

COMMENTS ON
A STUDY OF HAWAII'S MOTOR VEHICLE INSURANCE PROGRAM*

by

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I am very happy to have this opportunity to discuss with you our motor vehicle insurance study for the State of Hawaii. Before getting down to the many specific issues and details which must be covered, let us review briefly some general background information which is pertinent to a study such as this.

First, let's recall to mind the question of why we need insurance for automobile accidents. Auto insurance exists for two essential reasons:

1. The automobile has the potential of causing an enormous amount of damage, far more than most people can afford to lose at one time.
2. Despite all efforts to the contrary, accidents do occur repeatedly.

In other words, if automobiles only caused trivial damage, or if there were no automobile accidents, then there would be no need for automobile insurance and there would have been no need for a study such as this. Unfortunately, of course, automobile accidents

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will continue to occur, and many of them will indeed be quite serious. Last year, for example, 154 people were killed in automobile accidents in Hawaii, and already 9 have been killed this year.

The pertinent question which occurs here is: Where does the insurance system fit into this picture? For the majority of people, insurance consists chiefly of paying an annual premium. For that minority which does become involved in accidents, their insurance comes into play only after the accident has occurred. That is, they call up their insurance company, report the accident, and go from there. Throughout this study, however, we have asked ourselves whether and to what extent the insurance industry and the insurance system might help before an accident occurs. That is, can the insurance system help

1. Prevent accidents from occurring in the first place? or
2. Minimize damage in those accidents which do occur?

In other words, we have attempted to approach issues from a broader viewpoint which deals with the interrelationships between the insurance system and the other components of the milieu in which the insurance system exists. This is the essence of what is commonly called the "systems approach." We believed at the outset, and we still believe that the insurance system can play a more constructive role in preventing accidents and reducing the annual damage toll.

To undertake a study so broad and complex as this one, we assembled a study team with varied backgrounds: economics, systems

analysis, mathematics, statistics and actuarial analysis, law and insurance. In addition, we formed an Advisory Review Panel of three experts in the related areas of law and insurance.

It has come to my attention that this panel has received a certain amount of publicity. Let me therefore state the ground rules under which this panel functioned. It was simple: (1) We were in no way beholden to take their advice. (2) They were in no way constrained to endorse or be associated with the final report, except to acknowledge that they had indeed served on the panel. And (3), they were asked to focus on development of the best possible insurance system for the people of Hawaii. Our Advisory Review Panel read and critiqued several intermediate working papers. We also had two meetings with them, both of which were characterized by constructive debate and many searching questions.

In terms of the conclusions and recommendations which you will find in the final report, however, the buck stops right here. That is, I will take full responsibility for what is in the final report. In a number of instances I took the advice of the Advisory Review Panel, but in other instances I rejected it. This, of course, was particularly true where the members of the Advisory Review Panel differed among themselves. To be perfectly candid, there was no voting system and no majority vote. So far as the Advisory Review Panel is concerned, however, the end product turned out to be highly acceptable. Letters from each of them are reproduced in the front of the study.

As you can see without opening the report, it is somewhat lengthy. It is clearly too long and involved to explore in depth this afternoon. What I would like to do here today, therefore, is

First, give a brief overview of the report;

Second, discuss the basic study design;

Third, summarize the major recommendations;

Fourth, describe in more detail some of the most important aspects of the recommendations; and

Finally, attempt to answer whatever questions you may have about the study.

After you have had an opportunity to look at and study the report, there will be ample opportunity to give it the in-depth discussion which it deserves in subsequent committee hearings.

OVERVIEW OF THE STUDY

Since no one has yet had an opportunity to read the study, let me begin with a brief overview. The basic text is preceded by a short introductory section which contains a summary of the entire report. The remaining text is divided into four major sections, labeled Parts II through V.

Part II discusses objectives at some length. The first chapter in Part II, Chapter 3, contains a summary of the other chapters on objectives. The objectives are of course fundamental to the remainder of the study, including the conclusions and recommendations.

Part III, the next part, is an evaluation of the insurance system as it now exists in Hawaii. As you know, Hawaii now has a "traditional" liability insurance system, complemented with what are commonly called "first party coverages."

Let me digress for a moment to make two comments about such cumbersome terminology as "first party coverages." First, to help avoid confusion over these specialized terms, there is a short glossary somewhere in the front of the study. Second, in down-to-earth language, the term "first party coverage" simply means that if you buy insurance and then have an accident, your claim for any losses suffered is paid by your own insurance company, not by someone else's insurance company. Ordinary accident and health insurance or a homeowner's fire protection policy are two examples of first party insurance. In automobile insurance, examples of first party coverages are ordinary collision insurance or comprehensive insurance for such things as fire and theft.

