HB

7

#7

Re: % of vehicles uninsured involved in accidents

Oregon – 6% uninsured - doesn't matter who is at fault

Ak – 6%-7% uninsured and at fault
(19% uninsured involved in an accident)
(40% uninsured statistic is based on # vehicles reg compared to car yrs for insurance - ie ~~#~~ of mths covered - 12 cars getting insurance in Dec = 1 car yr + NOT 12 cars insured)
Bill Brown - Motor Vehicles – 4335

Florida - 23% uninsured based on similar method as Ak. - apparently no statistics are available as to # of uninsured involved in accidents.

STATE OF ARKANSAS
LEGISLATIVE COUNCIL
315 STATE CAPITOL
LITTLE ROCK
72201

COMPULSORY AUTO LIABILITY INSURANCE; ISSUES AND INFORMATION

A REPORT PUBLISHED
BY
THE BUREAU OF LEGISLATIVE RESEARCH

Staff Report 80-42
August 7, 1981

I Basic Types of Liability Laws

Five basic types of liability laws are now in force throughout the United States. The first is the Financial Responsibility law of which there are two types. Minimum requirements of financial responsibility are shown in terms of amount applicable to death or injury of one person, death or injury of more than one person, and property damage. Arkansas Statutes 74-1444 provides for limits of $10,000 for death or injury of one person, $20,000 for death or injury of more than one person, and $5,000 for property damage. The Security-type laws require that, following report of an accident, each driver or owner of the vehicles involved show his ability to pay any damages which may be charged to him in subsequent litigation or negotiation arising out of the accident. Arkansas Statute 75-1418 requires the driver of a vehicle involved in an accident causing damage in excess of two hundred and fifty dollars ($250.00) to report the accident to the Department of Revenue within thirty (30) days following the accident. Security must be posted at that time. Evidence of security can be provided in any of the following ways:

1. Showing that there was, at the time of the accident, an automobile liability policy in effect in at least the amounts prescribed by statute;
2. Posting a bond for these amounts;
3. Depositing with State authorities money or securities equalling the stipulated amounts;
4. Proving the person is self-insured.

The "Future-Proof Type" law requires a similar showing of financial responsibility be made by persons who have been convicted of certain serious traffic offenses or who have failed to pay a judgment against them for damages arising out of an accident. It should be noted that financial responsibility laws are not compulsory insurance. They provide that following certain occurrences, proof must be given of the ability to respond in damages. One of the ways to show proof is through evidence of an automobile liability insurance policy. Financial responsibility laws are invoked or become effective in any one of three situations.

1. Following an automobile accident involving bodily injury, or involving property damage to the property of any one person exceeding a stipulated amount. ($250.00 or more in Arkansas)

2. As a result of conviction for certain offenses (reckless driving) or for an excessive number of convictions.

3. Failure to pay final judgment arising from an accident.

For accidents, requirements usually call either for "security for the current accident" or for "security for the current accident plus proof of future financial responsibility".

A detailed summary of the financial responsibility laws of other states is contained in Table I.

A second type of liability law has been enacted in twenty-four (24) states. This is the so-called "No-Fault" type of automobile insurance statute. Under no-fault plans the owner of the vehicle looks to his own insurance company for reimbursement for damages which is sustained in an accident rather than having to go to court and prove that the other party caused the accident. Most plans cover only bodily injury, and not vehicle damage. Most plans specify a minimum amount or "threshold" below which tort suits for general damages are barred. Once the "threshold" amount is reached in terms of the damages suffered, the motorist is permitted to institute a suit to recover general damages. The no-fault insurance is usually compulsory. The no-fault plan in Arkansas is provided by attaching the Personal Injury Protection Endorsement (P.I.P.) to the policy. The Arkansas plan is optional, or "add-on" plan because an accident victim still retains the right to sue a negligent driver regardless of the amounts of benefits collected under the no-fault coverage. A summary of the basic provisions of the various no-fault laws in effect are contained in Table II.

A number of states have experimented with a third type of liability law, the so-called "Unsatisfied Judgment Funds". The state operated funds are commonly financed with fees from motorists who are unable to provide evidence of insurance when they register their vehicles, or from assessments levied on automobile insurance companies. New Jersey, New Mexico and North Dakota have this type of liability law.

A fourth type of liability law, "Uninsured Motorist Law", has been enacted in many states. These laws general require insurance companies to offer, as a part of their basic policy, coverage against potential damages by motorists who are not insured. A majority of states provide that uninsured motorist coverage is at the option of the insured. Arkansas is one of the "optional" states. Table III contains additional detail.

II COMPULSORY INSURANCE

A fifth type of liability law, "Compulsory Insurance", requires that motorists file proof of financial responsibility prior to annual vehicle registration as a condition of vehicle registration. Twenty-three (23) states have presently enacted statutes requiring liability insurance. Similar legislation was proposed in Arkansas at the Seventy-First General Assembly in 1977. House Bill 17 would have required compulsory liability insurance to the amount of at least ten thousand dollars ($10,000.00) on account of injury or death to any one person, twenty thousand dollars ($20,000.00) for more than one person, and five thousand dollars ($5,000.00) for property damage. The bill proposed that a certification of insurance be issued by the insurance company which was to be submitted to the Commissioner of Revenues at the time of registering a motor vehicle. Table IV contains detailed information on enforcement and certification procedures concerning compulsory liability insurance in the various states.

Comparative rate data in terms of comparing Arkansas with other states is a difficult task. States do not have the same liability limits and every state is unique in loss ratios and exposure. The rates for automobile insurance contained in Table V should therefore be looked at as representative rates in the various states.

TABLE I

State	Compulsory Liability Insurance	Liability Limits	FINANCIAL RESPONSIBILITY LAWS									Termination Notice to Department
			ACCIDENTS INVOKING LAWS				INSURANCE IN EFFECT?		EVIDENCE REQUIRED			
			Minimum Property Damage	Requires Security (S), Proof (P) from Driver (D), Owner (O)	Regardless of fault?	Applicable to accidents in other states?	Information required in accident report?	Verification required from insurer? (* - Only if policy not in effect)	P – Proof of future responsibility Sec – Security Set – Satisfaction of judgment Figures – Number of years required After Accident	After Conviction	After Judgment	
ALABAMA	No	10/20/5	$ 50	S – D&O	Yes	Yes	Yes	Verification*	S	P-3	Set. & P-3	10
ALASKA	No	25/50/10	$200	S&P – D&O	No	Yes	Yes	Verification*	S&P-3	P-3	Set. & P-3	10
ARIZONA	No	15/30/10	$300	S&P – D&O	Yes	Yes	Yes	Verification*	S&P-3	P-3	Set. & P-3	10
ARKANSAS	No	10/20/5	$250	S&P – D&O	No	Yes	Yes	Verification	S	P-3	Set. & P-3	10
CALIFORNIA	Yes*	15/30/5	$250	P – D&O	Yes	Yes	Yes	Verification	P-3	P-3	Set. & P-3	10
COLORADO	Yes	15/30/5	$100	S&P – D&O	No	Yes	Yes	Verification	S&P-3	P-3	Set. & P-3	10

*Requires every driver and owner of a motor vehicle to maintain proof of financial responsibility. Violation is an infraction and punishable by a fine up to $100.

TABLE I (CONTINUED)

State	Compulsory Liability Insurance	Liability Limits	FINANCIAL RESPONSIBILITY LAWS									Termination Notice to Department
			ACCIDENTS INVOKING LAWS						EVIDENCE REQUIRED			
							INSURANCE IN EFFECT?		P – Proof of future responsibility Sec – Security Set – Satisfaction of judgment Figures – Number of years required			
			Minimum Property Damage	Requires Security (S) Proof (P) from Driver (D), Owner (O)	Regardless of fault?	Applicable to accidents in other states?	Information required in accident report?	Verification required from insurer? (* - Only if policy not in effect)	After Accident	After Conviction	After Judgment	
CONNECTICUT	Yes	20/40/5	$400	S – D&O	No	Yes	Yes	Verification*	S[a]	P-3	Set.	10
DELAWARE	Yes	10/20/5	$250	S – D&O	Yes	No	Yes	Verification	S[c]	P-3	Set. & P-3	No prov.
DISTRICT OF COLUMBIA	No	10/20/5	$100	S – D&O	Yes	Yes	Yes	Verification	S	P-3	Set. & P-3	10
FLORIDA	Yes	10/20/5	$500	S&P – D&O	Yes	Yes	Yes	Verification*	S&P-3	P-3	Set. & P-3	10
GEORGIA	Yes	10/20/5	$100	S&P – D&O	Yes	Yes	Yes	Verification	S&P-1[b]	P-1[b]	Set.	20
HAWAII	Yes	25/unlimited/10	$100	S – D&O	Yes	No	Yes	Verification	S	P-3	Set. & P-3	10

*Requires every driver and owner of a motor vehicle to maintain proof of financial responsibility. Violation is an infraction and punishable by a fine up to $100.

[a] If the provisions of foreign motor vehicle financial responsibility law or motor vehicle compulsory insurance law requires insurance in greater limits, then the limits of the company's liability and the kinds of coverage afforded by the policy shall be as set forth in such law.

[b] Second time proof required it shall be maintained for 3 years.

[c] Security Deposit not required in the case of accident by licensed driver involved.

TABLE I (CONTINUED)

State	Compulsory Liability Insurance	Liability Limits	FINANCIAL RESPONSIBILITY LAWS									Termination Notice to Department
			ACCIDENTS INVOKING LAWS				INSURANCE IN EFFECT?		EVIDENCE REQUIRED			
			Minimum Property Damage	Requires Security (S), Proof (P) from Driver (D), Owner (O)	Regardless of fault?	Applicable to accidents in other states?	Information required in accident report?	Verification required from insurer? (* - Only if policy not in effect)	P – Proof of future responsibility Sec – Security Sat – Satisfaction of judgment Figures – Number of years required After Accident	After Conviction	After Judgment	
IDAHO	Yes	10/20/5	$100	S – D&O[a]	Yes	Yes	Yes	Verification	S[a]	P-3	Sat. & P-3	10
ILLINOIS	No	10/20/5	$250	S – D&O	No	Yes	Yes	Verification*	S[b]	P-3	Sat. & P-3	10
INDIANA	No	15/30/10	$200	S&P – D&O[d]	Yes	No	Yes	Verification	S&P-2[c]	P-3	Sat. & P-3	10
IOWA	No	10/20/5	$250	S – D&O	Yes	No	Yes	Verification*	S	P-3	Sat. & P-3	10
KANSAS	Yes	15/30/5						Verification*				
KENTUCKY	Yes	10/20/5										10
LOUISIANA	No	5/10/1	$200	S&P – D&O[e]	Yes	Yes	Yes	Verification*	S&P-3	P-3	Sat. & P-3	10

*Requires every driver and owner of a motor vehicle to maintain proof of financial responsibility. Violation is an infraction and punishable by a fine up to $100.

[a] When license restored after lapse of 1 year without suit, proof must be given for 3 years.
[b] Minimum security $250.

[c] Requirement of proof discretionary.
[d] Discretionary as to owner.

[e] Registration of owner not suspended unless not legal by liable.

TABLE I (CONTINUED)

State	Compulsory Liability Insurance	Liability Limits	FINANCIAL RESPONSIBILITY LAWS									Termination Notice to Department
			ACCIDENTS INVOKING LAWS				INSURANCE IN EFFECT?		EVIDENCE REQUIRED (P – Proof of future responsibility; Sec – Security; Sat – Satisfaction of judgment; Figures – Number of years required)			
			Minimum Property Damage	Requires Security (S), Proof (P) from Driver (D), Owner (O)	Regardless of fault?	Applicable to accidents in other states?	Information required in accident report?	Verification required from insurer? (* - Only if policy not in effect)	After Accident	After Conviction	After Judgment	
MAINE	No	20/40/10	$200	S&P – D&O	No	Yes	Yes	Verification*	S&P[1]	P-3	Sat. & P-3	10
MARYLAND	Yes	20/40/5									Sat.	
MASSACHUSETTS	Yes	5/10/5									Sat. (P.D.)	
MICHIGAN	Yes	20/40/10								P-3	Sat. & P-3	10
MINNESOTA	Yes	25/50/10										
MISSISSIPPI	No	10/20/5	$100	S&P – D&O	Yes	Yes	Yes	Verification*	S&P-3	P-3	Sat. & P-3	5
MISSOURI	No	10/20/2	$100	S – D&O	No	Yes	Yes	Verification*	S	P-2	Sat. & P-2	10
MONTANA	No	25/50/5[2]								P-3	Sat. & P-3	10

*Requires every driver and owner of a motor vehicle to maintain proof of financial responsibility. Violation is an infraction and punishable by a fine up to $100.

[1] Proof requirement may be waived 3 years after accident.

[2] Limits for certified policy. Policy with limits of 10/20/5 is sufficient to avoid suspension.

TABLE I (CONTINUED)

State	Compulsory Liability Insurance	Liability Limits	FINANCIAL RESPONSIBILITY LAWS									Termination Notice to Department
			ACCIDENTS INVOKING LAWS				INSURANCE IN EFFECT?		EVIDENCE REQUIRED			
			Minimum Property Damage	Requires Security (S), Proof (P) from Driver (D), Owner (O)	Regardless of fault?	Applicable to accidents in other states?	Information required in accident report?	Verification required from insurer? (* - Only if policy not in effect)	P – Proof of future responsibility Sec – Security Sat – Satisfaction of judgment Figures – Number of years required After Accident	After Conviction	After Judgment	
NEBRASKA	No	15/30/5	$250	S&P – D	No	Yes	Yes	Verification*	S&P-3	P-3	Sat. & P-3	10
NEVADA	Yes	15/30/5	$250	S – D&O[a]	Yes	Yes	Yes	Verification*	S[a]	P 3	Sat. & P-3	10
NEW HAMPSHIRE	No	20/40/5	$300	S&P – D&O	No	Yes	Yes	Verification*	S&P-3	P-3[b]	Sat. & P-3	20
NEW JERSEY	Yes	15/30/5	$200	S – D&O[c]	Yes	Yes	Yes	Verification*	S[c]	P-3	Sat. & P-3	10
NEW MEXICO	No	15/30/5				Yes				P-3	Sat. & P-3	10
NEW YORK	Yes	10/20/5[d]	$200	S – D&O	Yes	Yes	Yes	No	S		Sat.	[b]

*Requires every driver and owner of a motor vehicle to maintain proof of financial responsibility. Violation is an infraction and punishable by a fine up to $100.

[a] When license restored after lapse of 1 year without suit, proof must be given for 3 years.

[b] Requirement of proof is discretionary.

[c] Suspension is discretionary with Commissioner.

[d] Higher for some vehicles for hire.

TABLE I (CONTINUED)

State	Compulsory Liability Insurance	Liability Limits	FINANCIAL RESPONSIBILITY LAWS									Termination Notice to Department
			ACCIDENTS INVOKING LAWS				INSURANCE IN EFFECT?		EVIDENCE REQUIRED (P – Proof of future responsibility; Sec – Security; Sat – Satisfaction of judgment; Figures – Number of years required)			
			Minimum Property Damage	Requires Security (S), Proof (P) from Driver (D), Owner (O)	Regardless of fault?	Applicable to accidents in other states?	Information required in accident report?	Verification required from insurer? (* - Only if policy not in effect)	After Accident	After Conviction	After Judgment	
NORTH CAROLINA	Yes	15/30/5	$200	S – D&O	No	Yes	Yes	Verification	S[a]		Sat.	20
NORTH DAKOTA	Yes	10/20/5	$200	S[b] – D	No[b]	Yes	Yes	Verification	S[b]	P-3	Sat. & P-3	10
OHIO	No	12.5/25/7.5	$150	S – D&O	Yes	Yes	Yes	Verification	S[c]	P-3	Sat. & P-3	10
OKLAHOMA	Yes	5/10/5	$100	S&P – D&O	Yes	No	Yes	Verification*	S&P-3[d]	P-3	Sat. & P-3[d]	10
OREGON	No	15/30/5	$200	P – D&O[e]	Yes	Yes	Yes	Verification*	P-5	P-5	Sat. & P-5	10

*Requires every driver and owner of a motor vehicle to maintain proof of financial responsibility. Violation is an infraction and punishable by a fine up to $100.

[a] Suspension only for failure to deposit security of more than $100. Appeal to court automatically stays suspension and court may exempt motorist not at fault.

[b] Adjudication of responsibility required as prerequisite to security. Prior to adjudication driver must supply security or proof.

[c] Minimum $500 security for bodily injury.

[d] In hardship cases court may modify extent of compliance with provisions of act.

[e] Employer liable, where operator was employed.

TABLE I (CONTINUED)

State	Compulsory Liability Insurance	Liability Limits	FINANCIAL RESPONSIBILITY LAWS									Termination Notice to Department
			ACCIDENTS INVOKING LAWS				INSURANCE IN EFFECT?		EVIDENCE REQUIRED			
			Minimum Property Damage	Requires Security (S), Proof (P) from Driver (D), Owner (O)	Regardless of fault?	Applicable to accidents in other states?	Information required in accident report?	Verification required from insurer? (* - Only if policy not in effect)	P – Proof of future responsibility Sec – Security Sat – Satisfaction of judgment Figures – Number of years required After Accident	After Conviction	After Judgment	
PENNSYLVANIA	Yes	15/30/5	$200	S – D&O	Yes	Yes	Yes	Verification*	S	P-3	Sat. & P-3	10
PUERTO RICO	No											
RHODE ISLAND	No[a]	25/50/10	$200[b]	S – D&O	Yes	Yes	Yes	Verification*	S	P-1	Sat. & P-1	10
SOUTH CAROLINA	Yes	15/30/5								P-5	Sat. & P-5	
SOUTH DAKOTA	No	15/30/5								P-3	Sat. & P-3	10
TENNESSEE	No	10/20/5	$200	S&P – D&O	Yes	Yes	Yes	Verification*	S[c] & P-3	P-3	Sat. & P-3	10
TEXAS	No	10/20/5	$250	S&P – D&O	No	Yes	Yes	Verification*	S[d] & P-5	P-5	Sat. & P-5	5

*Requires every driver and owner of a motor vehicle to maintain proof of financial responsibility. Violation is an infraction and punishable by a fine up to $100.

[a] Miners owning motor vehicles must furnish proof before registration.

[b] Minimum reportable damage is $150.
[c] Minimum $500 security.

[d] Minimum $250 security.

TABLE I (CONTINUED)

State	Compulsory Liability Insurance	Liability Limits	FINANCIAL RESPONSIBILITY LAWS									Termination Notice to Department
			ACCIDENTS INVOKING LAWS				INSURANCE IN EFFECT?		EVIDENCE REQUIRED			
			Minimum Property Damage	Requires Security (S), Proof (P) from Driver (D), Owner (O)	Regardless of fault?	Applicable to accidents in other states?	Information required in accident report?	Verification required from insurer? (* - Only if policy not in effect)	P – Proof of future responsibility Sec – Security Sat – Satisfaction of judgment Figures – Number of years required After Accident	After Conviction	After Judgment	
UTAH	Yes	15/30/5[a]	$200	S – D[b]	No	Yes	Yes	No	S	P-3	Sat. & P-3	10
VERMONT	No	10/20/5	$100	S&P – D	No	Yes	Yes	Verification*	S&P-3	P-3	Sat. & P-3	10
VIRGINIA	No	25/50/5	$250	P – D	Yes	No	Yes	Verification*	P-3	P-3	Sat. & P-3	20
VIRGIN ISLANDS	Yes	10/20/10 [c]										
WASHINGTON	No	15/30/5	$200	S&P – D&O	Yes	Yes	Yes	Verification*	S&P-3	P-3	Sat. & P-3	10
WEST VIRGINIA	No	10/20/5	$100	S – D&O	No	No	Yes	Verification*	S	P-3	Sat. & P-3	10
WISCONSIN	No	15/30/5	$200	S – D&O	No	Yes	Yes	Verification* [d]	S	P-3	Sat. & P-3	10

*Requires every driver and owner of a motor vehicle to maintain proof of financial responsibility. Violation is an infraction and punishable by a fine up to $100.

[a] For proof of financial responsibility, it may be a single limit of $25,000.

[b] Owner subject to law if employer or driver, in that event registration is suspended.

[c] Higher for some vehicles.

[d] As respects garnishee, insurer may correct report only by filing affidavit within 30 days after receipt.

TABLE I (CONTINUED)

State	Compulsory Liability Insurance	Liability Limits	FINANCIAL RESPONSIBILITY LAWS									Termination Notice to Department
			ACCIDENTS INVOKING LAWS				INSURANCE IN EFFECT?		EVIDENCE REQUIRED			
			Minimum Property Damage	Requires Security (S), Proof (P) from Driver (D), Owner (O)	Regardless of fault?	Applicable to accidents in other states?	Information required in accident report?	Verification required from insurer? (* - Only if policy not in effect)	P – Proof of future responsibility Sec – Security Sat – Satisfaction of judgment Figures – Number of years required After Accident	After Conviction	After Judgment	
WYOMING	No	10/20/5	$250	S – D&O	Yes	Yes	Yes	Verification	S	S	Sat.	10

*Requires every driver and owner of a motor vehicle to maintain proof of financial responsibility. Violation is an infraction and punishable by a fine up to $100.

Source: American Insurance Association, New York

State No-Fault Laws

	Effective Date	Purchase of First Party Benefits	Minimum Tort Liability Threshold[4]	Maximum First Party (No-Fault) Benefits				
				Medical	Income Loss	Replacement Services	Survivors/Funeral Benefits	Property Damage
ARKANSAS (Ark. Stat. Ann. §66-4914)	July 1, 1974	Optional	None	$2,000 if incurred within two years.	70% of lost income up to $140/wk., beginning 8 days after accident, for up to 52 wks.	Up to $70/wk. beginning 8 days after accident, for up to 52 wks.	$5,000	Under tort system.
COLORADO (Colo. Rev. Stat. §10-4-701)	April 1, 1974	Mandatory	$500	$25,000 if incurred within 3 years (additional $25,000 for rehabilitation)	Up to $125/wk. for up to 52 wks.	Up to $15/day for up to 52 wks.	$1,000	Under tort system.
CONNECTICUT (Conn. Gen Stat. Rev. §38-319)	January 1, 1973	Mandatory	$400	Limited only by total benefit limit.	85% of actual loss for income loss and replacement services up to $200/wk.		85% of actual loss for income loss & replacement services up to $200/wk. Funeral benefit: $2,000.	Under tort system.
				$5,000 overall maximum on first-party benefits				
DELAWARE (Del. Code Ann. tit. 21, §2118)	January 1, 1972	Mandatory	None, but amt. of no-fault benefits received can't be used as evidence in suits for general damages.	Limited only by total benefit limit, but must be incurred within two years.	100% of loss; no weekly maximum.	Limited only by total benefits limit.	Funeral benefit: $2,000.	Under tort system.
				$10,000 per person, $20,000 per accident overall maximum on first party benefits.				
FLORIDA (Fla. Stat. §627.730)	January 1, 1972 for original law. Present law effective October 1, 1976	Mandatory	No dollar threshold[1]	Limited only by total benefits limit.	85% of loss; no weekly maximum.	Limited only by total benefits limit.	Funeral benefit: $1,000.	Under tort system.
				$5,000 overall maximum on first-party benefits				
GEORGIA (Ga. Code Ann. §56-3041b)	March 1, 1975	Mandatory	$500	$2,500	85% of lost income up to $200/wk.	$20/day	Maximum wage loss and replacement services amounts. Funeral benefit: $1,000.	Under tort system.
				$5,000 overall maximum on first party benefits				
HAWAII (Hawaii Rev. Stat. §294-1)	September 1, 1974	Mandatory	Floating threshold set annually by insurance commissioner.	Limited only by total benefits limit.[2]	Up to $800/month for income loss and replacement services.[2]		Up to $800/month for income loss and replacement services. Funeral benefit: $1,500.	Under tort system.
				$15,000 overall maximum on first party benefits				

Source: National Conference of State Legislatures.

	Effective Date	Purchase of First Party Benefits	Minimum Tort Liability Threshold[a]	Maximum [illegible]				
				Medical	Income Loss	Replacement Services	Benefits	
KANSAS (Kan. Stat. Ann. §40-3101)	January 1, 1974	Mandatory	$500	$2,000 (additional $2,000 for rehabilitation).	85% of lost income up to $650/month for 1 yr.	$12/da for one year.	Up to $650/month for lost income and $12/day for replacement services, less disability payments received, for up to 1 year. Funeral benefit: $1,000.	Under tort system.
KENTUCKY (Ky. Rev. Stat. Ann. §304.39-010)	July 1, 1975	3	$1,000	Limited only by total benefits limit.	85% of lost income (more if tax advantage is less than 15%) up to $200/wk.	Up to $200/wk.	Up to $200/wk. each for survivors' economic loss and survivors' replacement services loss. Funeral benefit: $1,000.	Under tort system.
	$10,000 overall maximum on first party benefits							
MARYLAND (Md. Code Ann. art. 48A, §538)	January 1, 1973	Mandatory	None	Limited only by total benefits limit, but must be incurred within 3 years.	100% of loss; no weekly maximum.	Limited only by total benefits limit; only for services usually performed by non-income-earners.	Funeral benefit: limited only by total benefits limit.	Under tort system.
	$2,500 overall maximum on first party benefits for expenses incurred within three years of accident.							
MASSACHUSETTS (Mass. Ann. Laws ch. 90, §§34A, 34M & ch. 231, §60)	January 1, 1971	Mandatory	$500	Limited only by total benefits limit, if incurred within 2 yrs.	Up to 75% of actual loss.	Limited only by total benefits limit; payments made to non-family members.	Funeral benefit: limited only by total benefits limit.	Under tort system after Jan. 1, 1977; prior to then, no tort liability for vehicle damage.
	$2,000 overall maximum on first party benefits							
MICHIGAN (Mich. Comp. Laws Ann. §500.3101)	October 1, 1973	Mandatory	No dollar threshold.[4]	Unlimited.	85% of lost income up to $1205/30 day period for up to 3 years; maximum amount adjusted annually for cost of living.	$20/day for 3 years.	Up to $1,000/30 day period for lost income and $20/day for replacement services, for up to 1 years. Funeral benefit: $1,000.	No tort liability for vehicle damage.
MINNESOTA (Minn. Stat. §65B.41)	January 1, 1975	Mandatory	$2,000	$20,000	85% of lost income up to $200/week.	$15/day, beginning 8 days after accident.	Up to $200/wk. each for income loss and replacement services. Funeral benefit: $1,250.	Under tort system.
	$10,000 maximum for first party benefits other than medical							

	Effective Date	First Party Benefits	Minimum Tort Liability Threshold*	Maximum First Party (No-Fault) Benefits				
				Medical	Income Loss	Replacement Services	Survivors/Funeral Benefits	Property Damage
NEVADA (Nev. Rev. Stat. §690.010)	February 1, 1974	Mandatory	$750	Limited only by total benefits limit.	85% of lost income up to $175/ week.	Up to $10/day for up to 104/ weeks.	At least $5,000, but not more than 1 year's maximum disability benefits. Funeral benefits: $1,000.	Under tort system.
				$10,000 overall maximum on first party benefits				
NEW JERSEY (N.J. Stat. Ann. §39:6A-1)	January 1, 1973	Mandatory	$200	Unlimited.	100% of lost income up to $100/ wk. for 1 year.	Up to $12/day up to a maximum of $4380/person.	100% of lost income up to $100/ wk. and $12/day for replacement services. Up to difference between aggregate amount payable and amount received by victim. Funeral benefit: $1,000.	Under tort system.
NEW YORK (N.Y. Ins. Law §670)	February 1, 1974	Mandatory	$500	Limited only by total benefits limit.	80% of lost income up to $1000/ month for 3 yrs.	$25/day for 1 yr.	NONE.	Under tort system.
				$50,000 overall maximum on first party benefits				
NORTH DAKOTA (N.D. Cent. Code Ann. §26-41-01)	January 1, 1976	Mandatory	$1,000	Limited only by total benefits limit.	85% of lost income up to $150/ week.	$15/day.	85% of lost income up to $150/ wk. and $15/day for replacement services. Funeral benefit: $1,000.	Under tort system.
				$15,000 overall maximum on first party benefits				
OREGON (Ore. Rev. Stat. §743.800)	January 1, 1972 (Jan. 1, 1974 for current first party benefits.	Mandatory	None	$5,000, if incurred within 1 yr.	70% of lost income up to $750/ month for up to 52 weeks, only if victim is disabled at least 14 days.	Up to $10/day for up to 52 weeks, only if victim is disabled at least 14 days.	Funeral benefit: $1,000.	Under tort system.
PENNSYLVANIA (Pa. Stat. Ann. tit. 40, §1009.101)	July 19, 1975	Mandatory	$750	Unlimited.	Up to $15,000.[5]	Up to $25/day for 1 year.	Income loss and replacement services benefits up to $5,000. Funeral benefit: $1,500	Under tort system.

	Effective Date	First Party Benefits	Tort Liability Threshold*	Medical	Income Loss	Services	Death Benefits	Damage
SOUTH CAROLINA (S.C. Code Ann. §46-750.101)	October 1, 1974	Mandatory	None	Limited only by total benefits limit if incurred within 3 yrs	100% of lost income. No weekly limit.	Limited only by total benefits limit.	Funeral benefit: limited only by total benefits limit.	Under tort system.
				$1,000 overall maximum on first party benefits				
SOUTH DAKOTA (S.D. Comp Laws Ann. §58-23-6)	January 1, 1972	Optional	None	$2,000 if incurred within 2 yrs.	$60/wk. for up to 52 weeks, only if victim is disabled at least 14 days.	$30/wk. for up to 52 weeks, only if victim is disabled at least 14 days. Benefits to non-wage earning named insureds only.	$10,000 death benefit if death occurs within 90 days of accident.	Under tort system.
TEXAS (Tex. Ins. Code Ann. art. 5.06-3)	August 26, 1973	Optional	None	Limited only by total benefits limit if incurred within 3 yrs.	100% of lost income; no weekly limit.	Limited only by total benefits limit. Payable only to non-wage-earners.	Limited only by total benefits limit.	Under tort system.
				$2,500 overall maximum on first party benefits				
UTAH (Utah Code Ann. §31-41-1)	January 1, 1974	Mandatory	$500	$2,000	85% of lost income up to $150/wk. for up to 52 weeks. 3-day waiting period which does not apply if disability lasts longer than 14 days.	$12/day for up to 365 days. 3-day waiting period which does not apply if disability lasts longer than 14 days.	$2,000 death benefit. Funeral benefit: $1,000.	Under tort system
VIRGINIA (Va. Code Ann. §38.1-380.1)	July 1, 1972	Optional	None	$2,000 if incurred within 1 yr.	100% of lost income up to $100/week for up to 52 weeks.	None.	Funeral benefit: included in medical benefit.	Under tort system.
FEDERAL STANDARDS (S. 1301, 95th Session of Congress)		Mandatory	6	$100,000 (or $250,000 if disability lasts over 2 years)	7		$1000(both funeral & death benefit)	Under tort system.

*Refers to minimum amount of medical expenses necessary before victim can sue for general damages ("pain and suffering"); lawsuits allowed in all states for injuries resulting in death and permanent disability; some states allow lawsuits for one or more of the following: serious and permanent disfigurement; certain temporary disabilities; loss of body member; loss of certain bodily functions; certain fractures; or economic losses (other than medical) which exceed stated limits.

1. Florida-Victim cannot sue for general damages unless injury results in one of the following: death, loss of body member; permanent loss of bodily function; permanent injury other than scarring or disfigurement; significant permanent scarring or disfigurement; serious non-permanent injury that has a material bearing on the victim's ability to resume his normal activity and life-style during all or substantially all of the 90 day period after the injury, if the effects of the injury are medically or scientifically demonstrable at the end of that period. Before 1976, Florida had a $1000 tort threshold.
2. Hawaii-Income loss not payable to public assistance recipients receiving free insurance.
3. Kentucky-Accident victim is not bound by tort restriction if 1) he has rejected the tort limitation in writing or 2) he is injured by a driver who has rejected the tort limitation in writing. Rejection bars recovery of first-party benefits.
4. Michigan-Victim can't sue for general damages unless injuries result in death, serious impairment of bodily function or serious permanent disfigurement.
5. Pennsylvania-Maximum monthly income loss benefit is $1000 times the relationship of the average Penn. per capita income to the average U.S. per capita income; or 100% of income loss if income is disclosed prior to accident.
6. Federal Standards-tort restrictions are the same as Michigan (#4 above), in addition to losses which exceed maximum first-party benefits.
7. Federal Standards-Monthly income benefit based on $1000 and replacement services based on $20/day; both figures are multiplied by the relationship of the average state per capita income to the average U.S. per capita income; or 100% of income loss if income is disclosed prior to accident; whichever is less. Maximum income benefit limited to 12 times monthly benefit; replacement services limited to 365 times daily benefit.

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TABLE III

State	UNINSURED MOTORIST COVERAGE					
	Limits	Property Damage Exclusion	May Insured reject coverage?	Uninsured Motorist Fee	Applicable where Insurer Insolvent?	Other Provisions
ALABAMA	10/20		Yes†	None	No prov.	
ALASKA	26/50		Yes	None	No prov.	
ARIZONA	15/30		No	None	Yes	Optional coverage up to 3 times F.R. limits must be offered.
ARKANSAS	10/20		Yes	None	Yes	
CALIFORNIA	15/30		Yes† [a]	None	Yes	Failure to file evidence of financial responsibility under Financial Responsibility Law creates rebuttable presumption that vehicle was uninsured. Also covers where insurer denies liability or coverage.
COLORADO	15/30		Yes†	None	No prov.	

† If rejected, insurer need not offer coverage on renewal unless requested

[a] To reject, a specified waiver form must be signed by the insured.

TABLE III (CONTINUED)

State	UNINSURED MOTORIST COVERAGE					
	Limits	Property Damage Exclusion	May Insured reject coverage?	Uninsured Motorist Fee	Applicable where insurer insolvent?	Other Provisions
CONNECTICUT	20/40[a]		No	None	Yes	Arbitration optional with insured.
DELAWARE	10/20/5[b]	$250	Yes†	None	Yes	
DISTRICT OF COLUMBIA						
FLORIDA	10/30[a]		Yes†	None	Yes	"Uninsured motor vehicle" includes vehicle insured in lower limits.
GEORGIA	10/20/5[c]	$250	Yes†	None	Yes	Covers underinsured vehicles or where insurer denies coverage. Arbitration provision prohibited. Property damage coverage only for vehicle and contents. Uninsured motorist claims not barred by insured's application for discharge in bankruptcy, appointment of a trustee in bankruptcy or a discharge in bankruptcy.
HAWAII	10/20		Yes	None	No prov.	

† If rejected, insurer need not offer coverage on renewal unless requested.
[a] Insured may obtain coverage up to 100/300.
[b] Insured may require limits equal to his bodily injury limits, up to $300,000.
[c] Limits may be 25/50/10.

TABLE III (CONTINUED)

State	UNINSURED MOTORIST COVERAGE					
	Limits	Property Damage Exclusion	May Insured reject coverage?	Uninsured Motorist Fee	Applicable where Insurer Insolvent?	Other Provisions
IDAHO	10/20		Yes†	None	Yes	
ILLINOIS	10/20		No	None	Yes	
INDIANA	15/30		Yes†	None	Yes	
IOWA	10/20		Yes†	None	Yes	
KANSAS	15/30		Yes†	None	Yes	
KENTUCKY	10/20[a]		Yes†	None	Yes	Also covers where vehicle underinsured or where insurer denies coverage.
LOUISIANA	[b]		Yes†	None	Yes	Arbitration optional with insured. "Uninsured motor vehicle" includes vehicles insured in lower limits.

† If rejected, insurer need not offer coverage on renewal unless requested.

[a] KRS §304.20-010 provides that uninsured motorist coverage be provided in limits for bodily injury or death as set forth in KRS §187.330, currently 10/20.

The Kentucky no-fault law repeals §187.330 but requires liability coverage in amounts of 10/20/5. See §304.39-110.

[b] In amounts equal to bodily injury limits, but insured may select lower limits.

TABLE III (CONTINUED)

State	UNINSURED MOTORIST COVERAGE					
	Limits	Property Damage Exclusion	May Insured reject coverage?	Uninsured Motorist Fee	Applicable where insurer insolvent?	Other Provisions
MAINE	20/40/10		Yes	None	Yes	"Uninsured motor vehicles" includes vehicles insured in lower limits.
MARYLAND	20/40		No		Yes	Arbitration provision prohibited.
MASSACHUSETTS	5/10[a]		No	None	Yes	Also covers injuries caused by underinsured vehicles.
MICHIGAN				$45[b]		
MINNESOTA	25/50		No *	None	No prov.	
MISSISSIPPI	10/20		Yes†	None	Yes	"Uninsured motor vehicle" includes vehicle insured in lower limits. Requires contact in hit and run cases. Arbitration provision prohibited.
MISSOURI	10/20		No	None	Yes	
MONTANA	25/50		Yes†	None	No prov.	

† If rejected, insurer need not offer coverage on renewal unless requested.

[a] Insured may request higher limits up to policy's B.I. limits.
[b] Applies only to motorcycles.

TABLE III (CONTINUED)

State	UNINSURED MOTORIST COVERAGE					
	Limits	Property Damage Exclusion	May Insured reject coverage?	Uninsured Motorist Fee	Applicable where Insurer Insolvent?	Other Provisions
NEBRASKA	15/30		Yes†	None	Yes	
NEVADA	15/30[a]		Yes†	None	Yes	Requires contact in hit and run cases. Also covers where insurer denies coverage.
NEW HAMPSHIRE	20/40[a]		No	None	Yes	
NEW JERSEY	15/30/5	$100	No	None	No prov.	
NEW MEXICO	15/30/5	$250	Yes†	None	No prov.	
NEW YORK	10/20		No	None	No prov.	Also covers where insurers denies liability or coverage.

† If rejected, insurer need not offer coverage on renewal unless required.
[a] Insured may require limits equal to his liability coverage.
[b] Notice to Commissioner of Motor Vehicles within 30 days of termination of policy.

TABLE III (CONTINUED)

State	UNINSURED MOTORIST COVERAGE					
	Limits	Property Damage Exclusion	May Insured reject coverage?	Uninsured Motorist Fee	Applicable where insurer insolvent?	Other Provisions
NORTH CAROLINA	15/30/5[a]	$100	Yes	None	Yes	Also covers underinsured vehicles, or where insurer denies coverage. Insurer may defend uninsured motorist.
NORTH DAKOTA	10/20		No	None	Yes	
OHIO	12.5/25		Yes[f]	None	Yes	Also covers where insurer denies coverage.
OKLAHOMA	5/10[b]		Yes	None	Yes	If agreement by arbitration is not reached within 3 months from demand for arbitration insured may sue tortfeasor. "Stacking" of liability policies held required by Oklahoma Supreme Ct.
OREGON	10/20[b]		No	None	Yes	Coverage not required in policy covering trucks of combined weight and load capacity of more than 6000 lbs. operated by employees covered by workmen's compensation. Also covers where insurer denies coverage.

[f] If rejected, insurer need not offer coverage on renewal unless requested.
[a] Person who carries liability limits of at least 15/30 is entitled to 15/30 coverage.
[b] Optional higher limits up to B.I. limits must be offered.

TABLE III (CONTINUED)

State	UNINSURED MOTORIST COVERAGE					
	Limits	Property Damage Exclusion	May Insured reject coverage?	Uninsured Motorist Fee	Applicable where Insurer Insolvent?	Other Provisions
PENNSYLVANIA	10/20		No	None	Yes	
PUERTO RICO						
RHODE ISLAND	10/20		Yes	None	Yes	
SOUTH CAROLINA	15/30/5	$200	No	None	Yes	Also covers where insurer denies coverage. Arbitration provision prohibited. Insurer may defend uninsured motorist. Requires contact in hit and run cases.
SOUTH DAKOTA	15/30[a]		No	None	Yes	Also covers where vehicle insured in lower limits.
TENNESSEE	10/20[a]		Yes[f]	None	Yes	Also covers where vehicle insured in lower limits. Provides for optional property damage coverage for damage in excess of $200. Requires contact in hit and run cases. Arbitration provision prohibited.
TEXAS	10/20		Yes[f]	None	Yes	

[f] If rejected, insurer need not offer coverage on renewal unless requested.

[a] Insured may require limits equal to his liability limits.

TABLE III (CONTINUED)

State	UNINSURED MOTORIST COVERAGE					
	Limits	Property Damage Exclusion	May Insured reject coverage?	Uninsured Motorist Fee	Applicable where Insurer Insolvent?	Other Provisions
UTAH	15/30		Yes†	None	No prov.	
VERMONT	10/20		No	None	Yes	
VIRGINIA	25/50/5[a]	$200	No	$150	No prov.	Arbitration provision prohibited. Insurer may defend uninsured motorist. Also covers where insurer denies coverage. No coverage provided in policies primarily providing excess coverage.
VIRGIN ISLANDS						
WASHINGTON	15/30		Yes†	None	Yes	
WEST VIRGINIA	10/20/5	$300	No	None	Yes	Also covers where insurer denies coverage. Arbitration provision prohibited. Requires contact in hit and run cases.
WISCONSIN	15/30		No	None	Yes	Also covers vehicles insured in lower limits.

† If rejected, insurer need not offer coverage on renewal unless requested.

[a] Insured may require limits equal to own liability limits. Insurer must offer higher limits in premium notice.

TABLE III (CONTINUED)

State	UNINSURED MOTORIST COVERAGE					
	Limits	Property Damage Exclusion	May Insured reject coverage?	Uninsured Motorist Fee	Applicable where Insurer Insolvent?	Other Provisions
WYOMING	10/20		Yes†	None	Yes	

† If rejected, insurer need not offer coverage on renewal unless requested.

Source: American Insurance Association, New York.

TABLE IV

COMPULSORY LIABILITY INSURANCE

State	Liability Limits	Year Effective	Certification Required?	Verification Program	Termination Notification Requirements	Penalties
CALIFORNIA	15/30/5	1975	No	None at present	Termination Notice must be given to Commissioner	Fine up to $100
COLORADO	15/30/5	1974	None at present	None at present	Cancellation for cause after first 60 days - must be on a form which satisfies state requirements	Suspension of license after at-fault accident
CONNECTICUT	20/40/5	1973	Yes - self-certification at time of registration	Yes - negative verification procedure	None	1) Class C Misdemeanor - fine to $500 or jail sentence up to 3 months 2) Fine not more than $1,000
DELAWARE	10/20/5	1972	Yes - ID card or policy must be produced when vehicle is being inspected at safety lane	None at present	Termination Notice must be given to Commissioner	Misdemeanor. Fine not less than $300 nor more than $1,000. May be imprisoned for not more than six months
FLORIDA	10/20/5	1972	Yes - must show proof of insurance at time of vehicle inspection - ID cards are provided	None at present	Notice of termination of new business (first 6 months of policy period) are to be given to Bureau of Finan. Resp.	Misdemeanor and subject to revocation of license and/or vehicle registration. Fine up to $1,000 and/or up to one yr. imprisonment
GEORGIA	10/20/5	1975	Yes - self-certification at time of registration. In addition, evidence of insurance must be carried in all "affect" motor vehicles	Specific verification for Acc. and Serious Violations will be requested (20 day notice)	Insurer must notify Dept. of Public Safety within 5 days after effective date of cancellation	Guilty of a misdemeanor

TABLE IV

COMPULSORY LIABILITY INSURANCE

State	Liability Limits	Year Effective	Certification Required?	Verification Program	Termination Notification Requirements	Penalties
HAWAII	25/Unlimited/10	1974	Proof of insurance required when car is registered. Self-certification is permitted. (Proof of insurance cards are provided	None at present	Termination notice must be giv County Dir. and Police Chief of appropriate county of registration prior to date of termination	Subject to following: Fine not to exceed $1,000 30 days imprisonment, loss of license or registration or combination of penalties
IDAHO	10/20/5	1975	Must display certificate of Insurance to County Assessor at time of registration	None at present	Insurers must notify Dept. of Law Enforcement within seven days of the cancellation date. Insurers must secure approval of Dir. of Law Enforcement before cancelling during first 90 days after certification	Guilty of a misdemeanor to either operate a motor vehicle without the required security or to falsify a certificate of liability insurance
KANSAS	15/30/5	1974	Yes - self-certification at time of registration (ID cards are provided)	Yes - negative verification procedure (20 day notice)	Notice of Termination (except for non-pay) must be sent to Dir. of Motor Vehicles who may then revoke registration	Guilty of Class C Misdemeanor. Max. penalty $500 fine and one month jail sentence
KENTUCKY	10/20/5	1975	Yes - self-certification at time of registration	None at present	None	Shall be fined not less than $50 nor more than $500
MARYLAND	20/40/5	1973	Yes - certification of registration will not be issued until owner produces satisfactory evidence that specified security is in effect. Self-certification is in effect	Random verification positive procedure	Insurers are to immediately notify the Administrator of lapse in coverage, no certificate of registration can be suspended	Guilty of a misdemeanor - fine not more than $500. License & Vehicle suspension up to $40 penalty assessed by Motor Vehicle Administration

TABLE IV

COMPULSORY LIABILITY INSURANCE

State	Liability Limits	Year Effective	Certification Required?	Verification Program	Termination Notification Requirements	Penalties
HAWAII	25/Unlimited/10	1974	Proof of insurance required when car is registered. Self-certification is permitted. (Proof of insurance cards are provided	None at present	Termination notice must be given County Dir. and Police Chief of appropriate county of registration prior to date of termination	Subject to following: Fine not to exceed $1,000 30 days imprisonment, loss of license or registration or combination of penalties
IDAHO	10/20/5	1975	Must display certificate of Insurance to County Assessor at time of registration	None at present	Insurers must notify Dept. of Law Enforcement within seven days of the cancellation date. Insurers must secure approval of Dir. of Law Enforcement before cancelling during first 90 days after certification	Guilty of a misdemeanor to either operate a motor vehicle without the required security or to falsify a certificate of liability insurance
KANSAS	15/30/5	1974	Yes - self-certification at time of registration (ID cards are provided)	Yes - negative verification procedure (20 day notice)	Notice of Termination (except for non-pay) must be sent to Dir. of Motor Vehicles who may then revoke registration	Guilty of Class C Misdemeanor. Max. penalty $500 fine and one month jail sentence
KENTUCKY	10/20/5	1975	Yes - self-certification at time of registration	None at present	None	Shall be fined not less than $50 nor more than $500
MARYLAND	20/40/5	1973	Yes - certification of registration will not be issued until owner produces satisfactory evidence that specified security is in effect. Self-certification is in effect	Random verification positive procedure	Insurers are to immediately notify the Administrator of lapse in coverage, an certificate of registration can be suspended	Guilty of a misdemeanor - fine not more than $500. License & Vehicle suspension up to $40 penalty assessed by Motor Vehicle Administration

TABLE IV

COMPULSORY LIABILITY INSURANCE

State	Liability Limits	Year Effective	Certification Required	Verification Program	Termination Notification Requirements	Penalties
MASSACHUSETTS	5/10/5	1927	Yes - must have certificate of insurance when registering motor vehicle	None at present	When policy is cancelled, copy is sent to Motor Vehicle Registrar who then revokes registration or asks for recertification	No penalties provided except for forging certificate (Up to $1,000 fine and/or up to one year in jail.)
MICHIGAN	20/40/10	1973	Yes - must have proof of insurance at time of registration. Utilization of ID card permitted when registering in person. Self-certification permitted when registering by mail	None at present	None	Fine not less than $100 nor more than $500 and/or imprisonment for not more than one year
MINNESOTA	25/50/10	1975	Yes - self-certification at time of registration	Random verification	Insurer must notify Comm. of Public Safety of policy cancellation within 30 days of coverage expiration. (Termination after 60 days for non-pay. of premium is not construed as cancellation.)	Guilty of a misdemeanor and will be subject to lic. and/or veh. registration revocation for a period of not less than 6 months
NEVADA	15/30/5	1974	Yes - self-certification at time of registration	None at present	None	None
NEW JERSEY	15/30/5	1973	Yes - must self certify at time of registration. Also must show proof of insurance at time of vehicle inspection - ID cards provided	None at present	Notice of termination must be given to Motor Vehicle Department if policy is cancelled within 6 months of original effective date	Fine not less than $50 nor more than $200 and/or imprisonment for a term of not less than 30 days nor more than 3 months. Must also forfeit right to operate a motor vehicle for 6 mos. Subsequent conviction results in 3 mos. imprisonment and forfeiture of right to operate a motor vehicle for 2 years

TABLE IV

COMPULSORY LIABILITY INSURANCE

State	Liability Limits	Year Effective	Certification Required?	Verification Program	Termination Notification Requirements	Penalties
NEW YORK	10/20/5	1957	Yes - must have proof of financial responsibility when registering motor vehicle - ID cards are provided. Self-certification is permitted	Yes - random verification; negative procedure (30 day notice) Specific verification; positive procedure (20 day notice)	None	Fine not less than $100 nor more than $1,000 and/or be imprisoned for not more than one year. Revocation of license and/or registration for one year. Also possible impounding of vehicle. Also civil penalty of up to $300 assessed and collected by Motor Vehicle Department
NORTH CAROLINA	15/30/5	1958	Yes - self-certification at time of registration. However, Commissioner may require owner to produce record of financial responsibility	Yes - negative verification procedure (20 day notice)	Notice of termination must be given to Department of Motor Vehicles "forthwith"	60 days registration suspension and possible imposition of misdemeanor penalties
NORTH DAKOTA	10/20/5	1976	Yes - self-certification at time of registration	Yes - random verification	None	Revocation of registration
OKLAHOMA	5/10/5	1976	Yes - self-certification at time of registration	Yes - negative verification procedure (30 day notice)	Cancellation notices must be sent to Department of Public Safety	$100 fine
PENNSYLVANIA	15/30/5	1975	Yes - self-certification at time of registration ID cards are provided	Yes - negative verification procedure	Notice of termination must be given to Penn. Dept. of Transportation within first 6 mos. of a new business policy	Guilty of a misdemeanor which will result in a fine of not less than $100 or more than $500 or may be imprisoned for not more than 6 mos. or both

TABLE IV

COMPULSORY LIABILITY INSURANCE

State	Liability Limits	Year Effective	Certification Required?	Verification Program	Termination Notification Requirements	Penalties
SOUTH CAROLINA	15/30/5	1974	Yes - self-certification at time of registration	Random verification	Notification of the lapse or termination of insurance must be given to the Chief Highway Commissioner within 10 days following effective date of cancellation	Guilty of a misdemeanor, conviction of which will result in a fine of not more than $100 or imprisonment for not more than 30 days, also 30 days license suspension. Making false statement as to insurance is a misdemeanor and will result in a fine not less than $50 nor more than $100 or imprisonment for not less than 10 days nor more than 30 days. Also,conviction will result in revocation of lic. and denial of registration for 6 months
UTAH	15/30/5	1974	Yes - self-certification at time of registration. Shall be required to exhibit evidence of security being in effect as a condition to obtain license plate for safety inspection. Evidence may be in form of ID card	Random verification	None	Guilty of a misdemeanor and loss of license and/or registration (Attorney General has ruled that false affirmation of insurance at time of registration will be treated as a felony.)

SOURCE: Insurance Department, State of Arkansas.
American Insurance Association, New York.
Various State Statutes.

TABLE V

PRIVATE PASSENGER AUTOMOBILE PREMIUM COMPARISONS*

COMPANY	COVERAGE	STATE								
		[1]ARK 10/20/10	[2]COL 15/30/10	[3]MO 10/20/10	[4]CONN 20/40/10	[5]FLA 10/20/10	[6]OKL 10/20/10	[7]KANSAS 15/30/10	[8]GEORGIA 10/20/10	[9]S.C. 15/30/10
ISO	Liability	143	117	166	232	NA	135	105	128	153
	Comp.	36	45	48	38		36	54	30	29
	Coll.	121	119	171	152		102	90	116	95
	Total	300	281	385	422		273	249	274	277
ALL STATE	Liability	130	111	171	215	120	104	93	104	113
	Comp.	27	30	37	43	16	32	54	29	28
	Coll.	74	61	99	132	47	71	68	80	69
	Total	231	202	307	390	183	207	215	213	205
STATE FARM GROUP	Liability	99	93	127	NA	96	87	75	93	118
	Comp.	18	30	32		18	32	51	20	20
	Coll.	58	73	107		54	68	72	90	60
	Total	175	196	266		168	187	198	203	198

SOURCE: Insurance Services Office

1. Little Rock Territory
2. Denver Territory
3. Kansas City Territory
4. Hartford Territory
5. Orlando Territory
6. Tulsa Territory
7. Wichita Territory
8. Atlanta Territory
9. Columbia Territory

*Comparison of pleasure use, no youthful operator, annual premiums, physical damage, $50 deductible, comprehensive and $100 deductible collision.

