834

current registration on their vehicles?
5. Why were we given the right to appeal the departments decision through the court system when there is no working or speaking relationship between the Administrative and judicial branches of government? The only way our circumstances could be considered was for the courts to find the law unconstitutional. What kind of right to appeal because of circumstances is this?
6. Why were we allowed to be persecuted by the administration's abuse of power? My husband's persecution is directly caused by the states inability to regulate insurance practices. My persecution is only because of association to my husband.
7. Are the legislators so intent in placing a mandatory insurance law in effect that a bad and unfair law is better than no law?
8. Why was a hearing held in Anchorage District Court when this citation was issued in Fairbanks and we reside in Fairbanks? We were not informed of such a hearing. Was my husband denied basic rights to a fair hearing? What other action will be taken against his license of which he is not informed? Is Juneau District Court next?
9. Why were we informed by the Financial Responsibility Supervisors office two days after my husband surrendered his license to

that proof of financial responsibility was required when such proof had been filed with that office 10 months prior to my husband's license surrender? Was this to entrap my husband for further punishment?

10. Why is the penality so harsh it caused us to lose the very thing we are unjustly punished for. A suspension on one's drivers record can cause an insurance company to cancel all coverage. In our case cancellation will be on vehicles that were insured at the time of the citation.

I am appalled by the treatment we have received by the Attorney General's office and the D.M.V. During the time we spent through the court system, the Attorney General's office misconstrued our action to make their case look better, at the expense of my husband's character. The D.M.V. refused to answer any of my correspondence, nor would they give me any information regarding the insurance law and availibility of coverage.

In my opinion we were not punished because of no coverage. We proved to the court we were financially responsible had liability occurred. We were punished for questioning the legality of the department to eforce that law fairly. I implore the Senate to investigate the cases coming before the courts regarding the insurance laws. To place the residents of the State at the mercy of the insurance companies and then close your eyes to their unfair

practices is criminal. In order for a mandatory insurance law to work it has to be enforced on every driver and more regulations must be placed on the insurance companies to prevent people like us from being punished for these companies and the state's inadequacies.

I apologize for the length of this letter, but I had to have my say. I thank you for your concern and time regarding this matter.

Sincerely,
Arleen Burgess

(1

STATE OF ALASKA

PUBLIC DEFENDER AGENCY

STEVE COWPER, GOVERNOR

912 BARNETTE STREET
SUITE 1
FAIRBANKS, ALASKA 99701-4510
PHONE: (907) 452-1621

November 2, 1988

Bruce Geraghty
P.O. Box 55028
North Pole, Alaska 99705

Dear Mr. Geraghty:

Earlier today, we discussed the problem Ms. Starr Tucker has encountered in attempting to secure a driver's license. Ms. Tucker and I both appreciate your interest in her situation and your prompt response to her request for help.

In September of 1985, Ms. Tucker was involved in a motor vehicle accident; the other vehicle was driven by a gentleman named Cleve Davis, Jr. Because she didn't have insurance, Ms. Tucker's license was revoked for ninety days, pursuant to AS 28.22.240(a)(1), and she will be required to satisfy the SR-22 insurance requirement described in AS 28.22.260(b) until January 1989. She understands these provisions and is fully prepared to comply with them. The problem relates to the additional requirement of a security deposit which appears in AS 28.20.150. Under that provision, she must also post security in an amount specified by DMV in order to get her license back. Ms. Tucker has been, and continues to be, financially unable to satisfy that requirement.

As Mr. Delaney told me this morning, the obvious purpose of that requirement is to protect the other person involved in the accident; it is inapplicable in the event of execution of a release, AS 28.20.100, entry of judgment, AS 28.20.110, or settlement of the claim, AS 28.20.120. Ms. Tucker has been unable to settle the claim or obtain a release because Mr. Davis appears to have left Alaska for parts unknown. Normally, under these circumstances, it would be a simple matter for her to go to court and obtain an adjudication of nonliability. But she is precluded from doing that by the fact that the relevant statute of limitations has already run. See AS 09.10.070.

Ms. Tucker's predicament seems to be the result of an inconsistency within the statutory scheme. Any liability she might have had toward Mr. Davis was extinguished as of September 1987. Yet the security requirement, which is supposed to protect Mr. Davis, remains effective until January 1989. That requirement is obviously pointless with regard to the period between those dates. What is worse, though, is that it deprives Ms. Tucker of the opportunity to regain her driving privileges during that period and there is apparently nothing she can do about it.

Alaska State Legislature
Senate

Official Business

P.O. BOX V
State Capitol
Juneau, Alaska 99811

January 31, 1989

Michael F. Combs, President
Combs Insurance Agency
Box 1108
Palmer, Alaska 99645

Dear Michael:

Thank you for writing me with your suggestions on the Mandatory Automobile Insurance legislation.

House Bill 44, which is the companion version to my Senate Bill 4, has already passed the House and is presently in the Senate Labor and Commerce Committee. I am taking the liberty of forwarding your letter and comments to Senator Dick Eliason, who chairs this committee.

I appreciate your taking the time to be so specific with your suggestions; it is certainly helpful. Again, my thanks.

Sincerely,

Senator Jay Kerttula

JK:pt
cc: Senator Eliason

Combs Insurance Agency, Inc.

AUTO | FIRE | CASUALTY | LIFE

BOX 1108 PALMER, ALASKA 99645 PHONE (907) 745-2144

01-25-89

Senator Jay Kerttula
Alaska State Senate
P.O. Box V
Juneau, Ak. 99811

JAN 27 1989

Re: Senate Bill #4.
Mandatory Automobile Insurance Act.

Dear Jay,

I have had a chance to read over your proposed bill for the Mandatory Automobile Insurance Act, and I feel that you have done a very good job on this presentation.

I would like to offer one suggestion for a change in the bill, and that would be regarding the limit of liability required, under Article 2. General Policy Provisions, on page 6.

I would like to suggest that the limit of liability be changed to require a "Combined Single Limit of Liability for Bodily Injury and Property Damage, in an amount not less than $125,000.00".

In referring to page 9, of the same General Policy Provisions, you will see that (2) states that the limit of liability for Uninsured/ Underinsured Motorist Coverage shall be a single combined coverage;.

The general practice of the insurance industry is to offer a combined single limit of liability for automobile liability, as well as other liability coverages.

The premium difference between the "Split Limit" of $50,000.00/ $100,000.00 Bodily Injury and $25,000.00 Property Damage, to $125,000.00 Combined Single Limit is very minor, yet provides for the same total limit of liability coverage, but allowing for a single major injury, or single major property loss to have $125,000.00 available.

The situation that is occurring with alarming frequency is that with one insurance company offering a "Split Limit" and one offering a

01-25-89

Senator Jay Kerttula
Cont.

Re: Senate Bill #4.
Mandatory Automobile Insurance Act.

Combined Single Limit, there is always the exposure to the Combined Single Limit company to an Underinsured loss each time there is any bodily injury.

Example: Company A Providing "Split Limits" $50,000./$100,000./$25,000. Bodily Injury and Property Damage. Involved in an at fault accident with Company B which is Providing "Combined Single Limit" $125,000. Bodily Injury and Property Damage.

Same total limit of liability for each, and little, if any, difference in premium.

Company A renders policy limit settlement to injured person in Company B vehicle. Total payment $50,000.00. Injured person in Company B vehicle then turns in claim against "Underinsured Motorist" coverage under Company B, and receives additional $75,000.00. (The difference between $50,000.00 and $125,000.00.)

This then exposes Company A insured to a subrogation claim from Company B for $75,000.00, and causes "Underinsured Motorist" coverage to provide a higher settlement than the primary liability coverage, causing "Underinsured Motorists" coverage to eventually skyrocket in price for everyone.

Had both Company A, and Company B had the same "Combined Single Limit", then there would have been no claim to the innocent driver's insurance, as Company A would have paid the entire $125,000.00 claim, thereby putting the expense with the at fault party.

Please consider this change in your bill, and I would suggest that AS 28.20 the Motor Vehicle Safety Responsibility Act, and Bulletin Order #78-7 the Alaska Automobile Insurance Plan be changed to this same minimum limit of liability.

If I can be of any further assistance to you, please let me know.

Sincerely,

Michael F. Combs
President

MFC/mc

HUGHES THORSNESS GANTZ POWELL & BRUNDIN

ATTORNEYS AT LAW

DAVID H. THORSNESS
JAMES M. POWELL
BRIAN J. BRUNDIN
MARCUS R. CLAPP*
KENNETH P. JACOBUS
GARY W. GANTZ
JERRY E. MELCHER
JOE M. HUDDLESTON
SIGURD E. MURPHY
CARL J. D. BAUMAN
DENNIS M. BUMP*
MARY K. HUGHES
FRANK A. PFIFFNER
RALPH R. BEISTLINE*
R. CRAIG HESSER
ROBERT L. MAHLEY
JAMES M. GORSKI
TIMOTHY R. BYRNES
JAMES M. SECOOR*
RONALD E. NOEL*
FREDERICK J. ODSEN
MICHAEL L. LESSMEIER**
STEVEN S. TERVOOREN
MATTHEW K. PETERSON
JOSEPH R. D. LOESCHER
KENNETH D. LOUGEE*
EARL M. SUTHERLAND
JOHN B. THORSNESS
THOMAS P. LUCAS

GREGORY W. LESSMEIER**
JAMES N. BARKELEY
DONNA P. WALKER
WILLIAM M. WALKER
DAVID S. CARTER
JOHN G. FRANK**
ANN S. BROWN*
TIMOTHY P. REDFORD
JOHN J. NOVAK
JOHN H. TINDALL
MICHALE C. CARTER
MATTHEW G. REYNOLDS
BRYAN M. EMMAL*
ROBERT A. SPARKS*
PAUL H. CRADAN*
GORDON W. DUVAL*
JAMES F. KLASEN
DANIEL M. WOLD
PAUL S. WILCOX
JAMES M. SHINE**
TERRY A. FIKES
MARCUS B. PAINE
KENNETH M. GUTSCH
JOHN H. RAFORTH
LYNN E. LEVENGOOD*
JOSEPH S. SLUSSER*

OF COUNSEL
JOHN C. HUGHES
RICHARD O. GANTZ

509 WEST THIRD AVENUE
ANCHORAGE, ALASKA 99501-2273
TELEPHONE (907) 274-7522
TELECOPIER (907) 274-7545
TELEX: 090-26378 (DENALI)

*590 UNIVERSITY AVENUE
SUITE 200
FAIRBANKS, ALASKA 99709-3652
TELEPHONE (907) 479-3161
TELECOPIER (907) 479-3167

**ONE SEALASKA PLAZA
SUITE 303
JUNEAU, ALASKA 99801-1249
TELEPHONE (907) 586-6912
TELECOPIER (907) 463-3020

Reply to: JUNEAU

March 1, 1989

HAND DELIVERY

Senator Eliason
P.O. Box V
Juneau, Alaska 99811

Re: Compulsory Automobile Liability Insurance
Statute in Alaska
Our File No: 220-92 and 30-213

Dear Senator Eliason:

I enclose herewith a copy of the written comments I referred to in my testimony on February 27, 1989, as well as the testimony I gave before you back in 1983, which I think is also applicable. As I indicated to your Committee, uninsured and underinsured motorist coverage in the amount of $50,000 per person, $100,000 per incident, and $25,000 for property damage is available from State Farm at a cost of $14.10 for every six months for those persons who have the same liablility coverage and a deductible of $250.00 or less. If the deductible is $250.00 or more, the cost is $15.10, and if there is no collision coverage, the cost is $16.60.

Senator Faiks inquired about our experience of rate changes, I believe regarding uninsured motorist rates, after the passage

of compulsory insurance. The only figures I have available right now concern the uninsured motorist rate change history for State Farm Mutual in Alaska, which indicate the following:

January 15, 1980	11.9% decrease
July 1, 1981	8.1% increase
April 15, 1984	19.2% increase
November 1, 1985	18.2% increase
June 1, 1987	0.0%

As I also indicated to your committee, the automobile insurance rates in Alaska have been quite stable. For example, State Farm Mutual has had a 13.1% overall rate decrease over the last ten years. I also told your committee that the ratio of uninsured motorist bodily injury claims to bodily injury claims for the State Farm Mutual Company for the year 1988 was in excess of 20%.

Finally, if this Committee does choose to move the legislation before you, we recommend the following change to Section 28.22.301:

> A provision in this chapter may not be interpreted to prohibit a motor vehicle liability policy from including limitations, conditions, exceptions, exclusions, or other provisions. [that do not violate the requirements of this chapter or other applicable laws.] <u>This chapter is not intended to modify, amend, or invalidate existing motor vehicle liability insurance policy terms, conditions, limitations, or exclusions, or to preclude insurance companies from using similar terms, conditions, limitations, or exclusions in existing or future contracts.</u>

We recommend this language because of the difficulties we had in other states where by judicial decision courts have interpreted mandatory coverage as meaning absolute or total coverage regardless of policy conditions, limitations, or

exclusions. We do not believe that to be the intent of this law, and this small change would simply clarify that.

Sincerely,

HUGHES, THORSNESS, GANTZ,
POWELL & BRUNDIN

By: Michael L. Lessmeier
Michael L. Lessmeier

MLL:srs/0034L
Enclosure: Statement dated Febrary 27, 1989
Statement dated May 31, 1983

STATEMENT IN OPPOSITION TO

THE ENACTMENT OF A COMPULSORY AUTOMOBILE LIABILITY

INSURANCE STATUTE IN ALASKA

HEARING BEFORE THE

SENATE LABOR AND COMMERCE COMMITTEE

FEBRUARY 27, 1989

Mr. Chairman, Members of the Labor and Commerce Committee, my name is Michael Lessmeier. I am a Lawyer from Juneau and am here on behalf of Allstate Insurance Company and State Farm Insurance Company. Almost six years ago I was here before you when this Committee was first considering the adoption of Compulsory Insurance. At that time I told you that both Allstate and State Farm had had a long and generally negative experience with Compulsory Insurance. That experience has not changed. We told you that we felt that Compulsory Insurance laws aren't needed, create more problems then they solve, don't benefit the public or our policyholders and in the final analysis don't work. We continue to feel the same way today. I am here to again urge that this Committee not adopt Compulsory Insurance in Alaska.

I have brought with me the testimony I gave before this Committee in 1983 and I will not repeat what I said there. Instead I will try to respond as specifically as I can to some of the concerns that were raised at the first hearing this Committee had on

Compulsory Insurance. Before I do so, I want to make clear that we have historically opposed and will continue to oppose compulsory insurance. The philosophy of compulsory insurance is inconsistent with the concepts of free enterprise and a competitive market, both of which we fully support. We do not believe that compulsory insurance can be justified on any social, philosophical or economic grounds.

The fact of the matter is that compulsory insurance simply does not work in practice. To date, no state has found a way to remove the uninsured motorist from their highways. For example the state of New York in fiscal year 1986-1987 spent $11,220,000 to enforce their compulsory insurance law. This information is from the data reported by the New York Motor Vehicle Dept. Our most recent contacts with representatives of that Department indicate that they still believe that approximately 12% to 15% of their motorists are uninsured. In 1986-1987 South Carolina spent $3,795,000 to enforce their law. They have 29 state patrolmen whose sole job is the enforcement of compulsory, the picking up of license tags, registrations, etc., and at last report it appeared that in excess of 10% of the South Carolina motorists were still uninsured. It appears that at the very most, compulsory insurance is a deterrent that affects only a small percentage of the uninsured population.

Why does compulsory insurance not work? To answer this question one need only look at the traditional reasons people buy liability insurance. Most people buy liability insurance because they feel they need it to protect assets, not to protect others. In other words, people who had few assets had little incentive to purchase liability insurance. In fact, the primary reasons people don't buy liability insurance is either they can't afford it or don't feel they need it because they have few assets to protect. Requiring insurance of low income households will not compel them to purchase something they do not feel they can afford.

Others who are commonly found in the uninsured category include those who do not have a driver's license, do not register their vehicles, are driving stolen vehicles or vehicles involved in hit and run accidents. Many of these people will not purchase liability insurance regardless of whether there is a compulsory law. Others in this category include out of state drivers and new residents with vehicles registered elsewhere. Experience shows us that 4% to 5% of the public will continue to drive even in an unlicensed status or will continue to operate an unregistered vehicle.

Compulsory automobile insurance affects low income households in another way, for it in effect, forces such households to buy protection for others which they may not be able to afford for their own families. Even though these individuals may have few or

no assets to protect, compulsory insurance forces them to buy insurance, largely in an effort to protect others. Because of their economic status, people with low incomes may well be forced to pay high premiums relative to their income in order to obtain benefits for others, which those others could more readily afford.

Compulsory insurance has other negative effects as well. Often, after the enactment of compulsory nsurance, we see some form of cross subsidization, where certain categories of the market pay more in order to subsidize others. We have seen the residual market pressures increase, and unless the residual market rates are actuarially sound, the additional costs are spread across the voluntary market. We have seen coverage expanded more frequently through judicial decision after compulsory insurance is enacted, and while the insurance industry may initially suffer from expansions of coverage, ultimately, it is the policy holder who pays for such expansions in terms of increased cost.

Finally, the judicial trend in many areas seems to be that mandatory coverage means absolute or total coverage regardless of policy conditions, limitations, or exclusions, at least up to the financial responsibility limits. In a number of states, courts have through a judicial decision, eliminated the exclusions and conditions of the insurance contract to extend coverage to risks that were never contemplated to be insured.

If you proceed with this legislation, and we hope that you don't, we have some language that we would propose, that would recognize the need for the existing motor vehicle liability insurance policy terms, conditions, limitations, and exclusions. However, before you choose to proceed, we would urge you to take a careful look at why people buy insurance, and the current incentives which already exist to do so.

One of the things you should look at is the Motor Vehicle Safety Responsibility Act set forth at Alaska Statute 28.20.010 et seq.. We believe this Act provides as much incentive to purchase insurance as does virtually any mandatory insurance proposal. If an individual involved in an accident resulting in bodily injury to, or death of a person, or damage to property exceeding $500.00, is not financially responsible to the limits set forth there for damages negligently caused, that person's license is suspended until such financial responsibility is provided and established for the future. The suspension can continue for three years. It is hard to understand how a compulsory insurance law would provide more incentive than this. A further advantage of such an Act is that it directs state resources to the minority of motorists who cause problems, rather than the majority who don't.

We also urge you to consider the fact that there is an eminently affordable mechanism of dealing with the uninsured and underinsured driver through a mandatory offer of uninsured motorist coverage and underinsured motorist coverage. By purchasing uninsured and underinsured motorist coverage, a vehicle

owner is assuring that all drivers and passengers in the insured automobile will have protection against losses caused by an uninsured motorist. Because compulsory insurance, at the most, is a deterrent, even with the enactment of compulsory insurance uninsured motorist coverage and underinsured motorist coverage is necessary. A compulsory uninsured and underinsured requirement does not impose the administrative cost to either the public or private sector that compulsory liability insurance would impose. We furthermore believe that any deterrent effect of compulsory liability insurance can be achieved through similar publication of the Motor Vehicle Safety Responsibility Act.

We thank you for the opportunity to address this issue, and are open to any questions you might have. If we don't have the answer or the information you desire, we can probably obtain it shortly.

STATEMENT IN OPPOSITION TO

THE ENACTMENT OF A COMPULSORY AUTOMOBILE LIABILITY

INSURANCE STATUTE IN ALASKA

HEARING BEFORE THE

SENATE LABOR AND COMMERCE COMMITTEE

MAY 31, 1983

Mr. Chairman, members of the Labor and Commerce Committee, my name is Michael Lessmeier. I am a lawyer from Juneau and I am here on behalf of Allstate Insurance Company and State Farm Insurance Company. Both Allstate and State Farm have had a long and generally negative experience with compulsory insurance. We believe compulsory insurance laws, such as the bill before you, aren't needed, create more problems than they solve, don't benefit the general public or our policyholders, will unnecessarily raise premium rates and in the final analysis, don't work.

The real question is whether the cost of compulsory insurance justifies the realistic benefit we can hope to achieve from it. We believe the answer to this question is no and we want to explain why.

The theoretical goal of compulsory insurance is to guarantee that innocent victims of automobile accidents are compensated for their injuries. But we know that the enactment of compulsory insurance

does not guarantee that these people will be so compensated. Compulsory insurance has never in any state reached the objectives sought by its sponsors.

One of the reasons compulsory insurance has not been effective, is that uninsured drivers are generally made up of those who can't afford insurance, have no drivers license, do not register their vehicles,are driving stolen vehicles or vehicles involved in hit-and-run accidents. Many of these people will not purchase liability insurance regardless of whether there is a compulsory law. Others in this category include out-of-state drivers and new residents with vehicles registered elsewhere. Most of these people will continue to remain uninsured even after passing a compulsory law and this is shown by experience in other states.

For example, California spent $2.32 million to increase the percentage of its insured drivers by five (5) percent. Maryland spent $1.5 million to increase its percentage of insured drivers by the same five (5) percent. South Carolina paid $1.3 million for an eight (8) percent increase. Massachusetts, which has had a compulsory insurance law longer than any other state, still has an estimated 10 -15 percent level of uninsured drivers. Current estimates of uninsured drivers in compulsory states still range from five (5) percent to 15 percent, depending upon the level of enforcement.

