
SENATE BILL 5193

State of Washington

53rd Legislature

1993 Regular Session

By Senators Moore and Pelz

Read first time 01/15/93. Referred to Committee on Labor & Commerce.

1 AN ACT Relating to motor vehicle insurance; adding a new chapter to
2 Title 46 RCW; and making an appropriation.

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

4 NEW SECTION. **Sec. 1.** INTENT. The legislature finds that greater
5 cost savings can be realized by the automobile insurance purchasers of
6 the state of Washington through the establishment of a universal auto
7 insurance program. By creation of the Washington automobile insurance
8 corporation the legislature intends that all registered vehicles not
9 specifically exempted be required to carry automobile liability
10 insurance provided through the Washington automobile insurance
11 corporation. It is also the intent of the legislature that insurance
12 issued by the corporation be provided without consideration of age,
13 marital status, or sex, which have commonly been the basis for
14 establishing rates for automobile insurance.

15 NEW SECTION. **Sec. 2.** DEFINITIONS. Unless the context clearly
16 requires otherwise, the definitions in this section apply throughout
17 this chapter.

18 (1) "Adjuster" has the meaning given in RCW 48.17.050.

1 (2) "Additional premium" means an additional premium charged in
2 excess of the basic premium against an insured under section 20 of this
3 act.

4 (3) "Agent" has the meaning given in RCW 48.17.010.

5 (4) "Applicant" means a person who applies for insurance.

6 (5) "Automobile" means a motor vehicle as defined in this chapter.

7 (6) "Automobile insurance" means any policy or contract providing
8 protection against loss from the liability imposed by law arising out
9 of the ownership, maintenance, or use of a motor vehicle or vehicles
10 within the United States or Canada.

11 (7) "Basic premium" means that portion of the premium that is based
12 on criteria or classifications established by rules adopted by the
13 corporation, but does not include an additional premium.

14 (8) "Benefits" means those benefits prescribed in rules adopted by
15 the corporation.

16 (9) "Board" means the board of directors of the corporation.

17 (10) "Certificate" means a certificate of automobile insurance
18 issued under this chapter.

19 (11) "Contract" means a contract of insurance and includes a
20 policy, certificate, interim receipt, renewal receipt, writing
21 evidencing the contract, or binding oral agreement.

22 (12) "Contract of insurance" means insurance evidenced by a
23 certificate and provided by the corporation.

24 (13) "Commissioner" means the insurance commissioner.

25 (14) "Corporation" means the Washington automobile insurance
26 corporation.

27 (15) "Coverage" means the right conferred on a person by this
28 chapter or rules adopted under it to be indemnified against liability
29 for, or compensated for, death, injury, loss, or damages.

30 (16) "Director" means the director of licensing.

31 (17) "Driver's certificate" means a certificate issued under this
32 chapter to a person who may obtain a driver's license under Title 46
33 RCW, and such certificate may be part of the driver's license or a
34 separate document.

35 (18) "Extension insurance" means automobile insurance that may be
36 made available by the corporation under rules adopted by the
37 corporation that is in excess of the limits, reduces the deductible
38 amount, or otherwise supplements one or more of the coverages, in a
39 universal compulsory automobile insurance plan.

1 (19) "Insured" means an insured as defined by rule.

2 (20) "License," when referring to a driver or operator of a motor
3 vehicle, means a license or permit issued under Title 46 RCW
4 authorizing the holder of a license to drive or operate a motor vehicle
5 of a designated category, and includes a learner's license; and, when
6 referring to a motor vehicle or trailer, means a license or
7 registration issued under Title 46 RCW authorizing the operation of a
8 motor vehicle or trailer or a license or permit issued under any other
9 law that authorizes the operation of a motor vehicle.

10 (21) "Motor vehicle" means every device capable of being moved upon
11 a public highway and in, upon, or by which any person or property is or
12 may be transported or drawn upon a public highway, except for devices
13 moved by human or animal power or used exclusively upon stationary
14 rails or tracks. The corporation shall determine by rule the kind or
15 class of motor vehicles subject to this chapter.

16 (22) "Motor vehicle liability policy" means a certificate
17 evidencing a contract of automobile insurance in the form, and
18 providing insurance against perils and for amounts, that are
19 prescribed.