RESEARCH MEMORANDUM FILE 9-002

April 25, 1979

COMPULSORY MOTOR VEHICLE INSURANCE

Summary

Twenty-five states have adopted compulsory motor vehicle liability insurance laws. Massachusetts was the first state to adopt such a law in 1925. Most of the other state laws have been adopted since 1970. Several bills providing for compulsory insurance have been introduced in the Illinois General Assembly since 1970, but none have been adopted.

Arvid Hammers
Senior Research Associate
clc

Compulsory liability insurance laws require all owners of motor vehicles to prove and maintain liability insurance as a condition for registering their vehicles. Such insurance has long been urged as a solution to the problem of the financially irresponsible motorist. The insurance industry estimates that approximately 83 percent of all motorists in the United States are insured, but that large numbers of drivers continue to operate vehicles without liability insurance.

The first state to adopt compulsory motor vehicle insurance was Massachusetts in 1925. Currently, 25 states have compulsory liability insurance laws. In all but three states--Massachusetts, New York, and North Carolina--these laws were adopted after 1970.

The following table shows the 25 states which have compulsory liability insurance laws, the minimum liability insurance coverage required, and the penalties for driving an automobile without the required insurance.

Arguments For Compulsory Insurance

Those favoring compulsory insurance point out that where voluntary automobile insurance coverage is high, the addition of a relatively small number, estimated variously from 5 to 15 percent, to the ranks of the insureds should not raise the rates of the drivers who are already insured.

The protection provided all drivers under compulsory insurance would outweigh the financial outlay which would be required of those motorists who have no insurance.

Administrative problems which might result because of compulsory insurance should not be a justification for not having such insurance. Administrative problems can be worked out once the program is started.

Compulsory insurance need not have a detrimental effect on insurance companies. If the minimum rates are set at levels that will assure reasonable operating profits, the existing system for marketing and servicing insurance can remain unchanged.

Compulsion is an element that is inherent in any plan to combat the financially irresponsible motorist. Compulsory insurance provides a direct answer while other approaches are covert methods of forcing motorists to have insurance. If it is wise to establish financial responsibility after an accident, why not before?

Only through compulsory insurance will there be any substantial elimination of the possibility of lack of compensation for wrongful injuries in automobile accidents.

Table 1

Compulsory Liability Insurance Coverage Requirements and Penalties

State	Required Minimum Coverage*	Penalties**
California	$15,000/30,000/ 5,000	fine not exceeding $100 for each offense
Colorado	15,000/30,000/ 5,000	misdemeanor
Connecticut	20,000/40,000/ 5,000	misdemeanor
Delaware	10,000/20,000/ 5,000	$150-$1,000 fine
Florida	15,000/30,000/ 5,000	license suspended
Georgia	10,000/20,000/ 5,000	misdemeanor
Hawaii	25,000/ —— /10,000	$100-$1,000 fine
Idaho	10,000/20,000/ 5,000	misdemeanor
Kansas	15,000/30,000/ 5,000	misdemeanor
Kentucky	10,000/20,000/ 5,000	$50-$500 fine
Louisiana	5,000/10,000/ 1,000	misdemeanor, suspension of license
Maryland	20,000/40,000/ 5,000	fine up to $100
Massachusetts	5,000/10,000/ 1,000	$100-$500 fine or imprisonment for up to 1 year
Michigan	20,000/40,000/10,000	misdemeanor
Minnesota	25,000/50,000/10,000	misdemeanor
Nevada	15,000/30,000/ 5,000	unlawful operation of motor vehicle
New Jersey	15,000/30,000/ 5,000	$50-$200 fine or imprisonment from 30 days to 3 months
New York	10,000/20,000/ 5,000	misdemeanor
North Carolina	15,000/30,000/ 5,000	misdemeanor
North Dakota	10,000/20,000/ 5,000	registration revoked
Oklahoma	5,000/10,000/ 5,000	fine up to $100 and suspension of license
Oregon	15,000/30,000/ 5,000	license suspended
Pennsylvania	15,000/30,000/ 5,000	misdemeanor
South Carolina	15,000/30,000/ 5,000	misdemeanor
Utah	10,000/20,000/ 5,000	misdemeanor

*The first figure is the minimum coverage for bodily injury or death to one person, the second figure is the minimum coverage for bodily injury or death to two or more persons in the same accident, and the third figure is the minimum coverage for property damage.

**The penalty is for driving without the required liability insurance.

Compulsory automobile insurance of general application is merely an extension of earlier laws requiring a showing of financial responsibility for such classes as young motorists, the owners and operators of buses, taxicabs, car rental services, and the like.

A Gallup Poll taken on the question of compulsory automobile insurance in 1965 (There has been no subsequent poll.) indicated that a majority of the nation's adults favored such legislation. The nationwide findings were as follows: 53 percent favored compulsory legislation; 42 percent opposed such laws; and 5 percent had no opinion (Chicago Sun-Times, Sept. 10, 1966).

Agruments Against Compulsory Insurance

One basic general objection to compulsory automobile insurance advanced by its opponents is the claim that it involves an undesirable degree of regimentation and a danger of the socialization of the insurance business. In connection with the issue of socialization, those who resist compulsory insurance proposals maintain that political pressure to keep premium rates low will combine with a rising curve of losses and jury verdicts attributable to the compulsory laws to drive the private carriers out of the automobile liability field, and to install state insurance funds in their place.

Another fundamental argument of those who oppose compulsory laws is that, even among those who are unwilling or unable to buy insurance, the careless driver is decidely in the minority, and that compulsory laws would force the many who are careful to buy insurance because of the few who are careless.

Another argument against compulsory laws is that motorists who are coerced into purchasing insurance will, out of resentment or perhaps a false sense of security induced by the compulsory law, restrict their buying of coverages to the minimums specified in the law, and will not bother to provide themselves with such "extras" as medical coverage and high personal injury and property damage limits.

Another frequently invoked contention against compulsory laws is that the required protection against uninsured motorists now provided by insurance carriers has obviated much of the alleged necessity for compulsory liability automobile insurance.

Recent Illinois Legislation

There have been a number of bills introduced in the Illinois General Assembly since 1971 to adopt compulsory motor vehicle insurance. None of these bills have been adopted.

1972. HB 4344 would have provided for no-fault motor vehicle insurance and motorists would have had to show proof of liability insurance coverage when registering their motor vehicle. The minimum liability insurance required would have been $10,000 for injury or death of one person in any accident and $100,000 for two or more persons in any one accident. Minimum property damage would have been $5,000. Driving a motor vehicle without the required insurance would have been a misdemeanor. The bill was tabled in House committee.

1973. Two similar bills were introduced in 1973 to require compulsory motor vehicle insurance. HB's 243 and 817 would have required every motorist in the state to show proof of liability insurance when registering their motor vehicle. The minimum liability insurance required would have been $20,000 for injury or death to one person in an accident and $40,000 for two or more persons in an accident. Minimum property damage would have been $5,000. No penalties were provided for motorists driving without the required insurance. Both bills died in the House committee.

1974. Two bills, HB's 950 and 2414 were introduced to provide compulsory motor vehicle insurance. HB 950 would have required at least $25,000 minimum coverage for any one accident for injury, death and property damage. Driving without the required insurance would have been a petty offense and the driver's license would have been revoked. HB 2414 would have required proof of liability insurance as a requirement for motor vehicle registration. No minimum liability coverage requirements or penalties were specified. Both bills died in House committee.

1975. Two similar bills, SB 1500 and HB 3062 were introduced to require proof of minimum liability insurance when registering motor vehicles. The minimum coverage in both was $10,000/20,000/5,000. Neither bill specified any penalties for driving without the required minimum insurance. SB 1500 passed the Senate but died in House committee in 1976. HB 3062 passed the House but died in Senate committee in 1976.

1977. Seven bills, SB's 409, 840, 1113, and HB's 545, 634, 928, and 1234, were introduced to provide for compulsory motor vehicle insurance.

SB's 409 and 804 were similar and required proof of liability insurance and uninsured motorist coverage as a condition of motor vehicle registration. The bills did not specify minimum coverage requirements nor penalties for driving without the required insurance. Both bills died in Senate committee.

HB 545 would have required proof of liability insurance and uninsured motorist coverage as a condition for motor vehicle registration. The bill did not specify minimum liability coverage

limits. However, the bill did provide penalties for driving without the required insurance. Driving without the required insurance would have been a Class A misdemeanor and the driver would have been subject to suspension of his driver's license for up to 90 days. The bill died in House Committee.

HB 928 would have required proof of liability insurance and uninsured motorist coverage as a condition of motor vehicle registration. The bill provided minimum liability insurance coverage of $20,000/50,000. Property damage limits were not specified. The penalties for driving without the required insurance would have been the same as those provided in HB 545 summarized above. The bill died in House committee.

HB 1234 would have required proof of liability insurance and uninsured motorist coverage as a condition of motor vehicle registration. The liability insurance limits would have been $10,000/2,000/5,000. The penalty for driving without the required insurance would have been a Class A misdemeanor. The bill passed the House but was tabled in Senate committee.

SB 1113 would have required proof of liability insurance as a condition of motor vehicle registration. The minimum liability limits would have been $10,000/20,000/5,000. The bill also would have required other coverage such as for medical and hospital, income continuation, survivors' benefits, and funeral expenses. The penalty for driving without the required insurance would have been a Class C misdemeanor and the driver would have been subject to having his license and registration revoked. The bill died in Senate committee.

HB 634 would have required proof of liability insurance and uninsured motorist coverage as a condition of motor vehicle registration. The minimum liability limits would have been $10,000/20,000/5,000. The penalties provided were the same as those provided by HB 545 summarized above. This bill died on third reading in the House.

1978. HB 2614 would have required proof of liability insurance and uninsured motorist coverage as a condition of motor vehicle registration. The liability insurance limits would have been $10,000/20,000/5,000. Operation of a motor vehicle without the required insurance would have been a Class A misdemeanor. The bill died in House committee.

1979. Three bills have been introduced to require minimum liability insurance as a condition of motor vehicle registration.

SB 51 would require filing of proof of insurance coverage as a prerequisite for motor vehicle registration. No minimum liability insurance coverage limits or penalties are specific in the bill. The bill is in Senate committee.

HB 206 would have required filing proof of insurance coverage as a prerequisite to motor vehicle registration. Minimum liability insurance coverage would be $10,000/20,000/5,000. Driving a motor vehicle without the required insurance would be a Class A misdemeanor. The bill passed the House and is in the Senate.

HB 406 would provide for compulsory no fault motor vehicle insurance which would include minimum liability insurance limits of $10,000/20,000/5,000. The penalty for operation of a motor vehicle without the required insurance is revocation or suspension of the driver's license and registration.

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ILLINOIS LEGISLATIVE COUNCIL
Springfield, Illinois 62706
File 8-937 WMB:bg

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CURRENT STATUS OF NO-FAULT AUTOMOBILE INSURANCE LEGISLATION IN OTHER STATES

Summary

As of November 1978, 24 States have no-fault automobile insurance statutes that allow first party benefits to be paid without fault. Sixteen States have a complete, mandatory insurance program, and eight States use first party insurance coverage either on an optional or mandatory basis, but do not bar tort actions for recovery of damages for personal injuries. Summaries of the 24 State laws follow.

* * *

As of November 1978, 24 States have some sort of no-fault automobile insurance program. Sixteen States have a mandatory scheme of insurance, and eight States share one or more features of no-fault insurance on an optional or mandatory basis. No-fault automobile insurance is protection the policyholder receives from his own insurance company compensating him for the medical expenses, loss of income, and similar economic losses he suffers as a result of a motor vehicle accident, whether or not he was in any way to blame for the mishap. In return for this first party coverage, the policy holder loses his right to bring a tort action to the extent he has received compensation under the no-fault insurance program.

The salient features of a no-fault program are: (1) mandatory first party insurance coverage, (2) the elimination of fault concepts for granting this first party coverage, and (3) a limitation upon the right to of the injured party to bring a tort action to recover damages for personal injuries. Many State programs have what are called "thresholds," that is, maximum dollar amounts under which no suit may be brought, and over which a tort suit may be instituted. The "threshold" may also prohibit the bringing of certain kinds of suits, such as those seeking to recover money damages for pain and

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suffering incurred from the automobile accident. Damage to real or personal property is not recoverable under any of the 24 State programs; tort suits must be brought to recover damage for repairing cars, replacing telephone poles, etc.

Sixteen States employ all of the above features of no-fault automobile insurance. All drivers must carry this first party insurance, and certain tort actions are barred up to a certain money amount. These 16 States are:

Colorado	Michigan
Connecticut	Minnesota
Florida	Nevada
Georgia	New Jersey
Hawaii	New York
Kansas	North Dakota
Kentucky	Pennsylvania
Massachusetts	Utah

Eight States allow insurers to offer first party benefits coverage on an optional or mandatory basis. Since the policyholder is sometimes not required to purchase this kind of insurance, he is not barred in any way from bringing tort actions of any kind in any amount for recovery of damages for personal injuries. The amount the claimant receives in benefits, however, may be subtracted from any later amount awarded in a tort suit. Like the 16 mandatory States, the eight optional States leave the recovery for property damage entirely up to the tort system. Four of these eight States require that first party insurance be purchased but they do not bar tort suits to supplement the insurance payments. These are the eight States:

Arkansas	South Carolina
Delaware	South Dakota
Maryland	Texas
Oregon	Virginia

Mandatory States

Colorado

Colorado's Auto Accident Reparations Act was approved May 25, 1973, and became effective April 1, 1974. Tort liability for general damages is restricted by a $500 threshold for medical and rehabilitation costs. Injury resulting in permanent disfigurement, permanent disability, dismemberment, death, or loss of earnings for more than 52 weeks which is not compensated by an applicable complying policy are also grounds for suing in tort.

No-fault coverage is required of all owners of all vehicles except operators of motorcycles, motorscooters, motorbikes, snowmobiles and other vehicles designed primarily for off-the-road use. Liability insurance with limits of $15,000 per person and $30,000 per accident for bodily injury and $5,000 for property damage is required. First-party benefits include up to $25,000 for medical and an additional $25,000 for rehabilitation costs; 100 percent of wages lost up to $125 per week for one year; replacement services at a rate of $15 per day for one year; and $1000 in survivor benefits which are paid to the victim's estate. Benefits are primary except workmen's compensation is deducted.

Connecticut

Connecticut's no-fault law was approved May 19, 1972, and became effective beginning January 1, 1973. Pursuant to the law an accident victim may not sue in tort for general damages unless his medical expenses exceed $400; or unless he suffered a permanent injury, permanent loss of a bodily function, a bone fracture, permanent, significant disfigurement, dismemberment, or death.

This coverage is required for all vehicles except motorcycles. Liability insurance of at least $20,000 per person, $40,000 per accident for bodily injury and $5,000 for property damage is also required in Connecticut.

There is a $5,000 overall maximum on first-party benefits which include coverage of medical costs, lost wages, replacement services and survivors' benefits as well as funeral expenses.

The benefits are primary, but workmen's compensation is deducted.

Florida

The Florida Automobile Reparations Reform Act was approved June 24, 1971, and took effect January 1, 1972, and was extensively revised in June of 1976. The current version became effective October 1, 1976.

A victim cannot sue in tort for general damages unless his injury results in loss of a body member, permanent loss of a bodily function, permanent injury other than scarring or disfigurement. significant permanent scarring or disfigurement, a serious non-permanent injury that has a material bearing on the injured person's ability to resume normal activity during most or all of the 90 days following the accident, or death.

All private passenger vehicles must carry first-party coverage. Motorists must also carry bodily injury liability coverage with limits of at least $10,000 per person and $20,000 per accident and property damage liability with a limit of at least $5,000 per accident.

First-party no-fault benefits have an overall limit of $5,000 and provide coverage for medical costs, wage loss, replacement services, and funeral costs. Survivors' benefits are not included, but $1,000 for funeral expenses is provided. The benefits are primary except that workmen's compensation is deducted.

Georgia

The Georgia Motor Vehicle Accident Reparations Act was enacted February 28, 1974, and took effect March 1, 1975.

In Georgia, an accident victim cannot sue in tort for general damages unless the reasonable value of medical costs exceeds $500; he is disabled 10 consecutive days; or his injuries result in death, a fractured bone, permanent disfigurement, dismemberment, permanent loss of a bodily function, or permanent partial or total loss of sight or hearing.

Vehicles with four or more wheels must be secured by no-fault insurance. Liability coverage with limits of $10,000 per person and $20,000 per accident for bodily injury and $5,000 for property damage is required.

The first-party no-fault benefits have an overall maximum of $5,000 and cover medical costs up to $2500, wage loss up to $200 per week, replacement services at a rate of $20 per day, and survivors' benefits and funeral expenses up to $1500. Auto insurance benefits are primary under Georgia law, and no-fault benefits are not reduced by amounts received under workmen's compensation or other benefit plans.

Hawaii

The Hawaii Motor Vehicle Reparations Act was approved May 31, 1973, and became effective September 1, 1974.

Victims may not sue in tort for general damages unless medical and rehabilitation costs exceed the threshold established annually by the State insurance commissioner; or unless the injured person dies; the injury results in a significant permanent loss of use of a part or function of the body; or causes permanent and serious disfigurement which results in subjection of the injured person to mental or emotional suffering.

The insurance is compulsory for all registered motor vehicles. Owners of vehicles with less than four wheels, however, are allowed to buy the no-fault coverage with a deductible of $1000 per accident. Liability coverage with a limit of $25,000 per person for bodily injury and $10,000 per accident for property damage is required.

There is $15,000 overall maximum on no-fault first-party benefits which cover medical costs, wage loss, replacement services and survivors' and funeral benefits. The benefits are secondary to workmen's compensation, Social Security, or public assistance.

Kansas

The original Kansas Automobile Injury Reparations Act was approved April 11, 1973, and took effect January 1, 1974. The legislature reenacted the law with major changes that deal mainly with the treatment of the out-of-State motorist. This new law was approved February 18, 1974, and became effective February 22, 1974.

Under the law, an accident victim cannot sue in tort for general damages in a liability suit unless medical costs exceed $500, or the injury results in permanent disfigurement; fracture to a weight-bearing bone; a compound comminuted, displaced, or compressed fracture; loss of a body member; permanent injury; permanent loss of a body function or death.

All private passenger vehicle owners must carry coverage. Motorcycle coverage is optional. Liability coverage with limits of $15,000 per person and $30,000 per accident for bodily injury and $5,000 for property damage is required. The law requires nonresidents to provide liability insurance including first-party benefits as a condition of use of the Kansas highways.

No-fault benefits cover medical costs up to $2000, rehabilitation costs up to $2000, lost wages of up to $650 per month for one year, replacement services at the rate of $12 per day for a year and survivors' benefits at the rates for wage loss and replacement services benefits. Funeral benefits of $1000 are also provided. The benefits are primary except workmen's compensation is deducted.

Kentucky

The Kentucky law was enacted April 2, 1974, and became effective July 1, 1975. In Kentucky an auto accident victim cannot sue in tort for general damages unless his medical expenses exceed $1000 or his injuries result in a permanent disfigurement; fracture of a weight bearing bone; a compound comminuted displaced, or compressed fracture; loss of a body member; permanent injury within reasonable medical probability; permanent loss of bodily function; or death. An accident victim is not bound by this restriction of his tort rights if (1) he has rejected the no-fault system in writing, or (2) he is injured by a driver who has rejected the no-fault system in writing.

All vehicles must carry coverage, but motorcycle coverage is optional. Liability coverage with limits of $10,000 per person and $20,000 per accident for bodily injury and $5,000 per accident for property damage is required for all vehicles.

There is an overall maximum of $10,000 on first-party benefits which cover medical costs, wage loss up to $200 per week, replacement services up to $200 per week, survivors' benefits at wage loss and replacement services benefit levels, and funeral benefits of $1,000. The benefits are primary except that workmen's compensation and Social Security benefits are subtracted.

Massachusetts

The Massachusetts no-fault law was the first in the United States to limit tort recovery. It was enacted August 13, 1970, and became effective January 1, 1971. In Massachusetts an accident victim may not sue in tort for general damages unless his medical expenditures exceed $500 or his injuries consist of a fracture or result in dismemberment, disfigurement, loss of sight or hearing, or death.

All motor vehicles and trailers except certain motor carriers are covered by the no-fault law. Liability insurance is compulsory with limits of at least $5,000 per person, $10,000 per accident for bodily injury and $5,000 for property damage.

The no-fault coverage has a $2,000 overall maximum limit on benefits which include medical costs, wages lost, replacement services, funeral costs but not survivors' benefits. The benefits are primary, except work loss is reduced by the amount payable under wage continuation programs.

Michigan

The Michigan no-fault law was enacted October 31, 1972, and became effective October 1, 1973. Accident victims cannot sue in tort for non-economic damages unless the injuries result in death, serious impairment of a body function or permanent serious disfigurement.

All motor vehicles with more than 2 wheels are covered under the law. Liability insurance is compulsory, with limits of at least $20,000 per person, $40,000 per accident for bodily injury and $10,000 for property damage.

The no-fault medical benefits are unlimited, and first-party benefits also cover wage loss up to $1,285 per month for 3 years, replacement services at a rate of $120 per day for 3 years, survivors' benefits up to $1,000 per month for 3 years and funeral benefits

of $1,000. The benefits are primary except as to benefits provided under State or federal law; but insureds may elect to have their health insurance coverage coordinated with, rather than duplicated by auto insurance benefits for medical expense.

Minnesota

On April 11, 1974, Minnesota enacted its No-Fault Automobile Insurance Act, which became effective January 1, 1975. An auto accident victim cannot sue in tort for general damages unless his medical expenses exceed $2,000; he has 60 days of disability; or his injury results in permanent disfigurement, permanent injury, or death.

All owners of vehicles with four or more wheels must carry no-fault coverage. Liability coverage with limits of $25,000 per person and $50,000 per accident for bodily injury and $10,000 for property damage is required. Uninsured motorist coverage with limits of $25,000 per person and $50,000 per accident is also required.

First-party benefits have a maximum of $10,000 for benefits other than medical. These cover wage loss up to $200 per week, replacement services at the rate of $15 per day, survivors' benefits of up to $400 per week and funeral benefits of $1,250. Medical benefits have a maximum of $20,000.

Benefits are primary except that workmen's compensation is deducted.

Nevada

Nevada's no-fault law was enacted April 24, 1973, and became effective February 1, 1974. An accident victim cannot sue in tort for general damages unless his medical expenses exceed $750 or his injury results in chronic or permanent injury, permanent partial or permanent total disability, disfigurement, more than 180 days of inability to work, fracture of a major bone, dismemberment, permanent loss of body function, or death.

All vehicles except those owned by persons covered under medicare, motorcycles, and publicly owned vehicles, must carry no-fault insurance. Liability insurance with limits of $15,000 per person and $30,000 per accident for bodily injury and $5,000 per accident for property damage also is required.

Benefits under no-fault have a $10,000 overall maximum which covers medical costs, wage loss up to $175 per week, replacement services at the rate of $18 per day for two years, survivors' benefits of at least $5,000 and funeral benefits of $1,000. Benefits are primary except Social Security and workmen's compensation are deducted.

New Jersey

The New Jersey Automobile Reparations Act was enacted June 20, 1972, and became effective January 1, 1973. An accident victim cannot sue in tort for general damages if his injuries are confined to soft tissue and his medical expense (excluding hospital expenses, x-rays, and other diagnostic expenses) are less than $200; or unless the injury results in death, permanent disability, permanent loss of a bodily function or loss of all or part of a body member.

Owners of private passenger vehicles must carry no-fault coverage. Liability coverage of $15,000 per person and $30,000 per accident for bodily injury and $5,000 for property damage is required for all vehicles.

First-party no-fault benefits cover medical costs in an unlimited amount; wage loss of up to $100 per week for a year; replacement services at the rate of $12 per day up to $4,380; survivor benefits which match the wage replacement services benefit levels; and funeral benefits of $1,000. The benefits are primary except that workmen's compensation, temporary disability insurance protection benefits, and medicare are deducted.

New York

New York's Comprehensive Automobile Insurance Reparations Act was enacted February 12, 1973, and became effective February 1, 1974. An accident victim cannot sue in tort for general damages unless his medical expenses exceed $500 or his injuries result in death, dismemberment, significant disfigurement, or permanent loss of the use of a body organ, member, function, or system.

Owners of all vehicles except motorcycles must carry no-fault coverage. Liability coverage with limits of $10,000 per person and $20,000 per accident for bodily injury and $5,000 for property damage is required.

First-party benefits have an overall maximum of $50,000 which covers medical costs, wage loss up to $1,000 per month for three years and replacement services at the rate of $25 per day for a year. The benefits are primary except Social Security, statutory temporary disability insurance benefits, and workmen's compensation are deducted.

North Dakota

The North Dakota Auto Accident Reparations Act was approved April 9, 1975, and became effective January 1, 1976. An accident victim may not sue in tort for general damages unless the victim has more than $1,000 in medical expenses, is disabled more than 60 days, receives serious and permanent disfigurement, is dismembered, or dies.

All owners of motor vehicles except motorcycles are required to buy no-fault insurance. Liability coverage with limits of $10,000 per person and $20,000 per accident for bodily injury and $5,000 per accident for property damage is required.

No-fault benefits have an overall maximum of $15,000 which covers medical costs, wage loss up to $150 per week, replacement services at the rate of $15 per day, survivors' benefits, and funeral benefits of $1,000. The benefits are primary except that workmen's compensation is deducted.

Pennsylvania

The Pennsylvania No-Fault Motor Vehicle Insurance Act was approved July 19, 1974, and became effective July 19, 1975. Tort liability is abolished unless the accident results in medical and dental services with a reasonable value of more than $750 (exclusive of diagnostic x-ray and rehabilitation costs in excess of $100); more than 60 days of continuous disability; permanent, irreparable and severe, cosmetic disfigurement; serious and permanent injury; or death.

All motorists except motorcyclists must carry coverage with first-party benefits. Liability coverage with limits $15,000 per person and $30,000 per accident for bodily injury and $5,000 per accident for property damage is required.

First-party benefits cover an unlimited amount of medical costs, wage loss up to $15,000 times a specific inflation-related fraction, replacement services at the rate of $25 per day for a year, survivors' benefits up to $5,000, and funeral benefits of $1,500. The benefits are primary except Social Security, workmen's compensation and federal and State insurance benefits are deducted.

Utah

The Utah Automobile No-Fault Insurance Act was enacted March 8, 1973, and became effective January 1, 1974. An accident victim cannot sue in tort for general damages unless the reasonable value of his medical expenses exceeds $500; or his injury results in dismemberment or fracture, permanent disfigurement, permanent disability or death.

All motorists must have first-party coverage and are required to carry liability coverage with limits of $15,000 per person and $30,000 per accident for bodily injury and $5,000 for property damage.

No-fault benefits include $2,000 for medical costs, up to $150 per week for a year for lost wages, $12 per day for a year for replacement services, survivors' benefits of $2,000 and funeral benefits of $1,000. The benefits are primary except workmen's compensation or any similar statutory plan and U.S. military benefits are deducted.

Optional States

Eight States have used some parts of the no-fault scheme in their automobile personal liability insurance programs, but do not have a mandatory scheme limiting tort suits. Delaware, Maryland, Oregon, and South Carolina have no tort restrictions, but require motorists to purchase insurance which will pay for their own damages (first party benefits). In Arkansas, South Dakota, Texas, and Virginia the purchase of insurance for first party benefits is optional. All States permit tort actions for recovery of property damages.

Arkansas

There is no minimum tort liability threshold in Arkansas; that is, anyone can sue for any amount for damages. The purchase of first party insurance benefits is optional. The maximum medical benefits are $2,000 if the expenses occurred within two years of the accident. Seventy percent of lost income up to $140 per week is paid for a maximum of one year. If an injured person has to hire someone to do his work he may receive up to $70 per week for a year for these replacement services. The maximum benefit to survivors for funeral and other expenses is $5,000. The Arkansas law went into effect July 1, 1974.

Delaware

In Delaware the purchase of no-fault insurance is mandatory. Further, unlike other States, the amount one receives in benefits cannot be used as evidence in suits for general damages. There is no limit on tort liability so that an injured person may receive compensation from his insurance and damages from a court award. Medical expenses, income loss, and the expense of replacing labor all have the same maximum of $10,000 per person and $20,000 overall on one accident. There is a maximum of $2,000 for funeral benefits. A no-fault insurance claim must be brought within two years of the date of the accident. Delaware's law was effective January 1, 1972.

Maryland

Though everyone is required to purchase first party insurance in Maryland, there are no restrictions on money recoveries or subject matter under the tort system. Medical expenses, income loss, replacement of services, and funeral benefits have a maximum of $2,500. If one category or another takes up all the limit, then there is no insurance recovery in the other categories. An insurance claim must be made within three years of the date of the accident, and property damage is not covered under the scheme. The effective date was January 1, 1973.

Oregon

Insurance for first party benefits is required in Oregon but there is no limit on the amount for which one may bring a tort suit. Total medical benefits are $5,000, and the maximum funeral benefit is $1,000. The benefits pay 70 percent of lost income up to $750 per month for 12 months only if the insured is disabled for 14 or more days. To pay for replacement service, up to $18 a day for a year is allowed provided that, again, the insured must be disabled for at least 14 days. Recovery of property damages is not allowed in the scheme, but rather is left to the tort system. Oregon put the program into effect January 1, 1972.

South Carolina

Like Oregon, South Carolina requires first party insurance, but sets no limit on tort liability or the opportunity to bring tort suits. The maximum all over benefits the insured receives may total no more than $1,000. This includes medical expenses, loss of income, replacement services, and funeral benefits. Property damage is not included in the scheme. Application for benefits must be made within 3 years of the accident date. October 1, 1974, is the effective date for this law.

South Dakota

The maximum amount allowed for medical benefits is $2,000 under South Dakota's first party insurance program. The purchase of this insurance is optional and does not prohibit any of the parties from bringing tort actions, nor does it limit their recoveries under these suits. For income loss, the maximum allowable is $60 a week for a year, provided that the claimant is disabled for at least 14 days. Thirty dollars a week for up to a year is allowed for replacement services, but here again, the claimant must be disabled at least 14 days. This category is limited to those who do not earn wages. There is a maximum $10,000 death benefit if death occurs within 90 days of the accident; otherwise, there is no recovery for death benefits. Property damage is reimbursed under the tort system. The program was effective January 1, 1972.

Texas

Effective August 26, 1973, the Texas act allows a $2,500 overall maximum on benefits in all of the categories of medical expenses, income loss, replacement services, and funeral expenses. Property damage is reimbursed under the tort system. There is no bar to bringing tort actions for the recovery of damages for personal injury. Medical expense claims must be brought within 3 years of the accident date in order to be paid under this program.

Virginia

The last of eight optional or partial first party insurance programs is that of Virginia. Effective July 1, 1972, the scheme pays a maximum of $2,000 in medical benefits if the claim is presented within 2 years of the accident date. Up to $100 per week for a year may be paid for income loss; there is no provision granting benefits for replacement services for non-wage earners. There is no separate death benefit; the funeral expenses are included in the medical expenses limitation. Property damage claims are handled under the tort system, and there is no bar against bringing tort actions to recover damages for personal injuries. Further, the purchase of this first party insurance is optional.

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FROM: Jerome Harleston, Research Attorney
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SUBJECT: Mandatory Motor Vehicle Insurance Laws

You have asked for background information on mandatory automobile insurance laws, including sources of support and opposition leading up to the legislature's passage of mandatory first party benefit coverage (basic reparations) under the No Fault Law, the experience of Connecticut and other states with such laws, whether any states have repealed mandatory insurance and the pros and cons with respect to the continued existence of such requirements.

SUMMARY

Although the phrase mandatory or compulsory motor vehicle insurance is used interchangeably, some sectors of the insurance industry distinguish between them principally on the basis of how each is enforced. For the purpose of this report, the terms mandatory or compulsory with respect to auto insurance are used to identify statutes and regulations which mandate the maintenance of insurance as a condition of motoring.

The purpose of a mandatory motor vehicle insurance statute is to protect members of the public who are injured in motor vehicle accidents by providing them with compensation for those injuries. A state may constitutionally require such insurance as part of its authority over public highways and its power to provide for the public's safety.

Mandatory insurance for motor vehicles typically includes first party benefit coverage (medical and wage loss expense coverage paid by the accident victim's insurer without a determination of fault), third party bodily injury and

property damage liability coverage (coverage to compensate others who are injuried by an insured's negiligent conduct and paid on the basis of fault) and uninsured motorists protection (coverage to pay for an insured's injuries when involved in an accident with a at fault uninsured motorist). A state's financial responsibility requirement may also mandate the carrying of insurance under certain circumstances.

Twenty states have adopted mandatory first party benefit and uninsured motorist requirements and 32, third party bodily injury and property damage liability requirements. Connecticut's mandatory insurance requirements under the No Fault Act were upheld on constitutional grounds in Gentile v. Altermatt.

Support for the state's enactment of mandatory insurance under the No Fault Act came from, among others, the insurance industry, labor, and senior citizen groups. Opposition was led largely by members of the Trial Lawyer Association and public citizens. A number of states have experienced premium reductions for first party benefit coverage in the first couple of years after the adoption of no fault. This was, in part, due to statutorily mandated reductions incorporated in many no fault enactments. Yet a number of states have experienced increases both in premium levels and claims frequency. And although there is an apparent record of improvement, mandated insurance has not removed the uninsured motorists from the highways, one of the principal arguments for the adoption of a mandatory approach.

With respect to mandatory third party liability, there is clear evidence that its potential advantages may be outweighed by the burden of high administrative costs associated with it. Several states have had to allocate millions of dollars to enforce the system. There is also evidence that mandatory insurance laws increase premium levels because of the necessity to insure uniformly.

To date, only one state, Nevada, has repealed mandatory insurance.

Proponents of mandatory insurance argue that every individual must be financially responsible for harm he or she negligently causes others. Since insurance is a practical way for most drivers to pay compensation, they assert that the state must force motorists to buy coverage.

Opponents argue that mandatory insurance laws are costly, increase premium for responsible drivers and can't be enforced well enough to remove the uninsured motorist from the roads.

MANDATORY INSURANCE DEFINED/BACKGROUND INFORMATION

In the context of motor vehicle insurance law, the phrase "mandatory insurance or security" is intended to refer to

insurance or furnishing an alternative means of satisfying possible claims which is required by law, pursuant to statute or administrative regulation. Some sectors of the industry distinguish a mandatory insurance law from a compulsory insurance law of the basis of enforcement; a mandatory law may only involve self-certification (signing a form attesting that insurance is in effect) while a compulsory law may require actual proof of insurance. For our purposes here this distinction, although noteworthy, is of minor importance. The maintenance of mandatory motor vehicle insurance or security is typically a condition precedent to: 1) the registration of a motor vehicle; 2) the operation of a motor vehicle upon public highways or where there has been an accident which causes bodily injury or property damage and/or a violation of certain traffic laws; 3) continued licensure as a motor vehicle operator, the continuation of a valid certificate of motor vehicle registration, or both. In this latter instance, the mandated insurance or security typically is a requirement of the state's financial responsibility law. However, such laws must be distinguished from a financial responsibility law which is generally applicable only "after a person has been involved in an accident." In National Grange Mut. Liability Co. v. Finc. 13 App. Div. 2d 10, 212 NYS 2d 684, the New York Court amplified this distinction:

> "... that an insurer's liability becomes absolute whenever loss covered by any policy occurs, ... applies only to policies required by the Safety Responsibility Act, applicable to uninsured motorists involved in accidents who must post proof of insurance before using the road again, and not to those under the Financial Security Act, which provides for compulsory insurance for all motorists and makes it mandatory that proof of insurance be submitted before vehicles can be registered."

The dominate purpose of a mandatory motor vehicle insurance or security law is to protect members of the general public injured by the negligent operation of motor vehicles upon the highways of the state, by giving them security for the payment of their damages. Boulter v. Commercial Standard Ins. Co. 175 F2d 763, Clark v. Hartford Acc. & Indemn. Co. 148 Conn. 15, 166A 2d 713. Conversely, the purpose of financial responsibility laws is to keep off the highways the financially irresponsible owner or operator who cannot respond to damages for the injuries he may inflict, and to require him, as a condition for securing or retaining a registration or an operator's license, to furnish adequate means of satisfying possible claims against him.

The procuring and maintaining of such insurance is not required in the absence of a statute, ordinance, or administrative regulation expressly requiring it. A requirement of mandatory insurance does not arise by implication. Couch on Insurance 2d,

Compulsory Insurance Sec. 45:659. Thus, in public policy terms, the maintenance of mandatory insurance is merely part of the price paid for obtaining a specific privilege from the government, such as the privilege of operating as a motor carrier, or the privilege of operating a private passenger motor vehicle upon roads or the privilege of operating a motor vehicle after having been involved in an accident. Id. Sec. 45:658. Although the phrase mandatory motor vehicle insurance, applied broadly includes any type of insurance coverage required by law, mandatory motor vehicle insurance laws have been enacted in various forms and must be distinguished as to characteristics and the risk insured against. There are many components to the modern day automobile insurance policy. Typical mandatory coverages incorporated in the automobile policy are first party benefit coverage, bodily injury and property damage liability coverage and uninsured motorist protection.

FIRST PARTY BENEFIT COVERAGE

As part of what is known as "no fault insurance," some states have adopted mandatory first party benefit laws, the newest form of mandatory insurance, which require that automobile insurance policies must provide specified benefits to specified persons in the event that they are injured in, or die as a result of, an automobile accident. This type of mandatory coverage, called basic reparations benefits under Connecticut's no fault law, is two-party insurance which consists of a uniform, separately identifiable type of coverage for economic loss resulting from injury arising out of the use of an automobile. Persons qualified to receive benefits are usually the name insured and members of his family, other occupants of the insured vehicle, and, in some states, pedestrians. Benefits are typically for medical expenses, wage loss of employed persons, replacement cost of services, and funeral costs. Mandatory first-party benefit coverage is a form of compensation for those injured in automobile accidents, and it is paid without regard to fault.

LIABILITY COVERAGE

Another type of mandatory motor vehicle insurance is the traditional third party bodily injury and property damage liability coverage. The principle purpose of this liability insurance is the protection of third parties injured by the negligent operation of motor vehicles, however, sight must not be lost of the fact that such insurance also provides protection for the insured through the preservation of his asset where he is found to be legally responsible. Thus, such laws do not authorize courts to disregard the right of the insured to obtain the indemnity for which he has paid. Trinity Universal Ins. Co. v. Cunningham (CA 8 Mo) 107 F2d 857.

Under this type of insurance, the insurer agrees to pay on behalf

of the insured all sums, to the extent of the policies limits of liability, which the insured shall become legally obligated to pay as damages because of bodily injury or property damage, arising out of the ownership, maintenance or use of an automobile. Those insured are (1) the named insured and any resident of the same household; (2) those using the vehicle with the permission of the insured; and (3) any other person, but only with respect to his liability because of acts or omissions of the named insured, resident in the same household or others using the vehicle with permission. Typically, this type of liability insurance must comply with a state's minimum insurance levels under the financial responsibility law.

As is the case with mandatory insurance in general, a state may validly require liability insurance of all persons driving automobiles, even though for their private use, or may restrict such a requirement to certain classes of operators. Opinion of Justices, 251 Mass. 569, 147 NE681. The power of the legislature to impose such a requirement is found in its authority over public highways and its power to provide for the public safety by reasonable regulation of undertakings that are inherently dangerous. Id.

UNINSURED MOTORISTS COVERAGE

Uninsured motorists coverage is another type of insurance which is often-times mandatory. This coverage is designed to protect the insured when a third party is at fault but cannot pay for an injury he has caused because he is uninsured. It also applies to hit-and-run cases.

Under the insuring agreement, the insured agrees to pay all sums, to the extent of coverage limits, which the insured is legally entitled to recover as damages from the owner or operator of an uninsured automobile because of bodily injury, and in some cases, property damage, sustained by the insured in an accident involving such automobile. The insured includes the named insured and any relative, except one who owns an automobile, and other persons occupying the insured automobile. Limits of liability are generally the same as those required by the financial responsibility law.

FINANCIAL RESPONSIBILITY

Lastly, as noted previously, financial responsibility requirements are mandatory under certain conditions. These laws specify circumstances under which the driver must prove financial responsibility or have his driver's license and auto registration suspended. Acceptable proof is usually automobile liability insurance with specified minimum limits or the deposit of cash or a bond of the same amount.

STATE LAWS

There are 20 states which have adopted mandatory first party benefit laws. Of these, 15 states, and one U.S. possession, have adopted this type of mandatory coverage in combination with no fault insurance. Four other states also require mandatory first party coverage but as additional protection in connection with a traditional third party fault liability insurance law.

No Fault Mandatory First Party Coverage States		Add-On States
Colorado	Michigan	Delaware
Connecticut	Minnesota	Maryland
Florida	New Jersey	New Hampshire
Georgia	New York	S. Carolina
Hawaii	N. Dakota	
Kansas	Pennsylvania	
Kentucky	Puerto Rico	
Massachusetts	Utah	

Thirty-two states and one U.S. possession have mandatory third party liability insurance requirements. They are Arizona, California, Colorado, Connecticut, Delaware, Georgia, Florida, Hawaii, Indiana (effective in 1984), Idaho, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Jersey, New Mexico (effective in 1984), New York, N. Carolina, N. Dakota, Oklamona, Oregon, Pennsylvania, S. Carolina, Texas, Utah, Virgin Island, West Virginia and Wyoming. One state, Rhode Island, only requires minors owning motor vehicles to furnish proof of liability insurance coverage before registration of the vehicle.

Mandatory uninsured motorist coverage is required in 20 states and the Virgin Islands, while all of the states except Delaware, Minnesota and Kentucky have financial responsibility requirements. Puerto Rico and the Virgin Islands also do not have a financial responsibility statute.

Mandatory Uninsured Motorist Coverage States	
Arizona	New York
Connecticut	N. Dakota
Illinois	Oregon
Maine	Pennsylvania
Maryland	S. Carolina
Massachusetts	S. Dakota
Minnesota	Vermont
Missouri	Virginia
New Hampshire	W. Virginia
New Jersey	Wisconsin

ADOPTION IN CONNECTICUT

Apart from that imposed conditionally by the state's financial responsibility law, mandatory first party or no fault insurance was a principal element of Connecticut's No Fault Motor Vehicle Insurance Law. Although defined in the No Fault Act, mandatory third party liability and uninsured motorist coverages were enacted prior to the adoption of no fault.

Enactment of the Connecticut No Fault Insurance Act resulted from the historical disaffection with the inadequacies of the automobile accident compensation system based on fault, the availability of emperical data from systematic studies of alternative automobile accident reparation systems, and the willingness of the legislature to respond.

Public awareness of the deficiencies and inequities of the tort liability system for the compensation of victims of motor vehicle accidents was heightened and encouraged by the publication in 1965 of a study entitled "Basic Protection for the Traffic Victim" by Professors Robert E. Keeton and Jeffrey O'Connell. This detailed work identified weaknesses and inefficiencies inherent in an automobile reparations system based on fault.

In May, 1968, the Congress of the United States in Public Law 90-313 directed the Secretary of Transportation to investigate the motor vehicle accident compensation system and to report to the Congress his findings, conclusions and recommendations for legislation. The findings of the Department of Transportation study were that the states should strive towards: a system of no-fault insurance (1) based on universal compulsory first party insurance coverage serviced by private insurance companies and providing protection for all motor vehicle owners by covering all economic losses above voluntarily accepted deductibles; and (2) coupled with restrictions on the availability of resort to litigation by motor vehicle accident victims for economic losses or for intangible losses except in serious cases.

The need to investigate the inadequacy of the existing system for compensation of automobile accident victims in Connecticut led to the enactment of 1971 Special Act No. 143 to establish a committee to undertake a comprehensive study and make recommendations for legislation. The study commission was charged to study and make suggestions regarding automobile accidents, including their prevention and consequences, and related insurance, motor vehicle and procedural laws, and to determine whether such laws, together with the statutory rules of the road, must effectively contribute to the prevention of automobile accidents and the expeditious and adequate financial recourse of automobile accident victims. This commission recommended that the legis-

lature adopt "an evolutionary approach to improving Connecticut's tort liability system to the end that a greater number of injured persons would receive payment for their injuries and damages by mandatory first party payments to be made without regard to fault." The Commission further suggested that suits for pain and suffering be abolished except in circumstances involving death, serious injury or economic loss above a threshhold. Substitution of the first party benefits for the tort remedy was necessary to pay for the additional first party coverages recommended and to obtain the dollar premium savings which the public expected.

Upon receipt of the study commission's report, the General Assembly in 1972 began consideration of a no-fault insurance bill. Substitute House Bill No. 5479 entitled "An Act Concerning No Fault Motor Vehicle Insurance" was the subject of extensive hearings before the Joint Judiciary and Insurance and Real Estate Committee. The General Assembly, after lengthy debate and study, passed Substitute House Bill No. 5479 on April 18, 1972. The Act was signed and approved by the Governor on May 19, 1972.

In 1975, the constitutionality of Connecticut's no-fault law was upheld in Gentile V. Altermatt 169 Conn. 267, 363 A2d. In reviewing the mandatory security provisions of the Act (Section 38-327), the Court stated the following:

> "The fact that the act mandates compulsory security [mandatory first party benefits] and directs that uninsured owners of private passenger vehicles with liability to injured parties under the act post security [financial responsibility] and provides penal sanctions for failure to carry such security is not offensive to the state or federal constitutions. Since it is within the province of the legislature to create alternative remedies, and since we have found these remedies to be reasonable, it is merely an exercise of the police power to direct that all private passenger vehicle owners carry basic security."

SOURCES OF SUPPORT AND OPPOSITION IN CONNECTICUT

The issue concerning mandatory motor vehicle insurance, particularly mandatory first party benefit coverage incorporated in Connecticut's no fault law, was the subject of extensive study and debate from 1979 to 1972. At public hearings held by the Special Commission to Study A Program of Restricted Motor Vehicle Insurance, and the Joint Committees on Insurance and Real Estate and Judiciary, both favorable and unfavorable testimony on the subject was heard.

Massachusetts

The Insurance Commissioner from the neighboring state of Massachusetts gave testimony in support of the adoption of no fault based upon that state's one year experience with the law. Massachusetts adopted no fault in 1971. In his testimony, Commissioner Ryan outlined the benefits of no fault in this way: "In broad terms [no fault] eliminates delay by eliminating the need to establish fault and by paying the victim on a direct, first party basis; it eliminates inefficiency by cutting into the unnecessary use of legal services; it strikes at inequity by guaranteeing all victims a basic flow of benefits for immediate medical and economic needs and it eliminates the high cost in the overpayment of thousands of cases that have a nuisance value to insurance companies which use to be paid for under the guise of compensation for pain and suffering." In support of these characterizations, the Commissioner offered the following information.

> "Prior to the adoption of no-fault, a 20 to 30% increase in the rates was proposed for 1971, after adoption the rate for personal injury coverage was reduced to 15%, and with the option of choosing various deductibles, a further reduction in cost from 6 to 30% could be realized depending upon the size and type of deductible. The cost of medical payments alone were reduced 25% in 1971. In total dollars, drivers in Massachusetts paid some $76 million less for auto insurance in 1971 than they would have paid had no fault not been enacted. The average per claim cost in 1970 was $419. For the first 9 mos. of 1971 it was $160, a 60% decrease."

Industry Representatives

Quite naturally, representatives from the insurance industry, without exception, voiced support for no fault. In their view, the advantages of a first party system included: (1) faster claims settlement; (2) a more equitable settlement process in which victims receive reasonable compensation for losses; (3) settlements uneroded by investigative costs, court costs and legal fees; (4) minimization of overpayments for minor accidents and underpayments for serious accidents; and (5) lessening the tendency of insurance companies to resist virtually all claims no matter how valid.

The point of discourse among industry representatives centered more on the type or form the first party system should take. Some representatives of the industry favored the "Cotter Plan," named after then Connecticut Insurance Commissioner William R. Cotter, under which every policy would include a minimum $2000

in medical payments coverage and a year of disability benefits, a shift from contributory negligence to a comparative negligence rule, arbitration of small claims of $3000 or less and the adoption of standards for assessment of damages for pain and suffering.

Others favored the American Insurance Association Plan which involved a form of first party insurance designed to cover the family. The policy would provide unlimited medical expense benefits and coverage for lost wages or work loss up to $750 per month, without limit of time, tort liability would be totally abolished and compensation for pain and suffering eliminated, but an extra lump sum payment in the event of permanent impairment or disfigurement would be provided. Still others favored an expanded first party coverage plan. Under this approach, there would be no exemption from tort liability. Instead, the injured party could collect benefits under a first party coverage, retaining the right to sue for losses in excess of the amount recovered under the first party coverage. Most important, the financial responsibility of the negligent driver would be retained by permitting subrogation by the insurer paying the first party benefits.

Practicing Bar

Generally, attorneys who represented accident victims in private practice, particularly members of the Trial Lawyers Association, voiced opposition to the adoption of no-fault in the belief that such an approach unconstitutionally infringed upon the right of victims to seek compensation for their injuries from the party responsible.

Their criticisms of no fault also centered around the following points: (1) it discriminates against the poor urban dweller and non-wage earners; (2) the cost for no fault first party coverage would be true costs because some form of no fault insurance lives off collateral sources; (3) it would do nothing to reduce the cost of property damage; (4) it takes benefits away from people who are careful through the elimination of pain and suffering; and (5) it would create duplication in cost because most people have hospitalization insurance.

The trial lawyers favored a system in which first party coverage was provided for economic, medical and wage loss; where there was a limitation on the collateral source rule, where payees of first party benefits would have that amount deducted from any settlement or verdict, where small claims had to be arbitrated, and where first party coverage was provided without a lien or subrogation to reduce cost. They also advocated a system under which a comparative negligence rule was applicable and where permanent license suspension for repeat offenders was imposed.

Rent-a-Car Industry and Labor

Representatives of the rent-a-car industry, public livery services (taxicab companies) and the Connecticut Labor Council voiced support for no fault first party coverage. The rent-a-car industry, however, expressed their concerns about the exclusion of commercial vehicles from the scope of no fault and the low dollar threshhold. These groups favored a $2000 threshhold before an accident victim could bring a third party lawsuit for damages. Labor, on the other hand, favored a $1000 threshhold before a third party lawsuit could be initiated. They also expressed support for federal no fault legislation, particularly the then pending Hart-Magnus no fault bill.

Senior Citizens

A senior citizen group, the Connecticut Council of Senior Citizens, expressed support for no fault on the promise of reduced premium costs. They also favored a system under which property damage would be included under no fault.

Private Citizen

Lastly, a citizen, who apparently represented no organized group, Louis Gentile, voiced his disapproval of no fault primarily on the belief that such an approach would eliminate such vital rights as trial by jury and compensation for pain and suffering. He also voiced his displeasure at the compulsory nature of no fault. It is interesting to note that Mr. Gentile was one of several plaintiffs in Gentile v. Altermatt.

STATE EXPERIENCE

Underlying the objectives of mandatory motor vehicle insurance laws is the belief that such an approach will, in the long term, reduce the cost of insurance, assure expeditious compensation to accident victims and remove the uninsured motorist from state highways. In this section of the report premium levels before and immediately after the adoption of mandatory first party insurance in Massachusetts and Puerto Rico is reviewed, the impact of mandatory first party insurance on Connecticut's uninsured motorist population analysed and the effect of cost on and claims under bodily injury and property damage liability, first party benefits and uninsured motorist coverages in no fault states is compared to these factors in non-no fault states.

In addition, observations have been noted relating to the experience of states in the administration, effectiveness and cost of mandatory third party liability insurance coverages. The thrust of this review is twofold: (1) because third party liability insurance is the oldest and most common form

of mandatory insurance, substantial state experience has been accumulated upon which relatively reliable conclusions may be drawn; and (2) by implication, the experiences of states with mandatory liability insurance laws may logically be applicable to the administration, effectiveness and cost of other forms of mandatory automobile insurance laws.

