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Interim Project Summary 98-03

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Committee on Banking and Insurance

Senator Mario Diaz-Balart, Chairman

POTENTIAL IMPACT OF MANDATING BODILY INJURY LIABILITY INSURANCE FOR MOTOR VEHICLES

SUMMARY

In 1971 Florida became the second state in the country to adopt a no-fault automobile insurance plan. From a policy perspective, the no-fault reform was offered as a viable replacement for the tort system as a means of quickly and efficiently compensating the accident victim directly regardless of fault, reducing the volume of lawsuits by eliminating minor injuries from the tort system, providing a better distribution of the insurance premium dollar, and reducing overall motor vehicle insurance costs.

The current law provides for compulsory purchase of no-fault coverage, referred to as personal injury protection (PIP), which compensates the policyholder directly up to \$10,000 without regard to fault for bodily injury sustained in a motor vehicle accident. This coverage also provides the policyholder with immunity from liability for economic damages up to the policy limits and for non-economic damages (pain and suffering) for most injuries. Property damage liability coverage of \$10,000 is also required which pays for the physical damage expenses caused by the insured to third parties in the accident. Additionally, under Florida's Financial Responsibility law, motorists must provide proof of ability to pay monetary damages for bodily injury and property damage liability at the time of motor vehicle accidents or when serious traffic violations occur.

This report will examine the current no-fault automobile insurance system in Florida with regard to availability and affordability of coverage, effectiveness of the current methods of compliance, adequacy of mandatory coverage limits, loss costs, and efficiency and equity in compensating injured motorists. The report will then analyze the effects that mandating bodily injury liability (BI) insurance would have on the cost of motor vehicle insurance and other impacts of mandating BI coverage.

Finally, the report will summarize other options for revising Florida's auto insurance laws.

Based on the findings of this report, it is recommended that bodily injury liability (BI) insurance not be mandated and that Florida's no-fault law be maintained. However, consideration should be given to increasing the \$10,000 in PIP benefit limits. Based upon findings contained in the report, there did not appear to be significant problems with Florida's current no-fault motor vehicle insurance system. Additionally, mandating BI in addition to PIP and PD coverage would significantly increase the cost of compulsory coverage, which would likely result in problems of affordability and availability of coverage. The current PIP mandate guarantees to the policyholder a specified level of compensation for economic loss due to personal injury, without having to establish fault. As compared to compensation under BI coverage and the traditional tort system, PIP reduces delays in compensating injured motorists, provides a greater percentage of the premium dollar in benefits to injured motorists, and reduces transaction costs (expenses involved in litigating and settling claims).

The most viable option that may need to be considered, however, is to increase PIP limits from \$10,000 to \$20,000. The current \$10,000 PIP limits have not been increased since 1979 and the effect of inflation alone has reduced this value to little more than \$4,000 currently. Considered a different way, if PIP limits kept up with inflation, such limits would currently be nearly \$24,000. Increasing PIP limits would reduce the amount of uncompensated injuries, but would increase the cost of mandatory coverage. Previous studies and current rate filings indicate that the cost of increasing PIP limits from \$10,000 to \$20,000 is likely to increase PIP rates by more than 20 percent.

BACKGROUND

Legislative History of Florida's No-Fault Law

As adopted by the Legislature in 1971 (effective January 1, 1972), the Florida Automobile Reparations Reform Act was a "modified" no-fault plan that guaranteed first-party benefits for lost wages and medical expenses up to a certain monetary limit and restricted tort actions for pain and suffering in specifically enumerated circumstances. Additionally, liability insurance coverages for bodily injury and property damage were made compulsory as to all owners and vehicles subject to the law. Deficiencies in the original law were remedied by the 1976 Legislature in which the tort threshold was strengthened by replacing the "dollar threshold" (specifies a dollar amount that medical costs must exceed before an injured person can pursue a liability claim) with the "verbal threshold" (distinguishes claims in terms of the description of the injury).

