ALASKA LEGISLATURE COMMITTEE FILES 1983 - 1984 8672
2681 SLC HB 7 (FILE 4) 2681

HB

7

#4

Alaska State Legislature

Advisory Council Members
Senator Kerttula, Chairman
Senator Bennett
Senator Vic Fischer
Senator Fahrenkamp

Pouch V
State Capital
Juneau, Alaska 99811
Phone: (907) 465-3114

SENATE ADVISORY COUNCIL

MEMORANDUM

TO: Ken Moore, Director
Division of Insurance

FROM: Pete Jeans
Senate Advisory Council

DATE: July 7, 1983

RE: Auto Insurance Industry - SB223

During the interim, we are doing some work on SB223. We would like any information that may be available on other states which currently have mandatory auto insurance. Are any statistics available regarding cost savings from other states?

We would also like any historical costs and estimated future costs to the state due to damages caused by uninsured motorists. Do you feel there would be any savings to the state from adoption of a bill such as SB223?

Is the auto insurance industry in Alaska more or less profitable than in other states? Any statistics would be helpful.

Would the adoption of SB223 result in any savings to the Alaska consumer?

Any assistance on this subject would be greatly appreciated.

STATE
of ALASKA

MEMORANDUM

DIVISION OF INSURANCE

TO: Pete Jeans
Senate Advisory Council

DATE: July 18, 1983

FROM: Kenneth C. Moore KCM
Director

SUBJECT: Auto Insurance Industry
SB 223

Thank you for your memo dated July 7, 1983.

SB 223 is similar to the House passed version of HB 7, namely CSSSHB 7(Fin). The Division of Insurance, on behalf of the Administration, has spoken against the measure on a number of occassions. The issues leading to that position are:

1. the bill would raise insurance costs;
2. the bill creates an unnecessary bureaucracy;
3. the bill would not be effective; and,
4. an inexpensive alternative is available.

About 32 states have some form of compulsory automobile insurance The majority of these states have their compulsory law in conjunction with a no-fault law. The stated purpose for the proposals being considered by the Alaska Legislature is to impact the number of uninsured motorists driving in this state. The genesis of the widespread use of compulsory automobile insurance requirements has not been based on the concept of reducing the number of uninsured motorists, but rather was designed to avoid a constitutional challenge based on an equal protection argument in those states adopting a no-fault law. No-fault laws were intended to increase the portion of the premium dollar available for benefits and had nothing to do with reducing uninsured motorists populations. HB 7 and SB 223 are not no-fault proposals.

On May 24, 1983, I responded to a research effort by Mr. Jeff Day in the office of the Speaker of the House. That memo contains much that is pertinent to your inquirey. I have attached a copy for your review.

Our principal argument against this legislation concerns cost. The direct costs and the indirect costs would be, we believe, substantial. The fiscal note presented by the Department of Public Safety is a minimum enforcement approach and it exceeds a million dollars. The bureaucracy created basically is aimed at one purpose and can not avoid being ineffective by its very structure.

The direct cost to the consumer via increased insurance premium is a major concern and is one that does not lend itself to precision in pricing. The extra hoops that an insurance company must go through do increase the administrative burden for the insurer thus the need for more premium. The less tangible factor comes as the result of a change in public attitude when they "know" that the other guy has insurance because the state requires it. This increase in litigousness is difficult to measure but is generally reflected in experience after it occurs. While it does cause rates to rise, it does not do so in advance of the occassion for its rise. A study of states adopting a compulsory automobile liability insurance (without no-fault) shows that a rise occurs for a variety of reasons and when compared to states with similar demographic characteristics, geographic characteristics and number of insured vehicles, the compulsory state experiences a greater rise in premium. This can be seen with an examination of Exhibit III of the attached memo. Compulsory laws do not result in insurance savings.

We do not have studies from other states comparable to that conducted here. For the latest year for which we have compiled statistics that show profitability , the top 30 automobile liability insurers had a combined expense and loss ratio of .979 which means that the automobile insurers made a profit of 2.1% in 1981. The formulas used in this state as well as in most states calls for a profit margin of 5% built right in to the rate. Point is that in Alaska, insurers have hit the mark pretty close to where it should be and that is conducive to a healthy and competitive marketplace. The Alaska combined ratio is shown for each individual top 30 company in Exhibit I of the attached memo.

In our testimony before the Legislature, we have been estimating an immediate increase of about 10% due to the compulsory aspect of the bill alone. The increased limits effect is separate and pricey.

An inexpensive alternative to the compulsory automobile liability insurance proposal is already incorporated as sections 2, 4, and 18 of SSSB 223. The point of the exercise in which we are now engaged is not how many drivers are insured, but, how many people are experiencing uncompensated loss caused by an uninsured motorist. Accordingly, we developed the language found in sections 2, 4, and 18. This substitute which is also the Senate passed version of HB 7, would mandate an offer by every insurer writing automobile liability insurance in this state, of uninsured and underinsured motorists coverage for bodily injury and property damage in an amount at least as great as that purchased voluntarily for bodily injury and property damage liability. The offer currently exists only for basic limits uninsured motorists bodily injury coverage. This would allow the insured motorist to protect himself from losses caused by uninsured or underinsured drivers. The additional cost for this coverage would be minimal, on the order of $10 to $20 per car per year, a bargain. We do not have reliable numbers for uncompensated loss nor is that information available.

Bill Sheffield, Governor

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D
JUNEAU, ALASKA 99811
PHONE: 465-2500

February 7, 1983

Honorable Joe P. Josephson
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Josephson:

RE: Mandatory Auto Insurance - HB 7

Thank you for your inquiry of January 18, 1983 to the Division of Insurance concerning estimated increases to be expected if a mandatory auto insurance proposal such as HB 7 were to be adopted.

In recent years, a number of states have adopted compulsory or mandatory insurance laws and generally the insurance rates have risen, on the average, 10%. Just what the impact would be in this State is not known and there is no adequate way of determining the impact since there is not a single source to which to go for an evaluation.

There is a wide diversity of rate depending on the insurer providing coverage and the record of the driver. The rates change as insurers update filings, so it would be quite an undertaking to provide the detail you want except in a general way.

Annually, the Division of Insurance publishes a statistical analysis for auto insurance and homeowners insurance which includes rating examples for auto insurance at the basic required limits plus medical. These rating examples provide a ballpark representation of automobile insurance cost by insurer for each rating territory. Enclosed is a copy of the latest analysis. In that analysis, we have highlighted the column of numbers titled liability. A number appearing in that column is a composite of the cost for bodily injury at 25/50M, property damage at 10M, uninsured motorists at 25/50M and medical at 5M. The portion of a number appearing in that column attributable to the various coverages is approximately

Bodily Injury	42%
Property Damage	46%
Medical	7%
Uninsured Motorists	5%
	100%

08-H2LH

To respond to your question concerning the impact of increased limits on present costs, we have developed factors to be applied to the various coverages. These numbers are approximations which may vary slightly from insurer to insurer.

Bodily Injury

25/50M - 1.00	50/100M - 1.20	100/300M - 1.43

Property Damage

10M - 1.00	25M - 1.03	50M - 1.08

Uninsured Motorists

25/50M - 1.00	50/100M - 1.30	100/300M - 1.50

Under Insured Motorists*

25/50M - 1.20	50/100M - 1.50	100/300M - 2.20

* Under Insured Motorists coverage are factors of the 25/50M limit of uninsured motorists coverage.

Using this information, the move to bodily injury 100/300M, property damage 50M, and under insured motorists 100/300M would increase insurance liability costs by about 28 to 30%.

Bodily Injury (increase to 100/300M)	42% x 1.43 =	.60
Property Damage (increase to 50M)	46% x 1.08 =	.50
Medical (no change)	7% x 1.00 =	.07
Under Insured Motorists (100/300M)	5% x 2.20 =	.11
		1.28

Very truly yours,

Richard A. Lyon
Commissioner

RAL/kkk1/4

Enclosure

public affairs report

profile

State Farm Study Adds to Evidence Used to Oppose Compulsory Insurance

•Compulsory auto insurance laws increase the number of insured drivers only slightly and they produce little reduction in accident injuries caused by the uninsured.

•Two of the states with the newest compulsory laws—Arizona and West Virginia—already are experiencing problems with the laws.

•Compulsory was rejected as unworkable in Tennessee and Wisconsin.

These were among the arguments advanced by John Bernstein, associate counsel for State Farm, in opposing compulsory insurance in Illinois. Bernstein's Jan. 18 testimony in Chicago, however, generally could be applied to any proposed compulsory liability laws.

uninsured cars reduced little

The limited effect of compulsory laws is indicated by a study recently completed by the State Farm Research Department. It shows, for example, that overall, compulsory insurance laws passed after 1972 have reduced uninsured cars by about one-sixth, while apparently having little effect on the chances that occupants will be injured by uninsured motorists.

The study points out this seemingly paradoxical result is "consistent with the idea that the uninsured motorists with the highest propensity to cause injury tend not to comply with the law."

unpaid losses more important

What's important is not how many drivers are insured, Bernstein said, but how many uninsured drivers are causing losses that are uncompensated.

State Farm's finding, then—based on its own uninsured motorist (UM) and bodily injury liability (BI) experience—suggests compulsory isn't very relevant.

The State Farm study also shows that chances a motorist will have an uninsured motorist (UM) personal injury claim are slim—once in every 909 years. In other words, if 100 drivers drove for 40 years, just four would have a UM claim.

West Virginia, which enacted a compulsory law in 1981, ran into trouble a year later. The law, in effect, required insurers to send notices of insurance termination to people whose policies were about to expire. However, 95 percent of those who received the notice had already paid their premium—a little late, Bernstein pointed out. The commissioner of motor vehicles has called the law "a nightmare to administer."

According to Bernstein, a leading advocate of compulsory said 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."

In Arizona, where a compulsory law went into effect Jan. 1, the chief deputy auto license director of Maricopa County (Phoenix) says the forms required by the law have caused a "mess."

The head of the Arizona Prosecuting Attorneys Advisory Council is even more emphatic in criticizing the law. He "uses a few more expletives," said Bernstein.

fails to decrease uninsured population

Compulsory not only is an administrative hassle, but it also has failed to decrease the uninsured motorist population, even in states where it has been on the books a long time such as Massachusetts (since 1927) and New York (1957), according to Bernstein. "Massachusetts is estimated to have between 10 to 15 percent of its driving population uninsured," whereas "New York is estimated to have an uninsured motorist population of at least one half million," he said.

Compulsory liability laws lead to higher insurance rates and governmental costs, Bernstein testified.

Premiums go up because of the increased paperwork that's required for verification of coverage.

'no workable, cost-effective enforcement'

Enforcement of the compulsory law costs a lot of money—$8 million a year, in New York, for example, and that's projected to reach $12 million with computerization in 1983, Bernstein said.

A compulsory bill in Tennessee failed in 1981, Bernstein said, after a legislative subcommittee reported that its investigation of compulsory showed "no state has developed a workable cost-effective enforcement system. . ." It went on to say that "The responsible motorist should not pay more for insurance coverage nor be subjected to harassment in a futile attempt to enforce compulsory laws."

That same year, the state auditor of Wisconsin, according to Bernstein, reported: "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."

'adverse social implications'

A compulsory law would have "serious adverse social and legal implications," according to Bernstein.

He quoted from testimony given by Dr. John Hall of Georgia State University for a South Carolina legislative committee in 1979.

Dr. Hall said "the economically disadvantaged have less real need for liability insurance" since they have less to protect. They view liability insurance "as taking care of the other people. . .and see themselves as having to pay a high premium simply in order to retain the right to drive."

Since the poor can't afford coverage to protect themselves and their families, to force them to carry coverage to protect others "appears morally and socially wrong," Dr. Hall said.

Bernstein suggested consideration of alternatives to compulsory, such as a plan in Virginia which, according to State Farm UM data, has a lower proportion of uninsured motorists than most states. "In fact, Virginia has done better than about 60 percent of the compulsory insurance states," according to the study.

Virginia system seems to work

The Virginia law requires that persons registering an uninsured vehicle must pay a $200 fee at the time of registration. The fee goes for administration of the state's safety responsibility law. That law requires motorists be able to show proof of financial responsibility. Any leftover funds go to auto insurers to offset uninsured motorists costs (a feature Bernstein said he doesn't necessarily favor).

The Virginia safety responsibility law is vigorously enforced, according to Bernstein. People found in violation of the law also must post the $200 fee and must post proof of future financial responsibility (liability insurance, for example) for a three-year period, Bernstein said. A fine also may be imposed.

MEMORANDUM

State of Alaska

TO: LBRC/Susan Rogers
Governor's Office

DATE: March 10, 1983

FILE NO:

MAR 11 1 56 PM '83

TELEPHONE NO: 465-3600

FROM: Norman C. Gorsuch
Attorney General

SUBJECT: Amendment to HB 7

By: Jeffrey W. Bush
Assistant Attorney General

Pursuant to your request, I have reviewed the proposed amendment to HB 7, and I have no particular problems with the proposal.

I have recommended a few minor technical changes, and in light of the urgency of the request, I decided to return your draft with my proposed corrections handwritten in, rather than having it retyped.

JWB/llb

cc: Art Peterson

02-001A (Rev. 10/79)

RECEIVED
DIV. OF INSURANCE

MAR 11 1 56 PM '83

ALASKA DEPT. OF
COMMERCE & ECONOMIC
DEVELOPMENT

POSITION PAPER

HB 7
"An Act requiring evidence of motor vehicle liability insurance to be furnished to the Department of Public Safety when motor vehicle registration is made or renewed; and providing for an effective date."

Position

The administration is not in favor of a mandatory or compulsory automobile liability insurance system as proposed in HB 7. The reasons are:

1. Administration of the program is expensive and would necessitate a substantial bureaucracy to enforce.

2. The cost of insurance is higher in a mandatory system. This is due to elimination of exclusions in the policy, defenses available to an insurer, and increased administrative costs.

3. Mandatory systems only slightly increase the insured population and produce little reduction in accident injuries caused by the uninsured operator.

4. The economically disadvantaged have less real need for liability insurance which acts as a disincentive for compliance with a mandatory system.

Suggested Alternative

The North Carolina/Virginia experience suggests that comparable if not superior inroads can be made on the uninsured population through a strong financial responsibility law and mandatory offering of uninsured motorists coverage. Last year, impediments to the smooth working of our law were corrected and it is really too soon to say how effective those changes will be in this state.

What is really important is not how many drivers are insured, but how many uninsured drivers are causing losses that are not compensated. We recommend a mandatory offer by every automobile insurer writing in this state of uninsured motorists coverage and under insured motorists coverage, bodily injury and property damage in an amount at least equal to that voluntarily purchased for bodily injury liability and property damage liability. That offer currently exists only for basic limits uninsured motorists bodily injury coverage. This would allow the insured motorist to protect himself from losses caused by uninsured drivers.

AS 21.89.020 is amended to read:

(a) An automobile liability policy which insures an owner or operator of a motor vehicle against loss resulting from his liability for bodily injury or death, or for property injury or destruction, or both, which is sold in the state [AFTER JANUARY 1, 1969, BY AN INSURANCE CARRIER AUTHORIZED TO TRANSACT BUSINESS IN THIS STATE], shall contain limits in at least the amount prescribed for a motor vehicle liability policy in AS 28.20.440(b)(2) [AND MEET THE REQUIREMENTS OF AS28.20.440(b)(3) UNLESS WAIVED AS PROVIDED IN THAT PARAGRAPH] .