Massachusetts

On August 13, 1970, Massachusetts Governor Francis W. Sargent signed Senate Bill 158 into law. The bill became effective on January 1, 1971, making Massachusetts the first state to enact a no fault plan. The law provided for the amendment of the Massachusetts compulsory automobile insurance law to provide certain first-party coverages on a compulsory basis. It also modified existing tort remedies for automobile accidents within the state.

The immediate impact of the Massachusetts Plan as of the first quarter of 1971 indicated that the program was eliminating so-called nuisance claims. According to Governor Sargent, first quarter results indicated that there was a 60% drop in total claims under compulsory liability bodily injury coverage during the first three months of 1971, with a 36 percent reduction in the average paid claim. The average paid claim cost in the first quarter of 1970 was $205. The average paid claim cost in the first quarter of 1971 was $131. The Governor predicted a "future premium cost cut of 7.5% for bodily injury insurance."

Insurance industry spokesmen confirmed that the volume of claims had been lower than anticipated, but indicated this could be due to the transition to the new system and also to "normal lags between the occurrence of an accident and the filing of claims." Some 70 to 80 percent of the bodily injury claims filed in January and February arose from accidents that occurred in the previous December, November, and October before the new law became effective.

Although the law required payment of benefits within 30 days after receipt of a claim, provided it was accompanied by necessary supporting data, companies discovered that there had been no reduction in the average time lag of 21 days before the form was returned. In many cases, the form was not accompanied by hospital and medical bills, because the claimant had not yet received them. Thus, an additional delay ensued before payment could be made.

The cost and claims experience in Massachusetts for more recent years is noted in the Corning & Company evaluation cited further on in this report.

Puerto Rico

Puerto Rico became the first United States' jurisdiction to adopt a compensation system for automobile accident victims when in 1968 it passed the "Social Protection Plan." On June 26, 1968, House Bill No. 874, known as "Social Protection Plan for Victims of Automobile Accidents," (Act No. 138) was signed into law by the Governor of Puerto Rico with the plan to go into effect on January 1, 1970. The legislation was based on a comprehensive study of the Puerto Rican automobile problem. Benefits provided by the plan, paid on a compensation basis without regard to fault, include medical expense payments, income replacement, dismemberment, and death and funeral benefits.

The plan is compulsory, government-administered, emphasizing socially adequate benefits rather than individual equity, and provides basic protection for all auto accident victims, drivers, passengers, and pedestrians, through benefits prescribed by law.

After 17 months of experience with the Puerto Rico Plan, the following results were reported:

1. Ninety cents of every premium dollar had been paid in benefits.

2. The government administering agency sought to boost loss-of-income compensation to 75% of regular pay up to a maximum benefit of $100 a week. It was believed that this increase in loss-of-income benefits, plus an increased death benefit of $25,000, could be accomplished without raising the rates.

3. Critics of the Puerto Rico Plan had contended that drivers would get careless and push accident rates sharply upward. In 1970 the rate did go up 5%, but this was only half the 10% rise of the year before. Traffic deaths declined to 451 from 541 in 1970.

4. Critics predicted a hugh rise in "pain and suffering" claims from accident victims demanding more than the medical and economic loss benefits that the no-fault plan provided. So such rise materialized.

5. One insurer, Cooperatina de Seguras Multiples de Puerto Rico, stated that it had not had to pay a single automobile accident personal injury liability claim in the first 17 months of the new plan. It proposed cutting the rate on the standard personal injury drivers liability policy to $33 a year, a cut from $50 in early 1971 and from $68 before the no-fault program began.

Connecticut

Connecticut has had mandatory insurance for private passenger automobiles since January 1, 1973. The owner of a private passenger automobile registered in this state is required to provide security in the following amounts:

(a) bodily injury liability - $20,000 per person/$40,000 per accident

(b) property damage liability - $5,000 per accident

(c) basic reparations benefits - $5,000 per person/ per accident

(d) uninsured motorist protection - $20,000 per person/ $40,000 per accident

One objective of mandatory insurance is the removal of the uninsured motorists from state highways.

The Insurance Department has periodically sampled accident reports, required by law to be on file with the Department of Motor Vehicles, to obtain an estimate of the number of uninsured motor vehicles.

In a 1976 sampling, the Department had taken a random sample involving 3400 private passenger vehicles covered under no fault. This count showed that an average of 7.9% of the motorists involved in reportable accidents during the last quarter of 1975 were uninsured. Also, based on the October 1976 data, it was estimated that there were approximately 1,685,000 motor vehicles, requiring mandatory coverages, operating in Connecticut. This would mean, according to the Department, that of the motor vehicles acquired by law to maintain automobile insurance, approximately 118,000 to 148,000 were uninsured.

In a 1972 sampling, prior to the adoption of no fault, it was indicated that 255,291 vehicles, or 16.9%, were uninsured.

In addition to the 1976 sampling, the Department sampled 2,105 private passenger vehicles from motor vehicle accident reports from September 1977 and 483 for October 1977. These three samples represent in total 5,988 private passenger vehicles. The 1977 samples showed the percentage of uninsured motorists to be considerably lower, 4.1% and 5.8%, respectively. The percentage of uninsured motorists for all three samples combined was 6.4%.

The Motor Vehicle Department, in the past, had estimated the number of accidents, involving all types of motor vehicles, in which an uninsured motorist was an operator or one or more

of the vehicles. Such estimates were calculated by taking the proportion of accidents involving uninsured motorists to the total motor vehicle accidents in the state.

Based on the Insurance Department sample result of 7.9% for 1975 and another study which showed the proportion of single car accidents to total accidents as 26.9%, it was estimated that about 13% of all private passenger type accidents reported involve one or more uninsured motorists.

The figures indicate that overall the proportion of uninsured motor vehicles had decreased from 1972 to 1976, but that full compliance with the mandatory insurance law had not been accomplished.

Cost Under No Fault

In a 1978 evaluation of no-fault automobile insurance cost prepared by Conning & Company for the American Insurance Association, the following states were studies: Massachusetts, Delaware, Florida, Oregon, Maryland, Connecticut, New Jersey, Washington, Michigan, Kansas, New York, Minnesota and Pennsylvania. For each year of no-fault and for the year prior to no-fault, companies reported the following data: earned premiums, incurred loss amounts, number of incurred losses, paid loss amounts, and the number of paid losses. The data was reported separately for bodily injury liability coverage, medical payments coverage, uninsured motorist coverage, and first party benefit coverages.

Analyses

To measure the effect of no-fault on insurance costs, loss costs per car or pure premiums (the amount of money required to pay losses without taking into account the cost and expense of operation of the insurance company) was calculated for both before no-fault and during no-fault for the average insured. Coverages included in this calculation were bodily injury liability, medical payments, and uninsured motorists before no-fault, and the same coverages plus first party benefits during no-fault.

Loss costs per car were then adjusted to compensate for cost changes which would have taken place even if no-fault had not been enacted. For example, the gasoline shortage impacted claim frequency in 1974 and double-digit inflation impacted claim severity in 1975.

Loss experience was accumulated from five liability states for the past several years so as to assimilate trends in loss costs regardless of no-fault plans. Experience in the states of California, Louisiana, Missouri, Ohio, and Indiana was used for that analysis. Cost changes in no-fault states were then reduced

by the changes in liability states, as to produce a net effect which can be reasonably attributed to the no-fault program.

The plus or minus percentage figures given represent an increase (+) or a decrease (-) in: (1) the pure premium cost under no fault generally; (2) the actual cost (pure premium plus company expenses and profits) for mandatory first party benefit coverage; and (3) the number of claims in bodily injury liability, first party benefit and uninsured motorist coverages combined. The figures are representative of increases or decreases experience up to 1977 and are compared to the experience in the state in the year immediately prior to the enactment of no fault.

Summary of Findings

It has been reported that no-fault reduced insurance costs, on a relative basis (that is, relative to cost changes in non-no-fault states), in Massachusetts (-45%), Michigan (-20%), Connecticut (-6%), Minnesota (-6%) and Oregon (-4%). Insurance costs, on the other hand, had increased under no-fault, on a relative basis, in Delaware (+29%), Maryland (+25%), Kansas (+21%), New York (+19%), Washington (+15%), Florida (+12%), New Jersey (+9%), and Pennsylvania (+8%). These average cost changes were relative to simultaneous cost changes in states which had not adopted no-fault plans. The comparison included only mandatory bodily injury coverages; property damage liability, personal injury protection, medical payments and uninsured motorists.

The relative cost of personal injury protection (no fault benefit) had increased in nearly all states since the first year of no fault. The largest increases were in Delaware (+78%), New Jersey (+77.4%), Maryland (+47.5%), and New York (+42.8%).

Relative claim frequency on bodily injury liability, personal injury protection and uninsured motorist coverages combined had increased significantly under no fault, except in Massachusetts (-47%) and Michigan (-6.7%). The increases continued to be greatest in the states of Delaware (+115%), Maryland (+125%), Washington (+91.7%), New Jersey (+79.7%), and Oregon (+68.3%). Of these states, only New Jersey restricted tort suits and there the restriction was weak in comparison to other no-fault states.

In looking at costs on an absolute basis, while several states showed cost declines during the first two years of no fault, only Massachusetts (-24.4%) and Michigan (-0.7%) continued to show absolute cost reductions after several years of no fault.

Mandatory Liability Insurance Laws

The primary idea behind mandatory liability insurance laws is that drivers be legally responsible for their actions. Mandatory liability laws require drivers to also be financially responsible,

usually by purchasing liability or third party auto insurance coverage.

Mandatory liability insurance laws have, however, created a blizzard of paperwork. In New York, which has had such a law since 1956, the Department of Motor Vehicles initially found itself buried in an avalanche of over six million forms, each showing evidence of insurance. Besides these, the Department was also swamped with many other forms, changes from cancellations of insurance, new registrations, plus changes in vehicles, insurance companies and names.

Such a system is also prone to foulups. According to West Virginia's Motor Vehicle Commissioner, Virginia Roberts, within four months after the state's mandatory liability insurance law took effect, her Department had mailed out 196,000 notices of auto license cancellations. Roberts estimates that 95% of those notices went to persons who had never let their insurance policies lapse.

Cost of the system is another factor. Maryland spent $1.5 million a year after the enactment of a mandatory liability law. South Carolina spent $1.3 million administering the program in 1979, including salaries of 28 highway patrolmen solely assigned to enforce the law. North Carolina spends about $1.6 million a year on record keeping and also employs 50 state policemen to pick up license plates at an additional cost of $500,000 a year. After New York passed its law, the cost of enforcement rose to more than $7 million a year. In an effort to cut costs, the state switched to a self-certification system that still costs about $4 million each year. (New York has now switched back to the original system in an effort to tighten up enforcement.)

These laws do not necessarily eliminate all uninsured motorists from the roads. A New York Department of Motor Vehicles survey estimated that in 1979 about 6.5 percent of the registered motor vehicles in the state, or about 450,000, were uninsured. The insurance industry estimates of uninsured motorists in New York is even higher, anywhere from eight to 19 percent.

In California, 15 percent of motorists statewide (and as much as 25 percent in some areas) were uninsured in 1977. The Pennsylvania Department of Transportation estimated that in 1981 between six and seven percent of the vehicles registered in the state lacked insurance. In Michigan, a 1978 survey of 1,000 cars turned up 116 that were proven uninsured, for a statewide average of 11 percent. In Illinois, a state that does not have a mandatory insurance law, 92 percent of motorists outside Chicago have auto liability coverage. Statewide, including Chicago, about 15 percent are without insurance.

Further, mandatory insurance laws usually mean higher rates. According to insurance industry figures, auto liability premiums increase

faster in states with mandatory insurance than in similar states without the law. For example, between 1978 and 1980, the average annual pure premium increase in Louisiana, a state with mandatory insurance, was 11.2 percent. Yet Alabama had only a .9 percent, and Mississippi only a 1.4 percent increase, while nearby Tennessee actually reported a 1.3 percent decrease. The other five states studied showed similar results.

INCREASE IN AUTO LIABILITY INSURANCE PREMIUMS
STATES WITH VS STATES WITHOUT COMPULSORY LAWS

	Percent Average Annual Pure Premium Increase**		Percent Average Annual Pure Premium Increase**
State With Compulsory:		**State With Compulsory:**	
California (1/1/75)*	8.2%	Oklahoma (12/11/76)*	3.7%
States Without:		**States Without:**	
Illinois	5.5	Arkansas	3.5
Ohio	3.4	Iowa	2.6
Texas	6.0	Missouri	1.0
State With Compulsory:		**State With Compulsory:**	
Louisiana (7/1/78)*	11.2%	Oregon (1/1/76)*	8.4%
States Without:		**States Without:**	
Alabama	0.9	Maine	3.9
Mississippi	1.4	West Virginia	6.8
Tennessee	– 1.3	Wisconsin	3.7
State With Compulsory:		**State With Compulsory:**	
Maryland (7/1/73)*	7.9%	South Carolina (10/1/74)*	5.6%
States Without:		**States Without:**	
Indiana	5.0	Alabama	5.5
Virginia	6.2	Arkansas	4.1
D.C.	4.4	Tennessee	2.9

*Date law effective

**For period from 1976 through 1980 for California, Maryland, and South Carolina; 1977 through 1980 for Oregon; 1978 through 1980 for Oklahoma; 1979 through 1980 for Louisiana and comparison states

Source: Fast Track Monitoring System, National Association of Independent Insurers (NAII) and Insurance Services Office (ISO)

One reason for increases in auto insurance rates is that insurance companies must raise premiums smoewhat to offset their added administrative costs. But more important, a large increase in pure premiums suggests that both the number and amount of coverage claim per insured vehicle also rose dramatically.

If successful, a mandatory insurance law would mean that every motorist was insured, even those in the highest risk group. Yet these drivers typically have more frequent, and more serious accidents. When added to the whole pool of insured drivers, they change its characteristics. High-risk drivers increase the overall number of accidents as well as the average number of accidents per insured driver in the state. As a result, even though high-risk

drivers pay higher rates for their poor records, every driver in the state also pays higher rates. Although low-risk drivers still pay lower rates, they wind up partly subsidizing coverage for high-risk drivers.

Repeal in Nevada

On June 5, 1979, Nevada became the first state in the nation to repeal a no-fault law. The repeal was effective January 1, 1980.

Nevada's law had become increasingly unpopular with its legislators over the years, partly because of sharp increases in auto insurance rates in the state. The $750 tort threshhold was particularly ineffective in Nevada, leaving the frequency of bodily injury liability claims considerably higher than in other no-fault states with similar tort restrictions. In addition, both the frequency and the size of personal injury protection claims in Nevada were well above the average for other no-fault states.

The no-fault law had taken effect February 1, 1974. It restricted lost liability in this way: An accident victim could not recover for general damages unless his medical benefits exceeded $750 or his injury resulted in chronic or permanent injury, pernament partial or permanent total disability, disfigurement, more than 180 days of inability to work in his occupation, fracture of a major bone, dismemberment, permanent loss of a body function, or death.

If the injured person received necessary nursing services from a relative or a member of his household, he could include the reasonable value of those services in reaching the $750 threshhold.

The law required motorists (except motorcyclists) to buy not less than a $10,000 package of first party benefits that provided:

1) benefits for medical, hospital, nursing and rehabilitative expenses;

2) disability income benefits of up to $175 a week;

3) replacement service benefits up to $18 a day for up to 104 weeks;

4) survivor's benefits of not less than $5,000 and not more than the amount which the accident victim would have received in disability income benefits for one year if he had not died, less any expenses the survivors avoided because of his death; and

5) funeral benefits of $1,000.

Insurers had offered deductibles to the first party coverages;

property damage was left under the tort system.

An insurance company could request a person who filed for no-fault benefits to submit to an independent mental or physical examination. The insurer presented the claimant a list of five doctors who specialized in a field appropriate for the claimants' injury. The claimant could select any one of the five. Expenses related to the examination were paid by the insurance, if any. If the injured person refused to submit to the examination, the insurance company could withhold no-fault benefits.

Auto insurance was the primary (first applicable) coverage under the Nevada law except for worker's compensation.

When an insurer paid no-fault benefits to a person injured in an accident in which the other driver was at fault, it had the right of reimbursement from the other driver's insurance company. Disputes between insurance companies had to be settled by binding intercompany arbitration.

PROS AND CONS

Many states with mandatory auto insurance laws require a motorist to show proof of insurance before he is issued a vehicle registration or license plate. Usually, the proof is an I.D. card or sticker provided by the insurance company. Other states have a self-certification system in which a motorist must sign an affidavit saying that he has auto insurance and plans to keep it. Mandatory insurance laws also typically provide that driving a car without the required insurance is a criminal offense, a misdemeanor, like battery or driving while intoxicated. In theory, conviction of violating the law can result in a fine or even a jail sentence in many states, although in reality jail sentences are extremely rare.

Advocates of mandatory insurance laws base their case on the concepts of fairness and justice. Their attitude is rooted in traditional tort liability legal doctrine, which holds a person financially responsible for any harm that his negligence may cause to others. Since insurance offers the only practical way for most drivers to pay compensation, advocates of mandatory insurance believe the state should force motorists to buy coverage by making it, among other things, a criminal offense to drive without it. In the case of mandatory first-party benefit coverage, proponents argue that the no-fault system continues as a reasonable alternative to the fault basis system only if it can assure those who seek to benefit from it or who suffer loss that the system applies uniformly. If substantial numbers of persons are left remedies, such as individuals injured while passengers in automobiles owned by persons who fail to carry the basic security, or if the system fails to compensate such individuals for their full economic loss, it may fail to sustain itself as a reasonable alternative in a constitutional sense.

On policy grounds, proponents argue that the principal advantages to be gained by imposing mandating first-party insurance covering injuries to victims in the operation of their vehicle are: (1) assuring the availability of a financially responsible source of payment of valid claims, whether the theory of liability on which the claims system is based be negligence or some principal of strict liability or insurance; and (2) allocating fairly the costs of motoring in ways that can be achieved only through insurance. Mandatory first-party insurance, in their view, more effectively serves the objective of "fairly" allocating a chosen share of accident costs as a cost of motoring. Moreover, as the argument goes, mandatory insurance will sharply reduce the number of financially irresponsible drivers. Mandatory insurance, then, by minimizing the number of uninsured motorists and reducing costs to tolerable levels, is a more suitable instrument for achieving fair allocation and distribution of motoring costs, as well as assuring that victims will not be deprived of benefits due under legally valid claims because of the financial irresponsibility of those against whom the claims must be asserted.

Lastly, proponents of mandatory insurance argue that it is unfair to expect people to pay for, lets say, uninsured motorist coverage to protect themselves from irresponsible drivers who are at fault in accidents. They also point out that a portion of the collision coverage on automobiles goes to pay for vehicle damage caused by uninsured drivers. On a national average, each insured driver may be paying somewhere around $20 a year to protect himself from uninsured motorists. If these uninsured motorists are compelled to buy liability coverage, proponents say, responsible drivers won't have to pay that extra money.

Those who oppose mandatory insurance laws tend to base their opposition on pragmatic grounds, although they may also use ethical or philosophical arguments.

Opponents' main arguments are that mandatory insurance laws: (1) can't be enforced well enough to remove uninsured drivers from the roads; (2) are costly to administer; and (3) increase insurance premiums for responsible drivers. Many opponents of mandatory insurance also argue that the state has no right to force low income motorists, who have no assets to protect, to buy liability insurance merely for the benefit of more affluent drivers.

The core of the case against mandatory insurance laws is the argument that they simply don't work, that they don't compel motorists to buy insurance. These laws are hard to enforce, particularly in the case of liability insurance. Liability coverage is designed to protect the policyholder from losing his assets and income if he causes an accident that harms someone. Drivers with no property, no savings, and little income have nothing to lose in a lawsuit. They have no economic incentive to buy liability insurance. "They perceive the liability insurance policy as taking care of other

people," according to Dr. John W. Hall, Chairman of the Insurance Department at Georgia State University. "The mandatory liability insurance system forces these people to pay high premiums relative to their own income for benefits for others when they cannot themselves afford adequate benefits to cover their own losses."

The most damaging proof that mandatory liability laws don't work, opponents maintain, is the fact that all the mandatory states require insurers to offer uninsured motorist coverage and that most drivers buy it. Thus, drivers in mandatory states are carrying a double burden: paying the premium for uninsured motorist coverage and also bearing the cost of trying to enforce the mandatory insurance law.

The second argument made by opponents of mandatory insurance is that they are too costly to administer. Proper enforcement requires a large state bureaucracy, an extensive data processing system, and enough state police officers to go out and confiscate the license tags of uninsured drivers.

Lastly, opponents argue that these laws cause insurance premiums to go up for responsible drivers.

Part of this increase comes from the higher operating costs of insurance companies, which must issue identification cards or stickers to all their policyholders and many have to notify the state every time a customer fails to renew, or cancel, a policy or doesn't pay the balance of his premium.

But most of the increase, opponents maintain, results from the higher accident rates among many of the formerly uninsured drivers who are forced to buy insurance.

According to Dr. Hall, "insurers that provide insurance to the overwhelming majority of safe and responsible drivers are forced to include high-risk drivers among their insureds. As these high-risk drivers incur losses, the rating structure will be affected and overall rates must rise."

Those who oppose mandatory insurance cite insurance coverages that motorists can buy to protect themselves as an alternative. In states with no fault laws, they note, personal injury protection coverage is provided to all insured drivers. This coverage reimburses policyholders for their own medical expenses and lost wages without regard to fault. In states without no fault laws, medical payments coverage is available with limits up to $25,000. A loss of income coverage is also available from auto insurers. Opponents argue that it's better to let drivers provide their own insurance protection rather than try to force drivers without assets to buy liability coverage they don't need and can't afford. This approach, they believe, is less costly than the financial burden of trying to enforce a mandatory law, plus paying the higher premium that results from such laws.

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LSC--Don Robertson

January 22, 1982

COMPULSORY INSURANCE--RECENT LEGISLATION OF OTHER STATES

LSC has been asked whether any other state has enacted short and simple compulsory insurance legislation. The request is made in the context of committee consideration of H.B. 192 and H.B. 404 of the 114th General Assembly--both compulsory insurance laws.

SHORT ANSWER:

Texas, Wyoming, and California have short compulsory insurance laws of recent origin.

The Texas law, effective January 1, 1982, prohibits the operation of an uninsured motor vehicle on the highways of the state. It makes violation a criminal offense and requires motorists to exhibit proof of insurance coverage upon request of a law enforcement officer or another party to an accident.

The Wyoming law, effective January 1, 1980, simply prohibits an owner of a motor vehicle required to be licensed, from operating or permitting the vehicle to be operated without having in effect a liability insurance policy or bond. Violation is subject to a maximum fine of $750; and revocation of the registration of the vehicle. An owner who fails to return the vehicle registration and plates, after revocation, is subject to a fine of $750 for each day he fails to return the plates.

California law, although often referred to as a compulsory insurance law, appears to be merely a financial responsibility law. It is enforceable only when a person is discovered to be a violator, by reason of an accident report. The only penalty is that the person's driving and vehicle registration rights are suspended after the accident, if he was not insured, unless he files and maintains proof of financial responsibility as to subsequent accidents for a

period of five years. Its primary purpose, which it accomplished, was to eliminate the need for a "fault hearing" before its Department of Motor Vehicles could suspend a person's driving and registration rights.

The Louisiana, former Idaho, and Oklahoma laws, after which H.B. 192 and H.B. 404 are patterned, are a little more complicated in that they require an applicant for motor vehicle registration to certify that the vehicle is covered and will continue to be covered by proof of financial security during the registration period.

On the other hand, West Virginia enacted a full scale old-style model law, effective July 1, 1981. It requires the filing of proof of insurance and requires insurers to notify the Department of Motor Vehicles when insurance on a vehicle is canceled. We have been advised that both the Department and insurers in that state are complaining about the increased volume of paper work required.

This memorandum summarizes the laws of Texas, Wyoming, and California, summarizes the present status of compulsory insurance laws in the various states, and reviews recent legislation in West Virginia, Colorado, Connecticut, Georgia, Montana, Nevada, and Oklahoma. Those states [except West Virginia, as noted above] have added various features to what were originally simple prohibitions against operating uninsured vehicles--such as requiring self-certification of insurance, notice of the state's insurance requirements upon vehicle registration documents, and insurance identification cards to be submitted to the motor vehicle department upon registration or to law enforcement officers or other parties involved in accidents.

Texas Compulsory Insurance Law

> Prohibits the operation, upon public highways, of uninsured motor vehicles that are used primarily in Texas. Violators are subject to a fine, and to a jail sentence for a second offense. After conviction, the offender must file and maintain proof of financial responsibility for five years. Failure to provide evidence of insurance, upon request, to law enforcement

officers and other parties to an accident creates a rebuttable presumption that the defendant has violated the law.

Texas has just enacted a compulsory insurance law (Chapter 800, 67th Legislature, Regular Session Laws of Texas, 1981, Article 6701h, sections 1A through G, Vernon's Ann. Civ. St.).

The law prohibits the operation of a motor vehicle upon the highways of Texas, on and after January 1, 1982, unless the vehicle is covered by a policy of automobile liability insurance (or equivalent coverage by other means) in at least the minimum amounts required by its Financial Responsibility Law. It excepts vehicles that are both registered and operated by nonresidents, unless the vehicle is primarily operated in Texas. It also excepts agricultural vehicles.

It requires, on and after January 1, 1982, that every owner and operator shall be required as a condition of driving, to furnish upon request "information concerning evidence of financial responsibility to a law enforcement officer of the State of Texas or any subdivision, or agent of the Department, or to another person involved in an accident."

A person convicted of a first offense is subject to a fine of not less than $75 or more than $200. Subsequent offenses are punishable by a fine of not less than $200 or more than $1,000 and a jail sentence of not more than six months. In addition, the person must maintain proof of financial responsibility for a period of five years from the date of his conviction in order to avoid suspension of his driving and registration rights.

Failure to provide the required information of insurance, or giving false information, raises a rebuttable presumption that the person has violated the law. This means that, unless a driver offers evidence at trial that the vehicle was insured, he may be convicted for violating the law solely upon the basis that he has failed to provide such information or has provided false information.

Under the Texas law, an insurer is required to respond to a notice from the Texas Department of Public Safety, advising the insurer that it has been reported as insuring a driver or motor vehicle, only if it has not issued such a policy.

Robert E. Taylor, Director, Research Division, Texas Legislative Council, by letter dated December 7, 1981, has provided us with copies of Texas newspape reports and comments on the Texas act.

The Texas bill passed the Texas House of Representatives only after a speech by a representative whose wife had been killed in an accident by an uninsured driver who had run a stop sign.

An editorial of the Dallas Times-Herald, June 2, 1981, states that the Texas act "does not really call for mandatory auto insurance because it does not require a driver to show proof of financial responsibility in order to renew a driver's license, to purchase license plates, or to obtain an auto inspection sticker." It pointed out that Texas legislators had previously rejected such features upon the ground that they would result in rate increases that would make the cost of insurance unaffordable. The editorial reported that currently 75% of Texas drivers, who reported automobile accidents, were uninsured. It stated that the Texas Department of Public Safety had estimated the law would increase the number of insured motorists from 10 to 15 per cent.

Texas newspaper articles also indicate concerns that have been expressed about the new law.

For example, the insurance industry states that rates will be increased up to 25%, because poor drivers will be put into the system. Insurance agents feel that the law will be unenforceable by reason of the amount of paper work required of the state; they also express concern as to the load it will place upon them. They also state that many motorists will remain uninsured either because they can not afford it, have poor driving records, or can not be insured with ordinary policies.

One article mentions the possibility of lucrative "liability insurance traps" that will "nick drivers at least $75 a time if they're not carrying their proof." The article mentions other aspects of the law:

> --Limits will be $10,000/$20,000 for personal injury; and $5,000 for property damage.
>
> --The highway patrol will accept a card or letter from the insurance company, or the policy itself. The document must show the minimum limits are met, and include the name of the insurance company, name of the insured person, policy period, and policy number.
>
> --The author of the bill suggests that owners of several cars could photocopy the first page of the policy, and keep a copy in the glove compartment of each auto.
>
> --The state highway patrol intends to request information only when making routine traffic stops and while investigating accidents.
>
> --The most optimistic estimate is that the law will result in 90% of motorists being insured; although an industry spokesman states that he would be "stunned" if the figure goes as high as 85%.

Wyoming Compulsory Insurance Law

This law (Wyoming States 31-4-20, Chapter 149 of the Session Laws of Wyoming, 1979) simply prohibits the owner of a vehicle from operating it or permitting its operation unless it is covered by insurance, a bond, or self insurance. Violation of the statute is punishable by a maximum fine of $750.

The motor vehicle division of its department of revenue must revoke the registration of the owner, and its county law enforcement agencies must recover the registration plates of the owner. An owner who fails to return the plates is subject to a $750 per day fine.

Because of its shortness, we quote it in full:

> (a) No owner of a motor vehicle required to be licensed shall operate or permit the operation of the vehicle without having in full force and effect an automobile liability policy as provided in W.S. 31-9-403 or bond in amounts provided by W.S. 31-9-102(a)(x). Any person knowingly and willfully violating this subsection is guilty of a misdemeanor punishable by a fine of not more than seven hundred fifty dollars ($750.00).

(b) The motor vehicle division of the department of revenue shall revoke the registration and the law enforcement agencies of the counties shall recover the registration plates from an owner of a vehicle violating subsection (a) of this section. Failure of an owner to deliver registration plates after revocation, notice and hearing if requested, is punishable by a fine of not more than seven hundred fifty dollars ($750.00) for each day the registration or registration plates are not delivered. Notice to the violator shall be served by the county sheriff.

(c) This section does not apply to self-insurers pursuant to W.S. 31-9-414.

California Compulsory Insurance Law

Requires drivers and owners to maintain financial responsibility at all times. Penalizes a violator only if he fails to prove existence of financial responsibility at the time of an accident required to be reported to the Department of Motor Vehicles. Thereafter, he must file and maintain proof of financial responsibility for three years. Violation, after filing of such proof, is punishable by a $100 fine.

The California law was enacted in response to a crisis that existed in the enforcement of its former financial responsibility law. The California Supreme Court held, in response to decisions of the United States Supreme Court, that the Department of Motor Vehicles could not suspend the driving rights of a person involved in an accident, for failure to deposit security sufficient to pay damages arising out of the accident, unless the person was first provided a due process hearing upon the issue of whether there was reasonable cause to believe that a court would hold him liable for such damages. Forty thousand drivers and owners immediately filed requests for such hearings.

California then repealed the security-deposit provisions of its financial responsibility law, and enacted a law providing that every driver of, and owner of, a motor vehicle shall, at all times, maintain a form of financial responsibility. (Section 16020, California Vehicle Code). No criminal penalty was provided for violating this provision of the law. However, California retained the accident-reporting features of its financial responsibility law. The new law provides that, if an owner or driver fails to prove the existence of insurance coverage at the time of an accident, his driving and registration

rights must be suspended until such time as he fails proof of financial responsibility as to future accidents with the Department. The proof must be maintained for three years.

The law was attacked in Anacker v. Sillas (1976), 135 Cal. Rptr. 537, 65 Cal. App. 3rd 416, by a driver who was not covered at the time of the accident, and who thereafter failed to file proof of financial responsibility. The driver contended that his license could not be suspended without a due process hearing to determine whether or not he was at fault in the accident. The California court held that the law was constitutional. It said that the law was intended to require all drivers, negligent or not, to be financially responsible. It held that requiring proof of financial responsibility only in cases of accident was a permissible legislative option as "a random spot-check" on the financial responsibility of California drivers. It stated that this was no more unfair to the plaintiff than the selective audit of tax returns or the random inspection of motor vehicles. It concluded that the requirement was constitutional even though the driver himself was the person injured in the accident.

The law imposes no criminal penalty for a first violation. However, a driver who has filed proof of financial responsibility and thereafter operates or permits the operation of a vehicle, without financial responsibility, is subject to a $100 fine; and the court may require, as a condition of probation, that the person file proof of financial responsibility.

The American Insurance Association, in its 1979 Summary of Selected State Laws and Regulations Relating to Automobile Insurance, summarizes the law as a compulsory insurance law. However, the effect appears to be very similar to a financial responsibility law. A driver or owner can operate an uninsured vehicle without penalty, until he is involved in an accident. There will be no insurance or assets for the protection of an injured party, if the driver or owner is financially irresponsible. The injured party can, if he recovers

a judgment against the driver or owner, require the Department of Motor Vehicles to suspend the driving privileges and registration rights of the driver until the judgment is paid. However, the injured party cannot, as under Ohio law, require the Department to suspend those rights if the driver or owner fails to post security.

I have written the California Department of Motor Vehicles to determine whether it has had any effect upon the number of uninsured motor vehicles in the state.

Recent enactments in other states

At the present time 28 states [if California law is not considered to be a financial responsibility law] have compulsory liability insurance laws. All of those states require the insurance to cover both personal injuries and property damages. Fourteen of the states are no-fault states. Five of these state are "add-on benefits" states, in which insurers are required to offer insureds an option to obtain first-party-benefits insurance payable, regardless of fault, to the insured, his family, occupants of the insured vehicle and, in some states, pedestrians struck by the insured vehicle. Eight of the states have neither no-fault or add-on benefits insurance.

All no-fault states, except Florida [bills have been introduced in Florida to require compulsory insurance], have compulsory liability insurance laws. Those states are:

Colorado	Michigan
Connecticut	Minnesota
Georgia	New Jersey
Hawaii	New York
Kansas	North Dakota
Kentucky	Pennsylvania
Massachusetts	Utah

Insurers generally have favored no-fault laws, although they have also generally opposed compulsory liability insurance laws. Insurers have stated that insurance counsel believe that compulsory liability insurance requirements strengthen the constitutional basis for no-fault insurance. Cogent arguments

can be made that a person should not be compelled to purchase insurance for his own protection and not for the protection of others. Further, if no-fault were voluntary, it seems clear that a financial irresponsible person would have an incentive to purchase insurance for his own protection at the expense of victims of his negligence.

In some no-fault states, the compulsory liability insurance provision is a simple statement that no vehicle shall be registered or operated in the state unless it carries both no-fault and liability insurance.

Other no-fault states have more detailed compulsory liability insurance laws. The legal procedures set forth indicate a serious intent to enforce the compulsory insurance requirements, rather than a perfunctory compliance with constitutional requirements.

The five add-on states that require compulsory liability insurance are: Delaware, Maryland, Oregon, South Carolina, and Texas. I think the history in all of those states indicates that the requirements are based upon a policy decision that compulsory insurance should be adopted, rather than upon a policy decision that add-on benefits insurance might be declared unconstitutional if compulsory liability insurance is not required.

Enactment of compulsory insurance laws in the nine remaining states appear to be based solely upon a policy decision to require all motorists to be covered by proof of financial security. Those states are:

California	Nevada
Idaho	North Carolina
Louisiana	Oklahoma
Montana	West Virginia
	Wyoming

In recent years, West Virginia has enacted a completely new compulsory insurance law. Six other states have amended their compulsory insurance laws: Colorado (no-fault), Connecticut (no-fault), Georgia (no-fault), Montana, Oklahoma, and Nevada (repealed its no-fault law). The following portions of this memorandum discuss those recent enactments.

West Virginia

West Virginia has enacted a completely new law, which represents an opposite approach from that of Texas and California by following the approaches of early state compulsory insurance laws (Massachusetts, 1924; New York, 1956; and North Carolina, 1957) that require insurers to notify the Commissioner of Motor Vehicles of termination of insurance. See Sections 17D-2A-1 through 17D-2A-9, West Virginia Code effective July 9, 1981.

It requires security to be maintained continuously and prohibits the operation of a motor vehicle by a person who knows that it is not covered by proof of financial security.

Insurers must provide insureds with certificates of insurance, which must be submitted by the insureds to the Commissioner in order to obtain registration of a motor vehicle.

Cancellation of an insurance policy is only effective upon the expiration of 30 days notice to the insured and the Commissioner. Nonrenewal is effective only upon the expiration of a 45-day notice to the insured and the Commissioner. Unless the insured proves that the vehicle is covered by other security before the expiration date, the Commissioner is required to suspend the registration and issue an order authorizing seizure of the registration plates.

All insurance policies must be for a period of at least 90 days, except as may be otherwise provided by rules of the Commissioner of Insurance.

Officers investigating accidents are required to inquire as to insurance covering the vehicles involved, and report to the Department of Motor Vehicles as to any vehicle or person not covered by insurance.

Violators are subject to a 90-day suspension of driving rights, and revocation of motor vehicle registration rights until such time as they provide proof of security.

The law makes no provision respecting the carrying of proof of insurance upon vehicles; but presumably administrative rules of the police, department

of motor vehicles, or commissioner of insurance will be enacted to cover the problems arising during the course of investigation of a traffic accident.

In theory, the West Virginia law permits the state to ascertain from its own records, at all times, whether a motor vehicle is insured. Accordingly, it is in a position to obtain back promptly the registration plates of uninsured vehicles. The theory is that the incidence of accidents in the short interval prior to the retrieval of registration will be relatively low.

It appears worthy of particular note, that West Virginia has not followed the pattern of enactments in recent years of requiring self-certification of insurance, rather than submission of insurance certificates, to the Department of Motor Vehicles in order to obtain registration of a motor vehicle. For example, New York reported an annual savings of $3 million when it changed to a self-certification program.

Both of the Ohio House Bills (H.B. 192 and 404) pending in subcommittee provide for self-certification, following the pattern of Louisiana, Idaho, and several other states.

Colorado (no-fault)

Colorado law (Chapter 101, 1981 Session Laws of Colorado) now requires applications for registration to contain a statement that motor vehicle insurance coverage is mandatory in the state and that violation of the requirements is a Class I offense. It requires the registration certificate issued to the owner of a vehicle to contain the same notice.

However, the Colorado law does not require an applicant for registration to present evidence of insurance or sign an affidavit that the vehicle is covered by insurance.

In terms of H.B. 192 and 404, it is arguable that Colorado law would be simpler to administer--since there would be no need to sign or explain affidavits of insurance coverage. Further, the act of obtaining registration of an uninsured motor

vehicle could be made a criminal offense, even though the applicant does not sign an affidavit.

Connecticut (no-fault)

Connecticut Public Act 81-27 now requires insurers to issue duplicate no-fault automobile identification cards--one to be provided to the Bureau of Motor Vehicles and the other to be carried on the motor vehicle.

The act also requires the certificate to be effective for one year, with a space to add the vehicle identification number of any vehicle that subsequently becomes covered by the insurance and the signature of an officer of the insured authorizing the change.

The act also permits the issuance of a permanent identification card with a future date. The word "renewal" must appear in close proximity to the effective date.

The act appears to add more detail to the statute; but arguably makes its enforcement more efficient.

Georgia (no-fault)

Recent Georgia Legislation (Georgia Laws 1980 Session No. 1342 (H.B. 1542) now allows municipalities to enact compulsory insurance ordinances. The effect is to permit the municipal corporations to retain fines and court costs in such cases.

Montana

Chapters 409 and 410, Montana Session Laws 1981, makes a person who intentionally provides false information on an insurance certification, required in order to register a motor vehicle, guilty of unsworn falsification. It requires an insurance card to be carried on every motor vehicle, and increases the penalty for operating an uninsured motor vehicle to $250.

Nevada (repealed its no-fault law)

Chapters 447 and 742, Laws of Nevada, Sixty-First Session (1981), have made a number of changes in its compulsory insurance law.

Chapter 447 exempts certain motor vehicles from the requirement of being covered by proof of security, where the Department of Motor Vehicles has issued a temporary permit authorizing the movement or operation of the vehicle within the state for a limited period of time.

Chapter 742 adds provisions requiring the suspension of the driving privileges and motor vehicle registration rights of any person convicted of violating their compulsory insurance law. The suspension must remain in effect unless the person files and maintains proof of financial responsibility for a period of three years after the reinstatement of his driving privileges.

It further requires any person, who moves to Nevada from a state in which he has been required to maintain proof of financial responsibility, to file and maintain proof of financial responsibility in Nevada for the same period of time required by the other state.

It further shortens the period for requesting an administrative hearing from 30 days to 15 days.

It also requires a person who files an accident report reporting damage to a motor vehicle to include an estimate of repairs or statement of total loss from an established repair garage, a licensed adjuster, or a licensed physical damage appraiser.

Oklahoma

Oklahoma several years ago enacted a relatively simple compulsory insurance law similar to those in Louisiana and Idaho. Earlier this year, it increased the penalty for violating its law from a fine not more than $100 to a fine of not more than $250. In addition, the amendment now permits the imposition of imprisonment for a period not to exceed 30 days. 47 Oklahoma Statutes Ann. Section 7.606

I have noted in comparing the compulsory liability laws of the various states that the monetary penalties generally are less than the cost of liability insurance.

Compulsory underinsured motorist insurance coverage

All 27 of the states that have adopted compulsory liability insurance laws have also adopted laws requiring insurers to provide uninsured motorist coverage. Eleven of those states do not permit the insured to reject uninsured motorist coverage. Insurers state that a majority of insureds, in states that permit the rejection of such coverage, include it in their policies. Generally, this factor has been considered by opponents of compulsory insurance as the "most damning proof that liability insurance laws don't work." They further state that the result is to place the burden of paying premiums and the cost of enforcement of compulsory insurance laws upon good drivers who take out insurance.

States that do not permit an insured to reject uninsured motorist coverage are: Connecticut, Maryland, Massachusetts, Minnesota, New Jersey, New York, North Dakota, Oregon, Pennsylvania, South Carolina, and West Virginia.

Colorado, Delaware, Georgia, Hawaii, Idaho, Kansas, Kentucky, Louisiana, Montana, Nevada, North Carolina, Oklahoma, Texas, and Utah permit insureds to reject the coverage in writing.

Michigan requires the coverage, but has no provision regarding rejection in writing.

Policy objectives and alternatives to compulsory insurance

Policy objectives of compulsory insurance laws are to:

--compensate injured drivers;

--require all highway users to contribute to the cost of insurance; and

--remove from the highways those who are such poor risks that they cannot obtain or afford insurance.

The policy objective of compensating injured drivers could also be accomplished through no-fault insurance, uninsured motorist coverage, unsatisfied judgment funds, or assigned claims plans. None of these would, of course, compensate an uninsured motorist; for no reason appears why the law should adopt a policy to compensate a person who violates the law.

This memorandum has already listed the state's having no-fault laws.

Michigan, New Jersey, New York, and North Dakota have unsatisfied judgment funds. In New Jersey and New York the fund is supported entirely by insurers. In North Dakota, the fund is supported by a $1 fee paid by motor vehicle registrants whether insured or uninsured. Michigan imposes a $45 fee for its plan which applies only to motorcycles. Claimants are paid from unsatisfied judgments funds only after they are unable to collect from other resources of the judgment debtor. The judgment debtor is liable to repay the fund, and his driving and registration rights may be suspended until such time as he repays the amount owed the fund with interest. However, he can escape the obligation and obtain back his driving and registration rights by obtaining a discharge in bankruptcy proceedings.

Assigned claims plans are generally established in no-fault states. Under these plans, individual insurance companies are assigned, on a rotating basis, to investigate and settle claims. They are reimbursed by a fund made up from contributions by all companies doing business in the state.

Although all of the above methods appear to be aimed at accomplishing the goal of compensating an injured person substantially to the same extent as he would have been compensated if the responsible party had been covered by liability insurance, none of them accomplish the second policy objective of requiring all highway users to contribute to the cost of insurance protection. Certainly the small sum of $1 paid by uninsured owners in North Dakota and $45 paid by uninsured motorcycle owners in Michigan bear little relation to the cost of liability insurance protection in those states.

To the extent that the person liable is denied driving rights until he pays damages, the above methods accomplish the purpose of keeping a financially irresponsible driver off the highways--but only after he has injured someone else.

CONCLUSION

The above memorandum lists the trends in recent legislation relating to compulsory insurance. Unfortunately, it is not possible by an examination of legislation in this area to determine the effectiveness of the law.

The policy alternatives range from simple prohibitions to complex monitoring of every motor vehicle and automobile liability insurance policy in the state.

We know of no state that is completely satisfied with the effectiveness of its law.

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R-112-3104
LSC - Don Goldbaum
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R-112-3104

COMPULSORY AUTOMOBILE INSURANCE

This memorandum examines: (1) proponent and opponent arguments relative to compulsory automobile insurance; (2) automobile insurance plans that are sometimes used in conjunction with compulsory automobile insurance; (3) alternatives to compulsory automobile insurance; and (4) the difficulty of analyzing the impact on insurance rates of various automobile insurance programs.

Arguments for and against compulsory automobile insurance

Various arguments have been advanced in favor of, or against, compulsory liability insurance. Because of the complex nature of the subject, some of these arguments are intermingled in such a way that it is difficult to break them down into single statements presenting both sides of particular issues. The following review includes those arguments most frequently raised about compulsory insurance that are comparatively clear-cut and have been discussed in pro and con terms.

Pro: Proponents of compulsory liability insurance have said that such laws ensure that all drivers in a state will be able to pay for any damage they might cause as a result of the use of their vehicle (e.g., the vehicles cannot be registered, and therefore cannot be operated, unless proof of such ability is given). Consequently, there either will be no uncompensated accident victims in a state where such a law is in effect, or the number of such victims will be much lower than in a state not having such a law.

Con: Opponents of compulsory liability insurance have said that such laws will neither ensure that all drivers in a state have insurance nor greatly reduce the number of uncompensated accident victims. They cite lack of required coverage resulting from expiration or cancellation of insurance policies, illegal operation

(driving when no coverage is in effect is most often mentioned), hit-skip accidents, and those caused by drivers from states not having compulsory insurance laws.

Pro: Proponents have said that even though compulsory liability insurance laws may not succeed in ensuring that all drivers in a state have the required coverage at all times, more drivers carry coverage under such a law than do under a financial responsibility law.

Con: Opponents have said that a compulsory liability insurance law does not necessarily ensure that more drivers will carry coverage than under a financial responsibility law. They cite comparisons of estimates of uninsured motorists in states having compulsory insurance laws with estimates of uninsured motorists in states having financial responsibility laws as showing little, if any, difference in this particular effect of both types of laws.

Pro: Proponents have said that a properly enforced compulsory liability insurance law will insure that more drivers carry coverage than would in a state having a financial responsibility law.

Con: Opponents have said that proper enforcement of a compulsory liability insurance law can be obtained, if at all, only at a high cost. They cite additional numbers of uniformed enforcement personnel needed and the imposition of complex reporting procedures on state agencies as a result of the necessity to keep track of persons whose coverage has expired or been canceled.

Pro: Proponents have said that all just claims should be paid, that the payment of claims and the elimination or reduction of uncompensated losses is the principal function of automobile insurance, and that a compulsory liability insurance law will accomplish these purposes better than a financial responsibility law.

Con: Opponents have said that a compulsory liability insurance law suggests that everyone is insured; it therefore creates excessive claims consciousness and an inducement to file a claim on the slightest provocation or even on no grounds at all. They have said that these exaggerated and sometimes fraudulent claims

increase litigation and court congestion, and also tend to make insurance rates higher in states having compulsory laws than in those having financial responsibility laws.

Pro: Proponents have said that institution of a compulsory liability insurance law need not cause increases in premium rates or force companies to write coverage at a loss if rates are set at levels that will return a reasonable operating profit. They have noted that the public does not usually choose insurance policies on the basis of price alone.

Con: Opponents have said that a compulsory liability insurance law will cause increases in premium rates because all substandard risks must be provided insurance unless removed from the highway by licensing authorities. This, opponents have said, means that accident frequency will increase for insured drivers, and premium rates will inevitably reflect the increase.

Unsatisfied judgment funds and assigned risk plans

Under compulsory automobile insurance laws, insurance companies are not precluded from applying their customary underwriting standards in determining whether to write a policy. As a consequence of this and other factors associated with ensuring that most motorists will have coverage and that most victims of automobile accidents will be compensated for their losses, states have adopted unsatisfied judgment funds and assigned risk plans.

New York is an example of a compulsory automobile insurance state that has established an unsatisfied judgment fund. This fund is financed by assessments against insurance companies doing business in the state, based on net direct premiums written. Moneys in the fund are used to compensate victims of uninsured or financially irresponsible drivers, but payment of compensation requires legal action and recovery of a judgment as a prerequisite.

Assigned risk plans, which are found in every state, make insurance coverage available to drivers who have poor driving records and are unable to obtain coverage in the private market. Ohio's plan is set forth in section 4509.70, and requires participation of every insurance company writing automobile liability or physical damage policies.

A fairly recent Maryland compulsory automobile insurance law established the Maryland Automobile Insurance Fund, which has features of both an unsatisfied judgment law and an assigned risk plan. Thus, Maryland law attempts to cope with two problems that may accompany the enactment of a compulsory automobile insurance law--compensation of persons who have been injured by uninsured motorists, and provision of a means whereby persons who have been refused coverage by private insurance companies may procure insurance.

Alternatives to compulsory automobile insurance

Two alternatives to compulsory automobile insurance are uninsured motorists coverage and financial responsibility laws. Mandatory uninsured motorist coverage represents an attempt to ensure compensation of accident victims. This type of coverage, which is usually an add-on to a regular automobile liability policy, is paid for by the insured driver and protects him against damages caused by an uninsured driver. Ohio law (sec. 3937.18) presently requires insurance companies doing business in the state to offer uninsured motorist coverage to all policyholders, but does not mandate that policyholders purchase the coverage.

The major difference between a compulsory liability insurance law and a financial responsibility law such as Ohio's (Chapter 4509.) is that the former requires persons owning motor vehicles to present, at time of registration, proof of their ability to pay for any damage that may be caused with the vehicles, while a financial responsibility law requires, subject to suspension of registration or license, presentation of such proof only after a person has been involved in an

accident. Both types of laws usually permit proof of ability to pay for damages to be given in a variety of ways: by an automobile liability insurance policy meeting statutory requirements for minimum amounts of coverage, a deposit of a specified amount of cash or securities with a state officer, a deposit of a security bond in a specified amount, or by a certificate of self-insurance (generally available only to persons who own 25 or more motor vehicles). In practice, however, individual policies of automobile liability insurance are most frequently used as proof of ability to pay for damages when required by either type of law.

Effect of automobile insurance plans on insurance rates

It is difficult to demonstrate how compulsory automobile insurance or one of its alternatives affects automobile insurance rates. Data made available to us by Nationwide Insurance, for example, compare automobile insurance rates in various cities throughout the United States, both in compulsory and noncompulsory insurance states (see enclosure). While it is possible to point out, for instance, that Boston, which is in a compulsory insurance state, has higher rates than Cleveland, which is in a noncompulsory insurance state, it is highly speculative to attribute the difference in rates between these cities solely to the presence of compulsory insurance in Massachusetts and its absence in Ohio. The major reason for the speculative nature of such an analysis is the very complex interplay of the many variables that affect the establishment of a rate: (1) the influence of inflation and the cost of living in a particular area; (2) the rate filing law (file and use, prior approval, open competition, etc.); (3) the permissible rate classifications (age, sex, marital status, location of place where a car is garaged); and (4) the relationship between compulsory automobile insurance laws and general automobile insurance statutes (e.g., no fault insurance).

CITY	POPULATION	BUR.*	COMPANY		
			A	B	C
Chicago	3,322,855	$663	$ 652	$ 536	$ 356
Indianapolis	742,613	329	276	228	189
Cleveland	738,956	531	437	363	357
Boston (Compulsory)***	628,000	899	1185	999	609
Memphis, Tenn.	620,873	355	321	221	230
Columbus, OH	533,418	324	279	223	211
Miami, Fla. (Compulsory)	331,553	464	410	390	466
Dayton, OH	239,591	300	285	223	194
Yonkers, N.Y. (Compulsory)	204,789	433	614	661	435
Flint, Mich. (Compulsory)	193,571	357	450	391	285
Salt Lake City, Utah (Compulsory)	176,793	325	264	256	176
Hartford, Conn. (Compulsory)	155,868	425	539	250	360
Pasadena, Calif. (Compulsory)	131,723	334	313	289	312
Peoria, Ill.	125,736	286	300	222	207
Springfield, OH	76,500	268	228	183	165
Altoona, PA (Compulsory)	62,900	230	256	255	178
New Concord, OH	2,318	236	245	193	171
Jonesville, Mich. (Compulsory)	2,081	242	347	258	211

*Rating bureau

**Chart supplied by Nationwide Insurance

***"Compulsory" designations supplied by Legislative Service Commission

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COMPULSORY MOTOR VEHICLE LIABILITY INSURANCE

Summary

Compulsory insurance laws require all owners of motor vehicles to buy and maintain insurance as a condition for registering their vehicles. Such insurance has been urged as a solution to the problem of financially improvident motorists. More than 20 percent of Illinois motorists and 50 percent of Chicago motorists may be without insurance.