In 1977, the Legislature eliminated the two liability coverages (bodily injury and property damage), enacted in the original no-fault law, because of cost and compliance reasons, reduced PIP benefits to 80 percent of medical expenses and 60 percent of lost wages, and increased PIP deductibles. The following year, in an effort to continue to curb rising motor vehicle rates, the Legislature again tightened the tort threshold by eliminating the right to sue for certain serious nonpermanent injuries. Thus, permanent injury, significant and permanent loss of an important bodily function, significant and permanent scarring or disfigurement, and death became the only basis for tort suits. These basic verbal threshold requirements remain in effect today. The 1978 Legislature also raised the PIP benefit level from \$5,000 to \$10,000 and increased deductibles.

The next major legislative effort to address auto insurance issues occurred in 1988 when the Legislature enhanced enforcement of compulsory motor vehicle laws, mandated that motorists obtain property damage liability coverage in the amount of \$10,000 and addressed the issue of uninsured motorist insurance. In the decade since the passage of the 1988 reforms there have been a variety of amendments to the no-fault law, however, the basic foundation and scope of the statute have not substantially changed. This past legislative session, PIP cost containment provisions were added mandating timely submission of medical bills by providers.

Constitutionality of Florida's No-Fault Law

The no-fault law has been attacked on constitutional grounds focusing primarily on due process, equal protection and access to court issues, and has survived in most instances. The initial challenge concerned the issue of the "right of access to courts" clause of the Florida Constitution (Art. I, s. 21) which provides: "The courts shall be open to every person for redress of any injury. . . ." In *Kluger v. White*, 281 So.2d 1 (Fla. 1973), the Supreme Court found invalid the optional first-party property damage provision that precluded suit for vehicular damages under \$550. The Court declared the property damage threshold provision unconstitutional, asserting that because property damage coverage was not mandatory, parties were impermissibly denied court access without a reasonable alternative to the tort action.

The following year the high court in a sweeping opinion declared the basic tenets of the no-fault reform to be constitutional. In *Lasky v. State Farm Mutual Insurance Co.*, 296 So.2d 9 (Fla. 1974), the Court, under a *quid pro quo* analysis, held that prompt recovery of major expenses and immunity from negligence in the PIP law was considered a fair exchange for the waiver of tort action rights.

Eight years later, the Supreme Court again affirmed the principle tenets of the no-fault law elucidated in *Lasky* in the case of *Chapman v. Dillon*, 415 So.2d 12 (Fla. 1982). The claimant in *Chapman* argued that amendments to the no-fault law since *Lasky* no longer provided a reasonable alternative to the right to sue in tort and thus constituted a denial of due process, equal protection, and denial of access to the courts. The Court held that the legislative amendments, i.e., lowering the PIP benefits and increasing the amount of permitted optional deductibles, did not necessarily result in reduced compensation and increased litigation. The Court reasoned that an injured person would still receive prompt payment for his major and salient economic losses even where he is at fault, and that the legislative changes still provided a reasonable alternative to traditional action in tort and thus has not fundamentally changed the essential characteristics of the no-fault law.

Current Automobile Insurance Provisions-Mandatory and Optional Coverages

Under Florida law, motorists are not required to purchase any other coverages except personal injury protection (PIP) and property damage (PD) liability. The purchase of the no-fault coverage, referred to as PIP, provides for the policyholder \$10,000 of coverage for the following: payment of 80 percent of reasonable medical expenses, 60 percent of loss of income, plus a \$5,000 death benefit, for bodily injury sustained in a motor vehicle accident, without regard to fault. This coverage also provides the policyholder with immunity from liability for economic damages (medical expenses) up to the \$10,000 policy limits and for non-economic damages (pain and suffering) for most injuries. Specifically, the immunity provision protects the insured from tort actions by others (and conversely, the insured may not bring suit to recover damages) for pain, suffering, mental anguish, and inconvenience arising out of the vehicle accident, except in the following cases: (1) significant and permanent loss of an important bodily function; (2) permanent injury within a reasonable degree of medical probability, other than scarring or disfigurement; (3) significant and permanent scarring or disfigurement; or (4) death. This is known as the “verbal threshold” which means that suits for pain and suffering may commence only if injuries meet these levels of seriousness. Current law also requires vehicle owners to obtain \$10,000 in property damage (PD) liability coverage which pays for the physical damage expenses caused by the insured to third parties in the accident.

