

PROPOSED STUDY PLAN FOR AN INTERIM STUDY OF UNDERINSURED AND UNINSURED MOTORISTS

Prepared for the Revenue and Transportation Interim Committee

by

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INTRODUCTION AND BACKGROUND

Every state except New Hampshire and Wisconsin requires motorists to have liability insurance to legally operate a motor vehicle on public roads. In lieu of purchasing insurance, motorists may provide evidence of self-insurance or some other form of financial responsibility. Some states provide for no-fault insurance--drivers are covered by their own insurance regardless of who is at fault in an accident. States require minimum insurance coverage for the injury or death of one person, for the injury or death of two or more persons, and for property damage. Minimum amounts vary by state.

There are significant numbers of motorists who are either uninsured or underinsured. In 2007, the Insurance Research Council estimated that 13.8% of motorists nationwide were uninsured, ranging from 29% in New Mexico to 1% in Massachusetts (15% in Montana).¹ An accident involving an uninsured or underinsured motorist can result in significant costs for the insured motorist. Some states require motorists to purchase uninsured motorist insurance, but may allow motorists to opt out of the requirement in writing.

In a January 2006 performance audit, the Legislative Audit Division provided information of compliance with the state's motor vehicle liability insurance requirement, the effectiveness of Montana's enforcement of the law, and enforcement practices in other states. One of the conclusions of the report was that "Montana has relatively ineffective controls to detect non-compliance with the insurance law because of the low risk of being caught . . ." and because "insurance cards have limited value for demonstrating proof of compliance."²

Senate Bill No. 508 (Chapter 413, Laws of 2009), introduced by Senator John Brueggeman, provides for, among other things, the creation of an online motor vehicle liability insurance verification system and the requirement that a motor vehicle owner comply with the mandatory motor vehicle liability insurance requirements before registering or renewing registration for a vehicle.

¹Reported in Insurance Information Institute, "Compulsory Auto/Uninsured Motorists", May 2009. Retrieved from <http://www.iii.org/media/hottopics/insurance/compulsory>, June 11, 2009.

²Montana Legislative Audit Division, "Compliance with Montana's Mandatory Motor Vehicle Liability Insurance Law", January 2006, p. 17.

SENATE JOINT RESOLUTION NO. 16

The problem of uninsured motorists has been a concern of the Legislature and the public for many years. To gain a better understanding of the problem, Sen. Roy Brown introduced Senate Joint Resolution No. 16 requesting an interim study to investigate the issues of underinsured and uninsured motorists in Montana and to present findings and recommendations to the next Legislature. On May 27, 2009, the Legislative Council assigned the study (ranked 6th of 17 interim studies) to the Revenue and Transportation Interim Committee.

The preamble to the study resolution notes, among other things, that:

- while the exact number of uninsured motorists is difficult to ascertain by the very nature of the noncompliance with state law, the number of motorists without insurance in Montana is unacceptably high;
- the high cost of mandatory motor vehicle insurance is making compliance by low-income households very difficult and the purchase of adequate coverage above the required limits financially difficult for those who do buy insurance;
- fines, punishment, loss of driving privileges, and other penalties often result in loss of employment and produce a further stress on law enforcement and social services and yet increased compliance is not being achieved;
- it is the duty of the Legislature to take those actions necessary, legislative or otherwise, to promote increased adherence to current state law in the interest of public health, economic viability, and safety.

The resolution directs the appropriate interim committee to:

- study the issues of underinsured and uninsured motorists in Montana to determine the extent of the problem and the impact to:
 - ▶ public agencies dealing with law enforcement, transportation, and local government generally;
 - ▶ the health care community;
 - ▶ the insurance industry; and
 - ▶ Montana citizens injured or otherwise aggrieved by underinsured and uninsured motorists.
- study and compile policy actions from other states, as available, that have improved compliance with regard to motor vehicle insurance requirements; and
- study and develop potential legislative actions to increase adherence to current state laws, amend state law as considered applicable, and provide recommendations to state agencies as necessary.