20 (23) "Owner" means the person in whose name a motor vehicle or
21 trailer is registered and licensed under Title 46 RCW.

22 (24) "Owner's certificate" means a certificate issued under this
23 chapter to an owner.

24 (25) "Plan" means a plan of universal compulsory automobile
25 insurance established by the corporation under this chapter, and
26 includes extension insurance.

27 (26) "Point penalties" means point penalties that may be recorded
28 against the driving record of a driver under either Title 46 RCW or
29 this chapter.

30 (27) "Policy" means the document evidencing a contract and includes
31 a certificate relating to insurance.

32 (28) "Premium" means money paid or to be paid by an insured or by
33 an applicant for insurance to the corporation for the issuance to him
34 or her of a certificate of insurance under a plan or for extension
35 insurance.

36 (29) "President" means the president of the corporation.

37 (30) "Registration and license" means a registration, license, or
38 permit issued under Title 46 RCW in respect to a motor vehicle or

1 trailer registered and licensed under and in accordance with this
2 chapter.

3 (31) "Trailer" means a trailer as defined in RCW 46.04.620.

4 (32) "Universal compulsory automobile insurance" means universal
5 compulsory automobile insurance as defined by rule.

6 NEW SECTION. **Sec. 3.** CORPORATION CREATED. A public nonprofit
7 corporation to be known as the Washington automobile insurance
8 corporation is created. The public corporation is an instrumentality
9 of the state and has all the powers and is subject to the same
10 restrictions that are permitted or ascribed to private nonprofit
11 corporations under chapter 24.03 RCW. The corporation shall exercise
12 its powers only for carrying out the purpose of this chapter and those
13 purposes necessarily implied from this chapter.

14 NEW SECTION. **Sec. 4.** BOARD OF DIRECTORS. The governor shall
15 appoint a board of eight directors for the corporation who shall serve
16 terms of six years, except that two of the original directors shall
17 serve for two years, and two of the original directors shall serve for
18 four years. Additional members of the board of directors shall include
19 the chairman of the state investment board as well as two nonvoting
20 members to include the insurance commissioner and the president of the
21 Washington automobile insurance corporation. The members of the board
22 of directors appointed by the governor shall be individuals that
23 possess adequate knowledge of business so as to make them appropriate
24 board members as for any insurance corporation and must be so possessed
25 of such knowledge, experience, and integrity to insure the respect of
26 the people and the business and financial community of the state of
27 Washington. The board shall designate one director as chairman. Board
28 members, other than the president, may be paid and accept as
29 remuneration for the directors' services, the daily or periodic amounts
30 fixed by the board's bylaws and shall be reimbursed for travel expenses
31 as provided in RCW 43.03.050 and 43.03.060. A majority of the voting
32 members constitutes a quorum of the board of directors.

33 NEW SECTION. **Sec. 5.** PRESIDENT AND STAFF. (1) The board shall
34 appoint a president to hold office at its pleasure and shall fix the
35 salary of the president.

36 (2) The board shall define the duties of the president.

1 (3) The board or, if authorized by the board, the president, may
2 appoint such officers and employees as are necessary to carry on the
3 corporation's business and determine their duties and remuneration and
4 may provide a system of organization to fix responsibility and promote
5 efficiency.

6 (4) Chapter 41.06 RCW does not apply to the officers and employees
7 of the corporation. The governor may, by order, direct that the public
8 employees' retirement system applies to the corporation's officers and
9 employees.

10 (5) The corporation may, alone or in cooperation with other
11 corporations, commissions, or other agents of the state, establish,
12 support, or participate in one or more pension or group insurance plans
13 for the benefit of its officers and employees and their dependents.

14 (6) The corporation may require a bond from the officers and
15 employees it may designate.

16 NEW SECTION. **Sec. 6.** HEAD OFFICE. The corporation's head office
17 shall be in Olympia, Washington. The corporation may establish branch
18 offices within Washington at places designated by the board.

19 NEW SECTION. **Sec. 7.** CORPORATION TO ENGAGE IN AUTOMOBILE
20 INSURANCE. The corporation shall operate a plan of universal
21 compulsory automobile insurance established under this chapter and
22 provide automobile insurance in all compulsory insurance classes. In
23 addition, the corporation shall offer any plan of extension insurance
24 prescribed by rule.