(b) In addition to the coverages and limits required in (a) of this section, an insurance company offering automobile liability insurance in this state shall offer coverage, with limits ~~equal to at least~~ no less than the limits purchased voluntarily to cover the insured persons' liability, for the protection of the persons insured under the policy who are legally entitled to recover damages from owners or operators of uninsured or underinsured motor vehicles. This coverage shall be offered in four parts, one or more of which may be waived by the insured pursuant to AS 28.20.440(b)(3). The parts are:

(1) uninsured motorists, bodily injury;

(2) uninsured motorists, property damage;

(3) underinsured motorists, bodily injury; and,

(4) underinsured motorists, property damage.

(c) [(b)] This section may not be construed to apply only to automobile liability policies obtained to satisfy a requirement of AS 28.20.

AS 28.20.440(b)(3) is amended to read:

(3) contain coverage in the amounts set out in (2) of this subsection for the protection of the persons insured under the policy who are legally entitled to recover damages from owners or operators of uninsured or under insured motor vehicles because of bodily injury or death, or injury to or destruction of property arising out of the ownership, maintenance or use of the uninsured or under insured motor vehicle, except that this coverage or part of it may be waived in writing by the insured on or before the effective date of the policy.

* Section 1. AS 21.89.020 is amended to read:

(a) An automobile liability policy which insures an owner or operator of a motor vehicle against loss resulting from his liability for bodily injury or death, or for property injury or destruction, or both, which is sold in the state [AFTER JANUARY 1, 1969, BY AN INSURANCE CARRIER AUTHORIZED TO TRANSACT BUSINESS IN THIS STATE], shall contain limits in at least the amount prescribed for a motor vehicle liability policy in AS 28.20.440(b)(2) [AND MEET THE REQUIREMENTS OF AS 28.20.440(b)(3) UNLESS WAIVED AS PROVIDED IN THAT PARAGRAPH].

(b) In addition to the coverages and limits required in (a) of this section, an insurance company offering automobile liability insurance in this state shall offer coverage, with limits no less than the limits purchased voluntarily to cover the insured persons' liability, for the protection of the persons insured under the policy who are legally entitled to recover damages from owners or operators of uninsured or under insured motor vehicles. This coverage shall be offered in four parts, one or more of which may be waived by the insured pursuant to AS 28.20.440(b)(3). The parts are:

(1) uninsured motorists, bodily injury;

(2) uninsured motorists, property damage;

(3) underinsured motorists, bodily injury; and,

(4) underinsured motorists, property damage.

(c) [(b)] This section may not be construed to apply only to automobile liability policies obtained to satisfy a requirement of AS 28.20.

* Sec. 2. AS 28.20.440(b)(3) is amended to read:

(3) contain coverage in the amounts set out in (2) of this subsection for the protection of the persons insured under the policy who are legally entitled to recover damages from owners or operators of uninsured or underinsured motor vehicles because of bodily injury or death, or injury to or destruction of property arising out of the ownership, maintenance or use of the uninsured or underinsured motor vehicle, except that this coverage or part of it may be waived in writing by the insured on or before the effective date of the policy.

Comments on HB 7

General

HB 7 would require mandatory automobile insurance for every automobile registered in the state of Alaska. The general expectation with this kind of legislation is to reduce or eliminate the number of persons driving without insurance. Mandatory or compulsory automobile insurance laws do not work. It is virtually impossible to enforce this kind of law. States that have tried find that their resultant uninsured motorist population is no less than those states with strong financial responsibility laws. Mandatory laws tend to be costly to administer. This is supported by the experience of such states as New York, North Carolina, South Carolina, Pennsylvania, California, West Virginia and others.

All Drivers Covered

Sec. 28.22.010(b)(2) on page 2, lines 23 - 29 and page 3, lines 1 - 5 provides that an owner's policy cover every person using the insured vehicle with the express or implied permission of the named insured. This will result in situations where persons with good driving records will have to bear rates based on the record of a driver with a bad history even in cases where that driver has his own vehicle and coverage. Presently, such persons can be excluded. Two examples of this that occur with some frequency are: (1) the licensed young driver living at home who has his own vehicle, a bad record and is a potential exposure on his parents policy; (2) the separated but not divorced spouse, living elsewhere, has bad record, own vehicle and cannot be excluded from the spouse's policy.

An alternative for consideration is to permit exclusionary endorsements under certain conditions, such as the owning and insuring of a vehicle by the driver to be excluded or the securing of an operators policy by the driver to be excluded. This could be accomplished by adding a new subsection following page 3, line 12 (after sec. 28.22.010(c)) to read:

> "Notwithstanding (b) of this section, an owner's policy of liability insurance may exclude or void coverage for a named operator provided that the named operator maintains an owner's or operator's policy of liability insurance."

Absolute Liability

Sec. 28.22.010(f)(1) on page 3, lines 28 - 29 and page 4, lines

1 - 7 provides that an insurance company has absolute liability whenever injury or damage covered by the policy occurs. Black's Law Dictionary defines absolute liability as responsibility without fault or negligence. We believe that this is not quite what was intended here. We believe that HB 7 is looking for a no-exclusion liability coverage that must pay given a legal obligation of the covered person to pay. Exclusions in an automobile policy exist for valid reasons, including the fact that the excluded item is a fit subject for another form of insurance. Removal of the exclusions would result in a product that must be priced higher because its coverages are higher. The insurers defenses in cases of fraud by the named insured are negated. We would suggest that the subsection be deleted. Typical automobile insurance policy exclusions are attached as Attachment #1.

Written Application

Sec. 28.22.010(f)(4) on page 4, lines 15 - 18 provides that the written application is a part of the contract of insurance. This is not presently the situation and the change is not relevant if a policy can only be issued on an absolute liability basis.

Proration

Sec. 28.22.010(i) on page 5, lines 1 - 2 provides for proration with other valid and collectible insurance. If the suggestion made concerning All Drivers Covered is adopted, this section would need to be revised to read:

> "Except with respect to a motor vehicle liability policy issued to a person excluded from coverage pursuant to ( ) of this section, a motor vehicle liability policy may provide for proration of the insurance with other valid and collectible insurance."

Timing of Notice

Sec. 28.22.010(l) on page 5, lines 8 - 15 discusses notice of cancellation by an insurer but is silent as to the timing of such a notice to the Department of Public Safety. We would suggest that a reasonable amount of time be allowed for the State to receive and act on the notice before actual cancellation can take place.

Alternatives

The states of North Carolina and Virginia are neighbors. North

Carolina has a compulsory law with what is considered to be the most effective enforcement of such a law anywhere. Virginia on the other hand does not have a compulsory law but does have what is considered to be one of the toughest financial responsibility laws in the country. The two states have similar uninsured motorists populations. We would recommend that a study of our current financial responsibility act be undertaken with a view to substantially strengthening the act where deficiencies are noted and removing impediments to the smooth functioning of the act.

We would recommend that companies manditorily offer higher limits of underinsured motorists/uninsured motorists coverage than the basic uninsured motorists coverage now offered. We would recommend a mandatory offer of uninsured motorists property damage coverage.

ALASKA DRIVERS
Insured vs. Uninsured

The division's statistical needs respond to rate-making and solvency issues. Nevertheless, it has made an attempt to obtain some feeling as to what portion of the public may be uninsured. Unfortunately, a number of caveats must be placed on this information. The sources for the data used in the calculation come from several areas and in each case, this data is untested and has been subject to some adjustment or assumption which may cast suspicion on its accuracy.

You will note the substantial difference between the two charts. The reason for this difference is attributed to the different interpretation of what constitutes a private passenger type risk. The caveats following each chart detail the source of the numbers.

The data that follows is useful for "guesstimating" the percentage of insured motor vehicles in Alaska. It does not relate to insured persons in Alaska. To our knowledge, there is currently no source for arriving at a number of insured persons since a policy, when written, covers some persons not named automatically.

The unit of exposure, as far as the insurer is concerned, is the number of vehicles not the number of potential operators.

Chart 1. (From Division of Insurance 1982 Statistical Analysis)

(1) Year	(2) Registered Autos	(3) Insured Car Years	(4) % Insured	(5) % Uninsured
1975	199,536	117,355	58.8	41.2
1976	221,386	120,964	54.6	45.4
1977	226,389	121,635	53.7	46.3
1978	232,425	123,581	53.2	46.8
1979	229,403	132,391	57.7	42.3
1980	230,040	136,895	59.5	40.5

(1) This column is on a calendar basis.

(2) The number of registered automobiles was obtained from the Division of Planning and Research in the Department of Transportation and Public Facilities of the State of Alaska. The number of auto registrations derives from the following types of license plates:

- Regular
- Personalized
- Call Letter
- Other, including legislator, historic vehicle
- Pickups and vans
- Farm trucks

The numbers have been adjusted to remove duplicate registrations. They to not include unregistered vehicles, nor is there a method to arrive at a reasonable "guesstimate" of that number. Prior to 1977, pickups and vans were included in the freight-light trucks classification. We have made an adjustment to separate the pickups and vans from that classification, based on the relationship during 1977-79 of the pickups and vans classification to the freight-light trucks classification. Official automobiles (State, federal and municipal) are not included. Some fleets of automobiles have been included but are not identifiable by name or number. The chart relates only to private passenger registrations and insurance.

(3) These figures were obtained from the Automobile Insurance Plans Service Office (AIPSO), a licensed rating organization for this State. Included are voluntary and assigned risk nonfleet private passenger vehicles insured. An insured car year is one automobile insured for one year, so that, if a car is insured for six months, that would be 1/2 car year.

(4) = (3) ÷ (2)

(5) = 100% - (4)

Chart 2 (from AIPSO Ins. Facts, 1982)

Year	Registered Autos*	Insured Car Years+	% Insured	% Uninsured
1973	111,455	99,430	89.2	10.8
1974	135,902	99.430	70.2	29.8
1975	141,921	117,355	82.7	17.3
1976	154,093	120,964	78.5	21.5
1977	159,896	121,635	76.1	23.9
1978	162,578	123,619	82.2	17.8
1979	153,402	132,391	86.3	13.7
1980	153,774	136,895	89.0	11.0

* Represents number of passenger car registrations based on data from U.S. DOT, Federal Highway Administration, Highway Statistics Division, Office of Highway Planning. (A) Includes all new and renewal passenger car registrations. (B) Includes passenger car fleet vehicles, taxi cabs, and miscellaneous private passenger-car type vehicles registered as passenger cars. (C) Includes passenger car registrations made throughout the year, although vehicle may have ben registered only a portion of the year. (D) Vehicles registered in one name and later sold and registered in another name count as two registrations, etc.

+ Represents 1/12 of the number of exposure months of liability insurance on vehicles rated as private passenger nonfleet type risks. (A) Includes many pickup trucks insured as passenger car type but not so registered. (B) May include other vehicles insured as passenger car risks, but registered as antiques, station wagons, vanity, press, ham radio, etc. (C) Does not include motorcycles recreational vehicles, nonowner risks, and cars rated in a fleet or self-insured.

In view of the interest being expressed by a number of persons in reviewing the limits of liability required by the Alaska Safety Responsibility Act (financial responsibility law) the Division of Insurance has updated exhibits originally prepared when the limits were last revised in 1975.

EXHIBIT A reflects the purchasing power or value of the dollar based on the annual average value as measured by consumer prices. The base year utilized is 1959, the year of Alaska Statehood. The indices used were developed by the U. S. Bureau of Labor Statistics. Column (3) shows the limits of liability for bodily injury applicable to the particular year. Column (5) does the same for property damage. The figures for 1982 and 1983 are projections and are not firm.

EXHIBIT B is the same concept as EXHIBIT A except it uses the date of last change of limits as the base year and thus uses a shorter span of years.

EXHIBIT C is an excerpt from the FC&S BULLETINS published by the National Underwriter Company of Cincinnati, Ohio. It depicts the current (as of January 1983) limit of liability for each state of the United States and for each province in Canada.

March 1, 1983

Division of Insurance
Department of Commerce & Economic Development
State of Alaska

PURCHASING POWER OF FINANCIAL RESPONSIBILITY LAW LIMITS USING 1959 (statehood) AS BASE YEAR

(1) Year	(2) Purchasing Power indx	(3) B.I. Limits (000)	(4) Purchasing Power of (3)	(5) P.D. Limit (000)	(6) Purchasing Power of (5)
1959	1.000	10/20	10000/20000	5	5000
1960	.984	10/20	9840/19680	5	4920
1961	.975	10/20	9750/19500	5	4875
1962	.964	10/20	9640/19280	5	4820
1963	.953	10/20	9530/19060	5	4765
1964	.940	10/20	9400/18800	5	4700
1965	.924	10/20	9240/18480	5	4620
1966	.899	10/20	8990/17980	5	4495
1966	.899	15/30	13485/26970	5	4495
1967	.873	15/30	13095/26190	5	4365
1968	.838	15/30	12570/25140	5	4190
1969	.796	15/30	11940/23880	5	3980
1970	.751	15/30	11265/22530	5	3755
1971	.720	15/30	10800/21600	5	3600
1972	.698	15/30	10470/20940	5	3490
1973	.657	15/30	9855/19710	5	3285
1974	.587	15/30	8805/17610	5	2935
1975	.542	15/30	8130/16260	5	2710
1975	.542	25/50	13550/27100	10	5420
1976	.512	25/50	12800/25600	10	5120
1977	.481	25/50	12025/24050	10	4810
1978	.447	25/50	11175/22350	10	4470
1979	.402	25/50	10050/20100	10	4020
1980	.355	25/50	8875/17750	10	3550
1981	.325	25/50	8125/16250	10	3250
1982est.	.310	25/50	7750/15500	10	3100
1983est.	.295	25/50	7375/14750	10	2950
Proposals					
1983est.	.295	50/100	14750/29500	25	7375
1983est	.295	100/200	29500/59000	25	7375

Prepared by: Alaska Division of Insurance
Based on U.S. Bureau of Labor Statistics
Date: March 1, 1983

PURCHASING POWER OF FINANCIAL RESPONSIBILITY LAW LIMITS USING 1975 (date of last change in financial responsibility law limits) AS BASE YEAR

(1) Year	(2) Purchasing Power Indx	(3) B.I. Limits (000)	(4) Purchasing Power of (3)	(5) P.D. Limit (000)	(6) Purchasing Power of (5)
1975	1.000	25/50	25000/50000	10	10000
1976	.945	25/50	23625/47250	10	9450
1977	.887	25/50	22175/44350	10	8870
1978	.824	25/50	20600/41200	10	8240
1979	.742	25/50	18550/37100	10	7420
1980	.654	25/50	16350/36700	10	6540
1981	.599	25/50	14975/29950	10	5990
1982est.	.572	25/50	14300/28600	10	5720

Prepared by: Alaska Division of Insurance
Based on: U.S. Bureau of Labor Statistics
Date: March 1, 1983

Eighth Printing
January, 1983

TABLE OF LIMITS

Financial Responsibility and Compulsory Insurance Laws

The table that follows displays the minimum financial responsibility and compulsory Liability insurance limits for all states, the District of Columbia, and the Canadian provinces. (Limits are expressed in thousands.)

