

---

HOUSE BILL 1318

---

State of Washington

62nd Legislature

2011 Regular Session

By Representatives Kirby and Darneille

Read first time 01/18/11. Referred to Committee on Business & Financial Services.

1 AN ACT Relating to using credit history, education, and income for  
2 insurance purposes; amending RCW 48.18.545 and 48.19.035; adding a new  
3 section to chapter 48.18 RCW; adding a new section to chapter 48.19  
4 RCW; and providing an effective date.

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

6 **Sec. 1.** RCW 48.18.545 and 2002 c 360 s 1 are each amended to read  
7 as follows:

8 (1) For the purposes of this section:

9 (a) (~~"Adverse action" has the same meaning as defined in the fair~~  
10 ~~credit reporting act, 15 U.S.C. Sec. 1681 et seq. Adverse actions~~  
11 ~~include, but are not limited to:~~

12 ~~(i) Cancellation, denial, or nonrenewal of personal insurance~~  
13 ~~coverage;~~

14 ~~(ii) Charging a higher insurance premium for personal insurance~~  
15 ~~than would have been offered if the credit history or insurance score~~  
16 ~~had been more favorable, whether the charge is by:~~

17 ~~(A) Application of a rating rule;~~

18 ~~(B) Assignment to a rating tier that does not have the lowest~~  
19 ~~available rates; or~~

1 ~~(C) Placement with an affiliate company that does not offer the~~  
2 ~~lowest rates available to the consumer within the affiliate group of~~  
3 ~~insurance companies; or~~

4 ~~(iii) Any reduction, adverse, or unfavorable change in the terms of~~  
5 ~~coverage or amount of any personal insurance due to a consumer's credit~~  
6 ~~history or insurance score. A reduction, adverse, or unfavorable~~  
7 ~~change in the terms of coverage occurs when:~~

8 ~~(A) Coverage provided to the consumer is not as broad in scope as~~  
9 ~~coverage requested by the consumer but available to other insureds of~~  
10 ~~the insurer or any affiliate; or~~

11 ~~(B) The consumer is not eligible for benefits such as dividends~~  
12 ~~that are available through affiliate insurers.~~

13 ~~(b) "Affiliate" has the same meaning as defined in RCW~~  
14 ~~48.31B.005(1).~~

15 ~~(e)) "Consumer" means an individual policyholder or applicant for~~  
16 ~~insurance.~~

17 ~~((d) "Consumer report" has the same meaning as defined in the fair~~  
18 ~~credit reporting act, 15 U.S.C. Sec. 1681 et seq.~~

19 ~~(e)) (b) "Credit history" means any written, oral, or other~~  
20 ~~communication of any information ((by a consumer reporting agency))~~  
21 ~~bearing on a consumer's creditworthiness, credit standing, or credit~~  
22 ~~capacity ((that is used or expected to be used, or collected in whole~~  
23 ~~or in part, for the purpose of serving as a factor in determining~~  
24 ~~personal insurance premiums or eligibility for coverage)), other than~~  
25 ~~the insurer's own record of premium payments made to it by a consumer.~~

26 ~~((f)) (c) "Deny" means an insurer refuses to offer insurance~~  
27 ~~coverage to a consumer.~~

28 ~~(d) "Education" means (i) enrollment in a public or private school,~~  
29 ~~college, or university; (ii) receiving home-based instruction; or (iii)~~  
30 ~~completion of a grade level, a diploma, or a degree. "Education" does~~  
31 ~~not mean completion of a traffic safety course.~~

32 ~~(e) "Insurance score" means a number or rating that is derived from~~  
33 ~~an algorithm, computer application, model, or other process that is~~  
34 ~~based in whole or in part on credit history.~~

35 ~~((g)) (f) "Personal insurance" means:~~

36 ~~(i) Private passenger automobile coverage;~~

37 ~~(ii) Homeowner's coverage, including mobile homeowners,~~  
38 ~~manufactured homeowners, condominium owners, and renter's coverage;~~

- 1 (iii) Dwelling property coverage;
- 2 (iv) Earthquake coverage for a residence or personal property;
- 3 (v) Personal liability and theft coverage;
- 4 (vi) Personal inland marine coverage; and
- 5 (vii) Mechanical breakdown coverage for personal auto or home
- 6 appliances.

