



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB3213

Introduced 2/6/2024, by Sen. Javier L. Cervantes

SYNOPSIS AS INTRODUCED:

215 ILCS 5/143.19.4 new

Amends the Illinois Insurance Code. Provides that the amendatory Act may be referred to as the Motor Vehicle Insurance Fairness Act. Provides that no insurer shall refuse to issue or renew a policy of automobile insurance based in whole or in part on specified prohibited underwriting or rating factors. Sets forth factors that are prohibited with respect to underwriting and rating a policy of automobile insurance. Sets forth provisions concerning the use of territorial factors. Provides that every insurer selling a policy of automobile insurance in the State shall demonstrate that its marketing, underwriting, rating, claims handling, fraud investigations, and any algorithm or model used for those business practices do not disparately impact any group of customers based on race, color, national or ethnic origin, religion, sex, sexual orientation, disability, gender identity, or gender expression. Provides that no rate shall be approved or remain in effect that is excessive, inadequate, unfairly discriminatory, or otherwise in violation of the provisions. Provides that every insurer that desires to change any rate shall file a complete rate application with the Director of Insurance. Provides that all information provided to the Director under the provisions shall be available for public inspection. Provides that any person may initiate or intervene in any proceeding permitted or established under the provisions and challenge any action of the Director under the provisions. Provides that the Department of Insurance shall adopt rules. Provides that all insurers subject to the provisions shall be assessed a fee of 0.05% of their total earned premium from the prior calendar year, and that the fee shall be payable to the Department no later than July 1 of each calendar year and shall be used by the Department to implement the provisions.

LRB103 38653 RPS 68790 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. This Act may be referred to as the Motor Vehicle
5 Insurance Fairness Act.

6 Section 5. The Illinois Insurance Code is amended by
7 adding Section 143.19.4 as follows:

8 (215 ILCS 5/143.19.4 new)

9 Sec. 143.19.4. Motor vehicle insurance fairness.

10 (a) Definition. As used in this Section, "proceeding"
11 includes the filing of any rate, rule, or form and any
12 rulemaking conducted pursuant to this Section.

13 (b) Prohibitions; refusal to insure.

14 (1) No insurer shall refuse to issue or renew a policy
15 of automobile insurance, bond, or any other insurance
16 based on the ownership or operation of a motor vehicle
17 based in whole or in part on any of the prohibited
18 underwriting and rating factors set forth in subsection
19 (c), or use those factors to determine the terms of
20 coverage or placement in a particular affiliate within an
21 insurance company group.

22 (2) Classification plans, rating plans, rating tier

1 placement factors, scoring models, rules, rates, premiums,
2 or any other method of establishing the premium to be paid
3 by an automobile insurance policyholder or covered driver,
4 and the modification thereof, based in whole or in part on
5 any of the prohibited underwriting and rating factors in
6 subsection (c) are unfairly discriminatory.

7 (c) Prohibited factors. With respect to underwriting and
8 rating a policy of automobile insurance, the use of the
9 following factors shall be prohibited:

10 (1) sex or gender;

11 (2) marital status;

12 (3) race;

13 (4) creed;

14 (5) national origin;

15 (6) religion;

16 (7) age;

17 (8) employment or occupation;

18 (9) education level attained;

19 (10) home ownership;

20 (11) consumer credit information or other credit-based
21 score;

22 (12) the absence of prior insurance;

23 (13) the amount or provider of prior insurance
24 coverage;

25 (14) any measure of a consumer's price elasticity of
26 demand;

1 (15) the zip code, or any territorial designation
2 geographically smaller than the zip code, in which the
3 policyholder resides; and

4 (16) the level of income or wealth.

5 (d) Years of driving experience. Notwithstanding item (7)
6 of subsection (c), an insurer may consider the number of years
7 of driving experience of an applicant for the purposes of
8 underwriting and rating.

9 (e) Territory or any other geographical characteristic.
10 Territory or any other geographical characteristic shall not
11 be considered for the purposes of underwriting a policy of
12 automobile insurance, including, but not limited to, any
13 decision to sell, refuse to sell, cancel, or non-renew, and
14 the terms of the policy of automobile insurance.
15 Notwithstanding item (15) of subsection (c), an insurer may,
16 for rating purposes, use a territorial factor that is not
17 prohibited if the territorial factor does not have more than a
18 25% impact on the premium that would otherwise be charged.