Nor is the concept of compulsory insurance related to safety. The enactment of a compulsory insurance law won't reduce the number of accidents. By its very nature, compulsory insurance relates to what happens after an accident. Compulsory insurance laws simply require insurance, they do not provide a means to remove high-risk drivers from the road.

We do not believe that uncompensated injuries are reduced by the enactment of a compulsory law. We believe that on the average, insured car occupants will receive injuries from uninsured motorists at about the same rate after enactment of compulsory legislation as they do before passage of these laws. Although compulsory legislation may increase the insured population by a small percentage, we do not believe it will result in a measurable reduction in the number of bodily injuries caused by financially irresponsible drivers.

Even if we were to assume there would be a decrease in the number of bodily injuries caused by financially irresponsible drivers, the question still is whether the benefit we can realistically expect from compulsory insurance is worth the cost and we believe the cost will be significant. For example, we know there will be a significant administrative cost to the State of Alaska simply to implement and enforce the compulsory insurance legislation before you. In effect, in a time of declining state revenues, virtually a whole new

bureaucracy will have to be created to implement and enforce this legislation. The administrative cost to the public is an important concern, particularly when there are other pressing needs in this state.

The second cost aspect of this legislation that must be considered is the effect on premium rates of policyholders. We believe premium rates of everyone will increase significantly because administrative costs of the industry will increase, companies in effect will be forced to take almost all applicants, the bill does away with policy defenses in certain situations, the pure premium cost in a compulsory state has been shown to increase much more rapidly than the pure premium cost in a non-compulsory state, and finally, the cost of compulsory insurance will probably lead to more claims and more litigation.

Other costs which are impossible to quantify, include the social cost to people who can't afford insurance, and the inconvenience of adding another layer of intrusion by government into people's lives. Most people currently buy insurance because they feel they need it. Liability insurance has traditionally been purchased by people who have assets to protect, not to protect others. In other words, people who, in the past, had few assets, had very little incentive to purchase liability insurance. A report, Profile of Uninsured Motorists in California showed that geographic areas with high

rates of uninsureds had significantly lower median incomes, and a higher incidence of poverty level than areas with low rates of uninsured drivers. A 1981 study by the All-Industry Research Advisory Council asked households with one or more uninsured vehicles why the vehicles were uninsured. Forty percent of the people surveye listed cost as the reason. The next major reason, "car not currently in use", was only 16 percent of the total response. In short, requiring insurance of low-income households will not compel them to purchase something they simply cannot afford. Dr. John Hall of Georgia State University testified before South Carolina's Joint-Legislative Automobile Liability Insurance Study Committee in December of 1979. Dr. Hall said:

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

Dr. Hall concluded:

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

Not only does compulsory legislation extract a disproportionate cost from low-income groups, but it raises the price level of everyone's insurance. Compulsory insurance thus imposes the additional higher premium and administrative costs on those currently insured, which in any event is the vast majority of the driving public, to get at the remaining minority, those currently uninsured.

So the question remains, is the cost to everyone worth the realistic benefit we can hope to achieve. Bodies investigating compulsory insurance in other states have said no, primarily for the same reasons. In 1981 a Tennessee Subcommittee studying automobile compulsory insurance laws made the following recommendation:

> Our findings reveal that despite considerable and varied enforcement efforts in other states, including the adoption of no-fault, no state has devised a workable or cost-effective enforcement system. In addition, experience in other states indicate the adoption of compulsory insurance in Tennessee would only increase the percentage of insured drivers from the current 80 percent to 85 percent. More importantly, the cost of liability insurance plus uninsured motorist coverage in Tennessee is less than the same coverage in any compulsory state, and considerably less than the same coverage in any compulsory no-fault state. The responsible motorist should

> not pay more for insurance coverage nor be subjected to harrassment in a futile effort to enforce a compulsory insurance law.

November 19, 1981 letter from the Tennessee Subcommittee Studying Automobile Compulsory Insurance Laws.

A similar conclusion was reached by the State Auditor of Wisconsin on March 10, 1981:

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

March 10, 1981 letter from the State Auditor of Wisconsin.

If our goal is to guarantee compensation for victims of financially irresponsible motorists, we can achieve that goal more efficiently and effectively through compulsory uninsured and under-insured legislation. If every person who bought insurance included this coverage, careful drivers would be protected regardless of whether the at-fault other party had liability insurance. Only those who chose not to purchase this coverage would be without protection.

Uninsured motorist coverage is provided by companies to pay for bodily injury damages to the policyholder caused by an uninsured motorist. Virtually every state with a compulsory liability insurance law also requires insurers to offer uninsured motorist coverage, which in effect indicates a lack of faith in

the effectiveness of compulsory insurance legislation. By purchasing uninsured motorist coverage, a vehicle owner is assuring that all drivers and passengers in the insured automobile will have protection against losses caused by an uninsured motorist. Compulsory automobile insurance cannot make this promise.

Compared to the cost of liability insurance, uninsured motorist coverage is very inexpensive. We urge each of you to look at your own policies to gain an idea of its cost. Furthermore, a compulsory uninsured and under-insured requirement does not impose the administrative cost to either the public or private sector that compulsory liability insurance legislation would impose.

In sum, we believe compulsory liability insurance, if enacted, will prove to be both costly and burdensome to the State of Alaska, and the insurance industry. Ultimately it will prove to be both costly and burdensome to our policyholders and to members of the general public. We urge this committee to seriously consider the cost and effectiveness of compulsory insurance before recommending such a program. We believe there are other alternatives available which cost much less and achieve much more.

March 5,1989
Near Homer, Alaska

Dear Mr. Eliason,

How is the time for all Alaskans to wake up to the dangers of some horrible legislation working through the Legislature this year. The worst bit of presumptive legislation I have seen since the original Mandatory Auto Insurance is the attempt to ram a new version of that onerous law right down our throats. We Alaskans still have the Financial responsibility Act to protect us on the road. Unlike the recently and rightfully sunsetted law, it does not presume that all drivers are irresponsible children. It invokes penalties only AFTER damage is done and restitution not made. Not everyone is willing to act in a responsible manner, thus the FRA does not always work as well as it could with some tinkering. Why not strengthen the existing law to make it more workable, rather than layer us with another unworkable, unnecessary, and unconstitutional law?
Perhaps the Financial Responsibility Act can be strengthened to call for revokation of auto registration, auto impoundment, and performance of community service if proper restitution is not made after damage is done. The truly responsible driver is not one who prostitutes oneself to the insurance mobsters, but rather, they are those who realize that accidents do happen, drive in a manner so as to minimize damage in case of an accident, and are willing to take responsibility for damage they do cause. The truly responsible driver also wears safety apparatus provided by the vehicle, and does not need the threat of legal penalty to act in their own best intrest. Since 1985 freedom loving Alaskans have fought institution of a Mandatory Seat Belt law. Let's use our energies to tell people how silly it is to operate an auto without seatbelts. In a non-socialistic society, such as ours presumably is, government simply has no business saving lives. How is the time to kill both of these presumptive pieces of socialistic legislation.
I Remain Yours In Freedom,

Willy Nye
HCR 36975 Mabia Ct.
Near Homer, Ak.
235-6811

P.S. Louie right - mandatory laws are no good. It's not good government to push this through - let it die - after a year of no mandatory ins. we will have some real facts, not the B.S. they are trying to face us with!

240

Huycke General Agency

2900 Boniface Parkway, Suite 200
Anchorage, Alaska 99504

AAMGA

FAX 907-338-7234

907-338 0491

April 20, 1989

To All Our Good Brokers:

Re: UM/UIM-BI/PD

None of us appreciate having to make rate increases (Scottsdale has not made one in three years). But ever since Statute revisions requiring the offer of Underinsured Motorists and also Property Damage coverage, our UM experience has been disastrous. And we no longer think it appropriate to make the other Liability Coverage premiums cover the UM/UIM loss experience.

Therefore, effective May 1, 1989 for NEW business; and June 1, 1989 for RENEWAL business, we are adding a $100. surcharge per auto on all auto policies. As we issue renewal quotes within 60 days of expiration and hold new quotes for 60 days, please make sure you adjust these quotes when requesting policies.

Finally, with this increase directly applicable to UM/UIM coverages, it is probable you will see more requests by the Insured to reject such coverage. We do hope you will go on written record with such insured as to what the rejection means to avoid E & O situations when a claim is denied.

Very truly yours,

Peter C. Huycke

Peter C. Huycke

PCH:jsh

This is just one example of how the Uninsured driver is money out of our pockets - Please get moving on the Mandatory Insurance Bill.

Jim Wood

HUGHES THORSNESS GANTZ POWELL & BRUNDIN

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THOMAS R. LUCAS

509 WEST THIRD AVENUE
ANCHORAGE, ALASKA 99501-2273
TELEPHONE (907) 274-7522
TELECOPIER: (907) 274-7526
TELEX: 090-25376 (DENALI)

*500 UNIVERSITY AVENUE
SUITE 200
FAIRBANKS, ALASKA 99709-3652
TELEPHONE (907) 479-3161
TELECOPIER: (907) 479-3167

**ONE SEALASKA PLAZA
SUITE 303
JUNEAU, ALASKA 99801-1249
TELEPHONE (907) 586-5912
TELECOPIER: (907) 463-3020

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JOSEPH S. SLUSSER*

OF COUNSEL
JOHN C. HUGHES
RICHARD G. GANTZ

Reply to: JUNEAU

April 6, 1989

HAND DELIVERED

Senator Eliason
Labor & Commerce Committee Chairman
P.O. Box V
Juneau, Alaska 99811

Re: Committee Substitute for House Bill 44

Dear Senator Eliason:

I recently received the enclosed graphs setting forth the uninsured motorists/bodily injury frequency ratio for the States of Alaska, New Mexico, Arizona, Indiana, and Texas. What these charts show is that our uninsured motorists claims typically go down immediately after enactment of a compulsory insurance law, but that the uninsured motorists claim very quickly climb back up to at or near the levels they were at immediately before the passage of such a law.

I also just receive a memorandum from one of the State Farm actuaries expressing concern about Section 6. This section requires that a policy provide both liability and in some cases physical damage coverage for rented motor vehicles. It places no limitation on the number of days that an insured can rent a vehicle and can have coverage. Nor does it limit the types of vehicle that can be rented and be covered. Section 6 furthermore places no limitation on coverage fcr business use rentals.

We feel this requirement of such broad coverage for rental vehicles is unfair. It is unfair because it forces those who never or only rarely rent vehicles to share the cost of those who do rent vehicles frequently or for long periods of time. It is particularly unfair if it forces people with personal auto policies to share the cost of those who rent cars for business purposes. Certainly the cost of business purpose rental should be born by the business benefiting from those rentals and not shared by the insuring public many of whom will end up paying for something they do not take advantage of.

We believe the best approach to dealing with the rental vehicle situation is the National Association of Insurance Commissioners Model Act which limits the rental company's ability to hold the renter responsible for damage to the vehicle. As more and more states enact that legislation, it will become less necessary for individual policies to extend coverage to rental vehicles.

With respect to Item G of Section 6, we are not sure what it is intended to accomplish. We see little valid purpose to requiring a company to issue a short term policy which is valid only for a maximum of seven days. The handling charges for such a policy would be high, and as far as we know there is little demand for such coverage.

I also should add that I yesterday received a telephone call from Mike Ford regarding the change we proposed to Section 28.22.301 of this legislation. We proposed this language because of experience we have had in other states which have adopted mandatory insurance where by judicial decision courts have interpreted mandatory coverage as meaning absolute or total coverage regardless of policy conditions, limitations or exclusions. We do not understand this to be the purpose of this legislation and hope that if the committee does choose to move this bill, this change can be made.

The following types of exclusions are examples of what we are concerned about:

1. Intentional acts to injure the person or property of third parties.

2. Vehicle stolen or used without insured's actual or implied consent.

3. Insured's failure to cooperate in reporting of accident or forwarding of suit papers.

4. Vehicle owned but not insured by named insured.

5. Vehicle rented to others.

6. Vehicle used to carry persons for hire, but not in an expense-sharing arrangement.

7. Vehicle being repaired, serviced, or used by any person employed or engaged in the automobile business.

8. Liability assumed under a contract.

9. Liability incurred under workers' compensation or occupational disability law.

10. Liability to any employee of the insured arising from employment.

11. Liability to fellow servant arising from employment.

12. Liability for damage to property owned by, rented to, in the care of, or being transported by an insured.

13. Liability for injury or death to any insured or relative resident of insured's household.

14. Liability for injury or damage for which United States might be liable for use of insured vehicle.

15. Liability incurred by or on account of driver specifically excluded from coverage.

16. For insured's concealment or material misrepresentation which wrongfully induces insurer to issue policy of insurance.

All the risks which are excluded of course tend to narrow the exposure and thus decrease the cost of automobile insurance. The difficulty we have had, however, is that a number of courts after the enactment of mandatory insurance, have found exclusions are contrary to the philosophy of mandatory liability coverage and thus have invalidated those exclusions. A good example is the recent decision of the Montana Supreme Court in the case of Iowa Mutual Insurance Company v. Davis and Beck, Number 87-317 (March 18, 1988 Montana). In that case the insured's son was

specifically excluded from coverage. However, the Montana Supreme Court found that such an exclusion was inconsistent with the philosophy of mandatory automobile insurance and invalidated this as well as other exclusions up to the limits of the mandatory insurance law. Courts in Michigan, Louisiana, Utah, Oklahoma, and Kansas have at one time or another done the same. This is why we continue to strongly recommend the following change to Section 28.22.301:

> A provision in this chapter may not be interpreted to prohibit a motor vehicle liability policy from including limitations, conditions, exceptions, exclusions, or other provisions [that do not violate the requirements of this Chapter or other applicable law.] This Chapter is not intended to modify, amend or invalidate existing motor vehicle liability insurance policy terms, conditions, limitations, or exclusions, or to preclude insurance companies from using similar terms, conditions, limitations, or exclusions in existing or future contracts.

Thank you for considering our suggestions.