OUTLINE OF STUDY ACTIVITIES

The primary elements of the study may include the following:

- Summarize the state's motor vehicle liability insurance laws.
- Review findings of the Legislative Audit Division performance audit on mandatory motor vehicle insurance law.
- Review the provisions of Senate Bill No. 508 and monitor implementation of the new verification system.
- Compare and contrast other states' motor vehicle liability insurance laws, including coverage, limits, cost, and compliance efforts.
- Examine factors that lead to noncompliance with the law (e.g., cost of insurance,³ risk of being caught, economic conditions) and the effects on people that are uninsured.
- Qualitatively (or quantitatively, if feasible) assess, using information, including accident data, the effects that uninsured and underinsured motorists have on insured motorists, local governments, tribal governments, law enforcement, health care providers, the insurance industry, and other entities.
- Examine strategies to reduce noncompliance with insurance laws, including but not limited to enhanced verification, deterrence, revised types of coverage, affordable premiums for low-income drivers, and "no pay, no play" (prohibiting legal action for noneconomic damages).
- Examine strategies to provide compensation to insured motorists, such as no-fault insurance, insurance pools, insurance against uninsured or underinsured drivers (including appropriateness of "stacking"), and unsatisfied judgment funds.
- Develop options, if options are considered necessary, to revise, enhance, and improve the state's motor vehicle liability insurance laws.

PROPOSED SCHEDULE

The following schedule is proposed for conducting the study:

1. July 2009 meeting -- discuss, refine, adopt work plan.
2. September 2009 meeting:
 - a. background report on motor vehicle liability insurance;
 - b. review of Montana's motor vehicle liability insurance laws, including uninsured motorist coverage;

³The Insurance Information Institute notes that the estimated level of noncompliance may not be directly tied to the level of premium costs.

- c. review provisions of Senate Bill No. 508; and
 - d. briefing on the Legislative Audit Division's performance audit of uninsured motorists.
3. December 2010 meeting:
- a. review other states' motor vehicle liability insurance laws, premiums, and compliance efforts, including online verification;
 - b. briefing on the implementation of Senate Bill No. 508 (may be a continuing agenda item);
 - c. consider factors that affect noncompliance (including trends in noncompliance) with motor vehicle insurance laws and the effects on insured motorists and uninsured motorists; and
 - d. panel discussion on determinants of premiums for motor vehicle insurance in Montana and other states.
4. February 2011 meeting:
- a. evaluate accident trends involving insured motorists and uninsured motorists;
 - b. assess direct costs, indirect costs, and social costs associated with uninsured and underinsured motorists;
 - c. panel discussions on ways to improve affordability of insurance and other alternatives to enhance coverage of uninsured and underinsured motorists; and
 - d. committee discussion of alternatives and preliminary recommendations, including requests for draft legislation, if considered appropriate.
5. April 2010 meeting:
- a. review draft legislation, if requested;
 - b. assess impact of changes to motor vehicle liability insurance laws; and
 - c. consider revisions to initial recommendations.
6. July 2010 meeting:
- a. review revisions to draft legislation, if necessary;
 - b. evaluate effects of changes, if any; and
 - c. finalize recommendations and review outline of final report.
7. September 2010 meeting: review final report of Committee's actions.

The Committee should seek the advice and assistance of experts in motor vehicle insurance and in liability law; persons, including representatives of the transportation sector, who have been affected by uninsured motorists; persons who can articulate the viewpoint of uninsured and underinsured motorists; the Motor Vehicle Division, Department of Justice; the state Insurance Commissioner (State Auditor); law enforcement; other state agencies, as appropriate; representatives of local governments and tribal governments; health care professionals; other interested persons; and the public.

The Committee should also encourage panel discussions to elicit the information it needs to make good policy decisions regarding uninsured and underinsured motorists in Montana.

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