Alabama	$10/20/5
Alaska	25/50/10
Alberta	100
Arizona	15/30/10
Arkansas	25/50/15
British Columbia	100
California	15/30/5
Colorado	15/30/5
Connecticut	20/40/5
Delaware	10/20/5
District of Columbia	10/20/5
Florida	10/20/5
Georgia	10/20/10
Hawaii	25/Unlimited/10
Idaho	10/20/5
Illinois	15/30/10
Indiana	15/30/10
Iowa	20/40/15
Kansas	25/50/10
Kentucky	10/20/5
Louisiana	5/10/1
Maine	20/40/10
Manitoba	50
Maryland	20/40/10
Massachusetts	10/20/5
Michigan	20/40/10
Minnesota	25/50/10
Mississippi	10/20/5
Missouri	25/50/10
Montana	25/50/5
Nebraska	15/30/10
Nevada	15/30/10
New Brunswick	100
Newfoundland	75
New Hampshire	25/50/25
New Jersey	15/30/5
New Mexico	15/30/5
New York	10/20/5*
Northwest Territories	50
North Carolina	25/50/10
North Dakota	25/50/10
Nova Scotia	100
Ohio	12.5/25/7.5
Oklahoma	10/20/10
Ontario	200
Oregon	15/30/5
Pennsylvania	15/30/5
Prince Edward Island	100
Quebec	50†
Rhode Island	25/50/10
Saskatchewan	100
South Carolina	15/30/5
South Dakota	15/30/10
Tennessee	10/20/5
Texas	10/20/5
Utah	20/40/10‡
Vermont	20/40/10
Virginia	25/50/10
Washington	25/50/10
West Virginia	20/40/10
Wisconsin	25/50/10
Wyoming	10/20/5
Yukon	75

*50/100 for wrongful death.

†Because Quebec has a complete no-fault system for bodily injury, the minimum limit applies only to property damage within Quebec and combined bodily injury and property damage outside Quebec.

‡Or, $30,000 combined single limit.

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

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

February 13, 1981

MEMORANDUM

TO: Representative Charles Anderson

FROM: Peter B. Froehlich PBF

RE: Hawaii No-Fault Insurance Statute
Research Request 81-16

You have asked for information concerning the Hawaii no-fault insurance statute. In response to your request, we have assembled the following materials which are attached to this memorandum:

- a copy of the Hawaii no-fault insurance statute, Chapter 294 Motor Vehicle Accident Reparations. (For your convenience, we combined the chapter as it existed after the 1976 session of the Hawaii legislature with the amendments enacted in 1977, 1978, and 1979 sessions.)

- a copy of the digest summary of the eight amendments to the chapter enacted by the 1980 session;

- copies of two companion sections of the Hawaii statutes updated to the present (Sections 286-116 and 806-13); and

- a copy of an information pamphlet for Hawaii drivers which was published in the fall of 1978, and despite subsequent amendments to the act, is still in use.

In addition, we have contacted the Hawaii Assistant Commissioner of Insurance, David T. Ishikawa who has headed the no-fault section of the insurance division since 1974, shortly after the no-fault law was enacted.

Mr. Ishikawa stated that after many amendments had been made to the Hawaii no-fault statute over the past seven years, it was generally felt that all major problems had been eliminated. Only one or two minor housekeeping amendments are anticipated this year. He stated that a primary reason for the success of the Hawaii statute is the threshold of $2,500 damages or death or permanent disability, above which a tort suit is permitted. This threshold has kept 90% of those injured in car accidents within the no-fault system and out of court.

The only real problem Hawaii's system is experiencing is the rapidly rising premium costs of coverage. However, this is a problem which arises not from the system itself, but from inflation and the increasing number and severity of accidents.

According to Mr. Ishikawa, the most controversial aspect of the Hawaii statute is the coverage provided by the state, free of charge, to welfare recipients. He stated that some people object, on philosophical grounds, to subsidizing low-income drivers, but that others feel that the poor will drive regardless, and the state-funded coverage protects the public in the case of accidents involving an indigent driver. No proposed changes are expected to this part of the Hawaii law.

In response to your question concerning the potential difficulty of drivers obtaining proof of insurance and then cancelling their coverage, Mr. Ishikawa stated that it was something which could only be minimized, never eliminated. In Hawaii, it is minimized in two ways: numerous "checkpoints" and severe penalties. Every time a driver and/or vehicle owner has any contact with a government employee, agent or officer, he must show a no-fault insurance identification card. This includes renewal of driver's licenses, renewal of vehicle registration and license plates, annual safety inspections and so on. The penalties for not having a card, which is issued on purchase of insurance, or for using a false card, are strikingly severe. They include all of the following:

1) suspension or revocaton of driver's license;

2) suspension or revocation of vehicle registration or license plates;

3) impoundment of vehicle;

4) up to 30 days imprisonment;

5) mandatory fine of at least $100 and up to $1,000.

While these checkpoints and penalties have not resulted in 100% compliance, they have been effective, according to the Assistant Commissioner.

In addition to the information included in this memorandum, we have requested copies of the regulations which have been adopted to implement the Hawaii statute and the 1981 report to the legislature on its implementaton. We will forward these and other general materials we have requested from the National Conference of State Legislatures immediately upon receipt.

If we can provide any further information concerning the no-fault insurance system in Hawaii or any other state, please do not hesitate to contact us.

PBF/dp

DIGEST of 1980 AMENDMENTS TO HAWAII NO-FAULT INSURANCE STATUTE (CHAP. 294)

ACT 5
(SB 1115, SD 2, HD 2)

PUBLICATION OF INSURERS AND PREMIUMS CHARGED FOR MOTOR VEHICLE INSURANCE. Requires the state commissioner of motor vehicle insurance to publish annually in a newspaper of general circulation a list of all insurers with representative annual premiums for motor vehicle insurance. (SSCR 350, 481; HSCR 8-80, 424-80)
Effective April 9, 1980.

ACT 6
(HB 1802)

MILITIA, SERVICE BY GOVERNMENT EMPLOYEES. Amends law providing for the reporting of government employees to military service by deleting limitation to "male" employees and eliminating specific male gender reference to the governor. (HSCR 70-80; SSCR 822-80)
Effective April 9, 1980.

ACT 7
(HB 1803)

HAWAII STATE GUARD, COMPOSITION OF. Provides the military forces of the State be composed of all able-bodied citizens instead of only able-bodied male citizens who volunteer for service and supplemented, if necessary, by members, rather than men, of the unorganized militia. (HSCR 78-80; SSCR 823-80)
Effective April 9, 1980.

ACT 8
(HB 1826)

EMPLOYEES' RETIREMENT SYSTEM APPLICABILITY TO MEMBERS' SURVIVING SPOUSES. Amends law which makes other state or county pension or retirement laws inapplicable to members covered by the employees' retirement system of the State to include a member's surviving spouse of either sex, not just widows. (HSCR 606-80; SSCR 816-80)
Effective April 9, 1980.

ACT 9
(HB 1957)

CERTIFICATION OF ADDITIONAL ELIGIBLES WHEN MORE THAN 1 VACANT CIVIL SERVICE POSITION IN A CLASS. Allows the director of personnel services to certify an

ACT 44
(SB 2007, HD 1)

VENDING FROM STATE HIGHWAYS; PROHIBITED; PENALTY. Provides that any vehicle or structure parked or placed wholly or partly within the right-of-way of any state highway for the purpose of selling the vehicle or structure or things therefrom, creates a hazardous condition or is a public nuisance, and the department of transportation may remove or require the immediate removal of the vehicle or structure from the highway.

Provides that any person violating this provision is guilty of a misdemeanor. (SSCR 94-80; HSCR 806-80)
Effective April 25, 1980.

ACT 45
(SB 2070, HD 1)

NO-FAULT INSURANCE; ELIGIBILITY FOR JOINT UNDERWRITING PLAN AMENDED. Amends eligibility provisions of joint underwriting plan in Hawaii no-fault law by providing automatic no-fault insurance coverage to all bona fide public assistance recipients upon the issuance of joint underwriting plan certificates by the department of social services and housing. Deems certificate a policy for purposes of insurance law upon the issuance of a valid no-fault insurance identification card. (SSCR 105-80, 551-80; HSCR 804-80)
Effective April 25, 1980.

ACT 46
(SB 2081, SD 1, HD 1)

HAWAII INSURANCE LAW; LIFE INSURANCE POLICY LOANS. Amends life insurance policy loan provision in Hawaii Insurance Law by raising from 6 to 8 per cent the maximum rate of interest that life insurance carriers may charge on policy loans.

Provides insurance commissioner with authority to require life insurance carriers to raise dividends or lower premiums to policyholders when holder's policy provides a rate of return exceeding 6 per cent a year. (SSCR 133-80; HSCR 784-80, 833-80)
Effective June 1, 1980.

ACT 71
(HB 2698, HD 1, SD 1)

UNIVERSITY OF HAWAII'S OVERSEAS OPERATIONS AND ASIAN STUDIES PROGRAMS; REPEALED. Repeals statutory provisions relating to the University of Hawaii's overseas operations and Asian studies programs. (HSCR 459-80; SSCR 854-80) Effective May 17, 1980.

ACT 72
(HB 2703, HD 1, SD 1)

COLLEGE OF EDUCATION; CLARIFICATION OF LANGUAGE. Amends provision of University of Hawaii law by replacing the term "teachers college" with "college of education". Provides that in the matter of the curriculum, the university authorities may, instead of being required to, obtain the approval of the department of education. Repeals the section giving recognition to normal school students and section regarding the status of teachers employed on 9/1/31. (HSCR 463-80; SSCR 855-80)
Effective May 17, 1980.

ACT 73
(HB 2789, SD 1)

NO-FAULT INSURANCE, CUSTOMER'S POLICY PRIMARY OVER REPAIRER'S POLICY. Clarifies that if a temporary substitute vehicle is made available to a customer by a repair shop or a motor vehicle dealer repairing or servicing the customer's insured vehicle, the no-fault policy on the customer's insured vehicle shall be primary over the policy on the temporary substitute vehicle whether or not a charge is made by deleting no charge requirement. (HSCR 590-80; SSCR 989-80)
Effective May 17, 1980.

ACT 74
(HB 2842, HD 1, SD 1)

ANIMAL SPECIES ADVISORY COMMISSION; INCREASE MEMBERSHIP AND AMEND DUTIES. Includes the recommendation of the forestry division of the department of land and natural resources, in addition to the department's fish and game division as presently required, prior to authorization by rule of the deliberate introduction of a species of animal by the department of land and natural resources into any habitat within the State, whether the introduction is from without the State into the State or from 1 area in the State into another area in the State.

ACT 85
(SB 2197, SD 1)

PURCHASE OF GOODS PRODUCED BY INMATE LABOR BY STATE AGENCIES AND POLITICAL SUBDIVISION; REPEAL OF CERTAIN REQUIREMENTS. Deletes requirement that purchases of all articles or products manufactured by the department of social services and housing, by inmate labo [illegible] state agencies or its political subdivisions shall be made throu [illegible] department of accounting and general services.

Abolishes the requirement that exceptions to the purchase of such products be made by a board consisting of the director of social services, the state comptroller, and the director of finance. Provides instead that all such exceptions shall be made by the director of social services. (SSCR 117-80; HSCR 749-80, 919-80)
Effective May 21, 1980.

ACT 86
(SB 2214, SD 1)

INSURANCE; COMMISSIONER, APPOINTMENT OF ASSISTANT COMMISSIONER, ESTABLISHMENT OF INSURANCE DIVISION, SALARY. Amends no-fault motor vehicle insurance law by amending the definition of "commissioner" from the state commissioner of motor vehicle insurance to the insurance commissioner provided for by the Hawaii Insurance Law.

Amends the Hawaii Insurance Law by establishing an insurance division within the department of regulatory agencies under the supervision and control of the assistant insurance commissioner. Requires director of regulatory agencies to appoint, with approval of the governor, an assistant insurance commissioner to serve at director's pleasure, who shall supervise the performance of the duties of the division.

Repeals provisions establishing office of, providing for appointment of, and granting of powers and duties to, the commissioner of motor vehicle insurance.

Amends salary provisions for motor vehicle insurance commissioner and making them applicable instead to the assistant insurance commissioner and providing that the director of regulatory agencies instead of the insurance commissioner has the authority to set such salary, and provides the salary shall not be more than $37,500. Deletes reference setting salary ceiling for motor vehicle insurance commissioner as of 7/1/75 and 7/1/76.

Provides that the incumbent commissioner of motor vehicle insurance on effective date of Act shall serve as the assistant insurance commissioner until termination of incumbent's term and requires director of regulatory agencies to thereafter appoint assistant insurance commissioner pursuant to this Act. (SSCR 134-80; HSCR 721-80, 924-80)
Effective May 21, 1980.

abetting or entering into a contract with unlicensed persons or contractors to be fined $200 for the first offense, $600 for the second offense, and not less than $800 or more than $1,000 for any subsequent offense. (SSCR 560-80; HSCR 832-80)
Effective May 22, 1980; except that penalties incurred and proceedings initiated before May 22, 1980 are not affected.

ACT 103
(SB 2676, SD 1)

MOTOR VEHICLE INSURANCE; PERMISSION FOR USE OF CAR. Clarifies that under a no-fault policy, coverage of an operator of the insured motor vehicle means one using such vehicle with the express or implied permission of the named insured. (SSCR 506-80; HSCR 879-80)
Effective May 22, 1980.

ACT 104
(SB 2770, SD 1, HD 1)

HAWAII VISITORS BUREAU EXECUTIVE BOARD MEMBERSHIP; PROHIBITION AGAINST STATE OR COUNTY OFFICER OR EMPLOYEE SERVING; REPEALED. Repeals law prohibiting an employee or officer of the State or its political subdivisions or any member of a county advisory committee created under the law relating to county advisory committees to the department of planning and economic development from serving as a member of the Hawaii Visitors Bureau executive board or committee. Prohibits instead only employees or officers of the department of planning and economic development from serving as members of the Hawaii Visitors Bureau executive board. (SSCR 589-80; HSCR 844-80)
Effective May 22, 1980.

ACT 105
(SB 2870, SD 1, HD 1)

ARREST WITHOUT A WARRANT. Authorizes a police officer or other officer of justice to arrest a person without a warrant, and detain for examination when there is probable cause for the arresting officer to believe, instead of having reasonable suspicion, the person arrested has committed an offense in the officer's presence or has committed a felony or misdemeanor whether in the officer's presence or otherwise. Deletes reference to seaport or town and to cases where it is not certain an offense has not been committed. Deletes reference to intention to commit an offense.

Provides an arresting officer has probable cause when the facts and circumstances within the officer's knowledge and of which the officer has reasonably trustworthy information are sufficient in themselves to warrant a

ACT 143
(SB 209, SD 2, HD 2)

NO-FAULT INSURANCE FOR PUBLIC ASSISTANCE RECIPIENTS. Adds provision to no-fault law providing insurance for public assistance recipients to provide that only one vehicle per public assistance unit will be insured unless extra vehicles are approved by the department of social services and housing as being needed for medical or employment purposes. (SSCR 344, 464; HSCR 9-80, 815-80)
Effective May 28, 1980.