Returning to the subject of evaluation, the insurance SYSTEM has, broadly speaking, two principal facets. One concerns the payment of benefits to accident victims, and the other concerns financing the benefits, or getting money into the insurance pool--what we have termed the "Buying and Selling of Insurance."

In recent years the insurance industry has been investigated and evaluated on more than one occasion. Most evaluations have been organized more or less along these lines. The most notable investigation of the insurance industry is doubtless that of the U. S. Department of Transportation (DOT), which took over two years and

several million dollars to complete. This extensive study is published in 24 separate volumes. While our evaluation of the Hawaii industry is obviously somewhat more limited in scope and effort, I will say--for any of you who may be familiar with the Department of Transportation study--that our evaluation contains no significant surprises nor does it depart significantly from the major findings in the DOT study.

In brief, and to be more specific, the insurance system in Hawaii was found to be deficient in a number of important ways. For busy readers, Chapter 7 contains a moderately extensive summary of this evaluation.

Part IV is called Design and Analysis of Reform Alternatives. It identifies all major reform proposals which have been suggested or adopted elsewhere. Reforms covering the full spectrum of these proposals were subjected to analysis. In particular, the impact of various reforms on the price of insurance was analyzed, as well as the impact on various parties involved in the insurance system.

Analysis, almost by definition, glories in details. We have tried to relegate as many of the tedious details as possible to the appendices. To be perfectly candid, however, while this section will doubtless be of interest to analysts--it may even be intensely exciting to a few--it is probably somewhat less-than-exciting to the average person. I would like to point out, therefore, that Chapter 11 contains a reasonably short overview and summary of Part IV.

Part V contains our conclusions and recommendations. To many this will almost surely be one of the most interesting part of the study. I will spend most of the remaining time describing these recommendations.

But first, to finish this overview, let me indicate that in addition to the basic text the study also contains eight appendices. By far the most important of these, and the only one I wish to mention at this time, is Appendix A, which contains drafts of the legislation we are recommending to the State of Hawaii for adoption.

STUDY DESIGN

As many of you are aware, we were requested to study--and we did study--a number of wide-ranging alternatives. Included among these were

1. Insurance reforms: Various reform proposals, including modifications to the existing liability system as well as no-fault insurance.
2. Administrative reforms: The possibility of a state-operated insurance fund.
3. Marketing reforms: The desirability of mass-merchandising automobile insurance through group policies.

Table 1 here was prepared to give you a better picture of the nature and number of the alternatives which had to be taken account of. At the top of this table the column headings indicate the broad categories into which fall the many possible reforms of the INSURANCE SYSTEM. The first column, the existing tort liability system, is the so-called "base-line case." The other three columns represent CATEGORIES of reform proposals. Each of these categories contains a number of alternative proposals which differ as to specific details. Merely studying these insurance reforms would be a major job in itself. Chapter 12, incidentally, gives more details on these alternatives.

The row headings show the various ADMINISTRATIVE alternatives which we were also required to study. I should like to point out that in general these administrative reforms are COMPLEMENTARY TO--they are NOT COMPETITIVE WITH--the insurance reforms. In other words,

Table 1
BASIC STUDY DESIGN

ALTERNATIVE ADMINISTRATIVE SYSTEMS	ALTERNATIVE INSURANCE SYSTEMS			
	Tort Liability		No-Fault	
	Existing System	Modified System	Partial or "Mixed" System	Complete or "Pure" System
1. Private industry				
2. "Mixed"—private industry plus a state fund:				
a. Complementary				
b. Competitive				
3. Monopolistic state fund				

the determination of who administers the system does not in any way solve the problem of what kind of insurance system the State ought to have. Conversely, a decision regarding the kind of insurance--liability, partial no-fault, or complete no-fault--does not preclude different choices regarding the administration of the system. I want to emphasize as much as possible the distinction between these two types of reforms, because I have heard bandied about questions like: "Should we have a State-run system OR a no-fault system?" Questions such as this are both misinformed and misleading. One does not select a state-run system OR some no-fault system. Clearly, as the many boxes within Table 1 indicate, you can have both, or neither.

