

H

B

7

#1

THE CASE AGAINST COMPULSORY AUTOMOBILE
LIABILITY INSURANCE

An Insurance Industry White Paper

	<u>Page</u>
INTRODUCTION	1
THE ISSUE	1
HISTORICAL BACKGROUND	2
REASONS FOR OPPOSITION	5
Compulsory automobile liability insurance laws do not protect consumers against uninsured motorists because the laws are not enforceable	5
Compulsory automobile liability insurance laws are very costly to state government, motor vehicle owners, and insurers	9
Compulsory automobile liability insurance laws force individuals to buy a product for which they have no need	12
Compulsory automobile liability insurance laws lead to unnecessary harassment of responsible drivers, who compromise a vast majority of the total driver population	13
Compulsory automobile liability insurance laws are more expensive and have more deficiencies than the cost-effective, viable alternatives which are available:	
Improved Financial Responsibility Laws	17
Uninsured Motorist Protection	19
No-Fault Insurance	20
CONCLUSION	21
APPENDIX	
Insurance rate levels in states with compulsory systems versus insurance rate levels in comparable states without compulsory systems	22
REFERENCES	23

insurers would only be too willing to support legislation which could generate more sales and result in higher premiums for each policy sold.

Why, then, does a united insurance industry refuse to support state compulsory automobile insurance laws? Why do insurers oppose legislation requiring each person who owns and operates a motor vehicle to purchase liability insurance?

In truth, the economic self-interests of the insurance industry are not well-served by compulsory auto liability insurance. Nor are the economic self-interests of motor vehicle owners, taxpayers, or state legislators served by compulsory insurance laws.

Every interest group but one, the plaintiff's bar, faces economic risks with compulsory auto liability insurance. It costs everyone else money.

This joint industry statement explains why most insurers oppose enactment of compulsory insurance laws, and relates how these emotionally-appealing laws fail to meet the well-meaning intentions of legislators and constituents.

Cost-efficient, proven alternatives that overcome the deficiencies of compulsory automobile liability insurance do exist. A discussion of these alternatives--stricter Financial Responsibility Laws, Uninsured Motorist Protection and No-Fault Insurance--is included at the end of this statement.

THE ISSUE

The issue is: Should a person who owns and operates a motor vehicle be required by state law to purchase liability insurance?

Voluntary auto liability insurance is already available to interested drivers. It enables those who purchase it to protect their personal assets

driving.

The purpose of voluntary auto liability insurance is to provide financial security by protecting the assets of the purchaser. By contrast, compulsory auto liability insurance is intended, but fails to pay the damages sustained by those who might otherwise be involved in accidents with uninsured drivers. Compulsory insurance laws aim toward reducing the numbers of uninsured motorists. They require the purchase of automobile liability insurance coverage and make it a criminal offense to drive a motor vehicle without such coverage.

HISTORICAL BACKGROUND

Compulsory automobile liability insurance is not a new issue. It's been a topic of discussion for over 50 years. In 1927, Massachusetts became the first state to adopt compulsory auto liability insurance, but the approach proved unpopular with both legislators and insurers. It wasn't until 1956 and 1957 that two other states, New York and North Carolina, established compulsory liability insurance systems.

Other states refused to enact compulsory insurance measures primarily because of cost comparisons with Massachusetts, New York and North Carolina. The compulsory states were experiencing significant increases in the number and frequency of insurance claims, primarily resulting from the higher accident rates among the small percentage of formerly uninsured drivers who were abiding by the law and buying insurance. In the ten years following Massachusetts' enactment of compulsory insurance, its claim frequency per thousand insured vehicles had increased 33 percent, while the countrywide frequency declined 21

above the estimated rise in the number of insured drivers. And, the increases were forcing safe and responsible drivers to pay higher insurance premiums.

The financial responsibility law was another principal reason for the failure of the early compulsory movement. During the nearly 30 years that elapsed between the first two state compulsory insurance laws, other states had turned to this more limited form of compulsion. Financial responsibility laws require certain individuals to prove--by posting a bond for a certain amount, by depositing cash or securities in that amount, or by another method stated in the law--that they will be able to pay damages that might be awarded to other accident victims. If they fail to do so, they face the possible suspension or revocation of their driving license for a certain length of time. Insurers nurtured and supported the financial responsibility law concept because they considered it to be a favorable alternative to compulsory liability insurance, and because it focused on those drivers actually involved in accidents, not on all drivers.

No new compulsory liability insurance laws were enacted until the 1970's. Twenty-seven states have turned to compulsory systems in the past decade. These states were not attempting to imitate existing successful compulsory insurance systems. There were none. In fact, Massachusetts, New York, and North Carolina each were facing massive paper blizzards in trying to keep track of uninsured motorists. Yet, they had little, if any, progress toward reducing the number of uninsured drivers.

For example, when New York enacted its mandatory rule in 1957, an estimated six percent of car owners didn't carry insurance. By 1979, the number of uninsured motorists had risen to 12 percent of all drivers in the

The movement toward compulsory insurance in the 1970's instead can be attributed to the growth in popularity of "no-fault" laws. Most of the states implementing a compulsory liability insurance system in the past decade made this system part of an automobile no-fault insurance package. A majority of the automobile insurance industry supported automobile no-fault laws and it was generally accepted that eliminating certain tort rights required the substitution of a guaranteed benefit package. Little thought was given to the residual liability component of that package, but, as we now know it is possible to have guaranteed first party benefits without compulsory liability insurance.

Florida was among the states which made liability insurance compulsory when enacting a no-fault insurance plan in the early 1970's. In 1979 Florida repealed its compulsory automobile liability insurance requirement and now requires only the purchase of PIP (personal injury protection) coverage. Liability insurance is now purely voluntary coverage. Florida state legislators took this action to eliminate a growing number of unnecessary lawsuits and to lessen the financial burden for low-income citizens, who were being forced to purchase both liability insurance and no-fault insurance. Fully supported by the insurance industry, the Florida no-fault law is the only one of its kind in the United States.

Whether or not the compulsory systems were part of a no-fault system, they simply did not work. In 1980 and 1981, fourteen states introduced legislation to repair the enforcement procedures of their compulsory automobile insurance laws.

Today, the insurance industry is largely opposed to compulsory automobile liability insurance. Its opposition is based on five major adverse effects of compulsory insurance.

Compulsory automobile liability insurance laws:

Do not protect consumers against uninsured motorists because the laws are not enforceable.

Are very costly to state government, motor vehicle owners and insurers.

Force individuals to buy a product for which they have no need.

Lead to unnecessary harassment of responsible drivers, who comprise a vast majority of the total driver population.

Are more expensive and have more deficiencies than the cost effective, viable alternatives which are available.

Compulsory automobile liability insurance laws do not protect consumers against uninsured motorists because the laws are not enforceable.

Requiring every motorist to carry auto liability insurance sounds like a good idea. But in practice, it doesn't work. In state after state, compulsory automobile liability insurance systems have failed to meet their goals. Compulsory laws do not guarantee that innocent victims of accidents caused by uninsured motorists will be compensated for their injuries and financial losses; and they do not reduce the number of uninsured motorists on the road.

As a general rule, compulsory automobile liability insurance laws require that evidence of insurance be submitted to public authorities at least once a

year. Some compulsory insurance laws require motorists to produce evidence of insurance to register and license their automobiles. Others require a self-certification procedure under which motorists attest they have purchased and will maintain the required coverage.

Certificates of insurance or copies of policies in the state administrator's office or in the car mean nothing when there is a notice of cancellation for non-payment of premium at home. Irresponsible drivers can register their cars by purchasing insurance on an installment plan and refusing to make premium payments. Or a person can falsify evidence of insurance, register the vehicle out-of-state, or transfer ownership of the vehicle to avoid enforcement efforts.

Compulsory insurance laws require drivers to have insurance; they do not attempt to define hazardous drivers. They do not provide government with the means to remove high hazard drivers from the road. Even if a state somehow were to achieve the impossible, and every resident motor vehicle was insured, responsible motorists would still lack protection against the following types of irresponsible drivers: operators of stolen cars, uninsured out-of-state drivers, hit-and-run drivers, uninsured motorists whose licenses or registrations have been suspended, or newly arrived residents whose cars are still registered in another state.

Enforcing compulsory automobile liability insurance is a costly, largely inefficient exercise in futility in most states. Compulsory insurance laws will not have a long-term impact on the number of uninsured drivers unless a state's law enforcement, motor vehicle and insurance regulatory agencies are well-financed, well-staffed and highly efficient. A compulsory insurance system requires a state to maintain and police millions of pieces of paper a year. It must conduct random file checks and spot checks for both insured and

uninsured drivers. Such operations are wasteful and inefficient. They squander time and money on the overwhelming percentage of motorists who are already insured.

Compulsory states can expect to be inundated with a blizzard of forms the very first month of operation under a compulsory insurance system. Moreover, the paper-tracking problem grows worse each year. When New York initiated its compulsory insurance system in 1956, the Department of Motor Vehicles immediately found itself buried under six million forms sent to it as evidence of insurance. In no time, the Department was further swamped with changes from new registrations, cancellations and terminations of insurance, changes of vehicles, changes in insurance companies, and name changes. At one point, it was estimated that 80 percent of the 25,000 registration revocation notices sent out by the New York Department each month were incorrect or obsolete by the time they had been mailed.

In no compulsory state have there been any significant post-registration law enforcement efforts simply for insurance purposes. States are understandably reluctant to allocate already scarce crime-fighting resources to track down uninsured motorists. Highway patrolmen are not eager to divert their attention from monitoring the toll of highway injuries, deaths and property damage in order to pull uninsured motorists off the road. Regulatory authorities do not have the financial resources to follow-up, identify, and punish the insurance-avoider after receiving notice of termination.

Pennsylvania and New York are just two of the compulsory states facing monumental difficulties trying to enforce their compulsory systems. The Insurance Federation of Pennsylvania estimates that because of loopholes in enforcement, from 800,000 to 2,000,000 motorists are able to obtain their license plates without having insurance or are able to cancel coverage once the

registration is issued. The director of Pennsylvania's Traffic Safety Bureau has admitted that the 40,000 notices coming in from insurance companies each month on cancellation or lapses are just too much for his staff to handle.

New York faces similar enforcement problems, even though it switched to a self-certification system in 1974 to cut the \$7-million-a-year cost of enforcing its compulsory law. According to recent figures, self-certification is still costing New Yorkers about \$4 million a year and is proving to be as ineffective as the original enforcement procedures. A study by the University of Michigan, made seven years after New York passed its compulsory law, found that there were twice as many uninsured drivers on the roads as there were before the law was passed. Today, it is estimated that New York's uninsured motorist population is at least 15 to 20 percent.

The courts are also reluctant to rigidly enforce automobile liability insurance systems. Most drivers charged with driving without insurance can bargain their way out of a conviction. A majority of state laws provide for a fine and/or prison term for convicted uninsured motorists; but few, if any, uninsured motorists are ever jailed for their crime, no matter what human or property damage they have caused.

Some states have sought to avoid additional costs by omitting any provisions for enforcement from their compulsory laws. They simply declare it unlawful to drive without insurance. However, the press and public soon discover how many irresponsible drivers are still without insurance and they demand stricter enforcement. People justly believe that once a law is on the books, it should be enforced.

The unfortunate thing about a compulsory insurance law is that enforcement, no matter how strict, does little to reduce the number of uninsured drivers on the road. The irresponsible driver is not going to carry

insurance no matter how many certificates he's required to furnish. The driver with very few significant assets to protect is not going to carry insurance because he has no real need for it. Toughening enforcement of a compulsory automobile liability system simply increases insurance costs and adds another layer of expensive government bureaucracy.

Compulsory automobile liability insurance laws are very costly to state government, motor vehicle owners, and insurers.

Why are insurers opposed to a law that forces consumers to buy their product? A major reason is cost. Compulsory insurance means higher costs to state government, motor vehicle owners, taxpayers, and the insurance industry and its policyholders.

Coupled with these higher costs is the problem that very few people benefit from compulsory insurance. Compulsory systems do not guarantee that all drivers on the road are insured. They therefore cannot protect the innocent responsible driver from loss of property or injuries suffered in accidents caused by uninsured motorists. To pay higher costs for a system that does not achieve its goals makes little economic sense.

The cost to consumers of compulsory insurance can be demonstrated by comparing insurance rate levels in states with compulsory systems to rate levels in comparable states without compulsory insurance. Six states that have adopted compulsory insurance in the last ten years were selected for the comparison.

The states and the dates they adopted compulsory liability insurance are California, Jan. 1, 1975; Louisiana, July 1, 1978; Maryland, July 1, 1973; Oklahoma, Dec. 11, 1976; Oregon, Jan. 1, 1976; and South Carolina, Oct. 1, 1974.

Each of the six compulsory insurance states was compared with three similar states which had not adopted compulsory insurance during the specified time period. The analagous states were chosen for their similarity to a compulsory state in demographic characteristics, geographic characteristics and the number of insured vehicles. The results of the comparison survey are shown in the Appendix.

In every instance, the increase in the insurance rate level in the compulsory state was higher than the rate level increases in any of the three comparison states. A reason for the significant increases in the compulsory states is the fact that everyone, including the highest risk drivers, are required to purchase insurance. Although the compulsory systems do not achieve their goal of insuring every motorist, the small percentage of bad-risk, previously-uninsured motorists brought into the system does affect insurance rates.

These few high-risk drivers raise insurance rates for both good and bad drivers. The responsible, insured driver, who already comprises a vast majority of the total driver population, finds himself paying more for his insurance because a few high-risk motorists have been forced to purchase insurance.

Compulsory insurance not only raises insurance costs for responsible drivers, but it also increases government costs. The state of New York has spent over \$9 million in one year in order to enforce its compulsory insurance law. Despite the high expenditure, a significant portion of the population of New York is still uninsured. In fact, a New York Department of Motor Vehicles survey estimated that in 1979, close to a half million registered vehicles in the state were uninsured.

States with compulsory insurance systems pay a high price to obtain a very small percentage increase in the number of insured motorists. California's

state government spent over \$2.3 million to increase the percentage of insured drivers by five percent. Maryland taxpayers had to provide \$1.5 million to achieve the same, unimpressive five percent gain to insured motorists. The people of South Carolina paid \$1.3 million to increase the number of insured drivers in their state by eight percent.

If a state is serious about a compulsory insurance law, it should be prepared to pay the costs of administering and enforcing it. North Carolina is one of the few states that has made an effort to allocate enough money to enforce its compulsory law. Two years ago, North Carolina's compulsory program, supervised by the Department of Motor Vehicles, was totaling approximately \$1.3 million a year. In addition, the record-keeping was done by a computer system at a cost close to \$1.6 million a year, and the state employed 50 state policemen to pick up about 19,000 license plates a year at a cost of \$500,000. States larger than North Carolina can expect to face an even heftier tab to enforce and administer a compulsory system.

Insurance companies also suffer higher costs under compulsory insurance. If a compulsory system is to be effective, regulatory authorities must be informed when people terminate their insurance coverage or when an insurer cancels or non-renews. The notice of termination procedure can prove to be extremely burdensome and costly to insurers. Compulsory systems require increased man-hours and more computer time. Claim frequency, average claim cost and claim fraud all tend to increase under compulsory insurance systems. The industry prefers to allow drivers to insure themselves voluntarily. When irresponsible high-risk drivers are legally coerced into covering themselves, they take only minimum coverage; they pay as slowly as possible, and they add greatly to clerical procedures.

In these times of rising inflation and uncertain economic conditions, imposing the higher costs of compulsory insurance on the public only increases

the burden the responsible driver must carry. In return for this burden the responsible, already-insured motorist receives virtually nothing in the way of benefits. He could receive real benefits and genuine protection against uninsured motorists from any of the less-costly, more efficient alternatives to compulsory insurance.

Compulsory automobile liability insurance laws force individuals to buy a product for which they have no need.

Automobile liability insurance is designed to be voluntary in nature. The vast majority of drivers need liability insurance and recognize the wisdom of purchasing it to protect their personal wealth and assets. Most people buy liability insurance for the same reason they purchase auto theft and collision coverage -- to protect themselves against insurable losses.

Certain drivers, however, would rather not purchase liability insurance. The reasons people give for not insuring their automobiles vary. A 1981 study by the All-Industry Research Advisory Council asked households with one or more uninsured vehicles why the vehicles happened not to be insured. Forty percent of the people surveyed mentioned cost considerations as the reason for the vehicles not being insured. Sixteen percent said the car is not currently in use, 14 percent said the car is not operable and five percent replied that they had just bought the car. Other reasons, cited by less than one percent of the households each, included: not interested in insurance; car is not worth it; expect to sell car soon; policy cancelled by company; no need for insurance, and car is too old.

Obviously, there are drivers who cannot realistically afford liability insurance in view of their personal financial situation. As a practical matter, the economically disadvantaged have less real need for liability insurance because they have fewer assets to protect and tend to be

judgment-proof. For these persons, even low hazard drivers, low limits on liability insurance are considered expensive. In addition, such persons understandably are reluctant to pay high premiums relative to their income for a policy designed for the protection of strangers.

Requiring economically disadvantaged persons to purchase auto liability insurance will not compel them to do so. A study of the uninsured motorist problem in California, which has a compulsory liability system, found that those who are violating the law were predominately the economically disadvantaged. Entitled Profile of Uninsured Motorists in California, the report disclosed that zip code zones with high rates of uninsureds had significantly lower median incomes and more poverty level persons than zip code zones with a low rate of uninsured drivers.

The insurance industry strongly supports the competitive marketplace. An important characteristic of the competitive marketplace is the buyer's right to reject a product. Compelling an individual to purchase a product for which he has no real need weakens the competitive marketplace.

Compulsory automobile liability insurance laws lead to unnecessary harassment of responsible drivers, who comprise a vast majority of the total driver population.

Citizens have complained in recent years that government is interfering more and more in their everyday lives. The 1980 election results have commonly been interpreted as a clear message to all elected officials that their constituents want less, rather than more, government. Compulsory auto liability insurance laws violate this mandate. Compulsory insurance cannot be properly implemented and enforced without creating additional layers of government bureaucracy at an immense cost.

Compulsory insurance laws prove to be unworkable and burdensome when state agencies attempt to apply the enforcement and administrative procedures on a practical basis. Regulatory authorities often are not properly equipped or given sufficient funds to process the large volume of necessary forms and inquiries generated by the law. The majority of responsible drivers become unnecessarily harassed due to bureaucratic inefficiencies and foul-ups. This is an inevitable side-effect of the compulsory auto liability insurance system.

A November, 1982 report by the Pennsylvania Department of Transportation found that the state received 185,547 cancellation or termination notices from insurers in 1980. But only 4.8 percent of those responding to inquiries concerning their insurance status by the Bureau of Traffic Safety Operations were found to be uninsured. That means that thousands of responsible, insured motorists were unduly harassed by a state authority in its efforts to enforce the state's compulsory insurance law.

Nowhere is this harassment problem more clearly evident than in West Virginia, where a particularly burdensome compulsory liability insurance law was enacted in late 1981. From October 1, 1981 through January 1982, the Department of Motor Vehicles had mailed out 196,000 notices of driver license cancellations. It is estimated that 95 percent of those notices went to persons who had never let their insurance policies lapse.

West Virginia insurers are required under the new law to notify the Department of Motor Vehicles (DMV) when policies are about to expire. The DMV, in turn, must mail those persons notices of license cancellation. Problems are occurring because DMV cancellation notices and owners' premium payments are crossing in the mail. The insured car owner who has paid his premium often simply disregards the cancellation notice. He fails to realize that he is still required to submit a new certificate of insurance to DMV. Then the DMV doesn't receive the notice, it issues a license pick-up to the state police.

To date, more than 2,500 orders have been issued. The DMV admits that most of the pick-up orders were mistakes and imposed on responsible individuals who had insurance on their cars but simply disregarded the notice.

According to officials in the West Virginia DMV, the law has resulted in a mountain of paperwork and has created unnecessary hassles for many premium-paying citizens. The Department had to ask the legislature to revise the law to correct the administrative debacle. Remedial legislation was enacted in 1982 and the legislature will have to continue making improvements in the compulsory law in 1983. Other states also have had to amend their compulsory laws over the last couple of years, including Colorado, Kansas, Louisiana, Montana, New York and Oklahoma.

One prominent West Virginia legislator, William Carmichael, was quoted as saying, "I don't remember anything this legislature has ever passed that has upset the citizens of this state as much as the compulsory law has." The legislator further observed that "support for compulsory insurance has dropped among my constituents."

Provisions in compulsory insurance laws requiring evidence of insurance also result in public harassment. Many compulsory states require the motor vehicle owner to provide evidence of insurance upon registration of the vehicle. Proof-of-insurance forms, such as certificates of insurance or prescribed identification cards, are a constant nuisance for responsible drivers and easily circumvented by insurance dodgers.

Certificates of insurance are issued by the insurance company for the insured to submit when registering his vehicle. Such certificates inevitably generate even more certificates. Communications between the public, the insurance industry and the regulatory authorities snowball in a futile attempt to identify the uninsured registrant. With each additional transaction, the

likelihood that a form will be issued by mistake or lost intensifies. It's the responsible motorist who often falls prey to these administrative blunders.

Prescribed identification cards, which are provided upon the issuance and renewal of a policy, have also proven to be a problem. Payments or renewal premiums are frequently delayed, so the responsible insured motorist is harassed unnecessarily.

West Virginia isn't the only state in which responsible insured drivers are harassed and frustrated by an unwieldy and burdensome compulsory law. During the first 15 years of New York's compulsory liability law, insurers were required to notify the New York Bureau of Motor Vehicles whenever coverage had been cancelled. Every time a policyholder was late sending in his payment, every time the premium was delayed by the mail, or even when the policyholder decided to change companies, the insurance company was required to notify the DMV. The DMV then sent a notice to the insured threatening to pick up his plates. This naturally angered a lot of responsible insureds, who would fire off irate letters to their insurance companies asking why they had wrongly informed the DMV that they lacked coverage. In 1973, these notice requirements were dropped, but were ill-advisedly reinstated in 1981.

In summary, efforts by state regulatory authorities to achieve total compliance with the compulsory law results in the unnecessary harassment of the majority of drivers who are financially responsible.

Compulsory automobile liability insurance laws are more expensive and have more deficiencies than the cost-effective, viable alternatives which are available.

Among the cost-effective alternatives to compulsory insurance are improvement of Financial Responsibility laws, Uninsured Motorist Protection, and No-Fault Auto Insurance.

IMPROVED FINANCIAL RESPONSIBILITY LAWS

Financial Responsibility laws require certain individuals to prove they will be able to pay damages that might be awarded to other accident victims. Generally, they can show proof with a liability insurance policy providing minimum required benefit limits, by posting a bond for the same amount, or by depositing cash or securities in that amount. If they fail to do so, they face the possible suspension or revocation of their driving license for a certain length of time.

Today, Financial Responsibility laws requiring security for past accidents and proof of financial responsibility for future accidents are in effect in all of the noncompulsory insurance law states. This cost-effective, viable alternative to compulsory insurance is already in place; there's no need to consider or enact new legislation. By making improvements in their state's current Financial Responsibility Law, legislators can develop a workable plan that would protect insured motorists more effectively, cost less, and involve fewer administrative and enforcement hassles than would a compulsory liability insurance system.

Financial Responsibility (FR) Laws have other distinct advantages over compulsory liability insurance laws. A compulsory auto liability law is directed at all motorists regardless of traffic convictions or accident involvement. By comparison, FR laws only apply to a limited group of motorists: those who are serious traffic law offenders, those who cause major automobile accidents, and those who are financially irresponsible due to their inability to reimburse others for damages they have caused. FR laws do not affect motorists indiscriminately. They focus only on drivers who deserve close surveillance because of their past driving irregularities.

Because FR laws do not apply to all drivers, the cost of enforcement is greatly reduced, insurance company operating costs are cut, and the great

majority of responsible motorists are not harassed by state efforts to enforce compulsory insurance. Under FR laws, state pressure is not automatically exerted on motorists who cannot afford to buy insurance and those who have no need for liability coverage.

A compulsory insurance law may, and generally does, affect only drivers registering their motor vehicles. Even then it may apply on a limited basis to only the in-state registrants of certain types of motor vehicles, such as private passenger cars. A Financial Responsibility Law, on the other hand, can apply to any motorist regardless of whether his vehicle is registered in-state or out-of-state, and regardless of the type of vehicle involved, private passenger or commercial.

In comparison to a compulsory insurance law, a well-enforced Financial Responsibility Law is far less costly to administer and just as effective in dealing with irresponsible drivers in the state. However, an FR law cannot be effective if the state agency responsible for administering the law is not receiving the information necessary for proper enforcement. The monetary threshold for those property damage accidents which the driver are required to report to the state should be no higher than \$200 or \$250. Increasing the monetary accident reporting threshold will reduce the number of accident reports processed and allow many irresponsible drivers to escape early detection, surveillance and state penalties.

In addition to preserving the value of accident reporting data, the state should make certain it is receiving data on all traffic violations, police reports, and court judgments required by law. Measures must be adopted to compel law enforcement and court officials to submit any required accident/violation and judgment/conviction data to the appropriate state driver control agency.

Greater attention should be focused on processing the Financial Responsibility filings and traffic record/court record data in a more timely fashion. A state should be certain the equipment and manpower available to its Motor Vehicle Department is being used effectively and efficiently. The enforcement of the Financial Responsibility law should not be second priority to the compilation of traffic and accident statistics or other record-keeping responsibilities.

UNINSURED MOTORIST PROTECTION

Individuals should be concerned about their liability for damages to others, but many motorists either have no assets to protect or are unwilling to purchase liability insurance and therefore go uninsured. To protect the innocent, responsible person against a loss covered by an uninsured motorist, insurance companies provide Uninsured Motorist Coverage (UM). This coverage is designed to pay for bodily injury damages to the policyholder caused by an uninsured motorist. If the policyholder's car is struck by an uninsured vehicle, the insured's loss is covered under the Uninsured Motorist portion of the policy. Reasonable premiums are charged for this coverage.

Every state with a compulsory liability insurance law also requires insurers to offer coverage. The fact that legislators feel compelled to make this protection available to drivers demonstrates that they do not trust the effectiveness of a compulsory liability insurance system. They are acknowledging that a compulsory system does not protect responsible, insured drivers from losses suffered in accidents with uninsured motorists.

Most drivers in compulsory states do indeed buy the UM coverage for added low-cost protection against loss. These responsible drivers therefore carry a double economic burden by paying premiums for UM coverage, and by bearing the cost of enforcing a compulsory insurance law.

By purchasing Uninsured Motorist coverage, a motorist is guaranteeing that all future drivers and passengers in the insured auto will be protected from losses caused by an irresponsible, uninsured motorist or a hit-and-run driver. Compulsory liability insurance cannot make such guarantees.

NO-FAULT INSURANCE

No-Fault insurance is a system which enables auto accident victims to recover benefits regardless of fault. This is not possible through compulsory automobile liability plans which fail to adequately address the problem inherent in the tort system and fail to guarantee recovery of losses. The U.S. Department of Transportation reports that almost 55 percent of those seriously injured in auto accidents get absolutely nothing from automobile liability insurance. No-Fault insurance relieves the financial suffering of those drivers involved in accidents with uninsured motorists.

No-Fault also eliminates lawsuits arising from smaller, relatively trivial claims and provides prompt payment for injuries to those needing the money most. By contrast, the compulsory auto liability system would continue indefinitely one of the common complaints of the present tort system, providing extra-ordinarily large claim awards for relatively minor injuries. Under no-fault, the recovery benefits are spread more evenly, making certain that all claimants receive adequate compensation.

It is little wonder that the no-fault method of compensating victims of uninsured motorists has enjoyed a lot of popular appeal over the past ten years. Virtually every segment of the insurance industry and representatives of major consumer groups support state no-fault plans, praising no-fault's advantages. These advantages include:

A reduction in the volume of lawsuits.

An end to the incentive toward exaggerating injuries.

A quick and efficient method of payment directly to the accident victim.

An end to the need for determining the negligence in any given accident.

A better distribution of the insurance premium dollar.

Coordination of benefits, with provision for prompt rehabilitation.

Stabilization of auto insurance costs.

Although this particular battle may be over for now, the trial lawyers who so often support compulsory liability insurance ought to be aware that the promotion of compulsory liability insurance is also an invitation to consumers and the public to re-open the no-fault insurance issue.

CONCLUSION

In summary, the insurance industry's opposition to compulsory automobile insurance systems is based on sound logic. Compulsory insurance laws are expensive, ineffective, and do not fulfill the well-intentioned goals set by the lawmakers who create them. State legislators concerned with protecting innocent drivers from financial blows suffered in accidents caused by uninsured motorists should consider exploring and implementing alternatives to compulsory systems, such as, stricter Financial Responsibility Laws, Uninsured Motorist Protection and No-Fault Insurance. The alternatives can and do provide more certain compensation to a greater number of responsible drivers, without trying to force everyone to buy a product which they may or may not want.

APPENDIX

INSURANCE RATE LEVELS IN STATES WITH COMPULSORY SYSTEMS VERSUS INSURANCE
RATE LEVELS IN COMPARABLE STATES WITHOUT COMPULSORY SYSTEMS

<u>Compulsory States (a)</u>	<u>Comparable States (b)</u>	<u>Overall Pure Premium Percentage Change (c)</u>	<u>Average Annual Pure Premium Percent Change (c)</u>
<u>CALIFORNIA (1/1/75)</u>		<u>43.0%</u>	<u>8.2%</u>
	Illinois	24.2	5.5
	Ohio	17.7	3.4
	Texas	34.0	6.0
<u>LOUISIANA (7/1/78)</u>		<u>14.2%</u>	<u>11.2%</u>
	Alabama	0.1	0.9
	Mississippi	-1.2	1.4
	Tennessee	1.6	-1.3
<u>MARYLAND (7/1/73)</u>		<u>43.3%</u>	<u>7.9%</u>
	Indiana	21.3	5.0
	Virginia	32.0	6.2
	D.C.	23.9	4.4
<u>OKLAHOMA (12/11/76)</u>		<u>11.6%</u>	<u>3.7%</u>
	Arkansas	10.9	3.5
	Iowa	7.0	2.8
	Missouri	3.7	1.0
<u>OREGON (1/1/76)</u>		<u>35.0%</u>	<u>8.4%</u>
	Maine	19.6	3.9
	West Virginia	18.8	6.8
	Wisconsin	12.8	3.7
<u>SOUTH CAROLINA (10/1/74)</u>		<u>27.0%</u>	<u>5.6%</u>
	Alabama	22.5	5.5
	Arkansas	21.1	4.1
	Tennessee	14.9	2.9

- (a) - The figures in the parentheses by the compulsory states are the effective dates of their compulsory laws.
- (b) - The comparison states were chosen for their similarity to a compulsory state in demographic characteristics, geographic characteristics and the number of insured vehicles.
- (c) - The liability pure premium ratio was used as a basis for comparison because it represents the average amount of loss per insured vehicle. An increase in pure premium suggests that the average claim per insured vehicle has risen as a result of the inclusion of those motorists who did not carry auto liability insurance prior to the adoption of the compulsory law.

SOURCE OF DATA: Fast Track Monitoring System, comprising loss experience of companies reporting to the National Association of Independent Insurers and the Insurance Services Office. The Fast Track Monitoring System loss experience begins with data for the year ending fourth quarter 1976.

TIME PERIOD: The time period selected for comparison purposes is that period after which each compulsory law has become effective (and limited to when the Fast Track Monitoring System loss experience begins) through the year ending second quarter 1981.

REFERENCES

- All-Industry Research Advisory Council. PAM 81. Research Report A81-4. Bethesda, Md., Dec., 1981.
- California. Department of Motor Vehicles. A Profile of Uninsured Motorists in California. Jensen Kuan and Raymond C. Peck. Feb., 1981.
- Hall, John W. "Compulsory Auto Insurance." Address before annual meeting of Conference of State legislators, Kansas City, Nov. 4, 1981.
- Illinois Insurance Information Service. "Compulsory Auto Insurance -- Will it Work in Illinois?" Chicago, 1982.
- Maryland. Department of Transportation. The Nature and Extent of the Uninsured Motorist Problem in Maryland. Stephen V. Versace. Aug., 1977.
- New York. Department of Motor Vehicles, Division of Research and Development. A Study to Dimension the Uninsured Motorist Problem in New York State. 1979.
- New York. Legislature. Assembly Committee on Oversight, Analysis and Investigation. New York State Uninsured Motorists: The Costly Unknowns. Dennis Gorski, chairman.
- Pennsylvania. Department of Transportation. Uninsured Motorist Problem in Pennsylvania. Robert F. Spena, D.S.W., Robert M. Mustin, and Given Hacker.
- State Farm Insurance Companies. Public Relations Department. Should Auto Liability Insurance be Required by Law? Bloomington, Ill., Sept. 3, 1980.

YOU CAN SAVE MONEY ON AUTO INSURANCE

There are ways you can cut your auto insurance costs. Many factors affect the amount of premium you pay. The following list of money-saving ideas may help you reduce your own insurance costs:

- **INCREASE YOUR DEDUCTIBLES** for both collision and comprehensive coverages. These are the coverages that pay for physical damage to your car. Because small claims are costly to settle, insurance companies don't charge you as much premium when you agree to pay for these small losses through a deductible. The higher your deductible, the lower your premium. Chances are good you'll never have to pay that deductible if you're a careful driver. Although the amount you save varies, the premium reduction will probably equal the amount you "risky" through the higher deductible in just a few years of accident-free driving.
- **COMPANY DISCOUNTS** can reduce your premium. Most companies offer lower premiums if you insure two or more cars with them. Some give a discount to students with good grades. And some allow a premium credit if a young driver is away at school more than 100 miles from where the insured car is garaged.
- **REDUCE OR ELIMINATE COLLISION AND COMPREHENSIVE COVERAGES** as your car gets older. These coverages provide physical damage protection for your auto. If your car is an older model (5 years or older), it has depreciated in value to the point where you may be paying more in premiums than the car is worth. You should keep your auto liability coverage, however.
- **DRIVE SAFELY.** One at-fault accident or traffic violation can increase your premium as much as 40%. Your insurance costs will remain low as long as you remain accident and violation free. Check with your insurance agent or company to determine if you are now paying a surcharge because of your driving record. If so, be especially cautious in the future and your clean driving record will pay off.
- **PARK DEFENSIVELY.** Don't park on the street where your car can be stolen, vandalized or hit by another vehicle. Close the windows tightly and always lock the car.
- **CONSIDER AUTO INSURANCE COSTS WHEN BUYING A NEW CAR.** Premiums are higher for certain luxury and sport models because of their greater accident, damage and auto theft experience. Your insurance agent or company can give you specific information.
- **REDUCE YOUR DAILY DRIVING.** The farther you drive to work each day, the more likely you are to be involved in an accident - and the more you pay for insurance. Check to be sure the number of miles you drive to work is correctly listed with your insurance company. If you move and change your address, always notify your agent or company. You may now live in a lower rated territory.
- **CONSIDER JOINING A CAR POOL OR TAKING A BUS TO WORK.** Cars that aren't driven to work every day generally qualify for lower insurance rates.

If you join a car pool, be sure your auto policy includes medical payments coverage for the protection of your passengers. Also, be sure to share the actual driving rather than charging your passengers with the intent to make a profit, since this charge could be considered a "public livery fee" (such as a taxi fare) and you might not be covered by your personal auto policy.

Now that you have reviewed the list, check those suggestions that you think could save you money. Then, contact your insurance agent or company and review the list with them. Your insurance representative may be able to offer additional suggestions and tailor your auto insurance to your needs.

AUTO INSURANCE RATEMAKING

Factors that Determine Auto Insurance Premiums

Many factors affect auto insurance premiums. In fact, automobile rate manuals for most insurance companies in Ohio include more than 150 different classifications for rating purposes. These classifications help companies categorize your driving exposure to loss and charge an appropriate premium. Thus, your own personal situation has a bearing on the price you pay for auto insurance.

Auto insurance rates are affected by many influences over which companies have no control. They include the frequency and severity of traffic accidents, repair costs, medical and hospital costs, wage levels and the size of court judgments. The pages that follow detail Ohio experience over the past five years for hospital costs, auto repair costs (parts and labor) and the resultant auto insurance premiums.

- Auto insurance pays the wages of people who are disabled — for weeks or months — because of injuries suffered in auto accidents. And the wages of all classes of workers are up.
- Auto insurance pays garages and body shops to repair damaged autos. The hourly repair rates are up. Parts prices are up.
- Auto insurance companies pay hospital and medical expenses of accident victims. Hospital employees are earning better pay, doctors' fees are up, and all this is reflected in increased daily hospital costs.

The combination of frequency and severity constitutes that portion of your premium which goes to pay losses.

The *frequency* of accidents is simply how many and how often accidents happen out of a specified number of cars on the road. The higher the frequency, the more insurance companies must pay out.

The *severity* of accidents is reflected in the typical amounts paid out for an accident claim.

This amount has risen for several years due to in-

creased costs to repair people as well as automobiles. Inflation continues to affect the cost of nearly everything.

In an effort to keep auto insurance affordable, insurers are working on ways to reduce the number of auto accidents that occur as well as improve the design of vehicles and highways to keep passengers from being injured or killed. (See section on Auto Design.)

In compliance with the State law that auto insurance rates must be adequate, most insurance companies increased auto insurance rates during recent years. However, because of the reduction in accident frequency, the increases in auto insurance rates have been less than consumer price increases for auto repairs, medical and hospital expenses and wages.

An expense flattening provision was adopted by the insurance industry in 1979. Certain expenses such as administrative costs, were divided equally among policyholders. This permitted a reduction in the expense portion of the insurance premiums allocated to higher rated risks such as youthful drivers and policyholders in higher rated metropolitan areas. (For details, refer to next section entitled "Factors Determining What You Pay for Auto Insurance").

