

FINAL BILL REPORT

ESHB 2361

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Synopsis as Enacted

Brief Description: Concerning usage-based automobile insurance.

Sponsors: House Committee on Business & Financial Services (originally sponsored by Representatives Kirby, Bailey, Kelley, Parker, Rivers, Buys, Blake, Hurst, Condotta and Pollet).

House Committee on Business & Financial Services
Senate Committee on Financial Institutions, Housing & Insurance

Background:

Every person in Washington who operates a motor vehicle must be insured under an insurance liability policy, a liability bond, or a certificate of deposit or be self-insured. There are minimum amounts of liability coverage required by the financial responsibility statutes.

The Insurance Commissioner (Commissioner) oversees the business of insurance in this state. This includes the regulation of insurance rates and policies. Automobile insurance rates and forms are filed with the Commissioner and must be approved by the Commissioner prior to use by an insurer. If the Commissioner determines that filed rates are not excessive, inadequate, or unfairly discriminatory, then the Commissioner must approve them.

Automobile rates may be adjusted for any factor that is not prohibited by law. Rates are often adjusted according to factors including the driver's age, sex, marital status, miles driven, claims history, geographical area, credit history, and the make, model, and year of a vehicle. The Insurance Code (Code) requires that certain safety features and anti-theft devices must receive due consideration in a rate filing by an insurer. A senior who takes a motor vehicle accident prevention course must receive a premium reduction in a rate filing by an insurer.

The Code has provisions exempting certain information, including information filed in support of rate filings, from public inspection. Other provisions of the Code provide an exception to the exemption from public inspection for supporting information for automobile insurance rate filings. The supporting information is available for public inspection after a rate is approved and the filing becomes effective.

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.

One area where the supporting information does not become public is when an "insurance score" or "credit score" model is used. A model that utilizes credit history as a rating factor must be filed for approval of the Commissioner but, by law, is not subject to public disclosure. There are specific disclosure requirements for actions taken by an insurer based on credit history.

"Usage-based insurance" is not defined in the Code. The phrase is sometimes used to refer to a product where an insurer rates a policyholder based on how a vehicle was driven. This may include the amount of miles, location of the driving, time the miles are driven, speed, and other driving characteristics. Generally, some type of recorder is required to supply the insurer with the information used in rating. The insurer may apply penalties or rewards based on that information which can lead to a higher or lower rate.

Event Data Recorders.

In 2009 a law was enacted that regulated event data recorders (EDR law) in automobiles. A recording device is defined as an electronic system in a vehicle that preserves or records data collected by sensors or provided by other systems in the vehicle. Data on a recording device may not be accessed by anyone other than the owner of the vehicle except in the following situations:

- upon a court order for the data or pursuant to discovery;
- when consent is given by the owner or someone who would reasonably be assumed to have the consent of the owner;
- for research to improve vehicle safety as long as the owner and the vehicle remain anonymous;
- to respond to a medical emergency; and
- when the data is being used to fulfill a subscription services agreement.

Violations of the EDR law are per se violations of the Consumer Protection Act. It is a misdemeanor to improperly access data or to the sell any data from a recording device to a third party without the explicit permission of the owner.

Summary:

"Usage-based insurance" is private passenger automobile coverage that uses data from any recording device or a system or business method that records and preserves data arising from the actual usage of a motor vehicle to determine rates or premiums.

Information regarding the usage-based component in a filing of usage-based insurance is confidential and must be withheld from public inspection.

Location based data may not be collected by an insurer without:

- disclosure to the insured that such information is being collected; and
- the insured's consent.

Individually identifiable usage information retrieved from a recording device may only be used or retained:

- for purposes of determining premium; or
- as allowed by the EDR law.

Individually identifiable usage information retrieved from a recording device may not be disclosed to any third party except as allowed by the EDR law.

Votes on Final Passage:

House	73	23	
Senate	38	10	(Senate amended)
House			(House refused to concur)
Senate	36	12	(Senate receded)

Effective: June 7, 2012