

Amend HB 1951 (house committee printing) as follows:

(1) On page 23, line 19, strike "COLLECTION".

(2) Add the following appropriately numbered SECTION to ARTICLE 7 and renumber subsequent SECTIONS of the ARTICLE accordingly:

SECTION 7.____. Chapter 1953, Insurance Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. DATA MINING AND PATTERN RECOGNITION

Sec. 1953.151. APPLICABILITY OF SUBCHAPTER. This subchapter applies to an insurer writing automobile insurance in this state, including an insurance company, reciprocal or interinsurance exchange, county mutual insurance company, farm mutual insurance company, Lloyd's plan, or other insurer.

Sec. 1953.152. COLLECTION OF INFORMATION CONCERNING DATA MINING AND PATTERN RECOGNITION. (a) The commissioner by rule may require an insurer to report to the department concerning:

(1) technologies to be used by the insurer to identify relationships among variables that are used to predict differences in expected losses of covered persons or applicants for automobile insurance coverage or are otherwise used in the activities of regulated entities; and

(2) the manner in which the insurer intends to use the relationships derived from the technologies described by Subdivision (1) in:

(A) underwriting and creating and defining risk classifications;

(B) setting rates and premiums, as applicable;

(C) detecting fraudulent claims;

(D) identifying subrogation opportunities;

(E) improving marketing; or

(F) performing other activities identified by the commissioner; and

(3) services provided by third party loss-evaluation services to identify loss statistics and information for the purpose of evaluating claims, loss-settlement reserves, and losses paid and the manner in which the insurer uses those services and the information obtained.

(b) In exercising the commissioner's authority under this section, the commissioner may require that insurers report with respect to selected segments of the market and may limit the reporting to specific uses of relationships derived from the technologies.

(c) Underwriting guidelines, loss and claims evaluation data, and related information obtained by the commissioner under this section are subject to Section 38.003. Other information obtained under this section is commercial information not subject to the disclosure requirements of Chapter 552, Government Code.

Sec. 1953.153. ADMINISTRATIVE PENALTIES. If the department determines that an insurer has violated this chapter or a rule adopted under this chapter, the department shall assess administrative penalties against the insurer in the manner provided by Chapter 84. The amount of an administrative penalty imposed under this section shall be based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, or gravity of the violation; and

(2) the economic harm caused by the violation.

Sec. 1953.154. REPORT TO LEGISLATURE. The department shall include in its biennial report to the legislature under Section 32.022 information concerning the use of relationships derived from the technologies described by Section 1953.152 by insurers. The information must include the impact of the use of those relationships on insurance and other coverage to covered persons and applicants for coverage in this state. The report must include, as applicable, recommendations for:

(1) proposed legislation appropriate to regulate the use of relationships derived from the technologies; and

(2) means to facilitate availability of insurance in underserved markets and to maintain fair and equitable loss-evaluation and claims settlement practices in this state.