Despite recent reductions in the overall rate of inflation, experts predict continuing increases in auto repair costs and medical expenses. These increases will continue to dramatically influence the cost of automobile insurance.

In 1981 the Ohio Legislature passed new taxes which substantially impact insurance companies. Additionally, other changes in Ohio statutes have occurred over the past several years which increase claims payments. These legislative actions also ultimately influence what Ohioans pay for automobile insurance.

The decline in accident frequency has been matched by the increased costs of accident claims. Only the continued reduction in accidents will moderate the impact of rising auto accident costs.

FACTORS DETERMINING WHAT YOU PAY FOR AUTO INSURANCE

There are many variables involved in the determination of auto insurance rates. But, your own personal situation will have a direct bearing on the rate you pay. These variables also explain why different drivers may pay different rates for the same auto insurance policy. These are the most common situations:

AGE OF DRIVER

If there's anything on which all the traffic safety experts agree, it's that young drivers have more accidents...and more serious accidents...and that young males are "worse" than young females. (See section entitled Youthful Drivers).

A teen-age girl in the family can increase the auto insurance bill from 20% to nearly double... and a teen-age boy, even though he only occasionally drives the car, can triple the cost of insurance. If he's the principal operator of his own car, the tab for insurance can rise to four or five times the premium his parents alone would have to pay.

The rates that insurance companies charge for cars operated by youthful drivers are based on years of accumulated statistics which establish the relative differences between young drivers as a group and adult drivers...and between different classes of young drivers.

The surcharge on female youthful drivers lasts only until they marry or, depending on the company, until they reach the age 21 or 25. Married men also get a break, while young single males are charged more until age 29.

And young drivers...single or married, male or female...can be consoled by the fact that as they grow older and become more experienced drivers, the cost of automobile insurance goes down. With some companies it drops year by year, with others at certain specified ages.

Many companies give discounts when the youthful driver maintains a certain level of academic achievement in high school or college...or after he has completed an accredited driver education course.

Following are some details on Youthful Driver rates which are generally followed by the majority of companies:

Where there are more cars in the family than

youthful operators, the youthful operator surcharges will usually be applied to the most expensive car or cars, except that a youthful owner or principal operator will be charged on the car he regularly drives.

1. If there is more than one car and more than one youthful driver in the family, surcharges will be made on as many cars as there are youthful drivers...if the family has that many cars.
2. No charge will be made for a youthful family member who is in military service and drives only when on furlough, but a charge will be made when there is regular or frequent use, such as on weekend passes.
3. A premium credit is given when an unmarried youthful operator is a resident student at a school more than 100 miles from home and does not have the car at school.

TYPE OF CAR

Generally, the model car you drive affects only the cost of those insurance coverages which apply to repairing or replacing that car. The premiums you pay for liability insurance, medical payments, uninsured and underinsured motorist coverages are not affected by the kind of car you drive, unless it is a "high performance vehicle."

The cost of comprehensive and collision coverages is directly related to the cash value of the car. Some insured losses require that the car merely be repaired, others that it be completely replaced. And some vehicles are more expensive to repair or replace than others.

Since it would be entirely too unwieldy and expensive to develop and maintain a value record on each individual automobile, insurance companies group all cars into brackets according to two factors...purchase price new and age.

A consideration in determining the approximate value is the age of the car. Most companies use age brackets for establishing rates. Current year models fall in the first group, those from the preceding model year in the second, and so on for several model years.

However, starting with 1980 model year cars, a

number of companies have modified their rating procedures. Statistics are now available to substantiate a difference in the extent of damage sustained by the various models and types of cars. Certain cars sustain less damage, on the average, and therefore cost less to repair than others in the same price range. Accordingly the premiums have been reduced on some models and increased on others for more equitable premium determination based upon the damage-ability potential.

Even though you may be willing to pay a little more for insurance in order to drive the car you prefer, you might want to check with your agent or company before you buy your next car.

WHERE YOU LIVE

The area where you live directly affects your auto premium. In general, the bigger your city, or the more densely populated the area in which you live, the higher your auto insurance rates will be.

Where you live can affect both your likelihood of having an accident and the probable cost of paying for that accident. Accident frequency tends to be greater in areas of high traffic density. Accident severity tends to be greater in areas where roads and road conditions (free-ways, for example) encourage high speed driving. When both these factors are considered, those who live in the major metropolitan areas will pay the most for their automobile insurance, all other things being equal.

Wage levels are another factor. In heavily industrialized, densely populated metropolitan areas, wage levels are generally higher...and this shows up in higher hospital costs, higher automotive repair costs and larger settlements for lost wages in bodily injury cases. These add up to higher insurance rates for rating territories having these high-hazard characteristics.

Rating territories are designated geographical areas used by automobile insurance companies to accumulate statistics on premiums received and losses paid. On the basis of these statistics, proper rate levels are determined. What comprises a territory is less a function of area than of population. It may be a single county, or a number of counties grouped together. In a few heavily populated areas, there may be two or even three rating territories within a single county where accident experience has demonstrated a need for different rates in order to pay different levels of insured loss.

This arbitrary division of the state of Ohio into 30

or 40 territories for rate making purposes could produce auto rate inequities in some individual cases. Undoubtedly it does, just as the same kind of arbitrary boundaries of political subdivisions occasionally result in inequities in the tax burden. But any attempt by the insurance companies to base rates on a significantly finer, more detailed geographical breakdown would add so much to their administrative expenses that all of us would end up paying more for automobile insurance.

HOW YOUR CAR IS USED

The little old lady who never took her car out of the garage except to drive three blocks to church every Sunday may not exist except in the imagination of some used car salesman. But she would be charged a lower premium for her automobile insurance than most of us would.

With the amount and the kind of driving she does, she has relatively less chance of being involved in an accident than people who drive many more miles and under more hazardous traffic conditions.

All other things being equal, the more miles you drive the greater the likelihood that you will have an accident. And...again assuming that all other factors are equal...accidents are more likely to happen to people who do most of their driving on congested city streets or high speed highways, as opposed to residential streets and secondary rural roads.

In one way or another, all these factors are taken into consideration in the formulas used to determine the amount you pay for automobile insurance. But not all insurance companies approach the problem in exactly the same manner.

Most companies do not consider the number of miles you drive annually, although there are some that offer lower rates to people who drive fewer than a specified number of miles a year.

The car that is driven to and from work is likely to be driven more miles than the one that is not. And those "to and from work" miles are likely to be on congested streets and highways. So..."to and from work" is almost always a consideration. But some companies charge higher rates on any car that is regularly driven to and from work, while others make this differentiation only if the distance to work one way is more than a stated minimum.

For much the same reasons, all companies charge even higher rates when the auto is used

State Farm Insurance Companies

ONE STATE FARM PLAZA
BLOOMINGTON, ILLINOIS 61701

MAY 11 2 54 PM '83

May 10, 1983

JOHN J. GORDON
ASSISTANT GENERAL COUNSEL
(309) 766-3537

LAW DEPARTMENT

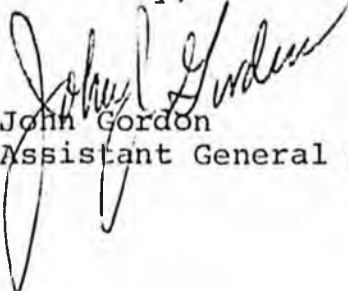
Don Koch
Chief Market Surveillance
Division of Insurance
State of Alaska
Pouch "D"
Juneau, AK 99811

Dear Mr. Koch:

In a conversation this afternoon with John Glascock of our Salem, Oregon, office, I was told that you were drafting a response to an adverse article in the news media on the compulsory insurance issue. John asked that any material we might have on the cost of enforcement of compulsory insurance and any information on increasing insured drivers as a result of compulsory legislation, be forwarded promptly to you.

Enclosed is a copy of Jean Hiestand's statement to the Tennessee legislature in September 1981, as well as Dr. John Ball's testimony on the same date. The most recent testimony was provided by John Bernstein of our department to the Illinois legislature on March 22, 1983. A copy is enclosed, together with a memorandum from the Commerce and Labor Committee of Tennessee, a letter from the Wisconsin State Auditor to Wisconsin legislators and West Virginia news clippings. Hopefully, these materials will provide some additional information.

Sincerely,


John J. Gordon
Assistant General Counsel

j1
Enclosure
cc John Glascock

MY NAME IS JOHN W. HALL, CHAIRMAN OF THE DEPARTMENT OF INSURANCE
(INCLUDING ACTUARIAL SCIENCE, RISK MANAGEMENT, ESTATE AND FINANCIAL
PLANNING AND LEGAL STUDIES), THE COLLEGE OF BUSINESS ADMINISTRATION,
GEORGIA STATE UNIVERSITY. I AM HERE TO SPEAK AGAINST THE CONCEPT OF
COMPULSORY LIABILITY INSURANCE. I AM APPEARING TOTALLY AT MY OWN EXPENSE.

COMPULSORY LIABILITY INSURANCE HAS BEEN OPPOSED TRADITIONALLY BY THE
PRIVATE INSURANCE BUSINESS. THIS STATEMENT NEEDS AN EXPLANATION, FOR MOST
PEOPLE BELIEVE THAT THIS BUSINESS WOULD SUPPORT ANY MECHANISM WHICH WOULD
GUARANTEE MORE SALES. THIS IS NOT THE CASE.

DESPITE INDUSTRY OPPOSITION, I ONCE STRONGLY SUPPORTED COMPULSORY
LIABILITY INSURANCE. YOU HAVE HEARD THE ARGUMENTS IN FAVOR OF COMPULSORY:

1. "UNDER THE TORT LAW SYSTEM, A PERSON WHO IS JUDGED LEGALLY RESPONSIBLE
SHOULD ALSO BE FINANCIALLY RESPONSIBLE IF HE IS TO ENJOY THE PRIVILEGE
OF DRIVING:

OR

2. FOLLOWING AN ACCIDENT WHERE AN INNOCENT DRIVER WHO BUYS LIABILITY
INSURANCE IS STRUCK BY A JUDGMENT PROOF UNINSURED DRIVER, ONE HEARS
THE ANGRY COMMENT: "I CARRIED LIABILITY INSURANCE TO PROTECT OTHER
DRIVERS WHEN I AM AT FAULT, AND THEY SHOULD BE FORCED TO BUY LIABILITY
INSURANCE TO TAKE CARE OF ME FOR THEIR NEGLIGENCE";

OR

3. "SUPPOSE THAT TWO POOR PERSONS ARE IN AN ACCIDENT, AND BOTH ARE
WITHOUT INSURANCE. WHO WILL PAY FOR THAT ACCIDENT? THIS ARGUMENT

IMPLIES THAT COMPULSORY LIABILITY INSURANCE IS FOR THE BENEFIT OF THE POOR. IMPLICIT IS THE ARGUMENT THAT WHEN LIABILITY INSURANCE IS AVAILABLE, WELFARE COSTS ARE MINIMIZED.

THESE ARE STRONG AND EMOTIONAL ARGUMENTS. HOWEVER, AS I OBSERVE COMPULSORY LIABILITY INSURANCE LAWS IN ACTION, I HAVE CONCLUDED THAT THEY TEND TO BE DETRIMENTAL TO THE INTEREST OF MOST CONSUMERS, AND MORE EXPENSIVE FOR THEM, THEY ARE DIFFICULT AND EXPENSIVE TO ENFORCE AND THEY ARE AGAINST THE LONG RUN INTEREST OF THE TORT LAW/LIABILITY INSURANCE SYSTEM WHICH I SUPPORT.

THESE CONCLUSIONS WILL BE EXPLAINED IN A MINUTE. BUT FIRST, A BRIEF REVIEW OF THE HISTORY OF COMPULSORY LIABILITY INSURANCE WOULD PROVIDE IMPORTANT PERSPECTIVE.

AS EARLY AS 1919, LEGISLATIVE PROPOSALS WERE MADE IN MASSACHUSETTS REQUIRING COMPULSORY AUTOMOBILE LIABILITY INSURANCE. THE MOVEMENT SPREAD WIDELY, AND BY 1925, ONE HALF THE STATE LEGISLATURES INTRODUCED BILLS. MASSACHUSETTS ENACTED A COMPULSORY LAW, TO TAKE EFFECT AT THE BEGINNING OF 1927, THE FIRST STATE TO DO SO. THE APPROACH PROVED UNPOPULAR - BOTH WITH LEGISLATORS AND INSURERS - AND IT WAS NOT UNTIL 1956 AND 1957 THAT COMPULSORY AUTOMOBILE LIABILITY INSURANCE SYSTEMS WERE ESTABLISHED IN NEW YORK AND NORTH CAROLINA.

IN THE MEANTIME, OTHER STATES WERE EVOLVING A MORE LIMITED FORM OF COMPULSION - THE FINANCIAL RESPONSIBILITY LAW. SUCH A LAW HAS BEEN ENACTED IN ONE FORM OR ANOTHER IN EVERY JURISDICTION OF THE UNITED STATES AND EVERY PROVINCE OF CANADA. THE PRINCIPAL REASON FOR THE FAILURE OF THE

EARLY COMPULSORY MOVEMENT WAS THE FINANCIAL RESPONSIBILITY LAW. IN DECEMBER OF 1928, ON THE ASSUMPTION THAT IT WAS SOUNDER STRATEGY TO BE FOR A PROGRAM THAN AGAINST ONE, THE AMERICAN AUTOMOBILE ASSOCIATION, IN COOPERATION WITH INSURANCE AND OTHER INTERESTS, RELEASED ITS FIRST MODEL FINANCIAL RESPONSIBILITY BILL AS A PART OF A GENERAL SAFETY PROGRAM. THE UNIFORM VEHICLE CODE ADOPTED BY THE NATIONAL CONFERENCE ON STREET AND HIGHWAY SAFETY, IN 1924, INCLUDED THESE SAME PRINCIPLES. THE CURRENT UNIFORM MOTOR VEHICLE CODE INCLUDES A FINANCIAL RESPONSIBILITY LAW. FOR YEARS, INSURERS FATHERED AND SUPPORTED THE FINANCIAL RESPONSIBILITY LAW CONCEPT AS AN ALTERNATIVE TO SOMETHING THAT THEY REGARDED AS MUCH WORSE - COMPULSORY LIABILITY INSURANCE.

TODAY, 30 STATES HAVE COMPULSORY LIABILITY INSURANCE, AND IN MOST STATES, IT WAS PASSED AS A PART OF A NO FAULT PACKAGE. A GREAT PART OF THE INSURANCE BUSINESS SUPPORTED AUTOMOBILE NO FAULT, AND COMPULSORY LIABILITY INSURANCE WAS AN UNFORTUNATE PART OF A POLITICALLY AND CONSTITUTIONALLY FEASIBLE NO FAULT PACKAGE. (IN RETROSPECT, THE SO CALLED "NO FAULT" LAWS WERE REALLY NOTHING MORE THAN A MODIFIED COMPULSORY LIABILITY INSURANCE STATUTE.)

PHILOSOPHICALLY, THE INSURANCE BUSINESS DESIRED TO SUPPORT THE PASSAGE OF THESE COMPULSORY LIABILITY/NO FAULT LAWS ONLY IN JURISDICTIONS WHICH HAD SOME FORM OF FILE AND USE (COMPETITIVE RATE REGULATION LAW.) TODAY COMPETITIVE RATING EXISTS IN SLIGHTLY LESS THAN ONE HALF OF THE JURISDICTIONS WHICH ALSO HAVE COMPULSORY LIABILITY INSURANCE STATUTES. IT IS MY OPINION THAT COMPULSORY LIABILITY INSURANCE IS MOST SUCCESSFUL IN THE INTEREST OF MOST CONSUMERS AND THE TORT LAW SYSTEM IN THOSE JURISDICTIONS WHICH HAVE COMPETITIVE RATING LAWS. TENNESSEE DOES NOT HAVE A COMPETITIVE RATING LAW.

THE ENACTMENT OF COMPULSORY LIABILITY INSURANCE STATUTES (OR THE COMPULSORY LIABILITY/NO FAULT STATUTE) WAS, IN MY OPINION, NOT IN THE BEST INTEREST OF THE CONSUMER NOR SUPPORTIVE OF TODAY'S CONCEPTS OF SOCIAL/REGULATORY PHILOSOPHY, AND IT CERTAINLY HAS BEEN A DISASTER FROM THE VIEWPOINT OF THE INSURANCE BUSINESS. IT IS VERY LIKELY THAT THE CONTINUATION OF THE COMPULSORY LIABILITY INSURANCE SYSTEM WILL HAVE GRAVE LONG RUN REPERCUSSIONS FOR THE VIABILITY OF THE TORT LAW/LIABILITY INSURANCE SYSTEM.

COMPULSORY LIABILITY INSURANCE WAS ADOPTED ON THE THEORY THAT PERSONS WHO DRIVE AUTOMOBILES SHOULD FUND, AT LEAST AT A MINIMUM LEVEL, THEIR POTENTIAL LEGAL RESPONSIBILITIES GROWING OUT OF THE USE OF THOSE AUTOMOBILES. DRIVING HAS LONG BEEN CONSIDERED A PRIVILEGE, AND THE PERSON WHO IS LEGALLY RESPONSIBLE SHOULD ALSO BE FINANCIALLY RESPONSIBLE FOR HIS WRONGS. DURING THE EARLY YEARS, INDEED UNTIL WELL AFTER WORLD WAR II, THE AUTOMOBILE WAS NOT A NECESSITY FOR TRANSPORTATION. AT THE SAME TIME, WE HAD NOT SEEN THE TORT LAW/MEDICAL CARE/INCOME REPLACEMENT EXPENSE EXPLOSION. DURING THE EARLY YEARS, THE AUTOMOBILE WAS A MUCH EASIER VEHICLE TO REPAIR AND PEOPLE DID NOT DRIVE AS RAPIDLY. THERE WERE FAR FEWER AUTOMOBILES, AND LESS CONGESTION. THERE ARE PEOPLE IN THIS ROOM WHO REMEMBER THAT THERE WAS ONCE A DIFFERENT SOCIAL AND MORAL ETHIC.

TODAY, WHILE DRIVING IS STILL LEGALLY A PRIVILEGE, AS A POLITICAL/PRACTICAL MATTER, IT IS CONSIDERED TO BE A RIGHT. THE AUTOMOBILE IS A NECESSITY FOR TRANSPORTATION AND FOR EARNING A LIVING. THE COSTS OF MEDICAL CARE AND INCOME REPLACEMENT AND AUTOMOBILE REPAIR HAVE SKYROCKETED. THERE IS GREATER INSURANCE CLAIM FRAUD, WITH INADEQUATE ENFORCEMENT MECHANISMS.

I INDICATED THAT I NOW OPPOSE COMPULSORY LIABILITY INSURANCE. LET ME GIVE YOU A SCENARIO OF EVENTS AS THEY HAVE EVOLVED IN SOME OTHER JURISDICTIONS WHICH HAVE GONE THE COMPULSORY ROUTE. IT IS MY STRONG OPINION THAT COMPULSORY LIABILITY INSURANCE INCREASES THE IMPACT OF, OR CAUSES, THE FOLLOWING ADVERSE EFFECTS:

1. INSURANCE RATES FOR ALL DRIVERS RISE TO COMPENSATE FOR THE HIGHER HAZARD CHARACTERISTICS OF THE WHOLE DRIVING POPULATION. WITHOUT COMPULSORY, SOME HIGH HAZARD DRIVERS TEND NOT TO INSURE. UNDER COMPULSORY INSURANCE, HIGH HAZARD DRIVERS PAY HIGHER RATES. BUT LOW HAZARD, RESPONSIBLE DRIVERS ALSO TEND TO PAY HIGHER RATES FOR REASONS TO BE EXPLAINED BELOW.
2. HIGHER RATES, TOGETHER WITH THE FACT THAT MANY PERSONS ARE NOW FORCED TO BUY LIABILITY INSURANCE, TEND TO FORCE GREATER PRESSURE FOR RATE REGULATION AND PRICE CONTROL. IN THOSE JURISDICTIONS WHERE RATES MUST BE APPROVED IN ADVANCE (SUCH AS TENNESSEE), THE RATE REGULATORY PROCESS TENDS TO BECOME HIGHLY POLITICAL. MOST OFTEN, IT IS THE HIGH HAZARD DRIVER, (RICH OR POOR) WHO COMPLAINS THE MOST VOCALLY. FOR THE RELATIVELY POOR, THE COMPULSORY PAYMENT OF LIABILITY INSURANCE PREMIUMS IS A MAJOR BURDEN, EVEN FOR THE LOW HAZARD, LOW PREMIUM DRIVER. THE ECONOMICALLY DISADVANTAGED HIGH HAZARD DRIVER IS FACED WITH PREMIUMS WHICH ARE SO HIGH AS TO VIRTUALLY MAKE IT DIFFICULT FOR HIM TO OWN A CAR. INSURERS AND REGULATORS ARE THUS FACED WITH A DILEMMA. ALTHOUGH INSURANCE PRICES HAVE GONE UP LESS RAPIDLY THAN THE CONSUMER PRICE INDEX, OR THE COST OF SERVICES WHICH INSURANCE PURCHASES, MANY LOW HAZARD, LOW RATED DRIVERS CANNOT AFFORD AUTOMOBILE INSURANCE AT ANY PRICE. EVEN MORE, HIGH HAZARD, HIGH PREMIUM DRIVERS

FIND AUTOMOBILE INSURANCE EXPENSIVE REGARDLESS OF INCOME LEVEL. INSURERS AND REGULATORS ARE IN A POSITION OF MAKING INSURANCE AVAILABLE, BUT OFTEN AT A PRICE WHICH MANY CUSTOMERS DO NOT CONSIDER REASONABLE OR AFFORDABLE. PRIVATE INSURERS (AND REGULATORS) DO NOT FEEL THAT THEY MAY DEPRIVE PERSONS OF THE RIGHT TO DRIVE BECAUSE THEY CANNOT AFFORD INSURANCE.

WHEN AUTOMOBILE INSURANCE RATES BECOME POLITICAL, THERE IS A TENDENCY FOR REGULATORS TO BEND UNDER EXTREME PRESSURE TO INSTITUTE SOME FORM OF RATE SUBSIDY OR INCOME REDISTRIBUTION PLAN.

- A. OVERALL RATE LEVELS ARE DEPRESSED AND UNDERWRITING LOSSES ARE INCURRED. INSURERS TEND TO MAKE UP SUCH LOSSES FROM SURPLUS WHICH DEVELOPS FROM PROFITS ON LESS REGULATED LINES, SUCH AS COMMERCIAL BUSINESS INSURANCE. AS A PRACTICAL MATTER, OTHER LINES OF INSURANCE ARE REQUIRED TO SUBSIDIZE THE UNPROFITABLE LINE.

- B. THE VOCALLY COHESIVE HIGH HAZARD, HIGH PREMIUM DRIVERS TEND TO FORCE REGULATORS TO IMPOSE AN INCOME REDISTRIBUTION PLAN WHICH FORCES LOW HAZARD, LOW PREMIUM DRIVERS, WHETHER THEY BE POOR OR RICH, TO PAY MORE THAN THEIR FAIR SHARE OF LOSS COSTS AND EXPENSES (AS DETERMINED IN THE COMPETITIVE MARKETPLACE) SO THAT THE HIGH HAZARD, HIGH PREMIUM DRIVERS (POOR OR RICH) WILL PAY LESS. THESE SUBSIDIES, WHICH ARE RELATED TO DRIVING HAZARD PRIMARILY, ARE USUALLY HIDDEN TEMPORARILY FROM THE LOW HAZARD DRIVER. THEY ARE NOT AWARE OF WHAT HAS BEEN DONE TO THEM. AT ITS WORST, IN STATES SUCH AS SOUTH CAROLINA OR NORTH CAROLINA, 70-80% OF THE DRIVERS ARE EQUAL TO OR BETTER THAN THE AVERAGE

CONTEMPLATED FOR THE RATES IN THEIR CLASSIFICATION OR TERRITORY, AND THEY ARE ASKED TO PAY A SUBSIDY WHICH WILL VARY BY COMPANY AND WHICH FOR SOUTH CAROLINA AT DIFFERENT TIMES MIGHT BE ESTIMATED AT BETWEEN \$30 and \$60 PER CAR TO REWARD THE 20-30% OF THE HIGH HAZARD DRIVERS WHO CREATE APPROXIMATELY 60% OF ALL CLAIMS. THIS DISCRIMINATION AGAINST THE LOWER HAZARD DRIVER (THE MAJORITY OF DRIVERS) WAS NEVER INTENDED BY LEGISLATORS WHEN THEY PASSED COMPULSORY LIABILITY INSURANCE. PERHAPS MOST IMPORTANTLY, THIS PREMIUM LEVELING BETWEEN THE LOW AND HIGH HAZARD DRIVERS WEAKENS THE DETERRENT EFFECTS OF THE TORT LAW SYSTEM.

C. BECAUSE OF THESE RATING PROBLEMS, THE SIZE OF THE SHARED MARKET TENDS TO GROW GREATLY. TENNESSEE NOW HAS ONE OF THE SMALLER SHARED MARKETS IN THE NATION. THERE ARE STATES WHERE 30% OR MORE OF THE PREMIUM VOLUME AND 20-30% OR MORE OF THE AUTOS ARE IN THE SHARED MARKET.

3. COMPULSORY LIABILITY INSURANCE LAWS MANDATE THE PURCHASE OF AN INSURANCE PRODUCT WHICH MANY PEOPLE WOULD RATHER NOT PURCHASE AT ALL, AND WHICH OTHERS CANNOT REALISTICALLY AFFORD IN VIEW OF THEIR PERSONAL FINANCIAL SITUATION. PERSONS WHO VIOLATE THESE LAWS MAY FACE PROSECUTION. NEVERTHELESS, THERE IS SUBSTANTIAL EVIDENCE THAT LAW ENFORCEMENT EFFORTS TYPICALLY FAIL TO ASSURE COMPLIANCE IN STATES WHERE AFFORDABILITY OF INSURANCE IS OF MAJOR CONCERN. THE COST OF ADMINISTERING SUCH A PROGRAM EFFECTIVELY IS GREAT, WITH DISAPPOINTING INCREASES IN THE NUMBER OF DRIVERS INSURED.

THAN SUCCESSFUL, AS PUBLIC AND POLITICAL FRUSTRATION WITH UNSUCCESSFUL EFFORTS TO ENFORCE SUCH LAWS GROWS, THOSE WHO OBEY THE LAW RESENT THE FACT THAT OTHERS DO NOT, FURTHER INCREASING THE RESENTMENT AGAINST INSURERS, THE TORT LAW SYSTEM AND THE LEGISLATURE.

4. ALTHOUGH INSURERS DO NOT LIKE TO ADMIT IT, THE VERY EXISTENCE OF INSURANCE AFFECTS ITS COST, AND THE EXISTENCE OF COMPULSORY INSURANCE, COMBINED WITH ITS HIGH COST, TENDS TO CAUSE FURTHER HIGHER INSURANCE COSTS IN A CUMULATIVE SPIRAL OF RISING INSURANCE UTILIZATION AND COST. FOR SOME REASON, WHERE LIABILITY INSURANCE IS ASSUMED TO EXIST, CLAIM FREQUENCY, CLAIM SEVERITY (AVERAGE CLAIM COST) AND CLAIM FRAUD AGAINST INSURERS ALL TEND TO INCREASE.

5. IN THE FINAL STAGES OF THIS SCENARIO, THE WHOLE TORT LAW/LIABILITY INSURANCE SYSTEM COMES INTO QUESTION. THE PUBLIC DOES NOT UNDERSTAND. AND THEY WILL MAKE COMMENTS OR ASK QUESTIONS SUCH AS THE FOLLOWING:

A. PERSONS WHO POSSESS SIGNIFICANT ASSETS AND INCOME EARNING POTENTIAL HAVE A GREAT NEED FOR LIABILITY INSURANCE AND THEY PURCHASE THE COVERAGE ROUTINELY. THEIR FINANCIAL CONDITION GIVES THEM A GREATER ABILITY TO PURCHASE THIS INSURANCE ALTHOUGH THEY MAY THINK IT EXPENSIVE.

THE ECONOMICALLY DISADVANTAGED HAVE LESS REAL NEED FOR LIABILITY INSURANCE TO PROTECT THEIR OWN INTERESTS, FOR AS A PRACTICAL MATTER THESE PERSONS TEND TO BE JUDGMENT PROOF.

IS EXPENSIVE. ALL INSUREDS (POOR OR RICH) TEND TO BE UNAWARE OF THE BENEFITS WHICH A LIABILITY POLICY PROVIDES. THEY PERCEIVE THE LIABILITY INSURANCE POLICY AS TAKING CARE OF OTHER PEOPLE. THEY FEEL THAT THEY MUST PAY A HIGH PREMIUM FOR INSURANCE WHICH PROVIDES BENEFITS FOR OTHERS AS A CONDITION PRECEDENT TO ENJOYING THE RIGHT TO DRIVE.

THUS IT IS OBSERVED BY THE RELATIVELY WELL TO DO WHO MUST BUY ADEQUATE LIABILITY INSURANCE LIMITS REGARDLESS OF WHETHER OR NOT IT IS COMPULSORY, THAT THEY MUST CARRY RELATIVELY HIGH LIABILITY INSURANCE LIMITS TO TAKE CARE OF OTHERS, WHILE MANY OTHERS BUY ONLY MINIMUM LIMITS TO TAKE CARE OF THEM. UNDERINSURED MOTORIST COVERAGE (A RELATIVELY NEW COVERAGE WHICH ALLOWS EACH INSURED DRIVER TO PURCHASE ADEQUATE INSURANCE LIMITS TO PROTECT THEIR OWN FAMILIES AGAINST THE NEGLIGENCE OF THOSE DRIVERS WITH INADEQUATE COVERAGE) IS NECESSARY, AT AN ADDITIONAL PREMIUM. THE RESPONSIBLE DRIVER, WHO WANTS TO BE SURE THAT THERE IS ADEQUATE COVERAGE FOR HIS OWN FAMILY AGAINST THE NEGLIGENCE OF OTHERS MUST STILL BUY, FOR AN ADDITIONAL PREMIUM, THIS UNDERINSURED MOTORIST COVERAGE - IN A SENSE SUBSIDIZING THOSE DRIVERS WHO MEET ONLY THE MINIMUM REQUIREMENTS OF THE LAW.

AT THE SAME TIME, BECAUSE OF RATE REGULATION, THE RELATIVELY LOW HAZARD, RESPONSIBLE DRIVER (RICH OR POOR) IS PAYING A HIGHER PREMIUM TO SUBSIDIZE THE HIGH HAZARD MORE IRRESPONSIBLE DRIVER (RICH OR POOR) WHO IS MOST LIKELY NOT BUYING ADEQUATE AMOUNTS OF INSURANCE TO TAKE CARE OF THE DAMAGES WHICH HE CAUSES.

CERTAIN RESIDERS OF UNINSURED DRIVERS, AND THE STATE
WITH THE LAW MUST PURCHASE UNINSURED MOTORIST COVERAGE DESIGNED
TO PROVIDE PROTECTION FOR THEIR OWN FAMILIES IN THE EVENT THAT
THEY ARE STRUCK BY A NEGLIGENT UNINSURED MOTORIST OR A HIT AND
RUN DRIVER. IN A SENSE, INSURED DRIVERS STILL ARE ASKED TO
SUBSIDIZE UNINSURED DRIVERS. (AS INDICATED PREVIOUSLY, DRIVERS
WILL ALSO HAVE A NEED FOR UNDERINSURED MOTORIST COVERAGE).

- C. ALL DRIVERS WHO COMPLY WITH THE LAW (POOR OR RICH) BEGIN TO ASK
"WHY SHOULD I PAY EXPENSIVE LIABILITY INSURANCE PREMIUMS FOR THE
PROTECTION OF OTHERS IN ADDITION TO PREMIUMS FOR UNDERINSURED AND
UNINSURED MOTORIST COVERAGES FOR MY OWN PROTECTION?" THEY ASK:
"WHY MUST I SUBSIDIZE HIGH HAZARD DRIVERS, WHEN I CANNOT AFFORD
ADEQUATE COVERAGE FOR INCOME LOSS AND MEDICAL CARE EXPENSES FOR
MY OWN FAMILY MEMBERS WHO ARE INVOLVED IN AN AUTOMOBILE ACCIDENT
WHERE THEY ARE AT FAULT, OR WHERE THEY ARE INJURED OR ILL FOR ANY
REASON?" FEW PEOPLE CAN AFFORD ADEQUATE LIFE AND DISABILITY AND
MEDICAL CARE EXPENSE INSURANCE AND THEY TEND TO ASK THEMSELVES
"WHY SHOULD I BUY LIABILITY INSURANCE TO PROTECT OTHERS, WITH ALL
ITS INEQUITIES IN PRICING AND LAW ENFORCEMENT, WHEN I WOULD
RATHER SPEND THE SAME PREMIUM FOR A BENEFIT SYSTEM WHICH WOULD
PROVIDE PROTECTION DIRECTLY FOR MY FAMILY REGARDLESS OF FAULT?"
IN THE LONG RUN, WHILE I AM OPPOSED TO COMPULSORY INSURANCE OF
ANY TYPE, IT IS IMPORTANT TO RECOGNIZE THAT THE PUBLIC WILL
EVENTUALLY ASK, IF AUTOMOBILE INSURANCE IS TO BE COMPULSORY, "WHY
SHOULD I BE REQUIRED TO CARRY ANY INSURANCE WHICH PROVIDES

SAYING THAT "IF ANY BENEFIT SYSTEM IS TO BE COMPULSORY, IT SHOULD BE NO FAULT INSURANCE WHICH PROVIDES STRONG ECONOMIC BENEFITS DIRECTLY TO, AND FOR THE BENEFIT OF, THE PERSON WHO PAYS THE PREMIUM, HELPS TO BUILD THE SELF RESPECT OF THE ECONOMICALLY DISADVANTAGED AND REDUCES THE COST OF CHARITY CARE." THIS WAS THE CONCLUSION THAT WAS REACHED IN FLORIDA. IN THE LONG RUN COMPULSORY LIABILITY INSURANCE CAN ONLY LEAD TO PRESSURE FOR NO FAULT INSURANCE.

REMEMBER, COMPULSORY LIABILITY INSURANCE DOES NOT COMPENSATE THE INJURIES OF THE "AT FAULT" DRIVER. IF THESE PERSONS ARE POOR, THEY MUST DEPEND UPON CHARITY.

6. FINALLY, COMPULSORY LIABILITY INSURANCE LEADS TO GREATER, NOT LESS, REGULATION AND CONTROL, AT GREAT EXPENSE, AT A TIME WHEN THE PUBLIC IS SEEKING LESS GOVERNMENT INVOLVEMENT. THE COMPULSORY LIABILITY INSURANCE LAW MUST BE ENFORCED.

COMPULSORY INSURANCE LAWS REQUIRE THAT DRIVERS MUST HAVE INSURANCE. THEY DO NOT ATTEMPT TO DEFINE HAZARDOUS DRIVERS. THEY PROVIDE NO MEANS FOR GOVERNMENT TO REMOVE HIGH HAZARD DRIVERS FROM THE ROAD, FOR THE BENEFIT OF ALL. INSTEAD, THE GOVERNMENT ASKS PRIVATE INDUSTRY TO DEVELOP AND ENFORCE PUBLIC POLICY - A ROLE WHICH PRIVATE INDUSTRY CANNOT PERFORM. ONLY GOVERNMENT CAN PERFORM THIS FUNCTION.

THE BUSINESS IS CAST IN THE ROLE OF "SURROGATE REGULATOR." IT IS EXPECTED TO PROVIDE COVERAGE TO DRIVERS, AND TO POLICE DRIVERS AS WELL, DETERMINING WHO SHOULD PAY HIGH AND LOW PREMIUMS AND WHO WILL BE ABLE TO BUY COVERAGE. IF THE BUSINESS WERE ALLOWED TO PERFORM THIS FUNCTION FREELY, MOST CONSUMERS WOULD BENEFIT FROM IMPROVED SAFETY AND MORE EQUITABLE PRICES. HOWEVER, THE GOVERNMENT, IN RESPONSE TO THE COMPLAINTS OF RELATIVELY FEW HIGH HAZARD DRIVERS, TENDS TO FORCE THE GREAT MAJORITY OF DRIVERS - THE LOW HAZARD DRIVERS, TO PAY MUCH MORE SO THAT HIGH HAZARD DRIVERS PAY LESS. AT GREAT REGULATORY EXPENSE AND INTERFERENCE, GOVERNMENT REGULATION TENDS TO REWARD THE HIGH HAZARD DRIVER.

IN SUMMARY, AS I STATED AT THE BEGINNING, I AM OPPOSED TO COMPULSORY LIABILITY INSURANCE AS NOT BEING IN THE BEST INTEREST OF THE CONSUMER, THE TORT LAW/LIABILITY INSURANCE SYSTEM AND THE BAR, LEGISLATORS AND REGULATORS.

IT IS MY OPINION, BASED UPON EXPERIENCES IN SOME OTHER STATES AS DESCRIBED IN THIS SCENARIO, THAT LOW HAZARD DRIVERS WILL EVENTUALLY PAY MORE UNDER COMPULSORY LIABILITY THAN UNDER THE PRESENT SYSTEM, PERHAPS SUBSTANTIALLY MORE.

IN MY OPINION, MOST DRIVERS WOULD BE BETTER OFF FINANCIALLY UNDER THE PRESENT SYSTEM, WITH THE OPTION TO PURCHASE UNINSURED AND UNDERSINSURED MOTORIST COVERAGES EQUAL TO THEIR OWN POLICY LIMITS, FOR ADDITIONAL PREMIUMS. IT IS MY OPINION THAT THE ADDITIONAL PREMIUMS FOR THESE OPTIONS WILL BE LESS THAN THE ADDED COST OF LIABILITY INSURANCE WHERE IT IS COMPULSORY. AND REMEMBER, UNINSURED AND UNDERINSURED MOTORIST COVERAGES

ARE PURCHASED TO PROVIDE COVERAGE DIRECTLY FOR THE BENEFIT OF THE PREMIUM
PAYOR AND HIS FAMILY.

