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House BILL NO. 387  
Wm E Boharski Frank CRINDZ  
Siler

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT AN INSURER MAY GIVE PREMIUM DISCOUNTS TO AN INSURED BASED UPON FAVORABLE ASPECTS OF THE INSURED'S DRIVING RECORD; AND AMENDING SECTIONS 33-16-201 AND 33-18-210, MCA."

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

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

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

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

(b) ~~No~~ A rate shall may not be held to be excessive unless ~~such~~ the rate is unreasonably high for the insurance provided and a reasonable degree of competition does not exist in the area with respect to the classification to which ~~such~~ the rate is applicable.

(c) ~~No~~ A rate shall may not be held to be inadequate unless ~~such~~ the rate is unreasonably low for the insurance provided and the continued use of ~~such~~ the rate endangers the solvency of the insurer using the ~~same~~ rate or unless ~~such~~ the rate is unreasonably low for the insurance provided and the use of ~~such~~ the rate by the insurer ~~using same~~ has, or if continued will have, the effect of destroying competition or creating a monopoly.

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

(b) Consideration may also be given in the making and use of rates to dividends, savings, or

1 unabsorbed premium deposits allowed or returned by insurers to their policyholders, members, or  
2 subscribers.

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

7 (4) Risks may be grouped by classifications for the establishment of rates and minimum premiums.  
8 Classification rates may be modified to produce rates for individual risks in accordance with rating plans  
9 ~~which that~~ establish standards for measuring variations in hazards or expense provisions, or both. ~~Such~~ The  
10 standards may measure any difference among risks that have a probable effect upon losses or expenses.  
11 Classifications or modifications of classifications of risks may be established, based upon size, expense,  
12 management, individual experience, location or dispersion of hazard, or any other reasonable  
13 considerations, ~~except that~~ Special risk classifications may be established based upon favorable aspects  
14 of an insured's driving record that is 3 years old or older. However, no a special risk classification may not  
15 be established based on anything adverse to the insured in a driving record which that is 3 years old or  
16 older. Such classifications Classifications and modifications shall apply to all risks under the same or  
17 substantially the same circumstances or conditions."  
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19 **Section 2.** Section 33-18-210, MCA, is amended to read:

20 **"33-18-210. Unfair discrimination and rebates prohibited -- property, casualty, and surety**  
21 **insurances.** (1) A title, property, casualty, or surety insurer or an employee, representative, or insurance  
22 producer of an insurer may not, as an inducement to purchase insurance or after insurance has been  
23 effected, pay, allow, or give or offer to pay, allow, or give, directly or indirectly, a:

24 (a) rebate, discount, abatement, credit, or reduction of the premium named in the insurance policy;  
25 (b) special favor or advantage in the dividends or other benefits to accrue on the policy; or  
26 (c) valuable consideration or inducement not specified in the policy, except to the extent provided  
27 for in an applicable filing with the commissioner as provided by law.

28 (2) An insured named in a policy or an employee of the insured may not knowingly receive or  
29 accept, directly or indirectly, a:

30 (a) rebate, discount, abatement, credit, or reduction of premium;

1 (b) special favor or advantage; or

2 (c) valuable consideration or inducement.

3 (3) An insurer may not make or permit unfair discrimination in the premium or rates charged for  
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5 conditions of the insurance either between insureds or property having like insuring or risk characteristics  
6 or between insureds because of race, color, creed, religion, or national origin.

7 (4) This section may not be construed as prohibiting the payment of commissions or other  
8 compensation to duly licensed insurance producers or as prohibiting an insurer from allowing or returning  
9 lawful dividends, savings, or unabsorbed premium deposits to its participating policyholders, members, or  
10 subscribers.

11 (5) An insurer may not make or permit unfair discrimination between individuals or risks of the  
12 same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or  
13 limiting the amount of insurance coverage on a property or casualty risk because of the geographic location  
14 of the risk, unless:

15 (a) the refusal, cancellation, or limitation is for a business purpose that is not a mere pretext for  
16 unfair discrimination; or

17 (b) the refusal, cancellation, or limitation is required by law or regulatory mandate.

18 (6) An insurer may not make or permit unfair discrimination between individuals or risks of the  
19 same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or  
20 limiting the amount of insurance coverage on a residential property risk, or on the personal property  
21 contained ~~therein~~, in the residence because of the age of the residential property, unless:

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23 unfair discrimination; or

24 (b) the refusal, cancellation, or limitation is required by law or regulatory mandate.

25 (7) An insurer may not refuse to insure, refuse to continue to insure, or limit the amount of  
26 coverage available to an individual because of the sex or marital status of the individual, ~~but~~. However, an  
27 insurer may take marital status into account for the purpose of defining persons eligible for dependents'  
28 benefits.

