

ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE

February 26, 2013

1:33 p.m.

MEMBERS PRESENT

Senator Mike Dunleavy, Chair
Senator Peter Micciche, Vice Chair
Senator Donald Olson
Senator Bert Stedman

MEMBERS ABSENT

Senator Johnny Ellis

COMMITTEE CALENDAR

SENATE BILL NO. 52

"An Act providing that portable electronics insurance is not a service contract; defining portable electronics insurance; authorizing the director of insurance to issue a limited producer license to a portable electronics vendor for the sale of portable electronics insurance; and authorizing the employees and representatives of a vendor to transact portable electronics insurance."

- HEARD AND HELD

SENATE BILL NO. 55

"An Act relating to actions by insurers based on credit history or insurance score."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 52

SHORT TITLE: PORTABLE ELECTRONICS INSURANCE

SPONSOR(S): SENATOR(S) COGHILL

02/13/13	(S)	READ THE FIRST TIME - REFERRALS
02/13/13	(S)	L&C
02/26/13	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 55

SHORT TITLE: INSURER'S USE OF CREDIT SCORES

SPONSOR(s): LABOR & COMMERCE

02/15/13 (S) READ THE FIRST TIME - REFERRALS
02/15/13 (S) L&C
02/26/13 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

SENATOR JOHN COGHILL
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Sponsor of SB 52

KARI NORE, Intern
Senator John Coghill
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Introduced SB 52 on behalf of the sponsor.

RYNNIEVA MOSS, Staff
Senator John Coghill
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Provided information related to SB 55.

BRET S. KOLB, Director
Division of Insurance
Department of Commerce, Community and Economic Development
Anchorage, AK

POSITION STATEMENT: Answered questions related to SB 52.

STEVE RICCI, Staff
Senate Labor and Commerce Committee
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Introduced SB 55.

KENTON BRINE, Assistant Vice President and Northwest Regional
Manager
Property Casualty Insurers Association of America
Olympia, WA

POSITION STATEMENT: Testified in support of SB 55.

ELIZABETH MOCERI, Director
State and Legislative Affairs for Alaska
Allstate Insurance Company

POSITION STATEMENT: Testified in support of SB 55.

GARY STRANNIGAN
Liberty Mutual Group and Safeco Insurance
Seattle, WA

POSITION STATEMENT: Testified in support of SB 55.

CINDA SMITH, Senior Counsel
GEICO

POSITION STATEMENT: Testified in support of SB 55.

ALEX HAGELI
Property Casualty Insurers Association of America
Olympia, WA

POSITION STATEMENT: Testified in support of SB 55.

ACTION NARRATIVE

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CHAIR MIKE DUNLEAVY called the Senate Labor and Commerce Standing Committee meeting to order at 1:33 p.m. Present at the call to order were Senators Olson, Micciche, and Chair Dunleavy. Senator Stedman arrived soon thereafter.

SB 52-PORTABLE ELECTRONICS INSURANCE

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CHAIR DUNLEAVY announced the consideration of SB 52 and asked for a motion to adopt the work draft committee substitute (CS).

SENATOR MICCICHE moved to adopt CS for SB 52, labeled 28-LS0461\N, as the working document.

CHAIR DUNLEAVY objection for discussion purposes.

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SENATOR JOHN COGHILL, sponsor of SB 52, explained that the bill provides more nimble insurance for portable electronic devices and establishes a best practices rule for Alaska. He deferred the detailed explanation to his intern Kari Nore.

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KARI NORE, Intern to Senator John Coghill, sponsor of SB 52 stated that this legislation seeks to bring structure to the electronics insurance market and protect consumers. She explained that homeowner's insurance does not necessarily cover the theft of a portable electronic device, like a laptop

computer, from the homeowner's car or home. She offered to provide a sectional analysis of SB 52.

CHAIR DUNLEAVY suggested she hit the major spots and the committee would ask questions.

