

House Bill 2043

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Kate Brown for Department of Consumer and Business Services)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Directs insurer to consider only specified information in determining rates for motor vehicle liability insurance policy. Prohibits insurer from considering other specified information in determining eligibility, rates or premiums for motor vehicle liability insurance policy.

Permits insurer, under specified circumstances, to consider abstract of individual's nonemployment driving record when evaluating individual's application to obtain or renew motor vehicle liability insurance.

Prohibits insurer from using credit history to determine eligibility, rates or premiums for motor vehicle liability insurance.

Becomes operative on January 1, 2022.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to information permitted for insurer's decisions concerning motor vehicle liability insur-
3 ance; creating new provisions; amending ORS 746.265, 746.661, 746.662 and 802.220; and pre-
4 scribing an effective date.

5 **Be It Enacted by the People of the State of Oregon:**

6 **SECTION 1. Section 2 of this 2021 Act is added to and made a part of ORS 746.005 to**
7 **746.045.**

8 **SECTION 2. (1) As used in this section:**

9 (a) **"Applicant" means an individual who applies for coverage under a motor vehicle li-**
10 **ability insurance policy.**

11 (b) **"Motor vehicle liability insurance policy" has the meaning given that term in ORS**
12 **746.275.**

13 (2) **Except as otherwise provided in the Insurance Code, an insurer may consider only the**
14 **following information in determining rates for motor vehicle liability insurance policies:**

15 (a) **An applicant's or insured's history of safe driving;**

16 (b) **The number of miles an applicant or the insured drives;**

17 (c) **An applicant's or insured's driving experience;**

18 (d) **Information that updates, supplements or is otherwise directly related to the infor-**
19 **mation described in paragraphs (a), (b) and (c) of this subsection; and**

20 (e) **Any other information the Director of the Department of Consumer and Business**
21 **Services by rule permits the insurer to consider.**

22 (3) **An insurer may not consider any of the following information in determining eligibil-**
23 **ity, premiums or rates for a motor vehicle liability insurance policy:**

24 (a) **An applicant's or insured's credit history;**

25 (b) **An applicant's or insured's sex or gender;**

26 (c) **An applicant's or insured's marital status;**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (d) Previous accidents in which the applicant or insured was not at fault;

2 (e) An applicant's or insured's education;

3 (f) An applicant's or insured's occupation;

4 (g) An applicant's or insured's employment status;

5 (h) An applicant's or insured's residential status;

6 (i) Information about members of an applicant's or insured's household who are not li-
7 censed to drive;

8 (j) Previous claims for personal injury protection benefits if the applicant or insured was
9 the claimant but did not operate the motor vehicle;

10 (k) An applicant's or insured's criminal history, unless the insurer requested the infor-
11 mation as part of the initial application for coverage; and

12 (L) An applicant's suspension of driving privileges under ORS 809.280 (6) or (8), if the
13 suspension is based on a nondriving offense.

14 (4) An insurer shall timely provide a letter of experience in response to an insured's re-
15 quest.

16 (5) The director may adopt rules for the purpose of implementing the provisions of this
17 section.

18 **SECTION 3.** ORS 746.265 is amended to read:

19 746.265. [(1) Subject to subsection (2) of this section,] An insurer may consider the abstract of an
20 individual's nonemployment driving record under ORS 802.220 when evaluating the individual's ap-
21 plication to obtain or renew personal insurance, as defined in ORS 746.600, that provides automobile
22 liability coverage, uninsured motorist coverage, automobile medical payments coverage or automo-
23 bile physical damage coverage on an individually owned passenger vehicle, including pickup and
24 panel trucks and station wagons:

25 [(a)] (1) For the purpose of determining whether to issue or renew the individual's policy.

26 [(b)] (2) For the purpose of determining the rates of the individual's policy.

27 [(2) For the purposes specified in subsection (1) of this section, an insurer that issues or renews a
28 policy described in subsection (1) of this section may not consider any:]

29 [(a) Accident or conviction for violation of motor vehicle laws that occurred more than three years
30 immediately preceding the application for the policy or for renewal of the policy;]

31 [(b) Diversion agreements under ORS 813.220 that were entered into more than three years imme-
32 diately preceding the application for the policy or for renewal of the policy; or]

33 [(c) Suspension of driving privileges pursuant to ORS 809.280 (6) or (8) if the suspension is based
34 on a nondriving offense.]

35 [(3) Subsection (2) of this section does not apply if an insurer considers an individual's nonem-
36 ployment driving record under ORS 802.220 for the purpose of providing a discount to the
37 individual.]

38 **SECTION 4.** ORS 746.661 is amended to read:

39 746.661. (1) An insurer that issues personal insurance policies in this state:

40 (a) May not cancel or nonrenew personal insurance that has been in effect for more than 60
41 days based in whole or in part on a consumer's credit history or insurance score.

42 (b) May use a consumer's credit history to decline coverage of personal insurance, **other than**
43 **motor vehicle liability insurance**, in the initial underwriting decision only in combination with
44 other substantive underwriting factors. An offer of placement with an affiliate insurer does not
45 constitute a declination of insurance coverage.