MEMBERS OF THE COMMITTEE - IT IS EASY FOR ME TO COME HERE, AND TO MAKE
SUGGESTIONS.

YOU HAVE TO MAKE HARD DECISIONS AND THESE ARE HARD DECISIONS, ANY CHANGE
TO COMPULSORY IS NEARLY IRREVERSIBLE.

THANK YOU. I WOULD BE HAPPY TO RESPOND TO QUESTIONS OR COMMENTS.

STATEMENT IN OPPOSITION TO
THE ENACTMENT OF A COMPULSORY AUTOMOBILE LIABILITY
INSURANCE STATUTE IN ILLINOIS

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY

MARCH 22, 1983

Members of the Committee, I am John Bernstein, Associate Counsel of State Farm Mutual Automobile Insurance Company of Bloomington, Illinois.

State Farm, like most national insurers, has had a long and generally negative experience operating in states having compulsory automobile liability laws. It is our firm belief that such laws aren't needed; create more problems than they solve; don't benefit our policyholders or the general public; don't help the less fortunate; don't increase our business for any sustained period; but do increase our costs and, eventually, our premiums; have grave long-run repercussions on our legal system; and in the last analysis, don't work.

Illinois doesn't need a compulsory law.

If the object of compulsory insurance is to assure the motoring public that the individual legally responsible for loss is also financially responsible, that is also the goal of our current Safety Responsibility Law. All evidence is that the current law is working.

State Farm data indicates that in 40 years of driving there is only a 4% chance of an insured motorist being injured by an uninsured motorist. To put it another way, the average State Farm driver will wait 909 years between uninsured motorist claims. State Farm is in the process of developing a measurement of the effect of the uninsured motorist population on insured motorists in a given state. We call this our UM:BI Index. It's a ratio of uninsured motorists claims to bodily injury claims. If our data is correct, it shows that in Illinois there appears to be even less chance of loss caused by an uninsured driver than the national average. (11.8% v. 15.5%, UM:BI Index).

We submit that whether there is a large percentage of uninsured drivers on the road or a small percentage, is largely irrelevant--the question that the legislature must address is the extent to which not-at-fault motorists in Illinois sustain losses which are uncompensated--and, to

what extent losses caused by uninsured motorists might be reduced by adoption of a compulsory liability insurance system.

Would uncompensated injuries be reduced by enactment of a compulsory law? State Farm's experience is that the answer is "no". Our data from the compulsory states indicates that, on average, insured car occupants receive injuries from uninsured motorists at about the same rate after enactment of compulsory legislation as prior to passage of such laws. Compulsory legislation may increase the insured population by a small percentage, but we find no measurable reduction in the number of bodily injuries caused by financially irresponsible drivers.

Compulsory liability laws lead to higher insurance rates and increased governmental costs.

As we have said, when all compulsory laws are considered together, we have seen no reduction of uninsured motorists claims. Our policyholders still have to buy such coverages, and they inevitably experience higher premiums for the balance of their insurance. Why do premiums go up? Compulsory laws exert an upward pressure on insurance company expenses. Insurance company paper-work increases and we must engage in exacting verification procedures. In New

York, for example, enforcement of the compulsory law has cost insurers approximately \$8 million per year. Further, it is estimated that New York's new computerized approach to verification of insurance will cost at least \$12 million in 1983. Some years ago the 79th General Assembly enacted a compulsory law. This was HB 1317. It was vetoed by the Governor after the then Secretary of State estimated the implementation and enforcement costs to the State of Illinois at \$13,025,000.

Compulsory liability insurance has serious adverse social and legal implications.

We would like to quote from the testimony of Dr. John Hall, of Georgia State University, given in December, 1979, to South Carolina's Joint Legislative Automobile Liability Insurance Study Committee.

Dr. Hall said:

As a practical matter, the economically disadvantaged have less real need for liability insurance to protect their own interests. As a practical matter, these persons tend to be judgment proof. In any event, they tend to be unaware of the benefits which a liability policy provides. They perceive the liability

insurance policy as taking care of other people. They must pay a high premium for insurance which provides benefits for others as a condition precedent to having the right to drive. Because of their economic status, most often they are unable to purchase insurance to provide for their own injuries, and those of their families, in accidents where they are at fault. The compulsory liability insurance system forces these people to pay high premiums relative to their income for benefits for others when they cannot themselves afford adequate benefits to cover their own losses.

Dr. Hall concludes:

For these reasons, it appears morally and socially wrong to require liability insurance on a compulsory basis as a condition precedent to enjoying the privilege of automobile driving and ownership.

In this period of serious economic uncertainty, the words of Dr. Hall seem to be most appropriate. It seems to us that 1983 is a particularly bad time to enact a compulsory insurance law in Illinois.

Compulsory liability laws don't work.

The Tennessee legislature has reviewed other jurisdictions' experience with compulsory auto insurance. On November 19, 1981, a subcommittee recommended that, "Tennessee not adopt any form of compulsory insurance." In its report, the first page of which is attached to our statement today, the subcommittee says:

Our findings reveal that despite considerable and varied enforcement efforts in other states including the adoption of no-fault, no state has devised a workable or cost-effective enforcement system. . . .

And the subcommittee report says also:

The responsible motorist should not pay more for insurance coverage nor be subjected to harrassment in a futile attempt to enforce a compulsory law.

A similar conclusion was reached by the State Auditor of Wisconsin on March 10, 1981. In the letter transmitting his report (copy attached), he said:

Experience in other states indicates that mandatory insurance programs do not substantially reduce the number of uninsured motorists and the cost of administering such a program is more than double the cost of the Safety Responsibility Program.

On the other hand, the State of West Virginia enacted a compulsory liability insurance law in 1981 without holding public hearing. One year later, on February 2, 1982, a joint House/Senate hearing was held in West Virginia to consider experience under the new law. At that hearing the Commissioner of Motor Vehicles testified that 95% of the notices of insurance termination sent in connection with enforcement of the law went to people who had not, in fact, let their coverage lapse. She said that she had had to add a night shift to process the additional work which already generated 196,000 termination notices in the State of West Virginia in the few months that the law had been in effect. A leading advocate of compulsory in the previous legislative session said that it, "was the biggest mistake I've made since I have been in the House of Delegates . . ." Another Delegate said, "I don't remember anything this legislature has ever passed that upset the citizens of this state as

much as this law has." We have attached copies of the newspaper reports of the hearing at the back of this statement which verify the above quotations.

Arizona is one of the most recent states to enact a compulsory automobile insurance liability law. The effective date of this legislation is January 1, 1983.

A better example of the bureaucratic problems created by compulsory insurance could scarcely be found. As reported by the press in Arizona, copies of which are also attached to this statement, the Chief Deputy Auto License Director for Maricopa County (Phoenix) says he has found the compulsory forms required have caused "a mess", and he predicts delays in registration and penalty charges to the public will result. The head of the Arizona Prosecuting Attorneys Advisory Council expands on these remarks and uses a few more expletives, saying, the bill is "ridiculous" and "a hell-of-a-mess". Government officials in Arizona expect that the new law will result in clogged court calendars and predict, "an administrative nightmare".

It is rarely safe to generalize about any subject. Compulsory automobile liability insurance legislation is no exception. Insurers, however, are well-aware that only a few states

have made the decision to allocate tax dollars and governmental personnel to attempt to achieve a reasonably high degree of compliance with their compulsory laws. But regardless of the resources allocated, most states have failed anyway. Massachusetts, the first compulsory state (1927), is estimated to have between 10% to 15% of its driving population uninsured. New York, the second compulsory state (1957), is presently estimated to have an uninsured motorist population of at least one half million drivers. This is probably close to the uninsured populations in New York and Massachusetts prior to the passage of their compulsory laws; and, if we may speculate, probably is what it would have been had no such laws been enacted.

In the final analysis, what is necessary is to carefully balance public interest and equities. State Farm urges this committee to review the more practical alternatives to passage of what would almost certainly be another ineffective and expensive compulsory experiment. For example, this committee would be well-advised to study the system in effect since 1958 in the Commonwealth of Virginia. Estimates based on uninsured motorist insurance losses in Virginia indicate that the percentage of uninsured motorists in the Commonwealth is less than in many compulsory liability states.

In fact, only two states with compulsory laws (North Carolina and Utah) and two non-compulsory states (Iowa and New Hampshire) appear to have measurably fewer uninsured motorists. In addition, the Virginia law requires minimum paperwork on the part of government and insurers; is relatively inexpensive to operate; and, from the standpoint of the government, may actually be a revenue producer. Finally, since the individual isn't required to buy insurance, the Virginia law avoids the political, legal, economic, and social problems which compulsory insurance legislation invariably creates.

In closing we would like to emphasize the obvious: What burdens government and burdens insurers eventually burdens the general public. We urge this committee, before recommending any particular approach to compulsory, to examine the cost and effectiveness of compulsory automobile insurance legislation in the other states. If this committee engages in this activity, we believe it unlikely that it will recommend that the legislature of Illinois enact a compulsory automobile liability insurance law.

JTB/mm



MEMBERS:
 T. TOMMY CUTRER
 JOE L. CROCKETT
 EDWARD DAVIS
 EDGAR H. GILLOCK
 CARLO G. KOELLA, JR.
 BEN LONGLEY

SENATE
 COMMERCE AND LABOR COMMITTEE
 STATE OF TENNESSEE
 SUITE NO. 10, LEGISLATIVE PLAZA
 NASHVILLE, TENNESSEE 37219
 (615) 741-7081

CHAIRMAN
 EDWARD C. BLANK, II
 VICE CHAIRMAN
 TOMMY BURKS
 SECRETARY
 WILLIAM J. DAVIS
 STAFF SECRETARY
 MARTHA RIMLINGER
 STAFF ANALYST
 TODD O. MAIDEN

MEMORANDUM

TO: Commerce, Labor and Agriculture Committee
 FROM: Subcommittee Studying Automobile Compulsory Insurance Laws
 DATE: November 19, 1981

The Subcommittee appointed to study compulsory insurance legislation has completed its work and submits the following:

COMPULSORY INSURANCE:

The Subcommittee reviewed and studied this concept in depth. We visited the state of Georgia, West Virginia and Pennsylvania to obtain first-hand information on the workings and effectiveness of their compulsory program. During a day-long public hearing on September 23, 1981, we heard testimony from a variety of concerns and interests on the subject.

Based upon information obtained from these and other sources, it is the recommendation of this committee that Tennessee not adopt any form of compulsory insurance. (Senator Crockett and Senator Bill Jim Davis voting for this recommendation, with Senator Ed Davis abstaining. An explanation of his position is attached to this report.)

Comments on Recommendation:

This subcommittee supports the concept of compulsory insurance. Every motorist should purchase sufficient liability insurance coverage to pay for any negligent act they may commit while using our streets and highways. Yet, our findings reveal that despite considerable and varied enforcement efforts in other states including the adoption of no-fault, no state has devised a workable or cost effective enforcement system. In addition, experience in other states indicate the adoption of compulsory insurance in Tennessee would only increase the percentage of insured drivers from the current 80 percent to 85 percent. More importantly, the cost of liability insurance plus uninsured motorist coverage in Tennessee is less than same coverage in any compulsory state, and considerably less than the same coverage in any compulsory no-fault state. The responsible motorist should not pay more for insurance coverage nor be subjected to harassment in a futile effort to enforce a compulsory insurance law.



State of Wisconsin \ LEGISLATIVE AUDIT BUREAU .

DALE CATTANACH
STATE AUDITOR
SUITE 507
131 WEST WILSON STREET
MADISON, WISCONSIN 53703
(608) 255-2818

March 10, 1981

Senator Gary George and
Representative Phillip Tuczynski, Co-Chairpersons
Joint Legislative Audit Committee
State Capitol
Madison, Wisconsin

Dear Senator George and Representative Tuczynski:

We have completed our evaluation of the Safety Responsibility Program in the Department of Transportation which is designed to encourage uninsured motorists involved in accidents to settle damage claims.

We examined several alternatives to the current Safety Responsibility Program, including mandatory insurance and eliminating the Program. Experience in other states indicates that mandatory insurance programs do not substantially reduce the number of uninsured motorists and the cost of administering such a program is more than double the cost of the Safety Responsibility Program. Elimination of the Safety Responsibility Program would remove state leverage that encourages out-of-court settlements for accidents involving uninsured motorists. Therefore, we have recommended that the existing Safety Responsibility Program be continued. However, we have recommended several program improvements which should increase the number of out-of-court settlements and provide injured parties with better access to deposits collected by DOT from uninsured motorists. These recommendations do not require legislative action.

We appreciate the courtesy and cooperation extended to us by the Department of Transportation and the Transportation Commission.

Respectfully submitted,
LEGISLATIVE AUDIT BUREAU

By *Dale Cattanach*
Dale Cattanach
State Auditor

DC/jla

Warnings are sent to 196,000 car owners in state insurance foulup

CHARLESTON, W.Va. (AP) — Motor Vehicles Commissioner Virginia Roberts said Wednesday that her office has been forced to mail 196,000 warnings to drivers that their insurance is about to expire, and that almost all of the warnings were wrong.

Mrs. Roberts was one of several witnesses who pleaded with the House of Delegates' Banking and Insurance Committee to work for changes in the state's compulsory insurance law. Her appeal during a public hearing Wednesday was supported by three state legislators and a host of other witnesses.

The law, passed last year, requires motorists to submit proof of liability insurance before they can register their cars. Mrs. Roberts said she supports the law in principle, but that it has been a nightmare to administer.

Under the law, insurance companies are required to provide motorists with a card certifying that they are insured. The cards then must be presented to the Motor Vehicles Department.

Mrs. Roberts said her depart-

ment has been snowed under by paperwork, and that her office now looks like "the biggest ant hill in Charleston."

One of the biggest problems, she said, is a requirement that her office mail notices to people whose insurance is about to expire. She said that since October, when the law took effect, the DMV has mailed 196,000 notices but "95 percent were to people who never had their insurance terminated, but paid late."

In addition, Mrs. Roberts said, state police have been asked to confiscate 2,584 driver's licenses from people who, according to DMV records, have failed to renew their insurance. But once again, 95 percent of those policies probably have been brought up to date, she said.

When a notice is sent to a motorist "it probably crosses in the mail with the premium check," she said.

The additional paper work heaped on the DMV has forced the agency to seek more office space, which will cost \$94,000 a year to rent, she said.

Two delegates who favor

changing or repealing the law are Marion Shillet, D-Monroe, and George Farley, D-Wood. Both are insurance agents and both said they voted against the law last year.

Farley said the confusion brought about by the law has driven many of his 2,500 clients "bananas."

Del. William Carmichael, R-Jackson, confessed that he voted for the law last year but called that decision "the biggest mistake I've made since I've been in the House of Delegates for eight years."

Carmichael told committee members if there's a way of "doctoring up the problems we've heard about ... then I hope you take a crack at that."

If it's not possible to clean up the statute, Carmichael said, the Legislature "should just back up and let's repeal that law."

Committee Chairman C.E. "Slim" Martin, D-Berkeley, said the committee did not have a bill before it to revise the law. But he said one could be written up on the basis of testimony at Wednesday's hearing.

Roberts Offers Car Insurance 'Anthill' Tour

By NANYA GADD
Of the Capitol Bureau

Motor Vehicles Commissioner Virginia Roberts today invited legislators to walk across the street and see "the biggest anthill in West Virginia."

Mrs. Roberts testified at a House hearing on problems with the state's new compulsory auto insurance law. Passed last year, the law has resulted in a mountain of paperwork for her agency and unnecessary hassle for many of the state's premium-paying citizens, she said.

Since the law became effective Oct. 1, the Department of Motor Vehicles has mailed out 198,000 notices of auto license cancellation, she said. She estimated that 95 percent of those notices have gone to persons who had never let their insurance policies lapse.

She has had to add a night shift of 27 workers to her staff to handle the extra load, Mrs. Roberts said. Because she doesn't have room in the DMV building across the street from the Capitol to file all the correspondence generated by the law, she will have to rent more office space at a cost of \$94,000 a year, she said.

Several lawmakers also testified at the hearing. Del. William Carmichael,

D. Putnam, said voting for compulsory insurance last year "was the biggest mistake I've made since I've been in the House of Delegates for eight years."

Flaws in the new procedures are too serious to be corrected, Carmichael said. "The finest thing this session can do is back up and undo what we did last year." He suggested that the law be repealed.

Some insurance industry spokesmen also called for repeal, but Mrs. Roberts and other speakers said the theory behind the law was good. They suggested several revisions in the way it is being carried out.

Insurance companies now must notify DMV when policies are about to expire. DMV, in turn, must mail those persons notices of license cancellation. The DMV notices and owners' premium payments "are probably crossing each other in the mail," Mrs. Roberts said.

But once a notice goes out, the car owner must submit a certificate of insurance to DMV. Many persons who already have paid their premiums simply disregard the notice, Mrs. Roberts said.

If that happens, DMV issues a license pick-up order to be executed by the state police. More than 2,500 such orders have been issued, she said. She be-

lieves most of them involve "good, God-fearing people who have insurance on their cars."

She asked the House Banking and Insurance Committee to eliminate the provision that requires submission of a formal certificate. Vehicle owners simply should be required to sign a statement saying they have insurance when they renew their licenses each year, she said. They also should be required to keep proof of insurance in their vehicles to show policemen if they are stopped on the highways.

Del. Marlon Shiflet, D-Monroe, who is in the insurance business, suggested similar revisions. But he said his plan was so simple it probably wouldn't work.

Del. Gerge Farley, D-Wood, also an insurance agent, said, "I don't remember anything this Legislature has ever passed that has upset the citizens of this state as much as this law has."

Support for compulsory insurance has dropped among his constituents, Farley said. And as for his customers, he said, "I've been close to fist fights at

times. My only out is to tell them I didn't vote for it. People are upset out there."

John Bernstein, a spokesman for State Farm Insurance Co., described West Virginia's new law as "the archetypal example of how not to have a compulsory insurance system." But he said no state that has passed such a law has been successful in reducing the number of uninsured motorists on the road.

Although Bernstein wants to see West Virginia's law revised, he said compulsory insurance "doesn't work in any form."

House Insurance Chairman Clarence Martin, D-Berkeley, said he will wait for the Senate to begin action on bills concerning compulsory insurance since that body originated last year's bill and "put us in the mess we're in."

But Martin said if the Senate takes no action within three weeks, his committee will take up the issue. He'll put all bills that have been introduced on the agenda, he said, "including repeal legislation."

W. VA. STATE ARCHIVES

New law on car insurance 'nightmare' to prosecutors

By Carol Sowers
Republic Staff

Although it won't go into effect until Jan. 1, the state's mandatory car-insurance law already is being described as "ridiculous" and an "administrative nightmare" by some prosecutors who will have to enforce it.

"The bill is a hell of a mess," said Al Heinze, executive director of the Arizona Prosecuting Attorneys Advisory Council, a lobbying group.

Heinze and R. William Call, Tucson's city prosecutor, said they hope to seek revisions to the complex law,

which imposes stiff fines on driver convicted of not having insurance.

They and other prosecutors are at odds over interpretation of the law with state Rep. Bill English, R-Sierra Vista, who wrote the bill approved by legislators earlier this year.

English acknowledged there are "mechanical problems" with the law but he discounted many of the prosecutors' complaints.

"They (prosecutors) want everything on a silver platter," he said. "They want us to do their work for them."

— Insurance.

Plea bargaining will not be allowed. People who plead innocent to being uninsured but cannot produce proof of insurance must face trial.

How soon that trial must be held is unclear.

Call, Heinze and Kerry Wangberg, staff attorney for Phoenix Municipal Courts agreed that the law requires trials to be held within 10 days after a plea is entered.

English disagrees.

He said the law requires trials to be scheduled — not necessarily conducted — within that time limit.

"If that's what he (English) wanted to say, he didn't say it," Call said.

Prosecutors said they are gearing up to hold trials within the 10-day limit.

"You can imagine the headache that will cause in bringing these matters to trial within 10 days, because you have to subpoena witnesses," Wangberg said.

Heinze said prosecutors also are concerned about being forced to prove that a motorist does not have insurance.

"It is very difficult to prove a negative," Heinze said. "We will have to subpoena every company licensed to sell auto insurance in the state."

English is unsympathetic.

"That's tough," he said. "It is the government's responsibility to prove its case."

J. Michael Low, director of the state insurance department, said 40 companies write 92 percent of the auto insurance sold in the state and that another 150 sell the remainder.

Aware of the prosecutors' concerns, Low said, auto insurers may be asked to provide a form that could be accepted by the court as proof of insurance. If a defendant does not have an up-to-date form on file with an insurer, it could be assumed he is not covered, Low said.

"Prosecutors should not panic," he said.

A provision in the law which appears to allow judges to issue complaints against defendants who cannot provide proof of insurance also has been criticized by prosecutors.

Heinze said judges do not issue complaints in any other criminal matters because it could place them in conflict if they were to hear the case when it came to trial.

English said he understands prosecutors' difficulty with that portion of the bill but said it is a "mechanical" problem and may be rewritten.

However, he said, as the law now

Insurance

Continued from A1

Under the law, motorists are required to carry minimum liability coverage of \$15,000 bodily injury for each individual in an accident, \$30,000 bodily injury for two or more people in an accident, and \$10,000 for property damage.

Motorists who do not buy insurance will be allowed to file a \$40,000 bond with the state Motor Vehicle Division.

Prosecutors critical of the legislation maintain that it:

- Is unclear as to when trials must be held.
- Places prosecutors in the legally precarious position of trying to prove that motorists do not have insurance.
- Includes a legally questionable provision that allows judges to issue complaints against allegedly uninsured motorists.
- Could add thousands of cases to municipal court calendars.
- Forces cities to become repositories of confiscated driver's licenses, thus creating a new layer of bureaucracy.
- Requires out-of-state drivers to remain in Arizona for five days before they can retrieve their driver's licenses.

Heinze said he is "embarrassed" about the law because of the problems.

"I just flat missed this," he said. "I don't know what happened."

English says the bill "slipped by" no one.

"That is pure, unmitigated baloney. That's why public hearings were held," he said.

The law, introduced in various forms in the Legislature for three years before finally making it this year, requires a vehicle owner to sign a statement affirming he has insurance before he can get his vehicle registered with the state.

About 200,000 of the 2.4 million vehicles in the state must be re-registered each month.

Under current law, motorists must prove they have insurance only at the time of an accident. Failure to have insurance or other proof of financial responsibility could result in a year-and-a-day revocation of a driver's license.

Under the new law, a motorist ticketed for an accident that results in \$500 damage, injury or death must surrender his driver's license to the police officer at the scene.

He cannot retrieve his license for at least six days and until he appears in court and shows proof of insurance, according to the law.

In the meantime, however, he can continue to drive because a copy of the traffic ticket serves as a temporary

Drivers convicted of not having insurance can be fined \$250 for the first offense; \$500 and a three-month license suspension for the second offense; and \$750, a six-month license suspension, and a five-day jail term for the third offense.

Sunday, December 19, 1982

Insurance

Continued from A4

stands, judges can order prosecutors to issue complaints.

Call and other prosecutors disagree. "Judges don't have the power to order prosecutors to issue complaints," Call said.

Wangberg said the caseload spawned by the new law is expected to clog court calendars and require cities to become repositories for confiscated driver's licenses.

He said 29,000 traffic accidents that resulted in \$500 damage or injury occurred in Phoenix alone last year. And next year, there could be more, he warned.

Phoenix Municipal Court officials have asked the City Council to hire two clerks at a cost of \$15,000 for the first half of 1983, according to Jack Tevlin, the council's administrative assistant.

The clerks must match licenses with citations and return them to motorists when they prove they have insurance, Wangberg said.

"You can see what an administrative nightmare that will be," he said.

About a third of motorists cited for traffic accidents are expected to be uninsured and may face trial, thus creating a new set of offenders to be threaded through the court system, he added.

Tevlin said that if a new municipal-

city \$50,000 for the first half year.

English maintained that the cost to the city should be offset by fines levied against uninsured motorists.

Tevlin, however, said city officials cannot be sure if the fines will cover the costs.

The provision requiring enforcement officers to confiscate driver's licenses and force motorists through the court system is "foul," Call said.

Instead, he said, officers should write the citation at the scene of the person who could not prove he was insured. The citation then could be dismissed by the court if the motorist later could prove to the prosecutor that he was insured.

Call said he agrees with the intent of the law.

"It just needs to be cleaned up," he said.

The fate of out-of-state drivers is unclear in the law, Heinze said.

He said that as it is written, the law requires out-of-state drivers to remain in the state until they can appear in court and prove they have insurance.

But English said he believes judges can allow them to mail in insurance to the court, even if that provision is not written in the law.

"I don't know if that's correct or not," English said. "I will find out for you. I will do it for you."

AN ACT to amend Section 3-405 of "The Illinois Vehicle Code", approved September 29, 1969, as amended.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 1. Section 3-405 of "The Illinois Vehicle Code", approved September 29, 1969, as amended, is amended to read as follows:

(Ch. 95 1/2, par. 3-405)

Sec. 3-405. Application for registration. (a) Every owner of a vehicle subject to registration hereunder shall make application to the Secretary of State for the registration of such vehicle upon the appropriate form or forms furnished by the Secretary of State for the registration of such vehicle and every such application shall bear the signature of the owner written with pen and ink and the application shall contain:

1. The name, bona fide residence and mail address of the owner or business address of the owner if a firm, association or corporation;
2. A description of the vehicle including such information as is required in an application for a certificate of title, and including the motor power stated in figures of horse power, determined under such standard rating as may be prescribed by the Secretary.
3. For all vehicles of the first division, registered under Section 3-806 of this Act, excluding any vehicle required to be insured under any other Section of this Act, a certification signed by the applicant, which shall state that the owner is in compliance with the Illinois Safety Responsibility Law and will remain so during the period of registration, or in the event that the applicant cannot so certify, such person shall pay, in addition to any other fees prescribed by law, a non-compliance fee of two hundred (\$200.00) dollars as a condition precedent to registering a vehicle.
34. Such further information as may reasonably be required by the Secretary of State to enable him to determine whether the vehicle is lawfully entitled to a certificate of title.

45. An affirmation by the applicant that all information set forth is true and correct.

(b) When such application refers to a new vehicle purchased from a dealer the application shall be accompanied by a Manufacturer's Statement of Origin from the dealer, and a statement showing any lien retained by the dealer.

(c) The Secretary of State shall issue a certificate of receipt to those applicants paying the prescribed non-compliance fee. The certificate of receipt shall contain a control number; clearly state on its face that such receipt is not insurance; that such receipt must be carried in the vehicle at all times; and, that in the event of an accident wherein injury or damage is caused by the applicant, the applicant remains subject to the provisions of the Illinois Safety Responsibility Law.

(d) When it shall appear to the Secretary of State that a vehicle subject to registration in this state is involved in any reportable accident as provided in Section 11-406 of this Chapter with respect to which the owner thereof has not paid the non-compliance fee as prescribed in this Section, the Secretary shall, in addition to enforcing all other provisions of this Chapter, suspend such owners' license, license plates, and registration certificate until the person has paid the non-compliance fee. Notice of the opportunity for hearing shall be included in the order of suspension.

(e) Non-compliance fees paid pursuant to this Section shall be deposited with the Secretary of State, who shall establish and administer a Motor Vehicle Injury Compensation Fund from such deposits for the purpose of compensating natural persons suffering bodily injury, sickness, disease, or death as a direct and proximate result of a motor vehicle accident caused by a person not in compliance with the Illinois Safety Responsibility Law. No compensation shall be awarded from the Fund in an amount in excess of the limits set forth in Section 7-203 of this Chapter. Any award shall be reduced by payments already received from the at-fault party or any amounts which are payable under any policy of liability, uninsured motorist, or worker's compensation

STATEMENT
PRESENTED BY
STATE FARM INSURANCE COMPANIES
TO THE
LEGISLATIVE STUDY COMMITTEE
STATE OF TENNESSEE
Nashville, Tennessee
Wednesday, September 23, 1981

11-22-81
Mar 12 2 52 PM '83

My name is Jean C. Hiestand appearing on behalf of State Farm Insurance Companies, Bloomington, Illinois. State Farm is the leading writer of automobile insurance in the United States, as well as in the state of Tennessee. We insure more than 550,000 cars, approximately 19.2 percent of the insured vehicles in this state. With this stake in the Tennessee insurance market and with the opportunity to insure additional vehicles which compulsory insurance might provide, one would think that State Farm and other insurers would enthusiastically support a proposal to make automobile liability insurance coverage mandatory. Similarly, a poll of responsible drivers of the state might be expected to reveal that a majority of consumers support such a system, because "everyone ought to be made to carry insurance."

Nevertheless, the insurance industry does not favor compulsory liability insurance and we doubt that many consumers do, once they understand what is involved. Compulsory insurance laws just don't work very well, despite the expensive price tag they carry. Direct costs to taxpayers and insurance buyers are high. Indirect costs in terms of harm to the insurance marketplace are often so great as to make the system a very destructive one.

I note from the witness list that a variety of viewpoints will be presented. Mr. Sturgeon will, I presume, discuss the cost of enforcement to government and taxpayers. Ms. Clements will no doubt discuss the

specific reasons for insurer opposition, emphasizing the various costs to companies and their policyholders. Dr. Hall speaks as an academician examining the theory behind the proposal. At the same time he will be able to share his insights concerning practical problems identified while serving as a consultant to several states which either had or were considering the adoption of a compulsory system. With your indulgence, I would like to acquaint you with some of the political, economic and social problems which often follow passage of a compulsory auto insurance law. The history of compulsory insurance in this country has shown that the problems spawned by such a system usually extend well beyond the governmental agencies directly involved such as the Insurance Department and the Department of Motor Vehicles. In some compulsory states, the entire fabric of government becomes infected as new problems develop and bureaucratic involvement becomes pervasive.

Though a proposal to require motorists to carry liability insurance seems simple enough in concept, the requirement has, in a number of states, led to demands for additional controls over insurers and their customers, with the ultimate effect being the destruction of most of the benefits derived from the highly competitive automobile insurance market. I am confident that the state of Tennessee is proud of the competitive vigor of its market and covets the continued benefits of competition on behalf of its citizens. Therefore, I believe the experience in states which have experimented with compulsory insurance, and whose citizens have suffered as a result, will be of interest to you.

To begin, we need to be reminded that people - at least American people - don't like to be compelled to do anything, whether they believe it is the government or the insurance industry which is compelling them. This is part of the American tradition, but it leads to interesting, sometimes perverse, consequences. Therefore, compulsion should not be legislated frivolously and if compulsion is undertaken, it should be for a reason very much attuned to the public interest. (Incidentally, though the insurance industry opposes compulsory insurance, we usually get the blame when it is enacted.)

As one example of the tendency of people to react strongly to attempts to compel, I would cite the Illinois motorcycle helmet law. This statute was enacted to compel all riders of motorcycles to wear helmets and was passed in part because the Federal Department of Transportation had listed a helmet law as one of the requirements necessary for states to continue to receive federal highway money. Shortly after passage of the Act, suit was filed to strike it down by the very people it was intended to protect, riders of motorcycles. And, the Illinois Supreme Court did declare the Act unconstitutional. Thus, Illinois motorcyclists may lawfully expose themselves to serious injury or death by choosing not to wear helmets. Regardless of one's viewpoint concerning the attitude of these people, we must recognize that any attempt to compel purchase of automobile liability insurance coverage is greeted similarly by a significant portion of the population. This is particularly true of those with few assets who realize that compulsory liability insurance "protects the other guy" but confers little real benefit on the purchaser.

Compulsory liability insurance focuses public attention on the subject of the compulsion, the liability insurance contract. I do not suggest that automobile insurance should not be subject to general governmental regulation, and to careful scrutiny on specific issues. However, the attention given the automobile insurance industry following passage of compulsory has often resulted in a take over by the state of basic insurance management decisions and the substitution of administrative control for healthy marketplace competition.

The first state to enact a compulsory insurance statute was Massachusetts in 1927. A half-century later, Massachusetts is generally conceded to have the worst insurance market in the country, for buyers and sellers alike. This has developed gradually over that fifty year period.

First, there was a heavy increase in insurance costs. Motorists, operating under the belief that everyone was insured, immediately became very claim conscious. In addition, only bodily injury liability coverage was made compulsory. Therefore, a number of fenderbender accidents were accompanied by headaches, back pain, etc., so that the property damage of the not-at-fault driver might be recovered from the liability insurer of the offending driver, even though his property damage liability might not have been covered. Skyrocketing costs resulted in demands that government step in and "do something about it." The next step was a requirement that all rates for the compulsory coverage be uniform for all companies and effective on the first of January of each year. The result was, and continues to be, a political circus during the last month or two of the year as the insurance commissioner promulgates the rates for the year ahead. With prices established in an intense political

spotlight of this nature, it is not surprising that, more often than not, rates are set too low for the companies to make a reasonable profit, or even to break even in some years. Numerous lawsuits have been filed to force an increase (or occasionally a decrease) in rates. The market is characterized, for the most part, by very reluctant sellers.

With this constant turmoil there has, inevitably, been further government tinkering, attempts to correct the fundamental problem by treating only the symptoms. Classifications and territories have been changed arbitrarily, imposing subsidies upon some groups of premium payers and in favor of others. And, in order to solve resulting availability problems, the state has instituted a reinsurance facility which requires every company to accept every applicant and permits the pooling of unwanted insureds. The number of insureds put into the reinsurance pool is approximately 40 percent, as contrasted to 3 percent of your drivers in the Tennessee Automobile Insurance Plan. The pool loses substantial amounts of money, since high-risk drivers must be written at the same rates as are all other insureds. A recent Insurance Commissioner of Massachusetts estimated that approximately \$71 was being contributed, per voluntary insured, in order to subsidize the losses of the reinsurance facility. Those responsible for preserving the excellent insurance market here in Tennessee should not even consider risking a situation which might result in the same aberrations as in the Massachusetts market.

1956
The next state to enact compulsory liability insurance was New York and the lesson from New York is a lesson of gigantic costs for taxpayers and even bigger headaches for insurance consumers. The basic problems attendant to any compulsory insurance system are compounded

when serious attempts are made to enforce the law and heavy compulsion is exerted. New York determined to make its law work and the results have been spectacularly unsuccessful. It is estimated that, since inception, perhaps \$200 million have been spent attempting to enforce the New York law and no one is yet sure how much of an increase in the percentage of insured vehicles has been achieved. But the problems involve more than dollars spent attempting to force compliance. For the first 15 years insurers were required to notify the New York Bureau of Motor Vehicles whenever coverage had been cancelled. Because of this, every time a policyholder was late in remitting his premium, every time the premium was delayed by the U.S. Mails, or even when the policyholder decided to change companies, the insurance company was required to notify the Department of Motor Vehicles. In the meantime, most of the tardy insureds remitted their premiums or the new company filed a notice of coverage, thus restoring the insured's eligibility. Often the DMV sent a notice to the insured threatening to pick up his plates and this was followed by an irate letter from the insured to the company asking why it was stupid enough to tell the Department that coverage was not in force. In 1973 the notice requirements were dropped but they have now been reinstated. As you can imagine, automobile insurance is not the most loved commercial enterprise doing business in New York; nor, for that matter, is the Department of Motor Vehicles all that popular with the citizenry.

Your neighbor, the state of North Carolina, might be characterized as a southern style Massachusetts. It is difficult to understand why a state like North Carolina would want to emulate Massachusetts and New York but in 1958 North Carolina passed the third compulsory statute in the country. Immediately, the uniform rates, promulgated by the North Carolina Rating

Bureau and approved by the Insurance Department, became subject to political pressure and were, more often than not, set at unrealistically low levels. The Assigned Risk Plan gradually increased in size until it became the largest in the country, percentage wise. Approximately 30 percent of the insured vehicles were in the Assigned Risk Plan at the time that the legislature, out of desperation and under the influence of demagogic attacks on the automobile insurance business, repealed the Assigned Risk Plan and enacted a reinsurance facility law. So, in North Carolina as in Massachusetts, companies must take every applicant and may cede unwanted insureds to the Facility pool. Also as in Massachusetts, artificial changes in the rating plan have been required by the Insurance Commissioner and the legislature, and the result is groups of policyholders subsidizing others, primarily low-risk insureds subsidizing high risk drivers. Another result has been a lawsuit by the Governor, Attorney General and Insurance Commissioner attacking legislation which required the reinsurance facility to recoup its losses by assessment of all policyholders by means of an identifiable surcharge. The surcharges were upheld against such a prestigious attack but the industry continues to struggle with the reinsurance facility plan and the internal subsidies which have become a part of this anti-competitive program.

Michigan is experiencing one of the most unfortunate changes in an insurance marketplace ever seen in this country and this has been a direct result of the compulsory no-fault law in effect there. Trial lawyers attacked the very strong Michigan no-fault law but it was upheld by the state Supreme Court. However, almost as an after-thought and without giving the parties an opportunity to comment or to present briefs on the subject, the court declared that if insurance is compulsory,

due process requires that each purchaser of the coverage must have an opportunity for a hearing and is entitled to certain other procedural safeguards concerning the price he pays for insurance. The response to this unfortunate decision* was passage of legislation by the Michigan Legislature which has turned a healthy market into one which is in great turmoil. The terms of the statute defy description in any short statement but the primary requirement is a form of "take all comers" as in Massachusetts and North Carolina, plus the loss of rating criteria based on sex and marital status, and a host of "due process" requirements. Though we continue to be convinced that the Michigan Supreme Court should not have taken up the issue, and though we know that the legislative response was much broader and more destructive than necessary, the possibility of similar reaction to compulsory insurance in other states heightens our concerns.

Finally, we have the state of South Carolina. Here again we have a requirement that companies write all applicants at their preferred rate. In addition, the Insurance Commissioner establishes a uniform class plan and certain uniform rating criteria.