MS. NORE explained that a main point of the bill adds portable electronics insurance to the list of insurances that are not included under "service contract." Section 2 adds a new subsection [AS 21.03.021(g)] to clarify that Title 21 does not apply to a portable electronics manufacturer's warranty or extended warranty. Section 4 adds a new paragraph (8) [to AS 21.27.150(a)] to allow the director of insurance to issue a portable electronics limited producer license to a vendor that sells or offers portable electronics insurance. The license covers the vendor and employees for all locations in the state where the vendor sells the products. The employees do not have to be licensed as long as they are not compensated based on the sale of insurance, the vendor has a training program, and the vendor maintains a registry.

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SENATOR MICCICHE summarized that a business like ACS or Radio Shack has the license to sell the insurance and employees of the business can sell under that license as long as their compensation isn't based on the sale of that insurance.

MS. NORE agreed. She continued to explain that Section 5 defines portable electronics insurance, lists the materials that must be presented to the consumer in writing, defines the procedure for modification of the terms of the insurance, defines the procedures to terminate the insurance, and lists the types of devices that will be covered under portable electronics insurance.

Section 6 provides an effective date of January 1, 2014 to allow the Division of Insurance time to complete installation of a new software program for data entry. This will prevent the bill from having a fiscal impact.

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SENATOR MICCICHE described the legislation as timely, and noted that Alaska will be the 44th state to adopt this legislation.

SENATOR OLSON questioned why the sponsor was bringing the legislation forward if there were no complaints.

MS. NORE responded that the legislation was proactive and anticipated what could be a problem in the near future.

SENATOR OLSON questioned the need to pass a law that addresses a problem that doesn't exist now and because technology changes so quickly, might not address an issue that arises in five or ten years.

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RYNNIEVA MOSS, staff for Senator Coghill, said the sponsor has been convinced that portable electronic devices are creating a new industry in the insurance world and regulation is needed. Consumers need to know if they are receiving coverage when they purchase the produce or if they're paying for separate insurance coverage. Because of nuances in this industry, the sponsor feels regulation is justified.

SENATOR OLSON asked if states that have similar legislation have had complaints from consumers.

MS. MOSS acknowledged that she didn't know and emphasized that the intent is to protect the consumer.

SENATOR MICCICHE commented that replacing electronic devices can be expensive and he would be interested in the product.

CHAIR DUNLEAVY asked if evidence from other states indicates that in the future Alaska will need such a law and that the sponsor was being proactive.

MS. NORE confirmed that the sponsor was preemptively introducing the legislation to ensure consumer protection in the future.

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SENATOR OLSON asked what insurance companies think of this type of legislation.

MS. NORE said she was not aware of any opposition to the bill.

MS. MOSS highlighted that vendors of insurance have objected to the language on page 6, lines 10-16, because it requires additional recordkeeping and paperwork. She explained that the sponsor included the language to accommodate the division of insurance, but the current director has indicated that he would not object to removing the language. One company also raised concern with existing statutory language on page 2, line 9, relating to power surges. She said she wanted further

clarification before deleting that language, because it addresses service contracts and the bill addresses portable electronics insurance.

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BRET S. KOLB, Director, Division of Insurance, Department of Commerce, Community and Economic Development (DCCED) offered to answer questions.

SENATOR OLSON asked if the department supported the bill.

MR. KOLB answered that the department is supportive of SB 52.

CHAIR DUNLEAVY asked if he sees any issues with the bill.

MR. KOLB confirmed that he did not object to removing the language on page 6. The division has sufficient authority to provide needed protections so that language is redundant.

CHAIR DUNLEAVY removed his objection, and version N was before the committee.

He stated that he would hold SB 52 in committee for further consideration.

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At ease

SB 55-INSURER'S USE OF CREDIT SCORES

CHAIR DUNLEAVY announced the consideration of SB 55 and stated that the bill would not move from committee today.