Sincerely,

HUGHES, THORSNESS, GANTZ,
POWELL & BRUNDIN

By: Michael Lessmeier
Michael L. Lessmeier

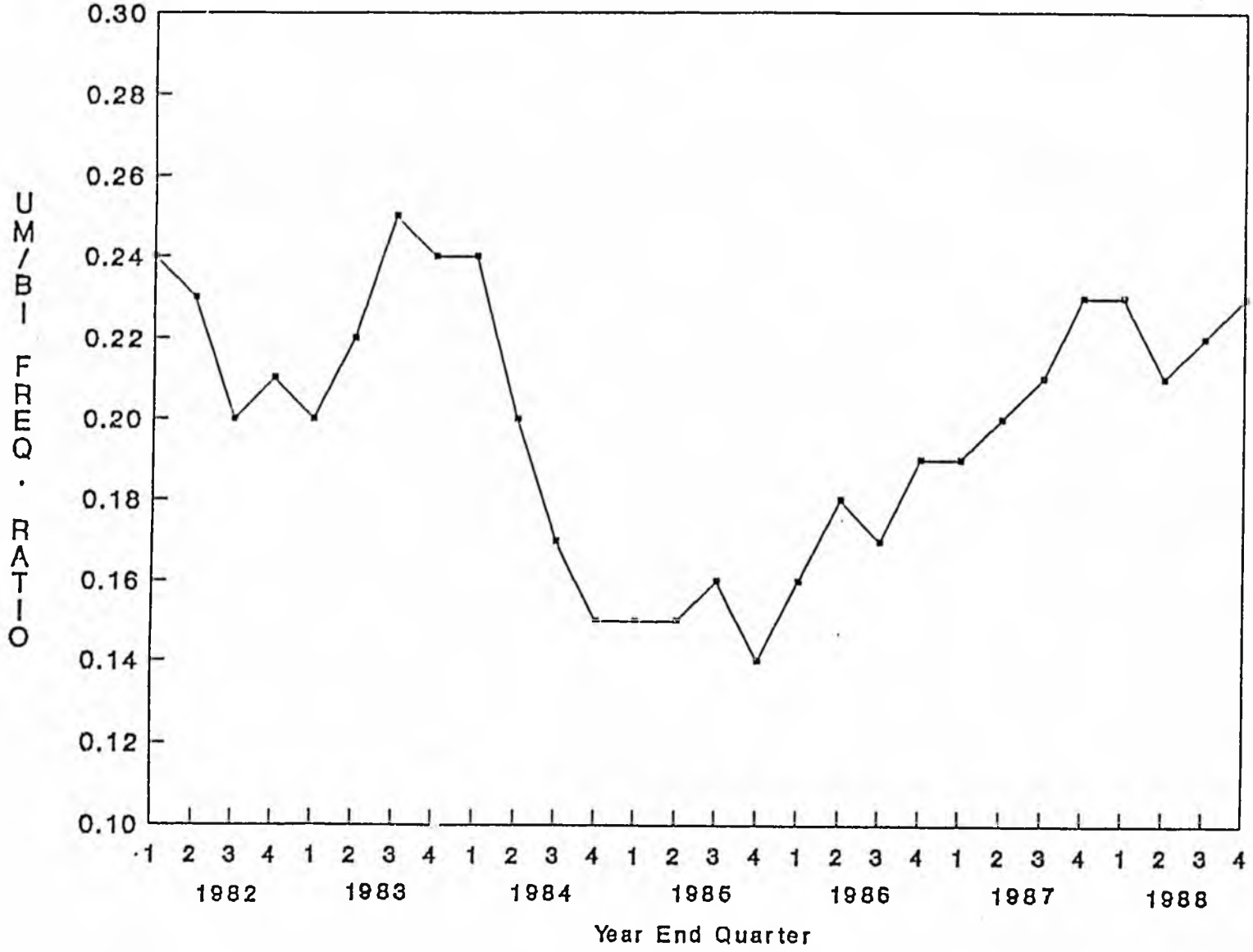
MLL:srs/0173L

Enclosure: Graphs

cc: Senator Rodey
Senator Faiks
Senator Kerttula
Senator Coghill

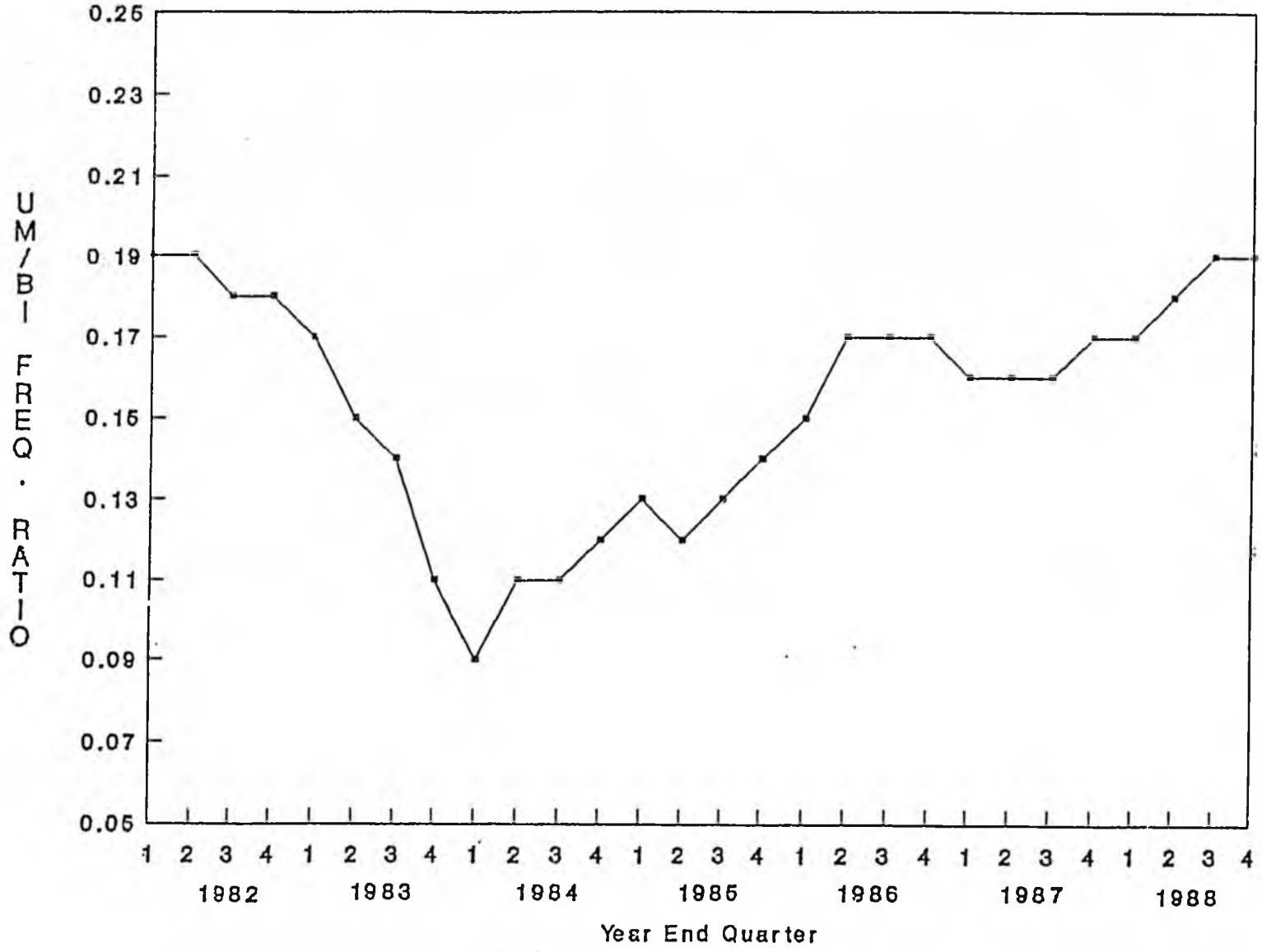
New Mexico Compulsory Insurance

Law Effective January 1, 1984



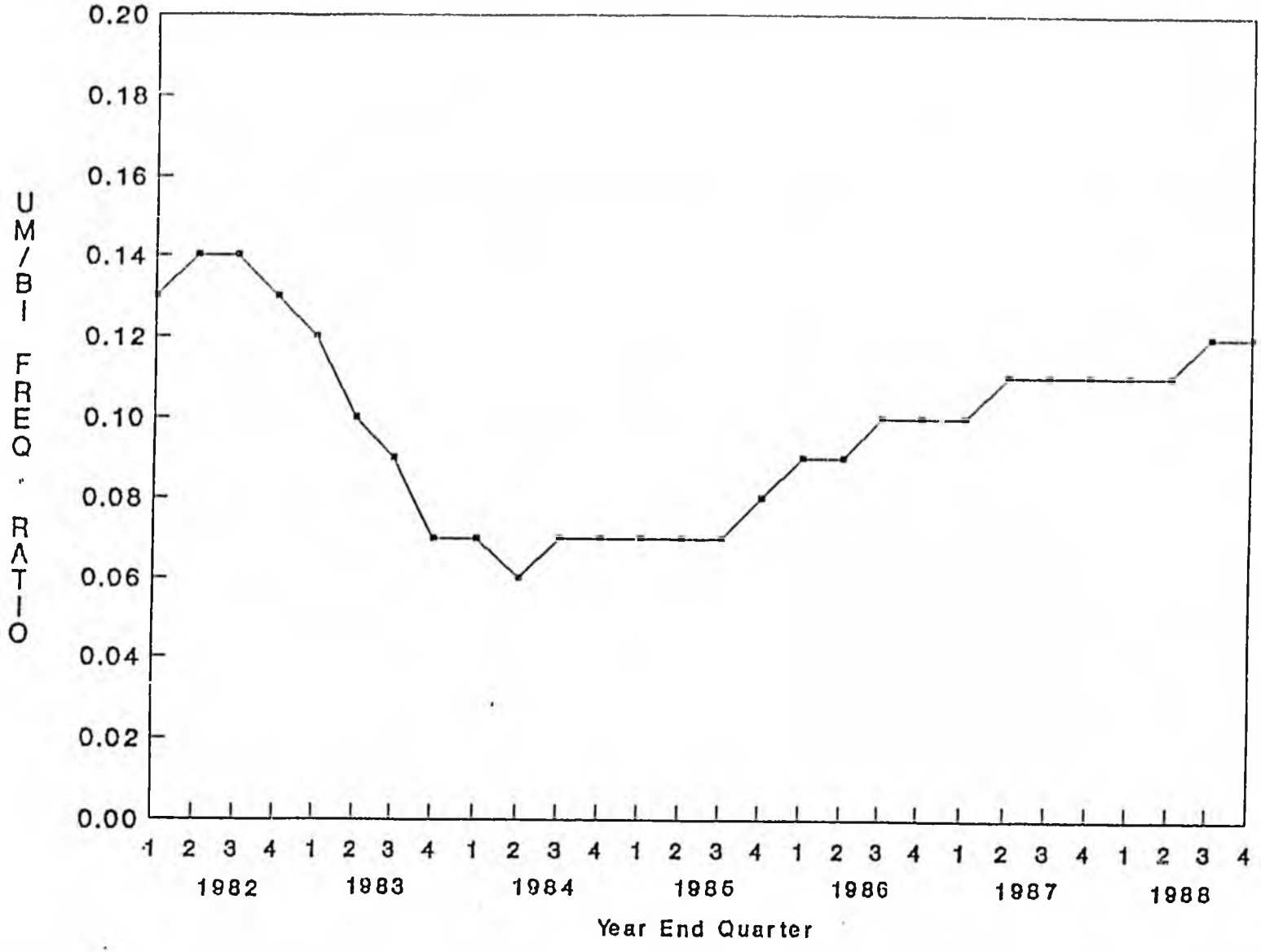
Arizona Compulsory Insurance

Law Effective January 1, 1983



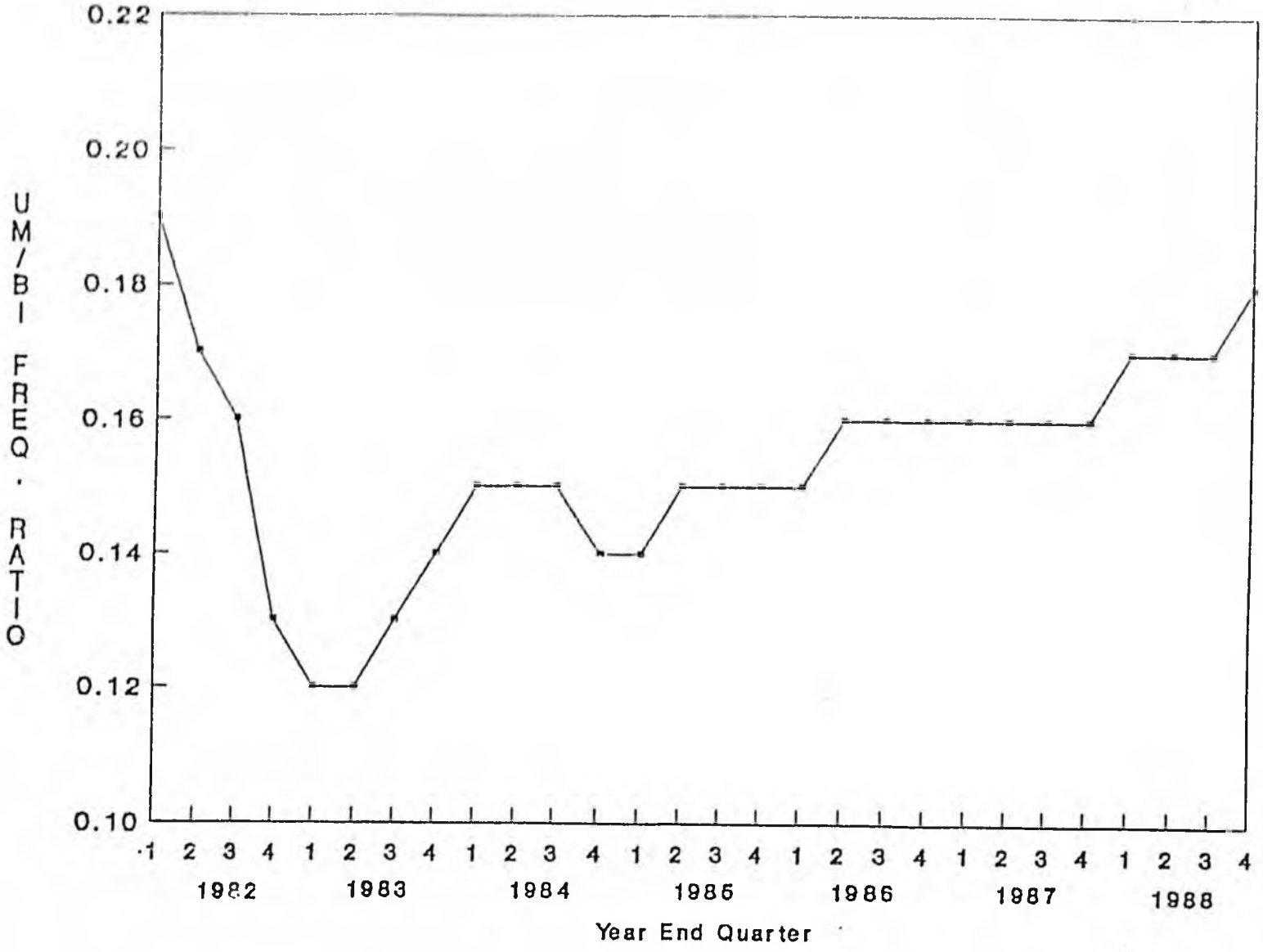
Indiana Compulsory Insurance

Law Effective January 1, 1983



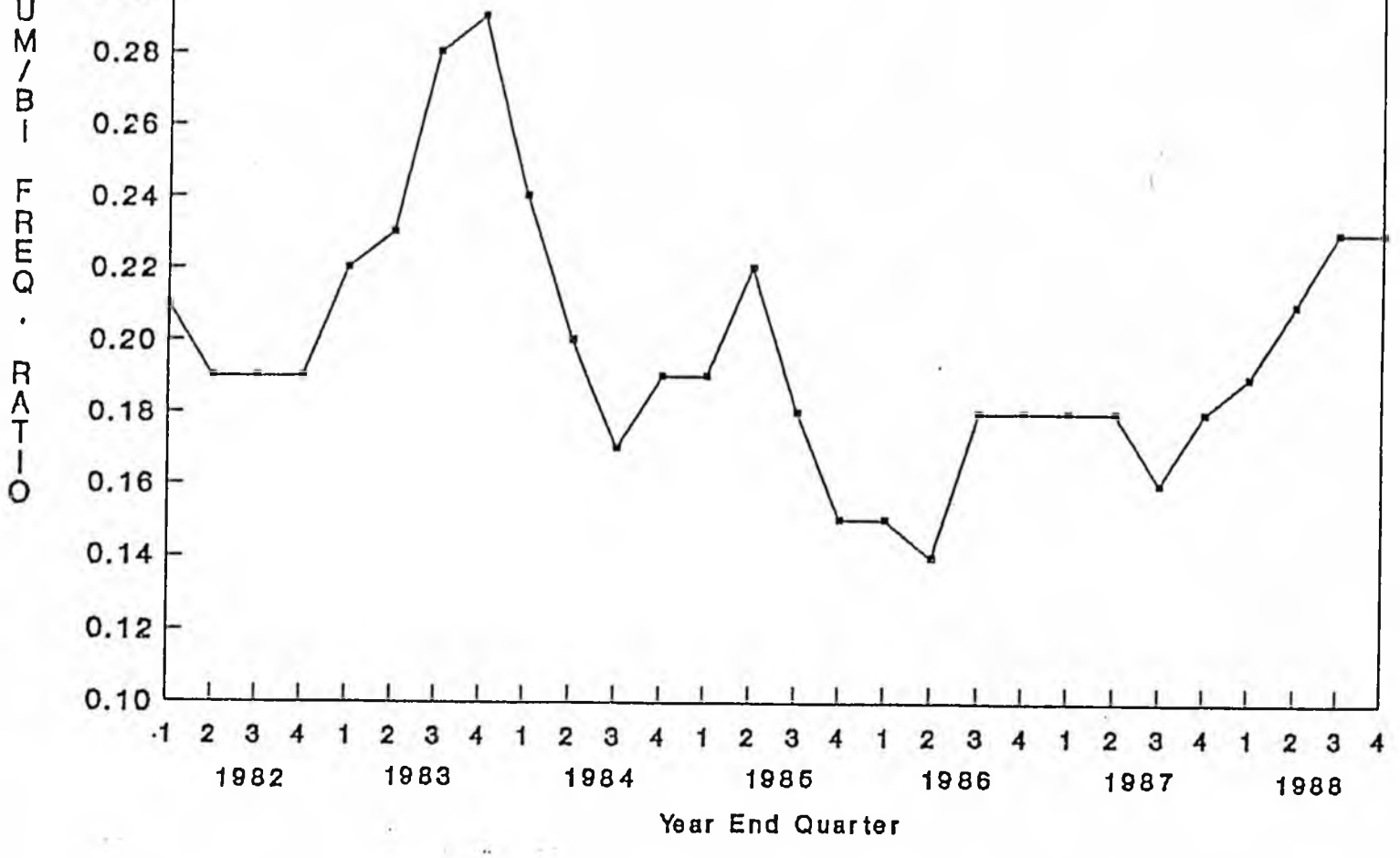
Texas Compulsory Insurance

Law Effective January 1, 1982



Alaska Compulsory Insurance

Law Effective January 1, 1985



HUGHES THORSNESS GANTZ POWELL & BRUNDIN

ATTORNEYS AT LAW

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LYNN E. LEVENGOOD*
JOSEPH S. SLUSSER*

OF COUNSEL
JOHN C. HUGHES
RICHARD O. GANTZ

Reply to: JUNEAU

April 7, 1989

Ms. Sheila Peterson
Legislative Aide
Office of Senator Eliason
P.O. Box V
Juneau, Alaska 99811

Re: NAIC Collision Damage Waiver Model Act

Dear Sheila:

Enclosed herewith, please find a copy of the NAIC Collision Damage Waiver Model Act. as well as a report of the Advisory Committee that preceeded the NAIC passage of this Act. If we can provide further information to you in this regard, please let us know and we will be happy to do so.

Sincerely,

HUGHES, THORSNESS, GANTZ,
POWELL & BRUNDIN

By: Michael Lessmeier
Michael L. Lessmeier

da-0207L

Enclosures

COLLISION DAMAGE WAIVER MODEL ACT

Table of Contents

Section 1. Title of Chapter

This chapter shall be known and may be cited as the Collision Damage Waiver Model Act.

Section 2. Scope

This chapter shall apply to all persons and organizations renting private passenger automobiles from locations in this state.

Drafting Note: This Act replaces the Collision Damage Waiver Model Act adopted by the NAIC in June, 1986.

Section 3. Purpose

The purpose of this Act is to prohibit rental car companies from imposing liability upon renters subject to certain stated exceptions and the sale of the collision damage waiver in connection with private passenger automobile rental agreements of thirty (30) days or less.

Section 4. Definitions

A. "Rental Company" means any person or organization in the business of providing private passenger automobiles to the public.

B. "Renter" means any person or organization obtaining the use of a private passenger automobile from a rental company under the terms of a rental agreement.

C. "Rental Agreement" means any written agreement setting forth the terms and conditions governing the use of a private passenger automobile provided by a rental company.

D. "Damage" shall mean any damage or loss to the rented vehicle, including loss of use and any costs and expenses incident to the damage or loss.

E. "Private Passenger Automobile" or "Vehicle" shall mean a motor vehicle of the private passenger type including passenger vans and minivans that are primarily intended for transport of persons.

F. "Authorized driver" shall mean: the person to whom the vehicle is rented; his/her spouse if a licensed driver and satisfying the rental company's minimum age requirement; his/her employer or coworker if engaged in business activity with the person to whom the vehicle is rented and if a licensed driver satisfying the rental company's minimum age requirement; any person who operates the vehicle during an emergency situation or while parking the vehicle at a commercial

establishment; or any person expressly listed by the rental company on the rental agreement as an authorized driver.

Section 5. Practices Prohibited

A. No rental company shall, in rental agreements of thirty (30) continuous days or less, hold any authorized driver liable for any damage, except where:

Drafting Note: It is expressly recommended by the NAIC that no deductible be charged by the rental company. Any jurisdiction that chooses to allow a nominal deductible should be careful to include language which would prohibit the offering of a waiver for whatever nominal deductible is allowed.

(1) The damage is caused intentionally by an authorized driver or as a result of his willful and wanton misconduct;

(2) The damage arises out of the authorized driver's operation of the vehicle while legally intoxicated or under the influence of any illegal drug as defined or determined under the law of the state where the damage occured;

(3) The damage is caused while the authorized driver is engaged in any speed contest;

Drafting Note: "Speed contest" is a recognized term in many states. It is in no way intended, however, to mean exceeding a speed limit whether lawfully or unlawfully.

(4) The rental transaction is based on information supplied by the renter with the intent to defraud the rental company;

(5) The damage arises out of the use of the vehicle while committing or otherwise engaged in a criminal act in which the automobile usage is substantially related to the nature of the criminal activity;

Drafting Note: The intent of Paragraph (5) is to only allow an exception where the vehicle is used in the commission of a felony or other serious criminal activity wherein the vehicle is a means or operative tool of the act including transport of illegal contraband or as a means of escape. It is not intended to cover minor traffic violations.

(6) The damage arises out of the use of the vehicle to carry persons or property for hire;

(7) The damage arises out of the use of the vehicle outside of the United States or Canada unless such use is specifically authorized by the rental agreement.

B. No action for damage may be brought by a rental company against a renter who is a resident of the United States except in the state and county of the renter's primary residence.

C. No security or deposit for damage in any form may be required or requested by the rental company during the rental period or pending resolution of any dispute.

Drafting Note: It is intended that Subsection C include, but not be limited to, the practice of requiring security in the form of credit card lines of credit. Security may be allowed but only in such amounts to reasonably insure payment on the account or security for return of the automobile.

D. No waiver may be offered to provide coverage for any of the exceptions [or deductible, if applicable] listed above.

Section 6. Penalties

Any rental company, found by a court of competent jurisdiction or the delegated agency charged with enforcing this Act in this state, to have violated a provision of this Act, or to have proceeded with a lack of good faith to impose liability upon a renter as provided in this chapter, shall be subject to a penalty of not less than five hundred dollars ($500.00) nor more than one thousand dollars ($1,000.00) for each violation.

Section 7. Effective Date

The provisions of this Act shall become effective within ninety (90) days after enactment.

Legislative History (all references are to the Proceedings of the NAIC).

1988 Proc. II (adopted).

This model act replaces an earlier document by the same name which used a different approach.

1986 Proc. II 12, 17, 164, 172-173, 177-179 (adopted).

REPORT OF THE MARKET CONDUCT ADVISORY COMMITTEE

March 14, 1988

At the December 8, 1987 meeting of the Market Conduct Surveillance (EX3) Task Force, this Advisory Committee was requested to reexamine the issue of the sale by rental car companies of collision damage waivers. The Advisory Committee was also requested to comment on other problem areas detailed in the report of the Subgroup on Rental Car Insurance dated November 19, 1987. The following report is offered in response to these requests.

The Advisory Committee met February 23 at NAII headquarters in Des Plaines, Illinois. Prior to that meeting, Advisory Committee members had exchanged various telephone calls in connection with recent legislative activity and publicity involving the collision damage waiver issue. The February 23 meeting was devoted to a detailed discussion of these issues and has led to the recommendations contained in this report.

History of NAIC Activity

The NAIC has been sensitive to the potential for abuses in the sale of collision damage waivers (CDWs) for several years. These concerns led to the passage of the NAIC Model Collision Damage Waiver Act at the June, 1986 meeting. This model addresses the cost of CDWs by requiring the filing of rate information at least 30 days prior to use. It further requires car rental companies to be licensed to sell CDWs, to file policy forms for approval, and to disclose to the consumer information contained in a required notice. To date, no state legislature has enacted the model collision damage waiver law, although several have considered it.

At the time of passage of the model act, it was recognized that rental car companies would still be able to sell collision damage waivers for a fee, even though the protection offered was less than complete and may be unnecessary for some renters. Many consumers would be inclined to purchase collision damage waivers out of confusion or for peace of mind. It was further recognized that rental car companies could continue to advertise daily rental charges that did not include the cost of collision damage waivers. Consequently, the consumer would still face the common situation of being attracted to the car rental company by an advertised rate, only to find at time of rental that the

total charge was significantly higher due to the cost of the collision damage waiver. Other limitations recognized in the model at time of enactment will be referenced later in this report.

Recent Developments

Since the December meeting of the NAIC, new evidence of the potential for abuse by rental car companies has surfaced. Specifically, Hertz has admitted to overcharging in excess of $13 million dollars for damage to rental cars over a seven year period. These overcharges have been paid by individual consumers who had not purchased the CDW (and who had no insurance for damage to non-owned vehicles) and by insurance companies on behalf of policyholders who had purchased coverage for non-owned vehicles, typically in connection with collision coverage. The situation illustrates how the collision damage waiver aspect of the car rental agreement is particularly prone to fraud and other consumer abuse.

It should be noted that the regulation provided for in the NAIC Model Act would not have prevented car rental companies from overbilling for damage caused by car renters. It further would not have protected consumers against other adverse consequences, e.g., having points assessed against their personal auto insurance policies due to inflated claims being paid by insurers on their behalf. In order to prevent instances of such overcharging and to address other potential areas of consumer abuse, an approach other than the existing NAIC Model Act must be considered.

It has been discussed frequently since the outset of NAIC consideration of this issue that a collision damage waiver is legally not insurance. Rather, it is the forgiveness by the lessor of a responsibility of the lessee arising under common law or statutory principles of bailment. The distinction between insurance and CDW is generally thought to be not understood by the average consumer. This distinction has, however, been significant as attempts have been made unsuccessfully to regulate CDWs under a state's insurance authority. The NAIC Model Act avoided this potential problem by refraining from defining CDWs as insurance.