A recent editorial appearing in the National Underwriter, the leading insurance weekly trade publication, highlighted the problems of states with compulsory insurance, using North and South Carolina as primary examples. The editorial suggested that problems in these states "show, in graphic detail, how difficult it can be to implement social legislation and still make everybody happy. They also raise a number of important questions about efficacy of such legislation in the field of insurance. These questions go well

*Shavers v. Kelley, 402 Mich. 554, 267 N.W.2d 72 (1978).

beyond the nuances of the Carolina situations; they are national in scope, and rich in implication." The editorial went on to refer to some of the unfortunate results which have arisen in these two states and the difficult situation in which insurance consumers find themselves as compared to consumers in other states.

With the passage of compulsory automobile liability insurance in the 29 states which presently have it, one of two results has usually occurred. In the majority of the states, a decision has been made not to devote a large amount of financial and manpower resources to the enforcement of the new compulsory law. This decision has resulted from a lack of budget and manpower or from a decision to permit people to respond voluntarily to the new compulsory requirements. The result in those states has usually been a modest increase in the number of insured vehicles, at the most a percentage point or two above what might be accomplished by careful enforcement of the financial responsibility law already in your statutes. The other approach is that described in this statement, heavyhanded attempts to enforce the law by a handful of states. The results have been ineffective from the standpoint of compliance, expensive in terms of money and manpower expended, and disastrous in terms of the effect on the insurance marketplace and on consumers who look to the automobile insurance industry for vigorous competition in price and service.

The national election of 1980 has been analyzed by the pundits, and one point upon which most analysts agree is that Americans were telling the people whom they elected that they want less, not more government. The message has been received in Washington but we believe that it was

intended for politicians located in Springfield, Illinois, Raleigh, North Carolina and Nashville, Tennessee, just as much as for members of Congress and the national administration. Compulsory insurance, if it is enacted with an intention that it be vigorously enforced, usually brings with it government involvement in every facet of the process of underwriting, selling and servicing automobile insurance. In a few states it has resulted in a total stifling of competition, as well as a substitution of the state bureaucracy for the disciplines of the marketplace and the natural response of insurance company management to those disciplines. The state of Tennessee has a fine record of sensible regulation by its Department of Insurance which has encouraged competition while providing the appropriate oversight of insurer activities necessary to protect consumers from abuse. Your Department of Safety has performed efficiently and effectively, without unnecessary interference in the affairs of your drivers. I cannot imagine representatives of the people of Tennessee developing a serious interest in a system which would require the state to ignore the benefits of reasonable and responsible regulation and inject itself directly into the day-to-day affairs of its insurance industry and the consumers which that industry serves.

Position
9/81

STATEMENT
PRESENTED BY
STATE FARM INSURANCE COMPANIES
TO THE
LEGISLATIVE STUDY COMMITTEE
STATE OF TENNESSEE
Nashville, Tennessee
Wednesday, September 23, 1981

My name is Jean C. Hiestand appearing on behalf of State Farm Insurance Companies, Bloomington, Illinois. State Farm is the leading writer of automobile insurance in the United States, as well as in the state of Tennessee. We insure more than 550,000 cars, approximately 19.2 percent of the insured vehicles in this state. With this stake in the Tennessee insurance market and with the opportunity to insure additional vehicles which compulsory insurance might provide, one would think that State Farm and other insurers would enthusiastically support a proposal to make automobile liability insurance coverage mandatory. Similarly, a poll of responsible drivers of the state might be expected to reveal that a majority of consumers support such a system, because "everyone ought to be made to carry insurance."

Nevertheless, the insurance industry does not favor compulsory liability insurance and we doubt that many consumers do, once they understand what is involved. Compulsory insurance laws just don't work very well, despite the expensive price tag they carry. Direct costs to taxpayers and insurance buyers are high. Indirect costs in terms of harm to the insurance marketplace are often so great as to make the system a very destructive one.

I note from the witness list that a variety of viewpoints will be presented. Mr. Sturgeon will, I presume, discuss the cost of enforcement to government and taxpayers. Ms. Clements will no doubt discuss the

specific reasons for insurer opposition, emphasizing the various costs to companies and their policyholders. Dr. Hall speaks as an academician examining the theory behind the proposal. At the same time he will be able to share his insights concerning practical problems identified while serving as a consultant to several states which either had or were considering the adoption of a compulsory system. With your indulgence, I would like to acquaint you with some of the political, economic and social problems which often follow passage of a compulsory auto insurance law. The history of compulsory insurance in this country has shown that the problems spawned by such a system usually extend well beyond the governmental agencies directly involved such as the Insurance Department and the Department of Motor Vehicles. In some compulsory states, the entire fabric of government becomes infected as new problems develop and bureaucratic involvement becomes pervasive.

Though a proposal to require motorists to carry liability insurance seems simple enough in concept, the requirement has, in a number of states, led to demands for additional controls over insurers and their customers, with the ultimate effect being the destruction of most of the benefits derived from the highly competitive automobile insurance market. I am confident that the state of Tennessee is proud of the competitive vigor of its market and covets the continued benefits of competition on behalf of its citizens. Therefore, I believe the experience in states which have experimented with compulsory insurance, and whose citizens have suffered as a result, will be of interest to you.

To begin, we need to be reminded that people - at least American people - don't like to be compelled to do anything, whether they believe it is the government or the insurance industry which is compelling them. This is part of the American tradition, but it leads to interesting, sometimes perverse, consequences. Therefore, compulsion should not be legislated frivolously and if compulsion is undertaken, it should be for a reason very much attuned to the public interest. (Incidentally, though the insurance industry opposes compulsory insurance, we usually get the blame when it is enacted.)

As one example of the tendency of people to react strongly to attempts to compel, I would cite the Illinois motorcycle helmet law. This statute was enacted to compel all riders of motorcycles to wear helmets and was passed in part because the Federal Department of Transportation had listed a helmet law as one of the requirements necessary for states to continue to receive federal highway money. Shortly after passage of the Act, suit was filed to strike it down by the very people it was intended to protect, riders of motorcycles. And, the Illinois Supreme Court did declare the Act unconstitutional. Thus, Illinois motorcyclists may lawfully expose themselves to serious injury or death by choosing not to wear helmets. Regardless of one's viewpoint concerning the attitude of these people, we must recognize that any attempt to compel purchase of automobile liability insurance coverage is greeted similarly by a significant portion of the population. This is particularly true of those with few assets who realize that compulsory liability insurance "protects the other guy" but confers little real benefit on the purchaser.

Compulsory liability insurance focuses public attention on the subject of the compulsion, the liability insurance contract. I do not suggest that automobile insurance should not be subject to general governmental regulation, and to careful scrutiny on specific issues. However, the attention given the automobile insurance industry following passage of compulsory has often resulted in a take over by the state of basic insurance management decisions and the substitution of administrative control for healthy marketplace competition.

The first state to enact a compulsory insurance statute was Massachusetts in 1927. A half-century later, Massachusetts is generally conceded to have the worst insurance market in the country, for buyers and sellers alike. This has developed gradually over that fifty year period. First, there was a heavy increase in insurance costs. Motorists, operating under the belief that everyone was insured, immediately became very claim conscious. In addition, only bodily injury liability coverage was made compulsory. Therefore, a number of fenderbender accidents were accompanied by headaches, back pain, etc., so that the property damage of the not-at-fault driver might be recovered from the liability insurer of the offending driver, even though his property damage liability might not have been covered. Skyrocketing costs resulted in demands that government step in and "do something about it." The next step was a requirement that all rates for the compulsory coverage be uniform for all companies and effective on the first of January of each year. The result was, and continues to be, a political circus during the last month or two of the year as the insurance commissioner promulgates the rates for the year ahead. With prices established in an intense political

spotlight of this nature, it is not surprising that, more often than not, rates are set too low for the companies to make a reasonable profit, or even to break even in some years. Numerous lawsuits have been filed to force an increase (or occasionally a decrease) in rates. The market is characterized, for the most part, by very reluctant sellers.

With this constant turmoil there has, inevitably, been further government tinkering, attempts to correct the fundamental problem by treating only the symptoms. Classifications and territories have been changed arbitrarily, imposing subsidies upon some groups of premium payers and in favor of others. And, in order to solve resulting availability problems, the state has instituted a reinsurance facility which requires every company to accept every applicant and permits the pooling of unwanted insureds. The number of insureds put into the reinsurance pool is approximately 40 percent, as contrasted to 3 percent of your drivers in the Tennessee Automobile Insurance Plan. The pool loses substantial amounts of money, since high-risk drivers must be written at the same rates as are all other insureds. A recent Insurance Commissioner of Massachusetts estimated that approximately \$71 was being contributed, per voluntary insured, in order to subsidize the losses of the reinsurance facility. Those responsible for preserving the excellent insurance market here in Tennessee should not even consider risking a situation which might result in the same aberrations as in the Massachusetts market.

1956
The next state to enact compulsory liability insurance was New York and the lesson from New York is a lesson of gigantic costs for taxpayers and even bigger headaches for insurance consumers. The basic problems attendant to any compulsory insurance system are compounded

when serious attempts are made to enforce the law and heavy compulsion is exerted. New York determined to make its law work and the results have been spectacularly unsuccessful. It is estimated that, since inception, perhaps \$200 million have been spent attempting to enforce the New York law and no one is yet sure how much of an increase in the percentage of insured vehicles has been achieved. But the problems involve more than dollars spent attempting to force compliance. For the first 15 years insurers were required to notify the New York Bureau of Motor Vehicles whenever coverage had been cancelled. Because of this, every time a policyholder was late in remitting his premium, every time the premium was delayed by the U.S. Mails, or even when the policyholder decided to change companies, the insurance company was required to notify the Department of Motor Vehicles. In the meantime, most of the tardy insureds remitted their premiums or the new company filed a notice of coverage, thus restoring the insured's eligibility. Often the DMV sent a notice to the insured threatening to pick up his plates and this was followed by an irate letter from the insured to the company asking why it was stupid enough to tell the Department that coverage was not in force. In 1973 the notice requirements were dropped but they have now been reinstated. As you can imagine, automobile insurance is not the most loved commercial enterprise doing business in New York; nor, for that matter, is the Department of Motor Vehicles all that popular with the citizenry.

Your neighbor, the state of North Carolina, might be characterized as a southern style Massachusetts. It is difficult to understand why a state like North Carolina would want to emulate Massachusetts and New York but in 1958 North Carolina passed the third compulsory statute in the country. Immediately, the uniform rates, promulgated by the North Carolina Rating

Bureau and approved by the Insurance Department, became subject to political pressure and were, more often than not, set at unrealistically low levels. The Assigned Risk Plan gradually increased in size until it became the largest in the country, percentage wise. Approximately 30 percent of the insured vehicles were in the Assigned Risk Plan at the time that the legislature, out of desperation and under the influence of demagogic attacks on the automobile insurance business, repealed the Assigned Risk Plan and enacted a reinsurance facility law. So, in North Carolina as in Massachusetts, companies must take every applicant and may cede unwanted insureds to the Facility pool. Also as in Massachusetts, artificial changes in the rating plan have been required by the Insurance Commissioner and the legislature, and the result is groups of policyholders subsidizing others, primarily low-risk insureds subsidizing high risk drivers. Another result has been a lawsuit by the Governor, Attorney General and Insurance Commissioner attacking legislation which required the reinsurance facility to recoup its losses by assessment of all policyholders by means of an identifiable surcharge. The surcharges were upheld against such a prestigious attack but the industry continues to struggle with the reinsurance facility plan and the internal subsidies which have become a part of this anti-competitive program.

Michigan is experiencing one of the most unfortunate changes in an insurance marketplace ever seen in this country and this has been a direct result of the compulsory no-fault law in effect there. Trial lawyers attacked the very strong Michigan no-fault law but it was upheld by the state Supreme Court. However, almost as an after-thought and without giving the parties an opportunity to comment or to present briefs on the subject, the court declared that if insurance is compulsory,

due process requires that each purchaser of the coverage must have an opportunity for a hearing and is entitled to certain other procedural safeguards concerning the price he pays for insurance. The response to this unfortunate decision* was passage of legislation by the Michigan Legislature which has turned a healthy market into one which is in great turmoil. The terms of the statute defy description in any short statement but the primary requirement is a form of "take all comers" as in Massachusetts and North Carolina, plus the loss of rating criteria based on sex and marital status, and a host of "due process" requirements. Though we continue to be convinced that the Michigan Supreme Court should not have taken up the issue, and though we know that the legislative response was much broader and more destructive than necessary, the possibility of similar reaction to compulsory insurance in other states heightens our concerns.

Finally, we have the state of South Carolina. Here again we have a requirement that companies write all applicants at their preferred rate. In addition, the Insurance Commissioner establishes a uniform class plan and certain uniform rating criteria.

A recent editorial appearing in the National Underwriter, the leading insurance weekly trade publication, highlighted the problems of states with compulsory insurance, using North and South Carolina as primary examples. The editorial suggested that problems in these states "show, in graphic detail, how difficult it can be to implement social legislation and still make everybody happy. They also raise a number of important questions about efficacy of such legislation in the field of insurance. These questions go well

*Shavers v. Kelley, 402 Mich. 554, 267 N.W.2d 72 (1978).

beyond the nuances of the Carolina situations; they are national in scope, and rich in implication." The editorial went on to refer to some of the unfortunate results which have arisen in these two states and the difficult situation in which insurance consumers find themselves as compared to consumers in other states.

With the passage of compulsory automobile liability insurance in the 29 states which presently have it, one of two results has usually occurred. In the majority of the states, a decision has been made not to devote a large amount of financial and manpower resources to the enforcement of the new compulsory law. This decision has resulted from a lack of budget and manpower or from a decision to permit people to respond voluntarily to the new compulsory requirements. The result in those states has usually been a modest increase in the number of insured vehicles, at the most a percentage point or two above what might be accomplished by careful enforcement of the financial responsibility law already in your statutes. The other approach is that described in this statement, heavyhanded attempts to enforce the law by a handful of states. The results have been ineffective from the standpoint of compliance, expensive in terms of money and manpower expended, and disastrous in terms of the effect on the insurance marketplace and on consumers who look to the automobile insurance industry for vigorous competition in price and service.

The national election of 1980 has been analyzed by the pundits, and one point upon which most analysts agree is that Americans were telling the people whom they elected that they want less, not more government. The message has been received in Washington but we believe that it was

intended for politicians located in Springfield, Illinois, Raleigh, North Carolina and Nashville, Tennessee, just as much as for members of Congress and the national administration. Compulsory insurance, if it is enacted with an intention that it be vigorously enforced, usually brings with it government involvement in every facet of the process of underwriting, selling and servicing automobile insurance. In a few states it has resulted in a total stifling of competition, as well as a substitution of the state bureaucracy for the disciplines of the marketplace and the natural response of insurance company management to those disciplines. The state of Tennessee has a fine record of sensible regulation by its Department of Insurance which has encouraged competition while providing the appropriate oversight of insurer activities necessary to protect consumers from abuse. Your Department of Safety has performed efficiently and effectively, without unnecessary interference in the affairs of your drivers. I cannot imagine representatives of the people of Tennessee developing a serious interest in a system which would require the state to ignore the benefits of reasonable and responsible regulation and inject itself directly into the day-to-day affairs of its insurance industry and the consumers which that industry serves.

As Marked



MEMBERS:
T. TOMMY CUTRER
JOE SCOTT
EDWARD DAVIS
EDGAR H. GILLOCK
CARL D. KOELLA, JR.
BEN LONGLEY

SENATE
COMMERCE AND LABOR COMMITTEE
STATE OF TENNESSEE
SUITE NO. 10, LEGISLATIVE PLAZA
NASHVILLE, TENNESSEE 37210
(615) 741-7081

CHAIRMAN
EDWARD C. BLANK, II
VICE CHAIRMAN
TOMMY BURKS
SECRETARY
WILLIAM J. DAVIS
STAFF SECRETARY
MARTHA RIMLINGER
STAFF ANALYST
TODD O. MAIDEN

MEMORANDUM (page 1 only)

TO: Commerce, Labor and Agriculture Committee
FROM: Subcommittee Studying Automobile Compulsory Insurance Laws
DATE: November 19, 1981

The Subcommittee appointed to study compulsory insurance legislation has completed its work and submits the following:

COMPULSORY INSURANCE:

The Subcommittee reviewed and studied this concept in depth. We visited the state of Georgia, West Virginia and Pennsylvania to obtain first-hand information on the workings and effectiveness of their compulsory program. During a day-long public hearing on September 23, 1981, we heard testimony from a variety of concerns and interests on the subject.

Based upon information obtained from these and other sources, it is the recommendation of this committee that Tennessee not adopt any form of compulsory insurance. (Senator Crockett and Senator Bill Jim Davis voting for this recommendation, with Senator Ed Davis abstaining. An explanation of his position is attached to this report.)

Comments on Recommendation:

This subcommittee supports the concept of compulsory insurance. Every motorist should purchase sufficient liability insurance coverage to pay for any negligent act they may commit while using our streets and highways. Yet, our findings reveal that despite considerable and varied enforcement efforts in other states including the adoption of no-fault, no state has devised a workable or cost effective enforcement system. In addition, experience in other states indicate the adoption of compulsory insurance in Tennessee would only increase the percentage of insured drivers from the current 80 percent to 85 percent. More importantly, the cost of liability insurance plus uninsured motorist coverage in Tennessee is less than same coverage in any compulsory state, and considerably less than the same coverage in any compulsory no-fault state. The responsible motorist should not pay more for insurance coverage nor be subjected to harassment in a futile effort to enforce a compulsory insurance law.



DALE CATTANACH
STATE AUDITOR
SUITE 502
131 WEST WILSON STREET
MADISON WISCONSIN 53703
(608) 265-7818

March 10, 1981

Senator Gary George and
Representative Phillip Tuczynski, Co-Chairpersons
Joint Legislative Audit Committee
State Capitol
Madison, Wisconsin

Dear Senator George and Representative Tuczynski:

We have completed our evaluation of the Safety Responsibility Program in the Department of Transportation which is designed to encourage uninsured motorists involved in accidents to settle damage claims.

We examined several alternatives to the current Safety Responsibility Program, including mandatory insurance and eliminating the Program. Experience in other states indicates that mandatory insurance programs do not substantially reduce the number of uninsured motorists and the cost of administering such a program is more than double the cost of the Safety Responsibility Program. Elimination of the Safety Responsibility Program would remove state leverage that encourages out-of-court settlements for accidents involving uninsured motorists. Therefore, we have recommended that the existing Safety Responsibility Program be continued. However, we have recommended several program improvements which should increase the number of out-of-court settlements and provide injured parties with better access to deposits collected by DOT from uninsured motorists. These recommendations do not require legislative action.

We appreciate the courtesy and cooperation extended to us by the Department of Transportation and the Transportation Commission.

Respectfully submitted,

LEGISLATIVE AUDIT BUREAU

By *Dale Cattanach*
Dale Cattanach
State Auditor

DC/jla

Warnings are sent to 196,000 car owners in state insurance foulup

CHARLESTON, (W.Va.) (AP) — Motor Vehicles Commissioner Virginia Roberts said Wednesday that her office has been forced to mail 196,000 warnings to drivers that their insurance is about to expire, and that almost all of the warnings were wrong.

Mrs. Roberts was one of several witnesses who pleaded with the House of Delegates' Banking and Insurance Committee to work for changes in the state's compulsory insurance law. Her appeal during a public hearing Wednesday was supported by three state legislators and a host of other witnesses.

The law, passed last year, requires motorists to submit proof of liability insurance before they can register their cars. Mrs. Roberts said she supports the law in principle, but that it has been a nightmare to administer.

Under the law, insurance companies are required to provide motorists with a card certifying that they are insured. The cards then must be presented to the Motor Vehicles Department.

Mrs. Roberts said her depart-

ment has been snowed under by paperwork, and that her office now looks like "the biggest ant hill in Charleston."

One of the biggest problems, she said, is a requirement that her office mail notices to people whose insurance is about to expire. She said that since October, when the law took effect, the DMV has mailed 196,000 notices but 95 percent were to people who never had their insurance terminated, but paid late.

In addition, Mrs. Roberts said, state police have been asked to confiscate 2,584 driver's licenses from people who, according to DMV records, have failed to renew their insurance. But once again, 95 percent of those policies probably have been brought up to date, she said.

When a notice is sent to a motorist "it probably crosses in the mail with the premium check," she said.

The additional paper work heaped on the DMV has forced the agency to seek more office space, which will cost \$94,000 a year to rent, she said.

Two delegates who favor

changing or repealing the law are Marion Shiflet, D-Monroe, and George Farley, D-Wood. Both are insurance agents and both said they voted against the law last year.

Farley said the confusion brought about by the law has driven many of his 2,500 clients "bananas."

Del. William Carmichael, R-Jackson, confessed that he voted for the law last year but called that decision "the biggest mistake I've made since I've been in the House of Delegates for eight years."

Carmichael told committee members if there's a way of "doctoring up the problems we've heard about ... then I hope you take a crack at that."

If it's not possible to clean up the statute, Carmichael said, the Legislature "should just back up and let's repeal that law."

Committee Chairman C.E. "Slim" Martin, D-Berkeley, said the committee did not have a bill before it to revise the law. But he said one could be written up on the basis of testimony at Wednesday's hearing.

Roberts Offers Car Insurance 'Anthill' Tour

By NANYA GADD
Of the Capitol Bureau

Motor Vehicles Commissioner Virginia Roberts today invited legislators to walk across the street and see "the biggest anthill in West Virginia."

Mrs. Roberts testified at a House hearing on problems with the state's new compulsory auto insurance law. Passed last year, the law has resulted in a mountain of paperwork for her agency and unnecessary hassle for many of the state's premium-paying citizens, she said.

Since the law became effective Oct. 1, the Department of Motor Vehicles has mailed out 198,000 notices of auto license cancellation, she said. She estimated that 95 percent of those notices have gone to persons who had never let their insurance policies lapse.

She has had to add a night shift of 27 workers to her staff to handle the extra load, Mrs. Roberts said. Because she doesn't have room in the DMV building across the street from the Capitol to file all the correspondence generated by the law, she will have to rent more office space at a cost of \$91,000 a year, she said.

Several lawmakers also testified at the hearing. Del. William Carmichael,

D. Pulnam, said voting for compulsory insurance last year "was the biggest mistake I've made since I've been in the House of Delegates for eight years."

"Flaws in the new procedures are too serious to be corrected, Carmichael said. "The finest thing this session can do is back up and undo what we did last year." He suggested that the law be repealed.

Some insurance industry spokesmen also called for repeal, but Mrs. Roberts and other speakers said the theory behind the law was good. They suggested several revisions in the way it is being carried out.

Insurance companies now must notify DMV when policies are about to expire. DMV, in turn, must mail those persons notices of license cancellation. The DMV notices and owners' premium payments "are probably crowding each other in the mail," Mrs. Roberts said.

But once a notice goes out, the car owner must submit a certificate of insurance to DMV. Many persons who already have paid their premiums simply disregard the notice, Mrs. Roberts said.

If that happens, DMV issues a license pick-up order to be executed by the state police. More than 2,500 such orders have been issued, she said. She be-

lieves most of them involve "good, God-fearing people who have insurance on their cars."

She asked the House Banking and Insurance Committee to eliminate the provision that requires submission of a formal certificate. Vehicle owners simply should be required to sign a statement saying they have insurance when they renew their licenses each year, she said. They also should be required to keep proof of insurance in their vehicles to show policemen if they are stopped on the highways.

Del. Marlon Shillet, D-Monroe, who is in the insurance business, suggested similar revisions. But he said his plan was so simple it probably wouldn't work.

Del. George Farley, D-Wood, also an insurance agent, said, "I don't remember anything this Legislature has ever passed that has upset the citizens of this state as much as this law has."

Support for compulsory insurance has dropped among his constituents, Farley said. And as for his customers, he said, "I've been close to fist fights at

times. My only out is to tell them I didn't vote for it. People are upset out there."

John Bernstein, a spokesman for State Farm Insurance Co., described West Virginia's new law as "the archetypal example of how not to have a compulsory insurance system." But he said no state that has passed such a law has been successful in reducing the number of uninsured motorists on the road.

Although Bernstein wants to see West Virginia's law revised, he said compulsory insurance "doesn't work in any form."

House Insurance Chairman Clarence Martin, D-Berkeley, said he will wait for the Senate to begin action on bills concerning compulsory insurance since that body originated last year's bill and "put us in the mess we're in."

But Martin said if the Senate takes no action within three weeks, his committee will take up the issue. He'll put all bills that have been introduced on the agenda, he said, "including repeal legislation."



New law on car insurance 'nightmare' to prosecutors

By Carol Sowers
Republic Staff

Although it won't go into effect until Jan. 1, the state's mandatory car-insurance law already is being described as "ridiculous" and an "administrative nightmare" by some prosecutors who will have to enforce it.

"The bill is a hell of a mess," said Al Heinze, executive director of the Arizona Prosecuting Attorneys Advisory Council, a lobbying group.

Heinze and R. William Call, Tucson's city prosecutor, said they hope to seek revisions to the complex law,

which imposes stiff fines on drivers convicted of not having insurance.

They and other prosecutors are at odds over interpretation of the law with state Rep. Bill English, R-Sierra Vista, who wrote the bill approved by legislators earlier this year.

English acknowledged there are "mechanical problems" with the law but he discounted many of the prosecutors' complaints.

"They (prosecutors) want everything on a silver platter," he said. "They want us to do their work for them."

— Insurance.

Insurance

Continued from A1

Under the law, motorists are required to carry minimum liability coverage of \$15,000 bodily injury for each individual in an accident, \$30,000 bodily injury for two or more people in an accident, and \$10,000 for property damage.

Motorists who do not buy insurance will be allowed to file a \$40,000 bond with the state Motor Vehicle Division.

Prosecutors critical of the legislation maintain that it:

- Is unclear as to when trials must be held.
- Places prosecutors in the legally precarious position of trying to prove that motorists do not have insurance.
- Includes a legally questionable provision that allows judges to issue complaints against allegedly uninsured motorists.

• Could add thousands of cases a year to municipal court calendars.

• Forces cities to become repositories of confiscated driver's licenses, thus creating a new layer of bureaucracy.

• Requires out-of-state drivers to remain in Arizona for five days before they can retrieve their driver's licenses.

Heinze said he is "embarrassed" about the law because of the problems.

"I just flat missed this," he said. "I don't know what happened."

English says the bill "slipped by" no one.

"That is pure, unmitigated baloney. That's why public hearings were held," he said.

The law, introduced in various forms in the Legislature for three years before finally making it this year, requires a vehicle owner to sign a statement affirming he has insurance before he can get his vehicle registered with the state.

About 200,000 of the 2.4 million vehicles in the state must be re-registered each month.

Under current law, motorists must prove they have insurance only at the time of an accident. Failure to have insurance or other proof of financial responsibility could result in a year-and-a-day revocation of a driver's license.

Under the new law, a motorist ticketed for an accident that results in \$500 damage, injury or death must surrender his driver's license to the police officer at the scene.

He cannot retrieve his license for at least six days and until he appears in court and shows proof of insurance, according to the law.

In the meantime, however, he can continue to drive because a copy of the traffic ticket serves as a temporary license.

Drivers convicted of not having insurance can be fined \$250 for the first offense; \$500 and a three-month license suspension for the second offense; and \$750, a six-month license suspension, and a five-day jail term for the third offense.

Plea bargaining will not be available. People who plead innocent to uninsured but cannot produce proof of insurance must face trial.

How soon that trial must be held is unclear.

Call, Heinze and Kerry Wangberg, staff attorney for Phoenix Municipal Courts, agreed that the law requires trials to be held within 10 days after plea is entered.

English disagrees.

He said the law requires trials to be scheduled — not necessarily conducted — within that time limit.

"If that's what he (English) wanted to say, he didn't say it," Call said.

Prosecutors said they are getting up to hold trials within the 10-day limit.

"You can imagine the headache that will cause in bringing matters to trial within 10 days because you have to subpoena witnesses," Wangberg said.

Heinze said prosecutors also are concerned about being forced to prosecute a motorist who does not have insurance.

"It is very difficult to prosecute a negative," Heinze said. "We will have to subpoena every company license to seal auto insurance in the state."

English is unsympathetic.

"That's tough," he said. "It is the government's responsibility to prosecute its case."

J. Michael Low, director of the state insurance department, said insurance companies write 92 percent of auto insurance sold in the state and that another 150 sell the remainder.

Aware of the prosecutors' concerns, Low said, auto insurers may be required to provide a form that could be accepted by the court as proof of insurance. If a defendant does not have an up-to-date form on file with an insurer, it could be assumed not covered, Low said.

"Prosecutors should not panic," he said.

A provision in the law that appears to allow judges to issue complaints against defendants who cannot provide proof of insurance has been criticized by prosecutors.

Heinze said judges do not issue complaints in any other court matters because it could place the defendant in conflict if they were to hear the case when it came to trial.

English said he understands the prosecutors' difficulty with that portion of the bill but said it is a mechanical problem and may be rewritten.

However, he said, as the law

Sunday, December 19, 1932

Insurance

Continued from A4

stands, judges can order prosecutors to issue complaints.

Call and other prosecutors disagree.

"Judges don't have the power to order prosecutors to issue complaints," Call said.

Wangberg said the caseload spawned by the new law is expected to clog court calendars and require cities to become repositories for confiscated driver's licenses.

He said 29,000 traffic accidents that resulted in \$500 damage or injury occurred in Phoenix alone last year. And next year, there could be more, he warned.

Phoenix Municipal Court officials have asked the City Council to hire two clerks at a cost of \$15,000 for the first half of 1933, according to Jack Tevlin, the council's administrative assistant.

The clerks must match licenses with citations and return them to motorists when they prove they have insurance, Wangberg said.

"You can see what an administrative nightmare that will be," he said.

About a third of motorists involved in traffic accidents are expected to be uninsured and may face trial, thus creating a new set of offenders to be handled through the court system, he added.

Tevlin said that if a new municipal

city \$50,000 for the first half year.

English maintained that the cost to the city should be offset by fines levied against uninsured motorists.

Tevlin, however, said city cannot be sure if the fines will cover the costs.

The provision requiring enforcement officers to confiscate drivers licenses and force motorists through the court system is "absolutely ridiculous," Call said.

Instead, he said, officers should write the citation at the scene of the accident and return it to the person who could not prove he was insured. The citation then could be dismissed by the court if the motorist later could prove to the prosecutor that he was insured.

Call said he agrees with the provision of the law.

"It just needs to be cleaned up," he said.

The fate of out-of-state drivers is unclear in the law, Heinze said.

He said that as it is written, it requires out-of-state drivers to remain in the state until they can appear in court and prove they have insurance.

But English said he believes judges can allow them to mail their insurance to the court, even if that provision is not written in the law.

He said that if a new municipal



HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

MAR 28 1983

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

March 28, 1983

MEMORANDUM

TO: Representative Joe Hayes
Attention: Jeff Day

FROM: David Teal ^{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 occurred 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.

Page 3
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

<u>Vehicle Type</u>	<u>Number</u>
Passenger Auomobiles	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

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.

(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 do 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.

$$(4) = (3) \div (2)$$

$$(5) = 100\% - (4)$$

Chart 2 (from AIPSO Ins. Facts, 1982)

<u>Year</u>	<u>Registered Autos*</u>	<u>Insured Car Years+</u>	<u>% Insured</u>	<u>% Uninsured</u>
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	76.2	23.8
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 been 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

9/81

12 2 527

MY NAME IS JOHN W. HALL, CHAIRMAN OF THE DEPARTMENT OF INSURANCE (INCLUDING ACTUARIAL SCIENCE, RISK MANAGEMENT, ESTATE AND FINANCIAL PLANNING AND LEGAL STUDIES), THE COLLEGE OF BUSINESS ADMINISTRATION, GEORGIA STATE UNIVERSITY. I AM HERE TO SPEAK AGAINST THE CONCEPT OF COMPULSORY LIABILITY INSURANCE. I AM APPEARING TOTALLY AT MY OWN EXPENSE.

COMPULSORY LIABILITY INSURANCE HAS BEEN OPPOSED TRADITIONALLY BY THE PRIVATE INSURANCE BUSINESS. THIS STATEMENT NEEDS AN EXPLANATION, FOR MOST PEOPLE BELIEVE THAT THIS BUSINESS WOULD SUPPORT ANY MECHANISM WHICH WOULD GUARANTEE MORE SALES. THIS IS NOT THE CASE.

DESPITE INDUSTRY OPPOSITION, I ONCE STRONGLY SUPPORTED COMPULSORY LIABILITY INSURANCE. YOU HAVE HEARD THE ARGUMENTS IN FAVOR OF COMPULSORY:

1. "UNDER THE TORT LAW SYSTEM, A PERSON WHO IS JUDGED LEGALLY RESPONSIBLE SHOULD ALSO BE FINANCIALLY RESPONSIBLE IF HE IS TO ENJOY THE PRIVILEGE OF DRIVING:

OR

2. FOLLOWING AN ACCIDENT WHERE AN INNOCENT DRIVER WHO BUYS LIABILITY INSURANCE IS STRUCK BY A JUDGMENT PROOF UNINSURED DRIVER, ONE HEARS THE ANGRY COMMENT: "I CARRIED LIABILITY INSURANCE TO PROTECT OTHER DRIVERS WHEN I AM AT FAULT, AND THEY SHOULD BE FORCED TO BUY LIABILITY INSURANCE TO TAKE CARE OF ME FOR THEIR NEGLIGENCE";

OR

3. "SUPPOSE THAT TWO POOR PERSONS ARE IN AN ACCIDENT, AND BOTH ARE WITHOUT INSURANCE. WHO WILL PAY FOR THAT ACCIDENT? THIS ARGUMENT

IMPLIES THAT COMPULSORY LIABILITY INSURANCE IS FOR THE BENEFIT OF THE POOR. IMPLICIT IS THE ARGUMENT THAT WHEN LIABILITY INSURANCE IS AVAILABLE, WELFARE COSTS ARE MINIMIZED.

THESE ARE STRONG AND EMOTIONAL ARGUMENTS. HOWEVER, AS I OBSERVE COMPULSORY LIABILITY INSURANCE LAWS IN ACTION, I HAVE CONCLUDED THAT THEY TEND TO BE DETRIMENTAL TO THE INTEREST OF MOST CONSUMERS, AND MORE EXPENSIVE FOR THEM, THEY ARE DIFFICULT AND EXPENSIVE TO ENFORCE AND THEY ARE AGAINST THE LONG RUN INTEREST OF THE TORT LAW/LIABILITY INSURANCE SYSTEM WHICH I SUPPORT.

THESE CONCLUSIONS WILL BE EXPLAINED IN A MINUTE. BUT FIRST, A BRIEF REVIEW OF THE HISTORY OF COMPULSORY LIABILITY INSURANCE WOULD PROVIDE IMPORTANT PERSPECTIVE.

AS EARLY AS 1919, LEGISLATIVE PROPOSALS WERE MADE IN MASSACHUSETTS REQUIRING COMPULSORY AUTOMOBILE LIABILITY INSURANCE. THE MOVEMENT SPREAD WIDELY, AND BY 1925, ONE HALF THE STATE LEGISLATURES INTRODUCED BILLS. MASSACHUSETTS ENACTED A COMPULSORY LAW, TO TAKE EFFECT AT THE BEGINNING OF 1927, THE FIRST STATE TO DO SO. THE APPROACH PROVED UNPOPULAR - BOTH WITH LEGISLATORS AND INSURERS - AND IT WAS NOT UNTIL 1956 AND 1957 THAT COMPULSORY AUTOMOBILE LIABILITY INSURANCE SYSTEMS WERE ESTABLISHED IN NEW YORK AND NORTH CAROLINA.

IN THE MEANTIME, OTHER STATES WERE EVOLVING A MORE LIMITED FORM OF COMPULSION - THE FINANCIAL RESPONSIBILITY LAW. SUCH A LAW HAS BEEN ENACTED IN ONE FORM OR ANOTHER IN EVERY JURISDICTION OF THE UNITED STATES AND EVERY PROVINCE OF CANADA. THE PRINCIPAL REASON FOR THE FAILURE OF THE

EARLY COMPULSORY MOVEMENT WAS THE FINANCIAL RESPONSIBILITY LAW. IN DECEMBER OF 1928, ON THE ASSUMPTION THAT IT WAS SOUNDER STRATEGY TO BE FOR A PROGRAM THAN AGAINST ONE, THE AMERICAN AUTOMOBILE ASSOCIATION, IN COOPERATION WITH INSURANCE AND OTHER INTERESTS, RELEASED ITS FIRST MODEL FINANCIAL RESPONSIBILITY BILL AS A PART OF A GENERAL SAFETY PROGRAM. THE UNIFORM VEHICLE CODE ADOPTED BY THE NATIONAL CONFERENCE ON STREET AND HIGHWAY SAFETY, IN 1924, INCLUDED THESE SAME PRINCIPLES. THE CURRENT UNIFORM MOTOR VEHICLE CODE INCLUDES A FINANCIAL RESPONSIBILITY LAW. FOR YEARS, INSURERS FATHERED[?] AND SUPPORTED THE FINANCIAL RESPONSIBILITY LAW CONCEPT AS AN ALTERNATIVE TO SOMETHING THAT THEY REGARDED AS MUCH WORSE - COMPULSORY LIABILITY INSURANCE.

TODAY, 30 STATES HAVE COMPULSORY LIABILITY INSURANCE, AND IN MOST STATES, IT WAS PASSED AS A PART OF A NO FAULT PACKAGE. A GREAT PART OF THE INSURANCE BUSINESS SUPPORTED AUTOMOBILE NO FAULT, AND COMPULSORY LIABILITY INSURANCE WAS AN UNFORTUNATE PART OF A POLITICALLY AND CONSTITUTIONALLY FEASIBLE NO FAULT PACKAGE. (IN RETROSPECT, THE SO CALLED "NO FAULT" LAWS WERE REALLY NOTHING MORE THAN A MODIFIED COMPULSORY LIABILITY INSURANCE STATUTE.)