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STEVE RICCI, Staff to the Senate Labor and Commerce Committee, introduced SB 55 speaking to the following sponsor statement: [Original punctuation provided.]

Under current law (AS 21.36.460), an insurer writing new personal insurance policies in Alaska may consider a consumer's credit information to underwrite or rate a policy. An insurer may consider the information at renewal only if the consumer affirmatively requests the continued use. Under current statute, "personal insurance policies" include property/casualty insurance policies purchased by individuals for personal use, such as homeowner's coverage or motor

vehicle coverage. This does not include life, health, disability or commercial property & casualty.

The authorization for the use of credit information has been interpreted by the Supreme Court of Alaska (Alaska Division of Insurance v. Progressive, 2007) to require insurers to "strip-out" the impact of credit information on premium when the policy renews. They must also remove credit information for a policy after two years; the duration of underwriting. Alaska is the only state in the nation with these renewal-based restrictions, which leaves many Alaskans with non-competitive policies.

A survey of Alaska personal insurance policy writers in 2009-2010 showed that the credit score restriction has increased premium rates for many Alaskans by as much as 42 percent. In some cases, credit information has been shown by numerous studies as an accurate predictor of risk. Risk assessment tools provide insurers the ability to offer consumers lower rates. Removing credit information has meant higher personal insurance rates for many Alaskans.

MR. RICCI explained that the bill amends current statute to allow insurers to use credit scores when renewing an insurance policy. Under current law, an insurer may consider a consumer's credit information when writing a new insurance policy, but not at renewal. Section 2 deletes language from the definition of "adverse action" and requires insurers to notify consumers if they are negatively impacted by the use of their credit score. He noted that the bill has a zero fiscal note.

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SENATOR OLSON asked why an insurer would use a consumer's credit score to determine insurance rates.

MR. RICCI explained that credit is just one factor in the matrix that insurance companies use to assess risk, and a number of studies have shown that it is a good predictor of loss potential.

SENATOR OLSON asked if other, more reliable predictors were available.

MR. RICCI clarified that the credit score is just one tool; experience, history, age, and other factors are also considered to determine an insurance score.

SENATOR OLSON asked him to elaborate on the prohibition in Section 1 against using an insurance score.

MR. RICCI clarified that based on a 2007 Alaska Supreme Court decision insurers are only prohibited from using a credit score when renewing a policy.

SENATOR OLSON asked what happens if somebody doesn't have a credit score.

MR. RICCI deferred the question to Mr. Brine.

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KENTON BRINE, Assistant Vice President and Northwest Regional Manager, Property Casualty Insurers Association of America, Olympia, WA, said PCI is a national trade association that represents about 38 percent of home and auto insurance policies sold and maintained nationwide. The association has a variety of carriers with wide experience using credit information.

He explained that Alaska has had a unique statute for more than 10 years. Like many other states, the statute allows insurance companies to look at credit history when writing a new insurance policy, but unlike any other state, it prohibits consideration of that credit information when the policy renews. The law can be interpreted in more than one way. Insurers recall that it was the legislature's intent to allow the use of credit both for new business and at renewal. However, the division of insurance and some legislator's interpretation was that after two years that information should be removed because the insurer would know the policyholder and be able to use other rating criteria to take the place of credit.

Insurers challenged the law in 2006 and a district court agreed with the insurance industry. On appeal, the Alaska Supreme Court ultimately overturned the decision.

MR. BRINE said the effect of the statute for many consumers has been insurance rate increases for personal line policies, not commercial, health, life or disability insurance.

CO-CHAIR DUNLEAVY asked if rates have increased because of averaging.

MR. BRINE replied it has to do with how insurers use credit information, and it's generally used to provide discounts to people considered the best risks. A number of studies looking at the use of credit information in insurance scores all conclude that there is a strong correlation between a person's personal financial history and their risk of filing insurance claims. Insurers look at credit scores in order to price their products as accurately as possible and match them with people according to the risk they represent. In most cases, consumers' credit is good enough that either their credit score will not affect them or they will pay less for insurance because they represent a better risk.