25 NEW SECTION. **Sec. 8.** POWERS AND DUTIES. In addition to those
26 powers granted under chapter 24.03 RCW that may be employed to carry
27 out, both directly and indirectly, the purposes of this chapter, the
28 corporation possesses the powers and duties to:

29 (1) Engage in and carry on, inside and outside the state, the
30 business of automobile insurance and reinsurance in all its classes;

31 (2) Operate and administer plans of automobile insurance authorized
32 under any other law;

33 (3) Engage in and carry on the business of repairing insured
34 property and of salvaging and disposing by public or private sale
35 property insured and acquired under a contract by which the corporation

1 may be liable as an insurer, or make agreements with other persons for
2 those purposes;

3 (4) For its own use and benefit, acquire or expropriate, and hold
4 or take options on land required for its business, conveyed, mortgaged,
5 or hypothecated to it by way of security or conveyed to it in
6 satisfaction in whole or in part for debts and judgments, and may
7 dispose of the whole or part of the land; and

8 (5) Acquire some or all of the shares or business and property of
9 an automobile insurer, agent, adjuster, or motor vehicle repairperson,
10 or make an agreement to jointly provide or offer a class of automobile
11 insurance with another domestic or foreign insurer. Title 48 RCW does
12 not apply to an agreement entered under this subsection.

13 NEW SECTION. **Sec. 9.** ADDITIONAL POWERS. The corporation may do
14 all acts and things necessary for the purpose of carrying out its
15 powers and duties, including but not limited to:

16 (1) Conducting surveys and research programs and obtaining
17 statistics to achieve its purposes under this chapter and to establish
18 and administer any automobile insurance plan;

19 (2) Entering into an agreement with or retaining agents or
20 adjusters to solicit and receive applications for automobile insurance,
21 to collect premiums, adjust claims, and do other things on its behalf
22 it considers necessary;

23 (3) Prescribing forms for application, contracts, policies, and
24 other matters it considers necessary;

25 (4) Evaluating damages and losses and paying claims under a
26 contract by which the corporation may be liable as an insurer;

27 (5) Reinsuring the whole or part of a contract of another
28 automobile insurer, and reinsuring its risks under the whole or part of
29 a contract with another insurer, whether or not the other insurer is in
30 or out of the state, or is licensed under Title 48 RCW;

31 (6) Doing anything necessary to settle, adjust, investigate,
32 defend, and otherwise deal with claims made on contracts by which the
33 corporation may be liable as insurer or on a plan established under
34 section 8 of this act.

35 NEW SECTION. **Sec. 10.** WASHINGTON AUTOMOBILE INSURANCE CORPORATION
36 FUND. (1) The Washington automobile insurance corporation fund is
37 created in the custody of the state treasurer. Expenditures from the

1 fund may be used only for the purposes of providing or administering
2 universal compulsory automobile insurance as established under this
3 chapter. Only the board of the corporation or the board's designee may
4 authorize expenditures from the fund.

5 (2) The accounts of the corporation are not subject to chapter
6 43.88 RCW.

7 NEW SECTION. **Sec. 11.** CORPORATION TO MAINTAIN RECORDS. The
8 corporation shall keep and maintain records for:

9 (1) All money paid to the corporation for premiums and all other
10 money, including investment income, paid to the corporation; and

11 (2) All payments by the corporation of benefits, insurance money,
12 damages, compensation, costs, capital expenditures, and operating
13 expenses.

14 NEW SECTION. **Sec. 12.** BORROWING POWER. (1) Subject to subsection
15 (2) of this section, the corporation, as agent of the state, may, for
16 its purposes, raise money by way of loan on the credit of the
17 corporation.

18 (2) Through the state treasurer as its agent for the purpose of
19 this section, the corporation may:

20 (a) Issue notes, bonds, debentures or other securities of the
21 corporation;

22 (b) Dispose of the securities so issued at the prices considered
23 advisable;

24 (c) Mortgage or pledge its property; and

25 (d) Raise money by way of loan on the securities.