Let me review briefly the row headings. The first and last should be self-explanatory. Private industry is what now exists, and a monopolistic state fund is just what it says: All motor vehicle insurance in Hawaii would be sold through such a fund. It is the "mixed" situation which requires some explanation. Namely, it is possible to establish a state fund which competes in a straightforward manner with private industry--to "keep them honest" so to speak--as some states now do with workmen's compensation. Alternatively, it is possible to establish a state fund which complements but does not compete with private industry. This complementarity could take various forms. One would be for the state to sell insurance only to those motorists whom private industry does not want to insure. This is the so-called "high-risk" group, which now constitutes approximately 20 percent of the driving population. Or, if any form of insurance--

liability or no-fault--were to be made compulsory, the State could handle only the compulsory portion and allow private industry to sell all excess optional insurance. This is now done in Puerto Rico, for instance.

In summary, there exist a number of administrative reforms as well as insurance reforms. To take all reforms into account is a sizeable job. In addition, there is the marketing reform referred to earlier: mass-merchandising. In terms of Table 1, this possibility has the effect of adding a partial overlay--or a third dimension, so to speak. In terms of Table 1, group policies would probably arise only in conjunction with private industry. Mass-merchandising would not seem necessary or appropriate under a monopolistic state fund.

In brief, Table 1 depicts the basic study design which we used. Because the number of possibilities that had to be studied was so large, and because the possibilities ranged from minor or simple to complete and thoroughgoing reforms, this study tends to be somewhat complex and, unfortunately, lengthy. Personally speaking, I am not particularly fond of long reports, simply because the longer the report, the fewer are the people who read it. In the short time allotted for this study, however, we found no acceptable alternative.

RECOMMENDATIONS

To eliminate any possible suspense about where this study comes out, let me now turn to and briefly summarize our major recommendations on the three most important issues:

1. Mass-merchandising
2. A State Insurance Fund
3. No-fault Insurance

I will then describe and elaborate on--as fully as time permits--these recommendations, especially the insurance reform proposal.

MASS-MERCHANDISING ENDORSED

First, let us discuss mass-merchandising--or "group selling," as it is frequently called. To a substantial degree, this issue is separable from either administrative or insurance system reform. It helps simplify matters somewhat if it is viewed independently. Because it can be applied to any form of insurance sold by private industry, we studied this reform under configurations of both liability and no-fault insurance. In every instance we found that mass-merchandising should produce significant dollar savings for any motorist in Hawaii who is able to participate in and take advantage of a group policy.

The arguments for mass-merchandising are straightforward and easy to understand. They relate essentially to greater marketing efficiency (lower cost marketing), more competition among insurance

companies, and lower premiums for the consumer. In other lines of insurance, mass-merchandising has worked well for many years. In automobile insurance, on the basis of experience in those states which have adopted mass-merchandising, it can also be said to "work," that is, it effectively reduces premiums.

It is our considered opinion that the legislature acted correctly and in the best interests of the citizens and motorists of Hawaii when it passed such a bill at its last session. We strongly recommend that, regardless of whatever other reforms are enacted, Hawaii adopt mass-merchandising. Mass-merchandising, in our opinion, encourages an extremely healthy and beneficial form of competition among insurance companies.

Appendix A-2 contains enabling legislation which has been designed to encourage mass-merchandising to the maximum extent possible. Stated otherwise, the bill in Appendix A-2 omits all of the inhibiting features which are frequently inserted by lobbyists or pressure groups who, for their own selfish reasons, are opposed to mass-merchandising.

In view of past industry support for mass-merchandising here in Hawaii, as well as past legislative support, I will not say any more about this particular recommendation.

DESIRABILITY OF A STATE INSURANCE FUND
CONTINGENT ON ADOPTION OF NO-FAULT INSURANCE PLAN AND
DOUBTFUL AT THIS TIME

The problem presented by consideration of a state insurance fund is somewhat more complex than mass-merchandising. Let us refer back to Table 1 in order to help focus on the issues and discuss our position vis-a-vis a state insurance fund. First, as discussed previously, such a fund can theoretically be a total monopoly, or else it could be competitive with or complementary to private industry. The pertinent problems and issues are somewhat different in each case, and one should therefore be quite specific about what he has in mind when suggesting a state fund.

Let us consider these possibilities one at a time. In every case, I believe that the need for and desirability of such a fund are interrelated with the question of what insurance system the state intends to adopt.

This interrelationship complicates matters somewhat. Consider first the combination of a monopolistic state fund and a tort liability system. Under tort liability, the basis for claims and recovery is a fault-finding adversary process. The adversary process works best when each party is independent and there is no conflicting interests involved except as between plaintiff and defendant. Now, in any accident where there is a dispute about who is at fault--and disputes arise in a great many accidents--both parties will be insured by the same outfit; the monopolistic state fund. Thus such a fund could conceivably be dealing with and even providing representation to both plaintiff and defendant

in every contested suit. For this reason we, and others with whom we have talked, have concluded that a monopolistic state fund in combination with a tort liability system does not make good sense.