29 (8) An insurer may not terminate or modify coverage or refuse to issue or refuse to renew a  
30 property or casualty policy or contract of insurance solely because the applicant or insured or any employee

1 of either is mentally or physically impaired, ~~however~~ However, this subsection does not apply to accident  
2 and health insurance sold by a casualty insurer, and this subsection may not be interpreted to modify any  
3 other provision of law relating to the termination, modification, issuance, or renewal of any insurance policy  
4 or contract.

5 (9) An insurer may not refuse to insure, refuse to continue to insure, charge higher rates, or limit  
6 the amount of coverage available to an individual based solely on adverse information contained in a driving  
7 record that is 3 years old or older. However, an insurer may provide discounts to an insured based on  
8 favorable aspects of an insured's driving record that is 3 years old or older.

9 (10) An insurer may not charge points or surcharge a private passenger motor vehicle policy  
10 because of a claim submitted under the insured's policy if the insured was not at fault."

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HOUSE BILL NO. 387

INTRODUCED BY BOHARSKI, S. SMITH, GRINDE, SLITER

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT AN INSURER MAY GIVE PREMIUM DISCOUNTS TO AN INSURED BASED UPON FAVORABLE ASPECTS OF THE INSURED'S ~~DRIVING RECORD~~ CLAIMS HISTORY; REQUIRING THAT RISK CLASSIFICATIONS AND MODIFICATIONS BE COMMUNICATED IN WRITING AT THE TIME OF APPLICATION; AND AMENDING SECTIONS 33-16-201 AND 33-18-210, MCA."

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(c) ~~No~~ A rate ~~shall~~ may not be held to be inadequate unless ~~such~~ the rate is unreasonably low for the insurance provided and the continued use of ~~such~~ the rate endangers the solvency of the insurer using the ~~same rate~~ or unless ~~such~~ the rate is unreasonably low for the insurance provided and the use of ~~such~~ the rate by the insurer ~~using same~~ has, or if continued will have, the effect of destroying competition or creating a monopoly.

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1 the most recent 5-year period for which ~~such~~ experience is available.

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27 (a) rebate, discount, abatement, credit, or reduction of the premium named in the insurance policy;

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29 (c) valuable consideration or inducement not specified in the policy, except to the extent provided  
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14           (5) An insurer may not make or permit unfair discrimination between individuals or risks of the  
15 same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or  
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21           (6) An insurer may not make or permit unfair discrimination between individuals or risks of the  
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16 limiting the amount of insurance coverage on a property or casualty risk because of the geographic location  
17 of the risk, unless:

18 (a) the refusal, cancellation, or limitation is for a business purpose that is not a mere pretext for  
19 unfair discrimination; or

20 (b) the refusal, cancellation, or limitation is required by law or regulatory mandate.

21 (6) An insurer may not make or permit unfair discrimination between individuals or risks of the  
22 same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or  
23 limiting the amount of insurance coverage on a residential property risk, or on the personal property  
24 contained ~~therein~~, in the residence because of the age of the residential property, unless:

25 (a) the refusal, cancellation, or limitation is for a business purpose that is not a mere pretext for  
26 unfair discrimination; or

27 (b) the refusal, cancellation, or limitation is required by law or regulatory mandate.

28 (7) An insurer may not refuse to insure, refuse to continue to insure, or limit the amount of  
29 coverage available to an individual because of the sex or marital status of the individual, ~~but~~. However, an  
30 insurer may take marital status into account for the purpose of defining persons eligible for dependents'

1 benefits.

2 (8) An insurer may not terminate or modify coverage or refuse to issue or refuse to renew a  
3 property or casualty policy or contract of insurance solely because the applicant or insured or any employee  
4 of either is mentally or physically impaired; ~~however~~ However, this subsection does not apply to accident  
5 and health insurance sold by a casualty insurer, and this subsection may not be interpreted to modify any  
6 other provision of law relating to the termination, modification, issuance, or renewal of any insurance policy  
7 or contract.

8 (9) An insurer may not refuse to insure, refuse to continue to insure, charge higher rates, or limit  
9 the amount of coverage available to an individual based solely on adverse information contained in a driving  
10 record that is 3 years old or older. However, an insurer may provide discounts to an insured based on  
11 favorable aspects of an insured's ~~driving record~~ CLAIMS HISTORY that is 3 years old or older.

12 (10) An insurer may not charge points or surcharge a private passenger motor vehicle policy  
13 because of a claim submitted under the insured's policy if the insured was not at fault."

14

-END-