ACT 144
(SB 1370, SD 2)

JUDICIARY PERSONNEL; COMPENSATION. Adds provision to employee compensation law that no position shall be classified and paid in salary ranges SC-1, SC-2, and SC-3 in the judiciary unless recommended by the administrative director of the courts and approved by the chief justice. Provides further that not more than one position shall be classified and paid in these ranges in the judiciary.

Requires the administrative director of the courts to report annually to the legislature as to the manner in which the positions assigned to these ranges are being used. (SSCR 43, 47-80; HSCR 700-80, 1040-80)
Effective May 28, 1980.

ACT 145
(SB 1838, SD 3, HD 1, CD 1)

HAWAII CRIME COMMISSION; DUTIES; POWERS; COMPOSITION. Provides that the presently existing Hawaii crime commission shall remain in existence instead of ending on 6/30/80 as established in the office of the lieutenant governor from 7/1/80 to 6/30/81. Provides that commencing 7/1/81, there is established within the office of the lieutenant governor for administrative purposes only the Hawaii crime commission and that this commission shall have its existence terminated, if not renewed by the legislature on 1/30/84.

Provides that the commission shall be composed of 9, instead of 12, members appointed by the governor with the advice and consent of the senate. Deletes exception for chairperson from appointment provisions, deletes reference to the 7/1/77 to 6/30/80 term, and deletes provisions that the members shall be representative of the State's population and provisions for appointment of chairperson by legislature and filling of vacancies. Provides that the term of each member shall be from 7/1/81 to 1/30/84. Requires the governor to appoint a chairperson and fill all vacancies for the unexpired term with the advice and consent of the senate. Provides that a vacancy for chairperson shall be filled the same as for initial appointments. Provides that the dynamite or other explosives, blasting caps, bombs, or bombshells, by changing the penalty from a 2 to 5 year term of imprisonment without probation to a class C felony and imprisonment for 5 years without probation.

Amends provisions on issuance of licenses to carry firearms, prohibitions on such licensing, and the carrying of pistols or revolvers, by changing the penalty for violating such provisions from imprisonment for 2 to 5 years without probation to a class C felony.

Amends provisions which prohibit the wilful alteration, removal, or obliteration of the name of the make, model, manufacturer's number, or other mark of identity of any firearm or ammunition by changing the penalty from imprisonment for a term of 1 to 2 years without probation to a misdemeanor. (HSCR 315-80; SSCR 964-80; HC 28-80; SC 30-80)
Effective June 7, 1980.

ACT 234
(HB 1986, SD 1, CD 1)

MOTOR VEHICLE ACCIDENT REPARATIONS; NO-FAULT. Amends definition of no-fault benefits in Motor Vehicle Accident Reparations law to include only the monthly earnings loss equal to the lesser of (1) $800 a month, or (2) the monthly earnings for the period during which the accidental harm results in the inability to engage in available and appropriate gainful activity, deleting existing 3rd option of a monthly amount equal to the amount by which the lesser of (1) or (2) above exceeds any lower monthly earnings at the time the injured person resumes gainful activity.

Deletes commencement date of 9/1/74 in provision requiring the motor vehicle insurance commissioner to accumulate experience data on a yearly basis. Deletes specific reference to claims filed and tort claims filed, settled, or litigated in provision requiring tabulation of amounts of benefits paid and adds requirement of tabulation of benefit amounts reserved. Requires the commissioner to perform such actuarial evaluations of these data necessary (instead of arranging the claims made by dollar value from maximum to zero) in determining annually the specific dollar value figure below which 90 per cent of all, non-zero (added), medical rehabilitative claims, arising from motor vehicle accidents occurring during the next no-fault policy term year are expected to fall (instead of claims made or paid during the year). Provides that this specific figure shall be used annually as the medical rehabilitative limit for all accidents occurring during the next no-fault policy term year for the purpose of the exception to abolition of tort liability provision. Deletes prior reference applying limit to 3rd and succeeding years and deletes provision that for 9/1/74 to 8/31/76 the medical rehabilitative limit shall be $1,500. Adjusts the period that the commissioner shall make the tabulation to compute the medical rehabilitation limit from 7/1 to 6/30 to 4/1 to 3/31 preceding the 9/1 start of the no-fault policy term year.

Clarifies that each violation of the Motor Vehicle Accident Reparations law by the operator, owner, or registrant of a motor vehicle shall be deemed a separate offense and subject to a fine of not less than $100 nor more than $1,000 and such fine shall not be suspended irrespective of the Hawaii Penal Code and deletes the alternative penalties of 30 days in jail, suspension of driver's license, or forfeiture of vehicle registration, or any combination of penalties. Adds provision that in the case of multiple violations, the court shall in addition to any other penalty impose:

(1) Imprisonment of not more than 30 days;

(2) Suspension or revocation of driver's license of the driver and the registered owner;

(3) Suspension or revocation of the vehicle's registration plates;

(4) Impoundment or impoundment and sale of the motor vehicle for storage costs and other charges incident to seizure of the vehicle or other costs involved pursuant to the required policy coverage provision; or

(5) Any combination of penalties.

Amends criminal procedure law on motor vehicle insurance violations to clearly provide for multiple violations and to add to the penalties the court shall impose, the penalty of imprisonment of not more than 30 days.

Adds new section to no-fault law that if an insurer or self-insurer elects to deny a claim for no-fault or optional additional insurance benefits in whole or in part, it shall within 5 business days thereafter notify the claimant in writing of the denial and reasons therefor. Provides that if the claimant objects to the denial, the claimant shall file with the motor vehicle insurance commissioner 2 copies of the denial, a written request for review and a statement of specific reasons for the claimant's objections, filed within 60 days after denial. Provides that the commissioner shall not review any denial in which the disputed amount is less than $5,000.

Requires the commissioner to conduct a hearing to review the denial under the Administrative Procedure Act with the hearing powers under the law conferring that power on boards to conduct hearings. Provides that after granting an opportunity for hearing to the insurer and claimant, the commissioner shall affirm or reject the denial and order the payment of benefits as the facts may warrant. Provides that the commissioner may assess the hearing cost upon either or both of the parties. Provides that the commissioner's final order may be appealed under the Administrative Procedure Act. (HSCR 123-80; SSCR 983-80; HC 5-80; SC 6-80)
Effective June 7, 1980.

least one general partner. (HSCR 443-80; SSCR 767-80, 1008-80; HC 36-80; SC 46-80)
Effective June 13, 1980.

ACT 271
(SB 1960, SD 1, HD 1, CD 1)

NO-FAULT INSURANCE; PREMIUM DISCOUNTS, SURCHARGES, AND DRIVER EDUCATION FEES FOR MOTORCYCLES, MOTOR SCOOTERS, AND RELATED VEHICLES. Amends insurance rates provision in no-fault motor vehicle insurance law by requiring all insurers of motorcycles, motor scooters, or vehicles with less than 4 wheels, notwithstanding existing law requiring each insurer to establish own rate schedule, to provide a 10 per cent discounted premium to operators who successfully complete a safe driving course approved by state director of transportation.

Permits any insurer of such vehicles to provide a 10 per cent or less discounted premium to operators who submit affidavits stating intent to wear approved safety helmet during operation of vehicle. Adds proviso permitting insurers providing discounts to levy a surcharge, equal to discount, on premiums of operators failing to submit affidavits. Prohibits any insured operator with discounted premium from operating such vehicle unless operator wears approved safety helmet.

Adds proviso to law requiring 1/2 of all driver education underwriter fees collected to be expended for a driver retraining program and 1/2 to support a high school driver education program to provide that all such fees collected from insurers of motorcycles, motor scooters, or related vehicles shall be expended for educating operators of such vehicles. (SSCR 636-80; HSCR 828-80; SC 51-80; HC 41-80)
Effective June 16, 1980.

ACT 272
(SB 2927, SD 2, HD 1, CD 1)

MENTAL HEALTH PATIENTS; INFORMED CONSENT AND RIGHTS. Requires informed consent, as required by the medical torts law and as defined by the board of medical examiners, to be obtained from a patient, or the patient's guardian, if the patient is not competent to give informed consent, before any non-emergency treatment for mental illness can commence. Requires a signed consent form reflecting the proceeding to be obtained and maintained as part of the patient's record.

Affords any patient in a licensed psychiatric facility the following rights, as provided by the institution. Qualifies all such rights of in-patients by reasonableness, in view of the circumstances and the availability of resources. Includes, but is not limited to, the following: (1) access to written rules and regulations with which the patient is expected to comply;

NO-FAULT INSURANCE
FALL 1978

THE LAW

On September 1, 1974, a new system of automobile insurance was established in Hawaii which affected anyone who owned a car or who might be injured in an automobile accident. It is a law which provides prompt payment of medical bills, loss of wages and any other appropriate economic losses resulting from injuries in an auto accident *regardless of whose fault it is.* This law is known as the *Hawaii No-Fault Law.*

WHAT IS NO-FAULT?

First of all, when we speak of "no-fault", we are talking about *injuries as a result of an auto accident* — and not damages to cars or property. Before Hawaii's no-fault law came into effect, we operated completely under a *tort* or *fault system* of insurance.

For example, if you were involved in an accident and were injured, you had to worry about whose fault it was and whether your insurance company or the other person's insurance company was going to pay you. If the other driver was at fault, then you may have had to either hire a lawyer or appear in court before getting any money from the other driver or his insurance company.

Under today's no-fault law, your insurance company pays you *directly* for your losses as a result of injuries in the accident and regardless of fault. Similarly, the other driver collects the losses for his injuries from his insurance company without his company having to determine who was at fault.

Thus, no-fault is a system of insurance which provides fast and adequate payment of claims for injuries and financial losses resulting from accidents *without the need to resort to lawsuits.*

DOES NO-FAULT COVER ALL YOUR LOSSES?

The Hawaii No-Fault Law was primarily designed to take care of first things first — to make sure that protection through insurance is provided for *personal injuries* since this is where most major problems occur.

The basic no-fault automobile insurance policy will at least provide you with the minimum protection required by law. This coverage includes *no-fault benefits* (or personal injury protection) up to $15,000 per person, *residual bodily liability* of $25,000 per person, and *property damage liability* of $10,000 for each occurrence.

These basic requirements must be offered and purchased in a package form, but of course, you still have the option to add other coverages based on your individual needs.

To better understand the protection no-fault insurance offers, you need to know a little about the kind of losses people normally claim after an accident.

First, there are losses that you can measure, the kind that actually cost you money, such as doctor and hospital bills, x-rays and therapy, lost wages, nursing and housekeeping care, funeral and child care expenses.

Then there are other losses hard to measure which do not really cost you any money but which you feel you should be compensated for. Examples of these are inconvenience, pain and suffering, disability, disfigurement and death.

With no-fault insurance, *except* for losses you cannot measure accurately — primarily the "pain and suffering" you may have due to an accident — *almost all of your out-of-pocket losses* would be covered up to the limits of your policy regardless of fault.

DOES NO-FAULT TAKE AWAY THE RIGHT TO SUE?

Although having a no-fault policy ensures payment by your insurance company for all losses arising from injuries received in an auto accident *regardless of fault,* this does not mean that your right to sue the wrongdoer has been completely eliminated under the law. The law recognizes that some people will experience pain and suffering after an accident, and because of this, your right to sue has simply been *restricted.*

This means that you can sue or be sued *but only under certain conditions.*

Since Hawaii's no-fault law does not completely eliminate a person's right to sue, the possibility of your being sued is very real in the event you are the driver at fault in an accident which causes serious injury to others. You still need protection from suits and part of your basic no-fault policy will give you this protection.

REQUIRED AUTOMOBILE INSURANCE COVERAGES

No-Fault Benefits or Personal Injury Protection Coverage

The basic no-fault benefit coverage will pay you, your relative, or any other person riding in your car up to *$15,000* per person for injury *regardless of fault.*

The following are the types of benefits you can get if injured in an auto accident:

medical expense benefits — all reasonable charges for medical, hospital, surgical, professional nursing, dental, optometric, ambulance, prosthetic services, x-rays and religious remedial care and treatment;

rehabilitation expenses benefits — includes charges for psychiatric, physical and occupational therapy and rehabilitation;

work loss benefits — includes loss of wages up to *$800* a month due to injury;

substitute service expense benefits — all reasonable charges up to *$800* a month for necessary services, such as caring of children, housekeeping or yardwork, which would have been performed by you had you not been injured;

funeral expense benefit — all reasonable charges up to *$1,500* for funeral services including burial and cremation expenses;

survivors' loss benefits — payment to your surviving spouse or dependents up to *$15,000;*

attorney's fees and cost benefits — reasonable sum for attorney's fees and costs you are entitled to unless the court determines otherwise;

other reasonable and appropriate costs.

Residual Bodily Injury Liability Coverage

Although most of the injury claims will be taken care of under the no-fault benefits coverage, there will be situations when you can be sued. The *residual bodily injury liability coverage* will protect you, your family and anyone else driving your car with your permission in the event that you may be sued because of injury caused to others.

What are the situations under which you can be sued? You can be sued by the person you injured under any of the following conditions:

if his medical bills exceed *$1,500* (the current limit set by the Automobile Insurance Commissioner);

if his total no-fault bills exceed *$15,000;*

if his injury consists of permanent and serious disfigurement which causes that person's mental and emotional suffering;

if his injury results in permanent loss of use of part of his body;

if his injury results in death.

Property Damage Liability Coverage

This coverage protects you or any driver of your car for damages to the property of others. Remember, the no-fault law applies only to injuries and does not affect the "fault system" for accidents involving property damage, such as damage to a fire hydrant, a guardrail, a traffic lightpost, a fence or even a house. If you are at fault in such an accident, you will be held liable and can be sued for these losses.

Furthermore, this particular coverage does not pay for damage to *your* car. You must buy a separate "collision coverage" to take care of this.

YOUR POLICY

Your no-fault auto insurance policy is a contract. It is written so that your rights and responsibilities as well as that of the insurance company are stated clearly.

A no-fault auto policy usually consists of the following:

declarations — the declarations sheet, usually the first page of the policy contract, shows your name, address, policy number, the date and time your policy begins and expires, the coverages and the limits you selected, the description of your vehicle, the cost of each coverage and the total premium or cost you pay for the coverages involved;

Insurance agreement — this is what your insurance company promises to pay and what losses it agrees to cover;

definitions — these basically explain who is covered and the meaning of words used in your policy contract;

exclusions — this part explains the situations under which the policy will not cover you or your car;

conditions — this section explains how and under what conditions the company can cancel your policy; how you can cancel your policy; your duties in reporting to the company in the event of an accident;

endorsements — these are forms attached to your policy which are used to change certain terms of your policy, to increase or decrease your existing coverage or to add new coverage to your policy. For example, if you purchase a new car and sell the other, you can make this change simply by an endorsement without buying a new policy.

HOW MUCH INSURANCE DO YOU NEED?

The Hawaii No-Fault Law requires you to buy the *basic no-fault auto policy* which contains the minimum limits of no-fault benefits, bodily injury liability and property damage liability damage coverages. But, *you have the right to seek and obtain additional coverage to suit your needs.*

All insurance companies are required to offer higher limits of protection, but the decision to buy higher protection is up to each individual buyer. For instance, you may wish to purchase higher no-fault benefits coverage if your income is more than $800 a month, which the basic no-fault benefits pays you. Or, you may want higher limits for bodily injury or property damage liability coverages for protection against lawsuits.