Twenty-nine states have enacted compulsory motor vehicle insurance laws. Two additional states have compulsory motor vehicle insurance laws that have not yet gone into effect. "No-fault" motor vehicle insurance also has been established in 20 of those states.

Over 30 bills providing for compulsory liability insurance coverage have been introduced in the Illinois General Assembly since 1971, but none have been adopted. Compulsory insurance was also provided for in several "no-fault" insurance proposals.

One of the major problems with compulsory insurance is that of enforcing the law requiring motorists to maintain insurance coverage throughout the registration period. Some states have adopted procedures to confiscate driver's licenses, license plates, and registration certificates of those failing to maintain insurance in addition to other penalties.

Proponents believe that only through compulsory insurance will there be any compensation available for wrongful injuries or property damage in motor vehicle accidents. Opponents argue that compulsory insurance laws would be ineffective or too costly and could increase pressure on government to further regulate or even supplant private insurance.

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Compulsory motor vehicle insurance laws require every application for the registration of a motor vehicle to be accompanied by proof that the vehicle is covered by a liability policy or other form of protection against the legal liability that may arise in connection with its operation. The registration will not be granted without such proof. Notice that the coverage has been cancelled results in a revocation of the registration, and operation of a noncovered automobile leads to driver's license suspension or revocation, and usually to criminal penalties.

According to Illinois Department of Insurance figures, 21 percent of registered private passenger vehicles in Illinois in 1978 were uninsured, and over half of such vehicles in Chicago were uninsured.[1]

	Registered*	Insured	Uninsured	Percent uninsured
Chicago	1,269,916	612,800	657,116	52%
Cook County excluding Chicago	1,359,584	915,736	443,848	33
Illinois excluding Cook County	3,276,861	3,147,205	129,656	4
Illinois Total	5,906,361	4,675,741	1,230,620	21%

Illinois Proposals for Compulsory Insurance

Illinois has had a financial responsibility law since 1938. It requires persons who have failed to satisfy a judgment for any liability from a previous accident to furnish "proof of financial responsibility for the future" in amounts of $15,000 for injury or death to one person; $30,000 for injury or death to two or more persons; and $10,000 for property damage.[2] This has been criticized because it does nothing to protect against harm from the first accident.

Since 1971 the Illinois General Assembly has considered over 30 bills which would require compulsory automobile insurance on a broad or limited basis. None of these measures became law. Main provisions of the proposals are shown in Table 1.

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*The Department reduced the actual figures by about 5 percent because of automobile sales, and the figures may be distorted by the switchover to multi-year license plates.

Table 1

Proposed Legislation for Compulsory Automobile Insurance for Illinois, 1971-1982

Year and bill no.	Required minimum liability coverage*	Penalty**
1972 H.B. 4344	$10,000/$100,000/$5,000	maximum $1,000 fine or 1 year imprisonment
1973 H.B. 243 and H.B. 817	20,000/ 40,000/ 5,000	not specified
1973 H.B. 950	10,000/ 20,000/ 5,000	petty offense; license and registration may be revoked
1974 H.B. 2414	not specified	not specified
1975 H.B. 3062[a/] and S.B. 1500	10,000/ 20,000/ 5,000	Class C misdemeanor; license and registration may be revoked
1977 H.B. 545	10,000/ 20,000/ 5,000	Class A misdemeanor; license may be revoked up to 90 days; forfeit vehicle registration
1977 H.B. 634	10,000/ 20,000/ 5,000	Class A misdemeanor; forfeiture of vehicle registration
1977 H.B. 928	20,000/ 50,000/ ---	license may be suspended
1977 H.B. 1234	10,000/ 20,000/ 5,000	Class A misdemeanor
1977 S.B. 409	not specified	not specified
1977 S.B. 840	10,000/ 20,000/ 5,000	not specified
1977 S.B. 1113	10,000/ 20,000/ 5,000	Class C misdemeanor; license and registration may be revoked
1978 H.B. 2614	10,000/ 20,000/ 5,000	Class A misdemeanor
1979 H.B. 206	10,000/ 20,000/ 5,000	Class A misdemeanor
1979 H.B. 2443 and S.B. 117	not specified	not specified
1979 S.B. 51	10,000/ 20,000/ 5,000	not specified
1979 S.B. 127	10,000/ 20,000/ 5,000	Class A misdemeanor

Table 1 (cont'd)

Year and bill no.	Required minimum liability coverage*	Penalty**
1981 H.B. 9 and S.B. 90	$10,000/$20,000/$5,000	Class A misdemeanor
1981 H.B. 11, H.B. 315 and S.B. 222	15,000/ 30,000/10,000	Class A misdemeanor
1981 H.B. 332	requires no-fault benefits and maintains current safety responsibility law	revocation or suspension of driver's license and vehicle registration
1981 S.B. 151	not specified	not specified
1981 S.B. 152	not specified	suspension of driver's license up to 90 days; Class A misdemeanor
1981 S.B. 969	10,000/ 20,000/ 5,000	suspension of driver's license and vehicle registration
1982 H.B. 2324 and H.B. 2573	15,000/ 30,000/10,000	Class A misdemeanor
1982 H.B. 2478	requires no-fault benefits and repeals safety responsibility law	revocation or suspension of driver's license and vehicle registration
1982 S.B. 1280	10,000/ 20,000/ 5,000	suspension or revocation of driver's license and motor vehicle registration; and for first offense, $75 fine; second offense, $200 fine

*The first figure is the minimum coverage for bodily injury or death to one person, the second figure is the minimum coverage for bodily injury or death to two or more persons in the same accident, and the third figure is the minimum coverage for property damage.

**The penalty is for driving without the required liability insurance.

a/H.B. 3062 was substituted for H.B.'s 1764, 1835, 1866, and 2719.

Source: Examination of bills by Legislative Council staff.

Laws in Other States

Twenty-nine states have compulsory motor vehicle insurance laws. Indiana and New Mexico have also passed compulsory motor vehicle insurance laws. However, Indiana's law does not go into effect until January 1, 1983, and New Mexico's does not go into effect until January 1, 1984. Generally, motor vehicles will not be registered in the state unless the application for registration is accompanied by proof of ability to respond in damages up to limits of, for example, $20,000, bodily injury or death to one person; $40,000, bodily injury or death per accident; and $5,000, coverage for property damage.

No-fault insurance laws have been established in 20 states with compulsory liability insurance laws. No-fault insurance is protection policyholders receive from their own insurance companies to compensate them for economic loss suffered as a result of motor vehicle accidents, regardless of fault. All states that have no-fault insurance laws still have liability insurance provisions because no-fault beneficiaries have the right to sue negligent parties when no-fault benefits are inadequate or serious injury results. Thus, drivers in states with no-fault laws need liability coverage.

Examples of Procedures Followed in Enforcing Compulsory Insurance Laws

All of the states having compulsory insurance laws provide for penalties against those who fail to maintain the required insurance. The problem of enforcing the requirements of maintaining insurance coverage is one that plagues administrative agencies. Some states have enacted procedures to be followed by insurance companies and administrative agencies in order to insure that motorists maintain insurance coverage through the vehicle registration period. Some examples of these procedures are described below.

States with compulsory motor vehicle insurance laws generally require the insurer to notify the commissioner of motor vehicles that the insured has cancelled or failed to renew the insurance policy. Upon receipt of such notification, the state acts to revoke or suspend the operating license or the registration plates unless the owner or driver licensee provides satisfactory evidence that another insurance policy has been obtained.

Table 2

Compulsory Liability Insurance Coverage Requirements and Penalties, 1982

State	Required minimum coverage*	Penalties**
California	$15,000/$30,000/$ 5,000	up to $100 fine for each offense
Colorado	15,000/ 30,000/ 5,000	class one traffic offense
Connecticut	20,000/ 40,000/ 5,000	misdemeanor
Delaware	10,000/ 20,000/ 5,000	$150 to $1,000 fine
Florida	10,000/ 20,000/ 5,000	license and registration suspended
Georgia	10,000/ 20,000/ 5,000	misdemeanor
Hawaii	25,000/ --- / 10,000	$100 to $1,000 fine
Idaho	10,000/ 20,000/ 5,000	misdemeanor
Indiana (Eff. 1/1/83)	25,000/ 50,000/ 10.000	misdemeanor
Kansas	25,000/ 50,000/ 10,000	misdemeanor
Kentucky	10,000/ 20,000/ 5,000	$50 to $500 fine
Louisiana	5,000/ 10,000/ 1,000	up to $500 fine
Maryland	20,000/ 40,000/ 10,000	misdemeanor
Massachusetts	10,000/ 20,000/ 1,000	$100 to $500 fine or up to 1 year imprisonment
Michigan	20,000/ 40,000/ 10,000	misdemeanor
Minnesota	25,000/ 50,000/ 10,000	misdemeanor
Montana	25,000/ 50,000/ 5,000	misdemeanor
Nevada	15,000/ 30,000/ 10,000	not less than $100 nor more than $500 fine
New Jersey	15,000/ 30,000/ 5,000	$50 to $200 fine or imprisonment from 30 days to 3 months for 1st offense
New Mexico (Eff. 1/1/84)	15,000/ 30/000/ 5,000	misdemeanor
New York***	10,000/ 20,000/ 5,000	$100 to $1,000 fine and/or up to 15 days imprisonment
North Carolina	25,000/ 50,000/ 10,000	misdemeanor
North Dakota	25,000/ 50,000/ 10,000	registration revoked
Oklahoma	10,000/ 20,000/ 10,000	up to $100 fine and license suspended
Oregon	15,000/ 30,000/ 5,000	license suspended
Pennsylvania	15,000/ 30,000/ 5,000	misdemeanor
South Carolina	15,000/ 30,000/ 5,000	misdemeanor
Texas	10,000/ 20,000/ 5,000	misdemeanor
Utah	20,000/ 40,000/ 10,000	misdemeanor
West Virginia	20,000/ 40,000/ 10,000	misdemeanor
Wyoming	10,000/ 20,000/ 5,000	misdemeanor

*The first figure is the minimum coverage for bodily injury or death to one person, the second figure is the minimum coverage for bodily injury or death to two or more persons in the same accident, and the third figure is the minimum coverage for property damage.

**The penalty is for driving without the required liability insurance.

***In New York coverages for death of one person is $50,000 and for death to two or more persons is $100,000.

Note: States with no-fault insurance are shown in boldface type.

Source: Listed in Appendix A.

In Georgia, for example, the insurance company must notify the public safety department within 5 days after the effective date of cancellation of required coverage. The state suspends the driver's license and the license plates for a period of 60 days and until proper proof of required insurance has been filed.

Kansas law states that no liability policy can be terminated during the policy period either by nonpayment of premiums or at the request of the insured unless the insurer notifies the vehicles division in the revenue department, within 20 days after the termination for nonpayment or within 20 days after receipt by the insurer of insured's cancellation request. When the division receives such notice from the insurer, the division must notify the owner by registered or certified mail that, 30 days after the notice is mailed, the registration will be revoked for a period of 60 days, unless within those 30 days the owner demonstrates proof of financial security. Upon failure to furnish such proof, registration of the vehicle will be revoked and the driver's license suspended.

In Maryland each insurer is required to immediately notify the transportation department of the termination or other lapse of required security. The department is required to make a reasonable effort to notify the insured that the registration of the vehicle has been automatically suspended. Within 48 hours after receiving the suspension notice the driver must surrender evidence of registration. If the driver refuses to return the evidence of registration, the driver's operating license may be suspended.

Massachusetts law requires the insurer to give written notice to the public safety department of the cancellation of the insurance policy. The registrar may revoke the registration unless, at least 2 days before the effective date of cancellation, the registrar receives a new certificate of insurance covering the motor vehicle.

New York also requires the insurer to notify the commissioner of motor vehicles of the termination of an insurance contract. The commissioner is required to revoke the registration of the vehicle upon receipt of evidence that the insurance policy is no longer in effect.

North Carolina law requires notice of cancellation by the insurer to the transportation department, whether the cancellation is by the insurer or by the insured. The owner is required to surrender the certificate of registration and license plates for 60 days unless

financial responsibility is maintained in some other manner acceptable to the department.

The registration and plates may be restored within the 60 day period if financial responsibility is certified to the division. A $60 restoration fee is charged. During the suspension period the car may not be registered in the name of an immediate family member. Failure to report the termination of an insurance policy results in a $200 civil penalty.

In South Carolina the insurer must immediately notify the highway department of the termination or lapse of any insurance policy. Upon notification of the termination or lapse of a policy, the certificate of registration is automatically suspended and remains suspended until other security is provided. Within 5 days after cancellation or expiration of the policy, the insured must obtain other insurance or surrender the license plates and registration certificate.

Upon receiving information that the policy has been terminated, the department will suspend the registration and plates and, within 15 days, initiate action to repossess the registration certificate and plates. If the owner refuses to surrender the registration, the department is required to take physical possession of the registration and plates and hold them until proof of insurance coverage is received. A reinstatement fee of $25 must be paid. Any person failing to return the registration and plates is subject to a fine of $100 or imprisonment for 30 days. Sale of the vehicle to a family member carries a similar penalty.

Arguments For Compulsory Insurance

Advocates of compulsory insurance point out that where voluntary automobile insurance coverage is high, the addition of a relatively small number, approximately 20 percent, to the ranks of the insureds should not raise the rates of the drivers who are already insured. The protection provided all drivers under compulsory insurance would outweigh the financial outlay which would be required of those motorists who have no insurance.

Administrative problems which might result because of compulsory insurance should not be a justification for not having such insurance. Administrative problems can be worked out once the program is started.

Compulsory insurance need not have a detrimental effect on insurance companies. If the minimum rates are set at levels that will assure reasonable operating profits, the existing system for marketing and servicing insurance can remain unchanged.

Compulsion is an element that is inherent in any plan to combat the financially irresponsible motorist. Compulsory insurance provides a direct answer while other approaches are covert methods of forcing motorists to have insurance. If it is wise to establish financial responsibility after an accident, why not before?

Only through compulsory insurance will there be any substantial elimination of the possibility of lack of compensation for wrongful injuries in automobile accidents.

Compulsory automobile insurance of general application is merely an extension of earlier laws requiring a showing of financial responsibility for such classes as young motorists, the owners and operators of buses, taxicabs, car rental services, and the like.

A Gallup Poll taken on the question of compulsory automobile insurance in 1965 indicated that a majority of the nation's adults favored it. The nationwide findings were as follows: 53 percent favored compulsory insurance; 42 percent opposed it; and 5 percent had no opinion.[3]

A more recent poll conducted by Louis Harris and Associates and the Department of Insurance, the Wharton School, University of Pennsylvania in 1974 indicates that an even larger majority of people favored compulsory insurance laws. The findings were as follows:
91 percent favored compulsory insurance; 7 percent opposed it; and 2 percent were not sure.[4] For a more complete picture of the results of this poll, see Appendix B.

Arguments Against Compulsory Insurance

One basic objection to compulsory automobile insurance advanced by its opponents is the claim that it involves an undesirable degree of regimentation and a danger of increasing pressure on government to further regulate or even supplant private insurance. Those who resist compulsory insurance proposals maintain that political pressure to keep premium rates low will combine with a rising curve of losses and jury verdicts attributable to the compulsory laws to drive the private

carriers out of the automobile liability field, and to install state insurance funds in their place.

Opponents of compulsory liability insurance claim that the passage of compulsory liability insurance laws increases the costs of insurance for consumers. Statistically, it is very difficult to link compulsory insurance, only one of many factors contributing to the cost of insurance, to increased premium costs.[5] Comparing the increase of insurance premiums before and after passage of a compulsory insurance law is not a reliable indication of the effects of compulsory insurance on insurance rates, mainly because inflation rates, a principal factor in insurance rates, differ from year to year. Thus, a major increase after the passage of a compulsory insurance law may be linked to a major increase in the inflation rate.

The National Association of Independent Insurers recently conducted a statistical comparison of insurance rate increases. The Association reported on the insurance rate increases in six states that have enacted compulsory insurance laws (California, Louisiana, Maryland, Oklahoma, Oregon, South Carolina) and compared the rate increases in each compulsory state to increases in three similar states without compulsory insurance. For example, the association compared insurance rate increases in California, one of the compulsory states, to increases in Illinois, Ohio, and Texas, three states similar to California in (1) demographic characteristics, (2) the amount of insured vehicles, and (3) geographic characteristics. The study revealed that all six compulsory insurance law states had higher insurance rate increases than the increases in the three comparable states without compulsory insurance for the same time period. Even though the statistical evidence seems overwhelming, the association warns that their approach may be subjected to criticism because of possible "flaws" in the approach that the association used.

Another fundamental argument of opponents is that even among those who are unwilling or unable to buy insurance the careless driver is decidedly in the minority, and that compulsory laws would force the many who are careful to buy insurance because of the few who are careless.

Another argument against compulsory laws is that motorists who are coerced into purchasing insurance will, out of resentment or perhaps a false sense of security induced by the compulsory law, restrict their buying of coverages to the minimums specified in the law, and will not bother to provide themselves with such

"extras" as medical coverage and high personal injury and property damage limits.

In addition, the required protection against uninsured motorists now provided by insurance carriers has obviated much of the alleged necessity for compulsory liability automobile insurance.[6]

Notes

1. According to Robert Gossrow, casualty actuary, Illinois Department of Insurance, phone conversation of May 5, 1982.
2. Ill. Rev. Stat. 1981, ch. 95 1/2, sec. 7-203 ff.
3. Chicago Sun-Times, September 10, 1966.
4. Louis Harris and Associates and the Department of Insurance, the Wharton School, University of Pennsylvania, Sentry Insurance National Opinion Study: A Profile of Consumer Attitudes Toward Auto and Homeowner's Insurance, p. 46 (Jan. 1974).
5. National Association of Independent Insurers, Compulsory Automobile Liability Insurance (Undated).
6. Illinois law requires that all liability insurance policies must include uninsured motorist coverage. (Ill. Rev. Stat. 1981, ch. 73, sec. 755a.)

Source

Commerce Clearing House, Automobile Insurance Law Reporter (looseleaf to date); Illinois Legislative Council File 9-002, "Compulsory Motor Vehicle Insurance" (1979); Illinois Legislative Council File 9-194, "Compulsory Motor Vehicle Insurance" (1981).

Appendix A

Citations to Compulsory Motor Vehicle Insurance Provisions in 31 States

Calif. Vehicle Code, secs. 16020 ff.
Colo. Rev. Stat., secs. 10-4-701 ff.
Conn. Gen. Stat. Ann., secs. 38-319 ff.
Del. Code, tit. 21, sec. 2118.
Fla. Stat. Ann., secs. 627.730 ff.

Ga. Code Ann., secs. 56-3401b ff; sec. 56-9915.2.
Hawaii Rev. Stat., secs. 294-1 ff.
Idaho Code, secs. 49-232 ff. and 49-234 ff.
Ind. Code Ann., secs. 9-1-4-3.5 ff.
Kans. Stat. Ann., secs. 40-3101 ff.

Ky. Rev. Stat. Ann., secs. 304.39-010 ff.
La. Rev. Stat. Ann., secs. 32:861 ff.
Md. Transp. Code Ann., secs. 17-101 ff.
Mass. Gen. Laws Ann., ch. 90, secs. 34A-34J; ch. 175, secs. 113A-113H.
Mich. Comp. Laws Ann., secs. 500.3101 ff.

Minn. Stat. Ann., secs. 65B.41 ff.
Mont. Rev. Code Ann., secs. 61-6-101 ff.
Nev. Rev. Stat., sec. 485.185.
N.J. Stat. Ann., sec. 39:6B-1.
N. Mex. Stat. Ann., secs. 66-5-249 ff.

N.Y. Vehic. and Traffic Law, secs. 310 ff.
N.C. Gen. Stat., secs. 20-309 ff. and 20-279.1 ff.
N. Dak. Cent. Code, secs. 26-41-01 ff.
Okla. Stat. Ann., tit. 47, secs. 7-101 ff.
Oreg. Rev. Stat., ch. 486.

Pa. Cons. Stat. Ann., tit. 40, secs. 1009.101 ff.
S.C. Cons. Stat. Ann., secs. 56-11-10 ff. and 56-11-740.
Tex. Traffic Reg. Code, tit. 116, sec. 6701h.
Utah Code Ann., secs. 31-41-1 ff.
W. Va. Code, secs. 17D-2A-1 ff.
Wyo. Stat., sec. 31-4-120.

Appendix B

Breakdown of the Results of a 1974 Louis Harris Poll Concerning Compulsory Motor Vehicle Insurance

Question: Should all drivers be required by the Government to carry auto insurance?

	Should be required	Should not be required	Not sure
Total	91%	7%	2%
Have automobile insurance	94	5	1
Own automobile but has no insurance	62	31	7
Under $5,000	86	10	4
$5,000 to $9,999	89	8	3
$10,000 to $14,999	94	6	*
$15,000 and over	93	6	1
Age 18 to 29	85	13	2
Age 30 to 49	93	5	2
Age 50 and over	92	5	3
Married	92	6	2
Not married	87	10	3

Source: Sentry Insurance National Opinion Study: A Profile of Consumer Attitudes Toward Auto and Homeowner's Insurance conducted by Louis Harris and Associates and the Department of Insurance, the Wharton School, University of Pennsylvania, p. 46 (Jan. 1974).

RESEARCH MEMORANDUM FILE 9-194

March 5, 1981 (revised)

COMPULSORY MOTOR VEHICLE INSURANCE

Summary

Compulsory liability insurance laws require all owners of motor vehicles to prove and maintain liability insurance as a condition for registering their vehicles. Such insurance has been urged as a solution to the problem of the financially improvident motorist.

Over 20 bills providing for compulsory automobile liability insurance coverage have been introduced in the Illinois General Assembly since 1971, but none have been adopted.

Twenty-six states have enacted compulsory automobile insurance laws. "No-fault" automobile insurance also has been established in 19 of those states.

One of the major problems with compulsory auto insurance is that of enforcing the law requiring motorists to maintain insurance coverage throughout the auto registration period. Some states have adopted procedures to confiscate drivers' licenses and auto plates of those failing to maintain insurance in addition to other penalties.

Proponents believe that only through compulsory insurance will there be any compensation available for wrongful injuries or property damage in automobile accidents. Opponents argue that compulsory auto insurance laws lead to a high degree of regimentation and a danger of socializing the insurance business.

Paul W. Reeder
Senior Research Associate

PWR:mf/clc

Compulsory Insurance Legislation

The compulsory automobile liability insurance approach has as its essence a requirement that every ordinary application for the registration of a motor vehicle be accompanied by a showing that the vehicle is covered by an automobile liability policy or other form of protection against the legal liability that may arise in connection with its operation, and to make the granting of the license application depend upon such showing. Notice that the coverage has been cancelled results in a revocation of the registration, and operation of a non-covered automobile leads to driver's license suspension or revocation, and usually, to criminal penalties.

The insurance industry estimates that approximately 83 percent of all motorists in the U.S. are insured, but that large numbers of drivers continue to operate vehicles without liability insurance.

Illinois Proposals for Compulsory Insurance

Illinois has had a financial responsibility law since 1938. It requires persons who have failed to satisfy judgment for any liability from a previous automobile accident to furnish "proof of financial responsibility for the future" in amounts of $15,000 for injury or death to one person; $30,000 for injury or death to two or more persons; and $10,000 for property damage. This has been criticized because it does nothing to protect against the first accident.[1]

Since 1971 the Illinois General Assembly has considered over 20 bills which, either on a broad or limited basis, would require compulsory automobile insurance. None of these measures, of which the main provisions are shown in Table 1, became law.

Legislation in Other States

Twenty-six states have enacted compulsory automobile insurance laws. ("No-fault" automobile insurance also has been established in 19 of those states.) Generally, motor vehicles will not be registered in the state unless the application for registration is accompanied by proof of ability to respond in damages up to limits of, for example, $20,000 (bodily damage or death to one person), $40,000 (for bodily injury or death to two or more persons), and $5,000 (coverage for property damage).

Table 1

Illinois Legislation for Compulsory Automobile Insurance, 1971-1980

Year and bill no.	Required minimum charge*	Penalty**
1972 H.B. 4344	$10,000/$100,000/$5,000	maximum $1,000 fine or 1 year imprisonment
1973 H.B. 243 and H.B. 817	20,000/ 40,000/ 5,000	not specified
1973 H.B. 950	10,000/ 20,000/ 5,000	petty offense; license and registration may be revoked
1974 H.B. 2414	not specified	not specified
1975 H.B. 3062[a] and S.B. 1500	10,000/ 20,000/ 5,000	Class C misdemeaner; license and registration may be revoked
1977 H.B. 545	10,000/ 20,000/ 5,000	Class A misdemeanor; license may be recoked up to 90 days; forfeit vehicle registration
1977 H.B. 634	10,000/ 20,000/ 5,000	Class A misdemeanor; forfeiture of vehicle registration
1977 H.B. 928	20,000/ 50,000/ ---	license may be suspended
1977 H.B. 1234	10,000/ 20,000/ 5,000	Class A misdemeanor
1977 S.B. 409	not specified	not specified
1977 S.B. 840	10,000/ 20,000/ 5,000	not specified
1977 S.B. 1113	10,000/ 20,000/ 5,000	Class C misdemeanor; license and registration may be revoked
1978 H.B. 2614	10,000/ 20,000/ 5,000	Class A misdemeanor
1979 H.B. 206	10,000/ 20,000/ 5,000	Class A misdemeanor
1979 H.B. 2443 and S.B. 117	not specified not specified	not specified not specified
1979 S.B. 51	10,000/ 20,000/ 5,000	not specified
1979 S.B. 127	10,00/ 20,000/ 5,000	Class A misdemeanor

*The first figure is the minimum coverage for bodily injury or death to one person, the second figure is the minimum coverage for bodily injury or death to two or more persons in the same accident, and the third figure is the minimum coverage for property damage.

**The penalty is for driving without the required liability insurance.

[a]/H.B. 3062 was substituted for H.B.'s 1764, 1835, 1866, and 2719.

Source: Examination of bills by Legislative Council staff.

Table 2

Compulsory Liability Insurance Coverage Requirements and Penalties, 1980

State	Required minimum coverage*			Penalties**
California	$15,000/	$30.000/	$ 5,000	up to $100 fine for each offense
Colorado	15,000/	30,000/	5,000	misdemeanor
Connecticut	20,000/	40,000/	5,000	misdemeanor
Delaware	10,000/	20,000/	5,000	$150 to $1,000 fine
Florida	10,000/	20,000/	5,000	license suspended
Georgia	10,000/	20,000/	5,000	misdemeanor
Hawaii	25,000/	--- /	10,000	$100 to $1,000 fine
Idaho	10,000/	20,000/	5,000	misdemeanor
Kansas	15,000/	30,000/	5,000	misdemeanor
Kentucky	10,000/	20,000/	5,000	$50 to $500 fine
Louisiana	5,000/	10,000/	1,000	misdemeanor, suspension of license
Maryland	20,000/	40,000/	5,000	up to $100 fine
Massachusetts	10,000/	20,000/	1,000	$100 to $500 fine or up to 1 year imprisonment
Michigan	20,000/	40,000/	10,000	misdemeanor
Minnesota	25,000/	50,000/	10,000	misdemeanor
Montana	25,000/	5,000/	5,000	misdemeanor
Nevada	15,000/	30,000/	5,000	unlawful operation of motor vehicle
New Jersey	15,000/	30,000/	5,000	$50 to $200 fine or imprisonment from 30 days to 3 months
New York	10,000/	20,000/	5,000	misdemeanor
North Carolina	25,000/	50,000/	10,000	misdemeanor
North Dakota	25,000/	50,000/	10,000	registration revoked
Oklahoma	5,000/	10,000/	5,000	up to $100 fine and license suspended
Oregon	15,000/	30,000/	5,000	license suspended
Pennsylvania	15,000/	30,000/	5,000	misdemeanor
South Carolina	15,000/	30,000/	5,000	misdemeanor
Utah	15,000/	30,000/	5,000	misdemeanor

*The first figure is the minimum coverage for bodily injury or death to one person, the second figure is the minimum coverage for bodily injury or death to two or more persons in the same accident, and the third figure is the minimum coverage for property damage.

**The penalty is for driving without the required liability insurance.

Note: States with no-fault insurance are shown in bold face type.

Source: Commerce Clearing House, Automobile Insurance Law Reporter (looseleaf to date).

Examples of Procedures Followed In Enforcing Compulsory Insurance Laws

All of the states having compulsory insurance law provide for penalties against those who fail to maintain the required insurance. The problem of enforcing the requirements of maintaining insurance coverage is one that plagues administrative agencies. Some states have enacted statutory procedures to be followed by insurance companies and admininstrative agencies in order to insure that motorists maintain insurance coverage through the vehicle registration period. Some examples of these procedures are described below.

States with compulsory motor vehicle insurance laws generally require the insurer to notify the commissioner of motor vehicles that the insured has cancelled or failed to renew the insurance policy. Upon receipt of such notification, the state acts to revoke or suspend the operating license or the registration plates unless the owner or driver licensee provides satisfactory evidence that another insurance policy has been obtained.

In Georgia, for example, the insurance company must notify the Department of Public Safety within 5 days after the effective date of cancellation of required coverage. The state suspends the driver's license and the license tags for a period of 60 days and until proper proof of required insurance has been filed.

Kansas law states that no liability policy can be terminated during the policy period by the insured by either nonpayment of premiums or at the request of the insured unless the insurer notifies the Division of Vehicles, Department of Revenue, within 20 days after the termination date. When the director of vehicles receives such notice from the insurer, he must notify the owner by registered or certified mail that, at the end of 15 days after the notice is mailed, the registration will be revoked for a period of 60 days unless, within those 15 days, the owner demonstrates proof of financial security. Upon failure to furnish such proof, registration of the vehicle will be revoked and the driver's license suspended.

In Maryland, each insurer is required to immediately notify the Motor Vehicle Administration, Department of Transportation of the termination or other lapse of required security and the Administration is required to make a reasonable effort to notify the

insured that the registration of the vehicle has been automatically suspended. The owner has 48 hours of the suspension notice to surrender evidence of registration, and his driver's license will be suspended up to 1 year.

Massachusetts law requires the insurer or the insured to give 20 days' written notice to the registrar of the motor vehicles, in the Office of Public Safety, of the cancellation of the insurance policy. The registrar may revoke the registration unless, not less than 2 days prior to the effective date of cancellation, the registrar receives a new certificate of insurance covering the same motor vehicle.

New York also requires the insurer to notify the commissioner of the Department of Motor Vehicles of the termination of an insurance contract. The commissioner is required to revoke the registration of the vehicle upon receipt of evidence that the insurance policy is no longer in effect.

North Carolina law requires notice of cancellation by the insurer to the Division of Motor Vehicles, Department of Transportation, whether or not the cancellation is by the insurer or by termination by the insured. The owner is required to surrender the registration certificate of registration and auto plates to the Department unless financial responsibility is maintained in some other manner acceptable to the Department.

In South Carolina the insurer must immediately notify the Department of Highways and Public Transportation of the termination or lapse of any insurance policy. Upon notification of the termination or lapse of a policy, the certificate of registration is automatically suspended and remains suspended until the security is replaced. Within 5 days after cancellation or expiration of the policy, the insured must have secured other insurance or surrender the vehicle license plates and registration certificate.

Upon receiving information that the policy has been terminated, the Department will suspend the registration and plates and, within 15 days, initiate action to pick up the registration certificate and plates. If the owner refuses to surrender the registration, the Department is required to take physical possession of the registration and plates and hold them until proof of insurance coverage is received. Any person failing to return the registration and plates may be subject to a fine of $100 or imprisonment for 30 days. Sale of the vehicle to a family member carries a similar penalty.

Arguments For Compulsory Insurance

Advocates of compulsory insurance point out that where voluntary automobile insurance coverage is high, the addition of a relatively small number, estimated variously from 5 to 15 percent, to the ranks of the insureds should not raise the rates of the drivers who are already insured.

The protection provided all drivers under compulsory insurance would outweigh the financial outlay which would be required of those motorists who have no insurance.

Administrative problems which might result because of compulsory insurance should not be a justification for not having such insurance. Administrative problems can be worked out once the program is started.

Compulsory insurance need not have a detrimental effect on insurance companies. If the minimum rates are set at levels that will assure reasonable operating profits, the existing system for marketing and servicing insurance can remain unchanged.

Compulsion is an element that is inherent in any plan to combat the financially irresponsible motorist. Compulsory insurance provides a direct answer while other approaches are covert methods of forcing motorists to have insurance. If it is wise to establish financial responsibility after an accident, why not before?

Only through compulsory insurance will there be any substantial elimination of the possibility of lack of compensation for wrongful injuries in automobile accidents.

Compulsory automobile insurance of general application is merely an extension of earlier laws requiring a showing of financial responsibility for such classes as young motorists, the owners and operators of buses, taxicabs, car rental services, and the like.

A Gallup Poll taken on the question of compulsory automobile insurance in 1965 indicated that a majority of the nation's adults favored such legislation. (There has been no subsequent poll.) The nationwide findings were as follows: 53 percent favored compulsory legislation; 42 percent opposed such laws; and 5 percent had no opinion (Chicago Sun-Times, September 10, 1966).

Arguments Against Compulsory Insurance

One basic general objection to compulsory automobile insurance advanced by its opponents is the claim that it involves an undesirable degree of regimentation and a danger of socializing the insurance business. Those who resist compulsory insurance proposals maintain that political pressure to keep premium rates low will combine with a rising curve of losses and jury verdicts attributable to the compulsory laws to drive the private carriers out of the automobile liability field, and to install state insurance funds in their place.

Another fundamental argument of those who oppose compulsory laws is that, even among those who are unwilling or unable to buy insurance, the careless driver is decidely in the minority, and that compulsory laws would force the many who are careful to buy insurance because of the few who are careless.

Another argument against compulsory laws is that motorists who are coerced into purchasing insurance will, out of resentment or perhaps a false sense of security induced by the compulsory law, restrict their buying of coverages to the minimums specified in the law, and will not bother to provide themselves with such "extras" as medical coverage and high personal injury and property damage limits.

In addition, the required protection against uninsured motorists now provided by insurance carriers has obviated much of the alleged necessity for compulsory liability automobile insurance.

Note

1. Ill. Rev. Stat., 1980 supp., ch. 95 1/2, secs. 7-101 ff.

Source

Commerce Clearing House, Automobile Insurance Law Reporter (looseleaf to date); Illinois Legislative Council File 9-002, "Compulsory Motor Vehicle Insurance" (1979); Illinois Legislative Council File 80-H-116, "Compulsory Motor Vehicle Insurance" (1980).

Appendix A

Citations to Compulsory Motor Vehicle Insurance Provisions in 26 States

Calif. Vehicle Code, ch. 2, div. 7.
Colo. Rev. Stat. secs. 10-4-701 ff.
Conn. Gen. Stat. Ann., secs. 38-319 ff.
Del. Code, tit. 21, sec. 2118.
Fla. Stat. Ann., secs. 627.730 ff.

Ga. Code Ann., secs. 56-3401b ff; sec. 56-9915.2.
Hawaii Rev. Stat., sec. 294-1 ff.
Idaho Code, secs. 49-232 ff; secs. 49-234 ff.
Kans. Stat. Ann., sec. 40-3101 ff.
Ky. Rev. Stat. Ann., sec. 304.39-010 ff.

La. Rev. Stat. Ann., secs. 32:861 ff.
Md. Code Ann., secs. 17-101 ff.
Mass. Gen. Laws Ann., ch. 90, secs. 34A-34J; ch. 175, secs. 113A-113H.
Mich. Comp. Laws Ann., secs. 500.3101 ff.
Minn. Stat. Ann., secs. 65B.41 ff.

1979 Mont. Laws, ch. 592.
Nev. Rev. Stat., sec. 484.263.
N.J. Stat. Ann., sec. 39:6B-1.
N.Y. Vehic. and Traffic Law, secs. 310 ff.
N.C. Gen. Stat., secs. 20-309 ff; secs. 20-279.1 ff.

N. Dak. Cent. Code, secs. 26-41-01 ff.
Okla. Stat. Ann., tit. 7, secs. 601 ff.
Oreg. Rev. Stat., ch. 386.
Pa. Cons. Stat. Ann., tit. 40. secs. 1009.101 ff.
S.C. Code, secs. 46-750.101 ff.
Utah Code Ann., secs. 31-41-1 ff.

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

March 10, 1981

MEMORANDUM

TO: Representative Thelma Buchholdt

FROM: Betty Barton
Research Staff

RE: Motor Vehicle Insurance
Research Request No. 81-32

This memorandum responds to your request for information concerning compulsory liability and no-fault automobile insurance, including information on innovative reparations systems for automobile accidents in other states. To research this topic, we have reviewed the programs of several states, including North Carolina, Michigan, and Florida. We have contacted agency representatives from Alaska and other states, as well as representatives from the National Association of Insurance Commissioners, the American Automobile Association, and the National Conference of State Legislatures.

COMPULSORY LIABILITY INSURANCE

Until the 1970's, the tort liability system, where losses are determined through a judgement of the courts, was the established means of making reparations for auto accidents. Based on principals of fault law, the tort liability system assumes there is an innocent victim and a wrongdoer in accidents where damages have occurred. Through the system, losses are shifted from the victim to the wrongdoer, when a wrongdoer can be found.

Initially, when automobiles were only in the hands of the wealthy, drivers relied upon their own assets to provide payment for accidents caused by their vehicles. As the availability of automobiles increased, drivers without the necessary assets began to purchase insurance in the event that they might be required to pay for damages caused by their motor vehicle. Originally the purpose of automobile insurance was to defend the policyholder against suits, and in the event that fault was determined, to pay the damages to the limits of the policy. If a policyholder was considered to be "judgement-proof", too poor to be sued by the victim or too poor to pay a judgement of the courts, the insurer was not required to pay on behalf of the policyholder. Gradually, to extend a party's ability to receive compensation, states began to require that auto insurers provide payment regardless of the policyholders' ability

to pay. Consequently, what was initiated as an indemnity policy became a liability policy, eventually extending further to the liabilities incurred by an uninsured person driving the car with the insured owner's permission.

Increasing concern about uninsured drivers, resulted in most states enacting a financial responsibility act, where drivers are required to show proof that they have access to financial assets sufficient to cover future accidents. (Many states, including Alaska, restrict the application of this law only to drivers having an accident history.) As the number of uninsured drivers lacking the assets to reimburse a victim for losses increased, several states began to mandate the purchase of liability insurance by residents.

Today, 24 states have compulsory liability insurance laws. Of these states, many include both no-fault and liability programs. Several states, however, have not initiated a no-fault program; North Carolina is one such state.

North Carolina Compulsory Liability Program

North Carolina has one of the older compulsory liability auto insurance programs in the nation. Financial responsibility requirements were established in 1947. In 1953, legislation regarding compulsory financial security was enacted; it was refined and strengthened in 1957. Under North Carolina law, motor vehicle owners are required to provide one of several assurances of financial security in the event of future tort liability, including a liability insurance policy, a financial security bond, or a financial security deposit. Most drivers select liability insurance; other options are generally regarded to be less attractive for the average driver. For example, the security deposit required in the state is $75,000 annually, which precludes most vehicle owners from utilizing this as an option.

The law was recently amended to raise the limits of liability to $50,000 for bodily injuries of all persons injured in an accident, subject to a limit of $25,000 per person, and $10,000 coverage for property damage. All vehicles are subject to the compulsory liability requirements with the exception of government vehicles.

Administrative aspects of the North Carolina law have been recently revised to allow for more cost-efficient program operation. When persons register their vehicles or renew their registrations, their insurance coverage is certified by recording the date and identification number of the policy. Insurers are required to notify the Department of Motor Vehicles of any changes or cancellations of policies. Because of the administrative burden of this requirement (which some have said resulted in 85,000 notices of changes in policies monthly), the requirement has

been amended so that insurers notify the department only of changes occurring within the first 6 months of the life of the policy.

For remaining policies, a spot-check system based on random sampling has been implemented. According to an agency spokesperson, the department has experienced a notable savings by revising the administrative components of the program. Four years ago the program required a clerical staff of approximately 127 persons; today 15 staff persons and about $85,000 of annual computer time are used to administer the program. Similarly, the number of highway patrol officers used in the enforcement of the program has decreased from 37 to about 5 officers, who are used primarily to pick up license plates of delinquent auto policyholders.

For a variety of reasons, including uniform policy rates, a points program, a subsidized insurance market, and a 6 percent limitation on rate increases for annual filings, North Carolina does not have the high policy rates frequently associated with compulsory liability insurance. According to Joe Register, of the Department of Motor Vehicles, North Carolina currently is one of five states in the nation with the lowest policy rates. According to Mr. Register, the average liability policy costs $100; his personal policy, which covers 4 automobiles and 1 pick-up truck, and includes one 23 year-old male, with several points against him, and one 18 year-old female, costs $450 per year. However, a driver's record in North Carolina has a significant impact on the cost of his or her policy. A driver having no moving violations for 3 or more years receives a 10 percent discount on his policy, while a driver with 12 points on his record faces a rate 550 percent above the basic policy cost (one point represents a 20 percent increase).

Part of North Carolina's low rate structure is due to its reinsurance program, which was subsidized by the state and is now supported by all policyholders through a 6 percent surcharge on all policies.[1] Reinsurance is an agreement between the insurance company and another organization, the reinsurer, that the organization will assume a designated amount of risk for a given policy. The reinsurance program was established through legislation enacted in 1977 to improve the assigned risk plan, where drivers who cannot obtain insurance due to the risks associated with their age, sex, or prior driving record, are assigned to individual automobile insurers in the state in proportion to the total amount of premiums each insurer has written. The assigned risk method resulted in significant losses ($120 million in 1973) for the insurance industry. Under the reinsurance program, a person desiring coverage buys insurance from any insurance agent and pays his premium to the company. However,

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[1] North Carolina's reinsurance program currently is the subject of a legal battle due to questions regarding the equity of the surcharge on policyholders.

if a claim is filed against a high risk policyholder, the source of payment for the losses would be the reinsurance program.

It is estimated that approximately 5 percent of North Carolina's resident drivers successfully evade the system and are uninsured. Of the accidents occurring in the state involving in-state drivers, less than one-half of one percent are found to be uninsured. Of 300,000 licensed drivers in the state, 1,500 annually have their licenses suspended for noncompliance with the insurance requirements.

A copy of the North Carolina law, with its most recent amendments is attached to this report (Appendix A).

NO-FAULT INSURANCE

The concept of no-fault insurance signifies a change in the established system of reparations in auto accidents. Where the tort system assumes the presence of a wrongdoer in every accident, the no-fault system emphasizes expedient compensation for losses by the insurer regardless of fault. Proponents of no-fault argue that as 94 percent of the driving population may anticipate involvement in a traffic accident within the next ten years, fault may no longer be the prime consideration. In essence then, a no-fault program replaces the traditional system of torts, where fault is determined and compensation is awarded through a judgement of the courts, with a system of direct compensation, regardless of fault, made directly to an insured policyholder by his insurance carrier.

Although the components of a no-fault program vary, a no-fault program could include the following provisions:

1) Owners and operators of motor vehicles obtain first-party insurance coverage for protection against the cost of personal injuries (or the injuries of other occupants of their automobiles) sustained in automobile accidents.

2) No-fault benefits cover economic losses, medical expenses, lost wages, and replacement services, with no coverage provided for general damages (i.e., financial compensation made for pain and suffering).

3) Tort liability for bodily injuries is abolished except in the event of death, or a permanent or serious disability.

The purpose of no-fault insurance programs basically was to speed up the compensation process and to increase the amount of compensation received. Under the tort liability system, victims normally recover only about 50

percent of their losses from all sources, e.g. tort liability claims, life and health insurance, automobile collision insurance, sick leave, workman's compensation, and disability, health, and other insurance benefits. Additionally, some people argue that tort liability recoveries are often inequitable, having little relationship to the amount of economic loss sustained. As an example, compensation for pain and suffering which accounts for over half the amount of total tort recoveries, is generally regarded to be highly subjective, with the amount of compensation awarded varying from one case to another.

The effect a no-fault program will have on insurance premiums is contingent upon a number of variables. It is generally agreed that premiums will increase under a no-fault program when there is an increase in the number of persons receiving benefits and when the benefits paid to persons with large economic losses are higher than under a liability program. Conversely, a premium decrease will occur from the reduction (or elimination) of pain-and-suffering allowances and potential reduction in claim-adjustment costs. Savings to be realized by the state depend upon a variety of conditions including such issues as the proportion of single-car accidents and the proportion of allowances that formerly went toward general damages.

Michigan No-Fault Insurance Program

The Michigan program, in operation since 1973, represents one of the purest forms of no-fault insurance plans in the nation in the degree to which it restricts lawsuits. Under the Michigan program, general damages are recoverable through the courts only if an auto accident injury results in death, serious impairment of a bodily function, or permanent and serious disfigurement. Unlike some no-fault states, there is no dollar threshold associated with noneconomic losses.[2] No recovery through the tort liability system is allowable for economic losses (special damages)

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[2] A threshold refers to the point, which is measured in time, money, or other ways, beyond which tort liability can be established. At any point beneath the threshold, reparations are paid through the insurance carrier with no recourse in the courts. For example, Hawaii has established a threshold of $2,500 in medical expenses (or death or permanent disability) before a person is entitled to file a tort lawsuit. The threshold has kept 90 percent of those injured in car accidents within the no-fault system and out of court. Conversely, Kansas has a dollar threshold of $500. The level of the threshold can be an important factor in assessing the cost-effectiveness of the program.

and all recovery for special damages occurs through the insuring company. Under Michigan law, persons entitled to benefits as a result of in-state accidents are the insured and his or her family, occupants of the insured's vehicle, and pedestrians.[3]

Unlike most states, Michigan also generally excludes property damages from the tort liability system. Property damages may be recovered through the insurance company subject to the provisions of the insured's policy. Under a policy for collision insurance, there is a $400 (maximum) deductible. Under a recently implemented Michigan law, parties can sue a no-fault driver for up to $400 in order to recover the amount of the deductible. Insurance companies are required by law to provide a minimum of two types of collision policy options: 1) "limited collision" which provides the driver with compensation if he has been found not to be at fault and which provides drivers with coverage similar to that found under the tort system; and 2) "broad collision," which offers extended property damage coverage, regardless of fault, and has no deductibles.

Policy rates for no-fault insurance in Michigan have risen since the program was initiated in 1973. However, according to state insurance staff, studies have indicated that the rate of increase for policies in Michigan have not been out of line with those experienced in other states, and, in fact, often have increased at a slower rate. Part of the problem, according to Barb Edwards, Policy Analyst for Michigan's Insurance Bureau, is attributable to the fact that under a no-fault plan, a driver is purchasing more insurance coverage which causes the cost of a policy to rise. Although policy costs may be higher under a no-fault program, studies of the program have indicated that individuals are getting significantly more insurance for their dollar than was the case under the tort liability system where much of the insurance dollar frequently was consumed by attorneys' fees. Barb Edwards added that the basic policy, mandated by law, is not expensive; collision coverage, which is not required by law, bears a higher cost.

According to Ms. Edwards, the public response of Michigan residents toward the no-fault program generally appears to be favorable. Studies have indicated that the majority of the Michigan population is insured. The uninsured, estimated to range between 6 and 16 percent of all drivers, are concentrated in sections of the Detroit area. Research findings that many of the uninsured are drivers having better than average driving records, have prompted the development of the Essential Insurance Law, enacted January 1, 1981. This law changes the underwriting and rating schedule for auto insurance to require insurance companies to offer "eligible persons," defined by law as those having good driving records,

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[3] In out-of-state accidents, benefits may be extended to the insured, family, and auto occupants, but not pedestrians.

insurance coverage through their regular programs rather than through coverage purchased through an assigned risk pool.

Michigan's provisions for unlimited compensation for medical and rehabilitation expenses have caused some conflict within the insurance industry. In 1977, company representatives argued that unlimited coverage was making the purchase of reinsurance difficult, where the responsibility for a designated share of an insurance company's liability on a policy is accepted by another organization. As a solution, insurance company spokespersons approached the state legislature suggesting that an upward limit be placed on medical benefits. Instead, the legislature responded with a catastrophic claims fund. Established by statute in 1978, the Michigan Catastrophic Claims Association, MCCA, is a reinsurance association that pays for policy claims in excess of $250,000. The MCCA is funded by the insurance industry; all auto insurers are required to participate. The Association is supported by an annual assessment on a per vehicle basis (approximately $6.00 per vehicle) and has become a financially healthy entity representing $85 million in assets. However, as is the case in North Carolina, several aspects of the association are currently being challenged in court. The effect that the suit may bear upon MCCA, or the Michigan no-fault program as a whole, is unknown.

INNOVATIONS IN REPARATIONS SYSTEMS

For the most part, state policy makers and administrators are working to refine their existing reparations systems rather than develop new programs. In this section, we have identified several interesting mechanisms currently utilized in other states. In addition, we are attaching the the policy statement of the American Automobile Association on automobile coverage (Appendix B).

Subsidies to Low Income Drivers

Traditionally, questions of equity have arisen when states have imposed mandatory insurance coverage on all residents. It is argued by some that by forcing a low-income driver, who has no assets to protect, to buy liability insurance, it is the more affluent driver that benefits from the law. Similarly, if a low-income person, residing in a state where no-fault insurance is compulsory, cannot afford to pay for insurance, he could lack coverage for his own injuries and would, of course, be in violation of the law.

Hawaii, which has a compulsory no-fault/liability program, has attempted to resolve this problem by providing free (state-subsidized) coverage for welfare recipients. The program, in operation since last year, has met some opposition. Supporters of the program have argued that the poor will drive regardless, and the state-funded coverage protects the public in the case of accidents involving an indigent driver.

Unsatisfied Judgement Funds

Although not a new concept, several states maintain unsatisfied judgement funds to protect the injured party in the event of an accident involving a hit-and-run driver or a driver without insurance or assets. In some states, funds are established so that awards may be made to individuals unable to obtain compensation from irresponsible drivers.

Compulsory First Party Coverage

As discussed in our memorandum of February 16, 1981, the Florida program represents a somewhat different approach to no-fault. Florida is the only state which mandates personal injury protection (i.e., first party) but no longer requires individuals to hold compulsory liability insurance. This change in program operation was implemented to help lower Florida's rising policy costs.

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Compulsory liability insurance and no-fault programs are broad and often complex topics. We hope that this memorandum has assisted in providing you with an overview of the concepts. If there are areas in which you would like us to do additional research, please do not hesitate to contact us.

BB/bf
Encls.

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

February 16, 1981

MEMORANDUM

TO: Representative Thelma Buchholdt

FROM: Betty Barton
Issues Analyst

RE: Motor Vehicle Insurance
Research Request No. 81-32

You have asked for information regarding compulsory liability and no-fault insurance for motor vehicles. As a component of this request, you expressed special interest in receiving materials about Florida's no-fault insurance law. We have assembled a copy of the law, as amended, and some explanatory materials concerning it, which are attached to this memorandum. In addition, we have contacted Terry Butler, Staff Attorney for the Florida House of Representatives' Standing Committee on Insurance, for information concerning the effects of the Florida law. Mr. Butler is sending materials on the Florida Act, which will be forwarded to your office upon arrival.

The Florida Automobile Reparations Reform Act, enacted in 1972, requires motorists to carry first-party personal injury protection insurance coverage with an overall limit of $10,000 per individual. This provides coverage for 80 percent of the allowable medical expenses, 60 percent of the individual's loss of income, replacement services (e.g., housekeeping, day care), and funeral costs ($1,000 maximum). It should be noted that Florida law no longer mandates compulsory liability insurance; this provision was repealed in 1977 because of its upward effect on the cost of premiums.

Under Florida law, an accident victim cannot recover general damages through the courts unless the accident has resulted in a significant injury or death. In 1979, the tort threshold of the law was amended to eliminate all non-permanent injuries from consideration by the courts. This amendment was made in an effort to reduce the cost of insurance premiums, which have been especially expensive in the populated areas of the state having a high risk rating, e.g., Dade County.