PHILOSOPHICALLY, THE INSURANCE BUSINESS DESIRED TO SUPPORT THE PASSAGE OF THESE COMPULSORY LIABILITY/NO FAULT LAWS ONLY IN JURISDICTIONS WHICH HAD SOME FORM OF FILE AND USE (COMPETITIVE RATE REGULATION LAW.) TODAY COMPETITIVE RATING EXISTS IN SLIGHTLY LESS THAN ONE HALF OF THE JURISDICTIONS WHICH ALSO HAVE COMPULSORY LIABILITY INSURANCE STATUTES. IT IS MY OPINION THAT COMPULSORY LIABILITY INSURANCE IS MOST SUCCESSFUL IN THE INTEREST OF MOST CONSUMERS AND THE TORT LAW SYSTEM IN THOSE JURISDICTIONS WHICH HAVE COMPETITIVE RATING LAWS. TENNESSEE DOES NOT HAVE A COMPETITIVE RATING LAW.

THE ENACTMENT OF COMPULSORY LIABILITY INSURANCE STATUTES (OR THE COMPULSORY LIABILITY/NO FAULT STATUTE) WAS, IN MY OPINION, NOT IN THE BEST INTEREST OF THE CONSUMER NOR SUPPORTIVE OF TODAY'S CONCEPTS OF SOCIAL/REGULATORY PHILOSOPHY, AND IT CERTAINLY HAS BEEN A DISASTER FROM THE VIEWPOINT OF THE INSURANCE BUSINESS. IT IS VERY LIKELY THAT THE CONTINUATION OF THE COMPULSORY LIABILITY INSURANCE SYSTEM WILL HAVE GRAVE LONG RUN REPERCUSSIONS FOR THE VIABILITY OF THE TORT LAW/LIABILITY INSURANCE SYSTEM.

COMPULSORY LIABILITY INSURANCE WAS ADOPTED ON THE THEORY THAT PERSONS WHO DRIVE AUTOMOBILES SHOULD FUND, AT LEAST AT A MINIMUM LEVEL, THEIR POTENTIAL LEGAL RESPONSIBILITIES GROWING OUT OF THE USE OF THOSE AUTOMOBILES. DRIVING HAS LONG BEEN CONSIDERED A PRIVILEGE, AND THE PERSON WHO IS LEGALLY RESPONSIBLE SHOULD ALSO BE FINANCIALLY RESPONSIBLE FOR HIS WRONGS. DURING THE EARLY YEARS, INDEED UNTIL WELL AFTER WORLD WAR II, THE AUTOMOBILE WAS NOT A NECESSITY FOR TRANSPORTATION. AT THE SAME TIME, WE HAD NOT SEEN THE TORT LAW/MEDICAL CARE/INCOME REPLACEMENT EXPENSE EXPLOSION. DURING THE EARLY YEARS, THE AUTOMOBILE WAS A MUCH EASIER VEHICLE TO REPAIR AND PEOPLE DID NOT DRIVE AS RAPIDLY. THERE WERE FAR FEWER AUTOMOBILES, AND LESS CONGESTION. THERE ARE PEOPLE IN THIS ROOM WHO REMEMBER THAT THERE WAS ONCE A DIFFERENT SOCIAL AND MORAL ETHIC.

TODAY, WHILE DRIVING IS STILL LEGALLY A PRIVILEGE, AS A POLITICAL/PRACTICAL MATTER, IT IS CONSIDERED TO BE A RIGHT. THE AUTOMOBILE IS A NECESSITY FOR TRANSPORTATION AND FOR EARNING A LIVING. THE COSTS OF MEDICAL CARE AND INCOME REPLACEMENT AND AUTOMOBILE REPAIR HAVE SKYROCKETED. THERE IS GREATER INSURANCE CLAIM FRAUD, WITH INADEQUATE ENFORCEMENT MECHANISMS.

I INDICATED THAT I NOW OPPOSE COMPULSORY LIABILITY INSURANCE. LET ME GIVE YOU A SCENARIO OF EVENTS AS THEY HAVE EVOLVED IN SOME OTHER JURISDICTIONS WHICH HAVE GONE THE COMPULSORY ROUTE. IT IS MY STRONG OPINION THAT COMPULSORY LIABILITY INSURANCE INCREASES THE IMPACT OF, OR CAUSES, THE FOLLOWING ADVERSE EFFECTS:

1. INSURANCE RATES FOR ALL DRIVERS RISE TO COMPENSATE FOR THE HIGHER HAZARD CHARACTERISTICS OF THE WHOLE DRIVING POPULATION. WITHOUT COMPULSORY, SOME HIGH HAZARD DRIVERS TEND NOT TO INSURE. UNDER COMPULSORY INSURANCE, HIGH HAZARD DRIVERS PAY HIGHER RATES. BUT LOW HAZARD, RESPONSIBLE DRIVERS ALSO TEND TO PAY HIGHER RATES FOR REASONS TO BE EXPLAINED BELOW.
2. HIGHER RATES, TOGETHER WITH THE FACT THAT MANY PERSONS ARE NOW FORCED TO BUY LIABILITY INSURANCE, TEND TO FORCE GREATER PRESSURE FOR RATE REGULATION AND PRICE CONTROL. IN THOSE JURISDICTIONS WHERE RATES MUST BE APPROVED IN ADVANCE (SUCH AS TENNESSEE), THE RATE REGULATORY PROCESS TENDS TO BECOME HIGHLY POLITICAL. MOST OFTEN, IT IS THE HIGH HAZARD DRIVER, (RICH OR POOR) WHO COMPLAINS THE MOST VOCALLY. FOR THE RELATIVELY POOR, THE COMPULSORY PAYMENT OF LIABILITY INSURANCE PREMIUMS IS A MAJOR BURDEN, EVEN FOR THE LOW HAZARD, LOW PREMIUM DRIVER. THE ECONOMICALLY DISADVANTAGED HIGH HAZARD DRIVER IS FACED WITH PREMIUMS WHICH ARE SO HIGH AS TO VIRTUALLY MAKE IT DIFFICULT FOR HIM TO OWN A CAR. INSURERS AND REGULATORS ARE THUS FACED WITH A DILEMMA. ALTHOUGH INSURANCE PRICES HAVE GONE UP LESS RAPIDLY THAN THE CONSUMER PRICE INDEX, OR THE COST OF SERVICES WHICH INSURANCE PURCHASES, MANY LOW HAZARD, LOW RATED DRIVERS CANNOT AFFORD AUTOMOBILE INSURANCE AT ANY PRICE. EVEN MORE, HIGH HAZARD, HIGH PREMIUM DRIVERS

FIND AUTOMOBILE INSURANCE EXPENSIVE REGARDLESS OF INCOME LEVEL. INSURERS AND REGULATORS ARE IN A POSITION OF MAKING INSURANCE AVAILABLE, BUT OFTEN AT A PRICE WHICH MANY CUSTOMERS DO NOT CONSIDER REASONABLE OR AFFORDABLE. PRIVATE INSURERS (AND REGULATORS) DO NOT FEEL THAT THEY MAY DEPRIVE PERSONS OF THE RIGHT TO DRIVE BECAUSE THEY CANNOT AFFORD INSURANCE.

WHEN AUTOMOBILE INSURANCE RATES BECOME POLITICAL, THERE IS A TENDENCY FOR REGULATORS TO BEND UNDER EXTREME PRESSURE TO INSTITUTE SOME FORM OF RATE SUBSIDY OR INCOME REDISTRIBUTION PLAN.

- A. OVERALL RATE LEVELS ARE DEPRESSED AND UNDERWRITING LOSSES ARE INCURRED. INSURERS TEND TO MAKE UP SUCH LOSSES FROM SURPLUS WHICH DEVELOPS FROM PROFITS ON LESS REGULATED LINES, SUCH AS COMMERCIAL BUSINESS INSURANCE. AS A PRACTICAL MATTER, OTHER LINES OF INSURANCE ARE REQUIRED TO SUBSIDIZE THE UNPROFITABLE LINE.

- B. THE VOCALLY COHESIVE HIGH HAZARD, HIGH PREMIUM DRIVERS TEND TO FORCE REGULATORS TO IMPOSE AN INCOME REDISTRIBUTION PLAN WHICH FORCES LOW HAZARD, LOW PREMIUM DRIVERS, WHETHER THEY BE POOR OR RICH, TO PAY MORE THAN THEIR FAIR SHARE OF LOSS COSTS AND EXPENSES (AS DETERMINED IN THE COMPETITIVE MARKETPLACE) SO THAT THE HIGH HAZARD, HIGH PREMIUM DRIVERS (POOR OR RICH) WILL PAY LESS. THESE SUBSIDIES, WHICH ARE RELATED TO DRIVING HAZARD PRIMARILY, ARE USUALLY HIDDEN TEMPORARILY FROM THE LOW HAZARD DRIVER. THEY ARE NOT AWARE OF WHAT HAS BEEN DONE TO THEM. AT ITS WORST, IN STATES SUCH AS SOUTH CAROLINA OR NORTH CAROLINA, 70-80% OF THE DRIVERS ARE EQUAL TO OR BETTER THAN THE AVERAGE

CONTEMPLATED FOR THE RATES IN THEIR CLASSIFICATION OR TERRITORY, AND THEY ARE ASKED TO PAY A SUBSIDY WHICH WILL VARY BY COMPANY AND WHICH FOR SOUTH CAROLINA AT DIFFERENT TIMES MIGHT BE ESTIMATED AT BETWEEN \$30 and \$60 PER CAR TO REWARD THE 20-30% OF THE HIGH HAZARD DRIVERS WHO CREATE APPROXIMATELY 60% OF ALL CLAIMS. THIS DISCRIMINATION AGAINST THE LOWER HAZARD DRIVER (THE MAJORITY OF DRIVERS) WAS NEVER INTENDED BY LEGISLATORS WHEN THEY PASSED COMPULSORY LIABILITY INSURANCE. PERHAPS MOST IMPORTANTLY, THIS PRACTICE LEVELING BETWEEN THE LOW AND HIGH HAZARD DRIVERS WEAKENS THE DETERRENT EFFECTS OF THE TORT LAW SYSTEM.

C. BECAUSE OF THESE RATING PROBLEMS, THE SIZE OF THE SHARED MARKET TENDS TO GROW GREATLY. TENNESSEE NOW HAS ONE OF THE SMALLER SHARED MARKETS IN THE NATION. THERE ARE STATES WHERE 30% OR MORE OF THE PREMIUM VOLUME AND 20-30% OR MORE OF THE AUTOS ARE IN THE SHARED MARKET.

3. COMPULSORY LIABILITY INSURANCE LAWS MANDATE THE PURCHASE OF AN INSURANCE PRODUCT WHICH MANY PEOPLE WOULD RATHER NOT PURCHASE AT ALL, AND WHICH OTHERS CANNOT REALISTICALLY AFFORD IN VIEW OF THEIR PERSONAL FINANCIAL SITUATION. PERSONS WHO VIOLATE THESE LAWS MAY FACE PROSECUTION. NEVERTHELESS, THERE IS SUBSTANTIAL EVIDENCE THAT LAW ENFORCEMENT EFFORTS TYPICALLY FAIL TO ASSURE COMPLIANCE IN STATES WHERE AFFORDABILITY OF INSURANCE IS OF MAJOR CONCERN. THE COST OF ADMINISTERING SUCH A PROGRAM EFFECTIVELY IS GREAT, WITH DISAPPOINTING INCREASES IN THE NUMBER OF DRIVERS INJURED.

WHERE LIABILITY INSURANCE IS COMPULSORY, AND WHERE ENFORCEMENT IS LESS THAN SUCCESSFUL, AS PUBLIC AND POLITICAL FRUSTRATION WITH UNSUCCESSFUL EFFORTS TO ENFORCE SUCH LAWS GROWS, THOSE WHO OBEY THE LAW RESENT THE FACT THAT OTHERS DO NOT, FURTHER INCREASING THE RESENTMENT AGAINST INSURERS, THE TORT LAW SYSTEM AND THE LEGISLATURE.

4. ALTHOUGH INSURERS DO NOT LIKE TO ADMIT IT, THE VERY EXISTENCE OF INSURANCE AFFECTS ITS COST, AND THE EXISTENCE OF COMPULSORY INSURANCE, COMBINED WITH ITS HIGH COST, TENDS TO CAUSE FURTHER HIGHER INSURANCE COSTS IN A CUMULATIVE SPIRAL OF RISING INSURANCE UTILIZATION AND COST. FOR COM' REASON, WHERE LIABILITY INSURANCE IS ASSUMED TO EXIST, CLAIM FREQUENCY, CLAIM SEVERITY (OR AVERAGE CLAIM COST) AND CLAIM FRAUD AGAINST INSURERS ALL TEND TO INCREASE.

5. IN THE FINAL STAGES OF THIS SCENARIO, THE WHOLE TORT LAW/LIABILITY INSURANCE SYSTEM COMES INTO QUESTION. THE PUBLIC DOES NOT UNDERSTAND. AND THEY WILL MAKE COMMENTS OR ASK QUESTIONS SUCH AS THE FOLLOWING:

A. PERSONS WHO POSSESS SIGNIFICANT ASSETS AND INCOME EARNING POTENTIAL HAVE A GREAT NEED FOR LIABILITY INSURANCE AND THEY PURCHASE THE COVERAGE ROUTINELY. THEIR FINANCIAL CONDITION GIVES THEM A GREATER ABILITY TO PURCHASE THIS INSURANCE ALTHOUGH THEY MAY THINK IT EXPENSIVE.

THE ECONOMICALLY DISADVANTAGED HAVE LESS REAL NEED FOR LIABILITY INSURANCE TO PROTECT THEIR OWN INTERESTS, FOR AS A PRACTICAL MATTER THESE PERSONS TEND TO BE JUDGMENT PROOF.

FOR THESE PERSONS, EVEN LOW HAZARD DRIVERS, LIABILITY INSURANCE IS EXPENSIVE. ALL INSURED (POOR OR RICH) TEND TO BE UNAWARE OF THE BENEFITS WHICH A LIABILITY POLICY PROVIDES. THEY PERCEIVE THE LIABILITY INSURANCE POLICY AS TAKING CARE OF OTHER PEOPLE. THEY FEEL THAT THEY MUST PAY A HIGH PREMIUM FOR INSURANCE WHICH PROVIDES BENEFITS FOR OTHERS AS A CONDITION PRECEDENT TO ENJOYING THE RIGHT TO DRIVE.

THUS IT IS OBSERVED BY THE RELATIVELY WELL TO DO WHO MUST BUY ADEQUATE LIABILITY INSURANCE LIMITS REGARDLESS OF WHETHER OR NOT IT IS COMPULSORY, THAT THEY MUST CARRY RELATIVELY HIGH LIABILITY INSURANCE LIMITS TO TAKE CARE OF OTHERS, WHILE MANY OTHERS BUY ONLY MINIMUM LIMITS TO TAKE CARE OF THEM. UNDERINSURED MOTORIST COVERAGE (A RELATIVELY NEW COVERAGE WHICH ALLOWS EACH INSURED DRIVER TO PURCHASE ADEQUATE INSURANCE LIMITS TO PROTECT THEIR OWN FAMILIES AGAINST THE NEGLIGENCE OF THOSE DRIVERS WITH INADEQUATE COVERAGE) IS NECESSARY, AT AN ADDITIONAL PREMIUM. THE RESPONSIBLE DRIVER, WHO WANTS TO BE SURE THAT THERE IS ADEQUATE COVERAGE FOR HIS OWN FAMILY AGAINST THE NEGLIGENCE OF OTHERS MUST STILL BUY, FOR AN ADDITIONAL PREMIUM, THIS UNDERINSURED MOTORIST COVERAGE - IN A SENSE SUBSIDIZING THOSE DRIVERS WHO MEET ONLY THE MINIMUM REQUIREMENTS OF THE LAW.

AT THE SAME TIME, BECAUSE OF RATE REGULATION, THE RELATIVELY LOW HAZARD, RESPONSIBLE DRIVER (RICH OR POOR) IS PAYING A HIGHER PREMIUM TO SUBSIDIZE THE HIGH HAZARD MORE IRRESPONSIBLE DRIVER (RICH OR POOR) WHO IS MOST LIKELY NOT BUYING ADEQUATE AMOUNTS OF INSURANCE TO TAKE CARE OF THE DAMAGES WHICH HE CAUSES.

- B. EVEN WITH COMPULSORY LIABILITY INSURANCE STATUTES, THERE IS A CERTAIN RESIDUAL OF UNINSURED DRIVERS, AND ALL DRIVERS WHO COMPLY WITH THE LAW MUST PURCHASE UNINSURED MOTORIST COVERAGE DESIGNED TO PROVIDE PROTECTION FOR THEIR OWN FAMILIES IN THE EVENT THAT THEY ARE STRUCK BY A NEGLIGENT UNINSURED MOTORIST OR A HIT AND RUN DRIVER. IN A SENSE, INSURED DRIVERS STILL ARE ASKED TO SUBSIDIZE UNINSURED DRIVERS. (AS INDICATED PREVIOUSLY, DRIVERS WILL ALSO HAVE A NEED FOR UNDERINSURED MOTORIST COVERAGE).
- C. ALL DRIVERS WHO COMPLY WITH THE LAW (POOR OR RICH) BEGIN TO ASK "WHY SHOULD I PAY EXPENSIVE LIABILITY INSURANCE PREMIUMS FOR THE PROTECTION OF OTHERS IN ADDITION TO PREMIUMS FOR UNDERINSURED AND UNINSURED MOTORIST COVERAGES FOR MY OWN PROTECTION?" THEY ASK: "WHY MUST I SUBSIDIZE HIGH HAZARD DRIVERS, WHEN I CANNOT AFFORD ADEQUATE COVERAGE FOR INCOME LOSS AND MEDICAL CARE EXPENSES FOR MY OWN FAMILY MEMBERS WHO ARE INVOLVED IN AN AUTOMOBILE ACCIDENT WHERE THEY ARE AT FAULT, OR WHERE THEY ARE INJURED OR ILL FOR ANY REASON?" FEW PEOPLE CAN AFFORD ADEQUATE LIFE AND DISABILITY AND MEDICAL CARE EXPENSE INSURANCE AND THEY TEND TO ASK THEMSELVES "WHY SHOULD I BUY LIABILITY INSURANCE TO PROTECT OTHERS, WITH ALL ITS INEQUITIES IN PRICING AND LAW ENFORCEMENT, WHEN I WOULD RATHER SPEND THE SAME PREMIUM FOR A BENEFIT SYSTEM WHICH WOULD PROVIDE PROTECTION DIRECTLY FOR MY FAMILY REGARDLESS OF FAULT?" IN THE LONG RUN, WHILE I AM OPPOSED TO COMPULSORY INSURANCE OF ANY TYPE, IT IS IMPORTANT TO RECOGNIZE THAT THE PUBLIC WILL EVENTUALLY ASK, IF AUTOMOBILE INSURANCE IS TO BE COMPULSORY, "WHY SHOULD I BE REQUIRED TO CARRY ANY INSURANCE WHICH PROVIDES

BENEFITS ESSENTIALLY FOR OTHERS WHEN I CANNOT AFFORD ADEQUATE PROTECTION FOR MYSELF AND MY FAMILY." THESE PEOPLE WILL BE SAYING THAT "IF ANY BENEFIT SYSTEM IS TO BE COMPULSORY, IT SHOULD BE NO FAULT INSURANCE WHICH PROVIDES STRONG ECONOMIC BENEFITS DIRECTLY TO, AND FOR THE BENEFIT OF, THE PERSON WHO PAYS THE PREMIUM, HELPS TO BUILD THE SELF RESPECT OF THE ECONOMICALLY DISADVANTAGED AND REDUCES THE COST OF CHARITY CARE." THIS WAS THE CONCLUSION THAT WAS REACHED IN FLORIDA. IN THE LONG RUN COMPULSORY LIABILITY INSURANCE CAN ONLY LEAD TO PRESSURE FOR NO FAULT INSURANCE.

REMEMBER, COMPULSORY LIABILITY INSURANCE DOES NOT COMPENSATE THE INJURIES OF THE "AT FAULT" DRIVER. IF THESE PERSONS ARE POOR, THEY MUST DEPEND UPON CHARITY.

6. FINALLY, COMPULSORY LIABILITY INSURANCE LEADS TO GREATER, NOT LESS, REGULATION AND CONTROL, AT GREAT EXPENSE, AT A TIME WHEN THE PUBLIC IS SEEKING LESS GOVERNMENT INVOLVEMENT. THE COMPULSORY LIABILITY INSURANCE LAW MUST BE ENFORCED.

COMPULSORY INSURANCE LAWS REQUIRE THAT DRIVERS MUST HAVE INSURANCE. THEY DO NOT ATTEMPT TO DEFINE HAZARDOUS DRIVERS. THEY PROVIDE NO MEANS FOR GOVERNMENT TO REMOVE HIGH HAZARD DRIVERS FROM THE ROAD, FOR THE BENEFIT OF ALL. INSTEAD, THE GOVERNMENT ASKS PRIVATE INDUSTRY TO DEVELOP AND ENFORCE PUBLIC POLICY - A ROLE WHICH PRIVATE INDUSTRY CANNOT PERFORM. ONLY GOVERNMENT CAN PERFORM THIS FUNCTION.

THE BUSINESS IS CAST IN THE ROLE OF "SURROGATE REGULATOR." IT IS EXPECTED TO PROVIDE COVERAGE TO DRIVERS, AND TO POLICE DRIVERS AS WELL, DETERMINING WHO SHOULD PAY HIGH AND LOW PREMIUMS AND WHO WILL BE ABLE TO BUY COVERAGE. IF THE BUSINESS WERE ALLOWED TO PERFORM THIS FUNCTION FREELY, MOST CONSUMERS WOULD BENEFIT FROM IMPROVED SAFETY AND MORE EQUITABLE PRICES. HOWEVER, THE GOVERNMENT, IN RESPONSE TO THE COMPLAINTS OF RELATIVELY FEW HIGH HAZARD DRIVERS, TENDS TO FORCE THE GREAT MAJORITY OF DRIVERS - THE LOW HAZARD DRIVERS, TO PAY MUCH MORE SO THAT HIGH HAZARD DRIVERS PAY LESS. AT GREAT REGULATORY EXPENSE AND INTERFERENCE, GOVERNMENT REGULATION TENDS TO REWARD THE HIGH HAZARD DRIVER.

IN SUMMARY, AS I STATED AT THE BEGINNING, I AM OPPOSED TO COMPULSORY LIABILITY INSURANCE AS NOT BEING IN THE BEST INTEREST OF THE CONSUMER, THE TORT LAW/LIABILITY INSURANCE SYSTEM AND THE BAR, LEGISLATORS AND REGULATORS.

IT IS MY OPINION, BASED UPON EXPERIENCES IN SOME OTHER STATES AS DESCRIBED IN THIS SCENARIO, THAT LOW HAZARD DRIVERS WILL EVENTUALLY PAY MORE UNDER COMPULSORY LIABILITY THAN UNDER THE PRESENT SYSTEM, PERHAPS SUBSTANTIALLY MORE.

IN MY OPINION, MOST DRIVERS WOULD BE BETTER OFF FINANCIALLY UNDER THE PRESENT SYSTEM, WITH THE OPTION TO PURCHASE UNINSURED AND UNDERSINSURED MOTORIST COVERAGES EQUAL TO THEIR OWN POLICY LIMITS, FOR ADDITIONAL PREMIUMS. IT IS MY OPINION THAT THE ADDITIONAL PREMIUMS FOR THESE OPTIONS WILL BE LESS THAN THE ADDED COST OF LIABILITY INSURANCE WHERE IT IS COMPULSORY. AND REMEMBER, UNINSURED AND UNDERINSURED MOTORIST COVERAGES

ARE PURCHASED TO PROVIDE COVERAGE DIRECTLY FOR THE BENEFIT OF THE PREMIUM
PAYOR AND HIS FAMILY.

MEMBERS OF THE COMMITTEE - IT IS EASY FOR ME TO COME HERE, AND TO MAKE
SUGGESTIONS.

YOU HAVE TO MAKE HARD DECISIONS AND THESE ARE HARD DECISIONS, ANY CHANGE
TO COMPULSORY IS NEARLY IRREVERSIBLE.

THANK YOU. I WOULD BE HAPPY TO RESPOND TO QUESTIONS OR COMMENTS.

State Farm
position

STATEMENT IN OPPOSITION TO
THE ENACTMENT OF A COMPULSORY AUTOMOBILE LIABILITY
INSURANCE STATUTE IN ILLINOIS

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY

MARCH 22, 1983

Members of the Committee, I am John Bernstein, Associate Counsel of State Farm Mutual Automobile Insurance Company of Bloomington, Illinois.

State Farm, like most national insurers, has had a long and generally negative experience operating in states having compulsory automobile liability laws. It is our firm belief that such laws aren't needed; create more problems than they solve; don't benefit our policyholders or the general public; don't help the less fortunate; don't increase our business for any sustained period; but do increase our costs and, eventually, our premiums; have grave long-run repercussions on our legal system; and in the last analysis, don't work.

Illinois doesn't need a compulsory law.

If the object of compulsory insurance is to assure the motoring public that the individual legally responsible for loss is also financially responsible, that is also the goal of our current Safety Responsibility Law. All evidence is that the current law is working.

State Farm data indicates that in 40 years of driving there is only a 4% chance of an insured motorist being injured by an uninsured motorist. To put it another way, the average State Farm driver will wait 909 years between uninsured motorist claims. State Farm is in the process of developing a measurement of the effect of the uninsured motorist population on insured motorists in a given state. We call this our UM:BI Index. It's a ratio of uninsured motorists claims to bodily injury claims. If our data is correct, it shows that in Illinois there appears to be even less chance of loss caused by an uninsured driver than the national average. (11.3% v. 15.5%, UM:BI Index).

We submit that whether there is a large percentage of uninsured drivers on the road or a small percentage, is largely irrelevant--the question that the legislature must address is the extent to which not-at-fault motorists in Illinois sustain losses which are uncompensated--and, to

what extent losses caused by uninsured motorists might be reduced by adoption of a compulsory liability insurance system.

Would uncompensated injuries be reduced by enactment of a compulsory law? State Farm's experience is that the answer is "no". Our data from the compulsory states indicates that, on average, insured car occupants receive injuries from uninsured motorists at about the same rate after enactment of compulsory legislation as prior to passage of such laws. Compulsory legislation may increase the insured population by a small percentage, but we find no measurable reduction in the number of bodily injuries caused by financially irresponsible drivers.

Compulsory liability laws lead to higher insurance rates and increased governmental costs.

As we have said, when all compulsory laws are considered together, we have seen no reduction of uninsured motorists claims. Our policyholders still have to buy such coverages, and they inevitably experience higher premiums for the balance of their insurance. Why do premiums go up? Compulsory laws exert an upward pressure on insurance company expenses. Insurance company paper-work increases and we must engage in exacting verification procedures. In New

York, for example, enforcement of the compulsory law has cost insurers approximately \$8 million per year. Further, it is estimated that New York's new computerized approach to verification of insurance will cost at least \$12 million in 1983. Some years ago the 79th General Assembly enacted a compulsory law. This was HB 1317. It was vetoed by the Governor after the then Secretary of State estimated the implementation and enforcement costs to the State of Illinois at \$13,025,000.

Compulsory liability insurance has serious adverse social and legal implications.

We would like to quote from the testimony of Dr. John Hall, of Georgia State University, given in December, 1979, to South Carolina's Joint Legislative Automobile Liability Insurance Study Committee.

Dr. Hall said:

As a practical matter, the economically disadvantaged have less real need for liability insurance to protect their own interests. As a practical matter, these persons tend to be judgment proof. In any event, they tend to be unaware of the benefits which a liability policy provides. They perceive the liability

insurance policy as taking care of other people. They must pay a high premium for insurance which provides benefits for others as a condition precedent to having the right to drive. Because of their economic status, most often they are unable to purchase insurance to provide for their own injuries, and those of their families, in accidents where they are at fault. The compulsory liability insurance system forces these people to pay high premiums relative to their income for benefits for others when they cannot themselves afford adequate benefits to cover their own losses.

Dr. Hall concludes:

For these reasons, it appears morally and socially wrong to require liability insurance on a compulsory basis as a condition precedent to enjoying the privilege of automobile driving and ownership.

In this period of serious economic uncertainty, the words of Dr. Hall seem to be most appropriate. It seems to us that 1983 is a particularly bad time to enact a compulsory insurance law in Illinois.

Compulsory liability laws don't work.

The Tennessee legislature has reviewed other jurisdictions' experience with compulsory auto insurance. On November 19, 1981, a subcommittee recommended that, "Tennessee not adopt any form of compulsory insurance." In its report, the first page of which is attached to our statement today, the subcommittee says:

Our findings reveal that despite considerable and varied enforcement efforts in other states including the adoption of no-fault, no state has devised a workable or cost-effective enforcement system. . . .

And the subcommittee report says also:

The responsible motorist should not pay more for insurance coverage nor be subjected to harrassment in a futile attempt to enforce a compulsory law.

A similar conclusion was reached by the State Auditor of Wisconsin on March 10, 1981. In the letter transmitting his report (copy attached), he said:

Experience in other states indicates that mandatory insurance programs do not substantially reduce the number of uninsured motorists and the cost of administering such a program is more than double the cost of the Safety Responsibility Program.

On the other hand, the State of West Virginia enacted a compulsory liability insurance law in 1981 without holding public hearing. One year later, on February 2, 1982, a joint House/Senate hearing was held in West Virginia to consider experience under the new law. At that hearing the Commissioner of Motor Vehicles testified that 95% of the notices of insurance termination sent in connection with enforcement of the law went to people who had not, in fact, let their coverage lapse. She said that she had had to add a night shift to process the additional work which already generated 196,000 termination notices in the State of West Virginia in the few months that the law had been in effect. A leading advocate of compulsory in the previous legislative session said that it, "was the biggest mistake I've made since I have been in the House of Delegates . . ." Another Delegate said, "I don't remember anything this legislature has ever passed that upset the citizens of this state as

much as this law has." We have attached copies of the newspaper reports of the hearing at the back of this statement which verify the above quotations.

Arizona is one of the most recent states to enact a compulsory automobile insurance liability law. The effective date of this legislation is January 1, 1983.

A better example of the bureaucratic problems created by compulsory insurance could scarcely be found. As reported by the press in Arizona, copies of which are also attached to this statement, the Chief Deputy Auto License Director for Maricopa County (Phoenix) says he has found the compulsory forms required have caused "a mess", and he predicts delays in registration and penalty charges to the public will result. The head of the Arizona Prosecuting Attorneys Advisory Council expands on these remarks and uses a few more expletives, saying, the bill is "ridiculous" and "a hell-of-a-mess". Government officials in Arizona expect that the new law will result in clogged court calendars and predict, "an administrative nightmare".

It is rarely safe to generalize about any subject. Compulsory automobile liability insurance legislation is no exception. Insurers, however, are well-aware that only a few states

have made the decision to allocate tax dollars and governmental personnel to attempt to achieve a reasonably high degree of compliance with their compulsory laws. But regardless of the resources allocated, most states have failed anyway. Massachusetts, the first compulsory state (1927), is estimated to have between 10% to 15% of its driving population uninsured. New York, the second compulsory state (1957), is presently estimated to have an uninsured motorist population of at least one half million drivers. This is probably close to the uninsured populations in New York and Massachusetts prior to the passage of their compulsory laws; and, if we may speculate, probably is what it would have been had no such laws been enacted.

In the final analysis, what is necessary is to carefully balance public interest and equities. State Farm urges this committee to review the more practical alternatives to passage of what would almost certainly be another ineffective and expensive compulsory experiment. For example, this committee would be well-advised to study the system in effect since 1958 in the Commonwealth of Virginia. Estimates based on uninsured motorist insurance losses in Virginia indicate that the percentage of uninsured motorists in the Commonwealth is less than in many compulsory liability states.

In fact, only two states with compulsory laws (North Carolina and Utah) and two non-compulsory states (Iowa and New Hampshire) appear to have measurably fewer uninsured motorists. In addition, the Virginia law requires minimum paperwork on the part of government and insurers; is relatively inexpensive to operate; and, from the standpoint of the government, may actually be a revenue producer. Finally, since the individual isn't required to buy insurance, the Virginia law avoids the political, legal, economic, and social problems which compulsory insurance legislation invariably creates.

In closing we would like to emphasize the obvious: What burdens government and burdens insurers eventually burdens the general public. We urge this committee, before recommending any particular approach to compulsory, to examine the cost and effectiveness of compulsory automobile insurance legislation in the other states. If this committee engages in this activity, we believe it unlikely that it will recommend that the legislature of Illinois enact a compulsory automobile liability insurance law.

JTB/mm

State Farm Insurance Companies,

ONE STATE FARM PLAZA
BLOOMINGTON, ILLINOIS 61701

JOHN J. GORDON
ASSISTANT GENERAL COUNSEL
(309) 662-6027

APR 14 10 18 AM '83
APR 12 1983

LAW DEPARTMENT

Mr. Don Koch
Chief Market Surveillance
Division of Insurance
State of Alaska
Pouch "D"
Juneau, AK 99811

Re: Alaska - SB-223; HB-7

Dear Mr. Koch:

These bills are causing us at State Farm serious concern. In scrutinizing the Declaration of Purpose, as stated in the bills, it would appear that if the legislature is serious in attempting to decrease the non-insured driving population, the drastic increase in liability and property damage limits, would go far not in decreasing the number of uninsured drivers, but rather increase that population. Some drivers would be unable to meet the premium payments and would find ways to continue driving without coverage. No state has minimum liability limits approaching the proposed amount. Attached are the actuarial figures on the resulting costs if these bills were to succeed. In addition to these increased premium costs, there would be the intangible but real cost increases in claim payments. These increased payments would eventually be reflected in additional premium increases.

These bills also require an insurer to notify the motor vehicle department of any terminations or intentions to terminate within a ten day period. The language is unclear if the ten day period begins before or after a termination or intent to terminate. Notice requirements have been mandated in other states and it has been found that the costs to the motor vehicle departments, as well as the insurers, have not been justified as a means of decreasing the uninsured population. Such requirements would only succeed in increased costs.

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY

STATE FARM LIFE INSURANCE COMPANY

STATE FARM FIRE AND CASUALTY COMPANY

Mr. Don Koch
April 12, 1983
Page Two

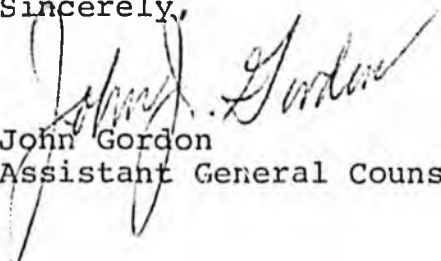
Also of grave concern is the ambiguous language in the new Chapter 22 that could be interpreted to mean that all policies, i.e., an owner's policy, an operator's policy, and motor vehicle liability policy, be treated as a certified motor liability policy with absolute liability after a loss has occurred.

This bill as written could severely damage the now competitive and healthy marketplace for automobile insurance in Alaska.

Enclosed also is a publication we have used for informational purposes in other states when the compulsory issue has arisen.

In my conversation Friday, April 8, with Director Moore, it was suggested that we write to you and provide our comments. Hopefully they can be of some use in defeating these bills. We certainly appreciate your help.

Sincerely,



John Gordon
Assistant General Counsel

j1
Enc.
cc Michael Thomas (w. enc.)

ALASKA

APR 14 11 15 AM '83

- A. Average State Farm Mutual policy premium changes from 25/50/10 BIPD liability and 25/50 UM coverage to 100/300/50 and 100/300 UM

	<u>Current Semi-Annual Premium</u>	<u>Semi-Annual Premium Increase</u>	<u>Percentage Increase</u>
BIPD	\$ 64.90	+ 17.10	26.3%
UM Coverage	8.00	+ 3.80	47.5%
Both BIPD & UM	72.90	+ 20.90	28.7%

- B. Example #1: An adult driver, pleasure use, in Anchorage who currently carries 25/50/10 BIPD and 25/50 UM to required limits

	<u>Current Semi-Annual Premium</u>	<u>Semi-Annual Increase in Premium</u>	<u>Percentage Increase</u>
BIPD	\$ 56.43	+ \$ 14.82	+ 26.3%
UM	8.00	+ \$ 3.80	+ 47.5%
Both	64.43	+ \$ 18.62	+ 28.9%

- Example #2: 18-year old single male principal operator, pleasure use, Anchorage; currently with 25/50/10 BIPD and 25/50 UM to required limits

	<u>Current Semi-Annual Premium</u>	<u>Semi-Annual Increase in Premium</u>	<u>Percentage Increase</u>
BIPD	\$255.42	+ \$ 67.08	+ 26.3%
UM	8.00	+ 3.80	+ 47.5%
Both	263.42	+ 70.88	+ 26.9%

The Case Against...

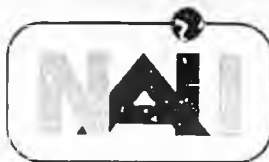
**COMPULSORY
AUTOMOBILE
LIABILITY
INSURANCE**



National Association of Independent Insurers

12800 RIVER ROAD, DES PLAINES, ILLINOIS 60018 • 312/297-7300

National Association



of Independent Insurers

2500 RIVER ROAD, DES PLAINES, ILLINOIS 60018

312/297-7800

Arthur C. Mertz, President

NOTE:

Compulsory automobile liability insurance is a subject that concerns every automobile owner, every legislator, every taxpayer and every newspaper editor in the United States.

The insurance industry, contrary to general belief, strongly opposes compulsory automobile liability insurance. Compulsory heaps millions of dollars of unnecessary costs on the state government and the automobile owner; it does not protect the responsible citizen. Our thinking is outlined in this information kit. Our Public Relations Department would be pleased to answer questions or provide any additional information you might desire.