26 NEW SECTION. **Sec. 13.** SURPLUS. Any surplus generated by the
27 operation of the corporation shall be deposited into a separate account
28 and applied so as to limit fluctuations in automobile insurance
29 premiums charged by the corporation with the primary goal of keeping
30 the cost of the insurance products provided by the corporation as low
31 as is fiscally advisable.

32 NEW SECTION. **Sec. 14.** PLAN. (1) Pursuant to section 7 of this
33 act, the corporation shall administer a plan of universal compulsory
34 automobile insurance providing coverage under a motor vehicle liability

1 policy of at least the amount prescribed by rules adopted by the
2 corporation, to all persons:

3 (a) Whether named in a certificate or not, to whom, or in respect
4 of whom, or to whose dependents, benefits are payable if bodily injury
5 is sustained or death results;

6 (b) Whether named in a certificate or not, to whom or on whose
7 behalf insurance money is payable, if bodily injury to, or death of
8 another or others, or damage to property, for which he or she is
9 legally liable, results; or

10 (c) To whom insurance money is payable, if loss or damage to a
11 motor vehicle results from a peril specified by rule and caused by a
12 motor vehicle or trailer or their use or operation, or any other risk
13 arising out of their use or operation.

14 (2) The corporation shall not make a contract for the extension of
15 automobile insurance unless the insured:

16 (a) Is, or is entitled to be, insured under a certificate of
17 universal compulsory automobile insurance;

18 (b) Is a resident of the state, or, if a corporation, is
19 incorporated or registered to do business in this state; and

20 (c) Pays the prescribed premium.

21 (3) A contract providing for extension insurance shall provide
22 insurance in excess of the limits of a plan of universal compulsory
23 automobile insurance, or otherwise supplement the coverage in the plan,
24 and the provisions of this chapter respecting universal compulsory
25 automobile insurance apply to extension insurance.

26 (4) A plan issued under this chapter shall not be canceled before
27 the anniversary date of the policy other than for nonpayment of
28 premium. Nothing in this section prohibits the corporation from
29 receiving an additional premium as provided by rules adopted by the
30 corporation.

31 NEW SECTION. **Sec. 15.** APPLICATION OF OTHER STATUTES. The
32 activities and operation of the insurance corporation are exempt from
33 the provisions and requirements of Title 48 RCW except for: (1) Chapter
34 48.03 RCW pertaining to examinations; (2) RCW 48.05.250 pertaining to
35 annual reports; and (3) chapter 48.13 RCW pertaining to investments.

36 NEW SECTION. **Sec. 16.** COMBINED FORMS AND INFORMATION. (1) The
37 corporation may require an applicant for insurance or an insured person

1 to furnish any information, statements, and reports relating to, or
2 affecting, the operation of a plan.

3 (2) The corporation may require an insured to furnish prescribed
4 notices, proofs of claim, proofs of loss, reports, and statements and
5 to comply with any other prescribed methods of making and proving
6 claims.

7 NEW SECTION. **Sec. 17.** APPOINTMENT OF AGENTS. (1) The corporation
8 may in writing appoint agents it considers necessary.

9 (2) The corporation shall not appoint an agent unless he or she
10 holds the necessary license under Title 48 RCW to act as an insurance
11 agent.

12 (3) No agent's appointment may be terminated without just cause.

13 (4) The corporation, after consultation with an agent, may fix
14 annually the commission and other remuneration to be paid to the agent.

15 (5) For the purpose of licensing agents appointed under this
16 section, the corporation is deemed to be licensed as an insurer under
17 Title 48 RCW.

18 NEW SECTION. **Sec. 18.** APPLICATION FOR INSURANCE. (1) At the time
19 of or before applying for any class or kind of motor vehicle or trailer
20 license under Title 46 RCW or transfer of ownership under chapter 46.12
21 RCW, the applicant shall apply for the corresponding owner's
22 certificate or driver's certificate, and, at the same time, shall pay
23 to the person receiving the application the basic premium for that
24 class of certificate and any additional premium that, having been
25 assessed against the applicant, is due and owing.

26 (2) The application for a certificate under subsection (1) of this
27 section may be made:

28 (a) To a person appointed as agent of the corporation under this
29 chapter; or

30 (b) At the head office or a branch office of the corporation.