Higher limits over the basic limits can be bought for an additional cost as follows:

	Basic	Higher Limits
No-Fault Benefits Coverage	15,000	30,000; 50,000
Residual Bodily Injury Liability Coverage	25,000	50,000; 75,000
Property Damage Liability Coverage	10,000	15,000; 20,000

No-Fault Benefits Coverage — Deductibles

In addition to offer higher limits of protection, all insurance companies must give you a choice of selecting a deductible amount on your no-fault benefits coverage. The deductible amounts which you can select — *$100, $300* or *$500* — will be the amount which will reduce the no-fault benefits payable to you for your injuries. Of course, your premium for this coverage will be correspondingly reduced if you choose a deductible.

The optional coverages including the required basic no-fault coverages are shown below:

Physical Damage Insurance

Although Hawaii's no-fault law does *not* require you to purchase insurance protection to cover losses to your car, all insurance companies *must* offer you physical damage insurance if you want it.

This type of insurance is important to have when your car is new, or while you are still paying a note for it. Suppose your new car is totally wrecked in an accident. Without such insurance, you could be left with a big bill to pay — and no car.

Physical damage insurance covers two kinds of losses, collision and comprehensive:

Collision Coverage

This coverage pays for damages to your car when it is involved in any type of collision. Your own insurance company pays for such damages, regardless of who is at fault. You can still sue the other driver at fault, but it may be easier to let your company fix your car under your collision coverage and let them collect the amount they paid you from the other driver or his insurance company.

Deductible Collision

When buying collision coverage, your insurance company will offer you a choice of deductibles of *$50, $100* or *$250*. The deductible amount you select is the amount you agree to pay first from your own pocket toward the damage to your car. Your company will then pay the rest. Of course, the higher collision deductible you choose, the cheaper your premium for this coverage will be.

Comprehensive Coverage

Comprehensive insurance pays for losses like theft of your car, and damages by fire, windstorm, vandalism, flood and falling objects. It pays for almost all unusual damages to your auto *other* than collision damage. For example, it would pay for the cost of repair or replacing your car if a tree falls on it. If you are an owner of a new or expensive car, comprehensive insurance would be an important coverage to have.

Uninsured Motorists Insurance

This additional coverage is for protection against uninsured motorists up to a minimum of *$25,000* per person. This insurance will cover your own injuries or those of occupants in your car when you are involved with an uninsured car or a hit-and-run driver. The same applies to you and your family if struck and injured as a pedestrian in a crosswalk or sidewalk by an uninsured car or hit-and-run driver. *This coverage is for injury only and does not pay for damage to your car.*

Keep in mind that your own *no-fault benefits* for medical expenses will apply first to any injuries in a car accident. To qualify for uninsured motorists coverage benefits, the condition stated earlier under which you can sue must still be met.

This particular coverage is an insurance required by law, but you may reject it in writing. Nevertheless, it is highly recommended that it is purchased as part of your no-fault auto insurance package.

HOW YOUR POLICY WORKS

Now that you are familiar with the requirements of the Hawaii No-Fault Law, let's see how your policy works. Examples of typical accidents are given to illustrate how the various coverages would apply.

Example: While driving, you hit a traffic lightpole and knock it down, causing damage to your car. Since you were at fault, your *property damage liability coverage* pays for damage to the pole. Damage to your car can be taken care of under your *collision coverage,* if you had purchased it. You pay the deductible amount and your company pays the rest.

Example: In the same accident above, you were also injured and treated for minor cuts and bruises. You incur a $100 bill and remain at home from work for two days. Under your *no-fault benefits coverage,* your insurance company pays the doctor bill, including any x-ray or surgical costs, and for two days' loss of wages.

Example: A car in front of you stops suddenly at a stop sign. Following too closely, you rear-end that car. The driver of that car endures minor cuts and bruises, four days of lost work and damage to his car. Your car was also damaged, and you and your spouse suffer minor cuts and bruises.

In this situation, the other driver will be reimbursed for his medical expenses and lost wages by *his* insurance company under *his* no-fault benefits coverage, even though you were clearly at fault. But *your* property damage liability coverage pays for his car damage.

You and your spouse's medical bills will be paid from *your* no-fault benefits coverage. Your car damages will also be paid under your own collision coverage, with your company paying over the deductible you had selected. For instance, if the damage costs $400 and you have a $100 deductible collision coverage, your company will pay $300 towards the repair after you put up the first $100.

Example: While driving through an intersection, you are hit by a driver running the red light. You are taken to the hospital by ambulance, suffering a broken arm and a facial laceration which requires stitches that result in permanent scarring.

Your no-fault benefits coverage will cover your medical, surgical, hospital, nursing and ambulance bills, and up to $800 a month in lost wages for the time you are unable to work. Remember, your company will pay up to *$15,000* for all the benefits provided under this basic coverage.

You can also sue the other driver for your injuries, including pain and suffering due to the permanent scar which caused your mental and emotional distress. And payment for your car damage will come from the other driver's insurance company under his property damage liability coverage.

Example: You are hit by an oncoming car while crossing the street and sustain serious injuries. As a pedestrian, you are entitled to all no-fault benefits in each of the following situations.

First, the insurance company of the car that struck you must pay for all no-fault benefits you claim. But if that car carried no insurance, then *your* company will pay you under *your* no-fault benefits coverage, providing you own a car and have a basic auto insurance policy.

On the other hand, if you do not own a car, then you can get paid under a relative's no-fault benefits coverage, providing he owns a car and is a resident of your household.

Finally, if none of the above situations apply and no benefits are readily available to you, you can file a claim with the Hawaii Joint Underwriting Plan Assigned Claims Program through the State Motor Vehicle Insurance Division. Your claim will then be assigned to an auto insurance company and handled just as if you had a no-fault policy with that particular company.

In conclusion, buying the kinds and amounts of insurance you need is difficult because you cannot predict the future. You do not know if, or when, you will be involved in an accident or the amount of damages or injuries you might cause. Therefore, it is important that you consider the following guidelines when buying insurance:

The more you have to protect, the more insurance you may need. It you own a home and earn good wages, consider buying more insurance than the minimum coverages required by law.

Buying insurance to cover your own smaller losses may be wasteful. You may save money if you take a higher collision deductible or do not buy collision coverage on an older car. The key to this guideline is to decide what amount of money you could pay if your car is damaged in case of an accident without causing yourself financial hardship.

Always discuss your insurance needs with your agent or company representative. It is the job of this person to help you select the types and amounts of insurance coverage you need.

BUYING A POLICY

In passing the no-fault law, the Hawaii State Legislature determined that competition among insurance companies would be the best way to minimize and stabilize auto insurance rates. Thus, each insurance company is required to set its *own* rates, based on its *own* auto experience. This is called *open-rating.*

Open-rating makes for *open competition* among the companies and this means each company will charge you its own price for your business. Because of competition, you will notice differences in rates when you shop around for insurance.

THE COST OF YOUR AUTO INSURANCE

When you buy no-fault auto insurance, you should know what things are considered by insurance companies in arriving at your premium. The process of pricing insurance is called *rating* and the factors generally considered by companies in rating are:

Where You Live

Most companies use the four-territory system: Honolulu, Maui (Lanai and Molokai included), Kauai and Hawaii counties. Rates within each territory are based on the losses involving autos garaged within that area.

How Your Car is Used

If your car is used for pleasure purposes only, you will pay the lower rate offered by your insurance company. If you drive to and from work or use your car for business, your rate will be higher. Some companies will also consider the annual mileage as a rating factor.

Accidents and Violations

Your driving record and those of the members in your household who drive are important considerations. Many companies use a surcharge system based on the number of accidents and traffic violations occuring in the most recent three-year driving period. So the poorer the driving record, the higher the premium.

Your Car Type

The year, make, model and engine size of your car are also important factors. Rates are usually higher if you own a high performance or sports car. The value of your car is also significant; the less it costs to repair or replace your car, the lower the cost of your premiums for comprehensive and collision coverages.

Coverages, Limits and Deductibles

If you purchase higher limits of protection and more coverages, your premiums will be higher. Purchasing a low deductible on your collision coverage and no deductible on your comprehensive coverage also results in higher premiums.

Discounts

Most companies have various discounts as part of their rating plan. Some types of discount offered are: two or more cars discount if insured with the same company; driver education course discount; carpools discount; bumper discount on later model cars which have improved bumpers; student discount, and senior citizen discount.

HOW TO SAVE MONEY ON YOUR AUTO INSURANCE

The best way to save money on your auto insurance is to *drive safely.* The cost of medical expenses, legal settlements and auto repairs all influence the cost of auto insurance. Therefore, driving safely is the key to keeping your premiums down.

Here are some other suggestions which may help lower your costs:

Think twice before buying a high performance, high-powered, expensive or sporty car. Cars with smaller engines cost less to insure.

Don't buy unnecessary physical damage insurance. For instance, the premium for collision coverage on an older car may cost more than the car is worth.

Increase the amount of your deductible when purchasing collision coverage. Higher deductibles will reduce your premium, so decide how much of a loss you can pay and then buy the deductible for it.

Buy comprehensive coverage with a deductible instead of full coverage. This will also reduce your premium.

Have every teenaged driver in your household complete a driver education course approved by the State Department of Education. Most high schools offer such courses. Some companies give a discount for driver training, but more importantly, your teenager will be a safer driver.

If you own two or more cars, insure them with one company. You may be entitled to a multi-car discount.

Notify your insurance company promptly if you sell a car or if a driver leaves your household. It could lower your premium.

Pay the whole premium at once, if you can afford it. Most companies have installment payment plans or a plan to finance your premium. You may have to pay extra charges when you pay through these plans.

Above all, maintain a good driving record. No accidents and a clean driving record will mean lower rates for you.

SHOPPING FOR AUTO INSURANCE

Since the Hawaii No-Fault Law calls for an open competition rating system, remember that rates will be different among companies. However, although price is important, it should *not* be the only consideration. The *quality* and *service* you get from the company and agent are all part of what you will be buying. Therefore, it is important that you shop around.

Where to Shop

Many insurance companies and agents advertise. Check the newspapers and yellow pages of your telephone directory for companies and agents in your area. Contact your relatives, neighbors and friends for recommendations or information about the price, quality and service of their company or agent. Ask what kind of claim services they are getting.

Price Quotations

When asking for premium quotations, be sure you provide the *same information* to each company or agent. The company or agent will usually request: a description of your vehicle, its use, drivers license numbers and records of all drivers in your household and the limits of the coverages you want. Save time and effort by having this information ready when you begin to shop.

Quotations by telephone may not be as accurate as when you personally visit the company or agent. And, remember, most companies or agents *do not guarantee* quotations by telephone.

When calling agents for quotations, also inquire how many companies that agent represents. Many agents represent several companies and may be able to provide you several quotes. Other agents represent a company belonging to a group of companies going under one name, and they too can provide quotes of all the companies in that group. In this manner, you can make easy price quotations.

Why You Need a Good Agent

Even though you think you have chosen a good insurance company, you still have to depend on an agent for service. A good agent is one who will be able to serve you in many ways. He will be able to answer your questions on insurance, assist you in processing your claim with

the company, and help you determine how much insurance is needed. It would be worth your while to look around for a good agent, one whom you can always depend on.

SETTLING YOUR CLAIM

A prime reason for passing the Hawaii No-Fault Law was to speed up payment of claims to injured persons of auto accidents regardless of fault. With this in mind, all insurance companies are mandated by law to pay no-fault benefits within 30 days after you supply proof of loss.

In filing your claim, give your company details regarding the accident — specifically, your injuries, the treatment and care you are receiving, your income, your doctor's name and the hospital.

Once your company verifies the treatment with your hospital and doctor, and the loss of time from your job with your employer, it must pay you the benefits you are entitled to within 30 days. A 1.5 percent interest is also required on all amounts not paid to you within this period.

WHAT TO DO IN CASE OF AN ACCIDENT

At the Scene

The first thing to do is help the injured, administering first aid if qualified and calling an ambulance.

Second, notify the police. To the police and the other drivers involved, identify yourself. Give your name, address, driver's license number and name of your insurance company.

Be sure you also get the names and addresses of the owners or drivers and passengers of the other cars, as well as the names of their insurance companies.

Just as important is obtaining names and addresses of witnesses who may be valuable in settling your claim.

In the instance of damaging a parked car or someone's property, you are responsible for locating the owner and identifying yourself. If this is not possible, you should attach a note to the property giving your name, address and telephone number.

After the Accident

Contact your insurance company immediately and give as many details as possible. It is important that you do not delay. Witnesses may disappear, evidence may be destroyed, memories may fade and injured parties may exaggerate their injuries. Give your *complete cooperation* to your insurance company and the agent assigned to your case for full protection and prompt payment of all entitled benefits

YOUR RIGHTS

The Hawaii No-Fault Law requires every owner of a car, bus, truck or motorcycle to have insurance. Without insurance, vehicle registration papers and license plates must immediately be surrendered to the county director of finance.

Any uninsured owner may be fined $1,000 for each violation of driving without insurance and receives no compensation if involved in an accident. Furthermore, he runs the risk of being sued.

As a policyholder of no-fault insurance, it is good to know your legal rights and where you stand with your insurance company and agent.

No insurance company can refuse to sell you a no-fault insurance policy if you are an owner, unless the principal driver of your car does not have a valid driver's license or unless you do not pay the premium.

No company can refuse to renew your policy unless the principal driver of your car does not have a valid driver's license or unless you do not pay the premium.

No company can cancel your policy, once issued, unless you do not pay your premium or your driver's license has been suspended or revoked. Furthermore, *your company must give proper notice of its intent to cancel your policy.*

No company can refuse the benefits you are entitled to should you become involved in an accident.

FILING A COMPLAINT

If you believe that any of your rights have been violated or that you were treated unfairly, or that a claim with your company was not handled properly, you have a right to file a complaint with the State Motor Vehicle Insurance Division.

However, your first step should be to contact your agent or company representative since many complaints are simply a result of a mistake or misunderstanding that can be corrected upon polite inquiry.