1 (c) May not use the following types of credit history to decline coverage of personal insurance,
 2 calculate an insurance score or determine personal insurance premiums or rates:

3 (A) The absence of credit history or the inability to determine the consumer's credit history, if
 4 the insurer has received accurate and complete information from the consumer, unless the insurer
 5 does one of the following:

6 (i) If the insurer presents information that the absence of credit history or the inability to de-
 7 termine the consumer's credit history relates to the risk for the insurer, uses the absence of a credit
 8 history or inability to determine a consumer's credit history as allowed by rules adopted by the
 9 Director of the Department of Consumer and Business Services;

10 (ii) Treats the consumer as if the applicant or insured has neutral credit history, as defined by
 11 the insurer; or

12 (iii) Excludes the use of credit information as a factor and uses only other underwriting criteria.

13 (B) Credit inquiries not initiated by the consumer or inquiries requested by the consumer for the
 14 consumer's own credit information.

15 (C) Inquiries identified on a consumer's credit report relating to insurance coverage.

16 (D) Multiple lender inquiries identified as being from the home mortgage industry and made
 17 within 30 days of one another, unless only one inquiry is considered.

18 (E) Multiple lender inquiries identified as being from the automobile lending industry and made
 19 within 30 days of one another, unless only one inquiry is considered.

20 (F) The consumer's total available line of credit[. *However,*], **except that** an insurer may con-
 21 sider the total amount of outstanding debt in relation to the total available line of credit.

22 (d) May not re-rate an existing policy or re-rate a customer based on a customer's credit history
 23 or the credit history component of a customer's insurance score when the marital status of the
 24 customer changes due to death or divorce.

25 (2)(a) If an insurer uses the consumer's credit history or insurance score at any time in the
 26 rating of a personal insurance policy, the consumer may request, no more than once per insurer per
 27 policy line annually, that the insurer re-rate the consumer according to the standards that the
 28 insurer would apply if the consumer were initially applying for the same insurance policy.

29 (b) The insurer shall re-rate the consumer within 30 days after receiving a request from the
 30 consumer. After rerating the consumer based upon the request, the insurer may not use credit in-
 31 formation from rerating to increase the premium on any personal insurance policy the consumer
 32 holds. If the consumer qualifies for a more favorable rating category, the insurer shall reduce the
 33 premiums on all the personal insurance policies the consumer holds in the related policy line for
 34 which the consumer's credit history and insurance score would entitle the consumer to lower pre-
 35 miums if the consumer were applying for a new policy. The effective date of any rate change is the
 36 date of the consumer's request.

37 (c) If a request to re-rate a policy is received within 60 days prior to a renewal date, or if the
 38 difference between the current rate and the improved rate is less than \$10, the insurer may provide
 39 the consumer with the difference between the current rate and the improved rate over the remain-
 40 der of the current period as a credit upon renewal. If the policy is canceled or not renewed, the
 41 insurer shall refund the unearned premium. Any existing claim-related discounts or surcharges shall
 42 carry forward for each rerated policy.

43 (3) If an insurer uses disputed credit history to determine eligibility for coverage of personal
 44 insurance and places a consumer with an affiliate that charges higher premiums or offers less fa-
 45 vorable policy terms:

1 (a) The insurer shall rerate the policy retroactive to the effective date of the current policy
2 term; and

3 (b) The policy, as reissued or rerated, shall provide the premiums and policy terms for which the
4 consumer would have been eligible if accurate credit history had been used to determine eligibility.

5 (4) If an insurer charges higher premiums due to disputed credit history, the insurer shall rerate
6 the policy retroactive to the effective date of the current policy term. As rerated, the insurer shall
7 charge the consumer the same premiums the consumer would have been charged if accurate credit
8 history had been used to calculate an insurance score.

9 (5) Subsections (3) and (4) of this section apply only if the consumer resolves the credit dispute
10 under the process set forth in the federal Fair Credit Reporting Act (15 U.S.C. 1681) and notifies the
11 insurer in writing that the dispute has been resolved.

12 (6) Except as provided in subsections (2), (3) and (4) of this section, an insurer may only use
13 rating factors other than credit history or insurance score to rerate the policy at renewal.

14 **SECTION 5.** ORS 746.662 is amended to read:

15 746.662. (1) **An insurer may not use credit history to determine eligibility, premiums or**
16 **rates for coverage for motor vehicle liability insurance.**

17 [(1)] (2) An insurer may not use credit history to determine personal insurance eligibility, pre-
18 miums or rates for coverage **for insurance other than motor vehicle liability insurance** unless
19 the insurer has filed the insurance scoring models used by the insurer with the Director of the De-
20 partment of Consumer and Business Services. An insurance scoring model includes all attributes and
21 factors used in the calculation of an insurance score.

22 [(2)] (3) Insurance scoring models filed with the director under subsection [(1)] (2) of this section
23 are confidential and not subject to disclosure under ORS 192.311 to 192.478.