31 NEW SECTION. **Sec. 19.** CLASSIFICATION OF MOTOR VEHICLES AND BASIC
32 PREMIUM. (1) The corporation shall, by rule, establish classes and
33 subclasses of motor vehicles, trailers, and drivers of motor vehicles.

34 (2) The basic premium payable for an owner's certificate shall be
35 that fixed for the class or subclass of motor vehicle or trailer to
36 which that owner's certificate is appropriate.

1 (3) The basic premium payable for a driver's certificate shall be
2 that fixed for the class or subclass of driver to which that driver's
3 certificate is appropriate.

4 (4) Basic premiums for universal compulsory automobile insurance
5 shall be fixed by rule of the corporation before the commencement of
6 the period for which they are effective.

7 (5) The basic premium payable for universal compulsory automobile
8 insurance shall not include any consideration of age, sex, or marital
9 status.

10 (6) Basic premiums for extension insurance shall be fixed by the
11 corporation before the commencement of the period for which they are
12 effective, and for this purpose the corporation may establish classes
13 and subclasses of motor vehicles, trailers, and drivers of motor
14 vehicles.

15 NEW SECTION. **Sec. 20.** ADDITIONAL PREMIUMS. The corporation may
16 adopt rules concerning additional premiums to be paid by owners or
17 drivers based on any one or more of the following:

18 (1) The accident record of the owner or driver;

19 (2) The degree of fault of the owner or driver in respect to an
20 accident;

21 (3) The existence of any point penalties;

22 (4) The type or class of vehicle to be operated, the use to which
23 it will be put; or

24 (5) Any other basis prescribed in the rules. In no situation may
25 additional premium be based upon the age, marital status, or sex of the
26 owner or driver.

27 NEW SECTION. **Sec. 21.** INSURANCE CONDITION PRECEDENT TO LICENSE.

28 (1) Except for a motor vehicle or trailer exempted by the rules, no
29 permit of any kind and no license, license plate, or decal for a motor
30 vehicle or trailer or for their use or operation may be granted,
31 issued, or renewed under Title 46 RCW, unless at or before the time of
32 application the applicant has applied to the corporation or its agent
33 for and is entitled to an owner's certificate under this chapter in
34 respect to the motor vehicle or trailer for the term of the permit or
35 license, or part of that term as may be prescribed, and the applicant
36 has paid:

37 (a) The premium prescribed for that owner's certificate; and

1 (b) Any additional premium assessed by the corporation.

2 (2) No driver's license, permit, or other authority to drive or
3 operate a motor vehicle may be issued or renewed under Title 46 RCW,
4 unless:

5 (a) At or before the time of application the applicant has applied
6 to the corporation or its agent for and is entitled to a driver's
7 certificate under this chapter for the term of that license or permit
8 or part of that term as may be prescribed; and

9 (b) The applicant has paid the premium prescribed for that driver's
10 certificate and any additional premium assessed by the corporation.

11 (3) Where the director receives an application for transfer of
12 ownership of a motor vehicle or trailer under chapter 46.12 RCW, the
13 director shall refuse registration unless:

14 (a) The transferee has paid the corporation the premium or fee the
15 rules prescribe for the transfer; and

16 (b) The transferee has paid the corporation all money due under
17 this chapter for every motor vehicle and trailer owned by him or her
18 and every owner's certificate issued to him or her under this chapter.

19 NEW SECTION. **Sec. 22.** NOTIFICATION. (1) The director shall
20 notify the corporation of every violation report or conviction under
21 any law regulating vehicular traffic, or in respect to the use or
22 operation of a motor vehicle by a driver of a motor vehicle who is a
23 resident of the state.

24 (2) The director shall notify the corporation of every suspension
25 or cancellation of a license or permit for a motor vehicle or trailer,
26 or of a license or permit to drive.

27 (3) The corporation may notify the director of the default of a
28 person in paying a premium or an additional premium due to the
29 corporation for a certificate of insurance, or of suspension or
30 cancellation of a certificate.

31 NEW SECTION. **Sec. 23.** EXEMPTION OF GOVERNMENT MOTOR VEHICLES.

32 (1) This chapter does not apply to motor vehicles owned or operated by
33 the United States or the government of another state or territory, but
34 applies to motor vehicles owned and operated by the government of
35 Washington and their drivers.