The Florida law has been fairly well received by the public, and is, of course, popular with insurance carriers. In turn, the Act has been

opposed by some of the state's attorneys who argue that the tort threshold denies individuals access to the courts. In 1974, the Act was upheld by the State Supreme Court. However, due to major amendments to the law, several new cases have been initiated and are currently pending.

If you have additional questions concerning the enclosed materials, please do not hesitate to contact me. We are continuing to research other components of your request and expect to complete it in the very near future.

BB/BF

Attachments

PRINCIPAL PROVISIONS OF THE FLORIDA LAW

The Florida Automobile Reparations Reform Act took effect Jan. 1, 1972. It was altered in 1973 and 1974 by decisions of the Florida Supreme Court and was revised in 1976, 1977, and 1978 by the legislature. The latest version, effective Jan. 1, 1979, provides that an accident victim cannot recover general damages from a motorist carrying the required insurance unless the accident results in:

—Significant and permanent loss of an important body function;

—Injury that is permanent within a reasonable degree of medical probability, other than scarring or disfigurement;

—Significant and permanent scarring or disfigurement;

—Death.

Motorists are required to carry a first-party personal injury protection insurance coverage with an overall limit of $10,000. This coverage provides benefits for 80 percent of medical expenses, 60 percent of income loss, replacement services, and funeral costs (up to $1,000). If the loss exceeds this amount, the right to sue is available for the portion over $10,000.

Insurers must offer deductibles of $250, $500, $1,000, $2,000, $3,000, $4,000, $6,000 and $8,000 for the personal injury protection coverage. Deductibles can apply to the policyholder alone or to the policyholder and relatives living in his household, but not to others. Motorists can buy the coverage without benefits for income loss at a lower rate. Those eligible for Medicare can have Medicare benefits deducted from the no-fault benefits. Those eligible for military health benefits can do the same.

All motor vehicles with four or more wheels are covered by the law, which also applies to out-of-state vehicle owners who have their vehicles in Florida more than 90 days a year.

The 1976 amendments to the law provided extensive safeguards against claim fraud. Any physician, attorney, insurance adjuster, insurance company, or claimant that conspires to commit claim fraud is guilty of a third-degree felony. Any hospital administrator or employee who allows the use of hospital facilities by an insured person to commit claim fraud is also guilty of a third-degree felony.

The law established a Division of Fraudulent Claims (now called Division of Insurance Fraud) in the Florida Insurance Department to investigate suspected fraudulent activity. Insurance companies are required to report to the division any claims they suspect of being fraudulent. Insurance companies and their employees and agents are given immunity to lawsuits for libel that may arise because of the information they provide the division.

Doctors, hospitals, and other medical institutions are required to provide sworn statements that the treatment rendered to an accident victim was reasonable and necessary.

Historical Background

The original Florida law restricted tort liability in this way: An accident victim could not recover general damages unless his medical expenses exceeded $1,000, or the injuries resulted in permanent disfigurement, permanent injury, fracture of a weight-bearing bone, a compound, comminuted, displaced, or compressed fracture, loss of a body member or function, or death. On April 17, 1974, the Florida Supreme Court, in a decision upholding the basic constitutionality of the law, strengthened the tort restriction. Recovery of general damages was permitted only if the medical expenses exceeded $1,000, or the injuries resulted in permanent disfigurement or injury, loss of a body member or function, or death.

In 1976, the legislature amended the law to allow recovery of general damages only if the accident victim suffered loss of a body member, permanent loss of a body function, permanent injury other than scarring or disfigurement, significant permanent scarring or disfigurement, or a serious non-permanent injury that materially affected the victim's ability to resume his normal activity and life-style during all or substantially all of the 90-day period after the injury.

Until overturned by the courts, a provision of the Florida law restricted tort recovery for vehicle damage. It required insurers to offer two types of collision coverage to their policyholders. "Basic" collision coverage paid for damage to the policyholder's automobile only if the other driver was at fault. "Full" coverage was like the traditional collision coverage, but it eliminated the deductible if the other driver was at fault. A policyholder who chose to buy neither form of collision coverage was prohibited from suing the driver at fault unless the damage to his vehicle exceeded $550.

On July 11, 1973, the Florida Supreme Court, in a four-to-three decision, ruled this portion of the law unconstitutional. Since motorists were not compelled to purchase either form of collision coverage, the court said, the law abolished a long-standing right without providing a reasonable alternative. If an alternate remedy had been provided, or if the legislature had shown an overpowering public need for the reform, the abolition of the right might have been constitutionally permissible, the court said.

The original Florida law provided benefits for 100 percent of medical expenses and 85 percent of lost income (up to the $5,000 limit on the personal injury protection coverage). The amendments in 1977 cut these coverages to 80 percent of medical costs and 60 percent of income loss. Until 1977, the law permitted deductibles only up to $2,000. Until the 1978 amendments, the personal injury protection coverage was limited to $5,000.

Liability coverage was compulsory in Florida until July 1, 1977. Now only the no-fault coverage is required. But proof of financial responsibility for damages caused in an accident is still required by Florida law.

Section 1. Short title.—This act may be cited and known as the "Florida automobile reparations reform act."

Sec. 2. Section 2. Purpose.—The purpose of this act is to require medical, surgical, funeral and disability insurance benefits to be provided without regard to fault under motor vehicle policies that provide bodily injury and property damage liability insurance, or other security, for motor vehicles registered in this state, and with respect to motor vehicle accidents, a limitation on the right to claim damages for pain, suffering, mental anguish and inconvenience.

Section 3. Definitions.—As used in this act:

(1) "Motor vehicle" means a sedan, station wagon or jeep type vehicle not used as a public livery conveyance for passengers, and includes any other four-wheel motor vehicle used as a utility automobile and a pickup or panel truck with a load capacity of 1,500 pounds or less which is not used primarily in the occupation, profession or business of the insured.

(2) "Owner" means a person who holds the legal title to a motor vehicle, or in the event a motor vehicle is the subject of a security agreement or lease with option to purchase with the debtor or lessee having the right to possession, then the debtor or lessee shall be deemed the owner for the purposes of this act.

(3) "Named insured" means a person, usually the owner of a vehicle, identified in a policy by name as the insured under the policy.

(4) "Relative residing in the same household" means a relative of any degree by blood or by marriage, who usually makes his home in the same family unit, whether or not temporarily living elsewhere.

Section 4. Required security.—

(1) Every owner or registrant of a motor vehicle required to be registered and licensed in this state shall maintain security as required by subsection (3) of this section in effect continuously throughout the registration or licensing period.

(2) Every nonresident owner or registrant of a motor vehicle which, whether operated or not, has been physically present within this state for more than ninety (90) days during the preceeding three hundred sixty-five (365) days, shall thereafter maintain security as defined by subsection (3) of this section in effect continuously throughout the period such motor vehicle remains within this state.

(3) Such security shall be provided by one of the following methods:

(a) Security by insurance may be provided with respect to such motor vehicle by an insurance policy delivered or issued for delivery in this state by an authorized or eligible insurer as otherwise defined in this code, which qualifies as evidence of automobile or motor vehicle liability insurance under chapter 324, Florida Statutes, "the financial responsibility law", except as modified to provide the benefits and exemptions contained in this act. Any such policy of liability insurance covering motor vehicles registered or licensed in this state and any policy of insurance represented or sold as providing the security required hereunder for registered and licensed motor vehicles under this act shall be deemed to provide insurance for the payment of such benefits; or

(b) Security may be provided with respect to any motor vehicle by any other method approved by the department of insurance as affording security equivalent to that afforded by a policy of insurance, provided such security is continuously maintained throughout the motor vehicle's registration or licensing period. The person filing such security shall have all of the obligations and rights of an insurer under this act.

(4) An owner of a motor vehicle with respect to which security is required by this act who fails to have such security in effect at the time of an accident shall have no immunity from tort liability, and be personally liable for the payment of benefits under section 7. With respect to such benefits, such an owner shall have all of the rights and obligations of an insurer under this act.

Section 5. Proof of security; security requirements; penalties.—

(1) The provisions of chapter 324, Florida Statutes, which pertain to the method of giving and maintaining proof of financial responsibility, and which govern and define a motor vehicle liability policy, shall apply to filing and maintaining proof of security or financial responsibility required by this act. It is intended that the provisions of chapter 324, Florida Statutes, relating to proof of financial responsibility required of each operator and each owner of any motor vehicle, shall continue in full force and effect.

(2) Any person who gives information required in a report or otherwise as provided for in this act, knowing or having reason to believe that such information is false, or who shall forge, or, without authority, sign any evidence of proof of security, or who files or offers for filing any such evidence of proof, knowing or having reason to believe that it is forged or signed without authority, shall, upon conviction, be punished by fine not to exceed one thousand dollars ($1,000) or imprisonment not to exceed one (1) year, or by both such fine and imprisonment.

(3) This act does not apply to any motor vehicle owned by the state or by a political subdivision of the state, nor to any motor vehicle owned by the federal government.

Section 5A. Subsection (2) of section 5 of this act is created to read:

Section 5. Proof of security; security requirements; penalties.—

(2) Any person who gives information required in a report or otherwise as provided for in this act, knowing or having reason to believe that such information is false or who shall forge, or, without authority, sign any evidence of proof of security, or who files or offers for filing any such evidence

of proof, knowing or having reason to believe that it is forged or signed without authority, shall be guilty of a misdemeanor of the first degree, punishable as provided in sections 775.082 or 775.083.

Section 5B. In the event CS for HB 935, introduced in the 1971 regular session of this act will stand repealed and be omitted from the Florida Statutes. In the event CS for HB 935 is not enacted into law, section 5A of this act will stand repealed and be omitted from the Florida Statutes.

Section 6. Operation of a motor vehicle illegal without security; penalties.—

(1) Any owner or registrant of a motor vehicle with respect to which security is required under subsection (1) or (2) of section 4 who operates such motor vehicle or permits it to be operated in this state without having in full force and effect security complying with the terms of said subsection (1) or (2) of section 4 shall have his operator's license and registration revoked.

(2) Any motor vehicle liability insurance policy which provides security required pursuant to subsection (3) of section 4 shall also be deemed to comply with the applicable limits of liability required under the financial responsibility or compulsory laws of any other state.

Section 7. Required personal injury protection benefits; exclusions; priority.—

(1) Every insurance policy complying with the security requirements of section 4 shall provide personal injury protection providing for payment of all reasonable expenses incurred for necessary medical, surgical, x-ray, dental and rehabilitative services, including prosthetic devices, necessary ambulance, hospital, nursing services, funeral and disability benefits to the named insured, relatives residing in the same household, persons operating the insured motor vehicle, passengers in such motor vehicle and other persons struck by such motor vehicle and suffering bodily injury while not an occupant of a motor vehicle or motorcycle, all as specifically provided in subsection (2) and paragraph (d) of subsection (4) of this section, to a limit of five thousand dollars ($5,000) for loss sustained by any such person as a result of bodily injury, sickness, disease or death arising out of the ownership, maintenance or use of a motor vehicle as follows:

(a) Medical benefits. all reasonable expenses for necessary medical, surgical, x-ray, dental and rehabilitative services, including prosthetic devices, necessary ambulance, hospital and nursing services. Such benefits shall include also, necessary remedial treatment and services recognized and permitted under the laws of the state for an injured person who relies upon spiritual means through prayer alone for healing in accordance with his religious beliefs.

(b) Disability benefits: one hundred percent (100%) of any loss of gross income and loss of earning capacity per individual, unless such benefits are deemed not includable in gross income for federal income tax purposes, in which event such benefits shall be limited to eighty-five percent (85%), from inability to work proximately caused by the injury sustained by the injured person, plus all expenses reasonably incurred in obtaining from others ordinary and necessary services in lieu of those that, but for the injury, the injured person would have performed without income for the benefit of his household. All disability benefits payable under this provision shall be paid not less than every two weeks.

(c) Funeral, burial or cremation benefits: funeral, burial or cremation expenses in an amount not to exceed one thousand dollars ($1,000) per individual.

(2) Any insurer may exclude benefits:

(a) For injury sustained by the named insured and relatives residing in the same household while occupying another motor vehicle owned by the named insured and not insured under the policy, or for injury sustained by any person operating the insured motor vehicle without the express or implied consent of the insured.

(b) To any injured person, if such person's conduct contributed to his injury under any of the following circumstances:

1. Causing injury to himself intentionally;
2. Convicted of driving while under the influence of alcohol or narcotic drugs to the extent that his driving faculties are impaired;
3. While committing a felony.

(3) Insurer's rights of reimbursement and indemnity:

(a) No subtraction from personal protection insurance benefits will be made because of the value of a claim in tort based on the same bodily injury, but after recovery is realized upon such a tort claim, a subtraction will be made to the extent of the recovery, exclusive of reasonable attorneys' fees and other reasonable expenses incurred in effecting the recovery, but only to the extent that the injured person has recovered said benefits from the tortfeasor or his insurer or insurers. If personal protection insurance benefits have already been received, the claimant shall repay to the insurer or insurers out of the recovery a sum equal to the benefits received, but not more than the recovery exclusive of reasonable attorneys' fees and other reasonable expenses incurred in effecting the recovery, but only to the extent that the injured person has recovered said benefits from the tortfeasor or his insurers or insurer. The insurer or insurers shall have a lien on the recovery to this extent. No recovery by an injured person or his estate for loss suffered by him will be subtracted in calculating benefits due a dependent after the death, and no recovery by a dependent for loss suffered by the dependent after the death will be subtracted in calculating benefits due the injured person except as provided in paragraph (c) of subsection (1) of section 7.

(b) The insurer shall be entitled to reimbursement of any payments made under the provisions of subsection (3) of this section based upon such equitable distribution of the amount recovered as the court may determine less the pro rata share of all court costs expended by the plaintiff in the prosecution of the suit to recover such amount against a third-party tortfeasor including a reasonable attorney's fee for the plaintiff's attorney. The

proration of the reimbursement shall be made by the judge of a trial court handling the suit to recover damages in the third-party action against the tortfeasor upon application therefor and notice to the carrier.

(c) Indemnity from one paying in tort without regard for rights of insurer having reimbursement interest.—A personal protection insurer with a right of reimbursement under this section, if suffering loss from inability to collect such reimbursement out of a payment received by a claimant upon a tort claim is entitled to indemnity from one who, with notice of the insurer's interest, made such a payment to the claimant without making the claimant and the insurer joint payees as their interests may appear, or without obtaining the insurer's consent to a different method of payment.

(d) In the event an injured party or his legal representative is entitled to bring suit against a third party tortfeasor under the provisions of section 8, and fails to bring such suit against such third party tortfeasor within one year after the last payment of any benefits under subsection (1) of section 7, the insurer of such injured party, upon giving thirty (30) days written notice to such injured party, shall have the right to bring suit against such third party, in its own name or in the name of the injured person or his legal representative, to recover the amount of the benefits paid pursuant to the provisions of section 7 of this act to or for the benefit of such injured person; provided, however, that the prosecution or settlement of such suit without the consent of the injured person or his legal representative shall be without prejudice to such person.

(4) Benefits due from an insurer under this act shall be primary, except that benefits received under any workmen's compensation law shall be credited against the benefits provided by subsection (1) of section 7, and be due and payable as loss accrues, upon receipt of reasonable proof of such loss and the amount of expenses and loss incurred which are covered by the policy issued under this act.

(a) An insurer may require written notice to be given as soon as practicable after an accident involving a motor vehicle with respect to which the policy affords the security required by this act.

(b) Personal injury protection insurance benefits shall be overdue if not paid within thirty (30) days after the insurer is furnished written notice of the fact of a covered loss and of the amount of same. If such written notice is not furnished to the insurer as to the entire claim, any partial amount supported by written notice is overdue if not paid within thirty (30) days after such written notice is furnished to the insurer. Any part or all of the remainder of the claim that is subsequently supported by written notice is overdue if not paid within thirty (30) days after such written notice is furnished to the insurer; provided, however, that any payment shall not be deemed overdue where the insurer has reasonable proof to establish that the insurer is not responsible for the payment, notwithstanding that written notice has been furnished to the insurer. For the purpose of calculating the extent to which any benefits are overdue, payment shall be treated as being made on the date a draft or other valid instrument which is equivalent to payment was placed in the United States mail in a properly addressed, postpaid envelope, or, if not so posted, on the date of delivery.

(c) All overdue payments shall bear simple interest at the rate of ten percent (10%) per annum.

(d) The insurer of the owner of a motor vehicle shall pay personal injury protection benefits for:

1. Accidental bodily injury sustained in this state by the owner while occupying a motor vehicle, or while not an occupant of a motor vehicle or motorcycle if the injury is caused by physical contact with a motor vehicle.

2. Accidental bodily injury sustained outside this state but within the United States of America, its territories or possessions or Canada by the owner while occupying the owner's motor vehicle.

3. Accidental bodily injury sustained by a relative of the owner residing in the same household, under the circumstances described in subparagraph 1 or 2 of this paragraph (d), provided the relative at the time of the accident is domiciled in the owner's household and is not himself the owner of a motor vehicle with respect to which security is required under this act.

4. Accidental bodily injury sustained in this state by any other person while occupying the owner's motor vehicle or, if a resident of this state, while not an occupant of a motor vehicle or motorcycle, if the injury is caused by physical contact with such motor vehicle, provided the injured person is not himself:

a. The owner of a motor vehicle with respect to which security is required under this act, or

b. Entitled to personal injury benefits from the insurer of the owner of such a motor vehicle.

(e) If two or more insurers are liable to pay personal injury protection benefits for the same injury to any one person the maximum payable shall be as specified in subsection (1) of section 7, and any insurer paying the benefits shall be entitled to recover from each of the other insurers an equitable pro rata share of the benefits paid and expenses incurred in processing the claim.

(5) Charges for treatment of injured persons.—Any physician, hospital, clinic, or other person or institution lawfully rendering treatment to an injured person for a bodily injury covered by personal injury protection insurance may charge only a reasonable amount for the products, services, and accommodations rendered. In no event, however, may such a charge be in excess of the amount the person or institution customarily charges for like products, services, and accommodations in cases involving no insurance.

(6) Discovery of facts about an injured person; disputes.—

(a) Every employer shall, if a request is made by an insurer providing personal injury protection benefits under this act against whom a claim has been made, furnish forthwith, in a form approved by the department of insurance, a sworn statement of the earnings since the time of the bodily injury and for a reasonable period before the injury, of the person upon whose injury the claim is based.

(b) Every physician, hospital, clinic, or other

medical institution providing, before or after bodily injury upon which a claim for personal injury protection insurance benefits is based, any products, services, or accommodations in relation to that or any other injury, or in relation to a condition claimed to be connected with that or any other injury, shall, if requested to do so by the insurer against whom the claim has been made, furnish forthwith a written report of the history, condition, treatment, and dates and costs of such treatment of the injured person, and produce forthwith and permit the inspection and copying of his or its records regarding such history, condition, treatment, and dates and costs of treatment. The person requesting such records shall pay all reasonable costs connected therewith.

(c) In the event of any dispute regarding an insurer's right to discovery of facts about an injured person's earnings or about his history, condition, treatment, and dates and costs of such treatment, the insurer may petition a court of competent jurisdiction to enter an order permitting such discovery. The order may be made only on motion for good cause shown and upon notice to all persons having an interest, and it shall specify the time, place, manner, conditions, and scope of the discovery. Such court may, in order to protect against annoyance, embarrassment, or oppression, as justice requires, enter an order refusing discovery or specifying conditions of discovery and may order payments of costs and expenses of the proceeding, including reasonable fees for the appearance of attorneys at the proceedings, as justice requires.

(e) The injured person shall be furnished upon demand a copy of all information obtained by the insurer under the provisions of this section, and shall pay a reasonable charge, if required by the insurer.

(7) Mental and physical examination of injured person; reports.—

(a) Whenever the mental or physical condition of an injured person covered by personal injury protection is material to any claim that has been or may be made for past or future personal injury protection insurance benefits, such person shall, upon request of an insurer, submit to mental or physical examination by a physician or physicians. The costs of any examinations requested by an insurer shall be borne entirely by the insurer. Such examination shall be conducted within the city of residence of the insured. If there is no qualified physician to conduct the examination within the city of residence of the insured, then such examination shall be conducted in an area of the closest proximity to the insured's residence. Personal protection insurers are authorized to include reasonable provisions in personal injury protection insurance policies for mental and physical examination of those claiming personal injury protection insurance benefits.

(b) If requested by the person examined, a party causing an examination to be made shall deliver to him a copy of every written report concerning the examination rendered by an examining physician, at least one of which reports must set out his findings and conclusions in detail. After such request and delivery, the party causing the examination to be made is entitled upon request to receive from the person examined every written report available to him (or his representative) concerning any examination, previously or thereafter made, of the same mental or physical condition. By requesting and obtaining a report of the examination so ordered or by taking the deposition of the examiner, the person examined waives any privilege he may have, in relation to the claim for benefits, regarding the testimony of every other person who has examined or may thereafter examine him in respect of the same mental or physical condition.

(8) With respect to any dispute under the provisions of this act between the insured and the insurer, the provisions of section 627.0127, Florida Statutes, shall apply.

Section 8. Tort exemption; limitation on right to damages.—

(1) Every owner, registrant, operator or occupant of a motor vehicle with respect to which security has been provided as required by this act, and every person or organization legally responsible for his acts or omissions, is hereby exempted from tort liability for damages because of bodily injury, sickness or disease arising out of the ownership, operation, maintenance or use of such motor vehicle in this state to the extent that the benefits described in subsection (1) of section 7 are payable for such injury, or would be payable but for any exclusion or deductible authorized by this act, under any insurance policy or other method of security complying with the requirements of section 4, or by an owner personally liable under section 4 for the payment of such benefits, unless a person is entitled to maintain an action for pain, suffering, mental anguish and inconvenience for such injury under the provisions of subsection (2) of this section.

(2) In any action of tort brought against the owner, registrant, operator or occupant of a motor vehicle with respect to which security has been provided as required by this act, or against any person or organization legally responsible for his acts or omissions, a plaintiff may recover damages in tort for pain, suffering, mental anguish and inconvenience because of bodily injury, sickness or disease arising out of the ownership, maintenance, operation or use of such motor vehicle only in the event that the benefits which are payable for such injury under paragraph (a) of subsection (1) of section 7 or which would be payable but for any exclusion or deductible authorized by this act exceed one thousand dollars ($1,000), or the injury or disease consists in whole or in part of permanent disfigurement, a fracture to a weight-bearing bone, a compound, comminuted, displaced or compressed fracture, loss of a body member, permanent injury within reasonable medical probability, permanent loss of a bodily function, or death. Any person who is entitled to receive free medical and surgical benefits shall be deemed

in compliance with the requirements of this subsection upon a showing that the medical treatment received has an equivalent value of at least one thousand dollars ($1,000). Any person receiving ordinary and necessary services normally performed by a nurse from a relative or a member of his household shall be entitled to include the reasonable value of such services in meeting the requirements of this subsection.

Section 9. (1) The owner of a motor vehicle as defined in section 3 is not required to maintain security with respect to property damage to his motor vehicle, but may elect to purchase either full or basic coverage for accidental property damage to his motor vehicle.

(2) Every insurer providing security under this act shall offer the owner either full or basic coverage for accidental property damage to the insured motor vehicle as follows:

(a) Full coverage shall provide insurance without regard to fault for accidents occurring within the United States of America, its territories or possessions or Canada.

(b) Basic coverage shall be limited to insurance against damage caused by the fault of another resulting from contact between the insured vehicle and a vehicle with respect to which security is required under this act.

(3) The insurer may include within the terms and conditions applicable to full or basic coverage such other provisions as it customarily applies to collision coverage for private passenger automobiles in other states, including deductibles without limitation.

(4) Every owner, registrant, operator or occupant of a motor vehicle with respect to which security has been provided as required by this act, and every other person or organization legally responsible for the acts or omissions of such an owner, registrant, operator or occupant, is hereby exempted from tort liability for damages because of accidental property damage to motor vehicles arising out of the ownership, operation, maintenance or use of such motor vehicle in this state, provided that a person shall not be exempt from such liability if he was operating the motor vehicle without the express or implied consent of its owner or an insured under the owner's policy or if his willful and wanton misconduct was the proximate cause of the accident. This exemption applies only with respect to property damage to motor vehicles subject to this act but shall not be applicable as to a motor vehicle damaging a parked vehicle.

(5) Notwithstanding paragraph (4) above, an owner who has elected not to purchase insurance with respect to property damage to his motor vehicle may maintain an action of tort therefor against the owner, registrant, operator or occupant of a motor vehicle causing such damage if such damage exceeds five hundred and fifty dollars ($550), and the insurer of an owner who has elected to purchase full or basic collision coverage for his motor vehicle shall have the right, if the damage to such motor vehicle exceeds the above amount, to recover the amount of the benefits it has paid and, in behalf of its insured, any deductible amount from the insurer of the owner, registrant, operator or occupant of a motor vehicle causing such damage. The issues of liability in such a case and the amount of recovery shall be decided on the basis of tort law, and shall be determined by agreement between the insurers involved, or if they fail to agree by arbitration.

Section 10. Each insurer providing security as required by this act to any owner shall, at the election of the owner, issue a policy endorsement, approved as to content by the department of insurance and subject to such other reasonable regulations regarding said endorsement as the department may make after appropriate hearing, which endorsement shall provide that there shall be deducted from personal protection benefits that would otherwise be or become due to the policyholder alone or to the policyholder and relatives residing in his household, an amount of either two hundred and fifty dollars ($250), five hundred dollars ($500) or one thousand dollars ($1,000), again as the policyholder elects, said amount to be deducted from the amounts otherwise due each person subject to the deduction. Any person electing such an endorsement or subject to such an endorsement as a result of the policyholder's election shall have no right to claim or to recover any amount so deducted from any owner, registrant, operator or occupant of a motor vehicle or any person or organization legally responsible for any such person's acts or omissions who is made exempt from tort liability by this act.

Section 11. Notwithstanding any other provision of this act, the rights of residents of this state to claim damages in tort shall not be diminished when such residents are involved in motor vehicle accidents with persons not required to provide security under this act.

Section 12. Implementation of this act.—

(1) The department of insurance shall adopt rules and regulations necessary to implement the provisions of this act.

(2) Notwithstanding any other provision of law, all insurers issuing insurance coverage under this act shall comply with the following provisions:

(a) Within sixty (60) days after the effective date of this act, each insurer shall file its proposed manual, rules, rates and rating plans with the department for approval. Rates for required financial responsibility coverage after the effective date of sections 1 through 11 of this act shall be reduced by each insurer by not less than fifteen percent (15%), calculated as a percentage of the combined required financial responsibility rate of such insurer in effect on June 7, 1971, or of the combined required financial responsibility rate of such insurer approved by the commissioner and in effect at the time of the filing of the new rates required herein. There shall be no exception to the requirements of this provision, unless the department shall find that the use of the rates required

herein by any insurer will result in rates which are inadequate under section 627.082, Florida Statutes, to the extent that such rates jeopardize the solvency, as defined in section 631.011, Florida Statutes, of the insurer required to use such rates. Notwithstanding the provisions of Chapter 71-3(B), Laws 1971, no rate for the insurance required by this act shall be increased prior to January 1, 1973, unless the insurer proposing such rate increase shall show that the rates required herein are inadequate as defined in section 627.082, Florida Statutes.

(b) Within sixty (60) days from the date of filing by such insurer, the department may approve or disapprove the filing. If no action is taken by the department within sixty (60) days, the filing shall be deemed approved.

(c) If the department approves the filing or the filing otherwise become effective, the manual, rules, rates and rating plans shall take effect upon the effective date of sections 1 through 11 of this act. If the department disapproves the filing, the insurer shall revert to a rate level for required coverage which shall be lower, by not less than fifteen percent (15%), than the combined premiums for required financial responsibility coverage at the time such proposed new rates were filed.

(d) Upon complying with this subsection, any insurer appealing an order of disapproval may use the rates set forth in the disapproved filing during the pendency of the appeal, so long as such rates do not exceed its rates for required financial responsibility coverage at the time of its rate filing required herein. As a condition to the use of such disapproved rates, the insurer must enter into a legally binding agreement with the department to secure the repayment to the insurer's policyholders of the difference between the insurer's proposed rate and that rate which would be lower, by not less than fifteen percent (15%), than the combined premiums for required financial responsibility coverage at the time such proposed new rates were filed. In addition to the repayment of the difference in premium, the company shall agree to pay to the insured the legal rate of interest on any money refunded.

(e) Any private passenger automobile liability policy in force on January 1, 1972 and thereafter, shall reflect by endorsement any reduction in rates for the required coverage under this act as filed by the insurer and such reduction shall be computed on a pro rata basis for the remaining term of said policy. Such endorsement may be issued at the renewal date of the policy or the termination of the policy. Any return premium shall be credited to the renewal policy or if the policy is terminated the return premium shall be refunded to the insured.

(f) For the purposes of the implementation of this act, rating organizations as defined in chapter 627 shall be permitted until January 1, 1972, to develop and furnish rates and forms to their members or subscribers. Provided, however, that members and subscribers of rating organizations shall not participate in the decisions or deliberations of such organizations in the development of such rates under this act.

Section 13. If any provision of this act, or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application. To this and the provisions of this act are declared to be severable.

Section 14. This act shall become effective July 1, 1971; provided, however the provisions of sections 1 through 11 of this act shall not become effective until January 1, 1972, and shall not apply to accidents or injuries occurring before said date.

Chapter 76-266, Laws 1976

House Bill Nos. 2825, 3042, 3043, 3044, 3155

An act relating to liability and insurance therefor; amending s. 324.021 (7), Florida Statutes; changing the financial responsibility limits; amending s. 324.051(2), Florida Statutes, changing the property damage operative amount in the financial responsibility law; amending s. 627.727(1), Florida Statutes, and adding a subsection; providing for limits of uninsured motorist coverage; amending s. 627.736 (2), (3), (6) and (7), Florida Statues; providing for the tolling of the 30-day personal injury protection benefit payment period under certain conditions; providing that no insurer paying personal injury protection benefits shall have a lien on recoveries in tort; providing that a claimant in any tort claim for which personal injury protection benefits have been paid shall have no right to recover in tort any damages for personal injury protection benefits paid; providing for jury instructions relating to said damages; deleting language relating to equitable distribution and insurer actions; providing that a sworn statement relating to treatment, services, and costs be provided the insurer by a physician, hospital, clinic or other medical institution; providing that no cause of action for invasion of privacy or violation of the physician-patient privilege shall be due to compliance with the discovery provisions of said section; providing that notice to an insurer of the existence of a claim shall not be unreasonably withheld by an insured; providing for the withholding of personal injury protection benefits when an insured unreasonably refuses to submit to a medical examination upon the request of an insurer; amending s. 627.737 (2), Florida Statutes, and adding a subsection; providing for conditions under which a plaintiff may recover damages in tort for bodily injury or disease arising out of the ownership, maintenance, operation or use of a motor vehicle; providing for dismissal without prejudice if the threshold provi-

sions of said section are not met; amending s. 627.739, Florida Statutes, relating to deductibles for personal injury protection benefits; creating s. 627.7375, Florida Statutes; prohibiting fraud or intent to commit fraud to violate part x of chapter 627, Florida Statutes; providing penalties; adding subsection (7) to s. 20.13, Florida Statutes, and creating s. 626.989, Florida Statutes, creating a Division of Fraudulent Claims within the Department of Insurance; creating s. 627.4132, Florida Statues; prohibiting stacking of coverages; creating s. 627.7377, Florida Statutes; providing for physical damage deductibles; creating s. 627.7262, Florida Statutes; providing for joinder of insurers and procedures for dismissal of insurers; repealing s. 627.738, Florida Statutes, relating to tort liability for property damage; repealing s. 627.740, Florida Statutes, relating to tort claims; repealing s. 627.741 (2), Florida Statutes, relating to compliance with ss. 627.730-627.741, Florida Statutes, by insurers; providing that the Department of Insurance shall review the level of automobile insurance rates; providing for severability; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (7) of section 324.021, Florida Statutes, is amended to read:

324.021 Definitions; minimum insurance required.—The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning.

(7) Proof of Financial Responsibility.—That proof of ability to respond in damages for liability on account of accidents arising out of the use of a motor vehicle in the amount of $10,000 because of bodily injury to, or death of, one person in any one accident; subject to said limits for one person, in the amount of $20,000 because of bodily injury to, or death of, two or more persons in any one accident; and in the amount of $5,000 because of injury to or destruction of property of others in any one accident.

Section 2. Subsection (2) of section 324.051, Florida Statutes, is amended to read:

324.051 Reports of accidents; suspensions of licenses and registrations.—

(2) (a) Thirty days after receipt of notice of any accident involving a motor vehicle within this state which has resulted in bodily injury or death to any person, or total damage of $500 or more to property, the department shall suspend the licenses of the operators and all registrations of the owners of the vehicles involved in such accident and in case of a nonresident owner or operator, shall suspend such nonresident's operating privilege in this state, unless such operator or owner shall prior to the expiration of such 30 days be found by the department to be exempt from the operation of this chapter, based upon evidence in its files satisfactory to the department that:

1. No injury was caused to the person or property of anyone other than such operator or owner, or

2. The motor vehicle was legally parked at the time of such accident, or

3. The motor vehicle was owned by the United States Government, this state, any political subdivision of this state or any municipality therein, or

4. Such operator or owner had been finally adjudicated not to be liable by a court of competent jurisdiction, or

5. Such operator or owner had secured a duly acknowledged written agreement providing for release from liability by all parties injured as the result of said accident and had complied with one of the provisions of s. 324.031, or

6. Such operator or owner has deposited with the Department of Insurance security to conform with s. 324.061, and has complied with one of the provisions of s. 324.031, or

7. One year has elapsed since such owner or operator was suspended pursuant to s. 324.051 (4), the owner or operator has complied with one of the provisions of s. 324.031, and no bill of complaint of which the department has notice has been filed in a court of competent jurisdiction.

(b) This subsection shall not apply:

1. To such operator or owner if such owner had in effect at the time of such accident an automobile liability policy with respect to the motor vehicle involved in such accident;

2. To such operator, if not the owner of such motor vehicle, if there was in effect at the time of such accident an automobile liability policy or bond with respect to his operation of motor vehicles not owned by him;

3. To such operator or owner if the liability of such operator or owner for damages resulting from such accident is, in the judgment of the department, covered by any other form of liability insurance or bond; nor

4. To any person who has obtained from the department a certificate of self-insurance in accordance with s. 324.171 or to any person operating a motor vehicle for such self-insurer.

No such policy or bond shall be effective under this subsection unless it contains limits of not less than those specified in s. 324.021 (7).

Section 3. Subsection (1) of section 627.727, Florida Statutes, is amended, subsections (2)-(4) are renumbered subsections (3)-(5), and a new subsection (2) is added to read:

627.727 Automobile liability insurance; uninsured vehicle coverage; insolvent insurer protection.—

(1) No automobile liability insurance covering liability arising out of the ownership, maintenance, or use of any motor vehicle shall be delivered or issued for delivery in this state with respect to any motor vehicle registered or principally garaged in this state unless coverage is provided therein or supplemental thereto for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of uninsured motor vehicles because of bodily injury, sickness or disease, including death, resulting therefrom; provided, however, that the coverage required under this section shall not be applicable when, or to the extent that, any insured named in the policy shall reject the coverage; and

provided further, that when a vehicle is leased for a period of 1 year or longer and the lessor of such vehicle by the terms of the lease contract provides liability coverage on the leased vehicle in a policy wherein the lessee is a named insured or on a certificate of a master policy issued to the lessor, the lessee of such vehicle shall have the sole privilege to reject uninsured motorist coverage. Unless the named insured, or lessee having the privilege of rejecting uninsured motorist coverage, requests such coverage in writing, the coverage need not be provided in or supplemental to a renewal policy where the named insured had rejected the coverage in connection with a policy previously issued to him by the same insurer. The coverage provided under this section shall be excess over but shall not duplicate the benefits available to an insured under any workmen's compensation law, personal injury protection benefits, disability benefits law, or any similar law; under any automobile liability or automobile medical expense coverages; or from the owner or operator of the uninsured motor vehicle or any other person or organization jointly or severally liable together with such owner or operator for the accident. Such coverage shall not inure directly or indirectly to the benefit of any workmen's compensation or disability benefits carrier or any person or organization qualifying as a self-insurer under any workmen's compensation or disability benefits law or any similar law.

(2) The limits of uninsured motorist coverage shall be not less than the limits of bodily injury liability insurance purchased by the named insured or such lower limit complying with the company's rating plan as may be selected by the named insured, but in any event the insurer shall make available, at the written request of the insured, limits up to $100,000 each person, $300,000 each occurrence, irrespective of the limits of bodily injury liability purchased, in compliance with the company's rating plan.

Section 4. Subsections (2), (3), (6), and (7) of section 627.736, Florida Statutes, are amended to read:

627.736 Required personal injury protection benefits; exclusions; priority.—

(2) Authorized Exclusions.—Any insurer may exclude benefits:

(a) For injury sustained by the named insured and relatives residing in the same household while occupying another motor vehicle owned by the named insured and not insured under the policy, or for injury sustained by any person operating the insured motor vehicle without the express or implied consent of the insured.

(b) To any injured person, if such person's conduct contributed to his injury under any of the following circumstances:

1. Causing injury to himself intentionally;

2. Being convicted of driving while under the influence of alcohol or narcotic drugs to the extent that his driving faculties are impaired;

3. While committing a felony.

Whenever an insured is charged with conduct as set forth in subparagraphs 2. or 3., the 30-day payment provision of paragraph (b) of subsection (4) shall be held in abeyance and the insurer shall withhold payment of any personal injury protection benefits pending the outcome of the case at the trial level. If the charge is nolle prosequi or dismissed or the insured is acquitted, the 30-day payment provision shall run from the date the insurer is notified of such action.

(Substantial rewording of subsection. See s. 627.736(3), F.S., for present text.)

(3) Insured's rights to recovery of special damages in tort claims.—No insurer shall have a lien on any recovery in tort by judgment, settlement, or otherwise, for personal injury protection benefits, whether suit has been filed or settlement has been reached without suit. An injured party or his legal representative who is entitled to bring suit under the provisions of s. 627.737 shall have no right to recover any damages for which personal injury protection benefits are paid or payable. The plaintiff may prove all of his special damages notwithstanding this limitation, but if special damages are introduced in evidence, the trier of facts, whether judge or jury, shall not award damages for personal injury protection benefits paid or payable. In all cases in which a jury is required to fix damages, the court shall instruct the jury that the plaintiff shall not recover such special damages for personal injury protection benefits paid or payable.

(6) Discovery of Facts About An Injured Person; Disputes.—

(a) Every employer shall, if a request is made by an insurer providing personal injury protection benefits under ss. 627.730-627.741 against whom a claim has been made, furnish forthwith, in a form approved by the Department of Insurance, a sworn statement of the earnings, since the time of the bodily injury and for a reasonable period before the injury, of the person upon whose injury the claim is based.

(b) Every physician, hospital, clinic, or other medical institution providing, before or after bodily injury upon which a claim for personal injury protection insurance benefits is based, any products, services, or accommodations in relation to that or any other injury, or in relation to a condition claimed to be connected with that or any other injury, shall, if requested to do so by the insurer against whom the claim has been made, furnish forthwith a written report of the history, condition, treatment, and dates and costs of such treatment of the injured person, together with a sworn statement that the treatment or services rendered were reasonable and necessary with respect to the bodily injury sustained and identifying which portion of the expenses for said treatment or services was incurred as a result of such bodily injury, and produce forthwith and permit the inspection and copying of his or its records regarding such history, condition, treatment, and dates and costs of treatment. Said sworn statement shall read as follows: "Under penalty of perjury I declare that I have read the foregoing and the facts alleged are true, to the best of my knowledge and belief." No cause of action for violation or physician-patient privilege or invasion of the right of privacy shall be against any physician, hospital, clinic or other medical institution com-

plying with the provisions of this section. The person requesting such records and said sworn statement shall pay all reasonable costs connected therewith.

(c) In the event of any dispute regarding an insurer's right to discovery of facts about an injured person's earnings or about his history, condition, treatment, and dates and costs of such treatment, the insurer may petition a court of competent jurisdiction to enter an order permitting such discovery. The order may be made only on motion for good cause shown and upon notice to all persons having an interest, and it shall specify the time, place, manner, conditions, and scope of the discovery. Such court may, in order to protect against annoyance, embarrassment, or oppression, as justice requires, enter an order refusing discovery or specifying conditions of discovery and may order payments of costs and expenses of the proceeding, including reasonable fees for the appearance of attorneys at the proceedings, as justice requires.

(d) The injured person shall be furnished upon request a copy of all information obtained by the insurer under the provisions of this section, and shall pay a reasonable charge, if required by the insurer.

(e) Notice to an insurer of the existence of a claim shall not be unreasonably withheld by an insured.

(7) Mental and Physical Examination of Injured Person; Reports.—

(a) Whenever the mental or physical condition of an injured person covered by personal injury protection is material to any claim that has been or may be made for past or future personal injury protection insurance benefits, such person shall, upon request of an insurer, submit to mental or physical examination by a physician or physicians. The costs of any examinations requested by an insurer shall be borne entirely by the insurer. Such examination shall be conducted within the city of residence of the insured. If there is no qualified physician to conduct the examination within the city of residence of the insured, then such examination shall be conducted in an area of the closest proximity to the insured's residence. Personal protection insurers are authorized to include reasonable provisions in personal injury protection insurance policies for mental and physical examination of those claiming personal injury protection insurance benefits.

(b) If requested by the person examined, a party causing an examination to be made shall deliver to him a copy of every written report concerning the examination rendered by an examining physician, at least one of which reports must set out his findings and conclusions in detail. After such request and delivery, the party causing the examination to be made is entitled upon request to receive from the person examined every written report available to him or his representative concerning any examination, previously or thereafter made, of the same mental or physical condition. By requesting and obtaining a report of the examination so ordered or by taking the deposition of the examiner, the person examined waives any privilege he may have, in relation to the claim for benefits, regarding the testimony of every other person who has examined or may thereafter examine him in respect of the same mental or physical condition. If a person unreasonably refuses to submit to an examination, the personal injury protection carrier is no longer liable for subsequent personal injury protection benefits.

Section 5. Subsection (2) of section 627.737, Florida Statutes, is amended and subsection (3) is added to read:

627.737 Tort exemption; limitation on right to damages.—

(2) In any action of tort brought against the owner, registrant, operator, or occupant of a motor vehicle with respect to which security has been provided as required by ss. 627.730-627.741, or against any person or organization legally responsible for his acts or omissions, a plaintiff may recover damages in tort for pain, suffering, mental anguish, and inconvenience because of bodily injury, sickness, or disease arising out of the ownership, maintenance, operation, or use of such motor vehicle only in the event that the injury or disease consists in whole or in part in:

(a) loss of a body member, or

(b) permanent loss of a bodily function, or

(c) permanent injury within a reasonable degree of medical probability other than scarring or disfigurement, or

(d) significant permanent scarring or disfigurement, or

(e) a serious non-permanent injury which has a material degree of bearing on the injured person's ability to resume his normal activity and life-style during all or substantially all of the ninety day period after the occurrence of the injury, and the effects of which are medically or scientifically demonstrable at the end of such period, or

(f) death.

(3) when a defendant, in a proceeding brought pursuant to ss. 627.730-627.741, questions whether the plaintiff has met the requirements of s. 627.737(2), then the defendant may file an appropriate motion with the court and the court shall, on a one-time basis only, 30 days before the date set for the trial or the pre-trial hearing, whichever is first, by examining the pleadings and the evidence before it, ascertain whether the plaintiff will be able to submit some evidence that the plaintiff will meet the requirements of s. 627.737(2). If the court finds that the plaintiff will not be able to submit such evidence then the court shall dismiss the plaintiff's claim without prejudice.

Section 6. Section 627.739, Florida Statutes, is amended to read:

627.739 Deductible endorsement.—Each insurer providing security as required by ss. 627.730-627.741 to any owner shall, at the election of the owner, issue a policy endorsement, approved as to content by the Department of Insurance and subject to such other reasonable regulations regarding said endorsement as the department may make after appropriate hearing, which endorsement shall provide that there shall be deducted from personal protection benefits that would other-

wise be or become due to the policyholder alone or to the policyholder and relatives residing in his household an amount of either $250, $500, or $1,000, or $2,000 again as the policyholder elects, said amount to be deducted from the amounts otherwise due each person subject to the deduction. Any person electing such an endorsement or subject to such an endorsement as a result of the policyholder's election shall have no right to claim or to recover any amount so deducted from any owner, registrant, operator, or occupant of a motor vehicle or any person or oganization legally responsible for any such person's acts or omissions who is made exempt from tort liability by ss. 627.730-627.741.

Section 7. Section 627.7375, Florida Statutes, is created to read:

627.7375 Fraud.—

(1) Any insured party or insurer or insurance adjuster who, with intent, knowingly and willfully conspires to fraudulently violate any of the provisions of this part, or who, due to fraud on such person's part, does knowingly and willfully violate any of the provisions of this part is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) Any physician licensed under chapter 458, osteopath licensed under chapter 459, chiropractor licensed under chapter 460, or any other practitioner licensed under the laws of this state who knowingly and willfully assists, conspires with, or urges any insured party to fraudulently violate any of the provisions of this part or any person who, due to such assistance, conspiracy, or urging by said physician, osteopath, chiropractor or practitioner, knowingly and willfully benefits from the proceeds derived from the use of such fraud is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. In the event that a physician, osteopath, chiropractor or practitioner is adjudicated guilty of a violation of this section, the State Board of Medical Examiners as set forth in chapter 458, the State Board of Osteopathic Medical Examiners as set forth in chapter 459, or the Florida State Board of Chiropractic Examiners as set forth in chapter 460, or other appropriate licensing authority, whichever is appropriate, shall hold an administrative hearing to consider the imposition of administrative sanctions as provided by law against said physician, osteopath, chiropractor or practitioner.

(3) Any attorney who knowingly and willfully assists, conspires with, or urges any claimant to fraudulently violate any of the provisions of this part or any person who, due to such assistance, conspiracy, or urging on such attorney's part, knowingly and willfully benefits from the proceeds derived from the use of such fraud is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) No person or governmental unit licensed under chapter 395 to maintain or operate a hospital, and no administrator or employee of any such hospital, shall knowingly and willfully allow the use of the facilities of said hospital by an insured party in a scheme or conspiracy to fraudulently violate any of the provisions of this part. Any hospital administrator or employee who violates this subsection is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Any adjudication of guilt for a violation of this section, or the use of business practices demonstrating a pattern indicating that the spirit of the law set forth in this part is not being followed, shall be grounds for suspension or revocation of the license to operate the hospital or the imposition of an administrative penalty of up to $5,000 by the licensing agency as set forth in chapter 395.

Section 8. Subsection (7) is added to Section 20.13, Florida Statutes, to read:

20.13 Department of Insurance.—There is created a Department of Insurance.

(7) There is created within the Department of Insurance a Division of Fraudulent Claims to enforce the provisions of s. 626.989.

Section 9. Section 626.989, Florida Statutes, is created to read:

626.989 Division of Fraudulent Claims; investigative powers; accident reports to division; personnel and expenses; division of costs.—

(1) The Division of Fraudulent Claims shall have authority to investigate allegedly fraudulent claims alleging loss or damages arising out of the ownership, operation, maintenance, or use of a motor vehicle, as defined in section 320.01, anywhere within the state, filed by a claimant against any person insured by an insurance company which has issued a policy of insurance providing protection or indemnity to the insured owner and to any other person operating, maintaining, or using such motor vehicle with the consent, expressed or implied, of the insured; and any other claim covered by insurance resulting from the ownership, operation, maintenance, or use of such motor vehicle.

(2) Any company which believes that such a fraudulent claim is being made shall, within 60 days of the receipt of such notice, send to the Division of Fraudulent Claims, on a form prescribed by the department, the information requested and such additional information relative to the accident and the parties claiming loss or damages because of the accident as the department may require. The Division of Fraudulent Claims shall review such reports and select such claims as, in its judgment, may require further investigation. It shall then cause an independent examination of the facts surrounding such claim to be made to determine the extent, if any, to which fraud, deceit, or intentional misrepresentation of any kind exists in the submission of the claim. The Division of Fraudulent Claims shall report any alledged violations of law which its investigations disclose to the appropriate licensing agency and state attorney having jurisdiction with respect to any such violation as provided in s. 624.310.

(3) No insurer, nor the employees or agents of any insurer, shall be subject to civil liability for libel or otherwise by virtue of the filing of reports or furnishing other information required by this section or required by the Division of Fraudulent

Claims as a result of the authority herein granted.

(4) All costs of administration and operation of said Division of Fraudulent Claims shall be borne by the insurers licensed to write motor vehicle insurance in this state. The Insurance Commissioner shall equally divide such costs among all such companies, charging each such company an identical amount adequate to provide the total cost of each fiscal year of operation. Such costs as derived by said assessment shall be allocated to the State Treasurer's and Insurance Commissioner's Regulatory Trust Fund. The total number of positions to be allocated to the Division of Fraudulent Claims shall not exceed 25 employees and the total cost shall not exceed $500,000 for said fiscal year.

Section 10. Section 627.4132, Florida Statutes, is created to read:

627.4132 Stacking of coverages prohibited.—If an insured or named insured is protected by any type of motor vehicle insurance policy for liability, uninsured motorist, personal injury protection, or any other coverage, the policy shall provide that the insured or named insured is protected only to the extent of the coverage he has on the vehicle involved in the accident; provided that if none of the insured's or named insured's vehicles is involved in the accident, coverage is available only to the extent of coverage on any one of the vehicles with applicable coverage. Coverage on any other vehicles shall not be added to or stacked upon that coverage. This section shall not apply to reduce the coverage available by reason of insurance policies insuring different named insureds.

Section 11. Section 627.7377, Florida Statutes, is created to read:

627.7377 Physical Damage Deductibles.—In providing collision coverage for physical damage to an insured's motor vehicle, insurers shall make available upon request deductibles of $500 or any other amount for which the parties may contract, subject to the insurer's filed rating plan.

Section 12. Section 627.7262, Florida Statutes, is created to read:

627.7262 Non-joinder of insurers.—(1) No motor vehicle liability insurer shall be joined as a party defendant in an action to determine the insured's liability; however, each insurer which does or may provide liability insurance coverage to pay all or a portion of any judgment which might be entered in the action shall file a statement, under oath of a corporate officer, setting forth the following information with regard to each known policy of insurance:

(a) The name of the insurer.

(b) The name of each insured.

(c) The limits of liability coverage.

(d) A statement of any policy or coverage defense which said insurer reasonably believes is available to said insurer filing the statement at the time of filing said statement.

(2) The statement required by subsection (1) shall be amended immediately upon discovery of facts calling for an amendment to said statement.

(3) If the statement or any amendment thereto indicates that a policy or coverage defense has been or will be asserted, then the insurer may be joined as a party.

(4) After the rendition of a verdict, or final judgment by the court if the case is tried without a jury, the insurer may be joined as a party and judgment may be entered by the court based upon the statement or statements herein required.

(5) The rules of discovery shall be available to discover the existence and policy provisions of liability insurance coverage.

Section 13. Sections 627.738, 627.740, and subsection (2) of section 627.741, Florida Statutes, are hereby repealed.

Section 14. Within 60 days after October 1, 1977, the Department of Insurance shall review the level of Florida automobile insurance rates for the purpose of insuring that premium or rate reductions resulting from the provisions of this act are being passed on to the insurance policy buyers.

Section 15. If any provision of this act or the application thereof to any person or circumstance is held invalid, it is the legislative intent that the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 16. This act shall take effect October 1, 1976, and shall apply to all claims arising out of accidents occurring on or after said date.

Approved, June 27, 1976

1977, Senate Bill 1181*

Be it enacted by the Legislature of the State of Florida:

Section 1. Short Title.—This act shall be known and may be cited as "The Florida Insurance and Tort Reform Act of 1977."

