

D R A F T

SUMMARY

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 July 1, 2023.

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
3 vehicle liability insurance; creating new provisions; amending ORS
4 746.265, 746.661, 746.662 and 802.220; and prescribing an effective date.

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

6 **SECTION 1. Section 2 of this 2022 Act is added to and made a part**
7 **of ORS 746.005 to 746.045.**

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

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

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

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

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 (a) An applicant's or insured's history of safe driving;
- 2 (b) The number of miles an applicant or the insured drives;
- 3 (c) An applicant's or insured's driving experience;
- 4 (d) Information that updates, supplements or is otherwise directly
- 5 related to the information described in paragraphs (a), (b) and (c) of
- 6 this subsection; and

7 (e) Any other information the Director of the Department of Con-

8 sumer and Business Services by rule permits the insurer to consider.

9 (3) An insurer may not consider any of the following information

10 in determining eligibility, premiums or rates for a motor vehicle li-

11 ability insurance policy:

- 12 (a) An applicant's or insured's credit history;
- 13 (b) An applicant's or insured's sex or gender;
- 14 (c) An applicant's or insured's marital status;
- 15 (d) Previous accidents in which the applicant or insured was not
- 16 at fault;
- 17 (e) An applicant's or insured's education;
- 18 (f) An applicant's or insured's occupation;
- 19 (g) An applicant's or insured's employment status;
- 20 (h) An applicant's or insured's residential status;
- 21 (i) Information about members of an applicant's or insured's
- 22 household who are not licensed to drive;
- 23 (j) Previous claims for personal injury protection benefits if the
- 24 applicant or insured was the claimant but did not operate the motor
- 25 vehicle;
- 26 (k) An applicant's or insured's criminal history, unless the insurer
- 27 requested the information as part of the initial application for cover-
- 28 age; and

29 (L) An applicant's suspension of driving privileges under ORS

30 809.280 (6) or (8), if the suspension is based on a nondriving offense.

31 (4) An insurer shall timely provide a letter of experience in response

1 **to an insured's request.**

2 **(5) The director may adopt rules for the purpose of implementing**
3 **the provisions of this section.**

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

5 746.265. *[(1) Subject to subsection (2) of this section,]* An insurer may con-
6 sider the abstract of an individual's nonemployment driving record under
7 ORS 802.220 when evaluating the individual's application to obtain or renew
8 personal insurance, as defined in ORS 746.600, that provides automobile li-
9 ability coverage, uninsured motorist coverage, automobile medical payments
10 coverage or automobile physical damage coverage on an individually owned
11 passenger vehicle, including pickup and panel trucks and station wagons:

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

14 *[(b)] (2) For the purpose of determining the rates of the individual's pol-*
15 *icy.*

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

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

22 *[(b) Diversion agreements under ORS 813.220 that were entered into more*
23 *than three years immediately preceding the application for the policy or for*
24 *renewal of the policy; or]*

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

27 *[(3) Subsection (2) of this section does not apply if an insurer considers an*
28 *individual's nonemployment driving record under ORS 802.220 for the purpose*
29 *of providing a discount to the individual.]*

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

31 746.661. (1) An insurer that issues personal insurance policies in this

1 state:

2 (a) May not cancel or nonrenew personal insurance that has been in ef-
3 fect for more than 60 days based in whole or in part on a consumer's credit
4 history or insurance score.

5 (b) May use a consumer's credit history to decline coverage of personal
6 insurance, **other than motor vehicle liability insurance**, in the initial
7 underwriting decision only in combination with other substantive under-
8 writing factors. An offer of placement with an affiliate insurer does not
9 constitute a declination of insurance coverage.

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

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

16 (i) If the insurer presents information that the absence of credit history
17 or the inability to determine the consumer's credit history relates to the risk
18 for the insurer, uses the absence of a credit history or inability to determine
19 a consumer's credit history as allowed by rules adopted by the Director of
20 the Department of Consumer and Business Services;

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

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

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

27 (C) Inquiries identified on a consumer's credit report relating to insur-
28 ance coverage.

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

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

4 (F) The consumer's total available line of credit[. *However,*], **except that**
5 an insurer may consider the total amount of outstanding debt in relation to
6 the total available line of credit.

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

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

17 (b) The insurer shall re-rate the consumer within 30 days after receiving
18 a request from the consumer. After re-rating the consumer based upon the
19 request, the insurer may not use credit information from re-rating to increase
20 the premium on any personal insurance policy the consumer holds. If the
21 consumer qualifies for a more favorable rating category, the insurer shall
22 reduce the premiums on all the personal insurance policies the consumer
23 holds in the related policy line for which the consumer's credit history and
24 insurance score would entitle the consumer to lower premiums if the con-
25 sumer were applying for a new policy. The effective date of any rate change
26 is the date of the consumer's request.

27 (c) If a request to re-rate a policy is received within 60 days prior to a
28 renewal date, or if the difference between the current rate and the improved
29 rate is less than \$10, the insurer may provide the consumer with the differ-
30 ence between the current rate and the improved rate over the remainder of
31 the current period as a credit upon renewal. If the policy is canceled or not

1 renewed, the insurer shall refund the unearned premium. Any existing
2 claim-related discounts or surcharges shall carry forward for each rerated
3 policy.