This objection to a state fund loses some of its sting as soon as a partial no-fault plan is considered, and under a complete no-fault plan, this objection to a state fund disappears completely.

To help clarify our position, let me state here and now that we are not doctrinaire regarding a monopolistic state fund. We recognize the virtues of competitive enterprise, but we are not categorical defenders of private enterprise, no matter how bad it may be. Nor do we have mental blocks against seeing the state become involved in the insurance business. In fact, we believe that a certain amount of misinformation has been circulated on this subject, and we hope that certain parts of this study will help put these false arguments to rest. Our position on this subject should become somewhat clearer after describing our recommendations for the insurance system. You will find, I think, that our position on a state fund is nondoctrinaire, to say the least.

Briefly stated, our position is this. A monopolistic state fund should either be preceded by or, at a minimum, accompanied by the adoption of a no-fault system. However, because of the many issues and problems which will arise if a new system of insurance such as no-fault is adopted, we conditionally recommend that consideration of a monopolistic state fund be deferred at this time.

Our position in terms of a competitive or complementary state fund is similar. Namely, we prefer to see action taken on basic insurance reform first. After this policy has been determined, then the various state fund proposals can be debated on their own merits.

COMPLETE NO-FAULT PLAN PROPOSED

Now let me turn to what we consider to be our most important recommendation. It is this: We strongly urge the State of Hawaii to adopt a complete no-fault system of motor vehicle insurance. As I indicated previously, the specific bill which we recommend will be found in Appendix A-1.

NO-FAULT CONCEPT EXPLAINED

Before attempting to explain WHY we recommend a complete no-fault system, I think that it will be helpful to first explain in somewhat more detail WHAT a no-fault system is, particularly the one we are recommending. I think that this is especially desirable since pure no-fault represents a rather different insurance system in the field of insurance coverage for automobile accidents. If public opinion surveys have shown anything in this area, they have shown that most people do not understand what no-fault is all about. Because no-fault departs so much from the present system, analogies or experience with the existing automobile insurance system are of limited usefulness in obtaining a good understanding of what no-fault really is.

By way of background, the no-fault concept is not new. It has been around a great many years, but of late no-fault has received increasing attention--particularly since in one form or another the basic concept has been endorsed by the American Insurance Association, the U. S. Department of Transportation and the present Nixon Administration. Under the Hart-Magnuson Bill (S.945) now pending in the U. S. Senate, pure no-fault would be made mandatory for all states.

Adoption of the COMPLETE no-fault bill proposed in this study represents a giant step forward in the evolution of automobile insurance in the United States. It might even help prevent the federal government from preempting the area. If adopted at this session, it would put Hawaii squarely ahead of all other reform states. It is true that just one year ago, on January 1, 1971, the State of Massachusetts began operating under a limited or partial no-fault law. However, the Massachusetts bill is but a relatively small step in the direction proposed in this bill. So far as COMPLETE no-fault is concerned, it is still only a concept. To paraphrase what George Bernard Shaw once said about Christianity: "It's a good idea. It's too bad that no one has ever tried it."

Now, how does a complete no-fault insurance system work and what does it do? First, all tort liability arising from automobile accidents is abolished. This means that if you are in an accident you cannot sue another driver, and no other driver can sue you. In other words, it abolishes the present "lottery system" which leads all victims to hope that the other guy is either rich or heavily insured, and it replaces this lottery system with a "sure thing."

Under no-fault motorists will no longer have to pay for insurance to protect other drivers in other cars. This in turn mean that to have insurance protection in event of an accident, motorists must now buy protection for themselves, their own passengers (family or guests), and their own car. This also means that when accidents do occur, motorists will not be paid by someone else's insurance company, but by their own insurance company, with whom they will presumably be doing business on a recurring basis. Moreover, they will be paid promptly, with no need for a lengthy, time-consuming and expensive adversary process.

Under our proposed no-fault bill, basic personal injury insurance is made mandatory for every motor vehicle in the State. In a small island state like Hawaii, there should be no real problem in enforcing a compulsory insurance program so that virtually all cars are insured. However, if under no-fault any driver tries to free-load on the system by not buying insurance, or if he is so irresponsible that he does not buy insurance, he will be the one without coverage--not some innocent victim with whom he collides. Under complete no-fault there will no longer be any innocent victims who collect nothing because the other person was not insured. Under no-fault it becomes both a possibility and a responsibility to fully insure oneself and his family against the most serious accident.