Additionally, under Florida’s Financial Responsibility law, motorists must provide proof of ability to pay monetary damages for bodily injury and property damage liability *after* motor vehicle accidents or serious traffic violations. The minimum amounts of liability coverage required are \$10,000 in the event of injury to one person, \$20,000 for injury to two or more persons, and \$10,000 property damage, or \$30,000 combined single limits.

Many drivers purchase “optional” coverages in addition to mandatory insurance. These coverages include the following: bodily injury liability, (which may be required by the Financial Responsibility Law), uninsured motorist, collision, comprehensive, medical payments, towing, rental reimbursement and accidental death and dismemberment. However, insurance companies may not require motorists to purchase any of these optional coverages.

Bodily injury liability (BI) coverage provides protection for motorists involved in vehicular accidents who are at fault and cause bodily injury to third parties. Bodily injury coverage pays the medical bills and lost wages of third parties up to the policy limits and provides legal representation and payment of attorneys’ fees to the insured, if sued. Originally mandated in Florida in 1971, BI was subsequently repealed in 1977 due to affordability and compliance problems.

Insurers are required by law to offer uninsured motorist (UM) coverage, which provides a basis for persons to directly insure themselves against bodily injuries caused by others who were legally liable, but uninsured or underinsured. Uninsured motorist coverage pays for medical expenses and lost wages, beyond PIP coverage, and includes payment for pain and suffering. Uninsured motorist coverage is “excess” which means that the injured party is able to collect from the liability insurance of the negligent motorist and from his or her own UM insurance if the negligent motorist is unable to provide full reimbursement. UM coverage may be affirmatively refused by the insured and is available in “stackable” and “non-stackable” coverages.

METHODOLOGY

Committee staff reviewed motor vehicle insurance information from a wide variety of sources, interviewed representatives from constituent groups, and developed a survey to obtain data from the top ten companies representing 62 percent of insurers writing private passenger automobile insurance in Florida. The same survey was sent to three companies representing the larger nonstandard companies writing private passenger automobile insurance in the state. The survey reflects data for 1997 and was weighted for each insurer’s market share.

Two previous studies were analyzed for estimating the cost savings for uninsured motorist coverage resulting from mandating bodily injury liability coverage. The Department of Insurance in a 1989 study developed a model which estimated percentage savings for uninsured motorists resulting from mandating bodily injury liability insurance. The other study examined is from an actuarial analysis of this topic conducted in 1997 for the Academy of Florida Trial Attorneys. Updated uninsured motorist estimates from the Department of Highway Safety and Motor Vehicles are used to evaluate these past studies. Motor vehicle premium data was obtained from the Automobile Insurance Consumers Guide and other summaries of statewide average premiums

published by the Florida Department of Insurance. Loss costs for automobile insurance in Florida and countrywide were derived from Fast Track Monitoring System reports obtained from the department.

FINDINGS

Is Florida's No-Fault System Working?

Florida and twelve other states have enacted no-fault laws generally as a means to fairly compensate automobile accident victims without regard to fault. No-fault provisions were intended to do the following: reduce costs which occurred under the traditional tort system, lower the level of uninsured driver populations, provide adequate compensation to injured motorists, reduce the proportion of personal injuries that result in litigation, provide efficiency and fairness in the allocation of benefits to injured motorists by reducing delays in compensating injured motorists, providing more medical benefits directly to accident victims, and reducing transaction costs. In an effort to evaluate how well these goals were achieved, the following information is provided.

Availability of Motor Vehicle Insurance

It appears that Florida motorists are generally able to obtain motor vehicle insurance in the voluntary market, as primarily portrayed by the small and still declining number of drivers who obtain coverage in the residual or involuntary market from the Florida Automobile Joint Underwriting Association (FAJUA). Less than 1 percent of vehicles registered in this state were in the FAJUA in 1997. As a percentage of statewide premium volume, the FAJUA had a market share of only 0.47 percent.

The population of insureds in the FAJUA began a general decline in 1987-88 which has continued into the current year. The continuing ability of the voluntary market to absorb additional FAJUA policies is evidence that insurance has remained available in the Florida market.

