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

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

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

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

Arkansas	South Carolina
Delaware	South Dakota
Maryland	Texas
Oregon	Virginia

Mandatory States

Colorado

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

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

Connecticut

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

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

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

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

Florida

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

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

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

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

Georgia

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

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

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

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

Hawaii

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

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

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

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

Kansas

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

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

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

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

Kentucky

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

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

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

Massachusetts

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

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

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

Michigan

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

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

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

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

Minnesota

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

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

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

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

Nevada

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

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

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

New Jersey

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

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

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

New York

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

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

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

North Dakota

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

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

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

Pennsylvania

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

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

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

Utah

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

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

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

Optional States

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

Arkansas

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

Delaware

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

Maryland

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

Oregon

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

South Carolina

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

South Dakota

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

Texas

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

Virginia

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

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The Connecticut General Assembly

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August 18, 1982

FROM: Jerome Harleston, Research Attorney
Office of Legislative Research

SUBJECT: Mandatory Motor Vehicle Insurance Laws

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

SUMMARY

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

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

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

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

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

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

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

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

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

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

MANDATORY INSURANCE DEFINED/BACKGROUND INFORMATION

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

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

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

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

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

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

FIRST PARTY BENEFIT COVERAGE

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

LIABILITY COVERAGE

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

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

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

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

UNINSURED MOTORISTS COVERAGE

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

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

FINANCIAL RESPONSIBILITY

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

STATE LAWS

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

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

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

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

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

ADOPTION IN CONNECTICUT

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

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

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

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

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

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

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

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

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

SOURCES OF SUPPORT AND OPPOSITION IN CONNECTICUT

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

Massachusetts

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

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

Industry Representatives

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

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

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

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

Practicing Bar

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

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

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

Rent-a-Car Industry and Labor

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

Senior Citizens

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

Private Citizen

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

STATE EXPERIENCE

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

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

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

Massachusetts

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

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

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

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

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

Puerto Rico

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

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

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

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

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

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

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

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

Connecticut

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Cost Under No Fault

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

Analyses

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

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

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

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

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

Summary of Findings

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

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

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

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

Mandatory Liability Insurance Laws

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

usually by purchasing liability or third party auto insurance coverage.

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

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

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

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

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

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

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

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

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

*Date law effective

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

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

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

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

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

Repeal in Nevada

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

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

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

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

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

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

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

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

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

5) funeral benefits of $1,000.

Insurers had offered deductibles to the first party coverages;

property damage was left under the tort system.

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

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

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

PROS AND CONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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LSC--Don Robertson

January 22, 1982

COMPULSORY INSURANCE--RECENT LEGISLATION OF OTHER STATES

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

SHORT ANSWER:

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

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

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

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

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

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

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

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

Texas Compulsory Insurance Law

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Wyoming Compulsory Insurance Law

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

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

Because of its shortness, we quote it in full:

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

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

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

California Compulsory Insurance Law

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

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

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

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

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

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

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

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

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

Recent enactments in other states

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

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

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

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

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

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

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

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

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

California	Nevada
Idaho	North Carolina
Louisiana	Oklahoma
Montana	West Virginia
	Wyoming

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

West Virginia

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

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

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

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

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

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

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

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

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

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

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

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

Colorado (no-fault)

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

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

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

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

Connecticut (no-fault)

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

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

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

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

Georgia (no-fault)

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

Montana

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

Nevada (repealed its no-fault law)

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

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

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

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

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

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

Oklahoma

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

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

Compulsory underinsured motorist insurance coverage

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

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

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

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

Policy objectives and alternatives to compulsory insurance

Policy objectives of compulsory insurance laws are to:

--compensate injured drivers;

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

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

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

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

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

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

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

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

CONCLUSION

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

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

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

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R-112-3104
LSC - Don Goldbaum
October 31, 1978

R-112-3104

COMPULSORY AUTOMOBILE INSURANCE

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

Arguments for and against compulsory automobile insurance

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

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

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

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

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

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

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

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

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

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

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

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

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

Unsatisfied judgment funds and assigned risk plans

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

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

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

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

Alternatives to compulsory automobile insurance

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

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

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

Effect of automobile insurance plans on insurance rates

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

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

*Rating bureau

**Chart supplied by Nationwide Insurance

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

RESEARCH MEMORANDUM FILE 9-281
May 10, 1982
Updated October 26, 1982

COMPULSORY MOTOR VEHICLE LIABILITY INSURANCE

Summary

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

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

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

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

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

Robert J. Welz
Staff Attorney

RJW:lam

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

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

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

Illinois Proposals for Compulsory Insurance

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

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

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

Table 1

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

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

Table 1 (cont'd)

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

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

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

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

Source: Examination of bills by Legislative Council staff.

Laws in Other States

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

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

Examples of Procedures Followed in Enforcing Compulsory Insurance Laws

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

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

Table 2

Compulsory Liability Insurance Coverage Requirements and Penalties, 1982

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

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

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

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

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

Source: Listed in Appendix A.

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

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

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

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

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

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

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

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

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

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

Arguments For Compulsory Insurance

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

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

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

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

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

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

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

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

Arguments Against Compulsory Insurance

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

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

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

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

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

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

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

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

Notes

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

Source

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

Appendix A

Citations to Compulsory Motor Vehicle Insurance Provisions in 31 States

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

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

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

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

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

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

Appendix B

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

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

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

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

RESEARCH MEMORANDUM FILE 9-194

March 5, 1981 (revised)

COMPULSORY MOTOR VEHICLE INSURANCE

Summary

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

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

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

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

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

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Compulsory Insurance Legislation

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

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

Illinois Proposals for Compulsory Insurance

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

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

Legislation in Other States

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

Table 1

Illinois Legislation for Compulsory Automobile Insurance, 1971-1980

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

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

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

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

Source: Examination of bills by Legislative Council staff.

Table 2

Compulsory Liability Insurance Coverage Requirements and Penalties, 1980

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

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

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

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

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

Examples of Procedures Followed In Enforcing Compulsory Insurance Laws

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

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

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

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

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

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

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

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

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

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

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

Arguments For Compulsory Insurance

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

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

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

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

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

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

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

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

Arguments Against Compulsory Insurance

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

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

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

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

Note

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

Source

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

Appendix A

Citations to Compulsory Motor Vehicle Insurance Provisions in 26 States

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

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

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

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

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

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

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

March 10, 1981

MEMORANDUM

TO: Representative Thelma Buchholdt

FROM: Betty Barton
Research Staff

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

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

COMPULSORY LIABILITY INSURANCE

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

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

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

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

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

North Carolina Compulsory Liability Program

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

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

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

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

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

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

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

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

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

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

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

NO-FAULT INSURANCE

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

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

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

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

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

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

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

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

Michigan No-Fault Insurance Program

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

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

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

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

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

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

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

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

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

INNOVATIONS IN REPARATIONS SYSTEMS

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

Subsidies to Low Income Drivers

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

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

Unsatisfied Judgement Funds

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

Compulsory First Party Coverage

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

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

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