36 (2) Notwithstanding subsection (1) of this section, the corporation
37 may negotiate and conclude an agreement with a government excluded

1 under that subsection to bring any or all motor vehicles belonging to
2 or operated by that government in the state within the operation of
3 this chapter.

4 NEW SECTION. **Sec. 24.** RULES. The corporation, in accordance with
5 the Administrative Procedure Act, chapter 34.05 RCW, may adopt rules to
6 carry out the purposes of this chapter. The corporation has the power,
7 and broad administrative discretion, to administer and interpret this
8 chapter to facilitate the delivery and administration of automobile
9 insurance under this chapter.

10 NEW SECTION. **Sec. 25.** MONEY OF CORPORATION. (1) Money required
11 by law to be paid to the corporation, premiums and other consideration
12 payable for insurance provided by the corporation, and any other money
13 that may be due and payable to the corporation shall be paid to the
14 corporation, and may be retained by it to be used and dealt with only
15 to carry out the powers of the corporation.

16 (2) The corporation shall deposit funds received under subsection
17 (1) of this section in a qualified public depository as determined by
18 the board under chapter 39.58 RCW until they are remitted to the
19 Washington automobile insurance corporation fund in the custody of the
20 state treasurer.

21 NEW SECTION. **Sec. 26.** REPORTS. (1) The corporation shall provide
22 to the legislature annually by March 1st for the preceding fiscal year:

- 23 (a) A report of the corporation on its operations; and
24 (b) A financial statement showing the corporation's operations, as
25 well as its assets and liabilities at the end of the year, in the form
26 that may be required by the state treasurer.

27 (2) The financial statement referred to in subsection (1) of this
28 section shall be prepared in accordance with generally accepted
29 accounting principles.

30 NEW SECTION. **Sec. 27.** INSPECTION BY STATE AUDITOR. The state
31 auditor shall, at least annually, audit the records of the corporation
32 to satisfy himself or herself that revenues collected by the
33 corporation on behalf of the state have been accurately recorded and
34 remitted promptly to the state treasurer.

1 NEW SECTION. **Sec. 28.** ADDITIONAL REPORTS. The governor or the
2 legislature may, at any time, require additional reports from the
3 corporation as the governor or the legislature may consider necessary.

4 NEW SECTION. **Sec. 29.** AGREEMENTS. The corporation may enter into
5 agreements with the United States or another state on:

6 (1) Uniformity of contracts and statutory conditions;

7 (2) Deposit, security, and undertaking required to carry on
8 business in other states; or

9 (3) Any other matter for carrying on business, or settlement of
10 claims in other states.

11 NEW SECTION. **Sec. 30.** CORPORATION SELF-SUSTAINING. The
12 corporation created by this chapter must pay all claims and any other
13 debts, or obligations of any type out of the funds generated by the
14 premiums or investment income earned by the corporation, and the
15 general fund is not liable in any way for any of the debts or
16 obligations or other responsibilities of the corporation.

17 NEW SECTION. **Sec. 31.** LEGISLATIVE POWER. The legislature
18 reserves the right to amend or repeal all or any part of this chapter
19 at any time, and there is no vested right of any kind against such
20 amendment or repeal. All the rights, privileges, or immunities
21 conferred by this chapter or any acts done under it exists subject to
22 the power of the legislature to amend or repeal this chapter at any
23 time.

24 NEW SECTION. **Sec. 32.** SEVERABILITY. If any provision of this act
25 or its application to any person or circumstance is held invalid, the
26 remainder of the act or the application of the provision to other
27 persons or circumstances is not affected.

28 NEW SECTION. **Sec. 33.** CAPTIONS. As used in this chapter,
29 captions constitute no part of the law.

30 NEW SECTION. **Sec. 34.** The sum of three hundred million dollars,
31 or as much thereof as may be necessary, is appropriated for the
32 biennium ending June 30, 1995, from the general fund to the account of
33 the Washington auto insurance corporation for the purposes of this act.

1 Sums appropriated by this section shall be repaid by the corporation no
2 later than June 1, 2005, including interest at the statutory rate.

3 NEW SECTION. **Sec. 35.** Sections 1 through 33 of this act shall
4 constitute a new chapter in Title 46 RCW.

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