Complaints to the State *must be in writing.* Request standard complaint forms by calling 548-5450. Completed forms should then be mailed to:

Motor Vehicle Insurance Division
State Department of Regulatory Agencies
P. O. Box 2399
Honolulu, Hawaii 96804

Coverages:	
$15,000	Basic Personal Injury Protection
$25,000	Bodily Injury Liability
$10,000	Property Damage Liability
$25,000	Uninsured Motorists Coverage
Actual Cash Value	Comprehensive } 1977 Plymouth Volare, V-8
$ 100	Deductible Collision } 1977 Plymouth Volare, V-8

Approximate Annual Premiums for the Above Coverages for Rates in Effect as of July 1, 1978

Company (alphabetical order)	Terr. / Use	OAHU Pleasure	OAHU To/From Work	MAUI Pleasure	MAUI To/From Work	KAUAI Pleasure	KAUAI To/From Work	HAWAII Pleasure	HAWAII To/From Work
CLEAR RECORD									
Aetna Casualty & Surety Co.		242	277	168	192	165	189	194	222
Aetna Fire Underwriters Ins. Co.		237	273	167	192	165	189	195	224
Aetna Insurance Co.		237	273	167	192	165	189	195	224
Allstate Indemnity Co.		742	847	585	673	559	642	622	716
Allstate Insurance Co.		462	527	367	421	348	400	388	446
American Automobile Ins. Co. (FAP)		362	417	264	303	291	334	291	334

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P. O. Box 2399
Honolulu, Hawaii 96804

Coverages: $15,000 Basic Personal Injury Protection
$25,000 Bodily Injury Liability
$10,000 Property Damage Liability
$25,000 Uninsured Motorists Coverage

Actual Cash Value Comprehensive
$ 100 Deductible Collision {1977 Plymouth Volare, V-8}

Approximate Annual Premiums for the Above Coverages
for Rates in Effect as of July 1, 1978

Company (alphabetical order)	OAHU		MAUI		KAUAI		HAWAII	
Terr. / Use	Pleasure	To/From Work	Pleasure	To/From Work	Pleasure	To/From Work	Pleasure	To/From Work
CLEAR RECORD								
Aetna Casualty & Surety Co.	242	277	168	192	165	189	194	222
Aetna Fire Underwriters Ins. Co.	237	273	167	192	165	189	195	224
Aetna Insurance Co.	237	273	167	192	165	189	195	224
Allstate Indemnity Co.	742	847	585	673	559	642	622	716
Allstate Insurance Co.	462	527	367	421	348	400	388	446
American Automobile Ins. Co. (FAP)	362	417	264	303	291	334	291	334

Company	Terr. / Use	OAHU Pleasure	OAHU To/From Work	MAUI Pleasure	MAUI To/From Work	KAUAI Pleasure	KAUAI To/From Work	HAWAII Pleasure	HAWAII To/From Work
American Automobile Ins. Co. (SAP)		266	306	180	207	214	246	212	243
American Casualty Co.		229	263	160	183	159	181	203	232
American Employers' Ins. Co.		331	381	251	289	246	283	299	344
American & Foreign Ins. Co. (FAP)		396	455	351	403	305	350	351	403
American & Foreign Ins. Co. (SAP)		362	416	322	371	282	324	322	371
American Home Assurance Co.		251	289	160	183	159	181	188	215
American Manufacturers Mutual Ins. Co.		334	383	291	335	256	294	294	338
American Motorists Ins. Co.		334	383	291	335	256	294	294	338
American Mutual Liability Ins. Co.		358	411	241	277	241	277	266	306
American National Fire Ins. Co.		225	259	147	169	146	167	171	196
American Star Ins. Co.		232	267	161	184	161	184	187	214
Amica Mutual Ins. Co.		229	263	160	183	159	181	187	214
Argonaut Ins. Co.		368	423	317	364	280	322	321	369
Argonaut-Midwest Ins. Co.		368	423	317	364	280	322	321	369
Associated Indemnity Corp. (FAP)		362	417	264	303	291	344	291	334
Associated Indemnity Corp. (SAP)		266	306	180	207	214	246	212	243
Assurance Company of America		384	441	268	308	266	306	322	371
Carriers Ins. Co.		288	331	202	232	200	230	249	286
Centennial Ins. Co.		229	263	160	183	159	181	187	214
Charter Oak Fire Ins. Co.		554	638	401	460	395	454	471	540
City Ins. Co.		360	414	311	356	275	316	315	362
Colonial Penn Ins. Co.		149	193	97	126	97	125	115	149
Commercial Ins. Co. of Newark, N.J.		384	442	267	307	264	304	318	365

Company	Terr. / Use	OAHU Pleasure	OAHU To/From Work	MAUI Pleasure	MAUI To/From Work	KAUAI Pleasure	KAUAI To/From Work	HAWAII Pleasure	HAWAII To/From Work
Commercial Union Ins. Co.		331	381	251	289	246	283	299	344
Continental Casualty Co.		229	263	160	183	159	181	203	232
Continental Ins. Co.		384	442	267	307	264	304	318	365
Criterion Ins. Co.		358	372	268	276	265	274	280	290
Cumis Insurance Society, Inc. (FAP)		189	217	133	153	132	152	155	178
Cumis Insurance Society, Inc. (SAP)		146	168	108	124	108	124	128	147
Employers' Fire Ins. Co.		331	381	251	289	246	283	299	344
Employers Mutual Liability Ins. Co.		401	461	288	331	282	324	342	393
Federal Ins. Co.		211	242	131	150	131	150	155	177
Fidelity & Casualty Co. of New York		384	442	267	307	264	304	318	365
Financial Security Life Ins. Co. (FAP)		261	300	180	207	178	205	208	239
Financial Security Life Ins. Co. (SAP)		260	300	180	207	180	207	216	248
Fireman's Fund Ins. Co. (FAP)		362	417	264	303	291	334	291	334
Fireman's Fund Ins. Co. (SAP)		266	306	180	207	214	246	212	243
Fireman's Ins. Co. of Newark, N.J.		384	442	267	307	264	304	318	365
First Ins. Co.		370	426	253	291	250	288	301	346
General Accident Fire & Life Assurance		263	302	190	218	188	215	224	257
Glen Falls Ins. Co.		384	442	267	307	264	304	318	365
Globe Indemnity Co. (FAP)		396	455	351	403	305	350	351	403
Globe Indemnity Co. (SAP)		362	416	322	371	282	324	322	371
Government Employees Ins. Co.		303	330	227	247	223	243	271	296
Grain Dealers Mutual Ins. Co		414	476	284	326	278	319	345	397
Great American Ins. Co.		225	259	147	169	146	167	171	196

Skip to 2

HAWAII NO-FAULT AUTOMOBILE INSURANCE QUOTATION WORKSHEET

MINIMUM RATING INFORMATION REQUIRED:

A. List All Drivers in Household:

Driver No. Name	Within Last 3 Years	
	No. of Accidents (at fault only)	No. of Moving Violations
1. ______		
2. ______		
3. ______		
4. ______		

B. Automobiles to be Insured:

	Make	Model & Year	Uses: Car Most (Driver No.)	Car Used For: (P) Pleasure (T&F) To & From Work (B) Business	Annual Mileage
Car 1					
Car 2					

C. Cost of your Insurance:

Coverages Required by Law:	Select Limits or Deductible	ANNUAL PREMIUMS Company A	Company B	Company C	Company D
1. NO-FAULT BENEFITS (Personal Injury Protection) (Required Min. - $15,000)	____ per pers.				
2. BODILY INJURY LIABILITY (Required Min. - $25,000)	____ per pers.				
3. PROPERTY DAMAGE LIABILITY (Required Min. - $10,000)	____ per acc.				
4. UNINSURED MOTORISTS (Required Min. - $25,000)	____ per pers.				
Additional Optional Coverages:					
5. Comprehensive	Deduct. ____ per acc.				
6. Collision	Deduct. ____ per acc.				
7. Other Coverages					
TOTAL ANNUAL PREMIUM					
8. Company membership fee (if any)					
9. Service Fee or Finance Charges					
TOTAL ANNUAL COST OF INSURANCE					

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

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

February 13, 1981

MEMORANDUM

TO: Representative Charles Anderson

FROM: Betty Barton, Issues Analyst

RE: Auto Insurance
Research Request No. 81-16

As a component of your request on liability insurance for motor vehicles, you have asked that we compile proposed legislation, introduced in past legislative sessions, that is pertinent to the subject. An additional request made by your office for information regarding Hawaii's statutory provisions on compulsory liability insurance is addressed in a separate memorandum.

For this project, we have collected bills introduced from the Ninth Legislature, convening in 1975, through the current session of the Twelfth Legislature. These bills are attached to this memorandum; a listing of their titles, sponsors, and final status follows:

NINTH LEGISLATURE

Number	Abbreviated Title	Sponsor	Final Status
HB 38	Motor Vehicle Insurance	Urion	In (H) Judiciary
HB 44	Motor Vehicle Insurance	Swanson	In (H) Commerce
SB 657	Motor Vehicle Insurance	Croft	In (H) Commerce

TENTH LEGISLATURE

Number	Abbreviated Title	Sponsor	Final Status
HB 217	Motor Safety Responsibility Act	Urion	In (H) Commerce
HB 594	Motor Vehicle Insurance	Commerce	In (H) Judiciary

Number	Abbreviated Title	Sponsor	Final Status
HB 614	Motor Vehicle Insurance Policies	Rules	In (H) Commerce

ELEVENTH LEGISLATURE

Number	Abbreviated Title	Sponsor	Final Status
HB 402	Re/Motor Vehicle Insurance, E.D.	McKinnon	In (H) Commerce
SB 274	Re/Motor Vehicle Safety Responsibility Act, E.D.	Commerce	In (S) Commerce
SB 280	Re/Motor Vehicle Insurance	Commerce	In (S) Commerce
SB 460	Authorizing Municipalities to Establish Requirements for Motor Vehicle Security Deposits	Bradley	In (S) Judiciary
SB 461	Tax Credit for Auto Insurance Premiums	Bradley & Stimson	In (S) State Affairs
SB 542	Financial Responsibility Regarding Motor Vehicles	Commerce	In (S) Judiciary

TWELFTH LEGISLATURE

Number	Abbreviated Title	Sponsor	Final Status
SB 70	Authorizing Municipalities to Establish Requirements for Motor Vehicle Security Deposits	Stimson & Bradley	In (S) Community & Regional Affairs

As you will note, SB 70, cosponsored by Senators Stimson and Bradley, is the only bill which has been introduced this session thus far related to the financial responsibilities of owners and operators of motor vehicles. A similar bill, SB 460, sponsored by Senator Bradley, was introduced in the Eleventh Legislature. If we can provide you with additional information regarding the enclosed materials, please do not hesitate to contact us.

BB/bf

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

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

March 4, 1981

MEMORANDUM

TO: Representative Charles Anderson

FROM: Betty Barton
Research Staff

RE: Auto Insurance
Research Requst No. 81-16 (Additional Material)

We have received additional materials concerning Hawaii's program for compulsory no-fault/liability insurance. We have enclosed the following for your review:

Rules and Regulations of the Motor Vehicle Insurance Division, State of Hawaii

Annual Report to the Legislature, Motor Vehicle Insurance Division, State of Hawaii, July 1, 1979-June 30, 1980

Annual Report to the Legislature, Motor Vehicle Insurance Division, State of Hawaii, July 1, 1978-June 30, 1979

In addition, we have enclosed materials, which you may find helpful, compiled for us by the National Conference of State Legislatures. These materials outline the key components of auto insurance programs in other states.

If you have any questions regarding these materials or other aspects of auto insurance, please do not hesitate to contact us.

BB/bf
Encls.

HOUSE RESEARCH AGENCY
Pouch Y - State Capitol
Juneau, Alaska 99811
465-3991

MEMORANDUM

March 6, 1980

TO: Representative Sally Smith

FROM: Peter B. Froehlich

RE: Uninsured Motorists and the Motor Vehicle Safety Responsibility Act (AS 28.20) (Research Request No. 69)

You recently asked this agency to explore possible methods to "tighten up" the Motor Vehicle Safety Responsibility Act (AS 28.20). In the course of our research on the Act, we learned that the Senate Commerce Committee has been studying the same issue. That committee has received a report from Richard Block, former director of the Division of Insurance, addressing amendments to the Act, as well as other approaches to the problem of uninsured motorists in Alaska. Senator Bradley has recently introduced one bill as a result of Mr. Block's report (SB 460 authorizing municipalities to impose mandatory insurance). Another, which will amend and tighten up the Motor Vehicle Safety Responsibility Act is currently being drafted by the Legal Services Division of the Legislative Affairs Agency for the committee.

In light of the existence of Mr. Block's report and the legislation which Senate Commerce Committee intends to introduce amending the Act, you have instructed us that completion of our research pursuant to your request was not necessary. Nonetheless, we offer this memorandum as a brief summary of our work thus far.

* * * * * * * * * * * * *

The problem at hand is that over 50% of the registered private vehicles in Alaska are completely uninsured. In 1978, according to Division of Insurance statistics, the figure was 49.1%. Although that year is the most recent for which complete data is available, the trend has been an increase in the figure each year.

The answer to the problem is not at all simple, and many possibilities have been suggested. Mandatory insurance appears to be the least popular for several reasons. In the states which have tried it, enforcement and administration has been an expensive burden and insurance rates have often climbed faster than in states without mandatory insurance.

"No fault" insurance is perhaps a more workable solution, but has not been popular with insurance carriers, attorneys and others in Alaska when it has been considered by the legislature in the past.

Amendment of the existing Motor Vehicle Safety Responsibility Act may be the most feasible answer. This approach would take advantage of the main body of an existing chapter of the Alaska Statutes. It would therefore result in less disruption, adjustment and staff increase in the existing bureaucracy which implements the Act. It would be simpler both to legislate and to administer. Because fewer people would be forced by law to buy insurance, individual freedom of choice would be preserved to a greater degree. While all possible problems with uninsured drivers would not be solved, significant improvement could result from amending the Act.

The Motor Vehicle Safety Responsibility Act was enacted in 1959 during the first legislative session after Statehood. The Act deals with two separate subjects: 1) the requirement of deposit of security by uninsured motorists involved in an accident (AS 28.20.050-220); and 2) the requirement of proof of financial responsibility for the future by motorists convicted of certain offenses or involved in an accident (AS 28.20.230-600). The Act has been amended 13 times from 1964 through 1977. However, none of these amendments were really substantive. They merely made minor changes such as raising dollar amounts (e.g., ch 202 SLA 1976 and ch 144 SLA 1977), repealing some sections and subsections (e.g., 53 SLA 1973 and ch 135 SLA 1977), and substituting the Department of Public Safety for the Department of Revenue in the administration of the Act (e.g., ch 214 SLA 1976). Although the Alaska Supreme Court made several specific suggestions for substantive amendments to the Act in Paulson vs. National Indemnity Co. 498 P2 d731 (AK 1972), no remedial action was taken by the legislature. The Act has been significantly interpreted in one other Alaska Supreme Court case, Hart vs. National Indemnity Co. 422 P2 d1015 (AK 1967). It has been cited or applied in at least 9 other cases, including three Alaska Supreme Court cases, two Federal District Court cases, and four Alaska Superior Court cases.

Several amendments to the Act have been suggested either by others contacted during our research or by the research itself. First, of course, are the suggestions of the Alaska Supreme Court in the Paulson decision 498 P2 d731 at 737. These suggestions are directed at tightening the requirements of the second part of the Act for proof of financial responsibility for the future by motorists involved in accidents. The court suggested the repeal of language in AS 28.20.410 and 440 which allows a motorist to satisfy the act by insuring only one of several vehicles he owns.

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Another possible amendment to tighten the Act would be repealing AS 28.20.260(b) which exempts anyone involved in an accident who establishes his freedom from fault in court from the proof of financial responsibility in the future requirement. The Department of Public Safety in 13 AAC 08.110 has implemented this section by providing that only those who "in the department's opinion" stand a "reasonable possibility" of being held liable in court need provide the required proof. Eliminating the exemption of AS 28.20.250(b) would force more people to prove financial responsibility and save the department from making its finding as to reasonable possibility of liability. However, it would also force innocent parties to accidents to buy what would probably be high risk, high cost "SR 22" insurance.

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In conclusion, we should note that the whole area of automobile insurance and solutions to the problem of uninsured motorists is very complex, and no perfect solutions seem to be available. If you have any futher questions or desire any additional background information on this matter, please contact us.

PBF/dp

an analysis of current events affecting the insurance industry

public affairs report

Published by State Farm's Public Relations Department at Bloomington, Illinois, for distribution to those with an interest in the trends and events affecting the insurance industry.