Another indicator of the availability of motor vehicle insurance is the continuing growth in the number of companies writing private passenger automobile insurance in Florida. The total number of insurers and the total premiums written in Florida has increased steadily over the past 6 years. Additionally, new insurance companies or insurance groups have entered the Florida market, existing companies have expanded

into new market niches, and rate filings of companies indicate higher limits for coverages are available.

Affordability of Motor Vehicle Insurance

Florida is competitive when compared to other states in average expenditures and premiums for motor vehicle insurance. According to the 1996 countrywide rankings by the National Association of Insurance Commissioners, Florida ranks 13th among states when calculating average expenditures on private passenger automobile insurance and 13th when calculating average liability premium expenditures (including personal injury protection and property damage liability) on private passenger automobile insurance. Over a 4-year period (1992-1996), Florida ranked 28th when calculating the percent change in average expenditures and 42nd when calculating the percent change in average liability premiums. Florida's ranking as far as expenditure and liability premium costs can be considered relatively "healthy" compared to other large states, considering Florida is the fourth largest state by population with its attendant high risk exposures statewide.

While automobile insurance premiums have increased in Florida for the past 6 years, the increases have been relatively moderate. Over the period (1991 to 1995), average premium costs for all coverages for the top 40 insurers increased 23.9 percent which appears to be a moderate increase considering the Consumer Price index grew 18.5 percent during the same period. Significantly, in the last 2 years, motor vehicle rates for the leading 10 companies writing private passenger auto insurance have been reduced by 1 percent in 1997 and by 6.5 percent in 1998. Rate reductions for uninsured motorists and bodily injury coverages have been key to pulling the overall rates down.

Profitability of Insurance Companies

Automobile insurance carriers in Florida appear to be earning profits that are comparable to insurers countrywide. For 1996, the profitability of Florida's private passenger automobile insurers indicated a 13 percent rate of return on net worth as compared to a national rate of return of 12.1 percent. For the two prior years, Florida insurers ranked below the national average in this category.

The Department of Insurance strictly regulates motor vehicle insurance companies to ensure their rates are not inadequate, excessive, or unfairly discriminatory. One

provision in the law, the “excess profits” section, is designed to protect consumers against overreaching by insurers by requiring the department to refund to policyholders “excess profits” earned by carriers over a 3-year period. For the period from 1988 to 1996, insurers did not realize any “excess profits,” under the excess profits law.

Compliance with Mandatory Insurance Laws

Another significant factor to consider is whether motorists comply with compulsory auto insurance requirements. Under Florida law, every motorist is required to maintain personal injury protection (PIP) and property damage liability (PD) coverage at all times during the licensing or vehicle registration period. To obtain driver compliance, Florida has enacted tough, comprehensive and effective enforcement provisions over the last decade which range in scope from requiring insurers to report renewals, nonrenewals, and cancellations of policies to the Department of Highway Safety and Motor Vehicles (DHSMV), and mandating motorists have proof of insurance when renewing their license, purchasing license tags or operating a vehicle to the imposition of fines and criminal penalties. As a result, the population of uninsured drivers has been reduced from 31 to 15 percent over the past 6 years.

Adequacy of Motor Vehicle Coverage

Another factor to consider in assessing the no-fault provisions is whether personal injury protection (PIP) adequately compensates motorists for their injuries. The PIP benefit level, currently \$10,000, determines how much compensation for economic loss people receive under no-fault. This amount has not increased since 1979. In considering the proper level of PIP benefits, staff surveyed the ten largest carriers by premium volume and three nonstandard companies writing private passenger automobile insurance in Florida. These insurers replied that only 10.4 percent of their claims reach the \$10,000 benefit level, weighting each insurer’s response for its statewide market share of premium volume. In other words, nearly 90 percent of claims were below the \$10,000 benefit level. The insurers also responded that the average PIP loss payment per claim was \$4,008. Similarly, data from the Department of Insurance indicates that for all insurers in Florida, the average paid PIP claim was \$4,272 for the first quarter of 1998.

Inflation, however, has substantially reduced the PIP benefit level so that the January 1979 benefit level of \$10,000 (the year PIP was increased from \$5,000 to \$10,000) is worth a little over \$4,000 today based on the increase in the Consumer Price Index.