Section 4. Subsection (3) is added to section 320.02, Florida Statutes, to read:

320.02 Application for registration; forms.—

(3) (a) Proof that personal injury protection benefits have been purchased when required under s. 627.733 shall be made by the applicant at the time of registration of any motor vehicle owned as defined in s. 627.732. The issuing agent shall refuse to issue registration if such proof of purchase is not made. Insurers shall furnish uniform proof

*NOTE: Only sections of bill dealing with no-fault are reproduced here.

of purchase cards in such form as prescribed by the Department of Highway Safety and Motor Vehicles, and such card, or an insurance policy, an insurance policy binder, a certificate of insurance, or such proof as may be prescribed by the Department of Highway Safety and Motor Vehicles shall be accepted as such proof. As an aid in implementing Section 42 of this Act such cards shall also indicate the existence of any bodily injury liability insurance voluntarily purchased. The Department of Insurance shall require that such uniform cards as specified by the Department of Highway Safety and Motor Vehicles be furnished by insurers providing such benefits. Any person altering such card or duplicating or counterfeiting such card in order to furnish such proof or to permit another person to furnish such proof shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) When an operator owning a motor vehicle or motor vehicles comes under the operation of the financial responsibility requirements of chapter 324, such operator shall provide proof of compliance with such financial responsibility requirements at the time of registration of any such motor vehicle through the use of a uniform proof of purchase of insurance card specifying such coverage, or an insurance policy, an insurance policy binder, a certificate of insurance, or by such other method of furnishing such proof as may be required by the Department of Highway Safety and Motor Vehicles. The issuing agent shall refuse to issue registration of a motor vehicle if such proof of purchase is not made. The Department of Insurance shall require that such uniform cards as specified by the Department of Highway Safety and Motor Vehicles be furnished by insurers writing motor vehicle liability insurance in this state. Any person altering such card or duplicating or counterfeiting such card in order to furnish such proof or to permit another person to furnish such proof shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 6. Subsections (1) and (2) of section 324.021, Florida Statutes, 1976 Supplement, are amended to read:

324.021 Definitions; minimum insurance required.—The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

(1) Motor Vehicle.—Every self-propelled vehicle which is designed and required to be licensed for use upon a highway, including trailers and semitrailers designed for use with such vehicles, except traction engines, road rollers, farm tractors, power shovels, and well drillers, and every vehicle which is propelled by electric power obtained from overhead wires but not operated upon rails, but not including any bicycle or "moped," as defined in s. 316.003 (2). However, the term "motor vehicle" shall not include any motor vehicle as defined in s. 627.732 (1), when the owner of such vehicle has complied with the requirements of ss. 627.730-627.741, inclusive, unless the provisions of s. 324.051 apply, and in such case until January 1, 1979, such owner shall establish proof of compliance with such sections in the manner provided for evidence of insurance as set forth in s. 325.19 (7) at the time of inspection of any such motor vehicle, and after such date the applicable proof of insurance provisions of s. 320.02 shall apply.

(2) Department.—The Department of Highway Safety and Motor Vehicles Insurance.

Section 20. Present subsections (2), (3) and (4) of section 626.989, Florida Statutes, 1976 Supplement, are renumbered as subsections (4), (5) and (6), respectively, and new subsections (1), (2), (3) and (4) are added to said section to read:

626.989 Division of Fraudulent Claims; investigative powers; subpoena powers; accident reports to division; personnel and expenses; division of costs.—

(1) If, by its own inquiries or as a result of complaints, the Division of Fraudulent Claims has reason to believe that a person has engaged in, or is engaging in, an act or practice that violates s. 627.7375 or s. 624.15, it may administer oaths and affirmations, request the attendance of witnesses or proffering of matter, and collect evidence. The department shall not compel the attendance of any person or matter in any such investigation except pursuant to subsection (3).

(2) If matter that the division seeks to obtain by request is located outside the state, the person so requested may make it available to the division or its representative to examine the matter at the place where it is located. The division may designate representatives, including officials of the state in which the matter is located, to inspect the matter on its behalf and it may respond to similar requests from officials of other states.

(3) The division may request that an individual who refuses to comply with any such request be ordered by the circuit court to provide the testimony or matter. The court shall not order such compliance unless the division has demonstrated to the satisfaction of the court that the testimony of the witness or the matter under request has a direct bearing on a violation of s. 627.7375 or s. 624.155 or is pertinent and necessary to further such investigation. Except in a prosecution for perjury, an individual who complies with a court order to provide testimony or matter after asserting a privilege against self-incrimination to which he is entitled by law may not be subjected to a criminal proceeding or to a civil penalty with respect to the act concerning which he is required to testify or produce relevant matter.

(4) The department's papers, documents, reports or evidence relative to the subject of an investigation under this section shall not be subject to public inspection for so long as the department deems reasonably necessary to complete the investigation, to protect the person investigated from unwarranted injury, or to be in the public interest. Further, such papers, documents, reports or evidence relative to the subject of an investigation under this section shall not be subject to subpoena until opened for public inspection by the department,

unless the department consents; or after notice to the department and a hearing, the court determines the department would not be unnecessarily hindered by such subpoena.

Section 30. Subsection (3) of section 627.727, Florida Statutes, is amended and subsections (6) and (7) are added to said section to read:

627.727 Automobile liability insurance; uninsured vehicle coverage; insolvent insurer protection.—

(3) For the purpose of this coverage, the term "uninsured motor vehicle" shall, subject to the terms and conditions of such coverage, be deemed to include an insured motor vehicle when the liability insurer thereof:

(a) Is unable to make payment with respect to the legal liability of its insured within the limits specified therein because of insolvency; or

(b) Has provided limits of bodily injury liability for its insured which are less than the limits applicable to the injured person provided under his uninsured motorist's coverage, applicable to the injured person.

(6) If an injured person or in the case of death, the personal representative, agrees to settle a claim with a liability insurer and its insured for the limits of liability, and such settlement would not fully satisfy the claim for personal injuries or wrongful death so as to create an uninsured motorist claim against the uninsured motorist insurer, then such settlement agreement shall be submitted in writing to the uninsured motorist insurer, which shall have a period of 30 days from receipt thereof in which to agree to arbitrate the uninsured motorist claim and approve the settlement, waive its subrogation rights against the liability insurer and its insured, and authorize the execution of a full release. If the uninsured motorist insurer does not agree within 30 days to arbitrate the uninsured motorist claim and approve the proposed settlement agreement, waive its subrogation rights against the liability insurer and its insured, and authorize the execution of a full release, the injured person or in the case of death, the personal representative, may file suit joining the liability insurer's insured and the uninsured motorist insurer to resolve their respective liability for any damages to be awarded; provided, however, that in such action, the liability insurer's coverage shall first be exhausted before any award may be entered against the uninsured motorist insurer, and any such award against the uninsured motorist insurer shall be excess and subject to the provisions of s. 627.727 (1). Any award in such action against the liability insurer's insured shall be binding and conclusive as to the injured person and uninsured motorist insurer's liability for damages up to its coverage limits. The provisions of s. 627.428 shall not apply to any section brought pursuant to this section against the uninsured motorist insurer.

(7) The legal liability of an uninsured motorist coverage insurer shall not include damages in tort for pain, suffering, mental anguish and inconvenience unless the injury or disease is described in one or more of paragraphs (a) through (f) of s. 627.737 (2).

Section 33. Section 627.736, Florida Statutes, 1976 Supplement, is amended to read:

627.736 Required personal injury protection benefits; exclusions; priority.—

(1) Required Benefits.—Every insurance policy complying with the security requirements of s. 627.733 shall provide personal injury protection providing for payment of all reasonable expenses incurred for necessary medical, surgical, X-ray, dental, and rehabilitative services, including prosthetic devices; necessary ambulance, hospital, nursing services; and funeral and disability benefits to the named insured, relatives residing in the same household, persons operating the insured motor vehicle, passengers in such motor vehicle, and other persons struck by such motor vehicle and suffering bodily injury while not an occupant of a self-propelled motor vehicle or motorcycle, all as specifically provided in subsections (2) and (4) (d), to a limit of $5,000 for loss sustained by any such person as a result of bodily injury, sickness, disease, or death arising out of the ownership, maintenance, or use of a motor vehicle as follows:

(a) Medical benefits.—Eighty percent of all reasonable expenses for necessary medical, surgical, X-ray, dental, and rehabilitative services, including prosthetic devices, and necessary ambulance, hospital, and nursing services. Such benefits shall also include necessary remedial treatment and services recognized and permitted under the laws of the state for an injured person who relies upon spiritual means through prayer alone for healing, in accordance with his religious beliefs.

(b) Disability benefits.—Eighty percent of any loss of gross income and loss of earning capacity per individual, unless such benefits are deemed not includable in gross income for federal income tax purposes, in which event such benefits shall be limited to 60 percent, from inability to work proximately caused by the injury sustained by the injured person, plus all expenses reasonably incurred in obtaining from others ordinary and necessary services in lieu of those that, but for the injury, the injured person would have performed without income for the benefit of his household. All disability benefits payable under this provision shall be paid not less than every 2 weeks.

(c) Any insurer providing medical or disability benefits which have been reduced under this section shall also provide a corresponding rate reduction to the insured in proportion to reduction of benefits provided.

(d) Funeral, burial or cremation benefits.—Funeral, burial, or cremation expenses in an amount not to exceed $1,000 per individual.

(e) Only insurers writing motor vehicle liability insurance in this state may provide the required benefits of this section and no such insurer shall require the purchase of any other motor vehicle coverage as a condition for providing such required benefits. Such insurers shall make such benefits available through normal marketing channels. Any insurer writing motor vehicle liability insurance in this state failing to comply with such availability requirement as a general business practice shall be deemed to have violated part VII of Chapter 626

and such violation shall constitute an unfair method of competition or an unfair or deceptive act or practice involving the business of insurance, and any such insurer committing such violation shall be subject to the penalties afforded in such part as well as those which may be afforded elsewhere in the insurance code.

(2) Authorized Exclusions.—Any insurer may exclude benefits:

(a) For injury sustained by the named insured and relatives residing in the same household while occupying another motor vehicle owned by the named insured and not insured under the policy or for injury sustained by any person operating the insured motor vehicle without the express or implied consent of the insured.

(b) To any injured person, if such person's conduct contributed to his injury under any of the following circumstances:

1. Causing injury to himself intentionally;

2. Being convicted of driving while under the influence of alcohol or narcotic drugs to the extent that his driving faculties are impaired;

3. While committing a felony.

Whenever an insured is charged with conduct as set forth in subparagraphs 2. or 3., the 30-day payment provision of paragraph (4) (b) shall be held in abeyance, and the insurer shall withhold payment of any personal injury protection benefits pending the outcome of the case at the trial level. If the charge is nolle prossed or dismissed or the insured is acquitted, the 30-day payment provision shall run from the date the insurer is notified of such action.

(3) Insured's rights to recovery of special damages in tort claims.—No insurer shall have a lien on any recovery in tort by judgment, settlement, or otherwise for personal injury protection benefits, whether suit has been filed or settlement has been reached without suit. An injured party who is entitled to bring suit under the provisions of s. 627.737, or his legal representative, shall have no right to recover any damages for which personal injury protection benefits are paid or payable. The plaintiff may prove all of his special damages notwithstanding this limitation, but if special damages are introduced in evidence, the trier of facts, whether judge or jury, shall not award damages for personal injury protection benefits paid or payable. In all cases in which a jury is required to fix damages, the court shall instruct the jury that the plaintiff shall not recover such special damages for personal injury protection benefits paid or payable.

(4) Benefits; When Due.—Benefits due from an insurer under ss. 627.730-627.741 shall be primary, except that benefits received under any workmen's compensation law or Medicaid as provided under 42 USC 1396 et seq. shall be credited against the benefits provided by subsection (1) and be due and payable as loss accrues, upon receipt of reasonable proof of such loss and the amount of expenses and loss incurred which are covered by the policy issued under ss. 627.730-627.741.

(a) An insurer may require written notice to be given as soon as practicable after an accident involving a motor vehicle with respect to which the policy affords the security required by ss. 627.730-627.741.

(b) Personal injury protection insurance benefits shall be overdue if not paid within 30 days after the insurer is furnished written notice of the fact of a covered loss and of the amount of same. If such written notice is not furnished to the insurer as to the entire claim, any partial amount supported by written notice is overdue if not paid within 30 days after such written notice is furnished to the insurer. Any part or all of the remainder of the claim that is subsequently supported by written notice is overdue if not paid within 30 days after such written notice is furnished to the insurer. However, any payment shall not be deemed overdue when the insurer has reasonable proof to establish that the insurer is not responsible for the payment, notwithstanding that written notice has been furnished to the insurer. For the purpose of of calculating the extent to which any benefits are overdue, payment shall be treated as being made on the date a draft or other valid instrument which is equivalent to payment was placed in the United States mail in a properly addressed, postpaid envelope or, if not so posted, on the date of delivery.

(c) All overdue payments shall bear simple interest at the rate of 10 percent per annum.

(d) The insurer of the owner of a motor vehicle shall pay personal injury protection benefits for:

1. Accidental bodily injury sustained in this state by the owner while occupying a motor vehicle, or while not an occupant of a self-propelled vehicle if the injury is caused by physical contact with a motor vehicle.

2. Accidental bodily injury sustained outside this state but within the United States of America, its territories or possessions, or Canada by the owner while occupying the owner's motor vehicle.

3. Accidental bodily injury sustained by a relative of the owner residing in the same household, under the circumstances described in subparagraph 1. or subparagraph 2., provided the relative at the time of the accident is domiciled in the owner's household and is not himself the owner of a motor vehicle with respect to which security is required under ss. 627.730-627.741.

4. Accidental bodily injury sustained in this state by any other person while occupying the owner's motor vehicle or, if a resident of this state, while not an occupant of a self-propelled vehicle if the injury is caused by physical contact with such motor vehicle, provided the injured person is not himself:

a. The owner of a motor vehicle with respect to which security is required under ss. 627.730-627.741, or

b. Entitled to personal injury benefits from the insurer of the owner or owners of such a motor vehicle.

(e) If two or more insurers are liable to pay personal injury protection benefits for the same injury to any one person the maximum payable shall be

as specified in subsection (1), and any insurer paying the benefits shall be entitled to recover from each of the other insurers an equitable pro rata share of the benefits paid and expenses incurred in processing the claim.

(5) Charges for treatment of injured persons.— Any physician, hospital, clinic, or other person or institution lawfully rendering treatment to an injured person for a bodily injury covered by personal injury protection insurance may charge only a reasonable amount for the products, services, and accommodations rendered and the insurer providing such coverage may pay for such charges directly to such person or institution lawfully rendering such treatment if the insured receiving such treatment or his guardian has countersigned the invoice or bill upon which such charges are to be paid as being actually rendered to the best knowledge of the insured or his guardian. In no event, however, may such a charge be in excess of the amount the person or institution customarily charges for like products, services, and accommodations in cases involving no insurance.

(6) Discovery of facts about an injured person; disputes.--

(a) Every employer shall, if a request is made by an insurer providing personal injury protection benefits under ss. 627.730-627.741 against whom a claim has been made, furnish forthwith, in a form approved by the Department of Insurance, a sworn statement of the earnings, since the time of the bodily injury and for a reasonable period before the injury, of the person upon whose injury the claim is based.

(b) Every physician, hospital, clinic, or other medical institution providing, before or after bodily injury upon which a claim for personal injury protection insurance benefits is based, any products, services, or accommodations in relation to that or any other injury, or in relation to a condition claimed to be connected with that or any other injury, shall, if requested to do so by the insurer against whom the claim has been made, furnish forthwith a written report of the history, condition, treatment, dates, and costs of such treatment of the injured person, together with a sworn statement that the treatment or services rendered were reasonable and necessary with respect to the bodily injury sustained and identifying which portion of the expenses for said treatment or services was incurred as a result of such bodily injury, and produce forthwith, and permit the inspection and copying of, his or its records regarding such history, condition, treatment, dates, and costs of treatment. Said sworn statement shall read as follows: "Under penalty of perjury, I declare that I have read the foregoing, and the facts alleged are true, to the best of my knowledge and belief." No cause of action for violation of physician-patient privilege or invasion of the right of privacy shall be against any physician, hospital, clinic, or other medical institution complying with the provisions of this section. The person requesting such records and said sworn statement shall pay all reasonable costs connected therewith.

(c) In the event of any dispute regarding an insurer's right to discovery of facts about an injured person's earnings or about his history, condition, and treatment, and dates and costs of such treatment, the insurer may petition a court of competent jurisdiction to enter an order permitting such discovery. The order may be made only on motion for good cause shown and upon notice to all persons having an interest, and it shall specify the time, place, manner, conditions, and scope of the discovery. Such court may, in order to protect against annoyance, embarrassment, or oppression, as justice requires, enter an order refusing discovery or specifying conditions of discovery and may order payments of costs and expenses of the proceeding, including reasonable fees for the appearance of attorneys at the proceedings, as justice requires.

(d) The injured person shall be furnished, upon request, a copy of all information obtained by the insurer under the provisions of this section, and shall pay a reasonable charge, if required by the insurer.

(e) Notice to an insurer of the existence of a claim shall not be unreasonably withheld by an insured.

(7) Mental and physical examination of injured person; reports.—

(a) Whenever the mental or physical condition of an injured person covered by personal injury protection is material to any claim that has been or may be made for past or future personal injury protection insurance benefits, such person shall, upon request of an insurer, submit to mental or physical examination by a physician or physicians. The costs of any examinations requested by an insurer shall be borne entirely by the insurer. Such examination shall be conducted within the city of residence of the insured. If there is no qualified physician to conduct the examination within the city of residence of the insured, then such examination shall be conducted in an area of the closest proximity to the insured's residence. Personal protection insurers are authorized to include reasonable provisions in personal injury protection insurance policies for mental and physical examination of those claiming personal injury protection insurance benefits.

(b) If requested by the person examined, a party causing an examination to be made shall deliver to him a copy of every written report concerning the examination rendered by an examining physician, at least one of which reports must set out his findings and conclusions in detail. After such request and delivery, the party causing the examination to be made is entitled, upon request, to receive from the person examined every written report available to him or his representative concerning any examination, previously or thereafter made, of the same mental or physical condition. By requesting and obtaining a report of the examination so ordered or by taking the deposition of the examiner, the person examined waives any privilege he may have,

in relation to the claim for benefits, regarding the testimony of every other person who has examined, or may thereafter examine, him in respect to the same mental or physical condition. If a person unreasonably refuses to submit to an examination, the personal injury protection carrier is no longer liable for subsequent personal injury protection benefits.

(8) With respect to any dispute under the provisions of ss. 627.730-627.741 between the insured and the insurer, the provisions of s. 627.428 shall apply.

Section 36. Section 627.7375, Florida Statutes, 1976 Supplement, is amended to read:

627.7375 False and fraudulent claims.—

(1) Any person who, with the intent to injure, defraud or deceive any insurance company:

(a) Presents or causes to be presented any written or oral statement as part of or in support of a claim for payment or other benefit pursuant to an insurance policy, knowing that such statement contains any false, incomplete, or misleading information concerning any fact or thing material to such claim; or

(b) Prepares or makes any written or oral statement that is intended to be presented to any insurance company in connection with or in support of any claim for payment in other benefit pursuant to an insurance policy, knowing that such statement contains any false, incomplete, or misleading information concerning any fact or thing material to such claim is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) All claims forms shall contain a statement in a form approved by the department that clearly states in substance the following: "Any person who knowingly and with intent to injure, defraud or deceive any insurance company files a statement of claim containing any false, incomplete or misleading information is guilty of a felony of third degree."

(2) Any physician licensed under chapter 458, osteopath licensed under chapter 459, chiropractor licensed under chapter 460, or any other practitioner licensed under the laws of this state who knowingly and willfully assists, conspires with, or urges any insured party to fraudulently violate any of the provisions of this part, or any person who, due to such assistance, conspiracy, or urging by said physician, osteopath, chiropractor, or practitioner, knowingly and willfully benefits from the proceeds derived from the use of such fraud, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. In the event that a physician, osteopath, chiropractor, or practitioner is adjudicated guilty of a violation of this section, the State Board of Medical Examiners as set forth in chapter 458, the State Board of Osteopathic Medical Examiners as set forth in chapter 459, or the Florida State Board of Chiropractic Examiners as set forth in chapter 460, or other appropriate licensing authority, whichever is appropriate, shall hold an administrative hearing to consider the imposition of administrative sanctions as provided by law against said physician, osteopath, chiropractor, or practitioner.

(3) Any attorney who knowingly and willfully assists, conspires with, or urges any claimant to fraudulently violate any of the provisions of this part, or any person who, due to such assistance, conspiracy, or urging on such attorney's part, knowingly and willfully benefits from the proceeds derived from the use of such fraud, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) No person or governmental unit licensed under chapter 395 to maintain or operate a hospital, and no administrator or employee of any such hospital, shall knowingly and willfully allow the use of the facilities of said hospital by an insured party in a scheme or conspiracy to fraudulently violate any of the provisions of this part. Any hospital administrator or employee who violates this subsection is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Any adjudication of guilt for a violation of this section, or the use of business practices demonstrating a pattern indicating that the spirit of the law set forth in this part is not being followed, shall be grounds for suspension or revocation of the license to operate the hospital or the imposition of an administrative penalty of up to $5,000 by the licensing agency as set forth in chapter 395.

(5) Any insurance company damaged as a result of a violation of any provision of this section or where there has been a criminal adjudication of guilt shall have a cause of action to recover compensatory damages, plus all reasonable investigation and litigation expenses including attorneys' fees at the trial and appellate courts.

(6) For the purposes of this section "statement" includes, but is not limited to, any notice, statement, proof of loss, bill of lading, invoice, account, estimate of property damages, bill for services, diagnosis, prescription, hospital or doctor records, x-ray, test result, or other evidence of loss, injury, or expense.

(7) The provisions of this section shall also apply as to any insurer or adjusting firm or their agents or representatives who with intent, injures, defrauds, or deceives any claimant with regard to any claim. The claimant shall have the right to recover the damages provided in this section.

(8) It is unlawful for any person, in his individual capacity or in his capacity as a public or private employee, or for any firm, corporation, partnership, or association to solicit any business in and about city receiving hospitals, city and county receiving hospitals, county hospitals, justice courts, municipal courts, or in any public institution or in any public place or upon any public street or highway or in and about private hospitals, sanitariums or in and about any private institution or upon private property of any character whatsoever for the purpose of making motor vehicle tort claims. Any person who violates the provisions of this subsec-

tion is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(9) It is unlawful for any attorney to solicit any business relating to the representation of persons injured in a motor vehicle accident for the purpose of filing a motor vehicle tort claim. Any attorney who violates the provisions of this subsection is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Whenever any circuit or special grievance committee acting under the jurisdiction of the Supreme Court shall find probable cause to believe that an attorney is guilty of a violation of this section, such committee shall forward to appropriate state attorney a copy of the finding of probable cause and the report being filed in the matter.

Section 37. Section 627.739, Florida Statutes, 1976 Supplement, is amended to read:

627.739 Personal injury protection; optional limitations; deductibles.—In order to prevent duplication with other private or governmental insurance or benefits for senior citizens and others with access to such insurance or benefits, each insurer providing the coverage and benefits described in s. 627.736 (1) shall offer to the named insured's: modified forms of personal injury protection as described in this section. Such election may be made by the named insured to apply to the named insured alone, or to the named insured and dependent relatives residing in the same household. Any person electing such modified coverage or subject to such modified coverage as a result of the named insured's election shall have no right to claim or to recover any amount so deducted from any owner, registrant, operator or occupant of a vehicle or any person or organization legally responsible for any such person's acts or omissions who is made exempt from tort liability by ss. 627.730-627.741. Premium reductions for each modification or combination of modifications shall be adequate to recognize the reduction in hazard and shall be subject to the approval of the Department of Insurance.

(1) Insurers shall offer to each applicant and to each policyholder upon the renewal of an existing policy, deductibles, in amounts of $250, $500, $1,000, and $2,000, $3,000 and $4,000 said amount to be deducted from the benefits otherwise due each person subject to the deduction and shall explain to each applicant or policyholder that if they have coverage under private or governmental disability plans they may avail themselves of deductibles or other modifications as provided in subsections (1), (2), and (3).

(2) Insurers shall offer coverage wherein at the election of the named insured all benefits payable under 42 USC 1395, the federal "medicare" program, or to active or retired military personnel and their dependent relatives shall be deducted from those benefits otherwise payable pursuant to s. 627.736 (1).

(3) Insurers shall offer coverage wherein at the election of named insured the benefits for loss of gross income and loss of earning capacity described in s. 627.736 (1) (b) shall be excluded.

(4) Insurers shall offer, at the election of the named insured, one of the following options:

(a) Either a direct payment to the policyholder or a payment to any person, corporation, association or other business entity which performs repair work upon the motor vehicle, or a combination of the foregoing; or

(b) A payment to any person, corporation, association, or other business entity performing repair work upon the motor vehicle, where the payee is under contract with the insurer to perform such work at stipulated rates which are no greater than eighty-five (85) percent of prevailing rates for similar work within the county where the payee performs the work upon the motor vehicle.

(5) Each insurer may prepare and distribute to each of its policyholders a listing of all business entities under contract with the insurer to perform motor vehicle repair work at the rates described in paragraph (1) (b) of this section. The listing shall include a clear and plain explanation of the options provided as required by this section, and shall further state that if the policyholder elects to have required motor vehicle repair work done by any such business entity, the rates stipulated in the contract with the insurer shall be all of the consideration which the business entity will demand for such work and shall be paid by the insurer.

(6) Insurers may offer coverage wherein at the election of the named insured medical services shall be limited to specified medical providers, including hospitals, which specified medical provider may be a health maintenance organization, as provided in chapter 641, part II, Florida Statutes.

Section 43. There shall be no private passenger motor vehicle insurance rate increases for bodily injury liability, personal injury protection benefits, or uninsured motorist coverage, excluding rates charged for coverage under the automobile joint underwriting association established under s. 627.351 (1), prior to January 1, 1978. The rate cap provided by this section shall take effect at 12:01 a.m., June 4, 1977. This shall not prevent rate reduction.

Section 44. If any provision of this act, or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application. To this end the provisions of this act are declared to be severable.

Section 45. This act shall take effect July 1, 1977, and shall apply to all claims arising out of accidents ocurring after said date, except that: section 4 shall take effect January 1, 1978; sections 19, 21, 22, 23, 24, 25, 31, 32, 33, and 37 shall take effect September 1, 1977; and sections 43, 44, and 45 shall take effect upon becoming a law.

Became law July 5, 1977, without governor's signature

Chapter 78-374, Laws 1978
Senate Bill No. 1308

An act relating to motor vehicle insurance; amending s. 627.727 (7), Florida Statutes; providing that uninsured motorist coverage shall not include damages for pain and suffering except for specified injuries or death; amending s. 627.732 (1), Florida Statutes; providing definitions of "motor vehicle", "private passenger motor vehicle", and "commercial motor vehicle"; amending s. 627.736 (1), Florida Statutes; providing for $10,000 in personal injury protection coverage; amending s. 627.737 (2), Florida Statutes; providing for limitations on rights to damages for pain, suffering, mental anguish, and inconvenience in tort actions arising out of use of a motor vehicle; amending s. 627.7372 (1), Florida Statutes; providing for the admission into evidence in certain actions the amount of all collateral sources paid or payable to the claimant, and prohibiting an award of damages which are otherwise paid or payable; amending s. 627.739 (1), Florida Statutes, relating to personal injury protection to revise amounts of deductibles; creating s. 627.7405, Florida Statutes; providing personal injury protection benefits for the insured, certain relatives, operators, and passengers of a commercial motor vehicle or other Florida residents struck by a commercial motor vehicle in Florida; repealing s. 627.735 (2), Florida Statutes, relating to the compliance of motor vehicle liability insurance policies with financial responsibility or compulsory insurance laws of other states; providing for review by the Department of Insurance of the rates of all licensed motor vehicle insurers; providing for issuance of orders by the Department of Insurance to require new rate schedules where existing rates are unfairly discriminatory; creating s. 627.343, Florida Statutes; requiring the Department of Insurance to promulgate a uniform statewide reporting system to classify risks for the purpose of evaluating motor vehicle insurance rates, premiums, competition, and availability; requiring insurers to file annual statements with the department; providing that the department may require insurers to report certain loss and expense experience; repealing s. 627.342, Florida Statutes, which provides for annual risk classification reporting by insurers; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (7) of section 627.727, Florida Statutes, is amended to read:

627.727 Automobile liability insurance; uninsured vehicle coverage; insolvent insurer protection.—

(7) The legal liability of an uninsured motorist coverage insurer shall not include damages in tort for pain, suffering, mental anguish, and inconvenience unless the injury or disease is described in one or more of paragraphs (a) through (d) of s. 627.737 (2).

Section 2. Subsection (1) of section 627.732, Florida Statutes, is amended to read:

627.732 Definitions.—As used in ss. 627.730-627.741:

(1) "Motor vehicle" means any self-propelled vehicle which is of a type both designed and required to be licensed for use on the highways of this state and any trailer or semi-trailer designed for use with such vehicle, except mopeds, as defined in s. 316.003 (2), and includes:

(a) A "private passenger motor vehicle" which is any motor vehicle which is a sedan, station wagon or jeep type vehicle not used at any time as a public or livery conveyance for passengers and, if not used primarily for occupational, professional or business purposes, a motor vehicle of the pickup, panel, van, camper or motor home type.

(b) A "commercial motor vehicle" which is any motor vehicle which is not a private passenger motor vehicle.

The term motor vehicle, however, does not include any self-propelled vehicle with less than four wheels or a mobile home.

Section 3. Subsection (1) of section 627.736, Florida Statutes, is amended to read:

627.736 Required personal injury protection benefits; exclusions; priority.—

(1) REQUIRED BENEFITS.—Every insurance policy complying with the security requirements of s. 627.733 shall provide personal injury protection providing for payment of all reasonable expenses incurred for necessary medical, surgical, X-ray, dental, and rehabilitative services, including prosthetic devices; necessary ambulance, hospital, and nursing services; and funeral and disability benefits to the named insured, relatives residing in the same household, persons operating the insured motor vehicle, passengers in such motor vehicle, and other persons struck by such motor vehicle and suffering bodily injury while not an occupant of a self-propelled vehicle, all as specifically provided in subsection (2) and paragraph (4) (d), to a limit of $10,000 for loss sustained by any such person as a result of bodily injury, sickness, disease, or death arising out of the ownership, maintenance, or use of a motor vehicle as follows:

Section 4. Subsection (2) of section 627.737, Florida Statutes, is amended to read:

627.737 Tort exemption; limitation on right to damages; punitive damages.—

(2) In any action of tort brought against the owner, registrant, operator, or occupant of a motor vehicle with respect to which security has been provided as required by ss. 627.730-627.741, or against any person or organization legally responsible for his acts or omissions, a plaintiff may recover damages in tort for pain, suffering, mental anguish, and inconvenience because of bodily injury, sickness, or disease arising out of the ownership, maintenance, operation, or use of such motor vehicle only in the event that the injury or disease consists in whole or in part of:

(a) Significant and permanent loss of an important bodily function.

(b) Permanent injury within a reasonable degree of medical probability, other than scarring or dis-

figurement.

(c) Significant and permanent scarring or disfigurement.

(d) Death.

Section 5. Subsection (1) of section 627.7372, Florida Statutes, is amended to read:

627.7372 Collateral sources of indemnity.–

(1) In any action for personal injury or wrongful death arising out of the ownership, operation, use or maintenance of a motor vehicle, the court shall admit into evidence the total amount of all collateral sources paid to the claimant, and the court shall instruct the jury to deduct from its verdict the value of all benefits received by the claimant from any collateral source.

Section 6. Subsection (1) of section 627.739, Florida Statutes, is amended to read:

627.739 Personal injury protection; optional limitations; deductibles; optional methods of payment for repair work.–In order to prevent duplication with other private or governmental insurance or benefits for senior citizens and others with access to such insurance or benefits, each insurer providing the coverage and benefits described in s. 627.736 (1) shall offer to the named insureds modified forms of personal injury protection as described in this section. Such election may be made by the named insured to apply to the named insured alone, or to the named insured and dependent relatives residing in the same household. Any person electing such modified coverage, or subject to such modified coverage as a result of the named insured's election, shall have no right to claim or to recover any amount so deducted from any owner, registrant, operator, or occupant of a vehicle or any person or organization legally responsible for any such person's acts or omissions who is made exempt from tort liability by ss. 627.730-627.741. Premium reductions for each modification or combination of modifications shall be adequate to recognize the reduction in hazard and shall be subject to the approval of the Department of Insurance.

(1) Insurers shall offer to each applicant and to each policyholder, upon the renewal of an existing policy, deductibles, in amounts of $250, $500, $1,000, $2,000, $3,000, $4,000, $6,000 and $8,000, said amount to be deducted from the benefits otherwise due each person subject to the deduction, and shall explain to each applicant or policyholder that if they have coverage under private or governmental disability plans, they may avail themselves of deductibles or other modifications as provided in subsections (1), (2), and (3).

Section 7. Section 627.7405, Florida Statutes, is created to read:

627.7405 Subrogation.–Notwithstanding any other provisions of ss. 627.730-627.741, any insurer providing personal injury protection benefits on a private passenger motor vehicle shall have, to the extent of any personal injury protection benefits paid to any person as a benefit arising out of such private passenger motor vehicle insurance, a right of reimbursement against the owner or the insurer of the owner of a commercial motor vehicle, if the benefits paid result from such person having been an occupant of the commercial motor vehicle or having been struck by the commercial motor vehicle while not an occupant of any self-propelled vehicle.

Section 8. Within 30 days after January 1, 1980, the Department of Insurance shall commence a review of the rates of all licensed motor vehicle insurers in effect at the time. If, after the review, the department finds on a preliminary basis that the rate may be excessive, inadequate, or unfairly discriminatory, the department shall so notify the insurer. Upon being so notified, the insurer shall within 60 days file with the department all information which the insurer believes proves the reasonableness, adequacy, and fairness of the rate. In such instances, the insurer shall carry the burden of proof. In the event the department finds that a rate is excessive, inadequate, or unfairly discriminatory, the department may order that a new rate schedule be thereafter filed by the insurer and further specifying the manner in which noncompliance shall be corrected.

Section 9. Section 627.343, Florida Statutes, is created to read:

627.343 Uniform risk classification reporting system for motor vehicle insurance.–

(1) The department shall establish and promulgate a uniform statewide reporting system to classify risks for the purpose of evaluating rates and premiums and for the purpose of evaluating competition and the availability of motor vehicle insurance in the voluntary market. The system shall divide risks into classifications based upon variations in hazards or expense of claims. The classification system may include any difference among risks that can be demonstrated to have a probable effect upon losses or expenses, but in no event shall the system adopted by the department discriminate among risks based upon race, creed, color, or national origin. The classification system shall divide the state into geographical areas based upon hazards or expenses of claims.

(2) Each insurer shall annually file with the department a statement reflecting the total number of persons insured by the insurer within each classification by coverage, the premium volume in each classification by coverage, the paid and reserved losses incurred in each classification by coverage, the number of cancellations or nonrenewals by the insurer during the period and the number of new insureds during the period. This statement shall be filed annually on a date determined by the department and shall cover a 1-year period.

(3) The department may promulgate rules to require each insurer to report its loss and expense experience by classification, in such detail and as often as may be necessary to aid the department in determining the reasonableness of rates, the validity of loss projections and the validity of the risk classification system.

Section 10. Section 627.342, Florida Statues, as created by chapter 77-468, Laws of Florida, is hereby repealed.

Section 11. Subsection (2) of section 627.735, Florida Statutes, is hereby repealed.

Section 12. This act shall take effect on January 1, 1979, and shall apply to all accidents occurring on or after the effective date.

Approved, June 20, 1978

COMMENTS ON THE FLORIDA LAW

The 1976, 1977, and 1978 amendments to the Florida no-fault law should improve it, althought the degree of improvement won't be known until several years of experience have been accumulated. The elimination of compulsory liability insurance, which is not directly connected with no-fault, is very controversial and was not advocated by insurance industry spokesmen.

The verbal tort limitation has proven to be more effective than the old $1,000 threshold in removing cases from the liability system. It is harder to abuse the law, since the threshold can no longer be reached by an artificial buildup of medical expenses.

The provisions against fraudulent claims represent a good step forward, one that legislatures in other states would do well to consider. The amendments make claim fraud activity by doctors, lawyers, claim adjusters, hospital officials, or insurance companies a felony. They also provide for a state agency to investigate claims that insurers suspect are fraudulent. Health care providers are required to sign sworn statements that the treatment rendered to accident victims was reasonable and necessary. If these provisions are vigorously enforced, they should prevent much of the claim fraud that allegedly has been so prevalent in south Florida.

Raising the no-fault benefit limit from $5,000 to $10,000 is a big step forward, although $10,000 may still be inadequate for today's inflated economy. The "co-insurance" type restrictions of 80 percent of medical and 60 percent of income coverage further reduces the value of the no-fault coverage. The legislature added these features to discourage overutilization and reduce costs. Again, this change was not suggested by the insurance industry. The amendments, to the extent that they reduce lawsuits, claims, fraud, and overutilization may well justify a still higher no-fault benefit level. An increase, to as much as $25,000, might be desirable if the reforms in the law continue to prove effective.

This is the supplement to the current financial responsibility law.

(d) The proposed schedules of operations between the municipalities or territories involved if such service is to be pursuant to schedules.

(e) An agreement on the part of the applicant to conform with and abide by all tariffs and classifications as to freight-forwarding services which may be prescribed by the commission from time to time.

(f) Any such application shall be accompanied by payment of a fee of five hundred dollars to be placed in the Florida Public Service Regulatory Trust Fund.

(3) Upon filing of said application and payment of said fee, the Florida Public Service Commission shall fix a time for hearing on said application which shall not be less than 20 days nor more than 60 days subsequent to the filing of said application, and no application shall be granted or certificate of public convenience and necessity issued without a hearing by the commission. Notice of such hearing shall be given to the applicant and to all certificated motor and rail common carriers serving any part of the route or territory proposed to be served by the applicant and to such other parties in interest as the commission may deem necessary. The commission shall also cause notice of the application to be published at least 14 days prior to the hearing in some newspaper of general circulation in the affected territory or territories.

(4) The commission may issue to the applicant a certificate of public convenience and necessity in a form to be prescribed by it or may refuse to issue the same or may issue it for only partial exercise of the operation sought or may attach to the exercise of the right granted by the certificate such terms, limitations, and conditions which it deems the public interest may require. The certificate shall include a description of the territory in which the freight-forwarding operation is to be conducted, extended, operated or acquired.

(5) In determining whether a certificate shall be issued, the commission shall take into consideration, among other things, the public need for the proposed service, the suitability of the applicant to conduct the proposed operations, the financial responsibility of the applicant and the ability of the applicant to perform efficiently the operations for which authority is requested; provided, that the commission in granting any such certificate shall take into consideration the effect that the granting of such certificate may have on transportation facilities within the territory sought to be served by said applicant, and also that effect upon transportation as a whole within said territory including the effect, if any, upon certificated motor and rail common carriers.

(6) Any certificate of public convenience and necessity issued under the provisions of this section shall contain, among other things, the following:

(a) The name of the grantee.

(b) The municipality or territory in which or between which the grantee is permitted to operate.

(c) A statement of the exact terminals or territories to be served including the specific points at which the forwarding operation is to be originated and the precise points or terminals at which the distribution under such operations is to take place.

(d) Such additional terms, conditions, provisions or limitations as the commission shall deem necessary or proper in the public interest or in the interest of transportation facilities already existing in the territory sought to be served.

(7) No such certificate of public convenience and necessity may be transferred, assigned, or encumbered unless such transaction is first approved by the commission consistent with the provisions of s. 323.041.

(8) The commission may revoke, suspend, or alter any such certificate of public convenience and necessity for the violation of any provision of this part or the rules and regulations or orders of the commission made under the authority of this part or for other reasonable cause.

(9) All certificates issued hereunder, including those certificates now in effect, shall be renewed annually by the payment of an annual certificate renewal fee of $500 per certificate, which shall be due on December 31 of each year. If the fee is not paid in advance of the due date, it must be received on or before January 31 of the next year in order for the renewal of the certificate to be effective. All moneys received hereunder shall be deposited in the Florida Public Service Regulatory Trust Fund and disbursed pursuant to s. 350.78(2).

History.—ss. 1, 2, ch. 67-356; ss. 5, 6, ch. 70-427; s. 3, ch. 76-168; s. 98, ch. 77-104; s. 1, ch. 77-457; s. 53, ch. 78-95.

[1]Note.—Repealed by s. 3, ch. 76-168, as amended by s. 1, ch. 77-457, effective July 1, 1980, except for the possible effect of laws affecting this section prior to that date.

[1]323.66 Allowance to shippers for transportation service.—If the owner of property transported in service subject to this part directly or indirectly renders any service connected therewith, or furnishes any instrumentality used therein, the charge and the amounts therefor, to such owner, shall be published in tariffs filed in the manner provided in this part and shall be no more than is just and reasonable, and the commission may, on a complaint or on its own initiative, determine what is a reasonable charge as the maximum to be paid by the freight forwarder or forwarders for the services so rendered, or for the use of the instrumentalities so furnished, and fix the same by appropriate order.

History.—ss. 1, 2, ch. 67-356; s. 3, ch. 76-168; s. 1, ch. 77-457; s. 53, ch. 78-95.

[1]Note.—Repealed by s. 3, ch. 76-168, as amended by s. 1, ch. 77-457, effective July 1, 1980, except for the possible effect of laws affecting this section prior to that date.

CHAPTER 324

FINANCIAL RESPONSIBILITY

324.042 Administration.—The department shall administer and enforce the provisions of this chapter, and the department may make such rules

and regulations as may be necessary for its administration.

History.—s. 1, ch. 29963, 1955; s. 1, ch. 57-147; ss. 13, 35, ch. 69-106; s. 20, ch. 78-95.
Note.—Former s. 324.03.

324.051 Reports of accidents; suspensions of licenses and registrations.—

[1](1)(a) Every law enforcement officer who, in the regular course of duty either at the time of and at the scene of the accident or thereafter by interviewing participants or witnesses, investigates a motor vehicle accident in which property damage exceeds $500 or in which bodily injury or death occurs shall forward a written report of the accident to the department within 24 hours of completing the investigation. However, when the investigation of an accident will take more than 7 days to complete, a preliminary copy of the accident report shall be forwarded to the department within 24 hours of the occurrence of the accident, to be followed by a final report within 24 hours after completion of the investigation. The report shall be on a form and contain information consistent with the requirements of s. 316.068.

(b) The department is hereby further authorized to require reports of accidents from individual owners or operators whenever it deems it necessary for the proper administration of this chapter, and these reports shall be made without prejudice and shall be for the confidential use of the department. No such report shall be used as evidence in any trial arising out of an accident, but the fact of such report or the failure to report may be certified by the department.

[1](2)(a) Thirty days after receipt of notice of any accident described in paragraph (1)(a) involving a motor vehicle within this state, the department shall suspend, after due notice and opportunity to be heard, the license of each operator and all registrations of the owner of the vehicles operated by such operator whether or not involved in such accident and, in the case of a nonresident owner or operator, shall suspend such nonresident's operating privilege in this state, unless such operator or owner shall, prior to the expiration of such 30 days, be found by the department to be exempt from the operation of this chapter, based upon evidence satisfactory to the department that:

1. No injury was caused to the person or property of anyone other than such operator or owner.
2. The motor vehicle was legally parked at the time of such accident.
3. The motor vehicle was owned by the United States Government, this state, or any political subdivision of this state or any municipality therein.
4. Such operator or owner has been finally adjudicated not to be liable for damages by a civil court of competent jurisdiction.
5. Such operator or owner has secured a duly acknowledged written agreement providing for release from liability by all parties injured as the result of said accident and has complied with one of the provisions of s. 324.031.
6. Such operator or owner has deposited with the department security to conform with s. 324.061 when applicable and has complied with one of the provisions of s. 324.031.
7. One year has elapsed since such owner or operator was suspended pursuant to s. 324.051(4), the owner or operator has complied with one of the provisions of s. 324.031, and no bill of complaint of which the department has notice has been filed in a court of competent jurisdiction.

(b) This subsection shall not apply:

1. To such operator or owner if such operator or owner had in effect at the time of such accident or traffic conviction an automobile liability policy with respect to all of the registered motor vehicles owned by such operator or owner.
2. To such operator, if not the owner of such motor vehicle, if there was in effect at the time of such accident or traffic conviction an automobile liability policy or bond with respect to his operation of motor vehicles not owned by him.
3. To such operator or owner if the liability of such operator or owner for damages resulting from such accident is, in the judgment of the department, covered by any other form of liability insurance or bond.
4. To any person who has obtained from the department a certificate of self-insurance, in accordance with s. 324.171, or to any person operating a motor vehicle for such self-insurer.
5. Such owner or operator was not charged with a moving traffic violation which caused or contributed to the cause of a motor vehicle accident, or such owner or operator was subsequently not found guilty of said moving traffic violation.

No such policy or bond shall be effective under this subsection unless it contains limits of not less than those specified in s. 324.021(7).

(3) Any operator's license or registration certificate or certificates and registration plates which shall be suspended as provided for in this section, shall remain suspended for a period of 3 years unless reinstated as otherwise provided in this chapter.

History.—s. 1, ch. 29963, 1955; s. 2, ch. 57-147; ss. 1, 2, ch. 65-122; s. 6, ch. 65-190; ss. 13, 24, 35, ch. 69-106; s. 2, ch. 71-59; s. 2, ch. 76-268; s. 2, ch. 77-118; s. 1, ch. 77-174; s. 7, ch. 77-468; s. 1, ch. 78-83; s. 20, ch. 78-95.
[1]Note.—As amended by s. 1, ch. 78-83, effective October 1, 1978.
Note.—Former s. 324.04.

324.072 Proof required upon certain convictions.—

[1](1) Upon the suspension or revocation of a license pursuant to the provisions of s. 318.15, s. 322.26, or s. 322.27, the department shall suspend the registration for all motor vehicles registered in the name of such person, either individually or jointly with another, except that it shall not suspend such registration, unless otherwise required by law, if such person has previously given or shall immediately give, and thereafter maintain, proof of financial responsibility with respect to all motor vehicles registered by such person, in accordance with this chapter.

(2) Such license and registration shall remain suspended or revoked and shall not at any time thereafter be renewed, nor shall any license be thereafter issued to such person, nor shall any motor vehicle be thereafter registered in the name of such person, until permitted under the laws of this state, and not then unless and until he shall give and

thereafter maintain proof of financial responsibility as required by s. 324.071.

History.—s. 5, ch. 57-147; ss. 13, 24, 33, ch. 69-106; s. 8, ch. 77-118; s. 10, ch. 77-468; s. 2, ch. 78-82.

[1]Note.—As amended, effective October 1, 1978.

CHAPTER 325

VEHICLE EQUIPMENT SAFETY COMPACT; INSPECTION

PART II

SAFETY EQUIPMENT INSPECTION OF MOTOR VEHICLES

325.12 Safety equipment inspection required; exception.—Every motor vehicle, except ancient motor vehicles licensed under s. 320.086, registered or required to be registered within the state when operated upon any street or highway within the state shall at all times display a current approved certificate which shall be placed on the vehicle as may be designated by the department, indicating that it has been inspected in accordance with the provisions of this part and has been found to comply with the standards and requirements of this part for safety equipment.

History.—s. 1, ch. 67-307; s. 1, ch. 69-16; ss. 14, 33, ch. 69-106; s. 1, ch. 78-363.

[1]325.14 Inspection certificate required for sold vehicles; exemption.—

(1) It is unlawful and a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, for any person engaged in the business of buying or selling new or used motor vehicles to sell at retail any used motor vehicle which does not have affixed thereto a current approved inspection certificate as required under s. 325.12.

(2) Any motor vehicle, the sale of which constitutes an occasional or private sale, shall not be driven unless the vehicle has a current valid inspection certificate; however, in the case of a motor vehicle which has been stored or otherwise unused, during which time the inspection certificate has expired, the owner shall obtain authority from the nearest highway patrol station to drive the vehicle to the inspection station.

(3) Nothing in this chapter shall be construed to require a valid current inspection certificate for any motor vehicle owned by a motor vehicle dealer licensed under s. 320.27 and displaying a dealer tag thereon as authorized by s. 320.13(1)(a).

History.—s. 1, ch. 67-307; s. 1, ch. 74-275; s. 14, ch. 75-66; s. 2, ch. 76-164; s. 45, ch. 77-357; s. 10, ch. 78-412.

[1]Note.—As amended, effective October 1, 1978.

[1]325.141 Registration required prior to inspection; exception.—

(1) Except as provided in subsection (2), no inspection certificate shall be attached to any motor vehicle without the owner or operator of same first submitting proof to the inspector that the motor vehicle is currently registered under the provisions of chapter 320.

(2) Every vehicle not previously registered in this state but registered in another jurisdiction and subject to the registration requirement in this state shall be inspected prior to registration. In addition to performing the inspection of the vehicle as required by this chapter, the inspection station inspector shall record the motor and serial numbers of the vehicle on the motor vehicle inspection form prior to the attachment of an inspection certificate to the vehicle.

History.—s. 6, ch. 78-412.

[1]Note.—Effective October 1, 1978.

325.16 Defective vehicles; repair procedures.—When a motor vehicle required to be inspected under this part shall upon inspection fail to meet the safety requirements of this part, the safety equipment inspection station making such inspection shall issue an authorized receipt and statement for such vehicle indicating that it has been inspected and shall enumerate the defects found. The owner or operator shall have such defects corrected or repaired at any place he chooses. The authorized receipt and statement shall operate as a temporary valid inspection permit for 30 days after the defect is found, during which time the operator shall not be subject to the penalty provided in s. 316.610, for the purpose of allowing the owner or operator of such vehicle to repair the defect. In any case where a part must be ordered to correct a defect and the part cannot be received and installed within the 30-day period herein provided, the authorized receipt and statement, together with a dated copy of the order for the part, shall operate as a temporary valid inspection permit until the part is received, which time period shall not exceed 90 days. The vehicle may be reinspected one time for such defects within 30 days when the owner does not have to wait on a part to be received, or within 90 days when the owner has the authorized receipt and statement together with a dated copy of the order for the part, at the safety equipment inspection station first making the inspection, without additional charge; however, upon payment of the inspection fee, the vehicle may be reinspected at another safety equipment inspection station.

History.—s. 1, ch. 67-307; s. 3, ch. 69-16; s. 4, ch. 74-338; s. 1, ch. 78-11.

This is the current financial responsibility law except as noted.

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CHAPTER 324

FINANCIAL RESPONSIBILITY

324.011 Purpose of chapter.—It is the intent of this chapter to recognize the existing privilege to own or operate a motor vehicle on the public streets and highways of this state when such vehicles are used with due consideration for others and their property, and to promote safety and provide financial security '[requirements for] such owners or operators whose responsibility it is to recompense others for injury to person or property caused by the operation of a motor vehicle. Therefore, it is required herein that the operator of a motor vehicle involved in an accident or convicted of certain traffic offenses meeting the operative provisions of s. 324.051(2) shall respond for such damages and show proof of financial ability to respond for damages in future accidents as a requisite to his future exercise of such privileges.

History.—s. 1, ch. 29963, 1955; s. 5, ch. 77-468.

'Note.—Bracketed words substituted for "by" by the editors.

Note.—Former s. 324.03L.

324.021 Definitions; minimum insurance required.—The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

(1) MOTOR VEHICLE.—Every self-propelled vehicle which is designed and required to be licensed for use upon a highway, including trailers and semitrailers designed for use with such vehicles, except traction engines, road rollers, farm tractors, power shovels, and well drillers, and every vehicle which is propelled by electric power obtained from overhead wires but not operated upon rails, but not including any bicycle or "moped," as defined in s. 316.003(2). However, the term "motor vehicle" shall not include any motor vehicle as defined in s. 627.732(1), when the owner of such vehicle has complied with the requirements of ss. 627.730-627.741, inclusive, unless the provisions of s. 324.051 apply, and in such case, until January 1, '[1978], such owner shall establish proof of compliance with such sections in the manner provided for evidence of insurance as set forth in s. 325.19(7) at the time of inspection of any such motor vehicle, and after such date the applicable proof of insurance provisions of s. 320.02 shall apply.

(2) DEPARTMENT.—The Department of Highway Safety and Motor Vehicles.

(3) OPERATOR.—Every person who is in actual physical control of a motor vehicle.

(4) PERSON.—Every natural person, firm, copartnership, association or corporation.

(5) NONRESIDENT.—Every person who is not a resident of this state.

(6) LICENSE.—Any license, temporary instruction permit, or temporary license issued under the laws of this state pertaining to the licensing of persons to operate motor vehicles.