Of most importance, no-fault also guarantees to take care of those who are injured in a single-car accident, where today's

liability insurance obviously doesn't apply and where many drivers have only limited coverage, or no coverage at all. It will also take care of other instances which liability insurance does not cover. Let me describe how the system works in more detail.

BENEFITS UNDER THE PROPOSED BILL

As I indicated previously when discussing Table 1, no-fault is a category of different reform proposals. No-fault bills can and do vary substantially in their details. Many no-fault bills have been criticized, and justly so, for the benefits which they failed to offer. Let me point out, therefore, that this particular bill takes better care of people than any other bill which we know of.

The minimum required benefits which any injured person will receive are specified in detail in the proposed bill. In certain respects, the benefits correspond to those in other no-fault proposals. For instance, everyone is guaranteed that all medical costs resulting from an automobile accident will be paid, and for wage-earners who cannot work, the bill also replaces lost wages up to \$700 per month of gross income.^{1/} For housewives who cannot perform their normal household duties, insurance pays the full cost of all replacement services up to one year. These benefits are frequently described as coverage of economic losses to victims, and such coverage tends to be common to most no-fault proposals.

¹Less a standard 15 percent deduction for state and federal taxes, since all such replacement income is not subject to income taxes.

In addition to economic losses, this bill also requires reparations payments for non-economic losses in two cases:

1. Serious permanent injuries
2. Death - that is, survivor benefits.

These benefits are less common in many no-fault proposals, and they are included in this bill because we believe they represent a much-needed and positive improvement. For this reason I would like to elaborate briefly on each.

Serious permanent injuries. In addition to paying the full cost of economic losses,--and paying them promptly, incidentally--all victims who permanently lose a limb, or use of a limb, will also receive compensation for what we have called disfigurement losses. All victims means, of course, everyone: youngsters, students, housewives, retired people, etc. It also means regardless of fault. Thus, for example, if a limb is lost in a single-car accident, the victim will automatically receive a disfigurement payment. This example stands in sharp contrast to the present insurance system, where victims of single-car accidents typically receive nothing.

The extent of these disfigurement benefits is spelled out in the bill. I believe it is correct to say that at this time only one other no-fault bill in the country contains a similar provision: the Minnesota-Davies Bill.^{1/} The benefits in this bill are over 50 percent greater than those in the Minnesota-Davies Bill.

¹Developments are occurring so rapidly in the no-fault area that any absolute statement of "fact" could become dated overnight.

Survivor or death benefits. Whenever any person dies as a result of an automobile accident--and again let me emphasize that this covers everyone, including a single-car accident such as running into a tree--there is a guaranteed minimum payment of \$10,000 to the survivors. In other words, for example, if a housewife or child dies, a \$10,000 lump-sum payment will be paid to survivors. When wives and children survive a wage-earner, the benefits take the form of monthly income replacement up to \$600 per month cash income. This potentially is a much more extensive benefit than the \$10,000 lump-sum payment. It amounts to \$7,200 a year and can easily run into tens of thousands of dollars. In fact, it can easily exceed \$100,000 over the lifetime of a surviving spouse.

Thus it is not correct to say that this bill doles out pittance to the seriously injured. In addition to guaranteeing compensation to everyone, it contains an implicit set of priorities which say that all seriously injured victims will receive more than all who sustain relatively minor injuries. This is in sharp contrast to the lottery-like awards which result from the existing liability system.

We are convinced that reparations such as these disfigurement losses and survivor benefits are a just, equitable and necessary part of complete no-fault coverage. At the same time we also admit that we are not omniscient. While we think that ours is both a good bill and an excellent starting point, it may be capable of still further improvement. There is always a certain amount of arbitrariness in any schedule such as the one here, and we invite

experienced critics to engage in constructive debate over how such benefit schedules can be improved and perfected. Regardless of any arbitrariness in these scheduled payments, they represent a vast improvement over the present lottery system of liability insurance which provides little or nothing to so many victims, and rewards contentions so well.

How coverages under the existing system would change is shown in Table 2. Beyond the minimum required benefits, the bill also provides for a number of optional coverages which a driver can purchase. These include excess wage-loss coverage, comprehensive, collision and first-party pain and suffering in serious injury cases.