Information from Florida hospitals reflects that insurance coverage may not be available to cover as much as 13.8 percent of hospital charges due to auto accidents in 1996, but this data does not reflect recoveries from third parties after patients are discharged from the hospital.

Motor Vehicle Insurance Loss Costs

Florida insurance claims data shows that from 1980 to 1995 the average PIP loss cost (amount paid in PIP claims, excluding expense costs) per insured vehicle increased from \$18.52 to \$70.89, which is a 282.8 percent increase. This increase was driven primarily by the increase in the average paid PIP claim (claim severity), which increased 211.0 percent from \$1,251 to \$3,902, rather than claims frequency, which increased only 23 percent from 1.48 to 1.82 claims per 100 insured cars. This increase in the average paid PIP claim is less than the increase in hospital and physician costs in Florida over the period reviewed. From 1980 to 1993, hospital care expenditures in Florida increased 290.7 percent, or an average annual rate of 11.1 percent, and physician service expenditures increased 323.0 percent, or an average annual rate of 11.7 percent.

Florida data for bodily injury liability for 1980 to 1995, shows that the average loss cost per insured vehicle increased from \$40.24 to \$115.74, a 187.6 percent increase. In contrast to the increase in PIP loss costs, this increase in BI loss costs was driven primarily by claims frequency, which increased 100 percent, from 0.39 to 0.78 claims per 100 insured cars. During this same 1980-95 period, the average paid BI claim (claim severity), increased 42.5 percent, from \$10,414 to \$14,843. However, average paid BI claims have decreased annually since 1993.

Under Florida’s verbal threshold law, liability costs are reduced because accident victims can only sue for pain and suffering if their injuries meet the level of seriousness set out in the law, i.e., permanent injury, dismemberment, loss of bodily function or death. The RAND Institute, in a leading study of the no-fault auto insurance system, characterized Florida as having a “strong” verbal threshold provision. A recent 5-year trend reflects a decrease in the average paid bodily injury

liability claim in Florida, but in combination with increased BI claims frequency, the average loss cost per insured vehicle for BI has remained relatively steady over this period. Increased claims frequency for BI claims indicates that plaintiffs are having greater success in piercing the no-fault threshold. The cause for the decline in average paid BI claims (claim severity) is unknown.

Is Personal Injury Protection an Efficient and Equitable Method of Compensating Injuries?

Central to the argument for adopting the original no-fault plan was that it would be more efficient and equitable than the traditional tort system. Advocates claimed that under no-fault, delays in compensating injured motorists would be reduced, a greater percentage of the premium dollars would go to compensate injured motorists, and transaction costs (lawyer fees and claim-processing costs) would be reduced.

Under Florida law, insurers are subject to interest penalties and violating the Insurance Code if they fail to provide timely benefits to injured motorists. Personal injury protection benefits are “overdue” if not paid by insurers within 30 days of notice that a policy holder has received medical care. The leading auto insurers in the state responded to a staff survey stating that a greater percentage of the PIP premium dollar is paid in benefits as compared to the BI premium dollar. Almost 73 percent of the PIP premium dollar is paid in benefits as opposed to 59.9 percent of the BI premium dollar, based on the results of the survey. The insurers also responded that they pay about 16 percent in expenses involved in settling and litigating PIP claims as compared to 20 percent for BI claims.

Another benchmark to consider relative to transaction costs paid by injured parties is the attorney involvement in auto injury claims. Nationally, the percentage of attorney involvement in auto injury claims has risen over a 15-year period from 31 percent for all coverages combined in 1977, to 46 percent in 1992. In Florida, results from the committee staff survey of insurers indicated that 34.3 percent of the PIP claims involved attorneys while almost 60 percent of their BI claims involved attorney representation.

The Potential Impact of Mandating Bodily Injury Insurance

The Impact of Mandatory Bodily Injury Liability Insurance on Insurance Rates

Motorists who currently purchase the minimum mandatory auto insurance coverages, personal injury protection (PIP) and property damage (PD), would have to pay about 50 percent more for BI coverage, based on average 1998 premiums obtained from the department.