Limitation of Bailment Rights

After reviewing various suggestions made to date regarding CDWs, the Advisory Committee has concluded that the most effective way of eliminating actual and potential abuse is by changing the law of bailment as it pertains to car rental companies. Specifically, the Advisory Committee

has determined that statutory change is necessary to restrict substantially the car rental company's recourse for damages caused by the car renter. (Recourse would still be allowed in cases of gross misconduct on the part of the car renter). Such a restriction would require car rental companies to assume the risk of damage to their rental vehicles as part of their normal business expenses. These expenses consequently would be reflected in daily/weekly rental car rates. The risk of loss posed by the elimination of bailment recovery could be insured against or self-insured.

The Advisory Committee recommends the following language to accomplish this objective:

> "No person who leases private passenger motor vehicles to consumers shall, in lease agreements of less than 30 days, hold a consumer liable for physical damage to the motor vehicle, including loss of use, except where: (1) the damage is caused intentionally by the consumer or as a result of his willful or wanton misconduct; (2) the damage arises out of the consumer's or his permissive users's driving while intoxicated or under the influence of any drug; or (3) the damage is caused while a consumer or his permissive user is engaged in any speed contest."

We would note that the exceptions contained in this language are those the NAIC chose to include in the Model CDW Act.

Advantages of a Bailment Restriction

This approach offers advantages to both the rental car consumer and the automobile insurance policyholder. They include the following:

(1) Elimination of opportunity for abuse. Under this approach, rental car companies would no longer have recourse against car renters under traditional principles of bailment. Consequently, rental car companies would have no "right" to waive via the collision damage waiver. The consumer would not be faced with the uncertainty he or she may experience today at the rental car desk.

(2) Rental car expenses will be internalized. Without the opportunity to charge for CDWs or to hold car renters responsible for damage, car rental companies would be required to incorporate the collision damage losses into their operating expenses. These expenses would be reflected

in the daily or weekly rental car charges. Since there would be no payments from the automobile insurer for damage caused by its policyholder to a rental car, auto insurance policyholders who would not want or need such coverage in their personal automobile policies would not be required to pay for it. Only consumers actually renting cars would be paying (in rental car charges) for damage to rental cars.

(3) Equitable response to problems arising in the car rental context. All parties agree that to the extent CDW abuses exist, they are caused exclusively by rental car companies. The proposed solution would address such abuses directly via a limitation on traditional bailment rights of car rental companies. Imposing the solution on insurers through mandatory coverage or other requirements would be fundamentally unfair.

(4) Possible gaps in coverage for damage to rental cars would be avoided. To the extent coverage for rental cars is available in a renter's personal automobile insurance policy, it is usually provided under the collision coverage portion of the policy. However, this coverage is not all-inclusive, as it typically does not apply to loss of use to the rented car. Further, the policyholder who drops collision coverage from his or her personal automobile insurance policy may inadvertently be losing coverage for rented cars. The approach recommended by the Advisory Committee avoids these gaps altogether, inasmuch as the car renter's personal automobile insurance policy would not be responding to claims for damage to rental cars. The several CDW exclusions currently found in car rental contracts would also cease to be a cause of concern to the consumer.

(5) Insurance regulatory resources would not be required. Problems associated with attempting to regulate rental car companies under the provisions of the NAIC Model Act would be avoided entirely. Since rental car companies would not be able to sell CDWs, there would be no need for insurance departments to approve rates, review policy forms, or otherwise regulate rental car companies. Given the already limited resources insurance departments have to devote to regulating in these important areas as they involve insurance companies, this approach would avoid the need for extending such regulation to the rental car industry.

(6) True price competition would be fostered. This proposal would require rental car companies to compete on even terms. Presently, the costs of the CDWs vary substantially from company to company. Some companies even incorporate the cost of such waivers in their quoted rental

rates already. The difficulty facing the consumer in determining in advance the approximate cost of renting an automobile would be reduced, inasmuch as the overall rental rate would include the collision damage waiver. Although it can be argued in theory that this approach could increase the cost of renting cars, pressure caused by enhanced price competition would keep any cost increase to a minimum. Since there are no reliable data currently available to determine rental car company profitability, it is possible that this approach will actually reduce the overall consumer cost of renting cars.

(7) Other Advantages over the NAIC Model Collision Damage Waiver Act. This approach would eliminate the potential for overcharging car renters or their insurers for damage caused to rental vehicles. Insurance companies would not be in the disadvantageous position they face today of attempting to assess damage to a rental car caused by their policyholders. The potential competitive disadvantages to small rental car companies posed by the current NAIC Model Act filing requirements would be eliminated. The problems of distinguishing the CDW from insurance would be avoided. Car renters would not find themselves "in the middle" of damage claims involving their insurance companies and rental car companies. Car rental companies would have an incentive to repair damaged cars expeditiously to reduce loss of use.

Other Problems Identified by the Subgroup

The report of the NAIC Subgroup on Rental Car Insurance also referenced sales practices involving personal effects coverage, excess liability coverage, and accidental death and dismemberment. We would note that these areas are already subject to the insurance regulatory authority of the states. To the extent that abuses in these areas are occurring, state regulatory officials have the power to correct them. Since the thrust of the Subgroup's concerns appear to be related to sales activity by rental car company employees, we would mention particularly the existing regulatory authority to require licenses of insurance producers.

In closing, the Advisory Committee urges the Task Force to consider carefully the approach offered to resolve problems associated with the sale of collision damage waivers. The Advisory Committee is not suggesting that common law and statutory principles related to all bailment situations be modified; only bailment relating to the car rental relationship. That relationship has been shown to be particularly prone to abuse and confusion and consequently merits special treatment to protect consumers.

The Advisory Committee shares the frustration of Task Force members over problems in the sale of collision damage waivers. These problems have harmed consumers financially and need to be addressed effectively. We believe that the best and most equitable solution in this area lies in the statutory change recommended in this report. We will be pleased to work further with the Task Force in discussing and refining this approach.

MEMORANDUM

State of Alaska

TO: Linda Wild
Special Assistant to Commissioner
DCED

DATE: April 6, 1989

FILE NO.:

THRU: Paul Roller, Director
Division of Insurance

TELEPHONE NO.: (907) 465-2517

SUBJECT: Mandatory Auto Insurance

FROM: Bob Sims
Insurance Market Analyst II
Division of Insurance
Department of Commerce and Economic Development

This bill reinstates mandatory automobile insurance immediately upon passage. It also calls for the sunsetting of mandatory insurance on January 1, 1994.

We have a concern about one section of the bill. On January 1, 1994 AS 21.89.020(f)(2) is repealed and reenacted to read:

> "An automobile liability insurance policy must provide liability coverage for motor vehicles rented in the United States or Canada by a person insured under this policy; coverage required under this paragraph is primary if multiple coverage exists."

This proposed section of the bill concerns motor vehicle liability insurance for rented vehicles. It would require that in the event a person had multiple insurance coverage, ie coverage on his vehicle, insurance provided under AS 21.89.020(f)((2) would apply before coverage from the rental car company's insurance policy would apply. It makes the renters' coverage primary. This proposal is tailored after a similar provision in Florida where the system is different. Florida has a no fault law.

Historically, auto liability insurance has been based upon the concept "insurance follows the auto." Insurance premium and loss data are collected based upon the type of vehicle and garage location. Personal insurance is distinguished from commercial insurance and business insurance. Personal rates are based upon an individual's personal use of owned vehicles in the local area.

Auto rates for car rental companies are based upon rental of that vehicle in the location from which it is rented. Most vehicles are rented for business or vacation use.

If personal auto "insurance" was covering business and non-local usage, the statistical base for premiums would be undermined. In all likelihood, those Alaskans who do not travel and rent autos would be subsidizing those of us who do.

Furthermore, most Alaskans on vacation will rent a vehicle outside. Those premiums and losses should not be included in the Alaskan data base.

Finally, because this proposal runs counter to the reasonable expectations of vacationers coming to Alaska, it might well adversely impact the state's image for tourists if they have surprises when they rent vehicles in Alaska.

Alaska State Legislature

SENATE

Official Business

P.O. Box V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

To: Senator Dick Eliason
Senate Labor and Commerce Committee

From: Senator Jack Coghill

Re: Mandatory Auto Insurance

Date: April 5, 1989

Attached you will find a copy of a letter from another one of my constituents that has experiences a problem with our present system of motor vehicle laws, as they relate to auto insurance.

I suggest that lengthy Labor & Commerce hearings be held this interim to address the ten points raised in Arleen Burgess's attached letter.

You will note that several of the issues raised in the letter also have bearing on Judiciary Committee work. Therefore, I have also notified Senator Faiks of my concern in this area.

488-0577

(1)

March 18, 1989

Robert & Arleen Burgess
3721 Silver Leaf Ave.
North Pole, Ak 99705

Senator Jack Coghill
~~Buck~~ P.O. Box V
Juneau, Ak 99801

Dear Mr. Coghill,

I would like to update you as to the results of my husband's appeal in the District and Superior Courts to the action taken by the D.M.V. against his driver's license. As you may recall, my husband and I spoke to you briefly in North Pole about a six point speeding citation he received while operating a motorcycle in Sept. 1986. After numerous attempts by us to get liability coverage for this vehicle at the time we placed it on the highway system (April 1986), and for several months after, we could not find an independent insurance agent in Fairbanks to provide coverage, or an alternative for us to meet state requirements. The grave implications of the department's action on my husband's means to provide a livelihood for our family, left us no choice but to exercise his right of appeal against the department's decision to suspend his driver's license. He is a professional truck driver and was employed as such at that time. He is now ~~time~~ unemployed and work in his

field looks pretty bleak with a suspended license.

After more than two years in the court system, we found his right to appeal amounted to no right at all. The District Court questioned the constitutionality of the mandatory insurance law and ruled in our favor. The Superior Court overturned the lower court's decision and we ran out of money to appeal higher. Imagine how we felt when the District Court Judge had no athority to establish degree of penality or to consider our circumstances when pronouncing sentence. After several appeals to the Attorney General Representative during sentencing to consider the circumstances of our case and two other cases being heard along with ours and drop the penality, the representative's unwillingness to do so left him no choice but to suspend the drivers' licence and require proof of future financial responsibility.

My husband's persecution by the administration was a massive abuse of their power over a person's drivers license. Our circumstances included the attempt to the best of our ability to get coverage on this type of vehicle, the fact that our other vehicles had continues coverage for the previous 14 years, we were misled by several insurance companies that coverage for this vehicle was not available, no liability was incurred, and

we had sellable assets to cover the state's minimum requirements for liability.

Not only was their abuse directed at my husband, but I too suffer because of regulations by insurance companies toward married women, I am now considered a high risk because we occupy the same household. I have a clean driving record and have never been stopped let alone had any action taken against my record. What happened to my right to fair and equal treatment? Did I receive it by being punished along with my husband?

Please ask your colleagues the following questions. I cannot get them answered by the administration.

1. Why are insurance companies allowed to practice in this state when they cannot provide the coverage the state's law required? Getting the required coverage available to drivers six to eight months after the law went into effect victimizes those drivers.

2. Why was the enforcement of this law selective to those unfortunate few who found themselves involved in an accident or issued a six point citation?

3. Why did the law apply only to those living in urban areas? Are there no accidents involving liability in rural areas?

4. Why were drivers not informed of mandatory insurance when purchasing

current registration on their vehicles?
5.) Why were we given the right to appeal the departments decision through the court system when there is no working or speaking relationship between the administrative and judicial branches of government? The only way our circumstances could be considered was for the courts to find the law unconstitutional. What kind of right to appeal because of circumstances is this?
6.) Why were we allowed to be prosecuted by the administration's abuse of power? My husbands prosecution is directly caused by the states inability to regulate insurance practices. My prosecution is only because of association to my husband.
7.) Are the legislators so intent in placing a mandatory insurance law in effect that a bad and unfair law is better than no law?
8.) Why was a hearing held in Anchorage District Court when this citation was issued in Fairbanks and we reside in Fairbanks? We were not informed of such a hearing. Was my husband denied basic rights to a fair hearing? What other action will be taken against his license of which he is not informed? Is Juneau District Court next?
9.) Why were we informed by the Financial Responsibility Supervisors Office two days after my husband surrendered his license

responsibility
that proof of financial was required
when such proof had been filed with
that office 10 months prior to my husband's
license surrender? Was this to entrap
my husband for further punishment?
10. Why is the penality so harsh it
caused us to lose the very thing we
are unjustly punished for. A suspension
on one's drivers record can cause an
insurance company to cancel all coverage.
In our case cancellation will be on vehicles
that were insured at the time of the citation.

I am appalled by the treatment
we have received by the Attorney General's
office and the D.M.V. During the time we
spent through the court system, the Attorney
General's office misconstrued our action to
make their case look better, at the expense of
my husband's character. The D.M.V. refused
to answer any of my correspondence, nor would
they give me any information regarding the
insurance law and availibility of coverage.

In my opinion we were not punished
because of no coverage. We proved to the
court we were financially responsible had
liability occurred. We were punished for
questioning the legality of the department to
enforce that law fairly. I implore the
Senate to investigate the cases coming
before the courts regarding the insurance
law. To place the residents of the State
at the mercy of the insurance companies
and then close your eyes to their unfair

practices is criminal. In order for a mandatory insurance law to work it has to be exforced on every driver and more regulations must be placed on the insurance companies to prevent people like us from being punished for these companies and the state's inadequacies.

I apoligize for the length of this letter, but I had to have my say. I thank you for your concern and time regarding this matter.

Sincerely,
Arleen Burgess

STATE OF ALASKA

PUBLIC DEFENDER AGENCY

STEVE COWPER, GOVERNOR

912 BARNETTE STREET
SUITE 1
FAIRBANKS, ALASKA 99701-4510
PHONE: (907) 452-1621

November 2, 1988

Bruce Geraghty
P.O. Box 55028
North Pole, Alaska 99705

Dear Mr. Geraghty:

Earlier today, we discussed the problem Ms. Starr Tucker has encountered in attempting to secure a driver's license. Ms. Tucker and I both appreciate your interest in her situation and your prompt response to her request for help.

In September of 1985, Ms. Tucker was involved in a motor vehicle accident; the other vehicle was driven by a gentleman named Cleve Davis, Jr. Because she didn't have insurance, Ms. Tucker's license was revoked for ninety days, pursuant to AS 28.22.240(a)(1), and she will be required to satisfy the SR-22 insurance requirement described in AS 28.22.260(b) until January 1989. She understands these provisions and is fully prepared to comply with them. The problem relates to the additional requirement of a security deposit which appears in AS 28.20.150. Under that provision, she must also post security in an amount specified by DMV in order to get her license back. Ms. Tucker has been, and continues to be, financially unable to satisfy that requirement.

As Mr. Delaney told me this morning, the obvious purpose of that requirement is to protect the other person involved in the accident; it is inapplicable in the event of execution of a release, AS 28.20.100, entry of judgment, AS 28.20.110, or settlement of the claim, AS 28.20.120. Ms. Tucker has been unable to settle the claim or obtain a release because Mr. Davis appears to have left Alaska for parts unknown. Normally, under these circumstances, it would be a simple matter for her to go to court and obtain an adjudication of nonliability. But she is precluded from doing that by the fact that the relevant statute of limitations has already run. See AS 09.10.070.

Ms. Tucker's predicament seems to be the result of an inconsistency within the statutory scheme. Any liability she might have had toward Mr. Davis was extinguished as of September 1987. Yet the security requirement, which is supposed to protect Mr. Davis, remains effective until January 1989. That requirement is obviously pointless with regard to the period between those dates. What is worse, though, is that it deprives Ms. Tucker of the opportunity to regain her driving privileges during that period and there is apparently nothing she can do about it.

ALASKA STATE LEGISLATURE · SENATE
SENATOR RICHARD I. ELIASON

RULES COMMITTEE, CHAIRMAN
LABOR & COMMERCE COMMITTEE, VICE-CHAIRMAN
LEGISLATIVE COUNCIL
RESOURCES COMMITTEE
FISHERIES SUBCOMMITTEE, CHAIRMAN

P.O. BOX 143
SITKA, ALASKA 99835

P.O. BOX V
JUNEAU, ALASKA 99811
(907) 465 4913

June 7, 1988

John Strasenburgh
P. O. Box 100171
Anchorage, Alaska 99510

Dear Mr. Strasenburgh:

Thank you for your recent letter concerning the Senate's failure to pass legislation extending the mandatory auto insurance requirement. I can certainly understand your interest in this issue due to your involvement in an accident with an uninsured driver.

Mandatory auto insurance has been debated by the Legislature for many years, and the issue has long been considered a controversial one. The law now on the books (passed in 1984) was made subject to a "sunset" provision, a provision put in place so that the program could be reviewed to determine whether or not it was performing as expected; if it was not, it could be discontinued.

The Department of Public Safety recommended last year that the law be sunsetted. The requirement of mandatory auto insurance is being enforced by the Department only when an accident occurs, and is not enforced when a 6-point violation occurs. Enforcement capability has been limited by the amount of money appropriated for the program.

The Department has also questioned whether the legislation is cost-effective. Although the law did have an impact on reducing the number of uninsured drivers, the question was raised whether the value of the program justifies the costs of administering it.

Your experience in being hit by an uninsured motorist highlights one of the deficiencies of the law. Even with a mandatory auto insurance requirement, uninsured and

underinsured drivers are on the road. It is possible to reduce the odds of this situation occurring, to a certain degree, but it is impossible to eliminate them.

When mandatory auto insurance is terminated (Jan. 1, 1989), the financial responsibility law will remain. The financial responsibility law provides that if you are involved in an accident and the other person is at fault, they are liable for the damages. If you are involved in an accident, and are not at fault, and the other party has no insurance and no money to pay for damages, even if the mandatory auto insurance law is in effect, the only way you are covered is if you have purchased uninsured/underinsured motorist's coverage. (From your letter, I infer that you do have this coverage. Incidentally, your rates should not go up as a result of an accident unless you were more than 50% at fault, in which case most carriers will increase your rates.)

Statistics reflect that the number of drivers suspended under the financial responsibility law who were unable to comply with the financial responsibility requirement constituted less than 3% of the total number of drivers involved in motor vehicle accidents. This does not mean that 2.9% of the people who were involved in accidents, and not at fault, were not compensated, as some may have had uninsured motorist coverage, like yourself.

At the time the mandatory auto insurance legislation was passed, I supported the enactment of legislation requiring insurance companies that offered auto insurance to Alaskans to offer uninsured motorist coverage as well. That requirement will remain in effect even after the mandatory auto insurance requirement is terminated, assuring the availability of that coverage.

When you come down to it, you really buy insurance for yourself; you make the choice whether you want to be covered or not, whether it is health insurance, life insurance, motor vehicle insurance or optional uninsured motorist coverage. My choice, like yours, is to take responsibility for myself, a concept you describe as fundamental. I don't, as your letter claims, "endorse the opposite." I do recognize, as do most responsible adults, that there are always going to be people who do not assume full responsibility for themselves; that's just a fact of life. You question, "What possible justification can there be for allowing uninsured drivers and vehicles on the road?" There is no justification, any more than there is justification for people to break any law, but the reality is that even with mandatory auto insurance you can't assure total compliance.

Your letter states that you wrote to Rep. Donley to recommend changes in the law to correct "weaknesses" and that one of these suggestions was to require proof of insurance at the time of vehicle regisration. This concept has received ample discussion over the years, and made some progress in 1986. Unfortunately it is not that much more effective. The requirement can be circumvented by individuals through obtaining binders or short-term policies, and the program would have been costly to administer: a requirement that insurance companies notify the Division of Motor Vehicles in the event of a cancellation was estimated to increase costs by $670,000.

Perhaps most noteworthy is that in 1986, when this approach was being considered, about 9% of the Alaskans involved in accidents were uninsured. a rate within the range of the 3% - 10% rate in states which already required proof of insurance before registration. There is simply a certain group of people one is never going to reach.

I don't expect this lengthy letter to change your views, but I appreciate your taking time to look at some other aspects of the issue. I'm sure it will be on the agenda for the next legislative session. You may want to make your views known to your elected representatives in the meantime.

Sincerely,

Dick Eliason

Senator Dick Eliason

P.S. No, I'm not "one of them [uninsured motorists]" myself.

ALASKA STATE LEGISLATURE - SENATE
SENATOR RICHARD I. ELIASON

RULES COMMITTEE, CHAIRMAN
LABOR & COMMERCE COMMITTEE, VICE-CHAIRMAN
LEGISLATIVE COUNCIL
RESOURCES COMMITTEE
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P.O. BOX 143
SITKA, ALASKA 99835

P.O. BOX V
JUNEAU, ALASKA 99811
(907) 465-4916

May 31, 1988

Donald L. Craddick
P. O. Box 678
Sitka, Alaska 99835

Dear Mr. Craddick:

In response to your recent letter expressing your disappointment with the fact that mandatory auto insurance legislation (CSHB 44[Fin]am) did not pass the Senate last session, I would like to share a few thoughts with you.

The issue of mandatory auto insurance has been a controversial one from the beginning, and although there was no lack of debate on the current law prior to its passage in 1984 there were many legislators who shared the view that this law was not necessarily a good one. It was for this reason that the law was made subject to a sunset provision.

As you know, sunset provisions are put in place so that programs will be reviewed to determine whether or not they are performing as expected. If they are not, then they can be discontinued. The Department of Public Safety recommended last year that the law be sunsetted. The mandatory insurance requirement is enforced by the Department only when an accident occurs, and is not enforced when a 6 point violation occurs.