7 ~~((h) "Tier" means a category within a single insurer into which~~  
8 ~~insureds with substantially like insuring, risk or exposure factors,~~  
9 ~~and expense elements are placed for purposes of determining rate or~~  
10 ~~premium.~~

11 ~~(2) An insurer that takes adverse action against a consumer based~~  
12 ~~in whole or in part on credit history or insurance score shall provide~~  
13 ~~written notice to the applicant or named insured. The notice must~~  
14 ~~state the significant factors of the credit history or insurance score~~  
15 ~~that resulted in the adverse action. The insurer shall also inform the~~  
16 ~~consumer that the consumer is entitled to a free copy of their consumer~~  
17 ~~report under the fair credit reporting act.~~

18 ~~(3)) (2) An insurer ((shall)) may not deny, cancel, or nonrenew~~  
19 ~~personal insurance based in whole or in part on a consumer's credit~~  
20 ~~history ((or)), insurance score, education, or income. ((An offer of~~  
21 ~~placement with an affiliate insurer does not constitute cancellation or~~  
22 ~~nonrenewal under this section.~~

23 ~~(4) An insurer may use credit history to deny personal insurance~~  
24 ~~only in combination with other substantive underwriting factors. For~~  
25 ~~the purposes of this subsection:~~

26 ~~(a) "Deny" means an insurer refuses to offer insurance coverage to~~  
27 ~~a consumer;~~

28 ~~(b) An offer of placement with an affiliate insurer does not~~  
29 ~~constitute denial of coverage; and~~

30 ~~(c) An insurer may reject an application when coverage is not bound~~  
31 ~~or cancel an insurance contract within the first sixty days after the~~  
32 ~~effective date of the contract.~~

33 ~~(5) Insurers shall not deny personal insurance coverage based on:~~

34 ~~(a) The absence of credit history or the inability to determine the~~  
35 ~~consumer's credit history, if the insurer has received accurate and~~  
36 ~~complete information from the consumer;~~

37 ~~(b) The number of credit inquiries;~~

1 ~~(c) Credit history or an insurance score based on collection~~  
2 ~~accounts identified with a medical industry code;~~

3 ~~(d) The initial purchase or finance of a vehicle or house that adds~~  
4 ~~a new loan to the consumer's existing credit history, if evident from~~  
5 ~~the consumer report; however, an insurer may consider the bill payment~~  
6 ~~history of any loan, the total number of loans, or both;~~

7 ~~(e) The consumer's use of a particular type of credit card, charge~~  
8 ~~card, or debit card; or~~

9 ~~(f) The consumer's total available line of credit; however, an~~  
10 ~~insurer may consider the total amount of outstanding debt in relation~~  
11 ~~to the total available line of credit.~~

12 ~~(6)(a) If disputed credit history is used to determine eligibility~~  
13 ~~for coverage and a consumer is placed with an affiliate that charges~~  
14 ~~higher premiums or offers less favorable policy terms:~~

15 ~~(i) The insurer shall reissue or rerate the policy retroactive to~~  
16 ~~the effective date of the current policy term; and~~

17 ~~(ii) The policy, as reissued or rerated, shall provide premiums and~~  
18 ~~policy terms the consumer would have been eligible for if accurate~~  
19 ~~credit history had been used to determine eligibility.~~

20 ~~(b) This subsection only applies if the consumer resolves the~~  
21 ~~dispute under the process set forth in the fair credit reporting act~~  
22 ~~and notifies the insurer in writing that the dispute has been resolved.~~

23 ~~(7)) (3) The commissioner may adopt rules to implement this~~  
24 ~~section.~~

25 ~~((8) This section applies to all personal insurance policies~~  
26 ~~issued or renewed after January 1, 2003.))~~

27 NEW SECTION. Sec. 2. A new section is added to chapter 48.18 RCW  
28 to read as follows:

29 The legislature finds that the practices covered by RCW 48.18.545  
30 are matters vitally affecting the public interest for the purpose of  
31 applying the consumer protection act, chapter 19.86 RCW. A violation  
32 of RCW 48.18.545 is not reasonable in relation to the development and  
33 preservation of business and is an unfair or deceptive act in trade or  
34 commerce and an unfair method of competition for the purpose of  
35 applying the consumer protection act, chapter 19.86 RCW.

1       **Sec. 3.** RCW 48.19.035 and 2004 c 86 s 1 are each amended to read  
2 as follows:

3       (1) For the purposes of this section:

4       (a) ~~(( "Affiliate" has the same meaning as defined in RCW  
5 48.31B.005(1)).~~

6       ~~(b))~~ "Consumer" means an individual policyholder or applicant for  
7 insurance.

8       ~~((c))~~ (b) "Credit history" means any written, oral, or other  
9 communication of any information ((by a consumer reporting agency))  
10 bearing on a consumer's creditworthiness, credit standing, or credit  
11 capacity ((that is used or expected to be used, or collected in whole  
12 or in part, for the purpose of serving as a factor in determining  
13 personal insurance premiums or eligibility for coverage)), other than  
14 the insurer's own record of premium payments made to it by a consumer.

15       ~~((d))~~ (c) "Education" means (i) enrollment in a public or private  
16 school, college, or university; (ii) receiving home-based instruction;  
17 or (iii) completion of a grade level, a diploma, or a degree.  
18 "Education" does not mean completion of a traffic safety course.