The NAI is the world's largest insurance trade association. We speak for more than 500 affiliated companies which write about half of the private passenger automobile insurance now in force in the United States.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Arthur C. Mertz', written in dark ink.

Arthur C. Mertz
President

A handwritten signature in cursive script, appearing to read 'Charles J. Lorenz', written in dark ink.

Charles J. Lorenz
Vice President - Public Affairs

ACM/CJL/das

AN INFORMATION SHEET FOR NEWSPAPER EDITORS

PART I

THE CASE AGAINST COMPULSORY
AUTOMOBILE LIABILITY INSURANCE

PART II

A SUCCESSFUL ALTERNATIVE

National Association of Independent Insurers
2600 River Road, Des Plaines, Ill. 60018
Tel. 312/297-7800

Arthur C. Mertz, President
Charles J. Lorenz, Vice President-Public Affairs

PART I

STORY OF A FAILURE

Most people are surprised to learn that the insurance industry is opposed to a law that would require everyone to buy its product.

The answer is very simple: the industry knows from bitter experience that compulsory auto liability insurance is an abject failure. It doesn't work because:

- . IT CAN'T COMPEL.
- . IT DOES NOT PROTECT THE RESPONSIBLE CITIZEN.
- . IT COSTS MILLIONS OF DOLLARS TO ADMINISTER.
- . IT CREATES AN UNNECESSARY GOVERNMENT BUREAUCRACY.
- . IT INCREASES THE COST OF AUTOMOBILE LIABILITY INSURANCE.

Only nine states -- Idaho, California, North Carolina, Maryland, South Carolina, Louisiana, Oklahoma, Wyoming, and Oregon -- have compulsory automobile liability insurance laws. * None of these states has achieved the purpose of the legislation; the total insuring of all motorists.

Instead, hundreds of thousands of uninsured drivers operate on the streets and highways of these states every day of the year, making a mockery of the law.

* This paper deals only with compulsory liability insurance. Many states have no-fault laws with tort limitations and compulsory features. Those laws work better because of the stabilizing effect of the tort limitation, and should not be confused with the type of law discussed here.

WHY IT CAN'T COMPEL

Compulsory automobile liability insurance law requires every motorist to carry insurance. The idea seems good, but in actual practice it doesn't work that way. A compulsory law can not protect against the following scofflaws and irresponsibles who are on the highways in large numbers:

1. Operators of stolen cars.
2. Uninsured out-of-state drivers*.
3. Hit-and-run drivers.
4. Uninsured motorists whose licenses or registrations have been suspended.
5. Newly-arrived uninsured residents whose cars are still registered in another state.
6. Uninsured motorists who hit you when you are driving in another state.
7. "Insurance Dodgers" who cancel their insurance or intentionally let it lapse after obtaining registration for their cars.

* In the big tourist states, the number of out-of-state cars runs in the millions annually. The total in Florida, for example, is running more than 12,000,000 a year. Florida repealed its compulsory auto liability law in 1978.

A TRIED AND PROVEN PROGRAM

As an alternative to a compulsory law, the industry developed Family Protection (Uninsured Motorist) Coverage (See Part II). This is now offered country-wide and has achieved unqualified success.

Family protection coverage protects the insured motorist, his family and his guests -- something no compulsory law can do. And it provides this protection without burdening the insured motorist with the heavy administrative costs, the inconvenience and the higher insurance rates generated by a compulsory law.

The industry feels that this coverage is an integral part of a well-rounded program which also should include a strong, well-administered financial responsibility law and an effective traffic safety program. Together, they combine to give a state adequate protection against the uninsured motorist at the lowest possible cost.

The major difference between the approach taken in the non-compulsory states and the compulsory states is that a compulsory law employs a shotgun technique -- spraying the insured motorist as well as the uninsured with all its shots. The state maintains and polices millions of pieces of paper a year for the insured as well as the uninsured. Its random file checks and spot road checks include both the insured and uninsured.

This operation is wasteful and inefficient because it operates from a base which squanders time and effort and money on the overwhelming percentage of motorists who are already insured. With the mounting toll of injuries, deaths and property damage on our highways, it borders on the shameful to divert even the slightest amount of a highway patrolman's time to engage in insurance road checks. It makes about as much sense as stationing policemen in every store in the country to search every shopper to make certain he has not been shoplifting.

In the non-compulsory states an efficient "on target" approach is used. The sanctions of the financial responsibility laws are aimed primarily at the uninsured who are involved in accidents and serious traffic violations. Needless burdens are not put on all motorists, nor are the state's enforcement energies dissipated in trying to regiment all motorists.

The frankest admission of compulsory's failure has been the demand for family protection coverage in the compulsory states. All eleven require by law that such coverage be offered with every automobile bodily injury liability insurance policy. The protection is thus provided by the uninsured motorist coverage -- not compulsory.

Before they switched to no-fault, New York and Massachusetts had compulsory laws. Here's how they fared:

The declaration of purpose in the New York uninsured motorist coverage law is especially significant:

"...The legislature finds and declares that the motor vehicle financial security act (compulsory) ... fails to accomplish its full purpose of securing to innocent victims of motor vehicle accidents recompense for the injury and financial loss inflicted upon them."

The New York Daily News, America's largest newspaper, minced no words in describing the experience under compulsory. It said the law "failed miserably to achieve its aims."

Former Governor John Volpe of Massachusetts declared, "Unless we scrap our present automobile system, our rates will continue to spiral higher and higher."

EVERYTHING GOES UP

South Carolina Insurance Commissioner John W. Lindsay questions the cost-benefit ratio of compulsory. "Compulsory drives up the cost of insurance and the cost of law enforcement," said Lindsay. "The cost-benefit ratio of compulsory insurance is highly suspect. There must be a cheaper way."

In South Carolina, one dollar out of each uninsured motorist coverage premium goes to the state to recoup the cost of enforcing the compulsory insurance law. In 1978, this meant that over \$1,400,000 was paid by responsible, insured motorists to try to catch the occasional insurance cheat.

Some compulsory laws seek to avoid additional costs to the state by omitting any provisions for enforcement of the law. They simply declare it unlawful to drive without insurance.

However, once the press and the public discover how many people are breaking the law by driving without insurance, there will be a great clamor for strict enforcement of the law. People justly believe that once a law is on the books, it should be enforced.

The unfortunate thing about a compulsory law is that enforcement of the law, however strict, does little to reduce the number of uninsured drivers on the road -- it simply increases insurance costs and adds another layer of expensive government bureaucracy.

These problems can be easily avoided by state legislatures refusing to institute compulsory auto liability insurance -- with or without enforcement provisions.

PAPER BLIZZARD

Keeping track of which motorists are insured and which are uninsured in a compulsory state is an impossible job. Why should this be so?

Well, New York had more than 6,500,000 motor vehicles and Massachusetts had about 2,400,000. So the Compulsory Sections in these Motor Vehicle Departments started off with from two and a half to six and a half million pieces of paper.

- ... Then an owner changes his address.
- ... He changes his car.
- ... He lets his insurance lapse.
- ... He takes out new insurance.
- ... He changes insurance companies.
- ... He changes his insurance coverage.
- ... One time he signs his name John Q. Doe; the next time it is J. Doe; then J. Q. Doe; somewhere along the line it might be misspelled. ... Tens of thousands of transactions take place in a staggering maze of administrative confusion.

The original 2,400,000 to 6,000,000 pieces of paper have snowballed into a veritable blizzard of forms, notices and changes. For the compulsory section, matching up this conglomeration of papers and trying to determine who is insured and who is not is like trying to maintain order in a basket of eels.

Keeping the files current becomes a grim joke.

A select committee of Ontario, Canada, legislators, after spending two weeks studying the New York and North Carolina compulsory machinery, returned home "appalled" by the amount of paper work and the "fantastic" number of clerks required to handle it.

In North Carolina, a state with 2.7 million licensed drivers, notices of termination of automobile liability insurance coverage pour into the State Motor Vehicles Department at the rate of 89,000 each month. The department had 111 clerical employees to handle the flood of notices before going to a computerized operation. Even with a computer, it takes 49 full time employees to handle these notices.

The secretary and manager of the New York Motor Vehicle Accident Indemnification Corporation made this startling admission of compulsory's failure in his annual report in 1966:

"The number of automobiles registered in the State of New York has increased between 1959 and 1965 from 4,600,000 to approximately 5,750,000, which is an increase of 25%. The exact number of New York uninsured motorists has not been ascertained, but it is obvious from the constantly increasing number of claims reported that there must be an increase in the number of uninsured automobiles operating on the highways of New York.

"The difficult task of retrieving license plates of uninsured motorists in the Greater New York area has proven virtually impossible for the Police Department. The enforcement of the law has shown no apparent improvement when measured against the constantly increasing number of claims reported."

A NEEDLESS STATE EXPENSE

Administering a compulsory automobile liability insurance program is a big, expensive job. The money has to come from two sources:

1. Taxpayers; and
2. Insurance policyholders.

At a time of serious financial problems in government and emphasis on economy programs, the costs of compulsory represent an unwarranted drain on state budgets. To put the burden on the insurance companies is equally unjust because that merely serves to increase the cost of insurance and saddles the insuring public with the expense.

A dangerous recent development in the cost area should also be mentioned. A 1978 Michigan court decision has added significant new bureaucratic, legal and administrative problems to the state's insurance system solely because of the existence of compulsory insurance. If this court decision survives appeal and is picked up by other state courts (no-fault laws notwithstanding), the cost of insurance and state government can be expected to rise dramatically.

In the case of Shavers vs. the Michigan Attorney General, the state Supreme Court said that compulsory insurance automatically created a right for every policyholder to sue his insurer if the policyholder was dissatisfied with his premium level or classification, among other things. If this decision stands, Michigan's six million motorists could theoretically bring six million different lawsuits against their insurers, solely because they thought their premiums were too high.

Predictions vary on the effect of this situation on the cost of insurance and the state's legal system. However, indications are that the costs will rise dramatically in 1980, when the court's decision is due to be implemented.

This was recognized in a dissenting opinion in the case, written by Michigan Supreme Court Justice M.S. Coleman. "At a minimum, we must anticipate... a corps of additional administrative law judges, attorneys for both sides, court reporters and other staff, quarters, equipment and other necessities... In any event, this requirement alone can be calculated to raise costs to taxpayers and raise premium costs which even at the present high level are a bargain nationally for unexcelled coverage," wrote Justice Coleman.

In light of the Michigan decision, it appears that compulsory insurance may soon create cost problems in the legal system that will dwarf the problems it has always created in the law enforcement and insurance systems.

THE REACTION

Wherever it has been passed, compulsory has come under heavy fire from the press, from government officials charged with administering it, and from the public. Here are some random comments:

UTICA (N. Y.) OBSERVER-DISPATCH:

Repeal this odd ball law!

Statistics show New York is carrying on a wasteful system of "protection" that is unnecessary and a heavy drain on courts in time and money. If we had protection against uninsured motorists -- each motorist protecting himself and not the one who sues him -- a great deal of waste cost would be eliminated and sufficient protection for the motorist provided.

CHARLOTTE (N. C.) OBSERVER:

It is an expensive plan. It is costly and difficult to enforce. It does not accomplish its stated job. The philosophy is sound, but it loses too much in practical application.

NEW YORK DAILY NEWS:

The law went into effect with a guarantee from the legislators that it would keep the irresponsible and financially insolvent driver off the roads. It just hasn't worked out like that.

The shocking fact is that there are twice as many non-insured drivers on the roads now as there were before the law was passed.

Not one person who walks or drives in New York State is protected by the compulsory law.

Claims against uninsured drivers are filed to the tune of \$9, 000, 000 a month.

The compulsory auto insurance law has permitted cheating that has fleeced law-abiding drivers of more than \$100 million in the last nine years.

PLYMOUTH (MASS.) MEMORIAL:

We are persuaded... that compulsory auto insurance should be ditched in favor of a voluntary, financial responsibility system.

INSURANCE ADVOCATE (NEW YORK CITY):

So we have this situation: A huge bureau endlessly shifting millions of slips of paper, an enforcement which is characterized by impotence and a staggering cost in dollars to the public to maintain this folly.

GLOUCESTER (MASS.) TIMES:

We think it is time that Massachusetts joined 47 other states in the union and instituted a financial responsibility law instead of compulsory insurance.

MASSACHUSETTS REPORT

Note: A special legislative commission was created in Massachusetts to review the operation of the state's compulsory automobile insurance system. Following are significant excerpts from the commission report (Massachusetts Senate Report No. 466, January, 1959).

"...In view of the claim frequency's being higher in this Commonwealth than in any other state in the Nation, there must of necessity be a serious question as to whether or not a substantial number of these claims are unwarranted, exaggerated, or in some instances are even fraudulent. This problem is entirely a moral one, and it has long been axiomatic that it is useless to legislate morals.

"This claim consciousness unquestionably results from compelling all motorists to carry liability insurance on their vehicles. There can be no question but that the inducement to file a claim on the slightest provocation, or even on no grounds at all, is inherent under a compulsory insurance system, and this statement should not be construed as an unfair reflection on the morals of Massachusetts people. It is nothing more than Massachusetts people are human...

"...Unfortunately, most of the difficulties encountered under the compulsory system in those early years (prior to 1930) are still with us today and indeed have become magnified and more vexatious, due in large measure to the inextricable and perhaps inevitable interlocking of sound insurance procedure with political considerations.

"There can be little doubt that the juxtaposition of these totally incompatible elements for nearly 32 years has served only to produce an entire generation of public misunderstanding and general dissatisfaction with the operation of the Massachusetts compulsory system. It would be no exaggeration to state that most of this universal dissatisfaction and confusion derives from the fact that nine out of ten Massachusetts motorists do not understand even the basic operating procedures of our compulsory law. Equally regrettable, their prospects of gaining a fundamental working knowledge of the system are likely to remain beyond reach as long as political distractions and at times outright distortions are permitted to command the situation.

"This is not necessarily an indictment of either the intelligence of the Massachusetts motoring public or of the motives of those prominent in the political life of our Commonwealth. It is merely the recording of a simple fact which is common knowledge and has been proven by the record, i. e., that when the Legislature in 1925 enacted a law compelling all motor vehicle owners in Massachusetts to purchase insurance against liability for death and personal injury, and at the same time empowered the Commonwealth exclusively to establish the rates for such coverage through the State Insurance Commissioner, it was preordained that the orderly and systematic functioning of the system was to be impeded and at times entirely frustrated by politics, its inevitable by-product. The framers of the compulsory statute probably could not have foreseen the explosive results of this incongruous relationship when they wrote the provision for state-made rates into the law in 1925. But in the light of what has developed in the past 32 years it must now be concluded that no other result could have been possible."

#

PART II

A SUCCESSFUL ALTERNATIVE

It is not enough for the insurance industry to oppose something that is bad; it must propose a successful alternative. This it has done.

After years of research and careful consideration, it has developed Uninsured Motorist (Family Protection) Coverage as a tried and proven choice over compulsory automobile liability insurance.

This coverage does what no compulsory law can do: IT PROTECTS THE INSURED MOTORIST.

DESCRIPTION

Uninsured motorist coverage is a modern, broad coverage designed to meet one of the urgent social needs of our time.

Under such a policy, the insured's own company provides protection for bodily injuries and death for which an uninsured or hit-and-run motorist would be liable. It protects the car owner's entire family living in the same household if injured while in his car, in another car (whether driver or passenger), while a pedestrian, or as a cyclist. It covers guests in the insured car. The coverage applies if the accident takes place anywhere in the United States, its territories or Canada.

Claims are settled in direct negotiations between the policyholder and his insurance company. The procedure is much the same as that long followed in making a claim under first party coverages such as automobile collision or fire insurance.

The responsible, insured citizen is protected at the lowest possible cost -- only pennies a day. He protects himself and his family and is not burdened with the support of a costly compulsory program.

No expensive governmental bureaucracy has to be set up to administer the program.

The State Government is not faced with the task of trying to administer and enforce an impossible law.

Police can devote their time to enforcing the highway safety laws instead of searching out automobile owners without insurance.

In brief, uninsured motorist coverage is:

- . More effective for the public.
- . More economical for the public.
- . More efficient for the public.
- . More equitable for the public.

COMPULSORY NEEDS U. M.

All compulsory states have found it necessary to shore up their crumbling compulsory programs with uninsured motorist coverage; they all require that it be offered with every automobile liability insurance policy.

Thus the compulsory law in these states -- with its administrative burdens, public inconvenience and heavy costs to the taxpayers -- serves no worthwhile purpose. The real protection is provided by the UM coverage -- not the compulsory law.

BY LAW IN MOST STATES

Uninsured Motorist Coverage has received wide public acceptance, with virtually all states now requiring by law that it be offered in all automobile liability insurance policies.

The overwhelming majority of states have demonstrated that modern, well-enforced financial responsibility laws, plus Uninsured Motorists coverage, out-perform and out-protect compulsory laws on every count, and at far less cost and trouble to the public.

GOOD PRESS REACTION TO FAMILY PROTECTION COVERAGE

THE EUGENE (ORE.) REGISTER-GUARD:

"... The system works well and costs a whole lot less than the pat-sounding compulsory insurance law."

THE CLEVELAND (OHIO) PRESS:

"... The Press urges citizens to add this coverage to their existing policies."

PITTSBURGH (PA.) POST-GAZETTE:

"... This coverage should curb plans for compulsory auto liability insurance -- which sounds fine but which has proved very expensive, highly bureaucratic and difficult to enforce. Uninsured motorist coverage is an additional fee for the responsible motorist, but it is as logical as any self-protective insurance and just as necessary."

CHICAGO SUN-TIMES:

"... It appears that the extra protection is well worth the extra \$2 to \$4 a year and we suggest that none of our reader-motorists exercise his privilege of telling his insurance company to delete it from his policy. It's much less than his premium would be raised under compulsory insurance."

INSURANCE ADVOCATE (N. Y. C.):

"The uninsured motorist endorsement is now an important factor across the country. It is sound and it is sensible. With a strong, effectively enforced financial responsibility law, prosecution of wilful violators and other practical penalties, the uninsured motorist problem will be effectively handled without a system of compulsion which fails to live up to advance notices."

ACTUAL CASES

Here are five actual examples from insurance company files showing how the uninsured motorist coverage works:

1. A group of girls waiting for a school bus in a small Illinois town was struck down in a mass tragedy when a car careened into them. One 16-year old girl suffered a concussion, fractured collar bone, and a broken leg. Although the driver of the automobile was uninsured, the girl's parents carried uninsured motorist coverage as part of their insurance. Under the terms of their policy, \$10,000 was paid to compensate the girl for the injuries suffered.
2. In the state of Washington, a driver who had safely stopped behind a car waiting to make a left turn was struck in the rear by an uninsured motorist. His car was rammed into the car ahead, and he and his wife and two children suffered injuries ranging from back sprains to severe concussions. The family collected \$12,000 under the U.M. coverage alone.
3. An expectant mother who had stopped her car on a road outside of Pittsburgh, Pa., was struck down as she was alighting to check the condition of one of the tires on her car. The car that struck her was driven by an uninsured motorist, who had lost control as he rounded a curve. The woman suffered severe injuries and gave birth to her child three months prematurely. The baby lived but four hours after birth; the mother died nine hours later. The woman's husband was paid \$10,000 under his U.M. coverage.
4. In another Eastern state, a pedestrian was crossing the street with a green light when an automobile hit him and sped on. Under ordinary circumstances, this crippling accident caused by the hit-and run driver would have meant a huge financial loss for the pedestrian and his family. The pedestrian's wife, however, had purchased uninsured motorist protection from her insurance company some time earlier, and \$8,500 was paid under this important coverage.

5. A policyholder's daughter, together with a girl friend, was driving his car to go shopping. A "hot-rod" zoomed out of a filling station directly into their path, causing a collision. The girls were injured severely. The hot-rod was unlicensed and uninsured. However, the girl's father had had the foresight to obtain uninsured motorist coverage, and \$8,500 was paid to compensate for the injuries suffered by the girls.

YOU PROTECT YOURSELF

In our society, the responsible citizen has to protect himself against the irresponsible acts of others. It would be ideal if this were not necessary, but we have not yet achieved perfection, and there are always certain situations that no law can adequately cover. The uninsured motorist problem is one of these areas.

As taxpayers and citizens, we support police departments and the courts to protect us against the criminal acts of other persons.

We carry theft and burglary insurance against the same hazards.

We purchase fire insurance, which among other things protects the policyholder against the negligence of a neighbor in starting a fire.

We purchase accident and health insurance, which includes protection against the negligence of others in spreading communicable diseases.

Automobile Uninsured Motorist insurance is no different in principle from any other two-party coverage offering protection against insurable losses. Like automobile theft, collision or liability coverage, we buy this insurance to protect ourselves.

The Utica, N. Y., Observer-Dispatch made this philosophical comment on the situation:

"We argued often here that insurance is a matter for one to carry to protect himself. The theory of compulsory auto insurance is to make oneself solvent in a law suit for heavy damages. Yet we insure our own homes should a spark from a neighbor's fireplace set our domicile aflame; we don't expect him to have insurance so we can demand a big settlement because the spark touched our roof. The high judgments given by juries have led to high settlements and the car owner is paying for it all, whether he's an offending driver or not."

Excerpts Dealing with Compulsory
From

AUTOMOBILE INSURANCE
REGULATION

A Report to the
Joint Legislative Automobile Liability Insurance
Study Committee

Senator Edward F. Saleeby, Chairman

December, 1979

John W. Hall, Chairman
Insurance Department
Georgia State University
Atlanta, Georgia 30303

Another important area where cost might be controlled, especially for the economically disadvantaged, relates to compulsory liability insurance.

COMPULSORY LIABILITY INSURANCE AND FINANCIAL RESPONSIBILITY LAWS. - Compulsory liability insurance has been opposed traditionally by the private insurance business. As early as 1919, legislative proposals were made in Massachusetts requiring compulsory liability insurance. This feeling spread widely, and by 1925 one half the state legislatures introduced bills. Massachusetts enacted a compulsory law, to take effect at the beginning of 1926, the first state to do so. But the approach proved unpopular - both with legislators and insurers - and it was not until 1956 and 1957 that compulsory systems were established in New York and North Carolina.

In the meantime, other states were evolving a more limited form of compulsion - the financial responsibility law. Such a law has been enacted in one form or another in every jurisdiction of the United States and every province of Canada. The principal reason for the failure of the early compulsory movement was the financial responsibility law. In December, 1928, on the assumption that it was sounder strategy to be for a program than against one, the American Automobile Association, in cooperation with insurance and other interests, released its first model financial responsibility bill as a part of a general safety program. The Uniform Vehicle Code adopted by the National Conference on Street and Highway Safety in 1924 included the same principals. The current Uniform Motor Vehicle Code includes a financial responsibility law. For years, insurers fathered and supported the financial responsibility law concept as an alternative to something that they regarded as much worse - compulsory liability insurance.

Today twenty-four states have compulsory liability insurance, and in almost every instance, it was passed as a part of a no fault package, as was the case in South Carolina. The great bulk of the insurance industry supported automobile no fault, and compulsory liability insurance was a part of a politically feasible no fault package. (The so called "no fault" laws were really nothing more than a modified compulsory liability insurance statute.)

The enactment of compulsory liability insurance statutes was not in the best interest of the consumer nor supportive of today's concepts of social philosophy, and it certainly has been a disaster from the viewpoint of insurers. It is very likely that the continuation of compulsory liability insurance will have grave long run repercussions for the viability of the tort law system.

Compulsory liability insurance was adopted on the theory that persons who drive automobiles should fund, at least at a minimum level, their potential legal responsibilities growing out of the use of those automobiles. "The person who is legally responsible should also be financially responsible for his wrongs." During the early years, the automobile was not a necessity for transportation for, prior to the development of urban sprawl, there were other viable means of traveling from home to job and to visit with friends. At the same time, the cost of an automobile insurance policy was relatively nominal for we had not seen the tort law and medical care/income replacement expense explosion. During the early years the automobile was a much easier vehicle to repair and people did not drive so rapidly.

Persons who possess significant assets and income earning potential have a great need for liability insurance, and their financial condition gives them a greater ability to purchase this insurance although they may think it expensive.

As a practical matter, the economically disadvantaged have less real need for liability insurance to protect their own interests. As a practical matter, these persons tend to be judgment proof. In any event, they tend to be unaware of the benefits which a liability policy provides. They perceive the liability insurance policy as taking care of other people. They must pay a high premium for insurance which provides benefits for others as a condition precedent to having the right to drive. Because of their economic status, most often they are unable to purchase insurance to provide for their own injuries, and those of their families, in accidents where they are at fault. The compulsory liability insurance system forces these people to pay high premiums relative to their income for benefits for others when they cannot themselves afford adequate benefits to cover their own losses. Often their own losses fall upon some system of charity care (medicaid) which must be funded by others with a consequent loss of self respect by the economically disadvantaged.

From the viewpoint of the more affluent, because of their affluence, they must carry relatively high liability insurance limits for the benefit of themselves under the tort law system, and others. At the same time, many many persons purchase the minimum limits which are totally unsatisfactory from the viewpoint of almost everyone. (The minimum financial responsibility limits in South Carolina are totally inadequate at today's inflated prices, but to raise them would only compound the problem of the economically disadvantaged.)

We have an expensive system by which the poor must take care of all other drivers on a very inadequate basis, and the more well-to-do must take care of all other drivers on a more adequate basis, even though it is likely that they are not being taken care of adequately. Although I am far from wealthy, I carry very adequate automobile limits to take care of you.

What are you doing for me? For these reasons, it appears morally and socially wrong to require liability insurance on a compulsory basis as a condition precedent to enjoying the privilege of automobile driving and ownership. Indeed, if any benefit system is to be compulsory, it should be no fault insurance which provides strong economic benefits directly to, or for the benefit of, the person who pays the premium, helps to build the self respect of the economically disadvantaged and reduces the costs of charity care.

Compulsory insurance increases insurance rates to responsible drivers, regardless of their income level. 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 the overall rates must rise. Advocates for people who cannot afford to buy insurance blame the insurance business for producing a product that costs too much. Compulsory liability insurance laws have proven to be a significant contributor to pressure to socialize the auto insurance mechanism (cf. the Shavers case in Michigan and a 1977 Library of Congress report on this subject). If automobile insurance is increasingly regarded as a product which everyone must buy, continued pressure to make "affordable" insurance available to everyone, regardless of any conflict with hazard-based pricing, is inevitable. This creates social pressures for premium leveling and subsidies.

Compulsory liability insurance laws mandate the purchase of an insurance product which many people would rather not purchase at all, and which others cannot realistically afford in view of their personal financial situation. Persons who violate these laws may face prosecution. Nevertheless, there is substantial evidence that law enforcement efforts typically fail to insure compliance in states where affordability of insurance is a major concern. Most major urban states with compulsory liability insurance laws also have large populations of uninsured motorists. As public and political frustration with unsuccessful efforts to enforce such laws grows, those who obey the law resent the fact that others do not, further increasing resentment against insurers.

The history of compulsory insurance demonstrates that the cost of administering such a program is enormous with disappointing increases in the number of insured drivers. I have been told that in South Carolina, a total cost of 1.3 million dollars (or one dollar per registered vehicle) is required to increase the number of insureds to the present level (between 90 and 93%) from the precompulsory level of approximately 85%. I know of no valid statistics on the present number of insured or uninsured drivers.

This report recommends that the compulsory liability insurance statute of South Carolina be abandoned.

Consistent with this philosophy, it is apparent that it would be wrong to abandon the compulsory liability statute without modifying the financial responsibility law. To say that a person does not have to buy liability insurance when he perceives that he does not have a need, and then to deprive him of the right to drive if he is not able to respond to an accident does not make sense.

Financial responsibility laws, while they may apply to some individuals who cannot afford liability insurance, do not create the same degree of political pressure as compulsory laws, which require all vehicle operators or owners to have insurance. Since financial responsibility laws have an impact only upon a small percentage of the population, and since application of these laws is directly tied to a past failure of the individual to provide security, or to some other "misconduct," it is easier to argue that individuals subject to these laws ought to be required to carry the extra burden of compliance even if personal financial distress or other penalties result.

Accordingly, this report recommends that the financial responsibility law be amended to follow the Virginia model which requires proof of financial responsibility following an accident or convictions for future accidents only.

Millions still drive with no insurance

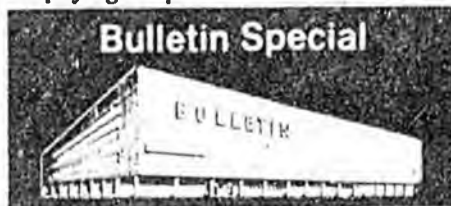
Despite fines, Pa. and N.J. are unable to halt violations

By GUNTER DAVID
Of The Bulletin Staff

Pennsylvania has nine million motorists. New Jersey has four million. By state law, all are required to carry auto insurance.

Yet, authorities estimate that 2.25 million motorists in Pennsylvania and more than 200,000 in New Jersey drive without insurance.

And it's the law-abiding, fully insured motorist who is paying the price.



Furthermore, very little is done about it in either state because of the magnitude of the problem.

Under the no-fault insurance law in both states, the car owner must furnish state transportation authorities with the name of his insurance company and the policy number when he applies for an auto registration.

"Many people take out insurance to get their registration and tags, and once they've got them, they drop the insurance," said Thomas J. Finley Jr., president of the Insurance Federation of Pennsylvania. His organization represents most companies writing auto insurance in Pennsylvania.

"And in many cases the motorist falsifies the name of the insurance company and policy number on his application, and isn't insured in the first place."

A similar problem exists in the Garden State, according to Thomas Hooper, spokesman for the New Jersey Insurance Department. "We have found that mandatory insurance is impossible to enforce," Hooper said.

About 200,000 motorists drove without insurance in New Jersey three years ago, according to a study conducted by the Insurance Department.

"But this figure may well have gone up, because insurance rates have gone up spectacularly," Hooper added. "And so we expect that more people are not carrying insurance and certainly not more than they have to by law because of the increase in premiums."

Since 1975, mandatory car insurance rates have increased by 103 percent in South Philadelphia, center city and North Philadelphia, by 75 percent in Northeast and Northwest Philadelphia and 73 percent in suburban areas bordering the city, according to Andrew Ross, spokesman for the Pennsylvania Insurance Department.

In New Jersey, rates have increased by an average of 90 percent since 1974, Hooper said.

Garden State motorists got a real jolt Friday when New Jersey Insurance Commissioner James J. Sheeran approved 1980 rate increases for all but one auto insurer doing business in the Garden State.

As a result, almost every car owner in the state will be paying up to 15 percent more for auto insurance next year. Sheeran's action affects the owners of about 4 million cars.

Sheeran cited "an unrelenting inflation in the cost of hospital and medical bills and auto repair and replacement" as the cause of higher rates.

In New Jersey and Pennsylvania, four types of insurance are mandatory. They are personal injury protection, property damage liability, bodily injury liability and uninsured motorist endorsement. The latter protects the insured in case of damage or injury caused by an uninsured driver.

In the Philadelphia area, premiums for mandatory insurance vary from \$358 in parts of the city to \$182 in bordering suburbs, according to the state Insurance Department's Ross.

The way Finley of the Insurance Federation sees it, the situation is a vicious circle.

"The people who live in urban areas pay the highest rates and, because of that, account for the highest percentage of motorists driving without insurance," he said.

He estimated that between 25 and 40 percent of all Philadelphia drivers are without insurance. The estimate is based on information provided by insurance companies and the state's insurance and transportation departments, he said.

Ironically, the insured driver picks up the tab for the uninsured.

Mandatory policies include a coverage of damage in case of an accident involving an uninsured driver.

And the insurance companies - about 200 in the state - pay into the Pennsylvania Assigned Claims Plan. Set up under no-fault legislation, its purpose was to provide protection for those injured, such as pedestrians, who have no insurance.

But it is generally the policyholder who supports this fund through higher premium payments.

The fund, administered by the Insurance Federation of Pennsylvania, has paid \$4.5 million in claims between July 19, 1975, when no-fault went into effect, and last Oct. 1, according to Frank Holczman, fund administrator.

"The insurance companies are assessed, based on their volume of premiums," explained Holczman. "These losses, or payments, or assessments, are included in the (premium) rate-increase applications."

Uninsured drivers have also discovered a loophole in the law, according to Holczman. They have been collecting from the Assigned Claims Fund.

"Motorists know that if they are in an accident, and they aren't covered, they can collect from the fund even if they've violated the law," Holczman said. "They're having their cake and eating it to."

The problem came to light last year during hearings of the House Insurance Committee. House Bill 1155, containing several amendments to no-fault legislation, would exclude uninsured motorists from fund benefits.

State Rep. William H. Yohn Jr. (R-Montgomery), committee chairman, said the bill is scheduled for a vote when the Legislature returns Jan. 14 and has "a very good chance for passage." A similar bill would then have to be approved by the Senate.

In both Pennsylvania and New Jersey, authorities are notified by insurance companies when motorists cancel their auto insurance policies. In Pennsylvania, about 40,000 policies are canceled monthly, according to Insurance Department spokesman Ross.

"It doesn't mean that all of these policies are canceled by drivers who are going to drive illegally," Ross said. "A certain number simply switch companies. But many of them cancel their policies after they've received their registrations and license plates."

The Bureau of Traffic Safety Operation, part of the Pennsylvania Department of Transportation, sends a questionnaire to the driver whose policy is reported canceled.

The driver has 35 days from the postmark date to respond whether he has canceled the policy and if he has purchased insurance from another company.

If the driver does not respond, or if his response that he is insured with another company turns out to be false, the bureau suspends the driver's registration.

Feb. 1, 1979



By VINCENT R. ZARATE

When a law becomes unbearable, unrealistic and unenforceable people either change the law or break it.

Such a law was prohibition.

Today, in this state, there is a law forcing every motorist to buy car insurance.

The costs of that mandate are becoming unbearable, the concept has become unrealistic, and trying to force everyone to buy it is becoming unenforceable.

That the costs are high comes as no surprise.

Insurance company executives are wringing their hands in despair saying that, as long as they are forced to pay for what the law requires, they have no choice but to keep jacking up the price.

And jack it up they have.

A basic no-frills policy on a car now averages \$373 if you're over 25, have no accidents, no motor vehicle points, live in a suburban area or rural area and have a two-year-old medium sized car. Four years ago it cost about \$190.

If you're under 25, single, live in the city, buy a big car or a sports car you could be paying \$900, \$1,000 or more for the "extras."

If you're a two car family the bill for auto insurance is probably between \$750 and \$850 a year — about the same as a heating bill.

Various proposals to cut the costs for those living in the cities or those who are under 25 have been offered, but to lower those costs, the bulk of the state's motorists, about 2.5 million, would be required to subsidize the changes by paying \$40 more a year for insurance.

When costs are mentioned, insurance company officials and state officials criticize the attack on costs saying, "People never look at the benefits."

Trouble is, the only time you collect the benefits is when you end up in the branch of a tree, in the bed of a hospital, or on the right side of a jury verdict.

If the Legislature, the Governor or the insurance commissioner asked the people about car insurance, instead of talking to each other, they might find tremendous opposition to being forced to buy something they don't want or need.

The original concept forcing people to buy coverage was to provide for prompt and fair payment of all medical costs, a partial loss of wages, funeral benefits and essential services in addition to protecting everyone from nuisance law suits.

That concept is no longer realistic. As insurance companies are forced to pay unlimited medical payments to those injured in private car accidents, the price of those payments go up for everyone who has not been in an accident.

It is, as it now stands, motorists with beer budgets getting champagne benefits.

Car insurance: The medicine is now the 'poison'

As for getting rid of the "whip lash" law suit and other nuisance law suits, it really hasn't because the legal profession, before it succumbed to "no fault" insurance five years ago, wedged into the law the \$200 "tort liability" threshold. This provision allows anyone to sue someone else if the medical costs from a private passenger automobile accident exceed \$200.

It has been said that treatment of a hangnail or a dog bite in an emergency room at night can cost nearly \$200, let alone cuts and bruises in a car accident.

• • •

One suggestion is that there be a limit of \$100,000 on medical payments with the option to buy higher coverages.

But the bureaucracy in Trenton kills that idea every time because it is using insurance coverage as a social concept to correct the woes of the world, and the anguish of the injured motorist.

Insurance is a gamble and companies call their customers "risks." The question is raised shouldn't people, already over-regulated, over-dictated to, and buried under a landslide of government rules, laws and regulations decide for themselves their own "risks," instead of government or insurance companies telling them what a "risk" they are?

• • •

The insurance companies and Gov. Brendan Byrne want to change the existing \$200 medical expense threshold on when a person can file a law suit to one that is "verbal."

It would mean that a person could not file a law suit unless they were incapacitated for a number of days — say 45 or 90 days, or when they suffer disfigurement, fracture or death.

This concept is opposed by Insurance Commissioner James Sheeran and the bar association who contend that even with such a threshold car insurance costs would go down only a little bit.

But even a "little bit" is better than costs continuing to rise.

The final premise is the mandated insurance law is unenforceable.

Trenton would have you believe that the 18-year-old living in the city is paying up to \$1,800 a year for car insurance.

The smart money is that any 18-year-old earning \$10,000 a year is not about to shell out nearly 20 per cent of his pay for coverage at all. What that youth might do is pay 40 per cent of the costs to get an insurance identification card to "prove" he is covered and then not pay the balance.

Several Months Behind Schedule

Backlog in SR10 Processing Aids Uninsured Drivers to Escape Part of Penalty

By FAYETTE TOMPKINS

A backlog of almost half a year in checking accident reports for compliance with the state compulsory insurance law can allow a person without insurance or security to evade much of his or her driving suspension penalty.

Under the compulsory insurance law which took effect a year ago this month every auto accident now must be reported by filing an SR10 form with the Department of Public Safety within 10 days of the incident, without regard to the amount of damage and whether there were or were not injuries.