The cost of the law has not been adequately recognized when it comes time to fund the program. The first year the law was in effect the cost to the Dept. of Law, the Court system, and the Dept. of Public Safety was three-quarters of a million dollars, excluding costs of the police officer and costs to the Dept. of Corrections.

While it is true that the mandatory auto insurance law did have an impact on reducing the number of uninsured drivers, it is questionable whether the value of the program justifies the costs of administering it. The financial responsibility law will kick in on January 1, 1989, when mandatory auto insurance

is terminated. Statistics compiled on Alaska's financial responsibility law, indicate that of the drivers involved in motor vehicle accidents, the number of instances of liable uninsured motorists failing to fully reimburse amounted to less than 3%. Some of the people involved in these accidents may have carried uninsured motorists coverage, which would further reduce the number of instances in which there was no compensation.

Even with the mandatory auto insurance law in place, accidents occur in which the liable driver is uninsured, and the party who is <u>not</u> liable can end up without compensation unless covered by uninsured motorists coverage. Uninsured motorists coverage will remain available, due to a provision put into law 4 years ago, at the time mandatory auto insurance legislation was enacted. Even following the termination of mandatory auto insurance, if one has this coverage and is hit by an uninsured motorist, it will not cause one's rates to go up.

I hold that auto insurance, much like homeowner's insurance, health insurance, or life insurance, is purchased by and for the individual on a voluntary basis. The cost of purchasing auto insurance increased following the enactment of the mandatory auto insurance law, although most insurance companies will not acknowledge a causal relationship between the two. Now that the mandatory auto insurance law has been sunsetted, rates are going down, although insurance companies attribute this to a decreasing numbers of accidents.

If the issue of mandatory auto insurance is truly close to the public's heart (and I had no such indication during the session from many members of the public or the majority of my colleagues) it should not be difficult to address the issue early in the next session. The mandatory auto insurance law will remain in effect until January 1, 1989, although the extent to which it has been enforced during the past year is questionable. In order to comprehensively and successfully address the matters of adequate coverage for motorists and affordable insurance, it is important for other key issues to be resolved: issues such as tort reform.

I appreciate you taking the time to consider my views.

Sincerely,

Dick Eliason

Senator Dick Eliason

DONALD L. CRADDICK
ATTORNEY AT LAW
713 SAWMILL CREEK ROAD
P.O. BOX 678
SITKA, ALASKA 99835
(907) 747-3205

May 18, 1988

Senator Dick Eliason
Box 143
Sitka, Alaska 99835

Re: Auto Insurance Law

Dear Dick,

I cannot express too strongly my dissatisfaction and regret that the State Senate allowed Alaska's mandatory auto insurance law to lapse.

I have defended automobile accident claims and I have represented plaintiffs in automobile accident claims. I cannot understand how a responsible state legislature could fail to recognize the need for automobile insurance as a pre-requisite to lawful driving in the state of Alaska.

I cannot accept as an excuse this bill languished in State Affairs. Senators must have more interest in the welfare of Alaska residents than that.

I do not accept that the Rules Committee (your committee) was in a position of not being able to move the bill out of Rules Committee when you finally did get it. To me, this simply shows that the Senate fell down on the job, as it did in many other areas this year with the respect to the enactment of responsible legislation.

I am deeply disappointed.

Very truly yours,

Donald L. Craddick
Attorney at Law

DLC/kb

cc: Representative Ben Grussendorf
Mitch Abood (State Affairs Committee)

LAW OFFICES
STEPHEN M. SIMS
N STREET PLAZA
821 N STREET, SUITE 206
ANCHORAGE, ALASKA 99501
(907) 276-5858

May 17, 1988

Senator Richard I. Eliason
Alaska State Legislature
P. O. Box V
Juneau, AK 99811

Re: Mandatory Automobile Insurance

Dear Senator Eliason:

I was greatly disturbed to find out someone misinformed you about the effects of loss of mandatory automobile insurance.

Enclosed is the headline article from the Anchorage Daily News and an article from the Anchorage Times on May 12, 1988 proving rate decreases. This is the second decrease for automobile insurance in two years. I would also like to point out the following:

1. Much of the public is unaware of the need for uninsured motorist coverage. Did you understand it before you were elected?

2. Children, passengers and people who do not drive are unprotected as innocent passengers if riding in a vehicle without uninsured motorist coverage or liability coverage. Who asks them when they get in a vehicle? Children are incapable to do so.

3. Since 1985 the automobile insurance rates have gone down in Alaska as we distribute the cost and risk to the high risk people who previously drove without insurance. All of the responsible people are getting a break.

4. The law passed in 1984 and effective January 1, 1985 raised the minimum from $25,000 to $50,000 and now carriers may be able to write the minimum at $25,000 again, and our rates will go up for one-half the coverage the public previously enjoyed.

5. As far as administrative cost, I view $750,000 paid by the State as cheap when State Medicaid will pay far in excess of this amount (See AS 47.05.070) and hospitals and doctors will pass the bill on to the State or to the paying public for unpaid bills.

Please send me a copy of the January 16, 1987 report to the legislature by the previous commissioner, William Nix.

Who besides Nix had negative input on mandatory insurance? An unfortunate mistake has been made that needs to be swiftly rectified.

Sincerely yours,

Stephen M. Sims

STEPHEN M. SIMS

nls
ML/L14
Enclosures

cc: Representative Dave Donley
Pouch V, Juneau, AK 99811

ALASKA STATE LEGISLATURE - SENATE
SENATOR RICHARD I. ELIASON

RULES COMMITTEE, CHAIRMAN
LABOR & COMMERCE COMMITTEE, VICE-CHAIRMAN
LEGISLATIVE COUNCIL
RESOURCES COMMITTEE
FISHERIES SUBCOMMITTEE, CHAIRMAN

P.O. BOX 143
SITKA, ALASKA 99835

P.O. BOX V
JUNEAU, ALASKA 99811
(907) 465-4916

June 1, 1988

Stephen M. Sims
821 N. Street, Suite 206
Anchorage, Alaska 99501

Dear Mr. Sims:

Your letter of May 17 contains a request for a copy of Commissioner Nix's January 16, 1987, report to the President of the Senate. A copy of that report is enclosed.

I regret that you believe that someone has misinformed me about the effects of loss of mandatory automobile insurance. This was not the first year that the issue has come before the legislature, and it has not ceased to be controversial.

The first point outlined in your letter, "Much of the public is unaware of the need for uninsured motorist coverage. Did you understand it before you were elected?" seems to be rhetorical, however you may be interested to note that I was involved in the successful effort to include provisions in law at the time the mandatory auto insurance law was passed requiring insurers doing business in the state to offer uninsured and underinsured motorists coverage. These provisions will remain on the books following the termination of mandatory auto insurance provisions.

I received only a handful of communications from Alaskans on the auto insurance issue during the last session, and the issue did not loom large in the Senate. If the people of Alaska clamor for mandatory auto insurance as they have clamored for tort reform, the matter will likely be before the Legislature early in the next session.

Sincerely,

Dick Eliason

Senator Dick Eliason

April 4, 1989

Senate Labor and Commerce Committee
Alaska State Legislature
P.O. Box V
Juneau, Ak. 99811

RE: HB44--Ak. Mandatory Auto Insurance law

ATTN: Chairman Richard Eliason

Dear Chairman Eliason:

I feel immediate action must be taken on the HB44--renewal of Alaska's mandatory auto insurance law.

As Alaskans, we are, or should be, responsible for all of our actions. Auto insurance will serve just that purpose for all Alaskan drivers--it will make a person resoponsible for his/her actions while driving a motor vehicle. The majority of Alaskans driving without any auto insurance could never pay for personal or property damages to a second party--and they don't particularly care either. So, I feel it is just a natural thing to do--impose mandatory insurance on all of us and help make us all responsible for our actions while driving.

Sincerely,

Rick Cook

Rick Cook
5060 East 98th Ave.
Anchorage, Ak. 99516

cc: D.Donley
House Labor & Commerce Committee

Chevron

Saupe Enterprises, Inc.
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P.O. Box 510, Fairbanks, AK 99707 • Phone: 452 1238

April 5, 1989

Senator Dick Eliason, Chmn.
Senate Labor & Commerce Committee
P.O. Box V
Juneau, AK. 99811

RE: HB-44

Dear Senator Eliason:

I would appreciate and urge your passing out HB-44 "Mandatory Insurance" (or a similar Committee Substitute if that is what is being prepared), at the earliest possible date.

I believe it is not unreasonable to expect other drivers who enjoy their driving privileges to provide at least a reasonable amount of financial responsibility, and I would be disappointed if this issue gets lost in the last minute shuffle!

Your consideration would be appreciated.

Sincerely,

B.H. Saupe'

Juneau Empire
11/21/88

How to repair auto insurance

Californians are mad as hell about soaring auto insurance rates, and now have done something about it. Ignoring a $60 million advertising effort by the industry, they voted to cut all property and casualty insurance premiums below 1987 levels and to regulate future increases tightly.

The anger notwithstanding, sky-high premiums in the competitive California insurance market reflect sky-high costs, and insurers aren't about to commit suicide by writing policies at a loss. The only practical way to lower insurance prices in California (and other high-premium states like New Jersey and Massachusetts) is to lower costs. And the only way to lower costs is to create "no-fault" compensation systems that make it virtually impossible to sue for personal damages.

ISSUE: From Friday's edition of the New York Times

Californians have a right to be fed up. The typical auto insurance premium has doubled, to $700, since 1982. In Beverly Hills a 30-year-old male with an Oldsmobile sedan and a spotless driving record pays $2,700 a year, largely because claim losses have been rising explosively. But the remedy the voters chose is a recipe for chaos.

Proposition 103 would give all drivers a 20 percent price break and good drivers another 20 percent on top of that. Premiums would be frozen for a year unless the insurer could show that it was in danger of insolvency. After that, increases could be vetoed by an elected insurance commissioner.

The California Supreme Court has halted enforcement to let insurers appeal the initiative's constitutionality. No one is sure what will happen if the companies lose their appeal. But there's not the slightest evidence that the insurance business in California is excessively lucrative or that companies could live for long with deep cuts in premiums.

The best guess is that some businesses will leave the state and others will become extraordinarily fussy about whom they insure and for how much. Most drivers will end up in the "assigned risk" pool, paying exorbitant rates.

Such a breakdown of the insurance system would not be unprecedented. In New Jersey, where regulators must approve rate increases and premiums are even higher than in California, half of all car owners are assigned risks. An additional 400,000 flout the law by carrying no insurance at all.

If regulation isn't the answer, what might be? Tougher federal safety standards for cars and tougher enforcement of traffic laws would help a little, and would be desirable in their own right. Requiring insurers to offer $1,000-deductible coverage for theft and collision damage gives car owners a way to economize.

But in an environment of ever-higher traffic density and deteriorating roads, the only way to make a big difference is to create a strict "no-fault" system in which injury victims' compensation is limited to medical bills and lost income.

No-fault's image is badly tarnished because it failed to reduce costs in many states that converted over the last decade. The problem, however, was not in concept but in execution. Responding to pressure from trial lawyers, most state legislatures left plenty of room to sue in their no-fault statutes. In Florida, which has defeated these loopholes, the average car owner pays just $400 for insurance.

California isn't about to pass a no-fault law. In fact, the voters just rejected a no-fault alternative to Proposition 103 sponsored by the insurance industry. But with luck, the mess created by 103 may sober up consumer groups in other states. The only effective way to contain auto insurance costs is to keep accident claims out of the courts.

Mandatory car insurance is unnecessary, unwise

By DICK RANDOLPH

COMPASS
POINTS OF VIEW FROM OUR COMMUNITY

I am and always have been opposed to mandatory insurance laws, as is most of the insurance industry. They are unnecessary, unwise, unenforceable, ineffective and costly.

• Unnecessary — because anyone can purchase bodily injury and property damage, uninsured/underinsured motorist coverage at very nominal rates; far less than their share of the cost of a mandatory program with attempted enforcement.

• Unwise — because it allows the political system to intrude into what should be, and is, one of the few industries that is still relatively market sensitive. By and large the current rating structures reflect and spread the premium cost according to actuarially sound risk factors. In other words, those driver classes and cars most likely to crash and sustain the greatest losses pay the most premium.

When the politicians get involved, they disrupt this actuarially sound rating process and try to allocate and spread cost based on political considerations. Once the politicians mandate coverage, they get involved in trying to force the industry to insure all drivers, no matter how irresponsible, at an "affordable" rate. This forces the insurance companies to cover the bad drivers and charge less than they deserve — thus requiring that the good drivers pay more than they should.

• Unenforceable — because there are always those who will find a way to avoid repressive laws. Every system of attempted enforcement of mandatory insurance laws in other states has proved to be very costly, very cumbersome, very inconvenient to the insured public and not very effective. Every time a payment is late, or an insured changes companies or any number of other typical routine transactions take place the enforcement process is triggered and causes great cost, uncertainty, frustration and inconvenience.

• Ineffective — experience has proved that states like New Jersey and Massachu-

setts — with the most severe mandatory laws and the most intrusive political involvement — have the highest rates, the most restrictive insurance markets, the most cumbersome and costly regulatory maze. In New Jersey, 53 percent of the insured drivers have been forced into the assigned risk pool and have very high rates. Ironically, these and other mandatory insurance state have about the same percentage of uninsured drivers as non-mandatory states do.

• Costly — The cost of this increased political regulation to the industry is passed on to the insuring public. The cost of the increased government bureaucracy is passed on to the taxpayer. In the end we have a far less effective, more costly, unfair system, and everybody is more unhappy than before.

The answer is to deal effectively with the abuses in the legal system and the medical delivery system, plus the outright illegal activities such as arson, theft and fraudulent claims. The major factor in car insurance cost is losses paid and these are only a reflection of the cost of what insurance pays for — damaged cars and broken bodies and all their related cost.

In the final analysis people wishing to be certain they are protected against the uninsured should purchase uninsured and underinsured motorist coverage. The cost is nominal and coverage up to $1,000,000 is available to most drivers.

I should also note that I believe that people should be held accountable for their negligence, whether or not they have insurance.

If the legal system required that, which it does not presently, all thinking persons, in their own self-interest, would carry insurance or otherwise cover their potential liability — voluntarily. The risk and penalty of being irresponsible and unable to readily compensate for one's negligence would simply be too great, thereby providing the natural motivation to act responsibly.

☐ Dick Randolph is a Fairbanks insurance agent and former state legislator.

Is mandatory insurance needed?

Dear Editor:

Let's talk about mandatory insurance and what it will not accomplish. First of all, it will not keep people like the driver with 21 citations and 4 license suspensions off the road, or keep them from killing people and they will NOT BE INSURED. Unless you are going to assign a full time police officer to every citizen of Alaska for 24 hours a day, you cannot stop the chronic alcoholics or just plain drunks from getting behind the wheel of a car.

But that probably isn't the real purpose for mandatory insurance. It must be that the proponents want to be sure they are protected in the event they are in an accident in which the other party is at fault. To the best of my knowledge, all of us who are fortunate enough to have good jobs and be in the middle or upper income brackets with assets to protect, have always purchased insurance to protect our own ass-ets.

In the oft chance that we might be struck by an uninsured driver, heaven forbid, we might have to pay our own $100, or even $500 deductible, which we won't get back, but since we are fully insured, we have uninsured motorist coverage to protect us and medical payments coverage to pay our bills should we be unfortunate enough to be injured. If our vehicle is damaged or destroyed, we have collision coverage to repair or replace it, so the bottom line is, the most we could be out is our collision deductible, if we should happen to have an accident with an uninsured driver and it was not our fault. If the accident is our fault, it doesn't matter if the other driver is insured or not.

There are a lot of very good and responsible young drivers on the road, some of them young married couples; some of them single heads of households wherein their age, marital status, sins of their youth, etc. are going to cause their insurance premiums to be astronomical who simply cannot afford the $1,000, $2,000 or more it will cost them to be insured. Sure, they would love to have insurance the same as all of us, but it becomes a choice between paying the rent, putting food on the table for their families, paying for a 10 or 15 year old clunker to get them to work at their $5 an hour job, or paying for mandatory insurance to protect you and me – who are already protected by our own resources that we are fortunate enough to be able to provide, because we cannot afford to be uninsured.

Let's think about this before we just jump blindly on the "bandwagon of mandatory insurance," because someday all of you lucky people might find yourself in the same situation as those who are uninsured and unfortunate enough not to have the funds to change the situation.

There is one last point to ponder. Mandatory insurance is incredibly expensive to administer and police (and I can think of several ways that people could slip through the loopholes). Knowing how these things work in Juneau, I foresee another huge bureaucracy, hiring many more high priced state employees to try to keep all these poor people insured or revoking their licenses, which will then force them to drive uninsured and unlicensed or having to give up their cars (and their jobs) and go on welfare, thanks to "Big Brother" looking out for all of our best interests. Thanks a lot, but no thanks.

Renee Murray
Anchorage

Juneau Empire 2/1/89

Hit & Run

BY SHEILA KAPLAN

The insurance industry is one of the biggest industries in America. And it's riding roughshod over lawmakers, regulators and the American public.

The Federal Trade Commission (FTC) knew it had a problem when late-night TV commercials for health insurance preempted ads for Ginsu knives and Vegamatics. Agency staffers suspected thousands of Americans would fork over their retirement funds for overpriced, inadequate coverage.

Barred by federal law from investigating the insurance industry, the FTC persuaded Congress to make an exception, allowing it to determine whether ads selling so-called Medigap insurance, featuring celebrities like Harry Morgan and Ed McMahon and targeting the elderly, were deceptive. The FTC's report, due for release this summer, is expected to be highly critical. But, says agency spokesperson Anna Davis, "even if we find out there is a huge problem in this area we'll just send a report to Congress. We can't do anything."

The agency has been similarly hamstrung on property and casualty insurance complaints of recent years, ranging from soaring premiums and canceled or reduced coverage to redlined neighborhoods and cities.

"The fact that liability insurance in so many industries is skyrocketing made us wonder, is there perhaps collusion or were costs actually rising that high?" Davis says. "Were poor investments made and were companies trying to recoup their investment losses through premiums? We would have liked to study this, but we can't even look at it . . . because maybe we'll find a problem."

Maybe they would. But the 1945 McCarran-Ferguson Act exempts the insurance industry from federal study — and from the antitrust laws that govern other industries as well. The act followed a Supreme Court ruling that insurance companies feared might deny states the right to oversee the industry and states feared might forfeit their ability to tax insurance companies. At the time, President Franklin Roosevelt and others said such worries were unfounded, but Congress adopted the measure, leaving insurance regulation and oversight to the states.

"Frankly," FTC Chairman Daniel Oliver told a meeting of state insurance commissioners, in reference to the bill, "I don't understand how anyone ever made

Sheila Kaplan is a staff writer. Editorial research assistant Anna Mangum also contributed to this article.

either of these arguments with a straight face. Maybe no one ever did. . . . But with or without straight faces, insurance companies won the right to continue to conspire and combine to restrain competition — without intervention from the Feds."

Oliver's comments refer to the unusual legal exemption that lets the insurance industry pool certain types of information — an arrangement insurance companies say is vital to setting rates, but that critics say sets the stage for price-fixing, boycotts and other activities that hurt consumers.

This debate is central to a lawsuit filed last March by the attorneys general of eight states against four U.S. insurers — Allstate, Hartford, Aetna and CIGNA. It alleges they conspired with other insurance interests and the Insurance Services Office (ISO), an industry group that gathers information and recommends rates, to reduce or end certain types of coverage as a way of increasing profits — kicking off the so-called liability crisis. The attorneys general claim the insurance companies violated the McCarran-Ferguson prohibition against boycotts, coercion and intimidation, charges the industry denies. In June, 10 other states filed a similar suit against 31 insurance companies and industry associations, and Texas has filed a separate suit in state court.

Evidence produced in the course of the suits may fuel the move for repeal, but the industry has managed to maintain its antitrust break for more than 40 years — despite opposition from three White House administrations, the FTC, the Department of Justice, consumer groups, small business, banks, some members of Congress and the National Association of Attorneys General.

During this time the average household's insurance bills have ballooned — today representing 15 percent of its disposable income, just behind housing and food, according to the National Insurance Consumer Organization (NICO), a Virginia-based consumer advocacy group. Auto insurance increases are among the most dramatic. Premiums rose 9 percent in 1987, when inflation was 4 percent; 13 percent in 1986, when inflation was 1 percent; and 11 percent in 1985, when inflation was 4 percent. And for all the industry's complaints about the cost of doing business, last year it pulled in $13.7 billion in profits on casualty and property insurance — about one-third of total industry profits.

Despite the size and significance of this industry, in many parts of the country it is virtually unregulated. According to a Bureau of Labor Statistics report for February 1988, insurance employs more than two million people; banking, by comparison, employs 1.7 million and is regulated by the Federal Reserve Board, the Federal Deposit Insurance Corp. and the Treasury and independent state banking departments. Only a handful of states — among them Florida, New York and New Jersey — have the resources or the mandate to give the insurance industry more than perfunctory attention.