Motorists who purchase uninsured motorist (UM) coverage would realize a premium cost savings if bodily injury (BI) coverage is mandated, depending on the level of enforcement. However, no other auto insurance coverage (PIP, BI, PD, collision, etc.) would be affected by a mandatory BI law.

A 1989 Department of Insurance study estimated that the percentage costs savings for UM coverage ranged from 1.5 to 29.6 percent, depending on various factors that affect the impact of mandatory BI on UM premiums. A second study conducted in 1997 for the Academy of Florida Trial Lawyers concluded that the statewide savings for all forms of uninsured motorist coverage was 26 percent, based on the study’s assumed level of compliance. It is currently estimated that about 15 percent of vehicles do not have the mandatory PIP and PD coverage. Although official estimates are not available, a reasonable estimate is that about 27 percent of vehicles currently do not have BI coverage and that a mandatory BI law would reduce this percentage to about 17 percent. This assumption would appear to result in UM savings somewhere in between the estimates of the two previous studies.

Other Effects of Mandating Bodily Injury Liability Coverage

Mandating bodily injury liability coverage is likely to have the following effects: (1) Persons in high-risk categories may find it more difficult to obtain coverage, which would increase the number of drivers forced to obtain coverage in the residual market with the Florida Automobile Joint Underwriting Association. (2) A greater amount of coverage would be available to compensate persons injured as a result of another’s negligence, to the extent that the mandate is enforced. (3) Existing methods of enforcing compulsory insurance laws should be adequate to enforce a mandatory BI law.

The workload imposed upon the Department of Highway Safety and Motor Vehicles is likely to increase, but the costs are likely to be funded by an increase in revenue generated by license reinstatement fees. (4) Whether the fairness and equity of the auto insurance system would be enhanced depends upon one's view of the proper balance between goals and costs -- the additional cost to motorists of requiring BI coverage serves the goal of assuring that persons who are responsible for causing injury have coverage to compensate victims, particularly for non-economic damages for permanent injuries that pierce the no-fault threshold. However, it may be considered unfair to impose significant additional costs on drivers when the current PIP mandate meets the goal of compensating victims for economic loss more efficiently and effectively than BI liability coverage.

Other Motor Vehicle Insurance Options

Fundamental Changes to the Concept of No-Fault

1. *Repeal the no-fault law and mandate bodily injury liability coverage*--The primary option discussed in this report is mandating bodily injury liability coverage (BI) in addition to PIP and property damage liability (PD) coverage. Another option would be to repeal the no-fault law and the PIP mandate and, instead, require all drivers to obtain BI (and PD) liability coverage. This would require motorists to have insurance to compensate victims of accidents for which they are legally liable, without restrictions on victims seeking awards for pain and suffering. The cost of compulsory insurance under this option would be lower than the cost of adding BI as a mandate. However, this cost would be greater than the current cost of compulsory insurance (PIP and PD).

2. *Auto Choice*--This option allows drivers to choose either a traditional auto insurance plan (tort) or a no-fault plan. Motorists who choose the tort option retain traditional tort rights and liabilities while those choosing no-fault neither recover, nor are liable to others for, non-economic losses (pain and suffering) for less-serious injuries incurred in accidents.

3. *No Pay, No Play*--This plan specifies that uninsured motorists involved in an accident are prohibited from seeking non-economic damages (pain and suffering). This provision has been upheld in the courts in California.

4. *Pay at the Pump* --Under this plan, an alternative system of providing universal motor vehicle liability insurance is proposed. Funding of liability insurance would be accomplished with a vehicle usage fee (fuel tax) and fees for traffic ordinance violations.

Revisions to No-Fault

1. *Increasing PIP limits* --As described above, the current \$10,000 PIP limits have not been increased since 1979 and the effect of inflation alone has reduced this value to little more than \$4,000 currently. If PIP limits kept up with inflation, they would be currently set at nearly \$24,000. Increasing PIP limits would reduce the amount of uncompensated injuries, but would increase the cost of PIP coverage about 20 percent.