4 (3) If an insurer uses disputed credit history to determine eligibility for
5 coverage of personal insurance and places a consumer with an affiliate that
6 charges higher premiums or offers less favorable policy terms:

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

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

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

17 (5) Subsections (3) and (4) of this section apply only if the consumer re-
18 solves the credit dispute under the process set forth in the federal Fair
19 Credit Reporting Act (15 U.S.C. 1681) and notifies the insurer in writing that
20 the dispute has been resolved.

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

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

25 746.662. (1) **An insurer may not use credit history to determine el-**
26 **igibility, premiums or rates for coverage for motor vehicle liability**
27 **insurance.**

28 [(1)] (2) An insurer may not use credit history to determine personal in-
29 surance eligibility, premiums or rates for coverage **for insurance other**
30 **than motor vehicle liability insurance** unless the insurer has filed the
31 insurance scoring models used by the insurer with the Director of the De-

1 partment of Consumer and Business Services. An insurance scoring model
2 includes all attributes and factors used in the calculation of an insurance
3 score.

4 [(2)] (3) Insurance scoring models filed with the director under subsection
5 [(1)] (2) of this section are confidential and not subject to disclosure under
6 ORS 192.311 to 192.478.

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

8 802.220. (1) Except as otherwise provided in this subsection and ORS
9 802.177, the records the Department of Transportation maintains under ORS
10 802.200 on vehicles are public records. The records of vehicles registered
11 under ORS 805.060 are not public records and are exempt from public in-
12 spection as provided under ORS 181A.220 and are for the confidential use of
13 criminal justice agencies described under ORS 181A.010. The department may
14 charge the fee established under ORS 802.230 for furnishing information un-
15 der this section concerning a vehicle or its owner.

16 (2) The department may charge the fee established under ORS 802.230 for
17 furnishing to the public information from the records the department main-
18 tains under ORS 802.200 concerning driver licenses or driver permits.

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

23 (4) The department shall upon request furnish any person certified ab-
24 stracts of the employment driving record and the nonemployment driving
25 record of any person whose driving records are maintained under ORS
26 802.200. If an abstract of the employment driving record is not specifically
27 requested, the department shall only furnish an abstract of the nonemploy-
28 ment driving record. Nothing in this subsection authorizes the release of
29 personal information as defined in ORS 802.175. The department shall collect
30 the fee established for abstracts of driving records under ORS 802.230. A
31 certified abstract issued under this section shall not contain any of the

1 following[, *unless the abstract is being requested under ORS 746.265 (3)*]:

2 (a) Any accident or conviction for violation of motor vehicles laws that
3 occurred more than three years immediately preceding a request for abstract.

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

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

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

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

18 (A) The identity of the owner, driver, occupants and the registration
19 number of a vehicle involved in the accident;

20 (B) The names of any companies insuring the owner or driver of a vehicle
21 involved in the accident; and

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

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

27 (6) The department shall tabulate and may analyze all accident reports
28 to develop statistical information based thereon as to the number and cir-
29 cumstances of traffic accidents. The department shall publish information
30 compiled under this section in the manner provided under ORS 802.050.

31 (7) Except as otherwise provided in this subsection, the records the de-

1 partment is required under ORS 802.200 to maintain on trip permits issued
2 under ORS 803.600 are public records. The department may charge a fee es-
3 tablished under ORS 802.230 for furnishing information from the records on
4 trip permits. Nothing in this subsection authorizes the release of personal
5 information as defined in ORS 802.175.

6 (8) The records the department maintains under ORS 802.200 concerning
7 odometer readings for vehicles are public records. The department may sep-
8 arately furnish information concerning odometer readings shown by its re-
9 cords. The department may charge the fee established under ORS 802.230 for
10 information separately provided under this subsection. Nothing in this sub-
11 section authorizes the release of personal information as defined in ORS
12 802.175.

13 **SECTION 7. Section 2 of this 2022 Act and the amendments to ORS**
14 **746.265, 746.661, 746.662 and 802.220 by sections 3 to 6 of this 2022 Act**
15 **apply to contracts of insurance that an insurer issues or renews on**
16 **and after the operative date specified in section 8 of this 2022 Act.**

17 **SECTION 8. (1) Section 2 of this 2022 Act and the amendments to**
18 **ORS 746.265, 746.661, 746.662 and 802.220 by sections 3 to 6 of this 2022**
19 **Act become operative on July 1, 2023.**

20 **(2) The Director of the Department of Consumer and Business Ser-**
21 **vices may adopt rules and take any other action before the operative**
22 **date specified in subsection (1) of this section that is necessary to en-**
23 **able the director, on and after the operative date specified in sub-**
24 **section (1) of this section, to undertake and exercise all of the duties,**
25 **functions and powers conferred on the director by section 2 of this 2022**
26 **Act and the amendments to ORS 746.265, 746.661, 746.662 and 802.220 by**
27 **sections 3 to 6 of this 2022 Act.**

28 **SECTION 9. This 2022 Act takes effect on the 91st day after the date**
29 **on which the 2022 regular session of the Eighty-first Legislative As-**
30 **sembly adjourns sine die.**

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