19 (f) Prohibited business practices. Every insurer selling a
20 policy of automobile insurance in Illinois shall demonstrate
21 that its marketing, underwriting, rating, claims handling,
22 fraud investigations, and any algorithm or model used for
23 those business practices do not disparately impact any group
24 of customers based on race, color, national or ethnic origin,
25 religion, sex, sexual orientation, disability, gender
26 identity, or gender expression.

1 (g) Prior approval of rates.

2 (1) No rate shall be approved or remain in effect that
3 is excessive, inadequate, unfairly discriminatory, or
4 otherwise in violation of this Section. In considering
5 whether a rate is excessive, inadequate, or unfairly
6 discriminatory, no consideration shall be given to the
7 degree of competition, and the Director shall consider
8 whether the rate mathematically reflects the insurance
9 company's investment income.

10 (2) Every insurer that desires to change any rate
11 shall file a complete rate application with the Director.
12 A complete rate application shall include all data
13 necessary to justify the proposed rate and such other
14 information as the Director may require. The applicant
15 shall have the burden of proving that the requested rate
16 change is justified and meets the requirements of this
17 Section.

18 (3) The Director shall notify the public of any
19 application by an insurer for a rate change. The
20 application shall be deemed approved 60 days after public
21 notice unless:

22 (A) the Director disapproves the application;

23 (B) a consumer or the consumer's representative
24 requests a hearing within 45 days after the public
25 notice and the Director grants the hearing, or the
26 Director determines not to grant the hearing and

1 issues written findings in support of that decision;

2 or

3 (C) the Director, on the Director's own motion,
4 determines to hold a hearing. If the proposed rate
5 adjustment exceeds 7% of the then-applicable rate for
6 personal lines insurance or 15% for commercial lines
7 insurance, then the Director must hold a hearing upon
8 a timely request. If the application is incomplete or
9 otherwise subject to disapproval, then the Director
10 may extend the application review process by up to 60
11 days with the agreement of the applicant.

12 (h) Right of the public to inspect rates. All information
13 provided to the Director pursuant to this Section shall be
14 available for public inspection.

15 (i) Right of the public to participate.

16 (1) Any person may initiate or intervene in any
17 proceeding permitted or established pursuant to this
18 Section and challenge any action of the Director under
19 this Section.

20 (2) The Director or a court shall award reasonable
21 advocacy and witness fees and expenses to any person who
22 demonstrates that the person represents the interests of
23 consumers and that the person made a substantial
24 contribution to the adoption of any order, regulation, or
25 decision by the Director or a court. Where such advocacy
26 occurs in response to a rate application, the award shall

1 be paid by the applicant.

2 (h) Rules.

3 (1) The Department shall, no later than 90 days after
4 the effective date of this amendatory Act of the 103rd
5 General Assembly, adopt rules that guide the filing and
6 approval of rates, rules, and forms pursuant to this
7 Section. The Director shall develop formulas for
8 evaluating rates and any rules or forms that impact rates
9 that will be used to determine whether to approve or
10 disapprove any filing.

11 (2) Until the rules described in paragraph (1) take
12 effect, no insurer may file for a change in any rate, rule,
13 or form that would result in a rate increase. If, before
14 the adoption of the rules described in paragraph (1), an
15 insurer asserts that it would not be able to earn a
16 reasonable rate of return without an increase, then it may
17 request a hearing. If it is determined after a hearing
18 that a rate increase is needed to earn a reasonable rate of
19 return, then the insurer shall be allowed to make a change
20 that affords it the minimum increase required to earn a
21 reasonable rate of return.

22 (3) The Department shall, no later than 180 days after
23 the effective date of this amendatory Act of the 103rd
24 General Assembly, adopt rules that implement the testing
25 of insurer business practices for compliance with this
26 Section.

1 (j) Fees. All insurers subject to the provisions of this
2 Section shall be assessed a fee of 0.05% of their total earned
3 premium from the prior calendar year. The fee shall be payable
4 to the Department no later than July 1 of each calendar year
5 and shall be used by the Department to implement the
6 provisions of this Section.