MAR 21 3 23 PM '83

March 16, 1983 *Vol. 14, No. 2*

Printed in USA

$100,000-Plus PIP Claims Mounting Up

In states with unlimited no-fault medical benefits—Michigan, New Jersey and Pennsylvania—auto insurers are accumulating personal injury protection (PIP) claims for $100,000 or more at the rate of 470 to 490 per year, a new All-Industry Research Advisory Council (AIRAC) study shows.

All insurers in the three states at year-end 1981 had a projected 2,372 of these large claims costing an estimated $780 million. **The total cost is four times more than these kinds of claims were estimated to cost in a 1978 AIRAC survey.**

Projections were based on the experience of 17 companies, including State Farm, that insure 61.7 percent of the cars insured in the states. State Farm analyzed the data it supplied for the study and the findings were similar to those of AIRAC.

The 17 participating companies reported having 1,466 large-loss (over $100,000) claims under personal injury protection coverage as of year-end 1981, compared with 399 such claims as of year-end 1977. The average cost per claim was $328,900 compared with $298,200 four years earlier.

Results of the first AIRAC research on serious crash injuries were published in 1979. **The study was undertaken because "AIRAC recognized the need to learn more about the long-term prospects for individuals who had sustained very serious crash injuries,"** according to the study report. The most recent study focuses on the effect of these claims on insurers as well as on the crash victims.

Ann Durand, manager-research in State Farm's Research Department, is chairman of the AIRAC subcommittee responsible for the study.

The latest AIRAC study follows up on 410 seriously injured people whose claims were reviewed in the 1978 AIRAC study. Twenty-four had recovered from their injuries. Thirty-six had died. The remaining 350 were coping with their injuries with varying degrees of success.

Fifty-eight of the accident victims were working and another 74 were taking steps to become employed. **More than eight in 10 had been involved in physical rehabilitation, and most were judged to have benefited from it.**

About 83 percent of the survivors in the 1982 survey were living at home, usually with some form of attendant care. Fourteen percent were in custodial care institutions and 3 percent were in hospitals or rehabilitation centers.

This Issue's Profile:

State Farm Takes Next Step in Attempt To Get 5 mph Bumper Rule Reinstated

Cont. from page 1.

Many had near-normal life expectancies. For claims still open in 1982, claim handlers estimated the files would remain open an average of 33 years. About 80 percent were expected to remain open 20 years or more and about half 30 years or more.

The ultimate payments of the 331 cases that remained open are expected to average $483,000.

More than 44 percent of the claimants were under age 21 at the time of their injury, and more than 71 percent were 30 or younger. This finding is confirmed by other AIRAC studies showing that young people are disproportionately involved in injury-producing auto crashes.

Cigarettes Are Target of Efforts To Prevent Fires

Two actions aimed at attacking the leading cause of fire deaths—cigarettes igniting upholstered furniture—are expected to occur soon.

The Consumer Product Safety Commission (CPSC) will test new fire retardant materials developed by the furniture industry. *Fire Chief* magazine reports two approaches will be tested: (1) building small pieces of aluminum foil into cushions to break up heat; and (2) replacing tightly woven material with fire-resistant artificial fibers.

Also, a U.S. House subcommittee will hold hearings on a proposed law to require the CPSC to make rules on reducing the tendency of cigarettes to ignite upholstered furniture—perhaps by requiring that they go out if left unattended. A similar bill has been introduced in the Senate.

A 1978 study by the National Fire Protection Association showed upholstered furniture catching fire from cigarettes is the leading cause of fire deaths in the United States—and cigarettes igniting bedding ranks No. 2. When all household fires are considered, smoking is the fourth leading cause, a 1978 National Fire Data Center survey revealed.

State Farm Reports Results for 1982; Dividends Set

State Farm Mutual Automobile Insurance Company has reported 1982 earned premiums and membership fees of $6.7 billion, an increase of 9.2 percent over 1981. Income from investments was $542.4 million. Before-dividend underwriting profit was $62.2 million. Net income from all sources was $491 million.

Comparable 1981 figures are: Income from investments, $511.4 million; underwriting profit (before dividends), $5 million; net income, $450.2 million.

Assets climbed from $11.5 billion in 1981 to $13.2 billion in 1982.

DIVIDENDS

The company announced that during the six-month period beginning April 15 it will distribute dividends totaling about $63.7 million to customers in 24 states where underwriting profits were in excess of the company's total financial needs. Dividends will equal about 1 percent of 1982's earned premium total and will vary depending upon underwriting results in each of the following states:

Alabama, Alaska, Arizona, Arkansas, Hawaii, Idaho, Indiana, Iowa, Kansas, Maine, Massachusetts, Minnesota, Nebraska, Nevada, New Mexico; Ohio, Oregon, Rhode Island, Texas, Utah, Vermont, Virginia, West Virginia and Wyoming. The Texas dividend is subject to approval by the Texas State Insurance Board.

Cont. from page 2.

The company reported its 1982 claim losses and loss expenses totaled $5.4 billion, up 7.1 percent from the 1981 figure of $5 billion.

Surplus, including investment fluctuation reserves, totaled $4.7 billion as regards State Farm Mutual's policyholders and $2.1 billion as regards policyholders of subsidiaries.

Included in State Farm Mutual's underwriting results was $1.1 million earned from its health insurance operation on sales of $157.7 million.

PROPERTY AFFILIATES

State Farm Mutual's property insurance affiliates, State Farm Fire and Casualty Company and State Farm General Insurance Company, reported a before-dividend underwriting loss of $2.8 million on sales of $2.5 billion. That compares with a $22.5 million underwriting gain (before dividends) on 1981 sales of $2.3 billion.

The property insurance affiliates had a net income from all sources of $243 million, compared with $211 million in 1981. Assets climbed from$3.64 billion in 1981 to $4.13 billion in 1982.

LIFE INSURERS

State Farm Mutual's life affiliates, State Farm Life Insurance Company and State Farm Life and Accident Assurance Company, added $6 billion of ordinary (non-group) life insurance in force during the year, bringing the companies' total non-group insurance in force to $62.8 billion. The companies added $7.5 billion in 1981. Total life insurance in force, including group, was $66.6 billion on Dec. 31.

State Farm Life reported an $80.5 million net gain (after dividends and taxes) from operations in 1982, compared with a $91.6 million net gain in 1981. State Farm Life and Accident Assurance recorded $4.8 million in net gain. In 1981, the figure was $4.4 million.

in the industry

NEW COMPETITOR. The Century 21 real estate firm will begin selling homeowners insurance nationally as soon as state regulatory approval can be obtained, says *Best's Management Reports*, copyrighted publication of the A.M. Best Co.

After piloting sales of homeowners through its sales offices in California, the firm expects to be in 10 to 14 states by the end of 1983 and to be countrywide by year-end 1984 or mid-1985. Century 21 has about 6,500 sales offices. Underwriting the coverage will be London Guarantee and Accident Company of New York, an affiliate of the Continental Companies. According to Best's, the firm is considering the sale of term life insurance as well.

STOLEN CARS. Seven out of 10 cars stolen from motorists covered in residual market (such as assigned risk) auto insurance plans are insured in urban areas even though just 4 in 10 new applications come from those areas, shows a study by the National Industry Committee on Automobile Insurance Plans.

Cont. from page 3.

In about 75 out of 100 thefts the entire vehicle was taken and only about 38 of those were recovered, according to the study. All but two of the recovered cars had some damage.

Luxury and mid-size cars accounted for more than half of the thefts. Eleven of every 100 cars stolen were Cadillacs; 5 in 100 were Corvettes. Fifteen percent of the cars were customized. Nearly one in 10 of the thefts studied were of vans and recreational vehicles, a much greater proportion of these vehicles than exists on the road.

in traffic safety

FEWER CAR FIRES. Required improvements in motor vehicle fuel systems have prevented 400 deaths and 520 serious injuries a year in traffic crashes, the National Highway Traffic Safety Administration (NHTSA) reports. Effective since 1976, the federal safety requirement limits how much fuel can leak out after a rear-end crash.

The improvements necessary to meet the standard cost only about $8.50 per car but they've prevented 6,500 car crash fires each year, a NHTSA study shows. The requirements were established only after the Insurance Institute for Highway Safety conducted crash tests in 1973 that showed fuel spillage was common in crashes and created a fire hazard.

DRUNK DRIVING. The U.S. Supreme Court ruled recently that the fact a driver refused to take a sobriety test can be used as evidence in prosecution of a drunk-driving case. In a 7 to 2 vote, the high court overturned a South Dakota court ruling that using such evidence in court violated a person's constitutional right to protection against self-incrimination.

State Farm Takes Next Step in Attempt To Get 5 mph Bumper Rule Reinstated

State Farm, joined by Allstate, has filed suit to get a 5 miles-per-hour federal bumper standard reinstated.

A brief was filed by both insurers on Feb. 14 in the U.S. Court of Appeals for the District of Columbia.

The 5 mph bumper requirement was weakened to 2.5 mph this past July by the National Highway Traffic Safety Administration (NHTSA) after being in effect nearly a decade. Besides permitting vehicle damage in crashes at 2.5 mph and above, the revised standard would allow unlimited damage to the bumper itself in crashes at any speed.

NHTSA reasons that the bumper improvements needed to meet the requirements cost more than they save because of the amount they add to car prices and to fuel consumption.

government cost studies flawed

State Farm and Allstate dispute this, however, pointing out that the NHTSA cost studies are flawed. When corrected these studies would show the 5 mph bumpers are clearly superior to 2.5 mph ones.

The two insurers maintain that NHTSA's action violates congressional intent as expressed in the language and congressional history of the 1972 Cost Savings Act. The law clearly contemplated use of a 5 mph bumper.

A standard requiring 2.5 mph protection "borders on being no standard at all," the insurers' brief points out, noting that completely unregulated bumpers provide protection at 1.5 mph.

prohibited damage to safety parts

Five mph bumpers have been standard equipment on autos since the 1974 model year. At first, the federal standard required that bumpers prohibit damage only to safety-related equipment in 5 mph front and rear crashes. This equipment includes headlamps, taillights and the hood and trunk latches.

A new federal standard extended protection to the car's exterior in 5 mph crashes, effective with the 1979 model year, and to the bumper itself beginning with the 1980 models.

A reduction in crash damage resulted, even with the earlier bumpers. The drop in the number of "fender-bender" accidents reduced out-of-pocket expense of car owners as well as insurance claims, according to the petition. State Farm estimates that having 5 mph bumpers reduced by nearly 20 percent the number of insurance claims involving areas protected by the bumper.

The brief points out the additional accidents that will occur will cost consumers a lot in lost time and inconvenience.

The safety advantages also should not be overlooked, the insurers maintain. The 5 mph bumpers reduced the number of vehicles operating with malfunctions of safety equipment, the petition states. Yet, NHTSA concludes its action will have no effect on highway safety.

NHTSA disregarded or underestimated each of the benefits of 5 mph bumpers, the insurers maintain, and it "overstated the savings that could be achieved by gutting the 5 mph standard."

must act for the consumer

The insurers maintain the federal safety agency is bound by laws that require it to act on behalf of the consumer in regulating for safety and for economic savings. To do so means reinstating the 5 mph bumper requirement, the brief says.

State Farm and Allstate state in the petition that even if NHSTA has a case for weakening the rear bumper requirement, "its rejection of the standard for front bumpers was so patently arbitrary and capricious that the court must reverse it."

A number of auto manufacturers weakened bumpers on 1983 model cars. Ford was among the exceptions along with Mercedes-Benz, Nissan, Saab, Subaru, Toyota and BMW, a Center for Auto Safety survey showed.

USE RESEARCH AGENCY
Pouch Y - State Capitol
Juneau, Alaska 99811
465-3991

MEMORANDUM March 6, 1980

TO: Representative Sally Smith

FROM: Peter B. Froehlich

RE: Uninsured Motorists and the Motor Vehicle Safety Responsibility Act (AS 28.20) (Research Request No. 69)

You recently asked this agency to explore possible methods to "tighten up" the Motor Vehicle Safety Responsibility Act (AS 28.20). In the course of our research on the Act, we learned that the Senate Commerce Committee has been studying the same issue. That committee has received a report from Richard Block, former director of the Division of Insurance, addressing amendments to the Act, as well as other approaches to the problem of uninsured motorists in Alaska. Senator Bradley has recently introduced one bill as a result of Mr. Block's report (SB 460 authorizing municipalities to impose mandatory insurance). Another, which will amend and tighten up the Motor Vehicle Safety Responsibility Act is currently being drafted by the Legal Services Division of the Legislative Affairs Agency for the committee.

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The answer to the problem is not at all simple, and many possibilities have been suggested. Mandatory insurance appears to be the least popular for several reasons. In the states which have tried it, enforcement and administration has been an expensive burden and insurance rates have often climbed faster than in states without mandatory insurance.

"No fault" insurance is perhaps a more workable solution, but has not been popular with insurance carriers, attorneys and others in Alaska when it has been considered by the legislature in the past.

Amendment of the existing Motor Vehicle Safety Responsibility Act may be the most feasible answer. This approach would take advantage of the main body of an existing chapter of the Alaska Statutes. It would therefore result in less disruption, adjustment and staff increase in the existing bureaucracy which implements the Act. It would be simpler both to legislate and to administer. Because fewer people would be forced by law to buy insurance, individual freedom of choice would be preserved to a greater degree. While all possible problems with uninsured drivers would not be solved, significant improvement could result from amending the Act.

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PBF/dp

Compulsory Automobile Liability Insurance: Too Much For Too Little

By JAMES S. STICKLES
Regional Vice President
Alliance Of American Insurers

Every year a variety of legislative proposals are introduced that would affect the property and casualty insurance industry. Many of these are perennial; some involve new thoughts by legislators, administrative staff, and various groups representing specific interests; and some involve new responses to long-standing concerns.

Last year was no exception. In the "new approach to old problems" category, California saw the enactment of a very controversial approach to workers' compensation — AB 684. In the "new thoughts" area, drunk driving legislation, spotlighted by Mothers Against Drunk Drivers (MADD) and other grassroots organizations, came to the forefront in several states. As for those perennial issues, we saw a myriad of proposals. In workers' compensation, legislation to create competitive rating of one sort or another led the parade, followed by various approaches to wage loss and the role state funds should play in providing benefits to injured workers. In casualty insurance, compulsory automobile insurance was a major issue in many states, along with auto theft and tort reform. In the category of general legislation, a number of different tax proposals were introduced as several states struggled to reconcile their fiscal problems.

What's Ahead

What lies in store for the insurance industry in 1983? Here is the way I see it in the Pacific Coast region.

I think the workers' compensation system is subject to the most intense scrutiny it has ever faced. In attempts by employer groups and others to reduce workers' compensation costs, changes in the method of rating workers' compensation insurance, consideration of monopolistic or competitive state funds, continued discussion of the wage loss theory, and exploration of group self-insurance will remain in the forefront as will various other alternatives to achieve cost containment.