2. *Limitations on medical benefits under PIP*--In an effort to contain rising health care costs, the following options are offered: (a) Mandate that PIP medical benefits be subject to uniform fee reimbursement schedules like the workers' compensation fee schedule in s. 440.13, F. S; (b) Allow a managed care PIP option, at a reduced premium, whereby policyholders selecting this option must obtain coverage from providers within the insurer's health care network in order to obtain full (or any) PIP benefits.

Conclusions

I. In evaluating whether Florida's current no-fault law is working, the following conclusions are reached:

1. With respect to availability of motor vehicle insurance, it appears that Florida motorists are generally able to obtain motor vehicle insurance in the voluntary market.

2. With respect to affordability of motor vehicle coverage, Florida is competitive when compared to other states in average expenditures and premiums for motor vehicle insurance. Average annual increases in rates do not appear to have been excessive and rates have declined for 1997 and 1998.

3. Motor vehicle carriers in Florida appear to be earning profits that are comparable to insurers countrywide. Florida insurers have not realized any "excess profits," pursuant to the excess profits law, in recent years.

4. The Legislature has enacted tough, comprehensive and effective enforcement provisions in the past decade in order to obtain driver compliance with the mandatory no-fault insurance law. The uninsured motor vehicle rate has been cut in half in the last 6 years.

5. According to a staff survey of the top ten Florida auto insurers, the personal injury protection benefit level of \$10,000 adequately compensates about 90 percent of motorists for their injuries. However, inflation has affected the PIP benefit level and hospital cost data indicates that auto accident victims may not be adequately insured.

6. PIP loss costs (paid claims per insured vehicle) in Florida remain below that for bodily injury liability (BI) coverage, but loss costs for PIP have increased by a greater percentage than loss costs for BI since 1980 and have increased at a rate in excess of loss costs for PIP countrywide. This increase in PIP loss costs is apparently due to rising medical costs.

7. While Florida's verbal threshold appears to be fairly effective in limiting the costs of liability coverage, increased claims frequency for BI claims indicates that plaintiffs are having increasing success in piercing the no-fault threshold.

8. Florida's no-fault provision appears to be more efficient and equitable than the traditional tort system. PIP plans reduce delays in compensating injured motorists, provide a greater percentage of the premium dollar in benefits to injured motorists, and reduce transaction costs. Attorney involvement in auto accidents is greater for claims involving bodily injury than PIP.

II. In evaluating the potential impact of mandating bodily injury liability insurance, the following conclusions are reached:

1. Mandating bodily injury liability (BI) coverage would generally increase the total cost of coverage for compulsory insurance by more than 50 percent for those persons who currently buy the minimum PIP and PD limits required by law. However, the cost of uninsured

motorist coverage (UM) would be expected to decrease, depending on the increased level of purchase of BI coverage. The premiums for other auto insurance coverages would not be affected by mandating BI coverage.

2. Mandating bodily injury liability coverage is likely to have the following effects: (1) Persons in high-risk categories may find it more difficult to obtain coverage, which would increase the number of drivers forced to obtain coverage in the residual market with the Florida Automobile Joint Underwriting Association. (2) A greater amount of coverage would be available to compensate persons injured as a result of another's negligence, to the extent that the mandate is enforced. (3) Existing methods of enforcing compulsory insurance laws should be adequate to enforce a mandatory BI law. The workload imposed upon the Department of Highway Safety and Motor Vehicles is likely to increase, but the costs should be funded by an increase in revenue generated by license reinstatement fees. (4) Whether the fairness and equity of the auto insurance system would be enhanced depends upon one's view of the proper balance between goals and costs -- the additional cost to motorists of requiring BI coverage serves the goal of assuring that persons who are responsible for causing injury have coverage to compensate victims, particularly for non-economic damages for permanent injuries that pierce the no-fault threshold. However, it may be considered unfair to impose significant additional costs on drivers when the current PIP mandate meets the goal of compensating victims for economic loss more efficiently and effectively than BI liability coverage.

RECOMMENDATIONS

Based on the above conclusions, it is recommended that bodily injury liability insurance not be mandated and that Florida's no-fault law be maintained. However, consideration should be given to increasing PIP benefit limits.

COMMITTEE(S) INVOLVED IN REPORT *(Contact first committee for more information.)*

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