19       (d) "Insurance score" means a number or rating that is derived from  
20 an algorithm, computer application, model, or other process that is  
21 based in whole or in part on credit history.

22       (e) "Personal insurance" means:

23       (i) Private passenger automobile coverage;

24       (ii) Homeowner's coverage, including mobile homeowners,  
25 manufactured homeowners, condominium owners, and renter's coverage;

26       (iii) Dwelling property coverage;

27       (iv) Earthquake coverage for a residence or personal property;

28       (v) Personal liability and theft coverage;

29       (vi) Personal inland marine coverage; and

30       (vii) Mechanical breakdown coverage for personal auto or home  
31 appliances.

32       (2)~~((a))~~ A consumer's credit history ((shall)), education, or  
33 income may not be used in any manner to determine personal insurance  
34 rates, premiums, or eligibility for coverage ((unless the insurance  
35 scoring models are filed with the commissioner. Insurance scoring  
36 models include all attributes and factors used in the calculation of an  
37 insurance score. RCW 48.19.040(5) does not apply to any information  
38 filed under this subsection, and the information shall be withheld from

1 ~~public inspection and kept confidential by the commissioner. All~~  
2 ~~information filed under this subsection shall be considered trade~~  
3 ~~secrets under RCW 48.02.120(3). Information filed under this~~  
4 ~~subsection may be made public by the commissioner for the sole purpose~~  
5 ~~of enforcement actions taken by the commissioner.~~

6 ~~(b) Each insurer that uses credit history or an insurance score to~~  
7 ~~determine personal insurance rates, premiums, or eligibility for~~  
8 ~~coverage must file all rates and rating plans for that line of coverage~~  
9 ~~with the commissioner. This requirement applies equally to a single~~  
10 ~~insurer and two or more affiliated insurers. RCW 48.19.040(5) applies~~  
11 ~~to information filed under this subsection except that any eligibility~~  
12 ~~rules or guidelines shall be withheld from public inspection under RCW~~  
13 ~~48.02.120(3) from the date that the information is filed and after it~~  
14 ~~becomes effective.~~

15 ~~(3) Insurers shall not use the following types of credit history to~~  
16 ~~calculate a personal insurance score or determine personal insurance~~  
17 ~~premiums or rates:~~

18 ~~(a) The absence of credit history or the inability to determine the~~  
19 ~~consumer's credit history, unless the insurer has filed actuarial data~~  
20 ~~segmented by demographic factors in a manner prescribed by the~~  
21 ~~commissioner that demonstrates compliance with RCW 48.19.020;~~

22 ~~(b) The number of credit inquiries;~~

23 ~~(c) Credit history or an insurance score based on collection~~  
24 ~~accounts identified with a medical industry code;~~

25 ~~(d) The initial purchase or finance of a vehicle or house that adds~~  
26 ~~a new loan to the consumer's existing credit history, if evident from~~  
27 ~~the consumer report; however, an insurer may consider the bill payment~~  
28 ~~history of any loan, the total number of loans, or both;~~

29 ~~(e) The consumer's use of a particular type of credit card, charge~~  
30 ~~card, or debit card; or~~

31 ~~(f) The consumer's total available line of credit; however, an~~  
32 ~~insurer may consider the total amount of outstanding debt in relation~~  
33 ~~to the total available line of credit.~~

34 ~~(4) If a consumer is charged higher premiums due to disputed credit~~  
35 ~~history, the insurer shall rerate the policy retroactive to the~~  
36 ~~effective date of the current policy term. As rerated, the consumer~~  
37 ~~shall be charged the same premiums they would have been charged if~~  
38 ~~accurate credit history was used to calculate an insurance score. This~~

1 ~~subsection applies only if the consumer resolves the dispute under the~~  
2 ~~process set forth in the fair credit reporting act and notifies the~~  
3 ~~insurer in writing that the dispute has been resolved)).~~

4 ~~((+5))~~ (3) The commissioner may adopt rules to implement this  
5 section.

6 ~~((+6) This section applies to all personal insurance policies~~  
7 ~~issued or renewed on or after June 30, 2003.))~~

8 NEW SECTION. **Sec. 4.** A new section is added to chapter 48.19 RCW  
9 to read as follows:

10 The legislature finds that the practices covered by RCW 48.19.035  
11 are matters vitally affecting the public interest for the purpose of  
12 applying the consumer protection act, chapter 19.86 RCW. A violation  
13 of RCW 48.19.035 is not reasonable in relation to the development and  
14 preservation of business and is an unfair or deceptive act in trade or  
15 commerce and an unfair method of competition for the purpose of  
16 applying the consumer protection act, chapter 19.86 RCW.

17 NEW SECTION. **Sec. 5.** This act takes effect July 1, 2012, and  
18 applies to all personal insurance policies issued or renewed on or  
19 after July 1, 2012.

--- END ---