In other states, compulsory automobile insurance will be the subject of intense debate, followed closely by tort reform proposals that will attempt to limit expanding tort liability doctrines. These tort reform proposals will again face opposition from groups whose economic interest will not be served by their enactment. Conversely, 1983 will see a continued effort by some of these interests to promote legislation that will ultimately raise the cost of insurance, specifically prejudgment interest proposals. There will also be a continued emphasis to enact legislation geared to controlling arson, auto theft and fraud, as well as drunk driving. And lest we forget, the fiscal difficulties confronting various states could lead to consideration of increased premium taxes, acceleration of the payment of taxes, and consideration of new taxes, including user and service fees, as well as possible increases in existing fees to boost state revenues or to fund, in whole or in part, state insurance department activity.

Compulsory Auto

While 1983 will find the insurance industry busy on several fronts, many of the issues being of equal importance, we should examine an issue that has great public appeal but is at the same time simply unworkable — compulsory automobile insurance.

Whenever a compulsory automobile liability insurance law is proposed, consumers and legislators are invariably puzzled by the insurance industry's adamant opposition. They assume that any industry should embrace a law that forces more people to buy its products. But despite the prospects for additional premium volume, we oppose this type of legislation because you simply cannot pass a law that will force people to buy insurance. There are too many ways to get around compulsory laws, while at the same time you increase the cost to those who purchase automobile insurance.

At one time, it was thought that those who drove without insurance were merely irresponsible individuals. But with the current economic situation, and in particular our severe unemployment, otherwise responsible people are often being put in the position of deciding among necessities when spending their dollars. And there are few things that take precedence to food and shelter when allocating scarce family resources.

As I said, you cannot legislate compliance. As a general rule, these laws require that evidence of insurance be submitted to public authorities when registering a vehicle, while others require the owner of an automobile to produce such evidence upon demand by a police officer. But this evidence means nothing if a notice of cancellation is at home or the owner purchases a policy on an installment plan and does not make the second payment. There are even cases of people using false evidence of insurance to secure their registration.

Examples

A program has little value without enforcement, and assorted methods have proven to be costly and largely an exercise in futility. Some compulsory laws require the state to receive, file, maintain, and police literally millions of pieces of paper annually. The system generally requires random checks by police which can be disastrous as evidenced by the situation that occurred in West Virginia following enactment of a "tough" compulsory law. When the motor vehicle department became clogged with cancellation notices, reinstatement notices, etc., several motorists found themselves arrested while they were actually insured but had no way to prove it when apprehended.

To further illustrate, when New York instituted its compulsory insurance system in 1956, the Department of Motor Vehicles was immediately inundated with six million forms representing evidence of insurance. It was not long before the Department received another blitz which included changes from new registrations, cancellations and terminations, changes of vehicles, changes in insurance companies, and name changes. At one point, it was estimated that 80 per cent of the 25,000 registration revocation notices sent out by the New York Department each month were incorrect or obsolete by the time they were mailed. Enforcement became impractical at this point because, with the scarce police resources available for law enforcement needs, it is difficult to justify placing this type of enforcement very high on the state's priority list.

Not Enforceable

Experience has proven that a compulsory insurance law is not enforceable, does little to reduce the number of uninsured motorists on the road, and increases the cost of the product to those who have paid for protection all along.

As an industry, we should be more aggressive in our endeavor to inform the public about the reasons for our opposition to com-

IEA'S SMITH

THE LEGACY OF A MENTOR

By ROGER L. SMITH, CPCU
President
Insurance Educational Association

In 1982 I lost a great friend. So did the IEA and the insurance industry as well. For those of you who were fortunate enough to know Girvin Whitney, you know exactly what I mean.

It would be easy to address the current industry ills in this year-end article. I am sure, however, that many others in this issue, far more knowledgeable than I, will recount these several times over. So, rather than talk about what is bad in the industry, I will talk about the legacy of good which I believe Girvin left behind.

First, he was a career insurance man, and proud of it. Too often we apologize for our business and waiver in the belief that it is a vital and rewarding profession. We need more positive thinking about property/casualty insurance and the people in it. It is vital and needed and offers exciting and fulfilling career opportunities in a wide variety of areas.

A Professional

Girvin was not a CPCU, but he was a professional in every sense of the word. He recognized that titles and designations are without meaning unless an individual demonstrates continued competence in their chosen field. Even after 30 years of teaching courses for the IEA, Girvin was often the first to sign up for the next instructor workshop. In so doing, he not only maintained his competence, but added greatly to the competencies of the new IEA instructor.

Girvin was an individual who did not need a great deal of public recognition. His satisfaction came from accomplishment. If there was a project to be done, he did it, and it was done on time. Many of us could take a lesson from Girvin in timeliness, follow-through, and commitment to purpose.

Long before we coined the phrase "Human Resource Development," Girvin was a skilled practitioner. He often talked about his enjoyment in teaching Insurance 21 — Principles of Insurance. This course is populated by those new to the industry and who seek to better their position. Girvin never tired of helping these students learn concepts in the classroom that would apply to current and future jobs. He understood how important it was to provide the opportunity and the environment for practical learning to take place.

A Mentor

Perhaps most of all Girvin was a mentor. The dictionary definition of mentor is "a trusted counselor or guide." In a business sense, it is a senior person who guides a younger person's career development. The mentor's role is not in pulling people up the career ladder, but helping them develop their unique abilities. Girvin may not have thought of himself in those terms, but he was indeed a mentor.

For a number of years he was responsible for the career training program for the Hartford Insurance Co. in the San Francisco regional office. Hundreds of new trainees began their insurance careers in that course under the auspices of Girvin. I am consistently amazed how many graduates of that program credit him for starting them down the right path in their careers. His unique ability to provide the right combination of training and counseling has made a lasting impact on a large number of people.

Black Brokers Training

Some of you may also remember the Black Brokers Training program, but are probably unaware of the role Girvin played in its success.

The program brought previously unqualified members of the black community into a special course offered through IEA. Girvin served as the instructor for several years, and closely followed the progress of those who then went on to assume meaningful positions with their sponsoring companies. I am sure he would be very proud to know that one of the graduates now serves on the regular IEA faculty.

Yes, I think Girvin left a legacy from which we may all draw strength. We need more people who think this business is a great and worthy place to devote one's career. We need more people who understand what is required to be a professional and who gain satisfaction from personal accomplishment.

We need more people who believe that our greatest strength is in Human Resource Development and who provide the opportunity for that to happen. Finally, we need more willing mentors who are sincere and truly want to help others grow to their full potential.

Girvin is sorely missed by me and many others, but the legacy he leaves behind continues to serve as a mentor to us all.

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pulsory automobile laws, and the Alliance intends to intensify our efforts accordingly. We should explain that alternatives such as strict financial responsibility laws, no fault insurance and laws requiring insurers to offer consumers adequate uninsured and underinsured motorist coverage provide more cost-efficient and comprehensive protection to the responsible motorist. With the combined resources of a united insurance industry, we can offer persuasive arguments that compulsory laws are not the answer to the problem of uninsured motorists.

FOREMOST DIVIDEND

Foremost Corp. of America has announced that it has increased its anticipated annual dividend rate for 1983 to $1.24 per share of common stock from the 1982 rate of $1.12 per share.

The anticipated dividend rate will be for dividends to be declared in 1983.

HAVLICK

(Continued from page 23)

The valleys of Northern and Central California, one of the great wine producing areas of the world. And today San Jose's silicon valley is world famous as computer technology uprooted the fruit trees of the Santa Clara valley.

Men go into space and return in spacecraft built in California. And what is termed the components of high technology, the computer sector, electronic components, instruments and new generations of medical equipment are in place. The stepping stones of yesterday have become the cornerstones of tomorrow as California, retaining the accomplishments of the past, displays the resiliency, creative thought and the unique ability to move with a changing economy.

COMPULSORY AUTO LIABILITY LAWS

Arizona and Indiana have enacted compulsory auto liability insurance laws, effective Jan. 1, 1983.

New Mexico's compulsory insurance law will take effect in 1984, according to the Insurance Information Institute. The New Mexico law will bring to 32 the number of states with compulsory auto insurance.

ALASKA STATE LEGISLATURE
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March 10, 1981

MEMORANDUM

TO: Representative Thelma Buchholdt

FROM: Betty Barton
Research Staff

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

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

COMPULSORY LIABILITY INSURANCE

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

Initially, when automobiles were only in the hands of the wealthy, drivers relied upon their own assets to provide payment for accidents caused by their vehicles. As the availability of automobiles increased, drivers without the necessary assets began to purchase insurance in the event that they might be required to pay for damages caused by their motor vehicle. Originally the purpose of automobile insurance was to defend the policyholder against suits, and in the event that fault was determined, to pay the damages to the limits of the policy. If a policyholder was considered to be "judgement-proof", too poor to be sued by the victim or too poor to pay a judgement of the courts, the insurer was <u>not</u> required to pay on behalf of the policyholder. Gradually, to extend a party's ability to receive compensation, states began to require that auto insurers provide payment regardless of the policyholders' ability to pay. Consequently, what was initiated as an indemnity policy became a liability policy, eventually extending further to the liabilities incurred by an uninsured person driving the car with the insured owner's permission.

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

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

North Carolina Compulsory Liability Program

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

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

Administrative aspects of the North Carolina law have been recently revised to allow for more cost-efficient program operation. When persons register their vehicles or renew their registrations, their insurance coverage is certified by recording the date and identification number of the policy. Insurers are required to notify the Department of Motor Vehicles of any changes or cancellations of policies. Because of the administrative burden of this requirement (which some have said resulted in 85,000 notices of changes in policies monthly), the requirement has been amended so that insurers notify the department only of changes occurring within the first 6 months of the life of the policy.

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

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

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

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

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

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

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

NO-FAULT INSURANCE

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

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

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

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

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

The purpose of no-fault insurance programs basically was to speed up the compensation process and to increase the amount of compensation received. Under the tort liability system, victims normally recover only about 50 percent of their losses from all sources, e.g. tort liability claims, life and health insurance, automobile collision insurance, sick leave, workman's compensation, and disability, health, and other insurance benefits. Additionally, some people argue that tort liability recoveries are often inequitable, having little relationship to the amount of economic loss sustained. As an example, compensation for pain and suffering which accounts for over half the amount of total tort recoveries, is generally regarded to be highly subjective, with the amount of compensation awarded varying from one case to another.

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

Michigan No-Fault Insurance Program

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

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

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

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

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

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

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

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

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

INNOVATIONS IN REPARATIONS SYSTEMS

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

Subsidies to Low Income Drivers

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

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

Unsatisfied Judgement Funds

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

Compulsory First Party Coverage

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

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

BB/bf
Encls.

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

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February 16, 1981

MEMORANDUM

TO: Representative Thelma Buchholdt

FROM: Betty Barton BB
Issues Analyst

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

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

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

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

The Florida law has been fairly well received by the public, and is, of course, popular with insurance carriers. In turn, the Act has been opposed by some of the state's attorneys who argue that the tort threshold denies individuals access to the courts. In 1974, the Act was upheld by the State Supreme Court. However, due to major amendments to the law, several new cases have been initiated and are currently pending.

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

BB/BF

Attachments

PRINCIPAL PROVISIONS OF THE FLORIDA LAW

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

—Significant and permanent loss of an important body function;

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

—Significant and permanent scarring or disfigurement;

—Death.

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

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

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

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

Claim fraud

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

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

Historical Background

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

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

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

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

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

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

Sec. 2.

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

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

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

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

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

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

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

Section 4. Required security.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Any insurer may exclude benefits:

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

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

1. Causing injury to himself intentionally;

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

3. While committing a felony.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 12. Implementation of this act.—

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

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

(a) Within sixty (60) days after the effective date of this act, each insurer shall file its proposed manual, rules, rates and rating plans with the department for approval. Rates for required financial responsibility coverage after the effective date of sections 1 through 11 of this act shall be reduced by each insurer by not less than fifteen percent (15%), calculated as a percentage of the combined required financial responsibility rate of such insurer in effect on June 7, 1971, or of the combined required financial responsibility rate of such insurer approved by the commissioner and in effect at the time of the filing of the new rates required herein. There shall be no exception to the requirements of this provision, unless the department shall find that the use of the rates required herein by any insurer will result in rates which are inadequate under section 627.082, Florida Statutes, to the extent that such rates jeopardize the solvency, as defined in section 631.011, Florida Statutes, of the insurer required to use such rates. Notwithstanding the provisions of Chapter 71-3(B), Laws 1971, no rate for the insurance required by this act shall be increased prior to January 1, 1973, unless the insurer proposing such rate increase shall show that the rates required herein are inadequate as defined in section 627.082, Florida Statutes.

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

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

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

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

(f) For the purposes of the implementation of this act, rating organizations as defined in chapter 627 shall be permitted until January 1, 1973, to develop and furnish rates and forms to their members or subscribers. Provided, however, that members and subscribers of rating organizations shall not participate in the decisions or deliberations of such organizations in the development of such rates under this act.

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

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

Chapter 76-266, Laws 1976

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

An act relating to liability and insurance therefor; amending s. 324.021 (7), Florida Statutes; changing the financial responsibility limits; amending s. 324.051(2), Florida Statutes, changing the property damage operative amount in the financial responsibility law; amending s. 627.727(1), Florida Statutes, and adding a subsection; providing for limits of uninsured motorist coverage; amending s. 627.736 (2), (3), (6) and (7), Florida Statues; providing for the tolling of the 30-day personal injury protection benefit payment period under certain conditions; providing that no insurer paying personal injury protection benefits shall have a lien on recoveries in tort; providing that a claimant in any tort claim for which personal injury protection benefits have been paid shall have no right to recover in tort any damages for personal injury protection benefits paid; providing for jury instructions relating to said damages; deleting language relating to equitable distribution and insurer actions; providing that a sworn statement relating to treatment, services, and costs be provided the insurer by a physician, hospital, clinic or other medical institution; providing that no cause of action for invasion of privacy or violation of the physician-patient privilege shall be due to compliance with the discovery provisions of said section; providing that notice to an insurer of the existence of a claim shall not be unreasonably withheld by an insured; providing for the withholding of personal injury protection benefits when an insured unreasonably refuses to submit to a medical examination upon the request of an insurer; amending s. 627.737 (2), Florida Statutes, and adding a subsection; providing for conditions under which a plaintiff may recover damages in tort for bodily injury or disease arising out of the ownership, maintenance, operation or use of a motor vehicle; providing for dismissal without prejudice if the threshold provisions of said section are not met; amending s. 627.739, Florida Statutes, relating to deductibles for personal injury protection benefits; creating s. 627.7375, Florida Statutes; prohibiting fraud or intent to commit fraud to violate part x of chapter 627, Florida Statutes; providing penalties; adding subsection (7) to s. 20.13, Florida Statutes, and creating s. 626.989, Florida Statutes, creating a Division of Fraudulent Claims within the Department of Insurance; creating s. 627.4132, Florida Statues; prohibiting stacking of coverages; creating s. 627.7377, Florida Statutes; providing for physical damage deductibles; creating s. 627.7262, Florida Statutes; providing for nonjoinder of insurers and procedures for discovery of insurers; repealing s. 627.738, Florida Statutes, relating to tort liability for property damage; repealing s. 627.740, Florida Statutes, relating to tort claims; repealing s. 627.741 (2), Florida Statutes, relating to compliance with ss. 627.730-627.741, Florida Statutes, by insurers; providing that the Department of Insurance shall review the level of automobile insurance rates; providing for serverability; providing an effective date.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) This subsection shall not apply:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Causing injury to himself intentionally;

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

3. While committing a felony.

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

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

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

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

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

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