 require the surrender to it of all operator's and  
 7 chauffeur's licenses then held by the person so convicted.  
 8 The court shall thereupon, within 5 days, forward the  
 9 license to the division and at the same time forward a  
 10 record of such conviction to the division, providing that if  
 11 such person does not possess a driver's license the court  
 12 shall so indicate in its report to the division. The court  
 13 shall indicate in the record whether the conviction should  
 14 be recorded in the individual's commercial driving record.  
 15 (2) Every court having jurisdiction over offenses  
 16 committed under any act of this state or municipal ordinance  
 17 regulating the operation of motor vehicles on highways shall  
 18 forward, within 5 days, to the division a record of the  
 19 conviction or forfeiture of bail, not vacated, of any person  
 20 in the court for a violation of any such laws, other than  
 21 regulations governing standing or parking, and may recommend  
 22 the suspension of the operator's or chauffeur's license of  
 23 the person so convicted. The court may also recommend that  
 24 the division issue a restricted probationary license in lieu  
 25 of the suspension required in 61-5-208(2) on the condition

1 that the individual attend a driver improvement school or an  
 2 alcohol treatment program if one is available. The division  
 3 shall issue a restricted probationary license unless the  
 4 person otherwise is not entitled to a Montana operator's or  
 5 chauffeur's license. The court shall indicate in the record  
 6 whether the conviction or forfeiture of bail should be  
 7 recorded in the individual's commercial driving record.

8 (3) Any court or other agency of this state, or a  
 9 subdivision thereof, which has jurisdiction to take any  
 10 action suspending, revoking, or otherwise limiting a license  
 11 to drive shall report any such action and the adjudication  
 12 upon which it is based to the division within 5 days on  
 13 forms furnished by the division."

14 Section 4. Section 61-11-102, MCA, is amended to read:  
 15 "61-11-102. Records to be kept by the division. (1)  
 16 The division shall file every application for a driver's  
 17 license received by it and shall maintain suitable indexes  
 18 containing, in alphabetical order:

19 (a) all applications denied and on each thereof note  
 20 the reasons for such denial;

21 (b) all applications granted; and

22 (c) the name of every licensee whose license has been  
 23 suspended or revoked by the division and after each such  
 24 name note the reasons for such action.

25 (2) The division shall also file all accident reports

1 and abstracts of court records of convictions received by it  
 2 under the laws of this state and in connection therewith  
 3 maintain convenient records or make suitable notations in  
 4 order that an individual record of each licensee showing the  
 5 convictions of such licensee and certain traffic accidents  
 6 in which he has been involved shall be readily ascertainable  
 7 and available for the consideration of the division upon any  
 8 application for renewal of license and at other suitable  
 9 times. The division shall maintain a commercial record for  
 10 each licensee that separately designates offenses which were  
 11 committed by the licensee as an employed vehicle driver  
 12 while on his employer's business, as indicated by the  
 13 court's record of conviction or forfeiture of bail, except  
 14 that offenses for which his license was revoked or suspended  
 15 must be included in the licensee's personal record. No  
 16 record of involvement in a traffic accident may be entered  
 17 on a licensee's record unless he was convicted, as defined  
 18 in 61-11-203, for an act causally related to the accident.

19 (3) The division is further authorized, upon receiving  
 20 a record of the conviction in this state of a nonresident  
 21 driver of a motor vehicle of any offense under the motor  
 22 vehicle laws of this state, to forward a certified copy of  
 23 such record to the motor vehicle administrator in the state  
 24 wherein the person so convicted is a resident."

25 NEW SECTION. Section 5. Extension of authority. Any

1 existing authority of the commissioner of insurance to make  
 2 rules on the subject of the provisions of this act is  
 3 extended to the provisions of this act.

4 NEW SECTION. Section 6. Applicability. This act  
 5 applies to offenses committed on or after October 1, 1985.

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