



SPONSOR: Sen. Gay & Rep. Bush
Sens. Hoffner, Townsend, Walsh; Reps. Baumbach,
Lambert, Morrison

DELAWARE STATE SENATE
152nd GENERAL ASSEMBLY

SENATE BILL NO. 184

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO USE OF CERTAIN FACTORS IN UNDERWRITING PRIVATE INSURANCE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 2304, Title 18, of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows and by redesignating accordingly:

3 § 2304. Unfair methods of competition and unfair or deceptive acts or practices defined.

4 The following are defined as unfair methods of competition and unfair or deceptive acts or practices in the
5 business of insurance:

6 (30) Prohibited use of certain rating factors in homeowner's and private passenger motor vehicle insurance. – A
7 person or entity engaged in the business of homeowner's or private passenger motor vehicle insurance in this State may not
8 use any data related to any proposed insured or covered person in the underwriting of such insurance that is any of the
9 following:

10 a. Related to non-pending arrests, charges, or indictments that do not result in conviction.

11 b. Related to convictions, arrests, charges, or indictments that do not relate in any way to either fraud or
12 to the type of risk being insured or evaluated for the insurance being sought.

13 c. Related to the suspension or revocation of a driver's license when the suspension or revocation is for
14 nondriving-related reasons unless otherwise permitted under this subsection.

15 Section 2. Amend § 3904, Title 18, of the Delaware Code by making deletions as shown by strike through and
16 insertions as shown by underlining as follows:

17 § 3904. Cancellation or nonrenewal of automobile policy – Reasons for cancellation or nonrenewal.

18 (a) No notice of cancellation of a policy shall be effective and the insurer shall not refuse renewal or threaten to
19 refuse renewal of a policy unless based on 1 or more of the following reasons:

20 (7) The named insured or any other operator who either resides in the same household or customarily operates an
21 automobile insured under such policy:

- 22 a. Has, within the 36 months prior to the notice of cancellation or nonrenewal, had a driver's
23 license under suspension or revocation, except for any of the following:
- 24 1. a child whose license has been revoked or suspended pursuant to § 1009 of Title
25 ~~10, or 10.~~
- 26 2. A child whose license had been revoked or suspended pursuant to § 904 of Title 4,
27 ~~or 4.~~
- 28 3. A person who had a driver's license under suspension or revocation for a non-driving-
29 related offense, including a non-driving-related drug offense pursuant to § 2707(b)(11) or §
30 4177K [repealed] 2707(b)(10) of Title 21; or
- 31 g. Has been convicted, or forfeited bail, during the 36 months immediately preceding the notice
32 of cancellation or nonrenewal, for:
- 33 1. Any felony related to fraud or to the type of risk being insured; or

34 Section 3. The provisions of this Act shall apply to all policies issued or renewed 12 months following this Act's
35 enactment into law.

SYNOPSIS

Research has shown that certain underwriting factors used by insurers, while facially neutral, may have a disparate impact on protected classes. This bill seeks to address this disparate impact by prohibiting certain underwriting and rating factors, despite being correlative with loss, in homeowner's and private passenger motor vehicle insurance policies. This bill would specifically prohibit an insurer's consideration of an insured's or proposed insured's (i) non-pending arrests, charges and indictments that do not result in conviction, (ii) convictions unrelated to fraud or the risk being insured, or (iii) driver's license suspensions or revocations for non-driving related reasons. This bill also corrects an incorrect statutory reference in current law.

Author: Senator Gay