Table 2
How Motor Vehicle Insurance Would Change
Under the Complete No-Fault Plan

Existing Coverages	How Changed	Complete No-Fault Plan
		<u>Required Benefits</u>
Medical payments	Expanded to —————→	Payments for bodily injury losses: — Medical and hospital — Income maintenance — Replacement services — Disfigurement — Funeral expenses — Other out-of-pocket expenses
Property damage liability: — Vehicles — Non-vehicular property	Eliminated Retained, but on different legal basis —————→	Strict liability: payments for all non-vehicular property damage
Bodily injury liability	Eliminated	
Uninsured motorists	Eliminated	
		<u>Optional Coverages</u>
Collision	Retained —————→	Collision
Comprehensive	Retained —————→	Comprehensive Excess wage loss Excess replacement of personal services Pain and suffering Out-of-state liability

COVERAGE UNDER NO-FAULT

Under the proposed no-fault system, a minimal level of insurance coverage becomes virtually complete. The lottery system of hoping that the other person will be insured and at fault is totally eliminated. For the basic required benefits, insurance coverage follows the car. That is, everyone in a car at the time of an accident receives basic benefits from the policy covering the car in which he is riding.

Excess optional coverages, such as excess wage-loss coverage, above \$600 per month, depend on a person's own policy. That is, (a wage-earner) is riding as a guest in another car when an accident occurs, he would have to look to his own policy for any wage-loss coverage in excess of the stipulated minimum benefit (\$600 per month).

Should a car collide with a pedestrian or bicyclist, any such non-occupant automatically receives the required benefits under the car's policy. If pedestrian is injured in a multi car accident, then the respective insurers jointly split the cost of his benefits.^{1/} In essence, cars assume strict liability to all such non-occupants.

Motorists are also strictly liable for all damage to non-vehicular property. Thus, if someone drives into a hedge, fence, storefront, etc., he and his insurer are automatically liable for all such property damage. The minimum required insurance includes unlimited liability coverage for all such damage.

¹

Any interinsurer disputes are to be settled by arbitration.

In order for the insurance system to guarantee virtually complete coverage, the bill requires the industry to establish an assigned claims plan. The purpose of this plan is to close any possible gaps in coverage. Under this plan, if a pedestrian--for example--is injured by a hit-and-run motorist, or if an (illegally) uninsured car^{1/} contains injured guest passengers, their losses will be taken care of by the assigned claims plan. The only people not covered under the assigned claims plan are the uninsured drivers themselves. It is the assigned claims plan which, as a fail-safe, guarantees total elimination of the lottery systems.

* * *

Looking briefly at the combination of benefits and coverages provided by this no-fault bill, it should be clear that it provides a complete insurance-compensation plan. The bill is totally comprehensive in scope, and is more complete and more comprehensive than any liability compensation system can ever hope to be.

A no-fault approach to benefits and coverages regards all motor vehicle accidents as unfortunate and regrettable. It recognizes that victims injured in single-car accidents suffer just as much and need to have their losses insured just as much as those injured in multicar collisions. If we stop to think about it, this point should be clear and obvious. But there is a reason

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It is necessary to take account of the fact that enforcement of compulsory insurance may be less than 100 percent perfect.

why more people don't think of it. Namely, to really grasp the need for such insurance you have to see yourself crumpled up in a car or laid out on the pavement, with blood running all over the place. No one ever pictures himself--or his children--this way, despite the frequency with which such accidents occur.

In fact, this principle applies equally to all victims, including those found to be partially or totally at fault. Under the present system these people frequently receive little or nothing from the insurance system. Multicar accidents can be extremely complex events, and it may range from difficult to impossible to establish correctly the "blame" for an accident. The no-fault principle recognizes that injured victims--be they blameless, blameworthy or some mixture of the two--all need to have their losses insured. A no-fault system simply gives priority to compensating losses as they occur, without regard to fault or blame. Because of this it is a better all-round compensation system than one based on liability, fault, or negligence.

IMPACT ON INSURANCE RATES

An obvious question, and a fair one to ask is: what will happen to MY insurance premium under this complete no-fault plan? Unfortunately, for a number of reasons, it is difficult to state in advance what will happen to a particular individual's premium.

One reason for this is that our bill does not prescribe any particular system for classifying and rating drivers. We strongly urge, but stop short of requiring, the industry to develop new criteria which will be a real encouragement to safer driving and safer cars. The bill does proscribe certain existing classifications--age, sex and marital status, for instance--which we deemed socially undesirable for a compulsory insurance program. This provision, of course, guarantees that the classification system will differ substantially from the existing system, but we cannot say with any certainty how drivers or their cars will in fact be classified.