24 **SECTION 6.** ORS 802.220 is amended to read:

25 802.220. (1) Except as otherwise provided in this subsection and ORS 802.177, the records the
26 Department of Transportation maintains under ORS 802.200 on vehicles are public records. The re-
27 cords of vehicles registered under ORS 805.060 are not public records and are exempt from public
28 inspection as provided under ORS 181A.220 and are for the confidential use of criminal justice
29 agencies described under ORS 181A.010. The department may charge the fee established under ORS
30 802.230 for furnishing information under this section concerning a vehicle or its owner.

31 (2) The department may charge the fee established under ORS 802.230 for furnishing to the
32 public information from the records the department maintains under ORS 802.200 concerning driver
33 licenses or driver permits.

34 (3) The records the department keeps under ORS 802.200 on judgments or convictions under ORS
35 810.375 shall be open to the inspection of any person during reasonable business hours. Nothing in
36 this subsection authorizes the release of personal information as defined in ORS 802.175.

37 (4) The department shall upon request furnish any person certified abstracts of the employment
38 driving record and the nonemployment driving record of any person whose driving records are
39 maintained under ORS 802.200. If an abstract of the employment driving record is not specifically
40 requested, the department shall only furnish an abstract of the nonemployment driving record.
41 Nothing in this subsection authorizes the release of personal information as defined in ORS 802.175.
42 The department shall collect the fee established for abstracts of driving records under ORS 802.230.
43 A certified abstract issued under this section shall not contain any of the following[, *unless the ab-*
44 *stract is being requested under ORS 746.265 (3)*]:

45 (a) Any accident or conviction for violation of motor vehicles laws that occurred more than

1 three years immediately preceding a request for abstract.

2 (b) Any suspension ordered under ORS 809.220 after the department has received notice to
3 reinstate a person's suspended driving privileges under ORS 809.220.

4 (c) Any diversion agreement under ORS 813.220 entered into more than three years immediately
5 preceding a request for the abstract.

6 (5) Except as otherwise provided in this subsection, accident reports filed with the department
7 under ORS 811.725, 811.730 or 811.735 shall be without prejudice to the individual filing the report
8 and shall be for the confidential use of state administrative and enforcement agencies. The depart-
9 ment may use the confidential accident reports to provide the following information to the persons
10 described:

11 (a) Upon request, the department shall disclose the following information to any party involved
12 in the accident or to their personal representative or any member of the family of a party involved
13 in the accident:

14 (A) The identity of the owner, driver, occupants and the registration number of a vehicle in-
15 volved in the accident;

16 (B) The names of any companies insuring the owner or driver of a vehicle involved in the acci-
17 dent; and

18 (C) The names of any witnesses to the accident.

19 (b) The department shall furnish a certificate showing that a specified accident report has or
20 has not been made to the department upon demand of any person who has or claims to have made
21 such a report or upon demand of a court.

22 (6) The department shall tabulate and may analyze all accident reports to develop statistical
23 information based thereon as to the number and circumstances of traffic accidents. The department
24 shall publish information compiled under this section in the manner provided under ORS 802.050.

25 (7) Except as otherwise provided in this subsection, the records the department is required un-
26 der ORS 802.200 to maintain on trip permits issued under ORS 803.600 are public records. The de-
27 partment may charge a fee established under ORS 802.230 for furnishing information from the
28 records on trip permits. Nothing in this subsection authorizes the release of personal information
29 as defined in ORS 802.175.

30 (8) The records the department maintains under ORS 802.200 concerning odometer readings for
31 vehicles are public records. The department may separately furnish information concerning
32 odometer readings shown by its records. The department may charge the fee established under ORS
33 802.230 for information separately provided under this subsection. Nothing in this subsection au-
34 thORIZES the release of personal information as defined in ORS 802.175.

35 **SECTION 7. Section 2 of this 2021 Act and the amendments to ORS 746.265, 746.661,**
36 **746.662 and 802.220 by sections 3 to 6 of this 2021 Act apply to contracts of insurance that**
37 **an insurer issues or renews on and after the operative date specified in section 8 of this 2021**
38 **Act.**

39 **SECTION 8. (1) Section 2 of this 2021 Act and the amendments to ORS 746.265, 746.661,**
40 **746.662 and 802.220 by sections 3 to 6 of this 2021 Act become operative on January 1, 2022.**

41 **(2) The Director of the Department of Consumer and Business Services may adopt rules**
42 **and take any other action before the operative date specified in subsection (1) of this section**
43 **that is necessary to enable the director, on and after the operative date specified in sub-**
44 **section (1) of this section, to undertake and exercise all of the duties, functions and powers**
45 **conferred on the director by section 2 of this 2021 Act and the amendments to ORS 746.265,**

1 746.661, 746.662 and 802.220 by sections 3 to 6 of this 2021 Act.

2 SECTION 9. This 2021 Act takes effect on the 91st day after the date on which the 2021
3 regular session of the Eighty-first Legislative Assembly adjourns sine die.

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