(7) PROOF OF FINANCIAL RESPONSIBILITY.—That proof of ability to respond in damages for liability on account of accidents arising out of the use of a motor vehicle:

(a) In the amount of $10,000 because of bodily injury to, or death of, one person in any one accident;

(b) Subject to said limits for one person, in the amount of $20,000 because of bodily injury to, or death of, two or more persons in any one accident; and

(c) In the amount of $5,000 because of injury to, or destruction of, property of others in any one accident.

(8) MOTOR VEHICLE LIABILITY POLICY.—Any owner's or operator's policy of liability insurance furnished as proof of financial responsibility pursuant to s. 324.031, insuring said owner or operator against loss from liability for bodily injury, death and property damage arising out of the ownership, maintenance or use of a motor vehicle in not less than the limits described in subsection (7) and conforming to the requirements of s. 324.151, issued by

any insurance company authorized to do business in this state.

(9) OWNER.—A person who holds the legal title of a motor vehicle, or in the event a motor vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this chapter.

(10) JUDGMENT.—Any judgment which shall have become final by expiration without appeal of the time within which an appeal might have been perfected, or by final affirmation on appeal, rendered by a court of competent jurisdiction of any state or of the United States, upon a cause of action arising out of the ownership, maintenance or use of any motor vehicle, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, or upon a cause of action on an agreement of settlement for such damage.

(11) REGISTRATION.—Registration certificate or certificates and registration plates issued under the laws of this state pertaining to the registration of motor vehicles.

History.—s. 1, ch. 29963, 1955; ss. 13, 35, ch. 69-106; s. 1, ch. 71-69; s. 100, ch. 71-377; s. 1, ch. 72-297; ss. 1, 2, ch. 73-180; s. 1, ch. 76-268; s. 6, ch. 76-256; s. 1, ch. 77-118; s. 6, ch. 77-468.

[1]Note.—Bracketed date substituted for "1979" by the editors to correct an apparent error. See the effective date of the amendment to s. 320.02 and the effective date of the repeal of s. 325.19(7) by s. 12, ch. 77-468.

324.031 Manner of proving financial responsibility.—The operator or owner of a vehicle may prove his financial responsibility by:

(1) Furnishing satisfactory evidence of holding a motor vehicle liability policy as defined in s. 324.021(8) and s. 324.151, or

(2) Posting with the department a satisfactory bond of a surety company authorized to do business in this state, conditioned for payment of the amount specified in s. 324.021(7), or

(3) Furnishing a certificate of the department showing a deposit of cash or securities in accordance with s. 324.161, or

(4) Furnishing a certificate of self-insurance issued by the department in accordance with s. 324.171.

History.—s. 1, ch. 29943, 1955; ss. 13, 35, ch. 69-106.
Note.—Former s. 324.02.

324.042 Administration.—The department shall administer and enforce the provisions of this chapter, and the department may make such rules and regulations as may be necessary for its administration and shall provide for hearings before a referee upon request of persons aggrieved by orders or acts of the department.

History.—s. 1, ch. 29943, 1955; s. 1, ch. 57-147; ss. 13, 35, ch. 69-106.
Note.—Former s. 324.03.

324.051 Reports of accidents; suspensions of licenses and registrations.—

(1)(a) Any sheriff, police department, or peace officer of this state shall, within 10 days following any accident within the purview of this chapter coming to its or his attention, report such accident in writing to the department. Such report shall contain the following information: Date and place of the accident, description of the cars involved, the names and addresses of owners or operators, the extent of the damage, and such other information as the department may require.

(b) The department is hereby further authorized to require reports of accidents from individual owners or operators whenever it deems it necessary for the proper administration of this chapter, and these reports shall be made without prejudice and shall be for the confidential use of the department. No such report shall be used as evidence in any trial arising out of an accident, but the fact of such report or the failure to report may be certified by the department.

(2)(a) Thirty days after receipt of notice of any judgment being rendered due to an accident involving a motor vehicle within this state which has resulted in bodily injury or death to any person, a judgment of liability for damage of $500 or more to property, or a traffic conviction for a violation of s. 316.027 or s. 316.028, the department shall suspend the license of the operator against whom such judgment or conviction applies and all registrations of the owner of the vehicles operated by such operator whether or not involved in such accident and, in the case of a nonresident owner or operator, shall suspend such nonresident's operating privilege in this state, unless such operator or owner shall, prior to the expiration of such 30 days, be found by the department to be exempt from the operation of this chapter, based upon evidence in its files satisfactory to the department that:

1. The motor vehicle was owned by the United States Government, this state, or any political subdivision of this state or any municipality therein.

2. Such operator or owner has been finally adjudicated not to be liable by a court of competent jurisdiction.

3. Such operator or owner has secured a duly acknowledged written agreement providing for release from liability by all parties injured as the result of said accident and "[has] complied with one of the provisions of s. 324.031.

4. Such operator or owner has deposited with the department security to conform with s. 324.061 when applicable and has complied with one of the provisions of s. 324.031.

5. One year has elapsed since such owner or operator was suspended pursuant to subsection 324.051(4), the owner or operator has complied with one of the provisions of s. 324.031, and no bill of complaint of which the department has notice has been filed in a court of competent jurisdiction.

(b) This subsection shall not apply:

1. To such operator or owner if such operator or owner had in effect at the time of such accident or traffic conviction an automobile liability policy with respect to all of the registered motor vehicles owned by such operator or owner.

2. To such operator, if not the owner of such motor vehicle, if there was in effect at the time of such accident or traffic conviction an automobile liability policy or bond with respect to his operation of motor

vehicles not owned by him.

3. To such operator or owner if the liability of such operator or owner for damages resulting from such accident is, in the judgment of the department, covered by any other form of liability insurance or bond.

4. To any person who has obtained from the department a certificate of self-insurance, in accordance with s. 324.171, or to any person operating a motor vehicle for such self-insurer.

No such policy or bond shall be effective under this subsection unless it contains limits of not less than those specified in subsection 324.021(7).

(3)(a) The notices of accidents and orders of suspension required under this chapter as a result of accident or conviction cases sha" be given to owners and operators either by personal delivery thereof to the person to be so notified or by depos" in the United States mail of such notice or order in an envelope with postage prepaid, addressed to such person at his address as shown by the accident report or records of the department.

(b) The giving of notice and order of suspension by mail is complete upon expiration of four days after deposit in the United States mail. Proof of the giving of notice or orders of suspension in either such manner may be made by the certification of the department by naming the person to whom such notice or order of suspension was given and specifying the time, place and manner of the giving thereof.

(4) Any operator's license or registration certificate or certificates and registration plates which shall be suspended as provided for in this section, shall remain suspended for a period of 3 years unless reinstated as otherwise provided in this chapter.

History.—s. 1, ch. 29963, 1955; s. 2, ch. 57-147; ss. 1, 2, ch. 65-122; s. 6, ch. 69-190; ss. 13, 24, 35, ch. 69-106; s. 2, ch. 71-59; s. 2, ch. 76-266; s. 2, ch. 77-118; s. 1, ch. 77-174; s. 7, ch. 77-468.

[1]Note.—Bracketed word substituted for "had" by the editors.

Note.—Former s. 324.04.

324.061 Security deposited with Department of Highway Safety and Motor Vehicles; release.—

(1) Security deposited pursuant to the provisions of s. 324.051(2)(a)[1][4.] with respect to claims for injuries to persons or properties resulting from an accident occurring prior to such deposit shall be in the form and amount determined by the department which, in its judgment, will be sufficient to compensate for all injuries arising out of such accident, but in no case shall the amount exceed the limits as specified in s. 324.021(7).

(2) Such security shall be deposited with the department and shall not be released except under one of the following conditions:

(a) A duly attested written statement of satisfaction by all parties shown to be injured in such accident has been received by the department, or

(b) In the event the depositor has been finally adjudicated by a court of competent jurisdiction not to be liable; or all judgments of liability against the depositor have been satisfied, or

(c) One year shall have elapsed after deposit and during such period the department has not been duly notified of any court action brought for damages.

(d) Upon receipt of an order from a court ordering that such deposit be paid to satisfy a recorded judgment, in whole or in part, resulting from an accident. If the department does not have sufficient funds on deposit to satisfy such judgment it shall forthwith call upon the judgment debtor for the balance, subject to the limits specified in s. 324.021(7). Upon failure of the judgment debtor to make the necessary deposit or to satisfy the judgment in full, the department shall revoke the driving privilege and all registrations of such judgment debtor within 10 days subsequent to notification to the judgment debtor by the department.

(e) In any case in which securities deposited under this section have remained unclaimed for 5 years or more such deposit shall be transferred by the department to the State School Fund, and all interest and income that may accrue from said deposits after the aforesaid period of time, shall belong to said fund.

(3) The department shall invest security deposits in its custody received under this section in excess of current needs in interest-bearing accounts. The interest earned from such investments shall be deposited in a department trust fund, and any security deposits remaining unclaimed after 5 years shall be transferred to the State School Fund as provided in paragraph (2)(e) above.

History.—s. 1, ch. 29963, 1955; s. 3, ch. 57-147; ss. 13, 35, ch. 69-106; s. 3, ch. 71-59; s. 3, ch. 77-118; s. 8, ch. 77-468.

[1]Note.—Bracketed subparagraph number substituted by the editors for "6." to conform to subparagraph renumbering required by s. 7, ch. 77-468.

Note.—Former s. 324.041.

324.071 Reinstatement; renewal of license; reinstatement fee.—Any operator or owner whose license or registration has been suspended pursuant to s. 324.051(2), s. 324.072, s. 324.081, or s. 324.121 may effect its reinstatement upon compliance with the provisions of s. 324.051(2)(a)[1][2., 3., or 4.], or s. 324.081(2) and (3), as the case may be, and with one of the provisions of s. 324.031 and upon payment to the department of a nonrefundable reinstatement fee of $15. Only one such fee shall be paid by any one person irrespective of the number of licenses and registrations to be then reinstated or issued to such person. All such fees shall be deposited to a department trust fund. When the reinstatement of any license or registration is effected by compliance with s. 324.051(2)(a)[1][3. or 4.], the department shall not renew the license or registration within a period of 3 years from such reinstatement, nor shall any other license or registration be issued in the name of such person, unless the operator is continuing to comply with one of the provisions of s. 324.031.

History.—s. 1, ch. 29963, 1955; s. 4, ch. 57-147; s. 6, ch. 65-190; s. 1, ch. 67-279; ss. 13, 21, 35, ch. 69-106; s. 4, ch. 71-59; s. 4, ch. 77-118; s. 9, ch. 77-468.

[1]Note.—Bracketed subparagraph numbers substituted by the editors for "4., 5., or 6." to conform to subparagraph renumbering required by s. 7, ch. 77-468.

[2]Note.—Bracketed subparagraph numbers substituted by the editors for "5." to conform to subparagraph renumbering required by s. 7, ch. 77-468.

Note.—Former s. 324.05.

not in conformity
see the supplement

324.072 Proof required upon certain convictions.

(1) Upon revocation of a license pursuant to the provisions of s. 322.26, by reason of conviction or forfeiture of bail, the department shall suspend the registration for all motor vehicles registered in the name of such person, either individually or jointly

with another, except that it shall not suspend such registration, unless otherwise required by law, if such person has previously given or shall immediately give, and thereafter maintain, proof of financial responsibility with respect to all motor vehicles registered by such person, in accordance with this chapter.

(2) Such license and registration shall remain suspended or revoked and shall not at any time thereafter be renewed, nor shall any license be thereafter issued to such person, nor shall any motor vehicle be thereafter registered in the name of such person, until permitted under the laws of this state, and not then unless and until he shall give and thereafter maintain proof of financial responsibility as required by s. 324.071.

History.—s. 6, ch. 57-147; ss. 12, 24, 33, ch. 69-106; s. 5, ch. 77-118; s. 10, ch. 77-468.

324.081 Nonresident owner or operator.—

(1) The department may establish reciprocal agreements with any other states for the purpose of fulfilling the provisions of this chapter and pursuant to such agreements may suspend the license and registration of a resident of this state involved in an accident in another state.

(2) When a nonresident's operating privilege is suspended pursuant to this chapter, the department shall transmit a certified copy of the record of such action to the appropriate official of the reciprocating state in which such nonresident resides, if the law of such other state provides for action in relation thereto similar to that provided for in subsection (3).

(3) Upon receipt of such certification that the operating privilege of a resident of this state has been suspended or revoked in any such other reciprocating state pursuant to a law providing for its suspension or revocation for failure to deposit security for the payment of judgments arising out of a motor vehicle accident, under circumstances which would require the department to suspend a nonresident's operating privilege had the accident occurred in this state, the department shall suspend the license of such resident if he was the operator, and all of his registrations if he was the owner of a motor vehicle involved in such accident. Such suspension shall continue until such resident furnishes evidence of his compliance with the law of such other state relating to the deposit of such security.

(4) In the event such nonresident shall at the time have in effect an insurance policy or surety bond issued by any insurance company or surety company not authorized to do business in this state, the department may reinstate such nonresident upon said company furnishing it with power of attorney to accept service of process.

History.—s. 1, ch. 29963, 1955; s. 6, ch. 57-147; ss. 12, 35, ch. 69-106; s. 6, ch. 77-118; s. 11, ch. 77-468.
Note.—Former s. 324.06.

324.091 Notice to department; notice to insurer.—

(1) Each owner and operator involved in an accident or conviction case within the purview of this chapter shall furnish evidence of automobile liability insurance, motor vehicle liability insurance, or surety bond within 30 days from the date of the mailing of notice of accident by the department in such form and manner as it may designate. Upon receipt of evidence that an automobile liability policy, motor vehicle liability policy, or surety bond was in effect at the time of the accident or conviction case, the department shall forward by United States mail, postage prepaid, to the insurer or surety insurer a copy of such information and shall assume that such policy or bond was in effect unless the insurer or surety insurer shall notify the department otherwise within 20 days from the mailing of the notice to the insurer or surety insurer; provided that if the department shall later ascertain that an automobile liability policy, motor vehicle liability policy, or surety bond was not in effect and did not provide coverage for both the owner and the operator, it shall at such time take such action as it is otherwise authorized to do under this chapter. Proof of mailing to the insurer or surety insurer may be made by the department by naming the insurer or surety insurer to whom such mailing was made and specifying the time, place and manner of mailing.

(2) Each insurer doing business in this state shall immediately give notice to the department of each motor vehicle liability policy when issued to effect the return of a license which has been suspended under s. 324.051(2); and said notice shall be upon such form and in such manner as the department may designate.

History.—s. 1, ch. 29963, 1955; s. 3, ch. 65-122; ss. 13, 35, ch. 69-106.
Note.—Former s. 324.08.

324.101 Compliance before license or registration allowed.—In case the operator or owner of a motor vehicle involved in an accident within the state has no license or registration, he shall not be allowed a license or registration until he has complied with the requirements of this chapter to the same extent that would be necessary, if at the time of the accident he had held a license and registration.

History.—s. 1, ch. 29963, 1955.
Note.—Former s. 324.09.

324.111 Failure to satisfy judgment; copy to department.—Whenever any person fails within 30 days to satisfy any judgment, upon the written request of the judgment creditor or his attorney it shall be the duty of the clerk of the court, or of the judge of a court which has no clerk, in which any such judgment is rendered within this state, to forward to the department immediately after the expiration of said 30 days, a certified copy of such judgment.

History.—s. 1, ch. 29963, 1955; ss. 12, 35, ch. 69-106; s. 8, ch. 71-89.

324.121 Suspension of license and registration.—

(1) The department, upon the receipt of a certified copy of a judgment, as provided in s. 324.111, shall forthwith suspend the license and registration and any nonresident's operating privilege of any person against whom such judgment was rendered, except as hereinafter otherwise provided in this section, and in s. 324.141.

(2) If the judgment creditor consents in writing, in such form as the department may prescribe, that the judgment debtor be allowed license and registration or nonresident's operating privilege, the same

may be allowed by the department, in its discretion, for 6 months from the date of such consent and thereafter until such consent is revoked in writing notwithstanding default in the payment of such judgment, or any installments thereof prescribed in s. 324.141, provided the judgment debtor furnished proof of financial responsibility as provided in s. 324.031, such proof to be maintained for 3 years.

History.—s. 1, ch. 29963, 1955; ss. 13, 35, ch. 69-106; s. 6, ch. 71-59.

324.131 Period of suspension.—Such license, registration and nonresident's operating privilege shall remain so suspended and shall not be renewed, nor shall any such license or registration be thereafter issued in the name of such person, including any such person not previously licensed, unless and until every such judgment is stayed, satisfied in full or to the extent of the limits stated in s. 324.021(7) and until the said person gives proof of financial responsibility as provided in s. 324.031, such proof to be maintained for 3 years.

History.—s. 1, ch. 29963, 1955.

324.141 Installment payments.—

(1) A judgment debtor upon due notice to the judgment creditor may apply to the court in which such judgment was rendered for the privilege of paying such judgment in installments and the court, in its discretion and without prejudice to any other legal remedies which the judgment creditor may have, may so order and fix the amounts and times of payment of the installments.

(2) The department shall not suspend a license, registration or a nonresident's operating privilege, and shall restore any license, registration or nonresident's operating privilege suspended following nonpayment of a judgment, when the judgment debtor gives proof of financial responsibility and obtains such an order permitting the payment of such judgment in installments, and while the payment of any said installment is not in default.

(3) In the event the judgment debtor fails to pay any installment as specified by such order, then upon notice of such default, the department shall forthwith suspend the license, registration or nonresident's operating privilege of the judgment debtor until such judgment is satisfied, as provided in this chapter.

History.—s. 1, ch. 29963, 1955; ss. 13, 35, ch. 69-106.

324.151 Motor vehicle liability policies; required provisions.—

(1) A motor vehicle liability policy to be proof of financial responsibility under s. 324.031(1), shall be issued to owners or operators under the following provisions:

(a) An owner's liability insurance policy shall designate by explicit description or by appropriate reference all motor vehicles with respect to which coverage is thereby granted and shall insure the owner named therein and any other person as operator using such motor vehicle or motor vehicles with the express or implied permission of such owner, against loss from the liability imposed by law for damage arising out of the ownership, maintenance, or use of such motor vehicle or motor vehicles, within the United States or the Dominion of Canada, subject to limits, exclusive of interest and costs with respect to each such motor vehicle as is provided for under s. 324.021(7). Each policy shall contain an optional provision for a deductible relating to property damage coverage in an amount not to exceed $500; provided, however, that such deductible provision in a policy shall not be required when the owner named in the policy specifically rejects the provision.

(b) An operator's motor vehicle liability policy of insurance shall insure the person named therein against loss from the liability imposed upon him by law for damages arising out of the use by him of any motor vehicle not owned by him, with the same territorial limits and subject to the same limits of liability as referred to above with respect to an owner's policy of liability insurance.

(c) All such motor vehicle liability policies shall state the name and address of the named insured, the coverage afforded by the policy, the premium charged therefor, the policy period, the limits of liability, and shall contain an agreement or be endorsed that insurance is provided in accordance with the coverage defined in this chapter as respects bodily injury and death or property damage or both and is subject to all provisions of this chapter. Said policies shall also contain a provision that the satisfaction by an insured of a judgment for such injury or damage shall not be a condition precedent to the right or duty of the insurance carrier to make payment on account of such injury or damage, and shall also contain a provision that bankruptcy or insolvency of the insured or of the insured's estate shall not relieve the insurance carrier of any of its obligations under said policy.

(2) The provisions of this section shall not be applicable to any automobile liability policy unless and until it is furnished as proof of financial responsibility for the future pursuant to s. 324.031, and then only from and after the date said policy is so furnished.

History.—s. 1, ch. 29963, 1955; s. 24, ch. 57-1; s. 1, ch. 63-489; s. 1, ch. 71-325.
Note.—Former s. 324.10.

324.161 Proof of financial responsibility; surety bond or deposit.—The certificate of the department of a deposit may be obtained by depositing with it $25,000 cash or securities such as may be legally purchased by savings banks or for trust funds, of a market value of $25,000 and which deposit shall be held by the department to satisfy, in accordance with the provisions of this chapter, any execution on a judgment issued against such person making the deposit, for damages because of bodily injury to or death of any person or for damages because of injury to or destruction of property resulting from the use or operation of any motor vehicle occurring after such deposit was made. Money or securities so deposited shall not be subject to attachment or execution unless such attachment or execution shall arise out of a suit for damages as aforesaid.

History.—s. 1, ch. 29963, 1955; ss. 13, 35, ch. 69-106.
Note.—Former s. 324.11.

324.171 Self-insurer.—Any person may qualify as a self-insurer by obtaining a certificate of self-insurance from the department which may, in its discretion, upon application of such a person, issue

said certificate of self-insurance, when it is satisfied that such person is possessed of a net unencumbered capital of at least $40,000. The department may require annual reports from any self-insurer which reports must continue to show at least $40,000 unencumbered net worth. Whenever the department finds that any self-insurer does not possess $40,000 of unencumbered net worth it shall revoke the certificate of self-insurance.

History.—s. 1, ch. 29963, 1955; ss. 13, 35, ch. 69-106.
Note.—Former s. 324.12.

324.181 Cancellation of liability policies; plan for apportionment of certain applicants.—No motor vehicle liability policy which is obtained to effect the return of any operator's license or registration shall be canceled by an insurer issuing the same unless 10 days' notice of such cancellation shall be given to the department on a form prescribed by it and to the insured, except that when evidence has been furnished of the holding of a motor vehicle liability policy, and subsequently evidence is furnished of the holding of such a policy subsequently procured, the later policy shall, on the date evidence is furnished, terminate the policy as to which evidence was previously furnished with respect to any vehicle designated in both policies.

History.—s. 1, ch. 29963, 1955; s. 1, ch. 61-69; ss. 13, 35, ch. 69-106; s. 12, ch. 77-468.
Note.—Former s. 324.13.

324.191 Consent to cancellation; direction to return money or securities.—The department shall consent to the cancellation of any bond or certificate of insurance furnished as proof of financial responsibility pursuant to s. 324.031, or the department shall return to the person entitled thereto cash or securities deposited as proof of financial responsibility pursuant to s. 324.031:

(1) Upon substitution and acceptance of other adequate proof of financial responsibility pursuant to this chapter, or

(2) In the event of the death of the person on whose behalf the proof was filed, or the permanent incapacity of such person to operate a motor vehicle, or

(3) In the event the person who has given proof of financial responsibility surrenders his license and all registrations to the department; providing, however, that no notice of court action has been filed with the department, a judgment in which would result in claim on such proof of financial responsibility.

This section shall not apply to security as specified in s. 324.061 deposited pursuant to s. 324.051(2)(a)6.

History.—s. 1, ch. 29963, 1955; ss. 13, 35, ch. 69-106; s. 7, ch. 77-118.
Note.—Former s. 324.14.

324.201 Return of license or registration to department.—Any person whose license or registration shall have been suspended as herein provided, or whose policy of insurance or bond, when required under this chapter, shall have been canceled or terminated, or who shall neglect to furnish other proof upon the request of the department shall immediately return his license and registrations to the department. It shall be unlawful for any person whose license has been suspended to operate any motor vehicle or for any person whose registrations have been suspended to obtain another motor vehicle for the purpose of circumventing this chapter. If any person shall fail to return to the department the license or registrations as provided herein, the department shall issue a complaint to a court of competent jurisdiction which shall issue a warrant charging such person with a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Such person shall surrender to the court his driver's license, registration and plates for delivery to the department. For the service and execution of such warrant the sheriff shall receive the arrest and other fees authorized by law.

History.—s. 1, ch. 29963, 1955; s. 7, ch. 57-147; ss. 13, 35, ch. 69-106; s. 220, ch. 71-136; s. 96, ch. 73-333.
Note.—Former s. 324.16.
cf.—s. 30.231 Sheriffs' fees.

324.211 Sale by owner during suspension; rights of conditional vendors, mortgagees and lessors.—

(1)(a) If an owner's registration has been suspended hereunder, it shall be unlawful for him to transfer such registration or to have registered in any other name the motor vehicle in respect of which such registration was issued until the department is satisfied that such transfer of registration is proposed in good faith and not for the purpose or with the effect of defeating the purpose of this chapter; provided, however, that any owner within the purview of this section may file an application for permission to transfer such registration, which application shall be accompanied by an affidavit of good faith showing that such transfer is not with the intent of defeating the purpose of this chapter. The department, within 10 days subsequent to suspension of the owner's registration, upon request shall furnish proper application and affidavit forms to each such owner along with the notice of suspension, and the owner shall have 15 days from receipt thereof to file such application, which application shall be either approved or rejected by the department within 30 days from the filing thereof.

(b) In addition to the penalties otherwise provided for violation of this section the department may suspend the registration of any vehicle transferred contrary to the provisions of this section.

(2) Nothing in this section or elsewhere in this chapter contained shall affect the rights of any conditional vendor, chattel mortgagee or lessor or any successor in interest of a motor vehicle registered in the name of another as owner who becomes subject to the provisions of this section; and in the event of the repossession or foreclosure of a motor vehicle by such conditional vendor, chattel mortgagee, or lessor, or any successor in interest, pursuant to the exercise of rights to such repossession under the terms of the lien instrument or contract involved, by operation of law or through legal proceedings, the lienholder or lessor repossessor shall have the right to have delivered to it the registration plates which shall have been surrendered.

History.—s. 1, ch. 29963, 1955; s. 8, ch. 57-147; ss. 13, 35, ch. 69-106; s. 7, ch. 71-39.
Note.—Former s. 324.15.

lties.--

son who violates any of the provisions of this act or ated hereunder shall be guilty of a felony of the nishable as provided in s. 775.082, s. 775.083, or s.

rson who interferes with, hinders, or opposes any or member of the department in the discharge of his his act shall be guilty of a felony of the third le as provided in s. 775.082, s. 775.083, or s.

rson who fails to comply with a lawful order issued act within the time fixed by the department or the r review under s. 290.151, whichever is longer, shall elony of the third degree, punishable as provided in 75.083, or s. 775.084.

rability.--

visions of this act are severable, and if any part of ed invalid or unconstitutional, such declaration the part which remains.

is cumulative and is intended to supplement existing t shall be construed to repeal any existing law, acted for the protection of public health and safety on of those sections included in this act.

Section 290.32, Florida Statutes, is amended to read:

da articipation.--

ard--member-from-Florida-shall-be-the-chairman-of-the and-Space-Council--when--approved--by--the--Governor; Governor shall appoint the board member from Florida. u Governor may designate another person as his deputy

pplementary agreement entered into under s. 290.31(6) penditure of funds shall not become effective as to e required funds are appropriated by the Legislature.

partment, agencies and officers of this state and its authorized to cooperate with the board in the any of its activities pursuant to the compact, oposed activities have been made known to, and have , either the Governor or the Department of Health and rvices Commerce.

Sections 290.01, 290.02, 290.03, 290.04, 290.051, 290.071, 290.08, 290.09, 290.10, 290.11, 290.12, 290.15, 290.16, 290.17, 290.18, and 290.19, Florida rchy repealed.

This act shall take effect July 1, 1978.

Approved by the Governor June 20, 1978.

Filed in Office Secretary of State June 21, 1978.

These are the 1978 amendments to the no-fault law.

CHAPTER 78-374

Committee Substitute for Senate Bill No. 1308

AN ACT relating to motor vehicle insurance; amending s. 627.727(7), Florida Statutes; providing that uninsured motorist coverage shall not include damages for pain and suffering except for specified injuries or death; amending s. 627.732(1), Florida Statutes; providing definitions of "motor vehicle", "private passenger motor vehicle", and "commercial motor vehicle"; amending s. 627.736(1), Florida Statutes; providing for $10,000 in personal injury protection coverage; amending s. 627.737(2), Florida Statutes; providing for limitations on rights to damages for pain, suffering, mental anguish, and inconvenience in tort actions arising out of use of a motor vehicle; amending s. 627.7372(1), Florida Statutes; providing for the admission into evidence in certain actions the amount of all collateral sources paid or payable to the claimant, and prohibiting an award of damages which are otherwise paid or payable; amending s. 627.739(1), Florida Statutes, relating to personal injury protection to revise amounts of deductibles; creating s. 627.7405, Florida Statutes; providing personal injury protection benefits for the insured, certain relatives, operators, and passengers of a commercial motor vehicle or other Florida residents struck by a commercial motor vehicle in Florida; repealing s. 627.735(2), Florida Statutes, relating to the compliance of motor vehicle liability insurance policies with financial responsibility or compulsory insurance laws of other states; providing for review by the Department of Insurance of the rates of all licensed motor vehicle insurers; providing for issuance of orders by the Department of Insurance to require new rate schedules where existing rates are unfairly discriminatory; creating s. 627.343, Florida Statutes; requiring the Department of Insurance to promulgate a uniform statewide reporting system to classify risks for the purpose of evaluating motor vehicle insurance rates, premiums, competition, and availability; requiring insurers to file annual statements with the department; providing that the department may require insurers to report certain loss and expense experience; repealing s. 627.342, Florida Statutes, which provides for annual risk classification reporting by insurers; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (7) of section 627.727, Florida Statutes, is amended to read:

627.727 Automobile liability insurance; uninsured vehicle coverage; insolvent insurer protection.--

(7) The legal liability of an uninsured motorist coverage insurer shall not include damages in tort for pain, suffering, mental anguish, and inconvenience unless the injury or disease is described in one or more of paragraphs (a) through (d) ~~(f)~~ of s. 627.737(2).

Section 2. Subsection (1) of section 627.732, Florida Statutes, is amended to read:

627.732 Definitions.--As used in ss. 627.730-627.741:

(1) "Motor vehicle" means ~~a sedan, station wagon, or jeep-type vehicle not used as a public livery conveyance for passengers and includes any other four-wheel motor vehicle used as a utility automobile and a pickup or panel truck which is not used primarily in the occupation, profession, or business of the insured,~~ any self-propelled vehicle which is of a type both designed and required to be licensed for use on the highways of this state and any trailer or semi-trailer designed for use with such vehicle, except mopeds, as defined in s. 316.003(2), and includes:

(a) A "private passenger motor vehicle" which is any motor vehicle which is a sedan, station wagon or jeep type vehicle not used at any time as a public or livery conveyance for passengers and, if not used primarily for occupational, professional or business purposes, a motor vehicle of the pickup, panel, van, camper or motor home type.

(b) A "commercial motor vehicle" which is any motor vehicle which is not a private passenger motor vehicle.

The term motor vehicle, however, does not include any self-propelled vehicle with less than four wheels or a mobile home.

Section 3. Subsection (1) of section 627.736, Florida Statutes, is amended to read:

627.736 Required personal injury protection benefits; exclusions; priority.--

(1) REQUIRED BENEFITS.--Every insurance policy complying with the security requirements of s. 627.733 shall provide personal injury protection providing for payment of all reasonable expenses incurred for necessary medical, surgical, X-ray, dental, and rehabilitative services, including prosthetic devices; necessary ambulance, hospital, and nursing services; and funeral and disability benefits to the named insured, relatives residing in the same household, persons operating the insured motor vehicle, passengers in such motor vehicle, and other persons struck by such motor vehicle and suffering bodily injury while not an occupant of a self-propelled vehicle, all as specifically provided in subsection (2) and paragraph (4)(d), to a limit of $10,000 ~~$5,000~~ for loss sustained by any such person as a result of bodily injury, sickness, disease, or death arising out of the ownership, maintenance, or use of a motor vehicle as follows:

Section 4. Subsection (2) of section 627.737, Florida Statutes, is amended to read:

627.737 Tort exemption; limitation on right to damages; punitive damages.--

(2) In any action of tort brought against the owner, registrant, operator, or occupant of a motor vehicle with respect to which security has been provided as required by ss. 627.730-627.741, against any person or organization legally responsible for his acts or omissions, a plaintiff may recover damages in tort for pain, suffering, mental anguish, and inconvenience because of bodily injury, sickness, or disease arising out of the ownership, maintenance, operation, or use of such motor vehicle only in the event that the injury or disease consists in whole or in part of:

~~(a) Loss of a body member.~~

(a)~~(b)~~ Significant and permanent loss of an important a body function.

(b)~~(c)~~ Permanent injury within a reasonable degree of medical probability, other than scarring or disfigurement.

(c)~~(d)~~ Significant and permanent scarring or disfigurement.

~~(e) A serious nonpermanent injury which has a material degree bearing on the injured person's ability to resume his normal activity and lifestyle during all or substantially all of the 90 day period after the occurrence of the injury and the effects of which medically or scientifically demonstrable at the end of such period.~~

(d)~~(f)~~ Death.

Section 5. Subsection (1) of section 627.7372, Florida Statutes, is amended to read:

627.7372 Collateral sources of indemnity.--

(1) In any action for personal injury or wrongful death arising out of the ownership, operation, use or maintenance of a motor vehicle, the court shall admit into evidence the total amount of collateral sources ~~which have been paid~~ to the claimant, and the court shall instruct the jury to deduct from its verdict the value of all benefits received by the claimant from any collateral source. ~~The court shall also, prior to the commencement of the trial, admit into evidence any amount paid by the claimant to secure collateral sources.~~

Section 6. Subsection (1) of section 627.739, Florida Statutes, is amended to read:

627.739 Personal injury protection; optional limitations; deductibles; optional methods of payment for repair work.--In order to prevent duplication with other private or governmental insurance or benefits for senior citizens and others with access to such insurance or benefits, each insurer providing the coverage or benefits described in s. 627.736(1) shall offer to the named insured modified forms of personal injury protection as described in this section. Such election may be made by the named insured to apply to the named insured alone, or to the named insured and dependent relatives residing in the same household. Any person electing modified coverage, or subject to such modified coverage as a result of the named insured's election, shall have no right to claim

recover any amount so deducted from any owner, registrant, operator, or occupant of a vehicle or any person or organization legally responsible for any such person's acts or omissions who is made exempt from tort liability by ss. 627.730-627.741. Premium reductions for each modification or combination of modifications shall be adequate to recognize the reduction in hazard and shall be subject to the approval of the Department of Insurance.

(1) Insurers shall offer to each applicant and to each policyholder, upon the renewal of an existing policy, deductibles, in amounts of $250, $500, $1,000, $2,000, $3,000, and $4,000, $6,000 and $8,000, said amount to be deducted from the benefits otherwise due each person subject to the deduction, and shall explain to each applicant or policyholder that if they have coverage under private or governmental disability plans, they may avail themselves of deductibles or other modifications as provided in subsections (1), (2), and (3).

Section 7. Section 627.7405, Florida Statutes, is created to read:

627.7405 Subrogation.--Notwithstanding any other provisions of ss. 627.730-627.741, any insurer providing personal injury protection benefits on a private passenger motor vehicle shall have, to the extent of any personal injury protection benefits paid to any person as a benefit arising out of such private passenger motor vehicle insurance, a right of reimbursement against the owner or the insurer of the owner of a commercial motor vehicle, if the benefits paid result from such person having been an occupant of the commercial motor vehicle or having been struck by the commercial motor vehicle while not an occupant of any self-propelled vehicle.

Section 8. Within 30 days after January 1, 1980, the Department of Insurance shall commence a review of the rates of all licensed motor vehicle insurers in effect at the time. If, after the review, the department finds on a preliminary basis that the rate may be excessive, inadequate, or unfairly discriminatory, the department shall so notify the insurer. Upon being so notified, the insurer shall within 60 days file with the department all information which the insurer believes proves the reasonableness, adequacy, and fairness of the rate. In such instances, the insurer shall carry the burden of proof. In the event the department finds that a rate is excessive, inadequate, or unfairly discriminatory, the department may order that a new rate schedule be thereafter filed by the insurer and further specifying the manner in which noncompliance shall be corrected.

Section 9. Section 627.343, Florida Statutes, is created to read:

627.343 Uniform risk classification reporting system for motor vehicle insurance.--

(1) The department shall establish and promulgate a uniform statewide reporting system to classify risks for the purpose of evaluating rates and premiums and for the purpose of evaluating competition and the availability of motor vehicle insurance in the voluntary market. The system shall divide risks into classifications based upon variations in hazards or expense of claims. The classification system may include any difference among risks that can be demonstrated to have a probable effect upon losses or expenses, but in no event shall the system adopted by the department

discriminate among risks based upon race, creed, color, or nation origin. The classification system shall divide the state i geographical areas based upon hazards or expenses of claims.

(2) Each insurer shall annually file with the department statement reflecting the total number of persons insured by insurer within each classification by coverage, the premium volume each classification by coverage, the paid and reserved los incurred in each classification by coverage, the number cancellations or nonrenewals by the insurer during the period and number of new insureds during the period. This statement shall filed annually on a date determined by the department and shall co a 1-year period.

(3) The department may promulgate rules to require each insu to report its loss and expense experience by classification, in s detail and as often as may be necessary to aid the department determining the reasonableness of rates, the validity of l projections and the validity of the risk classification system.

Section 10. Section 627.342, Florida Statutes, as created chapter 77-468, Laws of Florida, is hereby repealed.

Section 11. Subsection (2) of section 627.735, Florida Statut is hereby repealed.

Section 12. This act shall take effect on January 1, 1979, shall apply to all accidents occurring on or after the effect date.

Approved by the Governor June 20, 1978.

Filed in Office Secretary of State June 21, 1978.

CHAPTER 78-375

Senate Bill No. 1357

AN ACT relating to the Department of Commerce; amending ss. 288.03(21)-(23) and 288.34(1)(k) and (1), Florida Statutes; providing for certain guidelines concerning per diem, travel, operational and promotional advancements and reimbursements; adding a subsection to s. 288.35, Florida Statutes, providing a definition; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsections (21), (22), and (23) of section 288. Florida Statutes, are amended to read:

288.03 Powers and duties of division.--The general purposes the Division of Economic Development of the Department of Comme shall be to guide, stimulate, and promote the coordinated, efficie and beneficial development of the state and its regions, counti and municipalities in accordance with present and future needs resources and the requirements of the prosperity, convenien comfort, health, safety, and general welfare of the people of

This is the original no-fault Law.

CHAPTER 71-252

Conference Committee Substitute for House Bill No. 1821

AN ACT relating to motor vehicle insurance; providing definitions; requiring security by motor vehicle owners; requiring motor vehicle no-fault reparation insurance and liability insurance up to certain limits and limiting tort liability; providing penalties for failure to show proof of security; providing personal injury protection benefits; providing for priority of payment of benefits; providing for tort exemptions and limitation on damages; providing no-fault property protection; providing for certain deductibles; providing for subrogation; providing that the department shall adopt rules and regulations necessary to implement this act; providing rights of residents; providing that insurers file proposed manual, rules, rates and rating plans with the department for approval; providing that insurers shall make certain rate reductions; providing for severability; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Short title.—This act may be cited and known as the "Florida automobile reparations reform act."

Section 2. Purpose.—The purpose of this act is to require medical, surgical, funeral and disability insurance benefits to be provided without regard to fault under motor vehicle policies that provide bodily injury and property damage liability insurance, or other security, for motor vehicles registered in this state, and with respect to motor vehicle accidents, a limitation on the right to claim damages for pain, suffering, mental anguish and inconvenience.

Section 3. Definitions.—As used in this act:

(1) "Motor vehicle" means a sedan, station wagon or jeep type vehicle not used as a public livery conveyance for passengers, and includes any other four-wheel motor vehicle used as a utility automobile and a pickup or panel truck which is not used primarily in the occupation, profession or business of the insured.

(2) "Owner" means a person who holds the legal title to a motor vehicle, or in the event a motor vehicle is the subject of a security agreement or lease with option to purchase with the debtor or lessee having the right to possession, then the debtor or lessee shall be deemed the owner for the purposes of this act.

(3) "Named insured" means a person, usually the owner of a vehicle, identified in a policy by name as the insured under the policy.

(4) "Relative residing in the same household" means a relative of any degree by blood or by marriage, who usually makes his home in the same family unit, whether or not temporarily living elsewhere.

Section 4. Required security.—

(1) Every owner or registrant of a motor vehicle required to be registered and licensed in this state shall maintain security as required by subsection (3) of this section in effect continuously throughout the registration or licensing period.

(2) Every nonresident owner or registrant of a motor vehicle which, whether operated or not, has been physically present within this state for more than ninety (90) days during the preceeding three hundred sixty-five (365) days, shall thereafter maintain security as defined by subsection (3) of this section in effect continuously throughout the period such motor vehicle remains within this state.

(3) Such security shall be provided by one of the following methods:

(a) Security by insurance may be provided with respect to such motor vehicle by an insurance policy delivered or issued for delivery in this state by an authorized or eligible insurer as otherwise defined in this code, which qualifies as evidence of automobile or motor vehicle liability insurance under chapter 324, Florida Statutes, "the financial responsibility law", except as modified to provide the benefits and exemptions contained in this act. Any such policy of liability insurance covering motor vehicles registered or licensed in this state and any policy of insurance represented or sold as providing the security required

hereunder for registered and licensed motor vehicles under this act shall be deemed to provide insurance for the payment of such benefits; or

(b) Security may be provided with respect to any motor vehicle by any other method approved by the department of insurance as affording security equivalent to that afforded by a policy of insurance, provided such security is continuously maintained throughout the motor vehicle's registration or licensing period. The person filing such security shall have all of the obligations and rights of an insurer under this act.

(4) An owner of a motor vehicle with respect to which security is required by this act who fails to have such security in effect at the time of an accident shall have no immunity from tort liability, and be personally liable for the payment of benefits under Section 7. With respect to such benefits, such an owner shall have all of the rights and obligations of an insurer under this act.

Section 5. Proof of security; security requirements; penalties.—

(1) The provisions of chapter 324, Florida Statutes, which pertain to the method of giving and maintaining proof of financial responsibility, and which govern and define a motor vehicle liability policy, shall apply to filing and maintaining proof of security or financial responsibility required by this act. It is intended that the provisions of chapter 324, Florida Statutes, relating to proof of financial responsibility required of each operator and each owner of any motor vehicle, shall continue in full force and effect.

(2) Any person who gives information required in a report or otherwise as provided for in this act, knowing or having reason to believe that such information is false, or who shall forge, or, without authority, sign any evidence of proof of security, or who files or offers for filing any such evidence of proof, knowing or having reason to believe that it is forged or signed without authority, shall, upon conviction, be punished by fine not to exceed one thousand dollars ($1,000) or imprisonment not to exceed one (1) year, or by both such fine and imprisonment.

(3) This act does not apply to any motor vehicle owned by the state or by a political subdivision of the state, nor to any motor vehicle owned by the federal government.

Section 5A. Subsection (2) of section 5 of this act is created to read:

Section 5. Proof of security; security requirements; penalties.—

(2) Any person who gives information required in a report or otherwise as provided for in this act, knowing or having reason to believe that such information is false or who shall forge, or, without authority, sign any evidence of proof of security, or who files or offers for filing any such evidence of proof, knowing or having reason to believe that it is forged or signed without authority, shall be guilty of a misdemeanor of the first degree, punishable as provided in sections 775.082 or 775.033.

Section 5B. In the event CS for HB 935, introduced in the 1971 regular session of the legislature is enacted into law, subsection (2) of section 5 of this act will stand repealed and be omitted from the Florida Statutes. In the event CS for HB 935 is not enacted into law, section 5A of this act will stand repealed and be omitted from the Florida Statutes.

Section 6. Operation of a motor vehicle illegal without security; penalties.—

(1) Any owner or registrant of a motor vehicle with respect to which security is required under subsection (1) or (2) of section 4 who operates such motor vehicle or permits it to be operated in this state without having in full force and effect security complying with the terms of said subsection (1) or (2) of section 4 shall have his operator's license and registration revoked.

(2) Any motor vehicle liability insurance policy which provides security required pursuant to subsection (3) of section 4 shall also be deemed to comply with the applicable limits of liability required under the financial responsibility or compulsory laws of any other state.

Section 7. Required personal injury protection benefits; exclusions; priority.—

(1) Every insurance policy complying with the security requirements of section 4 shall provide personal injury protection providing for payment of all reasonable expenses incurred for necessary medical, surgical, x-ray, dental and rehabilitative services, including prosthetic devices, necessary ambulance, hospital, nursing services, funeral and disability benefits to the named insured, relatives residing in the same household, persons operating the insured motor vehicle, passengers in such motor vehicle and other persons struck by such motor vehicle and suffering bodily injury while not an occupant of a motor vehicle or motorcycle, all as specifically provided in subsection (2) and paragraph (d) of subsection (4) of this section, to a limit of five thousand dollars ($5,000) for loss sustained by any such person as a result of bodily injury, sickness, disease or death arising out of the ownership, maintenance or use of a motor vehicle as follows:

(a) Medical benefits: all reasonable expenses for necessary medical, surgical, x-ray, dental and rehabilitative services, including prosthetic devices, necessary ambulance, hospital and nursing services. Such benefits shall include also, necessary remedial treatment and services recognized and permitted under the laws of the state for an injured person who relies upon spiritual means through prayer alone for healing in accordance with his religious beliefs.

(b) Disability benefits: one hundred percent (100%) of any loss of gross income and loss of earning capacity per individual, unless such benefits are deemed not includable in gross income for federal income tax purposes, in which event such benefits shall be limited to eighty-five percent (85%), from inability to work proximately caused by the injury sustained by the injured person, plus all expenses reasonably incurred in obtaining from others ordinary and necessary services in lieu of those that, but for the injury, the injured person would have performed without income for the benefit of his household. All disability benefits payable under this provision shall be paid not less than every two weeks.

(c) Funeral, burial or cremation benefits: funeral, burial or cremation expenses in an amount not to exceed one thousand dollars ($1,000) per individual.

(2) Any insurer may exclude benefits:

(a) For injury sustained by the named insured and relatives residing in the same household while occupying another motor vehicle owned by the named insured and not insured under the policy, or for injury sustained by any person operating the insured motor vehicle without the express or implied consent of the insured.

(b) To any injured person, if such person's conduct contributed to his injury under any of the following circumstances:

1. Causing injury to himself intentionally;

2. Convicted of driving while under the influence of alcohol or narcotic drugs to the extent that his driving faculties are impaired;

3. While committing a felony.

(3) Insurer's rights of reimbursement and indemnity:

(a) No subtraction from personal protection insurance benefits will be made because of the value of a claim in tort based on the same bodily injury, but after recovery is realized upon such a tort claim, a subtraction will be made to the extent of the recovery, exclusive of reasonable attorneys' fees and other reasonable expenses incurred in effecting the recovery, but only to the extent that the injured person has recovered said benefits from the tortfeasor or his insurer or insurers. If personal protection insurance benefits have already been received, the claimant shall repay to the insurer or insurers out of the recovery a sum equal to the benefits received, but not more than the recovery exclusive of reasonable attorneys' fees and other reasonable expenses incurred in effecting the recovery, but only to the extent that the injured person has recovered said benefits from the tortfeasor or his insurers or insurer. The insurer or insurers shall have a lien on the recovery to this extent. No recovery by an injured person or his estate for loss suffered by him will be subtracted in calculating benefits due a dependent after the death, and no recovery by a dependent for loss suffered by the dependent after the death will be subtracted in calculating benefits due the injured person except as provided in paragraph (c) of subsection (1) of section 7.

(b) The insurer shall be entitled to reimbursement of any payments made under the provisions of subsection (3) of this section based upon such equitable distribution of the amount recovered as the court may determine less the pro rata share of all court costs expended by the plaintiff in the prosecution of the suit to recover such amount against a third-party tort feasor, including a reasonable attorney's fee for the plaintiff's attorney. The proration of the reimbursement shall be made by the judge of a trial court handling the suit to recover damages in the third-party action against the tort feasor upon application therefor and notice to the carrier.

(c) Indemnity from one paying in tort without regard for rights of insurer having reimbursement interest.—A personal protection insurer with a right of reimbursement under this section, if suffering loss from inability to collect such reimbursement out of a payment received by a claimant upon a tort claim is entitled to indemnity from one who, with notice of the insurer's interest, made such a payment to the claimant without making the claimant and the insurer joint payees as their interests may appear, or without obtaining the insurer's consent to a different method of payment.

(d) In the event an injured party or his legal representative is entitled to bring suit against a third party tort feasor under the provisions of section 8, and fails to bring such suit against such third party tort feasor within one year after the last payment of any benefits under subsection (1) of section 7, the insurer of such injured party, upon giving thirty (30) days written notice to such injured party, shall have the right to bring suit against such third party, in its own name or in the name of the injured person or his legal representative, to recover the amount of the benefits paid pursuant to the provisions of section 7 of this act to or for the benefit of such injured person; provided, however, that the prosecution or settlement of such suit without the consent of the injured person or his legal representative shall be without prejudice to such person.

(4) Benefits due from an insurer under this act shall be primary, except that benefits received under any workmen's compensation law shall be credited against the benefits provided by subsection (1) of section 7, and be due and payable as loss

accrues, upon receipt of reasonable proof of such loss and the amount of expenses and loss incurred which are covered by the policy issued under this act.

(a) An insurer may require written notice to be given as soon as practicable after an accident involving a motor vehicle with respect to which the policy affords the security required by this act.

(b) Personal injury protection insurance benefits shall be overdue if not paid within thirty (30) days after the insurer is furnished written notice of the fact of a covered loss and of the amount of same. If such written notice is not furnished to the insurer as to the entire claim, any partial amount supported by written notice is overdue if not paid within thirty (30) days after such written ntoice is furnished to the insurer. Any part or all of the remainder of the claim that is subsequently supported by written notice is overdue if not paid within thirty (30) days after such written notice is furnished to the insurer; provided, however, that any payment shall not be deemed overdue where the insurer has reasonable proof to establish that the insurer is not responsible for the payment, notwithstanding that written notice has been furnished to the insurer. For the purpose of calculating the extent to which any benefits are overdue, payment shall be treated as being made on the date a draft or other valid instrument which is equivalent to payment was placed in the United States mail in a properly addressed, postpaid envelope, or, if not so posted, on the date of delivery.

(c) All overdue payments shall bear simple interest at the rate of ten percent (10%) per annum.

(d) The insurer of the owner of a motor vehicle shall pay personal injury protection benefits for:

1. Accidental bodily injury sustained in this state by the owner while occupying a motor vehicle, or while not an occupant of a motor vehicle or motorcycle if the injury is caused by physical contact with a motor vehicle.

2. Accidental bodily injury sustained outside this state but within the United States of America, its territories or possessions or Canada by the owner while occupying the owner's motor vehicle.

3. Accidental bodily injury sustained by a relative of the owner residing in the same household, under the circumstances described in subparagraph 1 or 2 of this paragraph (d), provided the relative at the time of the accident is domiciled in the owner's household and is not himself the owner of a motor vehicle with respect to which security is required under this act.

4. Accidental bodily injury sustained in this state by any other person while occupying the owner's motor vehicle or, if a resident of this state, while not an occupant of a motor vehicle or motorcycle, if the injury is caused by physical contact with such motor vehicle, provided the injured person is not himself:

a. The owner of a motor vehicle with respect to which security is required under this act, or

b. Entitled to personal injury benefits from the insurer of the owner of such a motor vehicle.

(e) If two or more insurers are liable to pay personal injury protection benefits for the same injury to any one person the maximum payable shall be as specified in subsection (1) of section 7, and any insurer paying the benefits shall be entitled to recover from each of the other insurers an equitable pro rata share of the benefits paid and expenses incurred in processing the claim.

(5) Charges for treatment of injured persons.—Any physician, hospital, clinic, or other person or institution lawfully rendering treatment to an injured person for a bodily injury covered by personal injury protection insurance may charge only a reasonable amount for the products, services, and accommodations rendered. In no event, however, may such a charge be in excess of the amount the person or institution customarily charges for like products, services, and accommodations in cases involving no insurance.

(6) Discovery of facts about an injured person; disputes.—

(a) Every employer shall, if a request is made by an insurer providing personal injury protection benefits under this act against whom a claim has been made, furnish forthwith, in a form approved by the department of insurance, a sworn

statement of the earnings since the time of the bodily injury and for a reasonable period before the injury, of the person upon whose injury the claim is based.

(b) Every physician, hospital, clinic, or other medical institution providing, before or after bodily injury upon which a claim for personal injury protection insurance benefits is based, any products, services, or accommodations in relation to that or any other injury, or in relation to a condition claimed to be connected with that or any other injury, shall, if requested to do so by the insurer against whom the claim has been made, furnish forthwith a written report of the history, condition, treatment, and dates and costs of such treatment of the injured person, and produce forthwith and permit the inspection and copying of his or its records regarding such history, condition, treatment, and dates and costs of treatment. The person requesting such records shall pay all reasonable costs connected therewith.