A second difficulty in comparing rates under no-fault with rates under the existing liability system is that a completely valid comparison requires that rates be compared for the same coverage, or essentially the same coverage. This presents the familiar "apples and oranges" problem. Because the coverages are so different in nature, exact comparisons--even close comparisons--are impossible. To illustrate, consider a person who buys high excess coverage, such as \$100,000/\$300,000 bodily injury liability.

He buys a high level of protection both for his assets and for other drivers, but his excess liability coverage does not buy additional protection for himself or for his family if they should become accident victims. For his own claims and benefits, he relies principally on the lottery--that is, he hopes that the other guy will be insured. It should be clearly understood that under the existing system, when a person with maximum liability insurance--and no other insurance--collides with an uninsured motorist, he will likely collect nothing no matter how blameworthy the uninsured motorist may be. The same is true for single-car accidents. Under no-fault, of course, a person insures himself and his family for all accidents. Hence the coverage under any two packages of liability and no-fault coverages tends to be non-comparable to a substantial degree.

These difficulties notwithstanding, several observations about rates come through loud and clear. First, for young drivers with "clean" driving records, the rates should go down substantially. Second, for those who insist on driving notoriously unsafe vehicles, motorcycles in particular, rates will probably increase. Third, mature drivers now considered to be standard or preferred risks will continue to be standard or preferred risks. Fourth, individuals with proven poor driving ability, with bad driving records, or persons like chronic alcoholics will continue to be substandard risks under virtually any insurance system. Let me add, though, that many of today's so-called high-risks who are now in the

assigned risk plan, who pay high premiums for minimum coverage, and who in fact have clean driving records, these people should find their rates somewhat lower under no-fault.

Beyond these generalities, it is possible to do--and we have done--certain types of actuarial analysis. This analysis is spelled out in detail in Appendix H. What we have done is calculate --from the rate manual--what certain hypothetical motorists are paying today and then we estimated their probable premium for the compulsory policy under our complete no-fault plan. This overlooks but does not get around the problem in comparing coverages.

Let me attempt to generalize the results briefly. First, despite the different coverages and options which exist under either the no-fault or liability system, broadly speaking all automobile insurance relates either to claims arising from personal bodily injury or to property damage. Under no-fault the greatest savings occur chiefly in the area of bodily injury. Keeping this basic fact in mind we can make the following observations about the cost of insurance required under our no-fault bill:

1. Motorists who buy no property damage insurance but buy ample personal injury insurance, (that is, bodily injury liability, medical payments and uninsured motorists coverage) will--on a percentage basis--save the most under no-fault. Further, the higher the coverage which a person now has, the more he will save. For a standard risk driver buying \$25,000/\$50,000 bodily injury, \$1000

medical payments and \$10,000/\$20,000 uninsured motorists protection, the savings from his present premiums should fall between 23-28 percent per year.

2. A motorist who now carries fairly complete insurance protection--that is personal injury coverages plus property damage coverages--will save about the same amount in absolute dollars as the man who buys only bodily injury coverages, but the percentage savings, calculated as a percent of his total premium, will be less because his current premiums are larger.
3. A motorist who now buys only minimal insurance, such as \$10,000/\$20,000 bodily injury and uninsured motorists coverage, and no other insurance, will probably wind up paying about the same amount.
4. In terms of paying premiums into the insurance pool, the biggest "losers" will obviously be the currently uninsured motorists. Right now they pay nothing into the system, yet they from time-to-time receive payments from the insurance system. All of these uninsured motorists will have to pay for insurance or, if they do manage to drive without insurance, it is they who will be uninsured, not other victims.

To summarize, if we know what a person is paying today, we can make some reasonable guestimates as to his cost under no-fault. What is difficult is to compare how he would fare under liability and no-fault if he becomes a victim. Under no-fault he has assured benefits, whereas under the liability-lottery system he may receive something ranging from quite a lot in comparison to his losses to nothing whatsoever. Only one thing seems fairly certain: What a person receives will bear little relationship to the insurance which he personally carries.

SOME OTHER IMPORTANT FEATURES OF THE PROPOSED BILL

As indicated previously, insurance is made compulsory for every motor vehicle in the State. We are very much aware of the fact that for a substantial number of motorists--those whom the industry regards as "high risk"--buying insurance today presents a serious problem. In order to cure a number of widespread abuses such as cancellation or refusal to renew, and to make certain that no citizen of this state will have any difficulty in buying the required insurance, the bill contains a compulsory selling feature. It says, simply, that every company selling automobile insurance must sell the required insurance to any and every buyer who applies --without exception. And the insurance remains in force for so long as the buyer continues to pay the premiums.