"The insurance lobby has been able to shield price-fixing from federal antitrust scrutiny not by force of argument but by sheer political muscle," said Sen. Howard Metzenbaum (D-Ohio) at a mid-June hearing on his bill to repeal the McCarran-Ferguson exemption. The insurance companies, Metzenbaum said, should "play by the same rules as everyone else." Oliver, the FTC's Republican chairman, agrees. McCarran-Ferguson is unnecessary and "denies consumers the best array of insurance services at the lowest possible cost," Oliver says.

Outgoing New Jersey Democrat Rep. Peter Rodino chairs the House Judiciary Committee, where a similar debate on McCarran-Ferguson is taking place. He says repeal would end a host of questionable insurance practices that have adversely affected consumers. "This measure would ensure that the consumer has an effective safeguard against anti-competitive conduct on the part of the insurance industry, whether through the mechanism of state regulation or through the antitrust laws," he says.

PHOTOGRAPHY BY STEVE WEBER

Repeal is not a cure-all for the industry. Experts disagree on how much premiums would drop, and some experts say any drop would be negligible. But an end to the exemption would not only permit FTC study, but would make public information on profit and loss data now maintained by ISO for the industry's eyes only.

The battle over repeal is taking place in Washington, where the strength of the insurance industry is well known. Insurance companies and trade groups gave more than $6.4 million in campaign contributions to federal candidates in 1985-86. They maintain a network of thousands of agents who barrage members of Congress with calls, letters and telegrams during critical votes and produce dozens of lobbyists to crowd committee rooms during hearings on insurance issues. What is less widely known is that the industry has an even stronger grip on the states.

Moves toward repeal face a tremendous state power base: a revolving door between the industry and state insurance commissioners, who run the state departments; a large, monied group of insurance agents and owners in every district, many of whom donate money and time to political campaigns or run for office themselves; and a large contingent of well-paid lobbyists.

State insurance departments, headed by elected or appointed officials usually called commissioners, are charged with reviewing rate requests, answering consumer complaints and enforcing state laws. Few are consumer zealots. Says John Ingram, a former North Carolina insurance commissioner who retired in 1984 after 12 years in office, "There are only a handful of insurance commissioners who are really working for insurance consumers."

A recent study by the National Association of Professional Insurance Agents and the Consumer Insurance Interest Group, which includes both industry and consumer representatives, notes that although the quality of regulation has improved significantly during the last 10 years, "the advances appear to lag behind the rising level of sophistication of the insurance industry and the increasing need of insurance consumers."

For example, the report says that out of 3,044 requests for rate increases nationwide in 1986, state insurance departments held hearings on only 44. Of the other 4,310 requests, referred to as filings, that did not require state approval but were eligible for public hearings, all were passed without such hearings.

The report also says, "In most states, regulators lack the personnel and tools to properly fulfill their missions of providing adequate consumer protection and monitoring insurers for solvency." The average insurance department employs about 1.4 actuaries, responsible for reviewing well over 2,000 filings annually. In addition, it notes, only half the departments keep track of complaints by company. In the typical state, less than than 6 percent of the annual insurance-premium taxes collected are spent on regulating the industry. Says Texas Attorney General Jim Mattox, "The insurance industry is so powerful today that, when acting together, it completely overwhelms the regulatory capabilities of the states."

"The insurance industry is so powerful today that, when acting together, it completely overwhelms the regulatory capabilities of the states," says Texas Attorney General Jim Mattox.

Two groups are symbolic of the industry's continuing success: the National Association of Insurance Commissioners (NAIC), an organization of state insurance directors and commissioners, and the National Conference of Insurance Legislators (NCOIL), made up of state lawmakers who serve on insurance committees.

The memberships of both groups reflect the symbiotic relationship that some insurance legislators and commissioners privately acknowledge hurts consumers. Robert Hunter, president of the consumer organization NICO, serves on NAIC's Market Conduct and Consumer Affairs Advisory Committee — the sole consumer representative out of the dozen or so members. "I think it makes the NAIC look silly to have its consumer affairs advisers from a committee so constituted," he once informed NAIC.

Most of NAIC's annual conferences and committee meetings, where model legislation is discussed and policy hashed out on issues ranging from AIDS to spiraling auto rates, are clearly dominated by industry "advisers." Former Massachusetts Insurance Commissioner Peter Hiam accuses insurance industry representatives of being "influential and often dominant participants in NAIC deliberations" and of drafting reports and model insurance legislation. Writes Hiam, "By playing such a major role in NAIC, the insurance industry could be considered to be regulating itself." Hiam cites as an example last year's NAIC meeting, where the industry persuaded the group not to forbid insurers to test for exposure to the AIDS virus.

"That gave them a license to do it," Hiam says.

NCOIL is even more of a political hybrid: a private group of public officials sponsored in part by insurance companies. The insurers pay for the privilege of serving as NCOIL "advisers," and thus enjoy an enviable kind of access and input to the legislative process. Members of NCOIL are the only lawmakers in the United States who solicit annual dues from the industry they are charged with regulating. NCOIL uses industry money not only to produce educational materials and sponsor conferences, but also to lobby Congress — an arrangement tantamount to having chemical companies fund the

Washington lobbyist for state environmental officials. The group's first Washington lobbyist, registered in March, is former insurance executive Robert Mackin, who is leading its fight to save McCarran-Ferguson.

New York State Assemblyman Frank Barbaro (D-Brooklyn) says most statehouse representatives view NCOIL as an industry support group. "I think the insurance industry has a right to set up lobbyists wherever they want to," Barbaro says. "But it violates the openness of government to set up an organization that is clearly lobbying insurance industry interests and trying to delude the public."

Rep. Don Edwards (D-Calif.), who is sponsoring the House bill to repeal the McCarran-Ferguson exemption, says, "They are tilted toward the industry. It's disgraceful the way the insurance committees don't do their job. You know they are just gung ho for insurance."

One reason is many NCOIL members work for the industry. NCOIL's 1988 almanac, which lists occupations of many but not all relevant committee members, shows that in 14 states, house or senate committees that regulate insurance are chaired by present or former insurance professionals. In 11 states insurance professionals serve as senate and assembly presidents or minority leaders or in other positions of party leadership. In 18 states, insurance professionals serve as insurance/commerce committee chairs, vice chairs or ranking minority members. This gives the industry a built-in lobby, not including the registered lobbyists political observers say make up the biggest block of lobbyists in many states.

"There are at least 25 lobbyists up there at all times," says Minnesota's Commissioner Michael Hatch, reeling off a list of firms he encounters in the state capitol. "They are the largest lobby in the state."

Hatch also points to insurance industry campaign contributions, which he says legislators know they can depend on if they sign onto an insurance committee. "It's incestuous and of course they have a direct interest," Hatch says. "The person going there isn't going there for any sense of idealism."

A look at financial disclosure statements of NCOIL members in key states where figures are available shows a strong reliance on industry money.

Insurance political action committees (PACs) contributed a total of $65,767 to Pennsylvania state legislators from 1985 through mid-June 1986. Almost half of the total came from the Insurance Federal of Pennsylvania Inc. PAC. Republican Sen. Edwin Holl, chairman of the Banking and Insurance Committee, was the top recipient in the statehouse, netting $8,750. State election records of his 1987 PAC contributions over $250 show Holl received one-third, totaling at least $11,000, from insurance PACs.

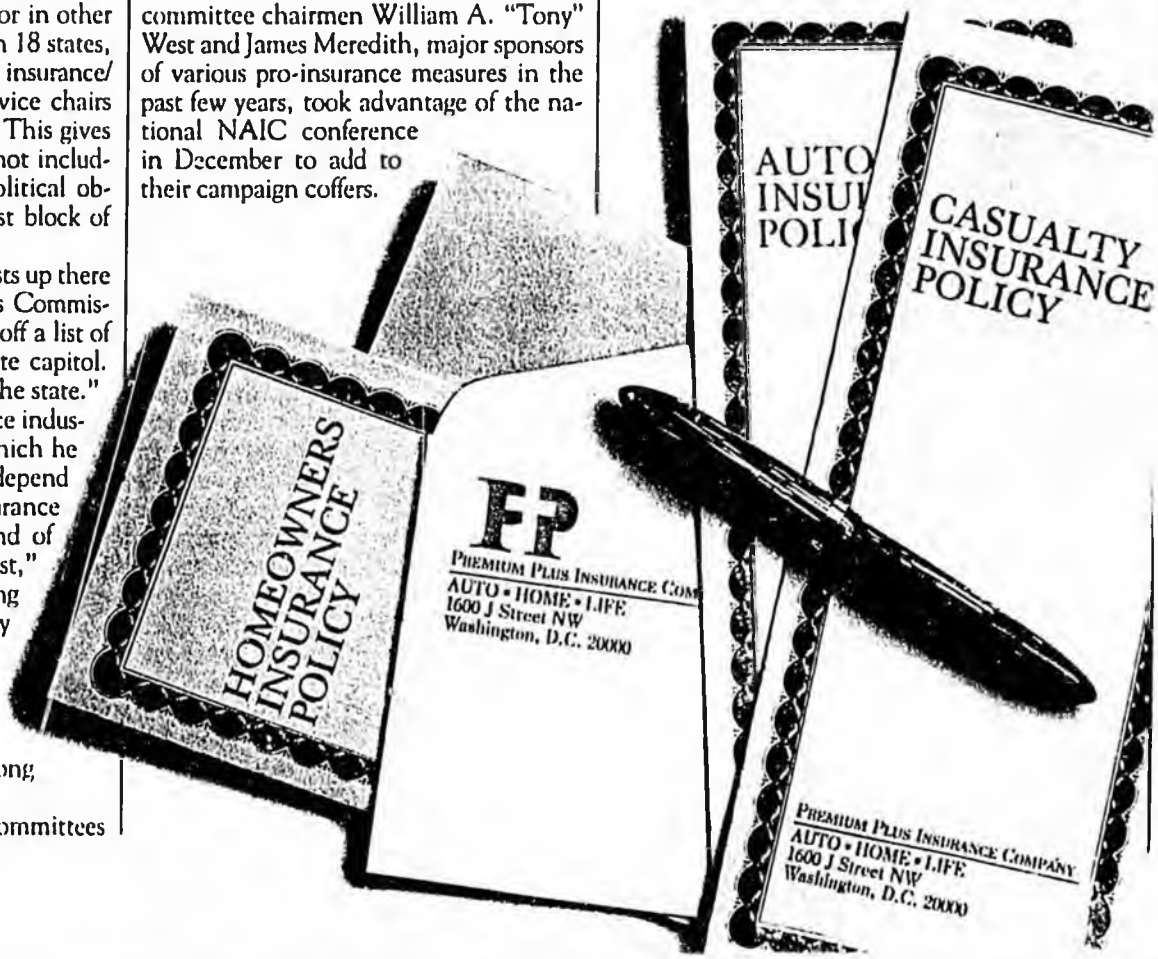
In New York, Sen. Joseph Bruno (R-Brunswick), chair of the Senate Insurance Committee, got $37,700 — 35.6 percent of his 1985-86 total — from groups with insurance interests, according to financial disclosure statements reported by the *Albany Times-Union*. The newspaper also disclosed that Del. Howard Lasher (D-Brooklyn), chairman of the Assembly Insurance Committee, received $61,400 from insurance interests during the same period — representing an astounding 55.5 percent of his contributions. An examination of campaign contributions filed from mid-January 1987 through 1988 shows the insurance industry continued to pour money in after the election, giving Lasher more than $25,750, slightly more than half his off-year intake.

In Arizona, senate and house insurance committee chairmen William A. "Tony" West and James Meredith, major sponsors of various pro-insurance measures in the past few years, took advantage of the national NAIC conference in December to add to their campaign coffers.

Several days before the conference began they held a joint committee hearing on McCarran-Ferguson. Several insurance executives, including Debra Rand, assistant counsel of the National Association of Independent Insurers of Chicago, and Frank Matricardi, vice president for planning and legislation, Maxicare Arizona, testified against repeal. That night, Rand and Matricardi were among the contributors at a joint fundraiser for the two lawmakers, sponsored by Jones, Skelton and Hochuli, a law firm that lobbies on behalf of several insurance companies, and Blue Cross/Blue Shield of Arizona. The fundraiser brought in $3,560, almost exclusively from insurance PACs, agents or executives, some from out of state.

Several weeks later, West's committee adopted a resolution affirming the state's support of McCarran-Ferguson. The resolution was passed by the senate and is now being considered by the house.

Arizona Democratic Rep. Debby McCune, a former insurance agent herself, says, "I think [giving money] is exactly the kind of thing that would be smart for a lobbyist to do. I don't necessarily think that it's smart for a legislator to accept."



Campaigns for insurance commissioners, elected in 11 states, are also fueled by the industry.

In Florida, for example, PACs and individuals in the insurance field hedged their bets in 1986 by giving heavily to both candidates. Records of donations of $500 and above show the industry spent a total of $304,000 in 1986 to help reelect William Gunter, a former U.S. Congressman and NAIC president. Gunter's opponent, Van B. Poole, drew $151,000 — nearly 30 percent of his total receipts.

Brooklyn Democratic Sen. Donald Halperin, newly elected president of NCOIL, favors public financing of state elections, but in the meantime, he says, echoing several commissioners, he'll take what comes. "I would love to solve this problem and I don't think it is limited to the insurance industry," he says.

Part of the blame for weak state regulations can also be pinned on the revolving door between state office and industry.

"Too many insurance commissioners spend their time planning for the day when they will land a lucrative job with the industry," charges Sen. Metzenbaum.

An analysis of this year's NCOIL almanac shows that 16 of some 53 current commissioners have worked for the industry. A recent *Journal of Commerce* survey of insurance commissioners who left their jobs in the past four years shows that about 25 percent went directly into the industry. Another 17 percent left for law firms where they handle some insurance-related business.

Among the most controversial moves was that of former Maryland Commissioner Edward Muhl, who in December announced his resignation from his state office to accept a post with Royal Insurance in North Carolina. Muhl presided over the December 1987 NAIC meeting in the interim. "I think it's incredible that nobody even said boo," says the insurance consumer organization's Hunter, noting in response to a NAIC survey, "The relationship must be different if NAIC is ever going to be viewed as a real regulatory body."

Muhl characterizes Maryland's current ethics law as among the strictest in the nation and notes that he followed it to the letter, turning his work over to his deputy and filing with the state ethics commission once he made his decision. "When I was a regulator I took my job extremely seriously and attempted to do the best job I could for the citizens in my state. I was in state service for 17 years. If it's a revolving door, it's a very slow-moving one."

But the fact that the law is broad enough to allow such actions is disturbing to some commissioners and consumer groups. "It's an illegitimate criticism of an individual, but not an illegitimate criticism of the system," says Delaware's Insurance Commissioner David Levinson, who favors a one-year hiatus before an insurance commissioner could work for a private insurance firm.

Texas attorney Tom Bond, of Akin, Gump, Strauss, Hauer & Feld, and counsel to NAIC, disagrees, saying, restrictive legislation could affect the quality of applicants for public jobs. "It's hard to go to school and get a degree in insurance," Bond says. "You sort of have to learn about how it works somewhere, and many of today's regulators are learning it on the job, which is fine. But what they'll do with their lives after they know something about insurance is hard to imagine if they cannot work in and around the industry."

In the meantime, the system works well for the industry. "I do believe the insurance industry has largely captured the state process," says Mark Kindt, who recently resigned as West Virginia deputy attorney general to become regional director of the FTC in Cleveland.

Part of the blame, Kindt points out, lies with state regulators' contradictory goals: maintaining a healthy industry and ensuring that rates are not excessive, inadequate or discriminatory. Add political pressure, an average department funding of less than one-tenth of 1 percent of the typical state budget and the result is that many states simply rubber-stamp rate hikes and other industry requests.

Joseph Belth, insurance professor at Indiana University and publisher of a monthly newsletter on the subject, says his state insurance department is severely understaffed. "If [department officials] want to fight an insurance company they might have a part-time lawyer . . . and the insurance company goes in with 10 top guns and hires the best lawyers in the state with the most political power and just overwhelm the regulatory body."

If the states are paralyzed, can consumers count on the federal government to take charge? Recent events aren't encouraging. West Virginia Attorney General Charles Brown, testifying in Congress before filing the lawsuit, pointed to the industry's ability in 1986 to pull together nationally to exert pressure. "The power displayed was the combined, coordinated, simultaneous mass cancellation of medical malpractice coverage in our states," he maintains, and is an example of why the McCarran-Ferguson exemption must be ended.

"Where else in the American economy do prices rise for goods and services by hundreds of percents?"

It was during the crisis in liability coverage that many state regulators recognized their embarrassing inability to get reliable information on industry profits and losses. "Throughout the whole insurance crisis we became painfully aware that [the] data was only as good as that submitted by the industry," recalls Minnesota Commissioner Hatch.

In Washington similar problems were uncovered during 1986 House Judiciary Committee hearings on the insurance "crisis." "The insurance companies came in and were very secretive," recalls Rep. Don Edwards (D-Calif.). "They wouldn't tell us what their profits were and what they had in reserve."

Despite the industry's closed-door operations and general lack of accountability, Rodino said his subcommittee was able to learn enough to conclude that the liability insurers actually received far more in premiums over the previous decade than they had paid out in claims. Specifically, 57 cents came in for every 29 cents paid out. Similar discrepancies came to light at the Senate subcommittee hearing in June. Texas Attorney General Mattox said industry figures show that between 1985 and 1987 profits on property and casualty insurance rose from $2.1 billion to $13.7 billion. His own figures put the increase closer to $20 billion.

Despite such findings, repeal of McCarran-Ferguson looks like a dim possibility. NAIC and NCOIL are both lobbying against repeal, which they view as a stepping stone to further federal intervention. The groundwork was set last summer, when NCOIL leaders and insurance industry lobbyists swarmed a meeting of the National Conference of State Legislatures (NCSL) and persuaded NCSL members to block continuation of the group's previous support for repeal — a move that substantially hurt repeal efforts in Washington.

"I have rarely seen anything so heavily lobbied," says Illinois state Rep. Woods Bowman (D-Cook County). It didn't hurt that some sympathetic NCSL members are also insurance agents, including state Sen. Richard Worman of Indiana and state Sen. John Larson of Connecticut, president of the insurance firm Larson & Lysik.

The industry line on McCarran-Ferguson remains that the federal government should stay out of state affairs. Robert Seiler, a senior executive with Allstate Life Insurance Co. who testified last August on behalf of 10 insurance groups before a House subcommittee, characterized the notion that the federal government should intercede as "federal elitism." That stance is particularly ironic since insurance lobbyists are begging the federal government to intervene at the state level to keep banks out of the insurance field.

NAIC officials also contend that existing regulations are enforced with sufficient vigor, an assertion Metzenbaum calls "unadulterated hokum."

In both the House and Senate versions of the legislation amending McCarran-Ferguson, states retain the right to enforce their regulations. Metzenbaum and Edwards view their measure as a means to provide federal help on antitrust cases and send a message to the insurance companies and statehouses that the era of lax regulation is over. The federal government could also help the states grapple with reinsurance firms, which in effect are subcontractors to the major insurance firms and agree to take on part of the risk. These firms, many of which are overseas, pose an enormous challenge to states responsible for assessing their solvency.

"I can't go to the Cayman Islands, Korea and Latin America and investigate the company that is providing the insurance," says New Jersey Insurance Commissioner Kenneth Merin. "That's for the feds."

Some state legislators also favor repeal. Ending the industry's antitrust exemption, they say, would bring enough federal intervention to do the job and send the message to the insurance industry that the free ride is over.

Jeffrey Teitz, chairman of the Rhode Island House Judiciary Committee, has told Congress that McCarran-Ferguson actually impedes effective state regulation. Teitz supports provisions to require companies to submit annual financial data to a federal agency, which would collate it and return it to the companies, as well as state agencies.

Such efforts, most supporters of repeal believe, would help put a clamp on rates. "We broke a monopoly on medical malpractice and rates were reduced over 5 percent," recalls former Commissioner Ingram. "What I'm talking about is creating competition. If you don't have McCarran-Ferguson repealed, they'll keep [raising rates] and say they are within the law."

Some consumer advocates see repeal of McCarran-Ferguson as just part of the solution. The consumer group NICO also calls for establishing a federal office of insurance to create state standards and monitor performance; repealing the bill barring the FTC from investigating insurance fraud; expanding an existing law to allow groups to join together to self-insure; and instituting a national reinsurance program.

These moves are likely to provoke even more state opposition, however, and seem impossible to achieve without McCarran-Ferguson repeal as a first step. ◆

Industry profits soared between 1985 and 1987, despite widespread fears of an insurance "crisis." Between 1976 and 1986 liability insurers collected 57 cents for every 29 cents paid out, one study showed.

CALIFORNIA Scheming

BY PETER ASMUS

In the statehouse and at the polls, money fuels the battle over insurance.

As goes California, so goes the nation.

Or at least so hopes the consumer movement.

On November 7, if consumer advocates are right, Californians will vote in favor of a ballot initiative that would roll back insurance rates and step up regulation. Once California goes on record on the insurance issue, consumer activists reason, other states are sure to follow.

The latest California poll shows that 77 percent of the Golden State drivers responding think their rates are "much too high." The poll also indicates that 79 percent endorse consumer reforms.