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SENATOR STEDMAN joined the committee.

MR. BRINE said that since most consumers benefit from the use of credit scores, removing the good credit discount results in higher insurance rates for those people. The people that benefit are those that represent a higher risk; they pay less because the people that represent a lower risk subsidize them. One side result when somebody finds out their rate is going up is that they look for insurance with another company. That creates churn and disruption in the marketplace.

MR. BRINE related that when PCI conducted a survey of carriers writing policies in Alaska it found that, of those reporting, 40 percent of personal auto policies and 30 percent of homeowner insurance policies saw rate increases of between 11 percent and 20 percent as a direct result of losing the good credit discount. The most significant increases applied to about one quarter of auto insurance policyholders and about 40 percent of homeowner policyholders for no other reason than that the statute requires the removal of credit information and the rerating of the consumer at renewal.

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He opined that the Alaska experience demonstrates the difference between myths and realities of credit scoring. The myths include the notion that credit has nothing to do with how a person drives or whether their house is going to catch fire. However, many studies show that there is a direct correlation between risk and established patterns of living.

SENATOR MICCICHE asked if the court decision was the result of a constitutional or statute issue.

MR. BRINE said the court based its decision on the statutory language. The specific reference to two years is not in the statute and was not addressed by the court. It was in a regulation or bulletin from the insurance division that the industry has abided.

MR. BRINE recapped that the use of credit information by insurers saves money for most Alaska consumers and prevents cross subsidization, which insurers believe is unfair to consumers. A PCI survey has demonstrated that the Alaska statute costs Alaskan consumers money. The statute also discourages insurers from entering the Alaska market.

He said that SB 55 does not change existing safeguards in the statute. It allows insurers to consider credit information when renewing a policy and it clarifies the adverse action notice provisions of the statute. Insurers would be required to send an adverse action notice when the current rate is not as good as the rate the consumer would have received if the insurer did not look at credit.

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ELIZABETH MOCERI, Director, State and Legislative Affairs for Alaska, Allstate Insurance Company, introduced herself.

GARY STRANNIGAN, Liberty Mutual Group and Safeco Insurance, Seattle, WA, introduced himself.

SENATOR OLSON asked how an individual is treated if their credit rating drops through no fault of their own.

MR. BRINE pointed out that an insurance score is usually a combination of credit and other factors, and someone having an anomaly probably doesn't mean that they'll immediately pay a higher insurance rate. However, they might pay more if they're in a group of people who suffered similar anomalies.

SENATOR OLSON asked how insurers compensate when the stock market plunges and credit scores go down for a group of people.

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MS. MOCERI explained that insurers use credit factors to put a consumer into a tier based on that underlying credit-based information, but the insurer does not rerun the consumer's credit again on renewal. The bill wouldn't change that, but would allow the insurer to keep the discount that the consumer

already has. She said that 60 percent of Allstate's Alaska customers have been affected by this, which has been expensive and disruptive to the marketplace. She concluded that Alaska isn't an attractive place for insurers because of the unique interpretation on running credit on renewal of a policy

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SENATOR MICCICHE asked where in the bill it says credit won't be rerun on renewal.

MS. MOCERI replied the bill doesn't mention anything that allows an insurer to rerun credit.

SENATOR MICCICHE asked if it discourages an insurer from rerunning a credit report.

MS. MOCERI reiterated that insurers can't rerun credit on renewal and are required to strip-out the credit information on renewal. SB 55 allows insurers to keep their customers in the same tiers when the policy is renewed.

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SENATOR MICCICHE asked if this would make it significantly more expensive for a young, struggling family to get insurance.

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MR. STRANNIGAN said that since 2008 people have been paying down their debts and credit scores have gradually improved, on an average basis, nationwide. He reiterated that studies support that credit is an accurate predictor of risk and that people establish patterns of responsibility. They don't partition the responsible parts of their lives.