This compulsory selling provision should cure the many abuses and complaints which now exist. It will do so much to improve the industry's image that I sincerely believe--or hope--they will some day be most grateful for this feature. But to be perfectly realistic, compulsory selling also creates another potential problem. Namely, any particular insurance company might have to sell to a disproportionate large number of people whom it considers to be high risks. If this in fact occurs, it would lead to some undesirable consequences, such as bankruptcy or withdrawal of firms from the market. Therefore, in order to allow such risks to be spread over the entire industry, the bill provides for the industry to establish a Reinsurance Plan. The reinsurance plan envisioned here is similar to one which currently exists in Canada, and which has done a great deal to correct abuses

and restore the industry's prestige. Compulsory selling to the public and this reinsurance facility thus go together as a sort of package reform.

This bill also contains a number of features designed to protect the consumers' interests. Taken together, we feel that if the provisions in this bill are enacted and implemented, it will provide more consumer protection than any other bill in the country. Let me mention three of these briefly.

1. System efficiency. We have attempted to achieve maximum efficiency wherever possible. It is vitally important that a substantially greater portion of the public's dollar be returned to the public in the form of benefits. The industry's current target is 54 cents on every dollar. With no-fault and group selling our target is 80 cents on the dollar. This is in the range now achieved by private accident and health insurance. If the industry can achieve this target, it will provide the motoring public with a net saving of well over \$10 million a year.

2. Public hearings. The Insurance Commissioner will henceforth be required to conduct hearings on rates, rating classification schemes, changes in territories and similar factors which affect the consumer. It is hoped that the Office of Consumer Protection will participate actively in all such hearings.

3. Performance accountability. The Insurance Commissioner will henceforth be required to submit an annual report to the legislature on performance by the industry.

RATIONALE FOR COMPLETE NO-FAULT

To conclude, let me give a brief indication of why a complete no-fault system was selected over the other insurance systems shown in Table 1. Let's take partial no-fault plans first.

Partial no-fault plans typically provide an exemption from tort liability up to some point. Above this point, tort liability applies. The most frequently discussed liability exemptions fall in the range \$2,000 - \$10,000. The \$2,000 limit comes from Massachusetts, which was the first state to adopt partial no-fault. The \$10,000 is most often associated with the Keeton-O'Connell plan, which has received wide publicity. Clearly, there is a complete spectrum of possibilities here.

As the liability exemption is raised to--or above--\$10,000, a partial no-fault plan begins to look more and more like complete no-fault. Conversely, as the limit is lowered, recovery depends more and more on negligence and liability.

How does \$10,000 no-fault differ from complete no-fault, and why is complete no-fault preferred? On a cost basis--that is, to the person who buys insurance--the two are virtually identical. In the vast majority of accidents, somewhere between 95-99 percent of all accidents, recovery under the two plans would also be identical. It is for that small percentage of accidents, the most serious accidents resulting in disfigurement or death, where the two systems differ. The partial no-fault plan makes these most seriously injured

victims rely upon the liability lottery for recovery of their losses from the insurance company of some other driver.

As discussed previously, there are a number of problems with this. In the first place, in a single-car accident, there may be no other driver. In the second place, the other driver may not have ample insurance, and it does no good to "sue an empty pocket." Third, and last, it is entirely possible that under the rules of negligence the seriously injured person would be considered "at fault."

Our no-fault plan, by contrast, protects everybody. The disfigurement schedule alone provides benefits up to \$20,000, on top of medical expenses, wage losses or the hiring of replacement services. It was our concern for such victims, plus our conviction that this is a superior compensation system, that caused us to opt for complete no-fault over a high-limit (\$10,000) partial no-fault plan.

We opted against low-limit partial no-fault for essentially the same reason we opted against the modified tort liability reforms. Namely, while they both constitute steps in the right direction, they provide less and cost more.

The text of the report contains numerous other arguments relating to the conclusions and recommendations. It will be more appropriate to discuss these after everyone has had ample opportunity to read the study.

In conclusion, let me say that the philosophy which underlies a no-fault compensation system is substantially different from that which accompanies liability. We have lived under the existing system

so long that we have perhaps developed a fatalism or even callousness towards victims (or survivors) who are unable to recover their losses. I read in the newspaper last fall about a single-car accident on Maui where four people were killed. "It was just one of those things" was the comment. The first step to a complete understanding of no-fault is to realize so far as compensating people for losses is concerned, there is no need to shrug our shoulders and say, "It's just one of those things." Think about it the next time you read or hear about a single-car accident.