

By Senator Gaetz

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1 A bill to be entitled

2 An act relating to insurance; amending s. 626.9541, F.S.;

3 prohibiting an insurer, with respect to premiums charged

4 for motor vehicle insurance, from using any rate, rating

5 schedule, rating manual, or underwriting rule not

6 contained in a rating manual that is determined in whole

7 or in part on the basis of certain characteristics of the

8 insured; providing that it is an unfair or deceptive act

9 or practice for an insurer to refuse to insure, or

10 continue to insure, any individual or risk because of

11 educational level or any lawful employment, trade,

12 business, occupation, or profession; providing an

13 effective date.

14

15 Be It Enacted by the Legislature of the State of Florida:

16

17 Section 1. Paragraphs (o) and (x) of subsection (1) of

18 section 626.9541, Florida Statutes, are amended to read:

19 626.9541 Unfair methods of competition and unfair or

20 deceptive acts or practices defined.--

21 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE

22 ACTS.--The following are defined as unfair methods of competition

23 and unfair or deceptive acts or practices:

24 (o) Illegal dealings in premiums; excess or reduced charges

25 for insurance.--

26 1. Knowingly collecting any sum as a premium or charge for

27 insurance, which is not then provided, or is not in due course to

28 be provided, subject to acceptance of the risk by the insurer, by

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29 an insurance policy issued by an insurer as permitted by this
30 code.

31 2. Knowingly collecting as a premium or charge for
32 insurance any sum in excess of or less than the premium or charge
33 applicable to such insurance, in accordance with the applicable
34 classifications and rates as filed with and approved by the
35 office, and as specified in the policy; or, in cases when
36 classifications, premiums, or rates are not required by this code
37 to be so filed and approved, premiums and charges collected from
38 a Florida resident in excess of or less than those specified in
39 the policy and as fixed by the insurer. This provision shall not
40 be deemed to prohibit the charging and collection, by surplus
41 lines agents licensed under part VIII of this chapter, of the
42 amount of applicable state and federal taxes, or fees as
43 authorized by s. 626.916(4), in addition to the premium required
44 by the insurer or the charging and collection, by licensed
45 agents, of the exact amount of any discount or other such fee
46 charged by a credit card facility in connection with the use of a
47 credit card, as authorized by subparagraph (q)3., in addition to
48 the premium required by the insurer. This subparagraph shall not
49 be construed to prohibit collection of a premium for a universal
50 life or a variable or indeterminate value insurance policy made
51 in accordance with the terms of the contract.

52 3.a. Imposing or requesting an additional premium for a
53 policy of motor vehicle liability, personal injury protection,
54 medical payment, or collision insurance or any combination
55 thereof or refusing to renew the policy solely because the
56 insured was involved in a motor vehicle accident unless the
57 insurer's file contains information from which the insurer in

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58 | good faith determines that the insured was substantially at fault
59 | in the accident.

60 | b. An insurer which imposes and collects such a surcharge
61 | or which refuses to renew such policy shall, in conjunction with
62 | the notice of premium due or notice of nonrenewal, notify the
63 | named insured that he or she is entitled to reimbursement of such
64 | amount or renewal of the policy under the conditions listed below
65 | and will subsequently reimburse him or her or renew the policy,
66 | if the named insured demonstrates that the operator involved in
67 | the accident was:

68 | (I) Lawfully parked;

69 | (II) Reimbursed by, or on behalf of, a person responsible
70 | for the accident or has a judgment against such person;

71 | (III) Struck in the rear by another vehicle headed in the
72 | same direction and was not convicted of a moving traffic
73 | violation in connection with the accident;

74 | (IV) Hit by a "hit-and-run" driver, if the accident was
75 | reported to the proper authorities within 24 hours after
76 | discovering the accident;

77 | (V) Not convicted of a moving traffic violation in
78 | connection with the accident, but the operator of the other
79 | automobile involved in such accident was convicted of a moving
80 | traffic violation;

81 | (VI) Finally adjudicated not to be liable by a court of
82 | competent jurisdiction;

83 | (VII) In receipt of a traffic citation which was dismissed
84 | or nolle prossed; or

85 | (VIII) Not at fault as evidenced by a written statement
86 | from the insured establishing facts demonstrating lack of fault

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87 | which are not rebutted by information in the insurer's file from
88 | which the insurer in good faith determines that the insured was
89 | substantially at fault.

90 | c. In addition to the other provisions of this
91 | subparagraph, an insurer may not fail to renew a policy if the
92 | insured has had only one accident in which he or she was at fault
93 | within the current 3-year period. However, an insurer may
94 | nonrenew a policy for reasons other than accidents in accordance
95 | with s. 627.728. This subparagraph does not prohibit nonrenewal
96 | of a policy under which the insured has had three or more
97 | accidents, regardless of fault, during the most recent 3-year
98 | period.