The SR10 is for detailed information concerning persons and vehicles involved in accidents.

The penalty for failure to file an SR10 is a suspension of driving privileges until the person does file, DPS Assistant Secretary Leroy Havard said.

If the person files but in some way is not in compliance with the law the suspension continues for a minimum of 30 days, he said.

A person who is liable for damages in an accident and has no insurance or security can be suspended for one year from the date of the accident.

The backlog in checking the accident reports can allow the individual in question to beat the law because much of the suspension period after the accident can lapse before the DPS learns of the lack of compliance and imposes suspension, Havard confirmed.

To verify that motorists have liability coverage required by law, the DPS matches law enforcement officers' accident reports against SR10 reports filed by persons involved in accidents, he said. SR10s are available from police and the Office of Motor Vehicles.

Havard explained that the bottom portion of the SR10 is called the SR21, a perforated section to be filled in with insurance data for the DPS to mail to the insurer for verification.

Early this month Havard said the process of matching the accident reports was two to two and a half months behind schedule. Upon closer questioning he conceded that forms being processed then were from mid-January. He said it takes about a month from the time of the accident for the department to "create a case" and get the forms into the departmental processing machinery.

Friday he said he didn't know exactly how far the processing has advanced this month. He made a guess of four or five weeks, indicating no more ground had been lost.

By that reckoning the department should now be processing SR10s from middle or late February.

Some time ago an individual contacted the State-Times to complain that he had been involved in an accident in February, after which the other party produced an insurance policy from the glove compartment and presented it to the investigating officer.

The man said he quickly learned the policy had been canceled for non-payment of premiums.

He said he then filed an SR10, as required, and shortly after the accident contacted the DPS to inquire about the other party and see what he could do since that person had no insurance in force at the time of the accident.

DPS personnel told him they didn't know if the other party had filed an SR10 or not and wouldn't know for 10 or 12 months because of the backlog, he said.

The man said an insurance agent told him some individuals take out a policy with a token payment on it, then discontinue premium payments once driver and auto licenses are received. However, they continue to carry the lapsed policy in their car, to be displayed in case of an accident, the man said he was told.

Havard told the State-Times he asked for funding this year that will help him cut the backlog in this process and that of obtaining information for persons involved in accidents regarding the other party's coverage.

The responsibility for handling the coverage queries is another duty bestowed on the DPS under legislation passed in 1978.

The charge to check the DPS case records regarding an accident is \$1 per page, he said.

The charge is \$5 to have the DPS provide information on whether the other party has insurance, the name of the company and the amount of coverage, Havard said.

He estimated the backlog on processing these reports to be about four months.

The DPS at one point was getting 2,000-3,000 of those requests monthly, he said. A few weeks ago he said that had dropped to 200-300 and Friday he said it was up somewhat from that total.

Havard said he expects it to get back to about 1,200 monthly.

editorials

Compulsory auto insurance is failing in its purpose

A state daily newspaper reported this week that from 256,000 to 600,000 motorists may be operating automobiles in New Jersey without liability insurance.

They are, of course, violating the law which requires every motorist to carry personal injury and liability coverage. To be caught without such insurance can mean the loss of driving privileges for six months, a fine of between \$50 and \$200 and possibly a jail sentence.

But as many as 600,000 drivers may be courting such steep penalties, and the reason is obvious — the cost of auto insurance is making such protection prohibitive for many motorists. And it appears that like everything else the only way premiums will go is up.

The protection — the basic minimum coverage including collision and comprehensive — is said to be about \$350 per car in the state. However, in high risk areas such as Newark, this runs as high as \$650 on average and could go as high as \$1,800 if the primary driver is under 18 or has had accidents or motor vehicle violations.

It poses an almost impossible situation. In most areas of the state an automobile is not a luxury — it is an absolute necessity what with the absence of public transport and suburban sprawl.

If a youngster in a high-risk area is fortunate enough to secure a job, he probably will need a car to get to his place of employment. Yet how many 20 year olds can afford \$1,800 — that is approximately \$150 a month — for auto insurance? He has the choice of giving up a scarce job opportunity or driving without insurance and hoping he doesn't get caught.

Compulsory insurance, like many other laws, was intended to deal with a major problem, the financial blow to an innocent person involved in an accident with an uncovered motorist. But its real effect is to still leave many uninsured drivers on the road while creating the apparatus for hanging a jail term on unlucky young drivers.

This situation is similar to many other problems in New Jersey that cry out for an all-out push in the area of public transportation. Instead we are told that the American public is married to its automobile and cannot be changed.

Is that really true? Or are millions of Americans married to the family automobile because it is the only way they can get from one place to another in a decentralized nation?

Lack of insurance isn't stalling drivers

By MARTIN KING

Despite a mandatory insurance rule, more than a million New Yorkers are driving uninsured cars and the number is increasing annually, a state Assembly committee was told yesterday.

The figure represents up to 12% of drivers in the state, and is double the estimated 6% of car owners who did not carry insurance when the mandatory rule went into effect in 1954.

"What they do is get a policy and make the first payment to get an ID card and register the car," said GEICO auto insurance representative August Alegi. "Then they just don't pay any more."

"Unaffordable" insurance

Auto insurance is becoming "unaffordable," said Abe Eisenstein of the Council of Insurance Brokers of Greater New York. "Cancellations far exceed renewals each year."

Both Alegi and Eisenstein spoke at a state Assembly subcommittee hearing on automobile insurance at 270 Broadway. The hearing was held to examine ways to improve the auto insurance market, especially the functioning of the Assigned

GM wins appeal on rebate order

The owners of 1977 Oldsmobiles, Buicks and Pontiacs with engines made by other General Motors divisions will have to wait for the results of a trial to learn if they will receive \$200 rebates, the Court of Appeals in Albany ruled yesterday.

The court, in a 5-to-2 ruling, overturned a lower court decision that General Motors had misled customers about the engines they were getting in their cars and that purchasers were entitled to \$200 rebates and extended warranties. The court ordered that the issue of misleading advertising must be decided by a trial.

A spokesman for State Attorney General Robert Abrams said his office would bring the case to a trial. The action was begun by Abrams' predecessor, Louis Lefkowitz.

Risk Plan, which came under repeated fire at the hearing for alleged fee loading and poor service.

The Assigned Risk Plan covers drivers who cannot get insurance from voluntary carriers because of bad driving records. They pay an average of one third more than voluntary market rates.

Norman Cohen, an independent insurance agent from Valley Stream, L.I., who said he represented a number of other independents, said reform of that plan was long overdue and suggested the formation of a joint underwriting association.

Other witnesses suggested that banks should get into the auto insurance writing business, in the same manner that some savings banks sell life insurance.

THE CASE AGAINST COMPULSORY AUTO

INSURANCE WEEK

Oct. 20, 1978

BY CHRISTOPHER R. HOOPER
Casualty Manager, Boise, Idaho
Oregon Automobile/North Pacific

Mr. Hooper writes to rebut the case for compulsory auto insurance which appeared in September 8 INSURANCEWEEK. Mr. Hooper (see letters page 30) made the case, as follows, against compulsory in legislative testimony.

You have heard from the assessors on the problems that they are having with the compulsory insurance law, and the Department of Law Enforcement has told you about its problems. I work for an insurance company and I could speak for an organization representing many of the companies with offices in Idaho. I could tell you how we voted unanimously in favor of repealing this law, even though at first glance the insurance companies would benefit from it; and I could tell you of the headaches it has caused companies, the man hours it has cost, and the computer time it has required. But as I truly believe that if the law were successful all of our problems with it would be inconsequential and justifiable, I am instead going to discuss what the effects of this law are doing to you, the legislature.

To factually, and finally, dispel the myth that this law forces every driver to have insurance for at least three months, I am giving you copies of cancellation notices which one company sent to the Department of Law Enforcement just for those policies which were issued after the law became effective and were cancelled within the first ninety days. To properly read the numbers involved, you should note that this company writes no more than 1 1/2% of the automobile insurance in this state. Therefore, to find the extent to which this law does not guarantee ninety days of coverage, you must multiply these 108 notices by 67. The answer is 7200 drivers who did not retain their insurance for the 90-day period.

In addition to deciding whether an idea is a good one, and whether the state, with our concept of limited government should become involved, you must answer one more question before passing a bill. That question is this: given that any law is enforceable with sufficient might, are you willing, and, more important, are the people willing to do what is necessary to enforce that idea. It is this test which the compulsory insurance law fails.

The enforcement problem

The Department of Law Enforcement estimates that it received 250 cancellation notices a day or 45,000 during the 8 months of the law's existence. To enforce this law you must be willing to pay for the officers who will daily arrest those 250 offenders. But the law reads that one must not drive without insurance, not that one cannot own an uninsured car, so the officer could not simply arrest the offender at home, but he must stake out his house until the car is driven. And then the officer must be prepared to receive a false arrest suit when it is revealed that in the great majority of cases, a new insurance policy has been purchased but that the mail has not yet delivered the replacement certificate. As a taxpayer, I am not willing to pay for so many officers to arrest so few truly guilty drivers.

Yet if you pass a law which you are not reasonably able or willing to enforce, then you are acting hypocritically and undermining our faith in you, and it is that faith which allows our system of government to work. This is why I am against the law, because neither you nor I are willing to pay to enforce it. Certificates of insurance or copies of policies in the assessors' offices or in the car prove nothing when there can be a cancellation notice at home. You could require that everybody pay a year's premium in advance in order to overcome the cancellation problem, but that would impose an economic hardship on the great majority of people who are already responsible.

You must remember that while part of your job is to make laws to help snare wrongdoers, you are primarily here to serve the law abiding who make up the large majority of your constituencies. To severely inconvenience that majority either through much higher taxes or through repressive harassment and inconvenience while not deterring the irresponsible is certainly not governing best while governing least.

Issue of harassment

A compulsory insurance law such as we have on the books is very similar to a gun control law. The great majority of drivers do carry insurance just as the great majority of gun owners do not commit armed robbery or murder. The irresponsible driver is not going to carry insurance no matter how many certificates he must furnish just as the criminal who wants to use a gun is going to use one even though the law may say that he cannot have one. Concerning the guns, it has been suggested that instead of harassing the innocent, we make an additional fixed penalty for criminally using a gun. May I suggest that instead of harassing the responsible who carry insurance without your help, if you are determined to have a compulsory insurance law you forget about the certificates and require a fixed license suspension for becoming involved in a crash without insurance. By repealing the law or by writing the law in this manner, you will free the Department of Law Enforcement to catch criminals; you will free the assessors to do their assessing; and, you will free the great majority of your constituents from unnecessary inconvenience. But most important, you will free yourselves from the burden of having passed an unworkable law and thereby regain the respect of the people whom you are here to serve.

March 4, 1979

Why subsidize an industry? End compulsory insurance

I would like to suggest a radical solution to the problem of high automobile insurance rates. Let's repeal the compulsory insurance laws.

Good grief! That would be free enterprise! We can't have that. Why, someone might be involved in an automobile accident and there would be no insurance company to sue. Yes, that's true and why not?

People tend to forget, especially insurance industry lobbyists, that under such a free market system no one would be compelled to buy a product that everyone is free, if he so chooses, to purchase.

In other words, you do not need the police power of the state to force you to protect yourself. You could purchase any kind of insurance you wanted. You could purchase insurance that would compensate you if you were the victim of an uninsured driver and you could, if you wanted to, purchase liability insurance in case you were at fault.

I have never heard a really logical defense of compulsory insurance, although I've heard a lot of hogwash in an effort to disguise the principal reason which is to create a huge market for a private, profit-making industry.

It's really a nifty scheme, all papered over with a lot of altruistic baloney and frosted by a state bureaucracy which alleges to protect the consumer from being hurt by the insurance industry. Oddly enough, virtually all of Florida's insurance commissioners have come from the insurance industry and, oddly enough, Florida has some of the highest rates in the nation. Oddly enough, many of the legislators who annually propose this or



Charles Reese

that reform are also from the insurance industry.

We all pay lip service to free enterprise. Why not try it? Why not just leave the motorists of Florida free to make their own decisions? I'll tell you why not. Because the rates would go down.

Yeah, but nobody would buy insurance. I can hear someone thinking. Maybe. The fact that you don't have insurance doesn't relieve you of liability. If you wish to risk everything you own, that's your business.

As a matter of practical fact, of course, even in a state which compels the purchase of insurance, some people manage to drive without it. The truth is, responsible people are responsible and irresponsible people are irresponsible, regardless of what the law says.

Think about this situation: Wouldn't you love to be in a business in which the state compelled

people to buy your product? And if you are going to assume, as Florida does in this instance, the posture of the Great White Father, why stop with automobile insurance?

Why not compel every person to buy a minimum amount of life insurance? It is certainly irresponsible to leave your family penniless. Why not compel everyone who registers to vote to subscribe to a daily newspaper and present proof that he reads it? It is certainly irresponsible to vote for people and issues you know nothing about.

Government compulsion should be used sparingly. Once you go beyond providing the basic order necessary for society to function, then you've really opened the gates to abuse of power.

A basic assumption in a compulsory insurance law is that people do not have sense enough to do what they need to do. One is tempted, when one looks at the results of elections, to agree, but it is still a dangerous assumption in a country in which we presume to believe in the principles of liberty and self-government.

I could put up with this bit of totalitarianism if it were not for the trailer load of hypocrisy we are forced to swallow every year as the politicians do their annual minuet about saving the poor consumer a little money.

Break the monopoly and the savings will come. Leave people free to look out for themselves. Stop providing targets of opportunity for litigation.

Frankly, I suspect that if motorists had to settle up out of their own pockets we'd see a miraculous decline in "serious" injuries.

Nov. 19, 1978

Compulsory insurance on cars 'not successful'

by STEVE JOHNSTON
Times staff reporter

Washington State isn't doing so badly without a compulsory car-insurance law, two insurance executives said here yesterday. They expect such a law to be considered by the Legislature.

While contending the Western Insurance Information Service is taking no stand on the law, Ellis Lind, area manager, said such a law wouldn't be effective and only would add to the taxpayers' burden by adding a new government agency.

"No states have successful compulsory-insurance plans," Lind said. "Washington State now has the highest percentage of insured drivers. You can't get much higher than 90 per cent."

Lind said compulsory car-insurance plans in British Columbia and Oregon are having problems.

THE OREGON system is in organization trouble, Lind said. The British Columbia system is run by the government, and its insurance rates have gone up 240 per cent since the system was started, he said.

"There is no competition up there, and if you don't like the way I.C.B.C. (Insurance Corp. of British Columbia) runs, then tough," Lind said. "There is only one organization to deal with: I.C.B.C."

"There is a 10 cents per gallon tax on gasoline everybody pays at the pump to help support the I.C.B.C., and the claims problems are immense," he said.

Lind said the major problem faced by most states with compulsory insurance is enforcement.

"Presently, states with compulsory laws have an impossible job of keeping track of which motorists are insured and which are not insured," he said. "They are faced with a virtual paper blizzard."

ONE POSSIBLE solution is no-fault insurance, but that idea is no longer being pushed, Lind said. "The insurance industry has been for it, but I don't think we will get for it for a few years," Lind said.

Congress has not taken any action on no-fault for some time, and states are waiting to see what comes out of Washington, D.C., he said. "And you got to face it. Trial attorneys worked their tails off to kill the bill."

"We don't have alternatives to offer," said Dave Burden, Jr., chairman of the insurance service's steering committee. "All we are saying is that compulsory insurance will increase government bureaucracy. It will come back on the taxpayers and it is an awful big burden to catch only 10 per cent of the population."

Cheats Run Wild Against Auto Insurance Law

AS REPORTED BY THE

DAILY NEWS

NEW YORK'S PICTURE NEWSPAPER ®

Two Series, Same Conclusion

In 1963, America's largest newspaper -- The New York Daily News -- took a long, hard look at New York State's compulsory automobile liability insurance law and concluded that "maybe it should be scrapped" (see editorial on inside back cover). In a followup series three years later, the paper re-examined the law and found that it still failed "miserably" in attempting to protect the law abiding citizen.

Although New York and several other states have since adopted no-fault laws that have done away with this troublesome type of compulsory law, we believe that this series still makes a valid argument against the enactment of compulsory auto liability insurance in any state.

Says The News: "Compulsory insurance was designed to provide financial protection to innocent victims but even more importantly to banish irresponsible and financially insolvent drivers from the roads. But the disheartening truth is that by official estimate there are 226,000 drivers tooling down our streets and highways who have cheated and chiseled to avoid even the basic minimum insurance coverage."

The same situation can be expected in any state where compulsory auto liability insurance becomes law.

Reprinted By
NATIONAL ASSOCIATION OF
INDEPENDENT INSURERS
2600 River Road
Des Plaines, Illinois 60018

Highlights of New York News Report

The compulsory auto insurance law . . . (has) failed miserably to achieve its aims.

Insurance companies despise it, the Motor Vehicles Department is suffering with it, the district attorneys won't prosecute on it and the police departments don't enforce it.

The creation of the Motor Vehicle Accident Indemnification Corp. is an \$80 million admission that the law has failed.

The best official estimate . . . of just how many deadbeats are menacing our streets and highways at this very moment . . . puts the figure at 226,000, with nearly 100,000 of these roaming the streets of New York.

The compulsory auto insurance law has permitted cheating that has fleeced law-abiding drivers of more than \$100 million in the last nine years.

The bloody balance sheet totaled those maimed, invalided and killed by uninsured drivers in the past eight years at 55,000, about the population of White Plains, N. Y.

New York drivers pay the second highest premiums in the country, topped only by Massachusetts, which also has a compulsory insurance law.

As far as NEWS reporters could determine, no uninsured driver has ever been sent to jail, no matter what human or property damage he has caused.

Police efforts . . . are equally undistinguished. Out of 110,521 registration revocations in New York City for the first nine months of this year, police picked up only 269 sets of license plates.

A Bronx detective commander displayed desk drawers full of revocation orders, explaining that he just did not have the manpower to spare to go out and track down the violators:

"We've got other drawers full of them. We're drowning in them."

December 8, 1966

PENNIES FOR THE DEAD

Cheats Run Wild Against Auto Insurance Law

By **JOSEPH MARTIN** and **DOUGLAS SEFTON**
(First article of a series)

YOU COULDN'T have blamed Anna Kirk for feeling low. Here it was midnight of New Year's Eve, 1965, and here she was, dishing out hamburgers with onions at a White Castle in Brooklyn.

But strangely enough she wasn't blue. Mrs. Kirk had a hard-working husband and two pink-cheeked daughters at home. She had taken the weekend job only to hurry the day when she and her family could move to that house in the suburbs.

By 8 A.M. the last of the New Year's drunks had downed the last cup of black coffee and Mrs. Kirk

DAILY NEWS
SPECIAL FEATURE

climbed into her car and headed toward that apartment which, God willing, they soon would be leaving.

She never made it because at Highland Place and Atlantic Ave. pinball machine mechanic Ted White (as we'll call him) roared through a red light and rammed Mrs. Kirk's car broadside with such force that the woman's vehicle was all but torn in half.

In Kings County Hospital, surgeons fought to save her from the effects of a cerebral concussion, a lacerated lung, a fractured pelvis and fractured ribs but their talents were unequal to the demand.

Mrs. Kirk, a comely woman with reddish-blond hair and blue eyes, died seven hours after the accident at the age of 31.

There was no question of responsibility for the accident. Witnesses described how Mrs. Kirk had stopped for the light, then proceeded across the intersection after it flashed green.

White, in his own statement, admitted that after a series of parties he was going home "tired and sleepy." He didn't even see the traffic light, he said.

Guardian Insurance Is Set Up

It should be enough that a man loses his wife and his children their mother. Nothing can replace her, but society has devised the system called insurance to at least insulate the survivors against any financial disaster stemming from a death.

In 1957, the New York State Legislature passed the compulsory auto insurance law to guarantee that the victims and survivors would have this protection.

* * *

HAS IT WORKED? No. Ted White, for instance, was driving an uninsured car. For the pain and misery Ted White brought down upon Mrs. Kirk and her family, Ted White has paid not one cent, nor has he served one day in jail.

But Ted White was only one uninsured driver and Mrs. Kirk only one victim. The appalling fact is that there are probably as many deadbeats and chiselers at the wheels of cars today as there were when the law was passed.

226,000 Riding the Streets

In the confusion, mismanagement and lack of en-



The late Anna Kirk; husband Carl, and a daughter, Diana, now 11, before a careless, uninsured motorist ended forever her mother's Christmas celebrations.

forcement surrounding the compulsory auto insurance law, it is impossible to pinpoint just how many deadbeats are menacing our streets and highways at this very moment.

The best official estimate puts the figure at 226,000 with nearly 100,000 of these roaming the streets of New York City. Most of these, or 36,194, are in Brooklyn. There are 25,751 in Queens, 17,689 in the Bronx, 15,000 in Manhattan and 3,485 on Staten Island.

The bloody balance sheet totaled those maimed, invalidated and killed by uninsured drivers in the past eight years at 55,000, about the population of White Plains, N. Y.

In some ways, the lucky victims are the dead ones. If this seems harsh, consider the surgeon whose arm is shattered so that he may never again wield a scalpel or the bricklayer whose spine is fused so that he throws away his towel.

Honest Drivers Pay for Cheaters

There are these and others condemned to live out the strings of their lives, watching families grow without the income that could clothe them decently or educate them adequately.

But there will be the flinty-hearted who are not touched by anything that doesn't hit them personally. For these, let it be explained that every man who takes insurance in New York State antes up an extra \$4-a-year to pay for the chiseler who dodges his obligations.

In effect, the law-abiding motorist is subsidizing the criminal.

WHO ARE the uninsured?

They are those too "poor" to afford insurance, though not too poor to afford the car that puts them in position to do damage.

They are the guys who work in New Jersey or have relatives living there with a handy address under which they register their cars.

Chiselers and Hell-With-It Drivers

They are the real chiselers who buy stolen or forged FS-1 forms which "prove" they are covered by insurance.

And they are the drivers who are just too cheap to pay anything they can duck. They say to hell with it and stop paying premiums, waiting for authorities to catch up with them.

Unfortunately, the chances of his never getting snared are overwhelmingly in his favor, a situation to be detailed later in this series.

The compulsory insurance law was in effect only two years when authorities, including State Motor Vehicles Commissioner William S. Hulst, realized that it was not accomplishing its purpose.

In fact, it was estimated that the number of uninsured vehicles has doubled since the years when insurance was voluntary.

Legislature Reports Plan's Failure

The State Legislature in 1959 declared that the law had failed to "accomplish its full purpose of securing to innocent victims . . . recompense for the injury and financial loss inflicted upon them."

In an attempt to "close the gaps," the Legislature created an agency that would step in to aid victims of the uninsured. Called the Motor Vehicles Accident Indemnification Corp. (abbreviated to Mayvak), the agency is financed by every driver taking out insurance in New York.

The \$4 tacked onto his premium (already twice as high as the national average) is funneled through his insurance company to Mayvak.

The coverage afforded by Mayvak is not handsome—\$10,000 for personal injuries or death, nothing for property damage.

Payments Add Up to Just Pennies

In the years since Mayvak opened for business it has paid out claims totaling \$33 million, has claims pending in the amount of \$34 million and has spent \$13 million in administrative expenses, for a total of \$80 million—all of it out of the pocket of the legitimate motorist.

While the total seems formidable, the amounts doled out to the victims of the deadbeat drivers amount to mere pennies for the dead.

The average claim paid last year amounted to \$1,655. What it covered was medical and legal expenses; if there was a funeral, it covered that too.

For the man who loses the ability to work there is always the welfare rolls.

To measure the impact of this situation it is necessary to talk about real people, like Carl Kirk, the man whose wife was killed on New Year's Day.

Carl is still understandably disturbed by the handling of his wife's case. The day the man who killed Mrs. Kirk appeared in court the case was adjourned for an hour while an assistant district attorney could be rounded up to prosecute.

It was a "farce," Kirk recalled. Although Kirk's lawyer later had no trouble rounding up witnesses to the accident, the DA's office, he said, hadn't even tried. The uninsured driver was released.

Kirk talked about the last days of his wife. She had begun a parttime job only two months before she died, "to help get some money toward a house."

Kirk shook his head. "She earned \$228 and it cost her her life," he said.

Mayvak awarded Carl \$2,460.28 and their two children \$2,460.28.

There is no allowance for property damage. The Kirk family auto was bought a year before the accident, financed with a three-year loan. The car, almost totally destroyed, was sold to a junk dealer for \$200.

Kirk finished paying off the car only two weeks ago.

fatigue or intoxication... the westbound lane striking... the right front. The impact completely... ground and sent the uninsured vehicle over the guard... settlement.

DECEASED
 This individual was... age of age, residing at...
 New York and was operating without a valid
 driver's license. This individual has a long list of traffic
 violations, and has been arrested as recently as April of last year
 for being an unlicensed operator. He has been arrested for
 violations, and has been arrested with police and for smashing his
 way through an iron, bolted door of a patrol wagon. He has been
 arrested on various charges and shows a prison sentence for
 burglary and grand larceny, and arrests on such charges as leaving
 the scene of an accident, driving an unregistered motor vehicle,
 his license was revoked, driving without a license, and assault.
 requesting arrest, driving without a license, and assault.
 requested an abstract of this individual's New York State
 records. As soon as this is received we shall forward to
 Social Security No. _____

Place of Death Albany Medical Center No. _____ Ward _____
 Cause of Death } Chief Cause Multiple Internal Injuries, Fract
 } Ribs Bilateral, Accident, Appar
 } Other Cause Hit and run Auto Victim - D.O.A.
 Medical Attendant or other Arrestant Edward _____

Place of Burial Calvary Cem., _____

STATE OF NEW YORK
 CITY AND COUNTY OF ALBANY
 Office of the Registrar of Vital Statistics
 I, ANTHONY C. JAY, Registrar

...NEW YORK is employed as a trooper by t
 He indicates that on the morning of the accident,
 still dark, he noticed the headlights of a car
 the Lutheran Church of the Atonement in East Henri
 He pulled up behind the car to see what was going
 people jumped out of the car to see what was going
 and drove off quickly, heading west on Westfall Ro
 he followed this car at a speed of 105 MPH and was
 when he reached the city limits, the trooper slowe
 car he was pursuing was approaching the intersection
 Road, where the overhanging traffic light was red
 traffic. The trooper also noticed a car headed nev
 Road pull out slowly into the intersection. The br
 was pursuing went on, but the car nevertheless stru
 the claimant vehicle and then returned to the

MELVIS & BOTH HIPS
 There is a fracture of the wing of the right ilium.
 There is a comminuted fracture of the femoral head and
 produced by upward displacement of the femoral head and
 with fragments lying free and separate within the
 pelvic space. A soft tissue shadow is observed which I b
 is bladder and this structure may be slightly displaced
 to the left.

...the facts of the accident as alleged by the claimant
 hereto. As far as the amount of liquor consumed during
 the claims she "blackout" and does not even recall
 1. This fact seems

Thousands of tragic reports on accidents involving victims of uninsured drivers fill Mayvak files.

Careening Down Peril Avenue: 226,000 Uninsured Drivers

By JOSEPH MARTIN and DOUGLAS SEFTON
(Second of three articles)

THIS is a father when he sees his son lying in the gutter, struck down by a car:

"There was a big crowd there so I went down and spoke to him. But one guy chased me — says, 'Don't touch him, don't worry, his pulse is all right.' So I was afraid to touch him but I noticed that his eyes were open and when I looked at him to see — because as long as the guy told me his pulse was good, his shirt was off like . . . his stomach was going up and down and to me, he looked all right.

"I said to him, 'How do you feel, Paul? You feel all right?' And he sort of smiled like. But he was crying, tears coming from his eyes."

And this is the same father, when he sees the man who hit his son:

"They pointed him out to me. He was kneeling down right alongside my son, at that time, making the sign of the cross. Well, I didn't say anything to him. What could I say? I just looked at him and he looked at me and — I mean, nothing special or nothing — just looking at each other."

Paul Oropallo may have "looked all right" but the man who had run him down, the man who made the sign of the cross over his prostrate form had the correct diagnosis. Paul died an hour later on an operating table at Fordham Hospital. He had been 16, a husky high school kid who worked after school simonizing cars, giving half what he earned to his mother.

"Staggered, Reeked of Alcohol"

Police noted in their report that the man who had snuffed out Paul's life at 204th St. and the Grand Concourse, the Bronx, "staggered, reeked of alcohol and had to be helped into the police car."

He was, by police testimony, unfit to drive. He was also uninsured, which meant that were it not for an agency called the Motor Vehicle Accident Indemnification Corp. the Oropallo family could not have collected even funeral expenses for their son.

Though MVAIC, or Mayvac as it is called, the victim of an uninsured driver can claim up to \$10,000 for personal injuries. For a crippled father and his family \$10,000 adds up to mere pennies for the dead.

Mayvac would not have been created at all if the compulsory auto insurance law, created two years before, had not failed miserably to achieve its aims.

Compulsory insurance was designed to provide financial protection to innocent victims but even more importantly to banish irresponsible and financially insolvent drivers from the roads.

But the disheartening truth is that by official estimate there are 226,000 drivers tooling down our street and highways who have cheated and chiseled to avoid even the basic minimum insurance coverage.

More than half these drivers are concentrated in the metropolitan area because they can afford to thumb their noses at the insurance law. Neither the insurance companies, the Motor Vehicle Department nor the local police departments is able to come up with a reliable, financially feasible means of enforcing it.

Emanuel Morgenbesser, an insurance company expert testifying before the State Legislative Committee

DAILY NEWS SPECIAL FEATURE

on Motor Vehicles last year, pointed out that "a majority of violators continue to operate their cars because nothing has been done to enforce

the (Motor Vehicle Department) Commissioners' orders. Such orders have been outstanding for years and the police have not acted on them."

Commissioner William S. Hults echoed Morgenbesser's statement but both men insisted they found no fault with the police. It is not the cops' fault, they claim, it is the fault of the system.

Here's How The System Flops

When a driver allows his insurance to lapse he is informed of a deadline for compliance by his insurance company. If he fails to pay up the company cancels his insurance and notifies the Motor Vehicle Department, which issues a revocation order directing him to turn in his license plates.

A quick look at the figures demonstrates how the system flops in New York City:

- Out of 110,521 drivers ordered to turn in their plates in the first nine months of this year only 12,134 complied voluntarily.

- Another 11,346 couldn't even be found, either because they moved to an unknown address or because they used a phony address when filing for insurance initially.

- Out of the remaining thousands, police picked up a grand total of 269 sets of plates.

How come? A detective lieutenant in charge of a Bronx Squad opened a drawer of his desk recently and rifled through a stack of official forms.

"They're revocation orders," he explained, and then moaned, "We've got other drawers full of them. We're drowning in them."

Asked what he does about them, he replied: "Ignore them, that's what we do. My guys are overworked already. Am I supposed to get them out chasing down license plates?"

Father of 3 Badly Mangled

You cannot dispute the lieutenant's decision. Too often, it takes as long to track down a delinquent driver as it does an armed burglar. And if the difference is bagging a burglar or an insurance chiseler, the cop has to go after the burglar.

But in the terms of human misery there are those who would insist that the insurance cheat is by far the greater menace.

Ask the career soldier who came back from Viet-

nam without a scratch, then lost an eye in an uninsured accident. Or the 24-year-old schoolteacher whose face is slowly being rebuilt through the painful months since an uninsured driver ran a traffic light and slammed into her car as she turned a corner.

Ask Michael Corbett, 28-year-old maintenance engineer, father of three children, who, on his way home, was rammed head-on by a car that had swerved into his lane.

Corbett had no pulse or blood pressure when he was brought into Cohoes Hospital, near Albany. He was "dead" and somebody at the hospital called his wife to break the news.

Rosemarie Corbett arrived at the hospital expecting to find a corpse, instead found the closest thing to it. Her husband had been coaxed back to life, suffering a crushed face, a broken jaw, teeth knocked out, a compound fracture of the left arm and a crushed right leg and knee.

Corbett roused from his coma five days later and, in one of life's ironies, the adjoining bed was occupied by the man who smashed into him.

Dies Without Leaving Insurance

As Corbett recalls, "I can remember little about him except the noises made by a person in severe pain." The man died four days later.

Unfortunately for Corbett, the man was one of those thousands who duck the New York insurance law by registering his car out-of-state. The dead man's widow explained to authorities that her late husband felt he couldn't afford insurance and so registered his car in Vermont.

Just a week before the accident the dead man had been stopped for a traffic violation and police, who recognized him as a local resident, warned him about the out-of-state registration. Apparently, he ignored the warning.

In Vermont, as in the surrounding states of New Jersey, Connecticut and Pennsylvania, insurance is not mandatory and officials can't even begin to estimate how many New Yorkers have lied, cheated and falsified documents to beat the New York law.

But the accidents they have, as in the Corbett case, usually occur in New York. Which is part of the reason that Mayvac since its creation in 1959 will have cost legitimate drivers \$80 million when current claims are paid.

Before Mayvac, Corbett would have collected nothing. After Mayvac, he was able to collect \$10,000 — the maximum under the law.

It seems a sizeable sum until you examine what those few seconds back on Nov. 14, 1964 have cost Corbett — not in pain and anguish — but merely in money.

Corbett has had five operations on his leg and another is scheduled. He has had four on his face and head, one of them an experimental operation that cost him nothing.

Victim Faces \$15,000 in Bills

In all, medical and hospital expenses totaled \$12,000. Another \$3,000 went to his lawyer.

It is just over two years since the accident and Corbett, with one leg two inches shorter than the other, has not been able to work a day. His medical advisers expect he will not be able to work for another two years.

The Corbetts get by on \$60-a-week in total disability payments from Social Security and the salary which Rosemarie Corbett earns as a secretary.

One final irony: Corbett gave up his car a year ago, cancelling his insurance and turning in his license plates. So far, the word hasn't reached Albany. Six letters from the Motor Vehicle Department have warned him he'd better insure his car.



(NEWS photo)

Michael Corbett, father of (l. to r.) Kimberly, 6; Michael, 2, and Mark, 3½, has not been able to work since an uninsured driver rammed him head-on two years ago. Corbett, burdened with huge medical and hospital bills, might not be employable for another two years, doctors says.

Auto Insurance Law Needs a Tough Tuneup



The weather was clear and dry, the road clear. But on an S-curve outside Syracuse the driver lost control, the car plunged over an embankment and this was the result. The passenger, Airman First Class Samuel Eleanor, 24, awoke in a hospital five days later. Among his injuries was the loss of an eye. The driver was uninsured.

By **JOSEPH MARTIN** and **DOUGLAS SEFTON**
(Last article of a series)

INSURANCE companies despise it, the Motor Vehicles Department is suffering with it, the district attorneys won't prosecute on it and the police departments don't enforce it—yet the compulsory auto insurance law has permitted cheating that has fleeced law-abiding drivers of more than \$100 million in the last nine years.

This is not an argument against the compulsory insurance law. It is an argument against any law which is permitted not to work.

In the almost 10 years that the law has been on the books authorities are unable to point out any progress in enforcing compliance with it.

Official estimates place the number of deadbeat drivers at 226,000, most of them in and around the city.

The carnage committed on the innocent since the law's inception amounts to more than 50,000 killed and injured.

And you, the law-abiding, insured driver, are the one subsidizing these chiselers. Incorporated into your auto insurance premium is a \$4-a-year charge—your share of the tab run up by the characters who flout the law.

DAILY NEWS
SPECIAL FEATURE

"Law a Dismal Failure"

Insurance companies don't like the law for many reasons. Vestal Lemmon, general manager of the National Association of Independent Insurers, which represents 480 companies underwriting more than half the private auto liability insurance in the country, sums it

up: "The law is a dismal failure. It just doesn't work."

Lemmon argues that the law can't compel; it creates a government bureaucracy that costs millions to administer and it does not protect the responsible citizens. Lemmon points out, too, that it increases the cost of insurance and that it results in higher claims and settlements.

New York drivers pay the second highest premiums in the country, topped only by Massachusetts, which also has a compulsory insurance law.

They Pay as Slowly as Possible

What Lemmon could have added was that insurance companies would rather not insure drivers who have to be hogtied into covering themselves. The preferred risks—the kind of customer which insurance companies cotton to—insures himself voluntarily.

The others, either because they are poor or larcenous, take only minimum coverage, pay as slowly as possible and add greatly to clerical procedures.

There are, as Lemmon points out, 12 different forms covering various procedures necessary to administer the law. There is literally a "flood of paper gushing from the Motor Vehicles Department to the insured, to the agent, to police departments—back and forth in a never-ending tide," Lemmon explains.

Obviously, the compulsory insurance law is irksome and expensive for the insurance companies, but Motor Vehicles Department Commissioner William S. Hulst takes exception to the industry's expressed attitude.

"It's not the law itself that should be attacked," he complains, "it is the lack of enforcement that should be criticized."

Cites Scant Cooperation

While sympathizing with the insurers' problems, the commissioner accused the companies of scant cooperation and less effort at solving them.

Lemmon replies that "New York officials either can't or won't enforce the law."

He cited the penalties on the books: Thirty days' license suspension where there is a willful violation, A maximum penalty of \$1,000 fine and a year in prison upon conviction. And impoundment of the uninsured vehicle in case of accident with death or injury.

Only in New York City have district attorneys done anything at all to enforce the uninsured motorist law. And even that has been limited and sporadic.

Set Out Checkpoints in Brooklyn

Brooklyn Chief Assistant District Attorney Elliott Golden, with the cooperation of the Police and Motor Vehicles Departments, set out a number of check points in that borough for three days late last year.

In that time they bagged 173 New York residents who had registered their cars in New Jersey to avoid New York's compulsory insurance. Of all of these, only five had other residences out of the state.

Manhattan DA Frank Hogan within the year tracked down and brought to trial 27 uninsured drivers who were involved in accidents. The result was a judicial slap on the wrist, with the heaviest penalty meted out being a \$250 fine.

