**South Carolina General Assembly**

118th Session, 2009-2010

**H. 3236**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Funderburk and McLeod

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Introduced in the House on January 13, 2009

Currently residing in the House Committee on **Labor, Commerce and Industry**

Summary: Automobile insurance

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

1/13/2009 House Introduced and read first time [HJ](file:///h:\HJ%20Archive\2009\01-13-09.docx)‑99

1/13/2009 House Referred to Committee on **Labor, Commerce and Industry** [HJ](file:///h:\HJ%20Archive\2009\01-13-09.docx)‑99

**VERSIONS OF THIS BILL**

[1/13/2009](file:///p:\pprever\2009-10\3236_20090113.docx)

**A** **BILL**

TO AMEND SECTION 38‑1‑20, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS FOR PURPOSES OF THE INSURANCE LAW, SO AS TO ADD A DEFINITION FOR “CREDIT SCORE”; TO AMEND SECTION 38‑73‑740, RELATING TO RECORDS AND IN DETERMINING CLASSIFICATIONS AND RATES OF APPLICANTS FOR AUTOMOBILE INSURANCE WHICH MUST BE MAINTAINED BY AUTOMOBILE INSURERS FOR AT LEAST THREE YEARS, SO AS TO DELETE REFERENCES TO INVESTIGATIVE AND CREDIT REPORTS; AND TO AMEND SECTIONS 38‑77‑122 AND 38‑77‑123, AS AMENDED, RELATING TO THE PROHIBITION ON AUTOMOBILE INSURERS AND AGENTS FROM REFUSING TO ISSUE, OR RENEW, AUTOMOBILE INSURANCE POLICIES DUE TO CERTAIN FACTORS, FACTORS PROHIBITED IN DETERMINING PREMIUM RATES, REQUIREMENTS FOR CANCELLATION, AND PENALTIES FOR VIOLATIONS, SO AS TO PROHIBIT THE USE OF CREDIT SCORE AS A FACTOR IN REFUSING TO ISSUE OR RENEW A POLICY OF AUTOMOBILE INSURANCE AND TO PROHIBIT THE USE OF CREDIT IN DETERMINING AUTOMOBILE INSURANCE POLICY PREMIUM RATES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 38‑1‑20 of the 1976 Code, as last amended by Act 290 of 2004, is further amended by adding:

“(13.5) ‘Credit score’ means a score that is derived by utilizing data from an individual’s credit report in an algorithm, computer program, model, or other process that reduces the data to a number or rating.”

SECTION 2. Section 38‑73‑740 of the 1976 Code is amended to read:

“Section 38‑73‑740. All information~~, including investigative and credit reports~~ used in determining the classification or premium rates of ~~any~~ a person applying for automobile insurance, must be kept on file by the insurer for at least three years from the date the application was made. Upon request of the applicant, the contents of the file must be made available for inspection by the applicant and copies of the documents must be furnished the applicant if he pays the cost of reproducing the copies.”

SECTION 3. Section 38‑77‑122 of the 1976 Code is amended to read:

“Section 38‑77‑122. (A) ~~No~~ An insurer or agent ~~shall~~ may not refuse to issue an automobile insurance policy as defined in Section 38‑77‑30 because of any one or more of the following factors: ~~the~~ age, sex, location of residence in this State, race, color, creed, national origin, ancestry, marital status, ~~or~~ income level, or credit score. ~~No~~ An insurer or agent ~~shall~~ may not refuse to issue an automobile insurance policy as defined in Section 38‑77‑30 ~~solely~~ because of any one of the following factors: the previous refusal of automobile insurance by another insurer, prior purchase of insurance through the Associated Auto Insurers Plan, or lawful occupation, including the military service, of the person seeking the coverage. Nothing in this section prohibits ~~any~~ an insurer from limiting the issuance of motor vehicle insurance policies only to persons engaging in or who have engaged in a particular profession or occupation, or who are members of a particular religious sect.

Nothing in this section prohibits ~~any~~ an insurer from setting rates in accordance with relevant actuarial data.

(B) In determining the premium rates to be charged for an automobile insurance policy as defined in Section 38‑77‑30, it is unlawful to consider race, color, creed, religion, national origin, ancestry, location of residence in this State, economic status, ~~or~~ income level, or credit score. ~~Nor may an~~ The insurer, agent, or broker may not refuse to write or renew an automobile insurance policy as defined in Section 38‑77‑30 based upon age, sex, race, color, creed, religion, national origin, ancestry, location of residence in this State, economic status, ~~or~~ income level, or credit score. However, nothing in this subsection ~~may preclude~~ precludes the use of a territorial plan approved by the director. ~~Any~~ An insurer or agent who violates this section ~~shall be~~ is subject to the penalties ~~as~~ provided in Section 38‑2‑10. If the director of the Department of Insurance or his designee finds that an insurer or agent is participating in a pattern of unfair discrimination, the director or his designee may impose a fine of up to two hundred thousand dollars. ~~Provided,~~ However, if the unfair discrimination is required by an insurer, only the insurer is subject to the penalty ~~as long as~~ if the agent of the insurer has reported the pattern of unfair discrimination to the department. The director or his designee at any time may examine an insurer or agent to enforce this section. The expense of examination must be paid by the insurer, agent, or broker.”

SECTION 4. Items (1) and (2) of Section 38‑77‑123(A) of the 1976 Code, as amended by Act 296 of 2008, are amended to read:

“(1) ~~No~~ An insurer ~~shall~~ may not refuse to renew an automobile insurance policy because of any one or more of the following factors:

(a) age;

(b) sex;

(c) location of residence in this State;

(d) race;

(e) color;

(f) creed;

(g) national origin;

(h) ancestry;

(i) marital status;

(j) income level

(k) credit score.

(2) ~~No~~ Aninsurer ~~shall~~ may not refuse to renew an automobile insurance policy ~~solely~~ because of any one of the following factors:

(a) lawful occupation, including the military service;

(b) lack of driving experience or number of years of driving experience;

(c) lack of supporting business or lack of the potential for acquiring such business;

(d) one or more accidents or violations that occurred more than thirty‑six months immediately preceding the upcoming anniversary date;

(e) one or more claims submitted under the uninsured motorists coverage of the policy where the uninsured motorist is known or there is physical evidence of contact;

(f) single claim by a single insured submitted under the medical payments coverage or medical expense coverage due to an accident for which the insured was neither wholly nor partially at fault;

(g) one or more claims submitted under the comprehensive or towing coverages. However, nothing in this section prohibits an insurer from modifying or refusing to renew the comprehensive or towing coverages at the time of renewal of the policy on the basis of one or more claims submitted by an insured under those coverages, provided that the insurer mails or delivers to the insured at the address shown in the policy, written notice of the change in coverage at least thirty days before the renewal;

(h) two or fewer motor vehicle accidents within a three‑year period unless the accident was caused either wholly or partially by the named insured, a resident of the same household, or other customary operator; or

(i) an insured who uses his personal automobile for volunteer emergency services and who provides a copy of the policy promulgated by the chief of his department to his insurer on request

(j) credit score.”

SECTION 5. This act takes effect upon approval by the Governor.

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