Partly because the stakes are so high, California's Election Day showdown has galvanized some of the most powerful economic and political interests in the state. The result has been a bitter, drawn-out contest that is expected to cost the various interests tens of millions of dollars before the dust settles in November.

The Great Initiatives War, which has pitted trial lawyers against insurance agents, insurance companies against banks and consumers against each other, is by all accounts a byproduct of the state legislature's seeming inability to act on the volatile insurance issue — despite mounting public demands for change.

The battle between consumers and the insurance industry is so intense that members of the Voter Revolt to Cut Insurance Rates, one of several groups pushing for reforms, have mockingly sported shotguns and semi-automatic weapons. The weapons are a symbol, the group declared, of its need to protect the petitions it gathered to qualify its initiative for the November ballot from raids by industry opponents.

Highway Robbery

California is a key state in the battle to reform the insurance industry partly because of its sheer size. With more than $8.2 billion in auto insurance premiums written last year, for example, California is the nation's largest market. It is also one of the most expensive. In Los Angeles, one of the hardest hit areas, rates average more than $2,600. (New York City's annual average is $768.) Car owners routinely face much higher premiums — $4,000 and $5,000 are not all that uncommon. Not long ago, of course, you could *buy* a car for $5,000.

In certain high-risk sections of Los Angeles, insuring an automobile can cost $7,500. Consequently, between 70 and 90 percent of the residents in these often impoverished areas don't carry insurance — despite a state law requiring universal coverage. California's rates are not only among the highest in the nation but are growing at a phenomenal pace. Over the last two and a half years they have jumped 40 percent, compared to an average 28 percent increase elsewhere, according to a recent study for the California state legislature.

California also stands out because it has one of the most laissez-faire approaches to insurance regulation in the country. A state law passed in 1948 to ban excessive rates is so weak that only one insurance company violation has been investigated to date, despite numerous complaints of insurance fraud. At a press conference last May, Insurance Commissioner Roxani Gillespie admitted that the problem is "the state doesn't know what the insurers do." A Consumers Union report last summer concluded that the state's industry-friendly Department of Insurance "is protecting insurance company reputations instead of protecting consumers' pocketbooks."

But if California is an extreme example, it isn't the only state where people are saying they're fed up. Over the past three years the cost of all insurance in the United States has increased at triple the rate of inflation, according to Voter Revolt to Cut Insurance Rates. At the same time industry profits appear to be at an all-time high. Between 1985 and 1987, according to one calculation, they jumped from $2.1 billion to $13.7 billion.

"The eyes of the insurance industry are focused on California," industry association head George Tye told reporters earlier this year in a bit of an understatement. Anxious about the potential impact of a successful California reform drive, insurers from coast to coast have pledged to kick in a total of $27 million to help enact an industry-sponsored initiative at the expense of the consumer-backed ones.

The November ballot is expected to carry up to five measures, each aimed at channeling voter rage and frustration into new laws — some more meaningful than others. Two of the proposals are consumer-oriented — one backed by well-known consumer advocate Ralph Nader would immediately roll rates back to November 1987 levels and reduce them another 20 percent. It also would outlaw redlining and subject all future rate increases to approval by an elected insurance commissioner; under the current system the head of the state Department of Insurance is appointed by the governor — and the last seven appointees were former insurance industry executives.

A competing, and many say more palatable, consumer initiative, sponsored by a group called Insurance Consumer Ac-

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Peter Asmus is a Sacramento-based writer who specializes in campaign finance issues. Research for this article was supported in part by the Project for Investigative Reporting on Money in Politics.

tion Network (ICAN), would reduce auto insurance rates for good drivers by 20 percent and restrict redlining. Besides the support of state Attorney General John Van de Kamp, the ICAN initiative has garnered the endorsement of the California Trial Lawyers Association and Consumers Union — both of which began the year with their own initiative proposals but have since abandoned them. As of May 21, the trial lawyers had contributed $1.1 million to ICAN's campaign.

Both consumer initiatives would make it more difficult for companies to price fix and both would allow banks to get into the insurance business, something they are currently prevented from doing by state law. Giving banks the go-ahead would theoretically increase competition and reduce premiums, a vision supported in a recent report by the Consumer Federation of America, a major consumer lobby, and a 1983 study by the consulting firm of Arthur Young & Co.

The banking industry, which contributed $82,000 as of May 21 to the ICAN initiative drive, has had its eye on the insurance business for some time but has never been able to overcome insurers' resistance to increased competition. Nine years ago, former Democratic Assemblyman Lou Papan, himself an insurance agent, spearheaded legislation placing a permanent moratorium on bank entry into the insurance business. It was vetoed by then-Gov. Jerry Brown, but the insurers persuaded the state to take the extraordinary step in California of overriding the veto of this special interest bill. More recently the legislature took up a bill to remove the moratorium. It never budged.

No Way No Fault

As part of its effort to drive home its message, the insurance industry has devised and heavily promoted its own "no-fault" initiative proposal. As originally written, the initiative would have also given the industry the legal right to ignore any limits placed on campaign contributions to candidates for state office — an open attempt to subvert ongoing efforts in California to enact campaign finance reforms. After the trial lawyers took the insurers to court, arguing that their proposal violated a requirement that initiatives address a single topic, the industry began to recirculate the ballot measure — minus the campaign contributions provision. By June it looked as if the industry's signature-gathering drive would generate enough names to qualify the measure for the ballot.

Dubbed a no-fault plan, the industry initiative has been sharply criticized as a poor substitute for the real thing. "There is no rate review, no guarantees of a decrease," charges Judith Bell of Consumers Union, which has championed no-fault for some 20 years. On top of that, the measure would specifically prohibit rate regulation, protect the industry's state antitrust exemption and nullify other pro-consumer provisions contained in the two rival consumer initiatives.

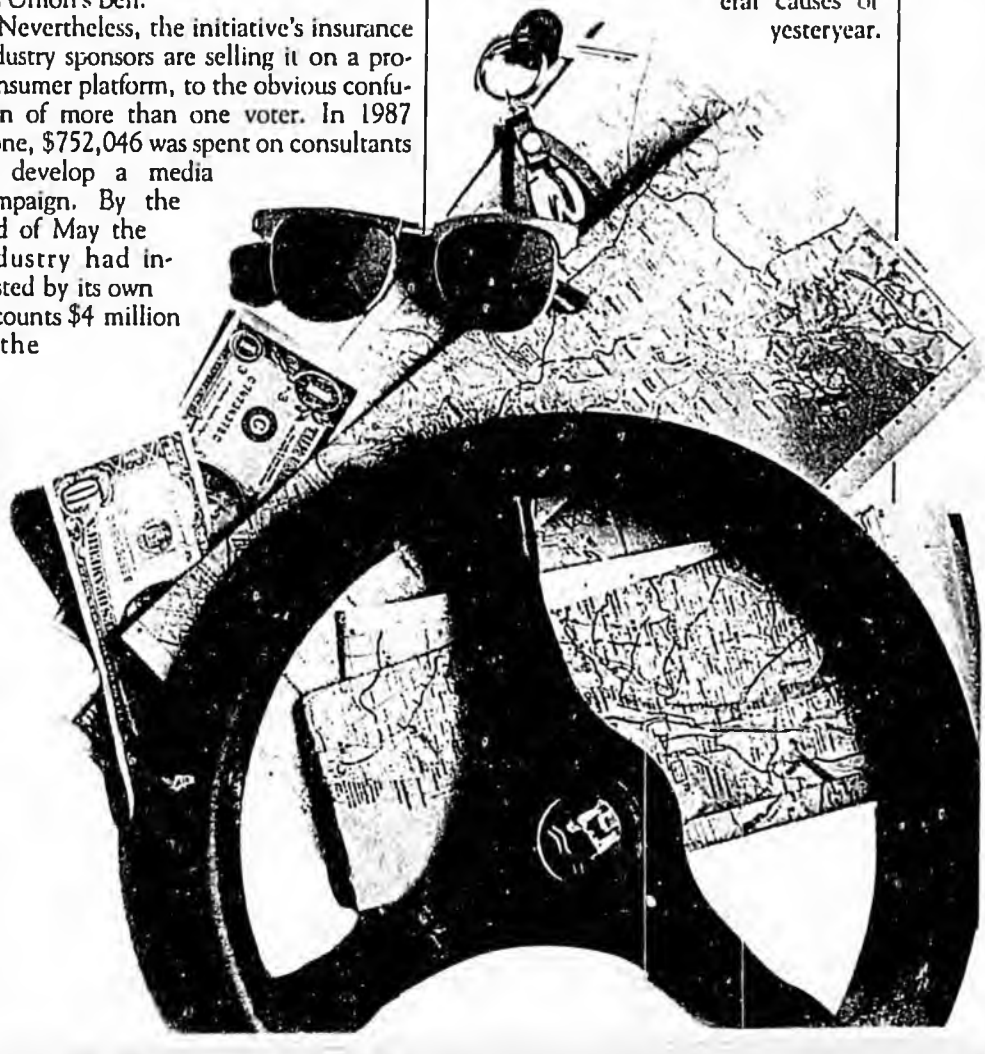
The industry's proposal would have policyholders file most claims with their own insurance companies, and a ceiling would be imposed on liability awards. Critics believe such provisions mislead voters because they suggest lower legal costs would automatically translate into lower premiums.

The industry initiative does contain a provision rolling back rates 20 percent on July 1, 1989. But some observers say the industry could raise its rates 20 percent between now and then as a form of self-defense. "There is nothing to stop them from doing that," points out the Consumers Union's Bell.

Nevertheless, the initiative's insurance industry sponsors are selling it on a pro-consumer platform, to the obvious confusion of more than one voter. In 1987 alone, $752,046 was spent on consultants to develop a media campaign. By the end of May the industry had invested by its own accounts $4 million in the campaign, which features consumer-oriented radio, TV and print ads. "Which is higher — your insurance rates or Mt. Everest?" begins one particularly appealing full-page ad that ran in newspapers across the state. In a TV spot, a frustrated housewife tells her child, "I am not angry with you, it's these insurance bills." Another ad featured an elderly couple distressed about their mounting insurance premiums. "We'll get by somehow," the wife says, shaking her head despondently.

Campaign spokesman Manuel Valencia acknowledges that the industry-sponsored ads recognize "the anger pent up in consumers," adding, "we are tapping into that anger and offering a positive solution."

Industry proponents have even gone so far as to mimic rallies usually associated with such causes as civil rights. At a demonstration near the state capitol in April, insurance agents decked in dress-for-success outfits sported buttons and cardboard signs that read "No fault — the consumer solution" and other slogans. At one point they started chanting "no fault, no fault, no fault," as one agent said, "Hell no, we won't go," an obvious reference to the liberal causes of yesteryear.



The Great Initiatives War has been characterized from the beginning by rancor and hardball tactics. Early on, the insurance companies worked out a contract with a major signature-gathering firm, barring it from aiding any other insurance initiative drive. (Professional signature gathering is a necessity in California because 372,178 signatures are needed to get a measure on the ballot.) The trial lawyers responded in kind, getting another major firm to agree to the same thing. Ultimately, when the trial lawyers decided not to pursue their own initiative, the firm was released from the contract.

Tension has also erupted among the consumer groups. Because it can cost several million dollars to launch a successful initiative drive in California, they have been forced to compete for dollars — as well as free media coverage. Some of the tension is simply part of doing political battle, but it has been costly in terms of morale.

Sacramento For Sale

If the Great Initiatives War had a theme song, it would be the same one played in the state assembly: "Money Can Buy You Love."

The insurance lobby is one of the biggest and best-heeled in Sacramento. The Association of California Insurance Companies spent $917,000 on lobbying in 1987, according to the Fair Political Practices Commission, a state government agency. Because there have been no laws in California restricting who may contribute to a campaign or how much, the insurance industry also has been able to give generously to election campaigns. During 1987 the Association of California Insurance Companies' Political Action Committee (PAC) alone pumped $417,250 into legislators' reelection efforts, the largest amount contributed during a non-election year by a single industry. Insurance agents gave an additional $154,015 in 1987 through their own PAC.

Such generosity buys access and sympathy for the industry among state legislators. "With these contributions," observes Harry Snyder, West Coast director of Consumers Union, "special interest lobbyists are buying an insurance policy against legislative action, and it is the consumers who are paying the premiums." Indeed, despite efforts to put insurance reform on the legislative front burner for the last three years, it hasn't gone anywhere.

"The insurance companies are the single most powerful lobby in the state of California," declares Lloyd Connelly, Democratic assemblyman from Sacramento and a key spokesperson for the ICAN measure. Connelly points to reform legislation he introduced last session. The bill attracted support from consumers, labor unions, senior citizens, the state attorney general and newspaper editorial writers around the state, but in the end, Connelly says, it was "crushed."

Willie's Wares

When special interests like the insurance industry want to get something done — or un-done — in the legislature, they often go to Assembly Speaker Willie Brown, whose ability to transform public policy issues into fundraising opportunities for the Democratic Party is legendary.

Brown received approximately $65,000 in campaign contributions from insurance industry groups during the last half of 1987, when the legislature was debating the insurance issue continuously. During 1987 Brown also landed $7,000 in personal speaking fees from insurance groups. Back in March 1986 the Association of California Insurance Companies paid $4,796 for the speaker to fly across the Atlantic to sit down and chat with executives of Lloyd's of London, a major international underwriter, to discuss the so-called insurance crisis. More recently, the president of the Association of California Insurance Companies sent Brown $200 worth of men's shirts.

The insurance issue has posed a dilemma for Brown, however, because it involves the political interest group closest to his heart — trial lawyers. Brown is a trial lawyer himself and operates a private practice in San Francisco.

Trial lawyers are the insurance industry's biggest political enemy. In California the insurance industry maintains it has been forced to raise rates to cover litigation and liability costs that it says are higher in California than elsewhere.

As the insurance industry's economic scapegoat, the trial lawyers have learned to fight back. In 1987 the California Trial Lawyers Association spent $849,000 lobbying in Sacramento. That year the group also dropped $284,150 into legislators' election races, coming in second place behind the insurers. The lawyers' association, together with individual attorneys, gave over $80,000 to Willie Brown's campaign war chest in the last six months of 1987 alone, plus $7,000 in honoraria — and $225 in Napa Valley cabernet wine.

During the waning days of last year's legislative session, Brown was under heavy pressure from both groups, and to accommodate both he helped seal a deal that has been christened the "crowning achievement" of the legislative session by supporters — and a sell-out by critics.

The origins of this deal go back two years, when insurers and trial lawyers went head-to-head over Proposition 51, the so-called Deep Pockets initiative then

on the ballot. The measure, which limits the amount courts can award plaintiffs for pain and suffering, took off because many voters hoped restrictions on lawyers' fees would help reduce escalating insurance rates. Wishful thinking, as things turned out, but the measure passed overwhelmingly.

In the final hours of last year's session, desperate legislators tried to stave off a "Son of 51" initiative that would have placed various new caps on legal damages and attorneys' contingency fees by cutting a deal with lobbyists representing all the various vested interests, including the insurance industry, lawyers, manufacturers and doctors. (Doctors like the notion of tort reform, reasoning that if lawyers' fees were restricted there would be fewer malpractice suits and consequently lower malpractice insurance costs.) Meeting privately at a local Chinese restaurant called Frank Fat's, with Brown taking the role of facilitator, they hammered out compromise legislation. Then they all signed a "non-aggression pact" sketched out on a napkin, agreeing to take no further action on a long list of issues, including insurance, for the next five years.

The compromise bill, which makes it harder and less lucrative to file civil suits, was rapidly steered through the legislature the next day. Gov. George Deukmejian, himself the recipient of $183,340 in insurance industry donations between July 1984 and July 1986, signed it into law.

Byron Sher, an assemblyman who has taught product liability law at Stanford, complained that it was "insulting" to legislators to sacrifice the normal legislative process for the sake of expediency.

Some legislators rationalized support for the measure as a way to avoid a costly initiative slugfest funded by special interests. At the same time, as a post-mortem in *The Washington Monthly* wisely noted, this step ensured that plenty of special interest money would still be available to legislators at reelection time.

Left in the lurch was Assemblyman Connelly's consumer bill, which would have required regulation of insurance rates. The last recorded vote on his bill, on August 26, showed that those on the Ways and Means Committee who voted no or were present but not voting had received on average $13,550 from the California insurance association and the insurance agents' PACs, while the ayes received on average $2,005. Two days after the vote Assemblyman Gerald Eaves (D-Rialto), a critical Democratic "no" vote on the panel, received two direct checks totaling $5,000 from the two major contributors to the insurance companies' PAC — Great American Insurance Co. and Fremont Compensation Insurance Co.

A week before the vote the California insurance association mailed a $15,000 check to Willie Brown, who consumers had hoped would throw his weight behind the bill. The day after the vote he got another $7,000 from the insurance agents' PAC.

Another insurance reform bill, sponsored by Assemblywoman Maxine Waters (D-Los Angeles), would have eliminated the industry's state antitrust exemption. It too came up for a vote and once again campaign contributions are a good calibrator of the results. Those voting thumbs down on whether to reconsider the bill in January of this year received an average $11,154 from insurance PACs — three times more than the average received by those voting in favor of it. Waters, in fact, was the only one on the Ways and Means Committee who didn't receive a single contribution from either of the two insurance PACs. "It sounds trite to say it, but the insurance industry and their representatives are just so powerful here," Waters told a reporter for *The Sacramento Bee*. "It is the most amazing thing I've seen, and I've been here 10 years."

Only In California

As in past legislative battles, money is a key ingredient in the various campaigns to reform the system by ballot. All told the various interests are expected to spend tens of millions of dollars before November 7, much of it on negative TV and radio spots.

One not unlikely scenario is voter approval of several insurance-related initiatives. Some four or five are expected to make it on the ballot, including two insurance industry-supported measures imposing limits on attorneys' contingency fees. If all the initiatives pass, the California Supreme Court will have to sift through the contradictory and overlapping proposals and declare which sections are valid.

When Californians went to the polls in June, they were asked to vote on two measures that would limit campaign contributions to state lawmakers. Guess who gave heavily to defeat both?

As Michael Strumwasser, a lawyer with the state attorney general's office, points out, the only real solution to the insurance mess is campaign finance reform, which would help put an end to the disproportionate influence of special interests in Sacramento and perhaps stimulate the legislature to debate and resolve complex issues such as insurance.

Apparently voters agree. In separate initiative campaigns that ended June 7, Californians endorsed two competing campaign reform measures. Proposition 73, which limits contributions but bans public financing of campaigns, received more votes and therefore apparently nullified the more far-reaching runner-up, Proposition 68, a proposed combination of contribution limits, spending limits and public funding (see page 45).

Proposition 73 initially was backed by some of the state's biggest campaign contributors. Then a campaign committee was formed to defeat both campaign reforms. It received $242,500 in contributions and loans from insurance industry donors. ◆

Official off insurance case: judge

THE ASSOCIATED PRESS

ANCHORAGE – A judge says Alaska Insurance Director Paul Roller willfully disobeyed her orders to try to salvage an insolvent insurance company.

Superior Court Judge Karen Hunt removed Roller as receiver of Pacific Marine Co. of Alaska because he failed to cooperate with Washington state officials who hope to save the Alaska firm and Pacific Marine of Washington.

Roller "appeared to have thrown up a paper barrier asking for busy-work type responses" from Washington state employees, Hunt said.

Roller said Tuesday he acted on the advice of his lawyer.

Pacific Marine in both states wrote marine liability and workers' compensation policies. Both are under the management of state regulators, and there are 1,428 claims pending against them.

The Alaska company, with $11 million in cash, is in better financial shape than the Washington company. As the state-appointed receiver, Roller sought to liquidate the Alaska company to pay off the claims.

Washington officials hope to sell both companies as a package.

On Jan. 10, Hunt told Roller to work with his Washington counterparts to try to arrange a joint sale of the companies. She said liquidation would create chaos for policy holders, and put a severe strain on the state fund set aside to guarantee workers' compensation claims get paid.

Juneau Empire 2/8/89

BEST'S INSURANCE MANAGEMENT REPORTS

Property/Casualty
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Financial News | Washington Review | Perspectives | On-Line Reports

Average Automobile Insurance Premiums by State

The insurance premium for the average private passenger automobile in the United States increased $44.28 to $486.50 in 1987. In Massachusetts, the state with the highest average auto premiums, the increase was $100.17, to a total of $655.72, while in Iowa, the state with the lowest average auto insurance premiums in 1987, premiums paid there increased only 5% to $255.61 per registered automobile.

The five states with the highest average auto premiums in 1987 were Massachusetts ($655.72), New Jersey ($634.84), California ($623.44), Arizona ($601.96) and Nevada ($600.04).

One year earlier, in 1986, New Jersey topped the list, Alaska was number two and California ranked third. In 1986 there were 10 states with average premiums above the $500.00 level. In 1987, there were 19 states plus the District of Columbia above that level, and the top five of those had average premiums of more than $600.00.

Twenty states and the District of Columbia had average premiums above the national average of $486.50, and 30 states were below the national average.