No Uninsured Man Jailed

As far as NEWS reporters could determine, no uninsured driver has ever been sent to jail, no matter what human or property damage he has caused.

It is not difficult to judge why district attorneys throughout the state rate this sort of violator way

down on their most wanted lists.

Police efforts in this area were equally undistinguished. Out of 110,521 registration revocations in New York City for the first nine months of this year, police picked up only 269 sets of license plates.

A Bronx detective commander displayed desk drawers full of revocation orders, explaining that he just did not have the manpower to spare to go out and track down the violators.

In most cases a driver is not uninsured because he overlooked it or didn't understand the law. The fact is, he is actively trying to dodge it. Tracking him down and finding his car can mean a long investigation.

It's also true that the policeman's legal ground can be slippery at times.

A \$100 Million Package

Revocation orders are sometimes the result of clerical errors or delays in the mail. And sometimes a driver who had allowed his insurance to lapse has in the meantime insured with another company.

There is literally no one who is completely satisfied with the situation as it exists today. The creation of the Motor Vehicle Accident Indemnification Corp. is an \$80 million admission that the law has failed.

Mayvac enters the picture only when a driver is uninsured, a situation that has seen \$33 million paid out in claims, with another \$34 million slated to be paid out, the whole package taking another \$13 million to administer.

Add to this the \$20 million that it has cost to maintain the compulsory insurance law and you have a \$100 million package, all of it coming from the pockets of the law-abiding driver.

There have been proposals put forward to double the amount of compulsory insurance and of coverage under Mayvac. But many experts, particularly the insurance companies, argue that this would only worsen the situation.

As insurance costs rise more people try to chisel on it, resulting in increased rates for the rest of us, leading more people to try to beat it. It's a never-ending spiral.

Far more effective would be stepped-up enforcement.

"Only Hope for Success"

Commissioner Hulst, for instance, feels that "the only hope for success lies with a law enforcement unit to operate out of the Motor Vehicles Department."

Hulst believes that such a unit could operate at a cost of \$1.5 million a year, with half this sum being recovered through an assessment of \$5 or \$10 to be paid by the drivers whose registrations are revoked.

A bill embodying these provisions was vetoed last year by Gov. Rockefeller, who explained that he was "not persuaded" that it was the best answer. The Governor went on to say that he was requesting government officials to have another look for a solution to "this pressing problem." So far, they have not produced one.

Would Bring in Extra \$5 Million

There is another element to the stronger enforcement approach. If only a small fraction of those now beating the law—say only 50,000 of them—are pressured into buying insurance, it would bring in an additional \$5 million a year.

Then maybe Mayvac could improve on the sums it doles out to victims. As it stands now, Mayvac's funds serve only to bury the dead and patch the wounded. And the victim who must spend the rest of his life in a wheelchair must look elsewhere for the means to live.

*This editorial was printed following
The News' 1963 compulsory series:*

DAILY NEWS
NEW YORK'S PICTURE NEWSPAPER • Tel. MURRAY HILL 2-1234
220 East 42d St.

SATURDAY, APRIL 27, 1963

MAYBE WE WERE WRONG

Back in the 1950's, when compulsory auto accident insurance for New York State was a hot subject of discussion, THE NEWS supported it strongly—though with the proviso that if it were given a fair trial and found wanting it could and should be scrapped.

As shown this week in a series of NEWS special feature articles entitled "Deadbeat Drivers," by Joseph Martin, Leonard Scandur and Theo Wilson, compulsory insurance has been tried and is working very badly.

So we could have been wrong. If so, we're not too proud to admit it. At this time, it looks to us as if the compulsory insurance law at least needs drastic overhauling and rewriting—and maybe it should be scrapped.

Insurance **BACKGROUND**

APR 14 10 18 AM '83

Background information on insurance topics for the news media
Published by the Public Relations Department of the State Farm Insurance Companies
One State Farm Plaza, Bloomington, Illinois 61701. . . Phone (309) 662-2625

DEVELOPMENT

Should Auto Liability Insurance Be Required By Law?

It's become part of the folklore of our motorized society: A responsible citizen is driving down the street when an aging clunker roars past a stop sign and slams into Mr. Citizen's car, sending it to the junkyard and its owner to the hospital. The driver of the clunker has no assets, little income, and—of course—no liability insurance.

Stories about uninsured drivers usually bring expressions of outrage from listeners, along with comments like: "There oughta be a law!" In several states there are laws that make it a crime to drive without liability insurance. This type of law has been on the books more than 50 years in Massachusetts and more than 20 years in New York and North Carolina. Whether these laws are in the best interest of the public, however, is a subject of great controversy.

No one doubts that uninsured drivers are a widespread problem in the United States. The actual number of these drivers is not known, however, and estimates vary considerably. Many observers would agree that somewhere around 20 percent of the automobiles on the road are not covered by liability insurance, with the percentage differing sharply from one state to another. There are indications that the number has been growing recently, perhaps because inflation is putting a squeeze on the pocketbooks of more car owners, who gamble on not having an accident rather than pay the price of insurance.

Historical Background

Uninsured motorists weren't a serious problem during the first decades of the automobile. The new motor cars were playthings of the affluent, who had the assets to pay for any harm caused by their negligence. By 1920, car ownership had spread to many low-income families with little property that could be seized to pay for damages they caused in accidents. Liability insurance seemed to offer the only solution to this problem.

As early as 1919, proposals were made in Massachusetts for a law requiring all drivers to carry liability insurance. By 1925, compulsory insurance bills were introduced in half of the nation's state legislatures. Massachusetts enacted a compulsory bodily injury liability insurance law that took effect in 1927.

Revised November 10, 1982. Since events move rapidly, you may want to check to see if the information is still current—particularly if you're using this as a reference some time after the date of revision. Call the number above.

Most states, however, took a different approach to the problem. A proposal for a financial responsibility law had been included in the Uniform Vehicle Code adopted in 1924 by the National Conference on Street and Highway Safety. Instead of requiring all drivers to carry liability insurance, this proposal would require motorists who were in an accident to show that they had the financial means to compensate their future victims. In practice, most drivers could demonstrate the required financial means only by carrying a liability insurance policy. In 1928 the American Automobile Association issued a model financial responsibility bill, which was endorsed by many insurance companies and other groups. Instead of taking the compulsory insurance route, the other states enacted financial responsibility laws.

Three decades passed before another state followed Massachusetts' lead. In 1956 a compulsory insurance system was established in New York and in 1957 North Carolina became the third state with a compulsory system.

Today some 30 states have compulsory liability insurance laws and one state, Florida, requires personal injury protection (no-fault) coverage without requiring liability coverage. Many of these laws were passed in the 1970s as part of some type of no-fault package; many legal authorities believed no-fault laws would have a stronger constitutional footing if they compelled motorists to buy auto insurance.

How Are Compulsory Insurance Laws Designed to Operate?

Compulsory insurance laws provide that driving a car without the required amount of liability 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.

Some compulsory insurance laws require motorists to show evidence of insurance to public authorities at least once a year before their vehicles can be registered and license tags issued. Usually the proof of insurance is in the form of an identification card or sticker from the insurance company. Most compulsory states use a self-certification procedure in which motorists are required to sign affidavits attesting that they have, and will maintain, liability insurance coverage. The state may verify a random sample of these affidavits with the insurance companies that issued the policies.

But either system causes problems. Even though a motorist has liability insurance when he gets his license plates, he can still drop the coverage later. In an attempt to prevent this, some compulsory laws require insurance companies to send a notice to state regulatory authorities when a policy is cancelled or not renewed. The state then sends a notice to the motorist asking for an explanation of the cancellation. If the motorist doesn't respond within the required time, the state sends a notice suspending his license after a certain date. Failure of the motorist to respond by the effective date causes his license tags to be subject to seizure by any police officer. In theory, a state police officer will be sent to pick up the tags. In practice, because of manpower shortages, tags are seized in most states only when the motorist commits other traffic offenses that bring him to the attention of the police.

Compulsory insurance laws usually provide harsher penalties for uninsured motorists found to be at fault in an accident and for motorists who drive after their licenses are suspended.

Arguments For Compulsory Insurance Laws

Advocates of compulsory liability 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 liability insurance offers the only practical way for most drivers to pay compensation, advocates of compulsory insurance believe the state should force motorists to buy liability coverage by making it a criminal offense to drive without it.

Proponents of compulsory insurance argue that it is unfair to expect people to pay for 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.

Arguments Against Compulsory Insurance Laws

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

Opponents' main arguments are that compulsory 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 compulsory 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.

Compulsory Laws Don't Work

The core of the case against compulsory 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 because of the nature of liability insurance itself. 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," Dr. John W. Hall, chairman of the insurance department at Georgia State University, reported to the South Carolina Joint Legislative Automobile Liability Insurance Study Committee in 1979. "The compulsory 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."

Critics of compulsory laws maintain that the compulsory insurance states, faced with determined resistance by drivers who neither need nor want liability insurance, have failed in their efforts to enforce the laws. As proof, they point to the experiences of the three states that have had compulsory laws the longest and have made the strongest efforts to enforce them.

Massachusetts, the first state to enact a compulsory insurance law, watched its auto insurance rates climb until they became the highest in the nation. In 1968, Gov. John Volpe told the Massachusetts legislature that "the people of the commonwealth have lost confidence in our compulsory automobile insurance system." After 53 years of compulsory insurance, the number of uninsured vehicles in Massachusetts still presents a serious problem.

New York adopted a compulsory liability insurance law in 1956. In 1963, a study by the University of Michigan found that there were twice as many uninsured drivers in New York as there were before the compulsory law was passed. A 1978 study found that 6.5 percent of a sample of 9,345 cars were uninsured.

The *New York Daily News* studied the state's compulsory insurance system in 1963 and reported: "The compulsory insurance law. . . (has) failed miserably to achieve its aims. Insurance companies despise it, the Motor Vehicles Department is suffering with it, the district attorneys won't prosecute on it and police departments don't enforce it. . . as far as *News* reporters could determine, no uninsured driver has ever been sent to jail, no matter what human or property damage he has caused. . ."

Even in North Carolina, the state regarded by many observers to have done the most effective job of enforcing compulsory liability insurance, many vehicles are still uninsured after 23 years of well financed and highly sophisticated enforcement efforts.

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

Drivers who don't want to buy liability insurance find it easy to evade compulsory insurance laws.

Probably the most common technique of evading compulsory laws is called insurance dodging. The motorist goes to an insurance agent and applies for liability coverage in order to get an insurance identification card. The motorist uses the card to get his license tag, but then either cancels the coverage or fails to pay the balance of the premium. Although in some states the insurance company must send a notice to the proper state agency that the driver's coverage has lapsed, much time goes by before the overworked state bureaucracy gets around to taking any action. Even then the police, who must give priority to more serious crimes, don't have enough manpower to send officers out to confiscate the license tags.

Even if they are prosecuted and convicted of violating the compulsory law, insurance dodgers have little to fear. Judges, who deal with an endless stream of more serious offenders, are very lenient with someone who does nothing worse than refuse to buy insurance. In short, insurance dodgers face little risk.

★ Is that true?

Compulsory Laws Are Costly

The second major argument made by opponents of compulsory laws is that they are too costly to administer. Proper enforcement of these laws would require 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. No state has been willing or able to spend the vast amount of money that would be required for this kind of enforcement program.

Of all the states with compulsory laws, North Carolina has carried out the most extensive and effective enforcement program. The program is supervised by the Department of Motor Vehicles at a cost of about \$1.3 million a year. All of the record-keeping and forms preparation is done by a sophisticated computer system provided by the state Department of Transportation at an annual cost of about \$1.6 million. The Department of Public Safety employs 50 state police officers to confiscate about 19,000 sets of license plates a year at an annual cost of more than half a million dollars.

After New York passed its compulsory law, the cost of enforcement rose to more than \$7 million a year. In an effort to cut these high costs, New York went to a self-certification program in 1974. This simplified procedure shaved about \$3 million off the cost.

South Carolina, with a much smaller population than New York, reported that it spent \$1.3 million in the fiscal year ending April 30, 1979, to enforce its compulsory law.

The magazine *National Underwriter* reported in 1979 that enforcement of Pennsylvania's compulsory insurance law was "bogged down in a bureaucratic morass" in the Department of Transportation because of "poverty and lack of staff to administer the program." A department official said 40,000 notices of cancellation or lapses poured into the department every month and declared: "We'll never be current." Today, however, Pennsylvania requires cancellation notices only during the first six months of the policy and the department is quite current.

The California Department of Motor Vehicles, after studying California's compulsory insurance law in 1976, reported that "if all social costs associated with this program are considered, this program is almost certainly a social liability from the cost-benefit standpoint." The department found that "less than one-half of one percent of the drivers in California are financially responsible as a consequence of this program."

Higher Rates For Responsible Drivers

Opponents of compulsory insurance laws 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 may have to notify the state every time a customer fails to renew, or cancels, 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.

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

Massachusetts adopted compulsory insurance in 1927. By 1938, its claim frequency per thousands insured vehicles had increased 33 percent—while the countrywide frequency declined 21 percent.

Massachusetts Gov. Volpe attributed much of his state's high insurance cost to its compulsory law in 1968 when he reported: "The personal injury claims frequency in the commonwealth is 1.8 times that of the next highest state (which also happens to be a compulsory state), and twice the national average. This claims frequency may be directly related to our high insurance costs and also supports the conclusion that under our compulsory system, Massachusetts motorists have become more claims conscious than those in other states."

Alternatives to Compulsory Insurance

Those who oppose compulsory liability insurance laws offer two alternatives: (1) strong financial responsibility laws and (2) insurance coverages that motorists can buy to protect themselves from losses caused by uninsured drivers.

Financial responsibility laws have been in use since the 1920s. These laws do not require insurance before cars can be licensed and they do not make it a criminal offense to drive without insurance. When motorists are involved in an accident (generally one resulting in bodily injury or in more than a specified amount of property damage), financial responsibility laws require them to show proof that they will be able to pay damages that might be awarded to other accident victims. Generally, they can do this with a liability insurance policy providing minimum required benefit limits, by posting a bond for the same amount, or by depositing cash or securities in that amount. Failure to do one of these leads to suspension of licenses of at-fault drivers for a certain length of time.

Opponents of compulsory insurance see several advantages in financial responsibility laws. They are aimed only at drivers who cause accidents, not at every driver in the state. As a result, the enforcement is greatly reduced, insurance company operating costs are cut, and the great majority of motorists are not subjected to the state's efforts to enforce compulsory insurance. The law is removed from those who can't afford to buy insurance and those who have no need for liability insurance.

Opponents maintain that a well-administered financial responsibility law is just as effective as compulsory law—at a fraction of the cost. Virginia, generally regarded as having one of the most effective financial responsibility systems, is estimated to have about the same percentage of its cars insured as neighboring North Carolina, with the nation's best-enforced compulsory law.

Since neither compulsory laws nor financial responsibility laws can remove all uninsured drivers from the road, those who oppose compulsory laws recommend that motorists buy their own insurance coverage to protect themselves from irresponsible drivers.

★
Virginia
best FR
law

Uninsured motorist coverage has long been available in every state. Often it can be purchased with limits as high as the liability limits carried by the driver. When the driver is in an accident with an uninsured motorist, his own insurance company will pay him damages that the uninsured driver is legally obligated to pay.

Underinsured motorist coverage is now becoming available in most states. This new coverage comes into play if the policyholder is injured by an at-fault driver who is insured, but has limits of liability coverage that are inadequate.

Uninsured motorist coverage in many states does not provide protection for damage to property. In those states, of course, motorists can still protect their vehicles by buying collision coverage.

In states with no-fault laws, 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 of compulsory laws argue that it's better to let affluent 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 compulsory law, plus paying the higher premiums that result from compulsory laws.

Conclusion

It seems clear that no state has been able to solve the problem of uninsured drivers with a compulsory insurance law. Even the best-enforced compulsory laws have been no more successful at removing uninsured drivers than good financial responsibility laws. In a free society, it is impossible to force large numbers of people to buy something they don't need and can't afford. No state government is willing or able to take the steps that would be necessary to fully enforce a compulsory liability insurance law.

Since compulsory laws are no more effective than financial responsibility laws, there seems to be no point in spending vast amounts of money and harassing millions of motorists in futile attempts to enforce them.

For responsible motorists, the more practical route is look after their own protection, rather than relying on unenforceable laws. Protection is readily available at moderate cost in the form of uninsured and underinsured motorist coverage, medical payments coverage, and loss-of-income coverage. In no-fault states, personal injury protection coverage offers even greater protection.



WASHINGTON INSURANCE COUNCIL, 1218 Third Avenue, Seattle, Washington 98101, 624-3927

RAMIFICATIONS OF COMPULSORY AUTO INSURANCE

A Study by the

Washington Insurance Council

January 20, 1933

THE ISSUE

Few would argue that everybody driving a motor vehicle should carry liability insurance. This public sentiment, conveyed to legislators, has resulted in proposed legislation to mandate auto insurance coverage for each and every licensed driver and/or registered motor vehicle owner in the state. This approach, the public and some of their elected representatives believe, will solve the problem of uninsured motorists causing damages for which they cannot pay.

These legislators and the public find it puzzling that the property and liability insurance industry remains reluctant to endorse such proposals. What could the insurance industry find wrong with a law that would force more people to buy more insurance? The answer is that the industry believes compulsory automobile liability insurance laws historically have not achieved their intended purpose, and they have often worked against the best interests of motor vehicle owners, taxpayers, insurance policyholders and the public at large. The basic intention of a compulsory automobile insurance law, to be sure that persons are financially responsible for the damages they cause, is probably better addressed through more cost-efficient alternatives that, for the most part, are already in place here in Washington.

This paper attempts to give lawmakers, government officials, the media and the general public an overview of the problems with compulsory automobile insurance, and to review workable alternatives to such laws that realistically achieve the best measure of success in protecting the financial assets of Washington's responsible motorists.

COSTLY

A major reason many in the insurance industry oppose a law that forces consumers to buy insurance is the cost of the system. Such laws bring higher costs to state government, motor vehicle owners, taxpayers and insurance policyholders.

New York has literally spent millions annually on enforcement, yet a New York Department of Motor Vehicles survey estimated that in 1979 close to half a million registered vehicles in the state were uninsured.

States with compulsory systems pay a high price to realize a small increase in the number of insured motorists. Maryland taxpayers have paid \$1.5 million and the people of South Carolina have paid \$1.3 million annually for their compulsory auto insurance systems.

In times of rising inflation and uncertain economic conditions, imposing higher costs associated with compulsory insurance on the public only increases the burden the responsible driver must carry. In return for this, the already-insured motorist receives virtually nothing in benefits to himself, whereas, he does receive real benefits and genuine protection against uninsured motorists from any of the less costly, more efficient alternatives to compulsory insurance.

According to the Washington Division of Motor Vehicles, there are approximately 3.5 million motor vehicles in Washington. For every automobile, the owner, the owner's insurance company, and the state would each have a new paper transaction once or twice a year--at least three transactions per vehicle. That adds up to about 10.5 million new transactions per year, plus three additional transactions every time a car changes hands or an insurance policy is canceled or replaced. With one vehicle in four changing hands each year, this amounts to an

estimated total of 13 million transactions per year to be paid for by taxpayers and policyholders.

A Washington insurance official notes that although a short-term decrease in uninsured motorists has been experienced after passage of a compulsory law in other states, a few years later the percentage of uninsured motorists returns to about the same levels as before the laws were adopted --and the states are saddled with a new and expensive layer of bureaucracy with little or no public benefit.

The Washington Division of Motor Vehicle's estimates that Washington's uninsured driving population is approximately 10 percent, with 90 percent of drivers carrying at least the minimum limits of liability insurance. With nine out of 10 drivers already insured, one must ask if it is worth the additional costs to improve the level of insured motorists by only a few percentage points?

INEFFECTIVE

The Washington insurance industry believes that compulsory automobile insurance laws may sound like a good idea but are not effective and do not achieve their goal of protecting the public against uninsured motorists. Many members of the uninsured driving population still find ways to avoid a mandatory law. This fact is openly acknowledged by compulsory insurance states which still mandate the offering of uninsured motorist and, in some cases, personal injury protection coverages, an admission that compulsory laws are not doing away with uninsured motorists.

Supporters of the mandatory auto insurance concept traditionally are working from the gut-level feeling that all drivers have a moral obligation to be financially responsible for any damage or injury they

may inflict through their negligence behind the wheel of a motor vehicle. Since automobile liability insurance is the means by which many citizens pay damages of this nature, proponents of compulsory auto insurance believe it is the state's duty to force drivers into buying this coverage by outlawing driving without it.

It has proven extremely difficult to force drivers to purchase insurance they neither want, nor think that they need, to say nothing of the fact that many uninsured motorists either cannot afford it or regard it as an unnecessary expense. While liability insurance is designed to protect the insured from losing his assets and income if he causes an accident that harms someone else, drivers with no property, no savings, and little income have little or nothing to lose in a lawsuit; therefore there is little incentive to buy liability insurance.

A 1981 study by the All-Industry Research Advisory Council (AIRAC) asked households with one or more uninsured vehicles why the vehicles were not insured. Forty percent of the people surveyed by AIRAC listed cost considerations as the reason (the next major reason, "car not currently in use," was only 16 percent of the total responses). To be frankly realistic, requiring liability auto insurance purchases of people from low-income households will not compel them to do so. A report, Profile of Uninsured Motorists in California, disclosed that geographic areas with high rates of uninsureds had significantly lower median incomes and higher incidence of poverty level than areas with low rates of uninsured drivers.

The central argument in the case against compulsory auto insurance laws remains that they just don't work, and are viewed by many as an exercise in futility. In the 25 or 30 states which have at

one point or another experimented with such laws over the past several decades, every imaginable means of enforcement has been tried and retried with the same frustrating result -- little difference in the percentage of insured drivers. With extremely vigorous (and expensive) enforcement schemes, some states have boasted of reducing the uninsured motorist level to within five percent of all licensed drivers, but no one has ever claimed complete success. Estimates of the number of uninsureds in compulsory states still range anywhere from five to 15 percent, depending on the efforts of state regulatory and enforcement authorities.

Most compulsory insurance laws require motor vehicle owners to provide evidence of insurance upon registration of the vehicle. Some laws require this evidence to register and license vehicles. Other laws require a self-certification procedure under which motorists attest that they have purchased and will maintain the mandated coverage. Insurance certificates are rendered meaningless when the driver has a cancellation notice for non-payment of premium sitting at home. Insurance evidence could be falsified, vehicles can be registered out of state, or ownership can be transferred whenever necessary to avoid enforcement mechanisms.

Uninsured drivers who generally make up the uninsured motorist population are those who have a drivers license, do not register their vehicles, are driving stolen vehicles or are drivers in hit-and-run accidents. The attitudes of these people are such that they will use every means possible, with or without a mandatory law, to avoid paying

for liability insurance. In their eyes it is a useless and expensive product, which does not benefit them, but an unknown third party. Others that slip through the net include out-of-state drivers and new residents with vehicles still registered elsewhere. These are the traditional cadre of uninsured drivers and will continue to remain so, even after passing a compulsory law. Ultimately, the irresponsible driver is not going to carry insurance no matter how many certificates he's required to furnish.

Compulsory laws require insurance; they do not define hazardous drivers, and they do not provide a means to remove high-risk drivers from the road as present financial responsibility laws do.

A compulsory system, which by nature must maintain and police millions of pieces of paper each year, relies on random file checks and police spot checks for insured and uninsured drivers as a means of public enforcement. Such operations are wasteful and inefficient, squandering time and public money on the overwhelming percentage of motorists already insured.

When New York initiated a compulsory auto system it found itself immediately deluged with six million evidence of insurance forms and shortly became further swamped with changes of registration, cancellations and terminations of insurance, changes in insurance companies, name changes, etc. At one point it was estimated that 80 percent of the 25,000 registration revocation notices sent by the Department each month were incorrect or obsolete by the time they were mailed.

In 1974, New York switched to a self-certification system to cut the \$7 million annual cost of enforcement, but according to recent

figures the self-certification system is still costing as much as \$4 million annually and seems to have little effect. New York's uninsured motorist level today is estimated at more than 15 percent.

The director of the Traffic Safety Bureau in Pennsylvania (a compulsory state) admits that the 40,000 notices arriving each month from insurance companies on cancellations or lapses are just too much for his staff to handle.

The fiscal note attached to 1982's major compulsory auto proposal in Washington estimated an annual cost of \$350,000, minimum. Though this compares favorably with annual budgets of over \$4 million in other states, it is hard to rationalize implementing an uncertain system at even this price in a state where legislators are seriously concerned about cutting a thousand dollars wherever possible out of our current budget.

Enforcement, which is expensive, will always remain a problem in our tight fiscal environment. Washington would foreseeably remain reluctant to commit already scarce crime-fighting resources to track down uninsured motorists. Highway patrolmen are already quite busy lessening the toll of highway injuries, deaths and property damage. It is doubtful that regulatory authorities have the financial resources to follow-up, identify, and punish the insurance-avoider.

The courts also must be identified as another stumbling block in enforcement of compulsory law. A majority of state compulsory laws provide for a fine and/or prison term for conviction of driving without insurance; but few, if any of those convicted are ever jailed for their crime and may bargain their way out of any conviction at all.

As you can see, the enforcement issue, particularly in a state already too financially strapped to spend the necessary millions on patrolling, remains a key problem. Some states have sought to avoid additional costs by omitting any provision for enforcement from compulsory laws and simply declare it unlawful to drive without insurance. However, the press and public are not long behind in demanding that a law, once passed, be strictly enforced, and the hue and cry begins all over again.

INCONVENIENT

After a compulsory automobile insurance law is enacted, legislators must answer to a public (90 percent of whom have insurance) now facing the yearly duties of providing proof of coverage in order to certify themselves and/or their vehicles, providing notices to appropriate government officials whenever they effect a change in their insurance status, carrying an additional form of identification with them whenever they drive, and in general dealing with the intrusion of another level of bureaucracy into their daily lives. This runs counter to current public sentiment regarding the extent of government regulation.

A November 1981 report by the Pennsylvania Department of Transportation found that the state received 185,547 cancellation or termination notices from insurers in 1980. However, only 4.8 percent of those responding to inquiries concerning their insurance status were found to be uninsured, meaning close to 200,000 responsible, insured motorists were unduly harassed by a state authority in its efforts to enforce the state's compulsory auto law.

In West Virginia, from October 1, 1981, through January 1982, the Department of Motor Vehicles mailed 196,000 notices of driver license cancellations. It is estimated that 95 percent of those notices went to persons who had never let their insurance policies lapse. To date, nearly 2,500 orders to the state police to pick up license plates for non-certification of insurance have been issued mistakenly because DMV cancellation notices and owners premium payments were crossing in the mail. According to officials in the West Virginia DMV, the law has resulted in a mountain of paperwork and has created unnecessary hassles for many premium-paying citizens. The West Virginia Legislature will spend at least two to three years on remedial legislation.

One prominent West Virginia legislator said, "I don't remember anything this legislature has ever passed that has upset citizens as much as the compulsory law has. Support for compulsory has dropped among my constituents."

Most compulsory laws require motor vehicle owners to provide evidence of insurance upon registration of the vehicle. Proof-of-insurance forms, such as certificates of insurance or prescribed identification cards are a constant nuisance for responsible drivers. Communications between the public, the insurance industry and regulators entangle in a confusing attempt to identify the uninsured registrant. With each additional transaction the likelihood that a form will be issued by mistake increases, and it is the responsible motorist who often falls prey to such administrative problems.

In the end, one must ask how much interference into the lives of the majority of our state's drivers will the public be willing to tolerate in trying to force more people to buy insurance?

THE CURRENT SITUATION IN WASHINGTON

Washington's current financial responsibility law requires that owners and drivers of motor vehicles either have liability insurance or have the ability to pay from their own finances for damages they may cause. If a motorist is involved in an accident and is found outside of this law, the state mandates a suspension of his license.

The 1981 Legislature gave the Washington Department of Licensing the authority to suspend motor vehicle registrations and also established stiff penalties for motorists who operate a vehicle with a suspended registration. Now, when an uninsured driver is unable to meet the expenses of an accident in which he is involved, he can lose both his driver's license and his vehicle registration. Under suspension of the vehicle registration, the driver-owner is now required to surrender the vehicle plates to the Washington Department of Licensing where they are destroyed. These are reinstated only after the driver makes arrangements to pay the damages and obtains proof of financial responsibility. Driving with a suspended vehicle registration is further punishable by imprisonment of up to five days and/or a fine of \$550.

State law also requires insurance companies to offer "underinsured motorist coverage" under Chapter 48.22 RCW, which provides compensation to the innocent victim of a negligent motorist where the negligent motorist has either no insurance or inadequate coverage.

The 1981 Washington Legislature also provided for "underinsured property damage coverage" when it passed House Bill 254. This

requires insurers to offer protection for property damage caused by the underinsured motorist.

The above coverages are designed specifically to offset the risk of the driver who does not carry liability limits for automobile financial responsibility. At the same time, the Legislature also raised the minimum limits for automobile financial responsibility to \$25,000 per person injured, \$50,000 for all persons injured, and \$10,000 for property damage occurring in a single accident.

ALTERNATIVES

Washington drivers now have the means to protect themselves from uninsured motorists. Tough financial responsibility laws, coupled with strict enforcement mechanisms, are the most efficient and least costly means of assuring adequate insurance protection for the majority of the driving population.

The Council would like to draw the reader's attention again to the recent remark of a Washington insurance official that the most effective route a motor vehicle operator can take to protect him or herself against the irresponsible motorist is to be sure his or her policy includes personal injury protection (PIP) and underinsured motorist (UM) insurance. If every insured vehicle had these coverages, as the vast majority do, careful drivers would be protected and only those who won't be persuaded to purchase coverage, would be without protection.

Estimates by Washington state officials are that more than 90 percent of motorists who purchase insurance for their cars have these two inexpensive coverages which give them full protection. The industry feels that these forms of protection are currently functioning extremely well.

By working with Washington's financial responsibility law, motorists are protected by a system that works more effectively, costs less, and involves fewer administrative and enforcement problems than found in compulsory liability systems.

Financial responsibility laws have other advantages over compulsory liability insurance laws. A compulsory law is directed at all motorists, regardless of traffic convictions or accident involvement. By comparison, the impact of financial responsibility laws is felt by only a limited group of motorists: those who are serious traffic offenders, those who cause major automobile accidents, and those who are financially irresponsible in reimbursing others for damages they caused. Washington's financial responsibility law does not affect drivers indiscriminately as would a compulsory insurance law, but only focuses on drivers who deserve close monitoring because of past driving traits.

Because good financial responsibility laws don't apply to all drivers, the cost of enforcement is reduced and the great majority of responsible motorists are not harrassed by the multiplicity of government efforts to enforce a compulsory law.

Uninsured (or "underinsured" as it is now called in Washington) Motorist coverage (UM) is provided by insurance companies to pay for bodily injury damages to the policyholder caused by an uninsured, or underinsured, motorist. If the policyholders' car is struck by an uninsured, or underinsured, vehicle, the insured's loss is also covered by this feature. Every state with a compulsory liability insurance law also requires insurers to offer UM coverage, which indicates a basic mistrust in the effectiveness of compulsory insurance systems. By purchasing UM coverage, a vehicle owner is assuring that all drivers

and passengers in the insured auto will have protection against losses caused by an uninsured motorist or hit-and-run driver. Compulsory auto insurance cannot make this promise.

REFERENCES

All-Industry Research Advisory Council, PAM 81, Research Report A81-4, Bethesda, MD, 1981.

California Department of Motor Vehicles, A Profile of Uninsured Motorists in California, Jensen Kuan and Raymond C. Peck, 1981.

Illinois Insurance Information Service, Compulsory Auto Insurance -- Will it Work in Illinois, Chicago, 1982.

Maryland Department of Transportation, The Nature and Extent of the Uninsured Motorist Problem in Maryland, Stephen V. Versace, 1977.

New York Department of Motor Vehicles, Division of Research and Development, A Study to Dimension the Uninsured Motorist Problem in New York State, 1979.

New York State Assembly Committee on Oversight, Analysis and Investigation, New York State Uninsured Motorist Problem in New York State, 1979.

Pennsylvania Department of Transportation, Uninsured Motorist Problem in Pennsylvania, Robert P. Spena, Robert M. Mustin, and Given Racker, 1981.

State Farm Insurance Companies, Public Relations Department, Should Auto Liability Insurance be Required by Law?, Bloomington, Ill., 1982.

The Washington Insurance Council also wishes to acknowledge research conducted on compulsory auto insurance by the Alliance of American Insurers, the American Insurance Association, the Insurance Information Institute and the National Association of Independent Insurers.

LEGAL OBLIGATIONS TO BUY INSURANCE

1. FINANCIAL RESPONSIBILITY LAWS

In those states with financial responsibility laws, all drivers must be able to prove, either before or after an accident, financial ability to pay damages resulting from an actual or possible future accident. If they cannot, their drivers' licenses and auto registrations may be suspended, or their vehicles impounded, either for a specified time or until the damages from an accident have been paid.

This varies from state to state. "Responsibility" may be established by showing proof of financial assets or proof of a liability insurance policy.

**WHO IS
AFFECTED?**

**HOW MUCH IS
REQUIRED?**

2. COMPULSORY LIABILITY INSURANCE

In many states, liability coverage for bodily injury and property damage is required in order to register a car (but it is not a condition for obtaining a driver's license if the driver does not own a car).

Each state establishes a minimum amount of insurance coverage that is required. Penalties for failure to have insurance coverage vary from state to state and may include fines, imprisonment, revocation of driver's license or car registration.

**WHO IS
AFFECTED?**

**HOW MUCH
IS REQUIRED?**

Jurisdictions which have forms of "first-party" auto insurance and the dates on which the laws originally became effective follow.

Compulsory first-party/liability insurance; some restrictions on lawsuits

Colorado, April 1, 1974	Kansas, January 1, 1974	New Jersey, January 1, 1973
Connecticut, January 1, 1973	Kentucky, July 1, 1975	New York, February 1, 1974
District of Columbia, September 18, 1982	Massachusetts, January 1, 1971	North Dakota, January 1, 1976
Georgia, March 1, 1975	Michigan, October 1, 1973	Pennsylvania, July 19, 1975
Hawaii, September 1, 1974	Minnesota, January 1, 1975	Utah, January 1, 1974

Compulsory first-party, optional liability insurance; some restrictions on lawsuits

Florida, January 1, 1972	Puerto Rico, 1970
--------------------------	-------------------

Compulsory first-party and liability insurance; no restrictions on lawsuits

Delaware, January 1, 1972	Maryland, January 1, 1973	Oregon, January 1, 1972
---------------------------	---------------------------	-------------------------

Compulsory liability, optional first-party insurance; no restrictions on lawsuits

South Carolina, October 1, 1974

Insurance not compulsory; first-party benefits optional, no restrictions on lawsuits

Arkansas, July 1, 1974	South Dakota, January 1, 1972	Virginia, January 1, 1972
New Hampshire, October 1, 1971	Texas, August 27, 1973	

SOURCE: Insurance Information Institute,
insurance Facts, 1982-83 Edition, p. 78.



WASHINGTON INSURANCE COUNCIL, 1218 Third Avenue, Seattle, Washington 98101, 624-3927

Summary of
RAMIFICATIONS OF COMPULSORY AUTO INSURANCE

Costly:

One thing to bear in mind when contemplating such proposals is the cost inherent in the administration of compulsory auto insurance.

- *- New York, Maryland and South Carolina annually have spent \$4 million, \$1.5 million, and \$1.3 million respectively to administer compulsory insurance systems.
- *- Estimates for the cost to the state as the central enforcement and monitoring agency, do not include estimates of costs to local governments.
- *- Costs for enforcing a compulsory system are borne by all taxpayers, not just those who drive.
- *- Significant new administrative costs to insurance companies are passed on to policyholders, at least in part.
- *- Legislators may have to explain endorsement of legislation that adds new costs to an already overburdened state economy for a program of negligible value.
- *- A compulsory insurance law in Washington could add a minimum of 10 million new paper transactions each year to be paid for by taxpayers and policyholders.

Inconvenient:

Compulsory laws always are an inconvenience to the vast majority of the driving public, forcing most drivers, who have always been financially responsible, to deal with the hassles of a new bureaucratic tangle.

- *- The Pennsylvania Department of Transportation found that in 1980 only 4.8 percent of nearly 200,000 citizens who received inquiries from the state were found to be uninsured.
- *- West Virginia drivers, from October 1981 through January 1982, received 196,000 license cancellation notices from the state, yet 95 percent of them had never let their policies lapse. To date, 2,500 orders to the West Virginia state police to pick up license plates have been mistakenly issued.

- *- Compulsory laws mandate maintaining new forms of identification and registration, having to produce them whenever asked, and, in general, being subjected to treatment similar to the old high school technique of holding an entire class in detention to make sure one or two troublemakers are punished.

Ineffective:

Despite all efforts, the innocent driver may still be left in the lurch by the uninsured driver who historically escapes the various nets laid out by compulsory systems.

- *- Such laws will not protect from: the operator of stolen vehicles, drivers from other states, drivers of unregistered vehicles, the dedicated insurance dodger who cancels a policy as soon as he has received an insurance certificate, the hit-and-run driver, etc.
- *- The ineffectiveness of compulsory insurance laws is evidenced by other state legislatures, which, in passing compulsory systems, continue to keep the mandatory offering of uninsured motorist and personal injury protection coverages in their laws.

Alternatives:

There are currently available in Washington means to protect oneself from irresponsible drivers.

- *- Tough financial responsibility laws that can help identify bad drivers ahead of time.
- *- Mandatory offering of uninsured and underinsured motorist coverage available for a minimal charge.
- *- Other approaches that avoid the excessive costs and frustrations compulsory laws generate.
- *- Washington's insurance industry feels the best approach to the uninsured motorist lies in strengthening the enforcement of such cost-effective existing alternatives.

January 20, 1983