He highlighted that in Alaska 72 percent of Safeco's auto insurance customers and 76 percent of their homeowner insurance customers receive either positive or neutral treatment from credit being included, but 80-85 percent receive an adverse action notice. He emphasized that Alaska is a small, remote market that has a unique statute that makes it very costly to write insurance. He opined that SB 55 would go a long way to drop barriers and enhance competition to the benefit of Alaska insurance consumers.

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SENATOR MICCICHE asked if the bill would create a comparatively more expensive market for people who are doing their best but might not have the best credit score.

MR. BRINE opined that making it easier for carriers to write insurance would be the single best help for families that are having a difficult time. He also pointed out that the statute is merely allowing something to continue that is already in place for new policies. Insurance companies have to deal with probability and statistics and they are looking for the best tools possible to tie rates to anticipated behavior. The information available suggests that credit information is among the strongest predictors available for risk of loss.

SENATOR MICCICHE recapped that the answer is yes; insurance companies are currently averaging and the law of basic economics says that more expense will shift to lower income people with lower credit scores.

MR. BRINE clarified that there is no correlation between low incomes and lower credit scores.

SENATOR MICCICHE cautioned that insurance costs could go up for people who are having difficulty maintaining their credit scores.

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SENATOR OLSON asked what adjustment is made for people who try to get insurance but don't have a credit history because they pay cash for everything.

MS. MOCERI explained that the system describes those people as a "no hit" and they get a neutral score. She added that an insurance score is based on how the person manages what they have rather than how much they have. Customers are given an insurance score and placed in a tier. On renewal, 60 percent lose their credit discount and they end up subsidizing customers with greater risk. When good risk customers get a rate increase they tend to change companies, whereas the higher risk customers stay because they get a rate decrease. This inaccurate rating affects the entire book of business and gives a higher expense ratio, which in turn raises everybody's rates.

SENATOR MICCICHE expressed concern about the uninsured motorist problem in Alaska and cautioned against doing anything to encourage that number to increase. He suggested there may be need for something like a SR-22 program or stripped barren insurance policy for those who can no longer make it because of a combination of their credit and insurance scores.

MS. MOCERI explained that Alaska has an assigned market risk pool for people who do not qualify for auto insurance and it's subsidized by the insurance industry. She emphasized that the first factor in reducing the numbers of uninsured drivers is to make insurance affordable and available. The industry feels that Alaska would be a more attractive marketplace if it did not have a court decision that was out of line with the rest of the country and if it did modernize its regulatory system.

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CINDA SMITH, Senior Counsel, GEICO, said GEICO supports SB 55 to allow credit to be used at renewal. She noted that the committee previously heard that the current requirements result in some policies receiving a higher rate and some undeservedly receiving a lower rate and GEICO feels that is so fundamentally unfair that it does not use credit even though it would benefit most consumers. Additionally, requiring the waiver to be in writing is burdensome.

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ALEX HAGELI, Property Casualty Insurers Association of America, Olympia, WA, emphasized that the use of credit information at renewal is not prohibited under Alaska law, but policyholders have to ask for it to be used at renewal. He also pointed out that a number of insurance companies disregard a lower rescore when a policy renews because they want to keep the customer.

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CHAIR DUNLEAVY announced that he would hold SB 55 in committee. He explained that he introduced the bill to explore whether it was good public policy for some insurance consumers to subsidize others.

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MR STRANNIGAN said that in light of Senator Micciche's questions he thought it would be useful to know about a 2007 initiative in the state of Oregon that would have banned insurers from using credit for homeowner and auto policies. At the outset, 75 percent of voters wanted to approve the ban, but the initiative failed when voters learned that people with good credit would be subsidizing those with bad credit.

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There being no further business to come before the committee, Chair Dunleavy adjourned the Senate Labor and Commerce Standing Committee meeting at 2:39 p.m.