(c) In the event of any dispute regarding an insurer's right to discovery of facts about an injured person's earnings or about his history, condition, treatment, and dates and costs of such treatment, the insurer may petition a court of competent jurisdiction to enter an order permitting such discovery. The order may be made only on motion for good cause shown and upon notice to all persons having an interest, and it shall specify the time, place, manner, conditions, and scope of the discovery. Such court may, in order to protect against annoyance, embarrassment, or oppression, as justice requires, enter an order refusing discovery or specifying conditions of discovery and may order payments of costs and expenses of the proceeding, including reasonable fees for the appearance of attorneys at the proceedings, as justice requires.

(e) The injured person shall be furnished upon demand a copy of all information obtained by the insurer under the provisions of this section, and shall pay a reasonable charge, if required by the insurer.

(7) Mental and physical examination of injured person; reports.—

(a) Whenever the mental or physical condition of an injured person covered by personal injury protection is material to any

claim that has been or may be made for past or future personal injury protection insurance benefits, such person shall, upon request of an insurer, submit to mental or physical examination by a physician or physicians. The costs of any examinations requested by an insurer shall be borne entirely by the insurer. Such examination shall be conducted within the city of residence of the insured. If there is no qualified physician to conduct the examination within the city of residence of the insured, then such examination shall be conducted in an area of the closest proximity to the insured's residence. Personal protection insurers are authorized to include reasonable provisions in personal injury protection insurance policies for mental and physical examination of those claiming personal injury protection insurance benefits.

(b) If requested by the person examined, a party causing an examination to be made shall deliver to him a copy of every written report concerning the examination rendered by an examining physician, at least one of which reports must set out his findings and conclusions in detail. After such request and delivery, the party causing the examination to be made is entitled upon request to receive from the person examined every written report available to him (or his representative) concerning any examination, previously or thereafter made, of the same mental or physical condition. By requesting and obtaining a report of the examination so ordered or by taking the deposition of the examiner, the person examined waives any privilege he may have, in relation to the claim for benefits, regarding the testimony of every other person who has examined or may thereafter examine him in respect of the same mental or physical condition.

(8) With respect to any dispute under the provisions of this act between the insured and the insurer, the provisions of section 627.0127, Florida Statutes, shall apply.

Section 8. Tort exemption; limitation on right to damages.—

(1) Every owner, registrant, operator or occupant of a motor vehicle with respect to which security has been provided as required by this act, and every person or organization legally responsible for his acts or omissions, is hereby exempted from tort liability for damages because of bodily injury, sickness or disease arising out of the ownership, operation, maintenance or

use of such motor vehicle in this state to the extent that the benefits described in subsection (1) of section 7 are payable for such injury, or would be payable but for any exclusion or deductible authorized by this act, under any insurance policy or other method of security complying with the requirements of section 4, or by an owner personally liable under section 4 for the payment of such benefits, unless a person is entitled to maintain an action for pain, suffering, mental anguish and inconvenience for such injury under the provisions of subsection (2) of this section.

(2) In any action of tort brought against the owner, registrant, operator or occupant of a motor vehicle with respect to which security has been provided as required by this act, or against any person or organization legally responsible for his acts or omissions, a plaintiff may recover damages in tort for pain, suffering, mental anguish and inconvenience because of bodily injury, sickness or disease arising out of the ownership, maintenance, operation or use of such motor vehicle only in the event that the benefits which are payable for such injury under paragraph (a) of subsection (1) of section 7 or which would be payable but for any exclusion or deductible authorized by this act exceed one thousand dollars ($1,000), or the injury or disease consists in whole or in part of permanent disfigurement, a fracture to a weight-bearing bone, a compound, comminuted, displaced or compressed fracture, loss of a body member, permanent injury within reasonable medical probability, permanent loss of a bodily function, or death. Any person who is entitled to receive free medical and surgical benefits shall be deemed in compliance with the requirements of this subsection upon a showing that the medical treatment received has an equivalent value of at least one thousand dollars ($1,000). Any person receiving ordinary and necessary services normally performed by a nurse from a relative or a member of his household shall be entitled to include the reasonable value of such services in meeting the requirements of this subsection.

Section 9. (1) The owner of a motor vehicle as defined in section 3 is not required to maintain security with respect to property damage to his motor vehicle, but may elect to purchase either full or basic coverage for accidental property damage to his motor vehicle.

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(2) Every insurer providing security under this act shall offer the owner either full or basic coverage for accidental property damage to the insured motor vehicle as follows:

(a) Full coverage shall provide insurance without regard to fault for accidents occurring within the United States of America, its territories or possessions or Canada.

(b) Basic coverage shall be limited to insurance against damage caused by the fault of another resulting from contact between the insured vehicle and a vehicle with respect to which security is required under this act.

(3) The insurer may include within the terms and conditions applicable to full or basic coverage such other provisions as it customarily applies to collision coverage for private passenger automobiles in other states, including deductibles without limitation.

(4) Every owner, registrant, operator or occupant of a motor vehicle with respect to which security has been provided as required by this act, and every other person or organization legally responsible for the acts or omissions of such an owner, registrant, operator or occupant, is hereby exempted from tort liability for damages because of accidental property damage to motor vehicles arising out of the ownership, operation, maintenance or use of such motor vehicle in this state, provided that a person shall not be exempt from such liability if he was operating the motor vehicle without the express or implied consent of its owner or an insured under the owner's policy or if his willful and wanton misconduct was the proximate cause of the accident. This exemption applies only with respect to property damage to motor vehicles subject to this act but shall not be applicable as to a motor vehicle damaging a parked vehicle.

(5) Notwithstanding paragraph (4) above, an owner who has elected not to purchase insurance with respect to property damage to his motor vehicle may maintain an action of tort therefor against the owner, registrant, operator or occupant of a motor vehicle causing such damage if such damage exceeds five hundred and fifty dollars ($550), and the insurer of an owner who has elected to purchase full or basic collision coverage for his motor vehicle shall have the right, if the damage to such

motor vehicle exceeds the above amount, to recover the amount of the benefits it has paid and, in behalf of its insured, any deductible amount from the insurer of the owner, registrant, operator or occupant of a motor vehicle causing such damage. The issues of liability in such a case and the amount of recovery shall be decided on the basis of tort law, and shall be determined by agreement between the insurers involved, or if they fail to agree by arbitration.

Section 10. Each insurer providing security as required by this act to any owner shall, at the election of the owner, issue a policy endorsement, approved as to content by the department of insurance and subject to such other reasonable regulations regarding said endorsement as the department may make after appropriate hearing, which endorsement shall provide that there shall be deducted from personal protection benefits that would otherwise be or become due to the policyholder alone or to the policyholder and relatives residing in his household, an amount of either two hundred and fifty dollars ($250), five hundred dollars ($500) or one thousand dollars ($1,000), again as the policyholder elects, said amount to be deducted from the amounts otherwise due each person subject to the deduction. Any person electing such an endorsement or subject to such an endorsement as a result of the policyholder's election shall have no right to claim or to recover any amount so deducted from any owner, registrant, operator or occupant of a motor vehicle or any person or organization legally responsible for any such person's acts or omissions who is made exempt from tort liability by this act.

Section 11. Notwithstanding any other provision of this act, the rights of residents of this state to claim damages in tort shall not be diminished when such residents are involved in motor vehicle accidents with persons not required to provide security under this act.

Section 12. Implementation of this act.—

(1) The department of insurance shall adopt rules and regulations necessary to implement the provisions of this act.

(2) Notwithstanding any other provision of law, all insurers

issuing insurance coverage under this act shall comply with the following provisions:

(a) Within sixty (60) days after the effective date of this act, each insurer shall file its proposed manual, rules, rates and rating plans with the department for approval. Rates for required financial responsibility coverage after the effective date of sections 1 through 11 of this act shall be reduced by each insurer by not less than fifteen percent (15%), calculated as a percentage of the combined required financial responsibility rate of such insurer in effect on June 7, 1971, or of the combined required financial responsibility rate of such insurer approved by the commissioner and in effect at the time of the filing of the new rates required herein. There shall be no exception to the requirements of this provision, unless the department shall find that the use of the rates required herein by any insurer will result in rates which are inadequate under Section 627.082, Florida Statutes, to the extent that such rates jeopardize the solvency, as defined in section 631.011, Florida Statutes, of the insurer required to use such rates. Notwithstanding the provisions of Chapter 71-3(B), Laws 1971, no rate for the insurance required by this act shall be increased prior to January 1, 1973, unless the insurer proposing such rate increase shall show that the rates required herein are inadequate as defined in Section 627.082, Florida Statutes.

(b) Within sixty (60) days from the date of filing by such insurer, the department may approve or disapprove the filing. If no action is taken by the department within sixty (60) days, the filing shall be deemed approved.

(c) If the department approves the filing or the filing otherwise becomes effective, the manual, rules, rates and rating plans shall take effect upon the effective date of sections 1 through 11 of this act. If the department disapproves the filing, the insurer shall revert to a rate level for required coverage which shall be lower, by not less than fifteen percent (15%), than the combined premiums for required financial responsibility coverage at the time such proposed new rates were filed.

(d) Upon complying with this subsection, any insurer appealing an order of disapproval may use the rates set forth in

the disapproved filing during the pendency of the appeal, so long as such rates do not exceed its rates for required financial responsibility coverage at the time of its rate filing required herein. As a condition to the use of such disapproved rates, the insurer must enter into a legally binding agreement with the department to secure the repayment to the insurer's policyholders of the difference between the insurer's proposed rate and that rate which would be lower, by not less than fifteen percent (15%), than the combined premiums for required financial responsibility coverage at the time such proposed new rates were filed. In addition to the repayment of the difference in premium, the company shall agree to pay to the insured the legal rate of interest on any money refunded.

(e) Any private passenger automobile liability policy in force on January 1, 1972 and thereafter, shall reflect by endorsement any reduction in rates for the required coverage under this act as filed by the insurer and such reduction shall be computed on a prorata basis for the remaining term of said policy. Such endorsement may be issued at the renewal date of the policy or the termination of the policy. Any return premium shall be credited to the renewal policy or if the policy is terminated the return premium shall be refunded to the insured.

(f) For the purposes of the implementation of this act, rating organizations as defined in chapter 627 shall be permitted until January 1, 1973, to develop and furnish rates and forms to their members or subscribers. Provided, however, that members and subscribers of rating organizations shall not participate in the decisions or deliberations of such organizations in the development of such rates under this act.

Section 13. If any provision of this act, or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application. To this end the provisions of this act are declared to be severable.

Section 14. This act shall become effective July 1, 1971; provided, however the provisions of sections 1 through 11 of this

act shall not become effective until January 1, 1972, and shall not apply to accidents or injuries occurring before said date.

Became a law without the Governor's approval.

Filed in Office Secretary of State June 24, 1971.

CHAPTER 71-253

Senate Bill No. 297

AN ACT relating to community colleges; requiring that teaching faculty members teach not less than fifteen (15) classroom contact hours per week; providing exemptions; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Each full-time member of the teaching faculty at any institution under the supervision of the division of community colleges of the department of education who is paid wholly from funds appropriated from the minimum foundation fund shall teach a minimum of fifteen (15) classroom contact hours per week at such institution provided, however, that the required classroom contact hours per week may be reduced upon approval of the president of the institution in direct proportion to specific duties and responsibilities assigned the faculty member by his departmental chairman or other appropriate college administrator, such specific duties to include specific research duties, or specific duties associated with developing television, video tape, or other specifically assigned innovative teaching techniques or devices, or assigned responsibility for off-campus student internship or work study programs. A classroom contact hour consists of a regularly scheduled one (1) hour period of classroom activity in a course of instruction which has been approved by the board of trustees of the community college. Any full-time faculty member who is paid partly from minimum foundation funds and partly from other funds or appropriations shall teach a minimum number of classroom contact hours per

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

MAR 28 1983

March 28, 1983

MEMORANDUM

TO: Representative Joe Hayes
Attention: Jeff Day

FROM: David Teal
Research Staff

RE: Automobile Liability Insurance
Research Request Number 83-128

Jeff Day, of your staff, asked for information relating to automobile liability insurance. More specifically, he requested the latest estimates of the proportion of uninsured motorists in Alaska, the number of vehicles registered in the state, the number of licensed drivers, and the amount of property damage and personal injury caused by uninsured motorists.

Insured vs. Uninsured Motorists

As you may know, automobile liability insurance policies generally cover some persons not named on the policies; as far as the insurance provider is concerned, the unit of exposure is the vehicle, not the policy-holder or the number of potential operators. This factor makes determining the number of uninsured drivers very difficult and is the reason that data are usually presented in terms of uninsured vehicles rather than uninsured persons.

The Division of Insurance prepared statistics on the number of uninsured vehicles in Alaska, but included several caveats in the analysis. (See Attachment A.) That study used information from several sources and produced two estimates of the number of uninsured vehicles during several years. The estimates are so dissimilar that one must question their value. For example, the estimate of uninsured vehicles in 1980 was 40.5 percent by one method and 11.0 percent by the other method.

A third method, which was used by the Division of Drivers' Services in the Department of Public Safety, is likely to provide a much better estimate of the proportion of motorists in Alaska that are uninsured. The division reviewed records of accidents that occured during January of 1981 and found that 21 percent of motorists involved in accidents were uninsured. A repeat of the study in January of 1982 showed that

20 percent of motorists were uninsured. Applying the 20 percent figure to the vehicle registration statistics presented later in this memorandum produces an estimate of about 100,000 uninsured vehicles in the state. Figures for 1983 have not been compiled.

Liability Limits

Jeff Day noted that liability limits of $100,000 per person (to a maximum of $300,000 per accident) for bodily injury and $50,000 for property damage--traditionally written as 100/300/50--are "standard" and wondered how many insured drivers currently carry less than this amount of liability insurance. I was unable to find any written record of the number of motorists that purchase more insurance than is required by law, but it is worth noting that Alaska currently requires 25/50/10 and that Hawaii is the only state with higher limits than Alaska. (See Attachment B.)

The only way to determine the number of policies written for limits higher than the minimum is to contact the individual insurance companies. A reasonable estimate could be obtained by contacting State Farm, Allstate, Criterion, and United Services. Together, these companies insure about 70 percent of Alaska's motorists.

I was able to contact Allstate and State Farm Insurance Companies, and spokesmen for both said that their most common coverage is 100/300/50. In this sense, the 100/300/50 policy is the industry standard. According to State Farm Insurance, the additional cost of 100/300/50 amounts to only about $20 per year more than the 25/50/10 coverage. The company also pointed out that law suits now commonly exceed Alaska's current minimums.

Damage and Injury Caused by Uninsured Motorists

There are no requirements that records on this subject be maintained. Don Koch, of the Division of Insurance, stated that he wouldn't even be able to "guesstimate" because he felt that much of the damage is unreported and/or uncompensated. A similar opinion was expressed by representatives of the insurance industry.

As you may be aware, uninsured motorist coverage is a mandatory offering in Alaska. This means that insurance companies must offer the coverage and inform clients of its availability. There is no requirement that the coverage be purchased.

Registered Vehicles and Licensed Drivers

According to Sharon Naus, of the Division of Drivers' Services in the Department of Public Safety, there were 316,797 persons holding valid Alaska drivers licenses on January 10, 1983. She also reported that 407,870 vehicles were registered in Alaska in calendar year 1982. The following table shows the number of registered vehicles by vehicle type.

Motor Vehicles Registered in Alaska
Calendar Year 1982

Vehicle Type	Number
Passenger Automobiles	217,719
Motorcycles	14,504
Commercial Trailers	10,079
Utility Trailers	37,999
Commercial Trucks	19,361
Pick-ups	106,851
Buses	1,357
TOTAL	407,870

Source: Department of Public Safety 3/83

* * *

In addition to material obtained from the Division of Insurance, I am attaching a recent House Research Agency memorandum on the subject of compulsory insurance. If you have questions about information presented in this memorandum and its attachments or have additional questions, please call.

Attachments

A) Alaska Drivers: Insured vs. Uninsured (Division of Insurance, undated)
B) Liability Limits (Division of Insurance, undated)
C) Research Request 83-48

ATTACHMENT A

ALASKA DRIVERS
Insured vs. Uninsured

The division's statistical needs respond to rate-making and solvency issues. Nevertheless. it has made an attempt to obtain some feeling as to what portion of the public may be uninsured. Unfortunately, a number of caveats must be placed on this information. The sources for the data used in the calculation come from several areas and in each case, this data is untested and has been subject to some adjustment or assumption which may cast suspicion on its accuracy.

You will note the substantial difference between the two charts. The reason for this difference is attributed to the different interpretation of what constitutes a private passenger type risk. The caveats following each chart detail the source of the numbers.

The data that follows is useful for "guesstimating" the percentage of insured motor vehicles in Alaska. It does not relate to insured persons in Alaska. To our knowledge, there is currently no source for arriving at a number of insured persons since a policy, when written, covers some persons not named automatically.

The unit of exposure, as far as the insurer is concerned, is the number of vehicles not the number of potential operators.

Chart 1. (From Division of Insurance 1982 Statistical Analysis)

(1) Year	(2) Registered Autos	(3) Insured Car Years	(4) % Insured	(5) % Uninsured
1975	199,536	117,355	58.8	41.2
1976	221,386	120,964	54.6	45.4
1977	226,389	121,635	53.7	46.3
1978	232,425	123,581	53.2	46.8
1979	229,403	132,391	57.7	42.3
1980	230,040	136,895	59.5	40.5

(1) This column is on a calendar basis.

(2) The number of registered automobiles was obtained from the Division of Planning and Research in the Department of Transportation and Public Facilities of the State of Alaska. The number of auto registrations derives from the following types of license plates:

- Regular
- Personalized
- Call Letter
- Other, including legislator, historic vehicle
- Pickups and vans
- Farm trucks

The numbers have been adjusted to remove duplicate registrations. They to not include unregistered vehicles, nor is there a method to arrive at a reasonable "guesstimate" of that number. Prior to 1977, pickups and vans were included in the freight-light trucks classification. We have made an adjustment to separate the pickups and vans from that classification, based on the relationship during 1977-79 of the pickups and vans classification to the freight-light trucks classification. Official automobiles (State, federal and municipal) are not included. Some fleets of automobiles have been included but are not identifiable by name or number. The chart relates only to private passenger registrations and insurance.

(3) These figures were obtained from the Automobile Insurance Plans Service Office (AIPSO), a licensed rating organization for this State. Included are voluntary and assigned risk nonfleet private passenger vehicles insured. An insured car year is one automobile insured for one year, so that, if a car is insured for six months, that would be 1/2 car year.

(4) = (3) ÷ (2)

(5) = 100% - (4)

Chart 2 (from AIPSO Ins. Facts, 1982)

Year	Registered Autos*	Insured Car Years+	% Insured	% Uninsured
1973	111,455	99,430	89.2	10.8
1974	135,902	99.430	70.2	29.8
1975	141,921	117,355	82.7	17.3
1976	154,093	120,964	78.5	21.5
1977	159,896	121,635	76.1	23.9
1978	162,578	123,619	82.2	17.8
1979	153,402	132,391	86.3	13.7
1980	153,774	136,895	89.0	11.0

* Represents number of passenger car registrations based on data from U.S. DOT, Federal Highway Administration, Highway Statistics Division, Office of Highway Planning. (A) Includes all new and renewal passenger car registrations. (B) Includes passenger car fleet vehicles, taxi cabs, and miscellaneous private passenger-car type vehicles registered as passenger cars. (C) Includes passenger car registrations made throughout the year, although vehicle may have ben registered only a portion of the year. (D) Vehicles registered in one name and later sold and registered in another name count as two registrations, etc.

+ Represents 1/12 of the number of exposure months of liability insurance on vehicles rated as private passenger nonfleet type risks. (A) Includes many pickup trucks insured as passenger car type but not so registered. (B) May include other vehicles insured as passenger car risks, but registered as antiques, station wagons, vanity, press, ham radio, etc. (C) Does not include motorcycles recreational vehicles, nonowner risks, and cars rated in a fleet or self-insured.

In view of the interest being expressed by a number of persons in reviewing the limits of liability required by the Alaska Safety Responsibility Act (financial responsibility law) the Division of Insurance has updated exhibits originally prepared when the limits were last revised in 1975.

EXHIBIT A reflects the purchasing power or value of the dollar based on the annual average value as measured by consumer prices. The base year utilized is 1959, the year of Alaska Statehood. The indices used were developed by the U. S. Bureau of Labor Statistics. Column (3) shows the limits of liability for bodily injury applicable to the particular year. Column (5) does the same for property damage. The figures for 1982 and 1983 are projections and are not firm.

EXHIBIT B is the same concept as EXHIBIT A except it uses the date of last change of limits as the base year and thus uses a shorter span of years.

EXHIBIT C is an excerpt from the FC&S BULLETINS published by the National Underwriter Company of Cincinnati, Ohio. It depicts the current (as of January 1983) limit of liability for each state of the United States and for each province in Canada.

March 1, 1983

Division of Insurance
Department of Commerce & Economic Development
State of Alaska

..PURCHASING POWER OF FINANCIAL RESPONSIBILITY LAW LIMITS USING 1959 (statehood) AS BASE YEAR

(1) Year	(2) Purchasing Power indx	(3) B.I. Limits (000)	(4) Purchasing Power of (3)	(5) P.D. Limit (000)	(6) Purchasing Power of (5)
1959	1.000	10/20	10000/20000	5	5000
1960	.984	10/20	9840/19680	5	4920
1961	.975	10/20	9750/19500	5	4875
1962	.964	10/20	9640/19280	5	4820
1963	.953	10/20	9530/19060	5	4765
1964	.940	10/20	9400/18800	5	4700
1965	.924	10/20	9240/18480	5	4620
1966	.899	10/20	8990/17980	5	4495
1966	.899	15/30	13485/26970	5	4495
1967	.873	15/30	13095/26190	5	4365
1968	.838	15/30	12570/25140	5	4190
1969	.796	15/30	11940/23880	5	3980
1970	.751	15/30	11265/22530	5	3755
1971	.720	15/30	10800/21600	5	3600
1972	.698	15/30	10470/20940	5	3490
1973	.657	15/30	9855/19710	5	3285
1974	.587	15/30	8805/17610	5	2935
1975	.542	15/30	8130/16260	5	2710
1975	.542	25/50	13550/27100	10	5420
1976	.512	25/50	12800/25600	10	5120
1977	.481	25/50	12025/24050	10	4810
1978	.447	25/50	11175/22350	10	4470
1979	.402	25/50	10050/20100	10	4020
1980	.355	25/50	8875/17750	10	3550
1981	.325	25/50	8125/16250	10	3250
1982est.	.310	25/50	7750/15500	10	3100
1983est.	.295	25/50	7375/14750	10	2950
Proposals					
1983est.	.295	50/100	14750/29500	25	7375
1983est	.295	100/200	29500/59000	25	7375

Prepared by: Alaska Division of Insurance
Based on U.S. Bureau of Labor Statistics
Date: March 1, 1983

PURCHASING POWER OF FINANCIAL RESPONSIBILITY LAW LIMITS USING 1975 (date of last change in financial responsibility law limits) AS BASE YEAR

(1) Year	(2) Purchasing Power Indx	(3) B.I. Limits (000)	(4) Purchasing Power of (3)	(5) P.D. Limit (000)	(6) Purchasing Power of (5)
1975	1.000	25/50	25000/50000	10	10000
1976	.945	25/50	23625/47250	10	9450
1977	.887	25/50	22175/44350	10	8870
1978	.824	25/50	20600/41200	10	8240
1979	.742	25/50	18550/37100	10	7420
1980	.654	25/50	16350/36700	10	6540
1981	.599	25/50	14975/29950	10	5990
1982est.	.572	25/50	14300/28600	10	5720

Prepared by: Alaska Division of Insurance
Based on: U.S. Bureau of Labor Statistics
Date: March 1, 1983

Official Business

Alaska State Legislature

Senate

Office of the President

Pouch V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

DATE: June 3, 1983

TO: Senator Dick Eliason
Chairperson, Senate Labor and Commerce Committee

FROM: Senator Jay Kerttula
Senate President

RE: HB 7, requiring mandatory auto insurance.

The attached material was recently received in my office. I am forwarding it to you for the perusal of you and your committee.

Attachment

JMK:jdk

May 26, 1983

JUN 1 1983

Joe M. Huddleston
509 West Third Avenue
Anchorage, Alaska 99501

The Honorable Jalmar M. Kerttula
Pouch "V"
Juneau, Alaska 99811

Dear Jay:

I would like to take this opportunity to direct to you my thoughts on pending legislation. House Bill No. 7 and Senate Bill No. 223 is proposed legislation which requires compulsory insurance in order to obtain a driver's license or vehicle tags. The idea of compulsory insurance does have surface appeal, but I believe that it does not stand close scrutiny. As you know, I am an attorney practicing law in Anchorage. I am significantly involved in insurance defense actions and I have researched this subject at length.

As I mentioned above, the idea of compulsory insurance does have a degree of surface appeal. However, our several sister states have experimented with this type of legislation to their prejudice. New York adopted a compulsory insurance law in 1956, and a study undertaken by the University of Michigan in 1963 reported that the law was unenforced, unenforceable, and a complete failure. A New York Daily News "study" reported that the law had failed to achieve its aims and was, in fact, counterproductive.

In the main our sister states have found that the compulsory insurance laws (1) cannot be enforced; (2) are costly to administer; and (3) increase insurance premiums for responsible drivers.

Notwithstanding the above, my three major reservations concerning this legislation are that it will (1) significantly increase the premium rates for responsible policy holders; (2) significantly increase the case loads at the Superior Court level; and (3) engender disrespect for law.

A superficial review of this subject might suggest that the respective insurance carriers would be in favor of this type of legislation. What greater boon could one envision to the insurance industry than legislation which mandates that everyone must buy their product? However, the insurance industry has

realized that compulsory insurance creates a bureaucracy in state government and in private industry and, further, significantly raises insurance premium rates.

I would suggest to you that this Bill is simply a make work project for attorneys. In the situation where an insured motorist is involved in an accident with an uninsured motorist, he has recourse to his uninsured motorist benefits. This is a very common situation and in almost all of these situations no lawsuit is filed. The insured motorist simply settles with his own insurance carrier or, in a relatively few cases, the matter is taken to arbitration. The overwhelming majority of this type of case does not involve an attorney and is settled without recourse to the court. The savings to the taxpayer are incalculable.

The requirement that every driver obtain insurance will negate the effect of the uninsured motorist benefits and result in a proliferation of lawsuits rather than the insured simply settling the case with his own insurance company or demanding arbitration. This will be an excellent benefit for attorneys but will be a disservice to the citizens of the state of Alaska in that it will increase insurance premiums, increase state and private industry bureaucracy, increase the expense at the Superior Court level and prevent the speedy resolution of claims through the uninsured motorist provisions.

As I stated above, my research has indicated that the system of compulsory insurance is not effective in that it is unenforceable. The costs of enforcement through the Department of Motor Vehicles is prohibitive. A California study revealed that persons were applying for insurance, or actually obtaining it, and then cancelling the insurance as soon as they obtained their license. A Pennsylvania study reflected that the Department of Motor Vehicles in that state was bogged down in a bureaucratic morass. On average, forty thousand notices of cancellation or lapses of payment were processed each month by that department. The most recent information from New York reflects that the costs of enforcement were in excess of seven million dollars per year. South Carolina also spent in excess of one million dollars to enforce its compulsory law in the fiscal year ending April 30, 1979. It is the experience of our system of jurisprudence that laws that are unenforced or unenforceable are a disservice to the legislature and a disservice to the people of the state.

AN ALTERNATIVE SOLUTION

The concept that citizens of the state of Alaska should be protected from physical and financial reverses of this type is

laudable and should be pursued. However, there is a much more effective method of insuring that this type of physical and financial protection is available. Many states, for instance Oregon, require that each insurance policy contain uninsured motorist benefits. Under this type of provision, when an insured driver is involved in an accident with an uninsured motorist he simply files a claim with his own insurance company rather than dealing with the financially irresponsible individual that caused the collision in the first place. Requiring uninsured motorist coverage in every policy precludes the necessity of increasing either government or private industry bureaucracy. Requiring uninsured motorist provisions in every policy is easily enforceable as the respective carriers would not be allowed to sell insurance that did not include these benefits. Additionally, uninsured motorist coverage is very inexpensive to the policy holder. I would request that you review your own insurance policy and compare the costs of uninsured motorist coverage with the costs of general bodily injury liability coverage. The UM coverage generally costs just a few dollars.

It is my firm belief that the passage of House Bill No. 7, Senate Bill No. 223 will result in a morass of bureaucracy and paperwork and significant expense to the citizens of the state of Alaska. Additionally, compulsory insurance will significantly raise the premium rates that each of us must pay for insurance. Unfortunately, it is the experience of the citizens of the state of Alaska that we are compelled to pay an inordinate price for goods and services that are available in the Lower 48 on a less expensive basis. I do not believe that this additional cost should be passed along to the citizens of the state of Alaska. I would appreciate your thoughts or comments on this. I wish to thank you for your courtesy in this matter.

Sincerely yours,

Joe M. Huddleston

Joe M. Huddleston
509 West Third Avenue
Anchorage, Alaska 99501

JMH/ph

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

March 28, 1983

MEMORANDUM

TO: Representative Joe Hayes
Attention: Jeff Day

FROM: David Teal
Research Staff

RE: Automobile Liability Insurance
Research Request Number 83-128

Jeff Day, of your staff, asked for information relating to automobile liability insurance. More specifically, he requested the latest estimates of the proportion of uninsured motorists in Alaska, the number of vehicles registered in the state, the number of licensed drivers, and the amount of property damage and personal injury caused by uninsured motorists.

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20% of 400,000 vechicles

80,000 uninsured ??

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C) Research Request 83-48

ATTACHMENT A

ALASKA DRIVERS
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- Call Letter
- Other, including legislator, historic vehicle
- Pickups and vans
- Farm trucks

The numbers have been adjusted to remove duplicate registrations. They to not include unregistered vehicles, nor is there a method to arrive at a reasonable "guesstimate" of that number. Prior to 1977, pickups and vans were included in the freight-light trucks classification. We have made an adjustment to separate the pickups and vans from that classification, based on the relationship during 1977-79 of the pickups and vans classification to the freight-light trucks classification. Official automobiles (State, federal and municipal) are not included. Some fleets of automobiles have been included but are not identifiable by name or number. The chart relates only to private passenger registrations and insurance.

(3) These figures were obtained from the Automobile Insurance Plans Service Office (AIPSO), a licensed rating organization for this State. Included are voluntary and assigned risk nonfleet private passenger vehicles insured. An insured car year is one automobile insured for one year, so that, if a car is insured for six months, that would be 1/2 car year.

(4) = (3) ÷ (2)

(5) = 100% - (4)

Chart 2 (from AIPSO Ins. Facts, 1982)

Year	Registered Autos*	Insured Car Years+	% Insured	% Uninsured
1973	111,455	99,430	89.2	10.8
1974	135,902	99.430	70.2	29.8
1975	141,921	117,355	82.7	17.3
1976	154,093	120,964	78.5	21.5
1977	159,896	121,635	76.1	23.9
1978	162,578	123,619	82.2	17.8
1979	153,402	132,391	86.3	13.7
1980	153,774	136,895	89.0	11.0

* Represents number of passenger car registrations based on data from U.S. DOT, Federal Highway Administration, Highway Statistics Division, Office of Highway Planning. (A) Includes all new and renewal passenger car registrations. (B) Includes passenger car fleet vehicles, taxi cabs, and miscellaneous private passenger-car type vehicles registered as passenger cars. (C) Includes passenger car registrations made throughout the year, although vehicle may have ben registered only a portion of the year. (D) Vehicles registered in one name and later sold and registered in another name count as two registrations, etc.

+ Represents 1/12 of the number of exposure months of liability insurance on vehicles rated as private passenger nonfleet type risks. (A) Includes many pickup trucks insured as passenger car type but not so registered. (B) May include other vehicles insured as passenger car risks, but registered as antiques, station wagons, vanity, press, ham radio, etc. (C) Does not include motorcycles recreational vehicles, nonowner risks, and cars rated in a fleet or self-insured.

ATTACHMENT B

In view of the interest being expressed by a number of persons in reviewing the limits of liability required by the Alaska Safety Responsibility Act (financial responsibility law) the Division of Insurance has updated exhibits originally prepared when the limits were last revised in 1975.

EXHIBIT A reflects the purchasing power or value of the dollar based on the annual average value as measured by consumer prices. The base year utilized is 1959, the year of Alaska Statehood. The indices used were developed by the U. S. Bureau of Labor Statistics. Column (3) shows the limits of liability for bodily injury applicable to the particular year. Column (5) does the same for property damage. The figures for 1982 and 1983 are projections and are not firm.

EXHIBIT B is the same concept as EXHIBIT A except it uses the date of last change of limits as the base year and thus uses a shorter span of years.

EXHIBIT C is an excerpt from the FC&S BULLETINS published by the National Underwriter Company of Cincinnati, Ohio. It depicts the current (as of January 1983) limit of liability for each state of the United States and for each province in Canada.

March 1, 1983

Division of Insurance
Department of Commerce & Economic Development
State of Alaska

PURCHASING POWER OF FINANCIAL RESPONSIBILITY LAW LIMITS USING 1959 (statehood) AS BASE YEAR

(1) Year	(2) Purchasing Power indx	(3) B.I. Limits (000)	(4) Purchasing Power of (3)	(5) P.D. Limit (000)	(6) Purchasing Power of (5)
1959	1.000	10/20	10000/20000	5	5000
1960	.984	10/20	9840/19680	5	4920
1961	.975	10/20	9750/19500	5	4875
1962	.964	10/20	9640/19280	5	4820
1963	.953	10/20	9530/19060	5	4765
1964	.940	10/20	9400/18800	5	4700
1965	.924	10/20	9240/18480	5	4620
1966	.899	10/20	8990/17980	5	4495
1966	.899	15/30	13485/26970	5	4495
1967	.873	15/30	13095/26190	5	4365
1968	.838	15/30	12570/25140	5	4190
1969	.796	15/30	11940/23880	5	3980
1970	.751	15/30	11265/22530	5	3755
1971	.720	15/30	10800/21600	5	3600
1972	.698	15/30	10470/20940	5	3490
1973	.657	15/30	9855/19710	5	3285
1974	.587	15/30	8805/17610	5	2935
1975	.542	15/30	8130/16260	5	2710
1975	.542	25/50	13550/27100	10	5420
1976	.512	25/50	12800/25600	10	5120
1977	.481	25/50	12025/24050	10	4810
1978	.447	25/50	11175/22350	10	4470
1979	.402	25/50	10050/20100	10	4020
1980	.355	25/50	8875/17750	10	3550
1981	.325	25/50	8125/16250	10	3250
1982est.	.310	25/50	7750/15500	10	3100
1983est.	.295	25/50	7375/14750	10	2950
Proposals					
1983est.	.295	50/100	14750/29500	25	7375
1983est	.295	100/200	29500/59000	25	7375

Prepared by: Alaska Division of Insurance
Based on U.S. Bureau of Labor Statistics
Date: March 1, 1983

PURCHASING POWER OF FINANCIAL RESPONSIBILITY LAW LIMITS USING 1975 (date of last change in financial responsibility law limits) AS BASE YEAR

(1) Year	(2) Purchasing Power Indx	(3) B.I. Limits (000)	(4) Purchasing Power of (3)	(5) P.D. Limit (000)	(6) Purchasing Power of (5)
1975	1.000	25/50	25000/50000	10	10000
1976	.945	25/50	23625/47250	10	9450
1977	.887	25/50	22175/44350	10	8870
1978	.824	25/50	20600/41200	10	8240
1979	.742	25/50	18550/37100	10	7420
1980	.654	25/50	16350/36700	10	6540
1981	.599	25/50	14975/29950	10	5990
1982est.	.572	25/50	14300/28600	10	5720

Prepared by: Alaska Division of Insurance
Based on: U.S. Bureau of Labor Statistics
Date: March 1, 1983

Eighth Printing
January, 1983

TABLE OF LIMITS

Financial Responsibility and Compulsory Insurance Laws

The table that follows displays the minimum financial responsibility and compulsory Liability insurance limits for all states, the District of Columbia, and the Canadian provinces. (Limits are expressed in thousands.)

Alabama	$10/20/5
Alaska	25/50/10
Alberta	100
Arizona	15/30/10
Arkansas	25/50/15
British Columbia	100
California	15/30/5
Colorado	15/30/5
Connecticut	20/40/5
Delaware	10/20/5
District of Columbia	10/20/5
Florida	10/20/5
Georgia	10/20/10
Hawaii	25/Unlimited/10
Idaho	10/20/5
Illinois	15/30/10
Indiana	15/30/10
Iowa	20/40/15
Kansas	25/50/10
Kentucky	10/20/5
Louisiana	5/10/1
Maine	20/40/10
Manitoba	50
Maryland	20/40/10
Massachusetts	10/20/5
Michigan	20/40/10
Minnesota	25/50/10
Mississippi	10/20/5
Missouri	25/50/10
Montana	25/50/5
Nebraska	15/30/10
Nevada	15/30/10
New Brunswick	100
Newfoundland	75
New Hampshire	25/50/25
New Jersey	15/30/5
New Mexico	15/30/5
New York	10/20/5*
Northwest Territories	50
North Carolina	25/50/10
North Dakota	25/50/10
Nova Scotia	100
Ohio	12.5/25/7.5
Oklahoma	10/20/10
Ontario	200
Oregon	15/30/5
Pennsylvania	15/30/5
Prince Edward Island	100
Quebec	50†
Rhode Island	25/50/10
Saskatchewan	100
South Carolina	15/30/5
South Dakota	15/30/10
Tennessee	10/20/5
Texas	10/20/5
Utah	20/40/10‡
Vermont	20/40/10
Virginia	25/50/10
Washington	25/50/10
West Virginia	20/40/10
Wisconsin	25/50/10
Wyoming	10/20/5
Yukon	75

*50/100 for wrongful death.

†Because Quebec has a complete no-fault system for bodily injury, the minimum limit applies only to property damage within Quebec and combined bodily injury and property damage outside Quebec.

‡Or, $30,000 combined single limit.

ATTACHMENT C

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

32 states — compulsory — Mainly "no-fault"

March 8, 1983

MEMORANDUM

TO: Representative Willo Koponen

FROM: David Teal
Research Staff

RE: Insurance Pools
Research Request Number 83-48

You asked the House Research Agency to explore potential advantages of providing insurance to a single pool versus competing pools. Although other possibilities exist, the implication of a single pool is compulsory insurance underwritten by the government.[1]

In our conversation of March 2, you indicated an interest in applying the single pool concept to automobile insurance in Alaska. According to Don Koch, of the Division of Insurance in the Department of Commerce and Economic Development, 32 states now have some type of compulsory automobile insurance and 29 of those states adopted compulsory insurance laws (primarily no-fault) within the past 12 years. However, Jerry Sheehan, of the American Insurance Association, said these states require motorists to obtain an insurance policy from the private sector; no state acts as the underwriter (that is, the risk-taker) for automobile insurance.[2]

Several Canadian provinces are much more involved in providing automobile insurance. British Columbia, Manitoba, Saskatchewan and Quebec all have government-run corporations that underwrite automobile insurance. In my research of this topic, I spoke with Andy Neimers (Community

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[1] Other forms of single pool insurance include (1) contracting with underwriters in the private sector for exclusive coverage of Alaska's population and (2) excluding private sector insurers from the market without making government-provided coverage mandatory. Both forms would require strong government involvement.

[2] Hawaii probably comes closest to providing insurance; the State pays insurance premiums for motorists on welfare. Note, however, that the underwriters are private sector insurance companies, not the State.

Relations Officer for the Insurance Corporation of British Columbia) and Lynn Nolson, who works for the government insurance coporation in Saskatchewan. They listed the following as some of the advantages of the single pool concept.

- The pool made insurance more readily available to some sections of the population. One reason for government involvement was the alleged reluctance of private sector insurers to offer insurance in remote areas. Another allegation was that the premiums charged to young drivers were out of proportion to the risks.

- Security is greater when all motorists are insured. Innocent victims of accidents are assured of compensation for their losses.

- Administrative costs of a single pool can be much lower than for competing pools, such as those found in states that have compulsory insurance laws which require purchase of insurance from the private sector. This applies in particular to enforcement. A single pool can process information faster and more accurately than is likely to occur when information is not centrally gathered and processed.

- Premiums are lower. The need for profit is eliminated wher the government acts as the underwriter.

- Income can be invested within the province.

- The private sector is not excluded from the insurance business. Policies are obtained from (and commissions are paid to) private insurance companies. In addition, private sector insurers can write policies in excess of the required coverage. In fact, very little "excess" insurance is purchased from private insurers because they cannot compete with the government premium structure. People can (and often do) purchase excess coverage from the government.

Both Canadian sources said the single pool concept has some opposition, but they said it tended to be philosophical/political rather than being aimed at the cost or efficiency of the programs. Note, however, that British Columbia had a fixed premium structure that subsidized drivers with poor driving records when the program began in 1973. According to Mr. Neimers, the program ran up a deficit of $180 million and required a government bailout. He said the new "bonus/malice" premium schedule has reduced subsidies and claimed that the corporation now operates at

a breakeven level. Saskatchewan continues to charge a single fee for the minimum liability coverage.

The Canadians tie insurance to vehicle registration; our two sources recommended that Alaska adopt the same system if the State adopts the single pool concept. They voiced concern that linking insurance to a license to drive might result in people driving without a license. They noted that license plates are highly visible evidence of insurance while a driver's license might be examined only after an accident. Although the registration plates are evidence of insurance and are associated with the bulk of premium payments, the Canadians also assess a fee for a driver's license. The fee provides insurance coverage for auto accidents even if the holder is a pedestrian at the time of the accident.

As mentioned earlier in this memorandum, none of the United States provides automobile insurance in the same way as the Canadian provinces. However, several states--Nevada, North Dakota, Ohio, Washington, West Virginia and Wyoming--apply the single pool concept to workers' compensation insurance. I discussed the single pool concept with Jacqueline McClintock, director of the the Division of Workers' Compensation, and with Don Koch. They countered many of the advantages listed earlier in this memorandum and noted several disadvantages to adopting the single pool concept in Alaska. Their points are listed below.

- There is no compelling actuarial reason to have a single risk pool; when combined with policy-holders in other states, the competing pools are large enough to accurately project losses.
- There is not significant problem with availability of automobile insurance in rural Alaska.
- A government-run insurance program is a heavy intrusion into private industry. Increased government involvement would be a reversal of the current trend; many jobs would be shifted from the private sector to the state payroll.
- Alaska's new spending limitation could affect the State's ability to fund the personnel required to operate an insurance program.
- A government-run insurance program might have many hidden costs such as legal fees absorbed by the Attorney General's office.
- The downward pressure which competition places on rates and the inherent inefficiency of government may more than offset the gains due to the elimination of profit.

- Compulsory insurance is costly because (1) the policy is unlikely to have exclusions, (2) fraud is eliminated as a defense if the insurance carrier must go to court, and (3) insurance coverage must be certified.

- Even compulsory insurance is unlikely to provide 100% coverage.

- Although a State corporation might invest more heavily in the state than would a large national corporation, additional investments may not be all that attractive; some analysts claim that Alaska has surplus liquidity.

Other solutions may provide similar security at a lower cost and/or with less disruption of the market and less impact on personal freedom. Options include:

- mandatory offering of underinsured as well as uninsured motorist coverage, for personal property as well as for bodily injury;

- stronger financial responsibility laws, such as "habitual offenders" provisions or a fee assessed at the time an uninsured (or unbonded) vehicle is registered and a fee if an uninsured vehicle is involved in an accident; and

- an "unsatisfied judgment fund" or similar program to compensate innocent victims of automobile accidents.

* * *

As you are aware, insurance is a complex topic with few solutions that solve all problems. The House Research Agency has performed research on automobile insurance in the past and has a voluminous file on the subject. Copies of released material are attached to this memorandum. If you or your staff wish to examine our files or would like us to perform additional work, please contact us.

Attachments
Summary, Choice of a Regulatory Environment for Automobile Insurance, SRI International, 1979
The Manitoba Auto Insurance Plan
Research Requests: 69
81-16
81-32
81-173

ECUSE RESEARCH AGENCY
Pouch Y - State Capitol
Juneau, Alaska 99811
465-3991

MEMORANDUM March 6, 1980

TO: Representative Sally Smith

FROM: Peter B. Froehlich

RE: Uninsured Motorists and the Motor Vehicle Safety Responsibility Act (AS 28.20) (Research Request No. 69)

You recently asked this agency to explore possible methods to "tighten up" the Motor Vehicle Safety Responsibility Act (AS 28.20). In the course of our research on the Act, we learned that the Senate Commerce Committee has been studying the same issue. That committee has received a report from Richard Block, former director of the Division of Insurance, addressing amendments to the Act, as well as other approaches to the problem of uninsured motorists in Alaska. Senator Bradley has recently introduced one bill as a result of Mr. Block's report (SB 460 authorizing municipalities to impose mandatory insurance). Another, which will amend and tighten up the Motor Vehicle Safety Responsibility Act is currently being drafted by the Legal Services Division of the Legislative Affairs Agency for the committee.

In light of the existence of Mr. Block's report and the legislation which Senate Commerce Committee intends to introduce amending the Act, you have instructed us that completion of our research pursuant to your request was not necessary. Nonetheless, we offer this memorandum as a brief summary of our work thus far.

* * * * * * * * * * * * *

The problem at hand is that over 50% of the registered private vehicles in Alaska are completely uninsured. In 1978, according to Division of Insurance statistics, the figure was 49.1%. Although that year is the most recent for which complete data is available, the trend has been an increase in the figure each year.

The answer to the problem is not at all simple, and many possibilities have been suggested. Mandatory insurance appears to be the least popular for several reasons. In the states which have tried it, enforcement and administration has been an expensive burden and insurance rates have often climbed faster than in states without mandatory insurance.

"No fault" insurance is perhaps a more workable solution, but has not been popular with insurance carriers, attorneys and others in Alaska when it has been considered by the legislature in the past.

Amendment of the existing Motor Vehicle Safety Responsibility Act may be the most feasible answer. This approach would take advantage of the main body of an existing chapter of the Alaska Statutes. It would therefore result in less disruption, adjustment and staff increase in the existing bureaucracy which implements the Act. It would be simpler both to legislate and to administer. Because fewer people would be forced by law to buy insurance, individual freedom of choice would be preserved to a greater degree. While all possible problems with uninsured drivers would not be solved, significant improvement could result from amending the Act.

The Motor Vehicle Safety Responsibility Act was enacted in 1959 during the first legislative session after Statehood. The Act deals with two separate subjects: 1) the requirement of deposit of security by uninsured motorists involved in an accident (AS 28.20.050-220); and 2) the requirement of proof of financial responsibility for the future by motorists convicted of certain offenses or involved in an accident (AS 28.20.230-600). The Act has been amended 13 times from 1964 through 1977. However, none of these amendments were really substantive. They merely made minor changes such as raising dollar amounts (e.g., ch 202 SLA 1976 and ch 144 SLA 1977), repealing some sections and subsections (e.g., 53 SLA 1973 and ch 135 SLA 1977), and substituting the Department of Public Safety for the Department of Revenue in the administration of the Act (e.g., ch 214 SLA 1976). Although the Alaska Supreme Court made several specific suggestions for substantive amendments to the Act in Paulson vs. National Indemnity Co. 498 P2 d731 (AK 1972), no remedial action was taken by the legislature. The Act has been significantly interpreted in one other Alaska Supreme Court case, Hart vs. National Indemnity Co. 422 P2 d1015 (AK 1967). It has been cited or applied in at least 9 other cases, including three Alaska Supreme Court cases, two Federal District Court cases, and four Alaska Superior Court cases.

Several amendments to the Act have been suggested either by others contacted during our research or by the research itself. First, of course, are the suggestions of the Alaska Supreme Court in the Paulson decision 498 P2 d731 at 737. These suggestions are directed at tightening the requirements of the second part of the Act for proof of financial responsibility for the future by motorists involved in accidents. The court suggested the repeal of language in AS 28.20.410 and 440 which allows a motorist to satisfy the act by insuring only one of several vehicles he owns.

Two amendments were suggested by Ken Moore, director of the Division of Insurance in a January 24, 1980 letter to Senator Hackney. These amendments would 1) prevent registration of a vehicle or renewal thereof by anyone required under the Act to file proof of responsibility for the future who did not do so; and 2) make any falsification of such proof punishable by a fine or jail sentence. The latter suggested amendment appears to be covered by existing AS 28.20.570. The first suggestion, essentially tightening the relationship between the Act and AS 28.10 (Vehicle Registration) appears to be necessary and desirable; however, it would be susceptible to devious compliance by an individual who obtains an insurance policy, registers his car, and then cancels his policy.

Another possible amendment to tighten the Act would be repealing AS 28.20.260(b) which exempts anyone involved in an accident who establishes his freedom from fault in court from the proof of financial responsibility in the future requirement. The Department of Public Safety in 13 AAC 08.110 has implemented this section by providing that only those who "in the department's opinion" stand a "reasonable possibility" of being held liable in court need provide the required proof. Eliminating the exemption of AS 28.20.250(b) would force more people to prove financial responsibility and save the department from making its finding as to reasonable possibility of liability. However, it would also force innocent parties to accidents to buy what would probably be high risk, high cost "SR 22" insurance.

One last amendment which has been suggested may be the most effective measure. It is a suggestion which apparently arose from Mr. Block's report to the Senate Commerce Committee and will be included in that committee's bill. This approach would follow the example of New Mexico and enact a fairly stiff penalty (fine and/or jail) for any uninsured motorist who is involved in an accident in which he has any fault.

In conclusion, we should note that the whole area of automobile insurance and solutions to the problem of uninsured motorists is very complex, and no perfect solutions seem to be available. If you have any futher questions or desire any additional background information on this matter, please contact us.

PBF/dp

HB7 - AUTOMOBILE INSURANCE

The Senate Labor & Commerce Committee substitute for HB7 would require companies who sell auto insurance to offer insurance against both personal and property damage caused by uninsured motorists. It is supported by the Administration (DMV and Insurance) and by insurance companies, agents and brokers. The Hayes bill, requiring everyone in some communities to either buy insurance or commit a crime, is opposed by those same people.

HERE'S WHY

COST TO THE STATE:

Enforcement of similar laws in other states has proven very expensive. North Carolina and New York spent millions trying to keep track of who was insured. North Carolina has backed off their enforcement effort, and attempts at a computer assisted enforcement system in New York has been abandoned. DMV and Public Safety estimate over one million dollars a year for a system that would not try to go get uninsured driver's plates.

COST TO THE DRIVER:

Aside from adminstrative hassles to all drivers, it is inevitable that rates will rise, by more than would otherwise be the case, for liability insurance. That is because poor risks would be forced into the system, and because people involved in small accidents would become much more claim conscious. A sheet showing what happened in 6 "compulsory" states, compared to similar states without those laws, is attached.

EFFECTIVENESS:

The Hayes approach will not solve the problem of uninsured drivers. Experience in other states shows that a large percentage of the real problem drivers, find ways to avoid buying, or keeping, insurance. People who want to protect themselves and their families end up buying uninsured motorist coverage anyway - its cheap, and it does solve the problem.

EXPERIENCE IN OTHER STATES:

Advocates of compulsory insurance say: "32 states have passed it; why have they not repealed it?" The answer is: 19 states passed, not compulsory liability insurance, but no-fault. One state with a compulsory liability

insurance law, Florida, did repeal it. Several others, including North Carolina, New York and Oregon, have either backed off from expensive enforcement programs or have enforced the law only minimally to begin with. It is hardly a successful model to follow. We should expect that independent minded Alaskans might be tougher than others to force into buying a product they do not want.

THE IDEA OF EXEMPTING SMALL COMMUNITIES:

The most recent version of the Hayes bill would exempt all but a dozen communities that are not on the main (Southcentral and Railbelt) highways. Thus, someone who lives in Minto will have to buy insurance or face criminal sanctions, but someone who lives in Whittier will apparently get none of the purported benefits of the bill (that is, having others insured) even if he or she chooses to buy liability insurance. That is unfair, illogical (there are certainly accidents and injuries wherever there are roads and cars) - and it is also in all likelihood unconstitutional.

The Senate L + C version of the bill has none of these problems. It allows those who want to, to protect themselves, by buying insurance they would probably pay for anyway if it were now available.

Michael Thomas
American Insurance Ass'n