99 | 4. Imposing or requesting an additional premium for, or
100 | refusing to renew, a policy for motor vehicle insurance solely
101 | because the insured committed a noncriminal traffic infraction as
102 | described in s. 318.14 unless the infraction is:

103 | a. A second infraction committed within an 18-month period,
104 | or a third or subsequent infraction committed within a 36-month
105 | period.

106 | b. A violation of s. 316.183, when such violation is a
107 | result of exceeding the lawful speed limit by more than 15 miles
108 | per hour.

109 | 5. Upon the request of the insured, the insurer and
110 | licensed agent shall supply to the insured the complete proof of
111 | fault or other criteria which justifies the additional charge or
112 | cancellation.

113 | 6. An insurer may not ~~No insurer shall~~ impose or request an
114 | additional premium for motor vehicle insurance, cancel or refuse
115 | to issue a policy, or refuse to renew a policy because the

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116 insured or the applicant is a handicapped or physically disabled
117 person, so long as such handicap or physical disability does not
118 substantially impair such person's mechanically assisted driving
119 ability.

120 7. An insurer may not ~~No insurer may~~ cancel or otherwise
121 terminate any insurance contract or coverage, or require
122 execution of a consent to rate endorsement, during the stated
123 policy term for the purpose of offering to issue, or issuing, a
124 similar or identical contract or coverage to the same insured
125 with the same exposure at a higher premium rate or continuing an
126 existing contract or coverage with the same exposure at an
127 increased premium.

128 8. An insurer may not ~~No insurer may~~ issue a nonrenewal
129 notice on any insurance contract or coverage, or require
130 execution of a consent to rate endorsement, for the purpose of
131 offering to issue, or issuing, a similar or identical contract or
132 coverage to the same insured at a higher premium rate or
133 continuing an existing contract or coverage at an increased
134 premium without meeting any applicable notice requirements.

135 9. An insurer may not ~~No insurer shall~~, with respect to
136 premiums charged for motor vehicle insurance, unfairly
137 discriminate solely on the basis of age, sex, marital status, or
138 scholastic achievement.

139 10. An insurer may not, with respect to premiums charged
140 for motor vehicle insurance, use any rate, rating schedule,
141 rating manual, or underwriting rule not contained in a rating
142 manual that is determined in whole or in part on the basis of an
143 insured's:

144 a. Educational level; or

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145 b. Any lawful employment, trade, business, occupation, or
146 profession.

147 ~~11.10.~~ Imposing or requesting an additional premium for
148 motor vehicle comprehensive or uninsured motorist coverage solely
149 because the insured was involved in a motor vehicle accident or
150 was convicted of a moving traffic violation.

151 ~~12.11.~~ An insurer may not ~~No insurer shall~~ cancel or issue
152 a nonrenewal notice on any insurance policy or contract without
153 complying with any applicable cancellation or nonrenewal
154 provision required under the Florida Insurance Code.

155 ~~13.12.~~ An insurer may not ~~No insurer shall~~ impose or
156 request an additional premium, cancel a policy, or issue a
157 nonrenewal notice on any insurance policy or contract because of
158 any traffic infraction when adjudication has been withheld and no
159 points have been assessed pursuant to s. 318.14(9) and (10).
160 However, this subparagraph does not apply to traffic infractions
161 involving accidents in which the insurer has incurred a loss due
162 to the fault of the insured.

163 (x) Refusal to insure.--In addition to other provisions of
164 this code, the refusal to insure, or continue to insure, any
165 individual or risk because of educational level or any lawful
166 employment, trade, business, occupation, or profession, or solely
167 because of:

168 1. Race, color, creed, marital status, sex, or national
169 origin;

170 2. The residence, age, or ~~lawful occupation of the~~
171 ~~individual or the~~ location of the risk, unless there is a
172 reasonable relationship between the residence, age, or ~~lawful~~

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173 ~~occupation of the individual or~~ the location of the risk and the
174 coverage issued or to be issued;

175 3. The insured's or applicant's failure to agree to place
176 collateral business with any insurer, unless the coverage applied
177 for would provide liability coverage which is excess over that
178 provided in policies maintained on property or motor vehicles;

179 4. The insured's or applicant's failure to purchase
180 noninsurance services or commodities, including automobile
181 services as defined in s. 624.124;

182 5. The fact that the insured or applicant is a public
183 official; or

184 6. The fact that the insured or applicant had been
185 previously refused insurance coverage by any insurer, when such
186 refusal to insure or continue to insure for this reason occurs
187 with such frequency as to indicate a general business practice.

188 Section 2. This act shall take effect January 1, 2009.