From 1986 to 1987, the growth of average auto premiums increased by more than the national average (10.0 %) in 26 states. Among these, the following seven reported increases of more than 15%: Washington, D.C. (25.2%), Massachusetts (18.0%), Maryland (17.9%), Indiana (17.3%), Hawaii (16.9%), South Dakota (15.4%) and Rhode Island (15.2%). Idaho and Oklahoma experienced increases of less than 1%, while three states—Wyoming, Colorado and Alaska—reported small declines.

Net premiums written by the U.S. property/casualty industry for private passenger auto insurance in 1987 totaled $64.3 billion, a 11.7% increase over 1986. The industry experienced a $4.3 billion underwriting loss on this business, which was not overcome by $4.0 billion of related investment income.

In 1988, according to our preliminary estimates, the property/casualty industry wrote almost $70 billion in private passenger auto premiums and had an underwriting loss of $4.7 billion. Estimated investment income of $4.5 billion fell short again, leav-

(continued on back)

About This Information

This annual A. M. Best Company report on average private passenger auto insurance premiums by state has been expanded to provide more information. Five years of rankings now are shown, as well as the number of insurers writing in each state.

Although this report is being released nearly a month earlier than last year's study, the basic approach remains unchanged. We divide private passenger auto direct premiums written for each state by the number of each state's registered vehicles, as reported by the Federal Highway Administration. Premiums for 1987 have been available since May from Best's Executive Data Service, *but auto registration tallies are not available until December.*

Results of this study can be distorted by several factors. The Federal Highway Administration's figures include government-owned and commercial passenger vehicles (but not trucks, buses and motorcycles).

Also skewing the averages is the unknown number of registered, but not

(continued)

Average Automobile Insurance Premiums by State
Ranked by 1987 Premiums per Passenger Vehicle

1987 Rank	State	1987 Average Premium (1)	1986 Rank	1986 Average Premium	1985 Rank	1985 Average Premium	1984 Rank	1984 Average Premium	1983 Rank	1983 Average Premium
1	Massachusetts	$655.72	4	$555.55	3	$521.40	2	$488.00	3	$416.58
2	New Jersey	634.84	1	603.55	2	580.12	1	565.77	1	521.21
3	California	623.44	3	568.20	4	503.65	6	423.49	8	373.83
4	Arizona	601.96	5	553.84	7	471.38	5	423.65	12	354.35
* 5	Nevada	600.04	6	549.49	5	498.75	7	418.99	5	387.92
6	Maryland	597.08	10	506.34	11	423.53	11	374.20	10	356.44
7	Alaska	[illegible]	[illegible]	502.45	1	[illegible]	[illegible]	447.34	[illegible]	396.11
8	New York	583.69 588.8	7	522.06	6	485.07	3	453.26	2	421.70
9	Washington, D.C.	579.82	15	463.13	19	385.27	20	339.10	21	301.96
10	Pennsylvania	568.97	9	512.09	8	465.03	8	418.78	6	384.61
* 11	Rhode Island	549.00	12	476.60	15	405.93	17	350.29	17	325.12
12	Delaware	536.96	13	469.15	14	408.04	16	350.70	18	323.29
13	Hawaii	530.13	17	453.60	12	417.59	19	349.57	9	360.90
14	Louisiana	529.68	8	515.39	9	443.24	10	401.86	7	383.72
15	Connecticut	519.93	14	466.09	13	412.52	12	373.01	14	336.05
16	South Carolina	514.93	20	449.74	17	398.86	14	365.38	15	334.93
17	Michigan	509.28	11	481.07	16	404.63	15	359.04	16	328.24
* 18	New Hampshire	508.85	18	453.10	37	312.34	32	304.55	29	291.00
19	West Virginia	506.81	16	454.65	10	426.56	9	404.97	11	356.41
20	Georgia	501.14	19	450.23	22	372.06	30	305.48	30	287.18
* 21	Arkansas	494.29	22	433.75	18	392.27	19	349.73	23	294.67
National Average		**486.50**		**442.22**		**390.04**		**351.46**		**322.20**
22	Texas	474.33	23	426.09	20	383.76	13	372.48	13	343.32
23	Missouri	460.88	26	403.49	26	354.38	28	309.81	27	291.11
24	Minnesota	453.48	25	416.98	34	318.29	23	326.69	25	292.30
* 25	Illinois	439.46	24	418.51	25	356.00	27	312.69	19	307.75
* 26	Virginia	436.20	31	381.82	32	325.15	38	281.17	33	268.85
27	Oregon	435.09	28	396.36	28	349.68	29	306.65	20	302.22
28	Colorado	434.97	21	444.11	21	379.16	22	329.91	22	301.36
29	Florida	433.91	30	390.50	29	344.98	31	304.58	26	291.55
30	Utah	431.01	27	396.78	31	329.96	36	284.22	34	265.58
* 31	Washington	430.20	29	393.86	27	351.53	25	315.99	24	293.52
32	Indiana	423.13	39	360.89	42	298.08	42	268.56	35	259.19
33	New Mexico	415.57	32	378.17	23	368.43	24	325.97	42	246.97
34	Kentucky	409.43	35	369.37	33	321.83	43	268.25	44	241.44
* 35	Wisconsin	409.29	34	372.76	39	308.85	40	279.96	43	245.93
36	North Carolina	408.42	38	362.36	35	315.75	35	285.78	46	239.36
* 37	Vermont	405.36	37	363.97	38	310.66	33	291.12	36	258.85
38	Montana	405.22	33	372.96	24	360.36	26	314.46	40	248.41
39	Oklahoma	370.28	36	368.85	30	342.47	21	332.78	28	291.09
40	Kansas	369.14	41	345.19	36	312.50	34	286.14	31	281.70
* 41	Maine	364.59	43	332.83	43	296.71	37	283.48	37	258.68
42	Ohio	350.84	44	327.01	45	279.39	44	260.60	47	237.31
* 43	Nebraska	348.27	45	323.98	44	288.02	41	269.25	38	257.63
44	Idaho	345.66	42	344.30	41	300.43	45	256.61	39	248.71
45	Wyoming	345.02	40	347.91	40	307.51	39	281.05	32	277.50
* 46	Mississippi	331.16	47	297.25	47	271.02	46	250.53	45	240.34
* 47	Tennessee	328.38	48	292.49	48	261.15	48	235.82	49	215.07
48	North Dakota	328.23	46	307.13	46	278.07	47	243.00	41	247.64
* 49	Alabama	306.73	49	278.46	49	260.63	50	224.10	51	200.24
50	South Dakota	295.08	50	255.77	50	231.24	51	213.47	50	208.66
* 51	Iowa	255.61	51	243.95	51	214.84	49	229.89	48	222.18

* Indicates states which did not have compulsory auto insurance laws in 1987, according to the Insurance Information Institute.
Note: Various factors may skew results; see text for explanation of how figures are calculated.

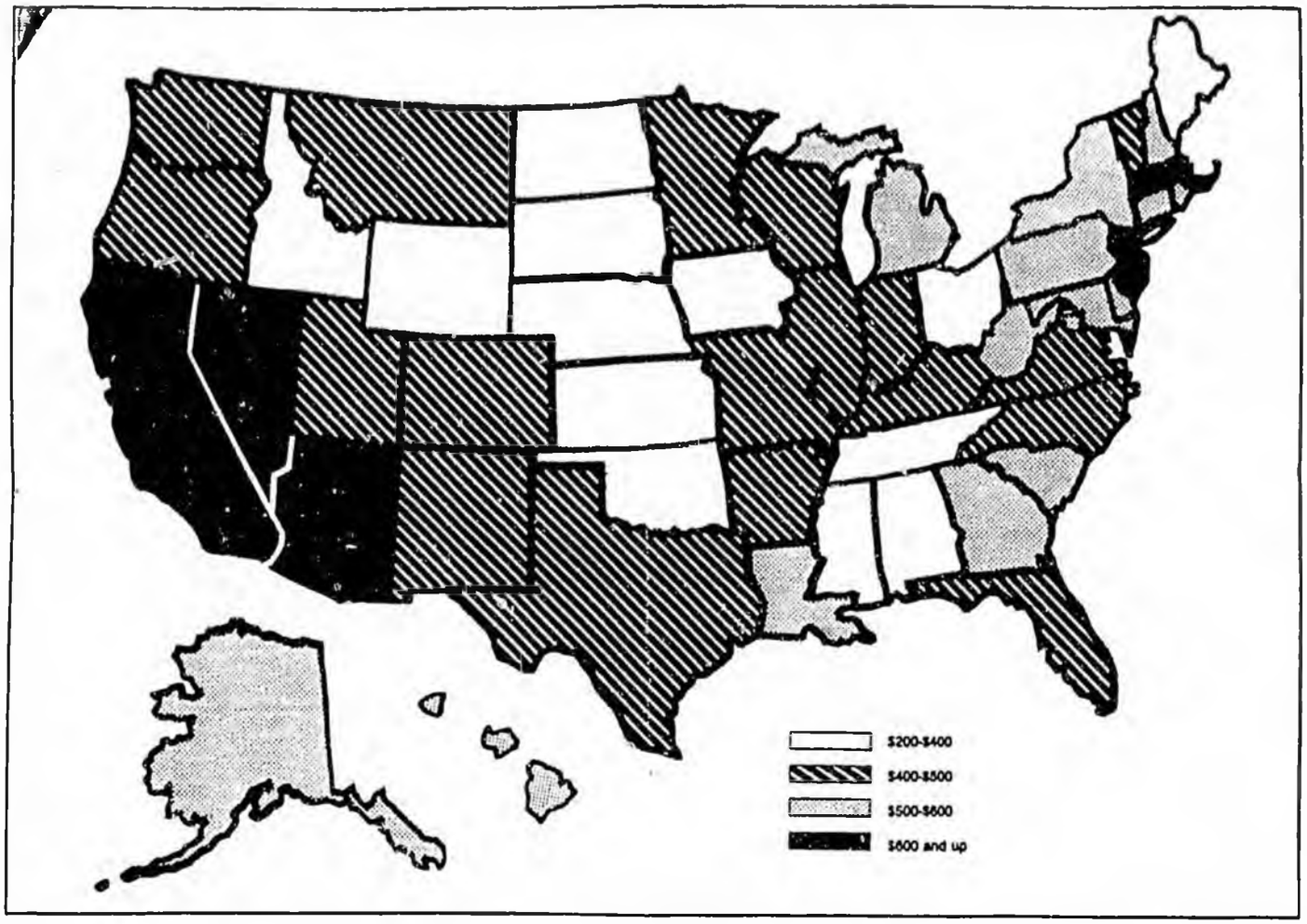
insured, vehicles. Several states still do not mandate coverage, and others have varying degrees of registered, but illegally operated uninsured cars. Also affecting the averages are different states' requirements for minimum limits of coverage.

It should be noted that each year the A.M. Best Company and the Federal Highway Administration both adjust figures published in prior reports to ensure that the best currently available information is reported. These adjustments could change rankings reported in prior years' reports.

Growth of Average Auto Premiums
Five Years, By State

86/87 Growth Rank	State	86/87 Growth Percent	85/86 Growth Percent	84/85 Growth Percent	83/84 Growth Percent	82/83 Growth Percent	82/87 Growth Percent	Number of Companies Writing In State 1987	1986	Net Change
1	Wash. D.C.	25.20	20.21	13.61	12.30	14.37	119.62	166	178	-12
2	Massachusetts	18.03	6.55	6.85	17.14	9.08	71.70	169	170	-1
3	Maryland	17.92	19.55	13.18	4.98	11.92	87.48	263	262	1
4	Indiana	17.25	21.07	10.99	3.62	14.43	86.80	353	356	-3
5	Hawaii	16.87	8.62	19.46	-3.14	-1.09	45.28	105	103	2
6	South Dakota	15.37	10.61	8.32	2.30	3.74	46.70	209	218	-9
7	Rhode Island	15.19	17.41	15.88	7.74	8.02	82.40	177	179	-2
8	South Carolina	14.50	12.76	9.16	9.09	9.39	68.17	184	191	-7
9	Delaware	14.45	14.98	16.35	8.48	9.06	81.15	187	185	2
10	Virginia	14.24	17.43	15.64	4.58	6.00	71.98	283	277	6
11	Missouri	14.22	13.86	14.38	6.42	10.45	74.87	324	328	-4
12	Arkansas	13.96	10.58	12.16	18.68	12.85	89.29	251	257	-6
13	North Carolina	12.71	14.76	10.49	19.39	13.59	93.82	216	225	-9
14	New Hampshire	12.31	45.07	2.58	4.65	11.02	94.14	184	170	-6
15	Tennessee	12.27	12.00	10.74	9.65	8.93	66.31	316	312	4
16	New York	11.81	7.62	7.02	7.48	9.59	51.68	259	270	-11
17	Connecticut	11.55	12.99	10.59	11.00	9.89	70.02	216	226	-10
18	West Virginia	11.47	6.59	5.33	13.63	3.40	47.03	198	199	-1
19	Mississippi	11.41	9.68	8.18	4.24	11.26	53.30	267	267	0
20	Vermont	11.37	17.16	6.71	12.48	-0.97	55.08	170	181	-11
21	Texas	11.32	11.03	3.03	8.49	10.65	52.87	403	405	-2
22	Georgia	11.31	21.01	21.80	6.37	11.99	95.43	336	331	5
23	Florida	11.12	13.19	13.27	4.47	10.41	64.31	370	365	5
24	Pennsylvania	11.11	10.12	11.05	8.88	7.44	58.94	284	294	-10
25	Kentucky	10.85	14.77	19.97	11.11	6.72	80.97	283	286	-3
26	Alabama	10.15	6.84	16.30	11.92	5.05	60.91	283	294	-11
27	New Mexico	9.89	2.64	13.03	31.99	7.45	80.80	246	250	-4
28	Wisconsin	9.80	20.69	10.32	13.84	7.09	78.23	311	310	1
29	Oregon	9.77	13.35	14.03	1.46	3.79	49.43	257	265	-8
30	California	9.72	12.82	18.93	13.28	4.36	74.05	374	375	-1
31	Maine	9.54	12.18	4.67	9.58	6.27	49.78	185	184	1
32	Minnesota	9.47	31.01	-2.57	11.77	2.35	59.84	284	287	-3
33	Washington	9.23	12.04	11.24	7.65	3.83	52.17	274	268	6
34	Nevada	9.20	10.17	19.04	8.01	0.90	56.08	207	216	-9
35	Arizona	8.69	17.49	11.27	19.56	17.52	99.63	299	297	2
36	Montana	8.65	3.50	14.59	26.59	-1.54	60.61	190	195	-5
37	Utah	8.63	20.25	16.09	7.02	5.81	71.72	220	227	-7
38	Nebraska	7.50	12.48	6.97	4.51	4.18	40.84	254	251	3
39	Ohio	7.29	17.05	7.21	9.82	4.88	55.05	346	343	3
40	Kansas	6.94	10.46	9.21	1.57	5.95	38.83	276	284	-8
41	North Dakota	6.87	10.45	14.43	-1.87	2.66	36.07	211	221	-10
42	Michigan	5.86	18.89	12.70	9.38	6.92	65.88	236	251	-15
43	New Jersey	5.19	4.04	2.54	8.55	14.33	39.25	213	228	-15
44	Illinois	5.00	17.56	13.85	1.61	5.53	50.70	384	380	4
45	Iowa	4.78	13.55	-6.55	3.47	-3.00	11.59	290	298	-8
46	Louisiana	2.77	16.28	10.30	4.73	4.11	43.70	319	320	-1
47	Idaho	0.39	14.60	17.07	3.18	7.55	49.47	211	222	-11
48	Oklahoma	0.39	7.70	2.91	14.32	15.73	47.22	286	281	5
49	Wyoming	-0.83	13.14	9.42	1.28	5.00	30.55	176	173	3
50	Colorado	-2.06	17.13	14.93	9.47	5.01	51.56	303	302	1
51	Alaska	-2.25	1.18	33.11	12.93	11.87	66.31	124	128	-4
National Average		10.01	13.38	10.98	9.08	7.99	63.06	1,120	1,097	

Note: Various factors may skew results; see text for explanation of how figures are calculated.



ing another operating loss.

Newly included in this annual report on auto insurance is the number of insurance companies writing in each state. During 1987, a net of 15 companies ceased writing private passenger automobile insurance in each of New Jersey and Michigan; 12 companies left Washington, D.C. and 11 pulled out of New York, Vermont, Alabama and Idaho. In all, the District of Columbia and 32 states had a net loss of insurers writing auto business and 17 states had a net gain of new insurers. Mississippi had no net change.

In 1987 there were 1,120 individual insurance companies writing private passenger auto insurance in the United States, although a number of these were subsidiaries of groups. The number of groups writing private passenger auto insurance totaled 544.

For consumers in several states, private passenger automobile insurance premiums reached a crisis level in 1987. Rates had been increasing for years, but the high price of insurance moved Californians to action as drivers displayed their outrage and anger toward insurance companies, state and federal legislators and even each other as they sought to change the system in 1988. (Ironically, California's average premium growth was lower than the national average in 1987, albeit up 74% over five years.)

The insurance industry's own frustrations, however, were never more evident than in the recent California elections, when over half the state's voters approved Proposition 103. The insurance industry spent more than $50 million to influence voters, yet failed to justify premium rates which are increasing faster than the overall cost of living.

Consumer groups have promised to export the Proposition 103 movement to other states where consumer unrest over auto insurance rates could make voters receptive to supporting limitations on the price of insurance.

Insurers are taking this seriously, especially in states like California where rates in metropolitan areas are sharply higher than in outlying districts.

As some insurers leave the California auto market, the aspect of driving away insurers could become a more serious concern for voters and legislators to consider. But for many people and many insurers in a number of states, the price of auto insurance has become a major public issue that just will not go away. □

Consumers Rebel as Auto Insurance Rates Soar

Consumers in many parts of the country are irate over ever-increasing automobile insurance rates. In California, voters can choose among a number of initiatives that promise to reduce the rates.

By Julie Lays

About the only thing Californians fear more than the big earthquake is their big auto insurance premium.

Every time Vail Kobbe of Los Angeles gets her auto insurance premium notice in the mail her stomach does flip flops. "I'm afraid to open the envelope because of the numbers that will be on it." Her 9-year-old Honda Accord LX has never been in an accident and she's never gotten a ticket. Yet her premium for a year is $1,706.20. In 1984 it was $636. "When I told my friends in Minnesota about the rates here, they couldn't believe it," she says.

Rising auto-insurance premiums are making it difficult for many drivers to afford coverage, and in some places even to get coverage. Three insurance companies have pulled out of Massachusetts, claiming business there is not profitable, and others are threatening the same in New Jersey and Pennsylvania. And the political heat is on to do something about it.

Average automobile insurance charges nationwide have risen faster than the overall inflation rate for six years in a row. The auto-insurance component of the Consumer Price Index climbed 8.3 percent last year, more than twice the 3.7 percent increase in the overall index. The average premium rose from $298 in 1982 to $477 last year.

Perhaps nowhere is public outcry stronger than in California where premiums have jumped 40 percent in the past 2.5 years and can top $2,500 in central Los Angeles. Veterinarian Mary Hiatt discovered the California difference when she arrived from Texas for her first job in Los Angeles. Her 6-month premium rose from $174 in Texas to $517.66 in California. "I knew the insurance on my 8-year-old truck would go up out here, but I couldn't believe it when I got my first bill. With the same coverage, it cost $50 more for six *weeks* than it did for six months in Austin."

The cost of automobile insurance has become unaffordable for many Californians, says Senator Alan Robbins, chair of the California Senate Insurance Claims and Corporations Committee. As a result, approximately 5 million drivers in California may be driving without the insurance mandated by state law.

According to Sheldon Davidow, chief consultant to the California Senate Insurance Committee, the California Legislature has so far been unable to pass any legislation designed to bring down costs because of the "rigid, fixed positions of the special interests involved, namely the lawyers, the insurers and to a lesser degree the consumers. Fundamentally it's a money issue. Lawyers don't mind limiting insurance rates, insurers don't mind limiting lawyers' fees, but no one is willing to compromise."

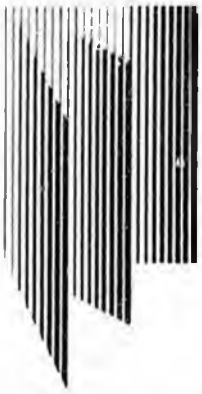
Faced with this stalemate, lawyers, consumer activists and insurers are taking their cases directly to the public. Five proposals will face California voters this fall:

- The "Voter Revolt to Cut Insurance Rates" (an offshoot of the insurance consumer advocacy group Access to Justice) is promoting an initiative, with the support of Ralph Nader, that would cut all liability insurance rates by 20 percent, require all future increases to be justified to state regulators, guarantee good drivers a 20 percent discount, ban rate discrimination on the basis of where a driver lives, eliminate the anti-trust law exemptions for the insurance industry (insurance companies are exempt from anti-trust law under the McCarran-Ferguson Act of 1945), and make the office of state insurance commissioner elective.

"You can pay more for your auto insurance than for your car," laments Harvey Rosenfield, leader of the Voter Revolt.

- The Insurance Consumer Action Network's initiative would give good drivers a 25 percent discount, require that auto insurance rates be based solely on drivers' safety records, toughen drunk driving penalties, and ban no-

Julie Lays is an assistant editor of State Legislatures.



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