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LEGISLATIVE COUNCIL

REPORT TO THE

COLORADO GENERAL ASSEMBLY

THE PROBLEM OF THE UNINSURED MOTORIST

RESEARCH PUBLICATION NO. 10

1954

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THE PROBLEM OF THE UNINSURED MOTORIST IN COLORADO

Colorado Legislative Council
Research Publication No. 10
December, 1954

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FOREWORD

This study was prepared by the Legislative Council in compliance with House Resolution 9, passed by the House of Representatives of the Thirty-ninth General Assembly in the 1954 Regular Session (Representatives Caldwell, Carrillo, Bennett, Smartt and Stewart). The Resolution instructed the Council to investigate (a) the feasibility of compulsory automobile liability insurance for Colorado, and (b) possible legislation to correct "certain discriminatory practices carried on by some insurance companies in denying liability insurance to minority groups."

The council felt that the answer to the question of compulsory automobile insurance lay only in a complete examination of the problem created by the uninsured motorist in Colorado. It was determined therefore, that both the problem and its possible alternative solutions would be explored. The investigation of racial discrimination was one which the council did not feel itself adequately staffed to undertake, though the obligation to report on the problem was keenly felt. Accordingly, the council staff discussed with Mr. Sebastian Owen, Director of the Denver Urban League, the possibility of his group undertaking this portion of the study. The Urban League, a well respected and reliable organization, specializes in studies involving racial relations and discrimination, and it was felt they would, therefore, be better equipped to make such a survey.

The Council staff prepared a questionnaire which the Urban League used in this portion of the study, and worked with the League at all steps in the research of the problem. The results of the Urban League survey are incorporated in the overall study under the discussion of "Availability of Insurance."

The problem of providing compensation to those injured or suffering loss of property in motor vehicle accidents has been considered by some as basic to the overall problem of highway safety. There are no reliable statistics to indicate whether or not liability insurance increases or reduces the accident rate.

In this connection it might be well to quote from a survey of the automobile insurance problem made in New York State. This study, one of the most comprehensive in the field, said:

> "It would seem that there are two problems. The first is the problem of reducing motor vehicle accidents. The second is the problem of providing indemnity to those who are injured, or who have property damaged through motor vehicle accidents. Although connected with each other they are, in fact, independent. Much is said about the interrelationship between the highway safety and insurance, but we are not convinced of the validity of this approach."

Better highway safety is a complex and serious problem composed of many facets, including traffic engineering, driver licensing, public education, law enforcement, and a thesis that driving on public highways is a privilege and not a right. It might be well, perhaps, for the legislature to direct the Legislative Council to make an exhaustive study of the broader problems of highway safety. The present survey however is limited to the problem of providing compensation to the victims of a lack of traffic safety.

One of the obstacles in making this survey was the absence of reliable statistical data on the number of uninsured motorists, and the value of uncompensated losses. These items have both been estimated, and while the estimates are subject to some inaccuracy, they are nonetheless the best available; and do serve to indicate the general scope, if not the precise extent, of the problem.

The study was prepared by Harry S. Allen, Senior Research Analyst of the Legislative Council, under the direction of a special Council subcommittee consisting of Senator Walter W. Johnson, chairman, Representatives Robert Allen and Elvin Caldwell, Mr. Thomas Wilson, and Mr. Peter Walsh. The latter two were recommended, upon request of the Council, by the Colorado Insurors Association, as the official representatives of the insurance industry.

The committee wishes to acknowledge the cooperation and efforts of Mr. Austin Nash and his staff of the Safety Responsibility Section, Department of Revenue; the Colorado Assigned Risk Bureau; and the Colorado Insurors Association. The assistance of each of these individuals and groups was invaluable to the committee and to the staff.

HIGHLIGHTS

CHAPTER I

THE PROBLEM OF THE UNINSURED MOTORIST IN COLORADO

Number of Uninsured Motorists

Estimates of the number of Colorado motorists without liability insurance or other financial resources with which to defray damages in accidents range from 49,000 to 128,000. The higher estimate is probably the closest to the actual figure since it was derived independently from a series of different sources. Even the low figure, however, indicates a problem of some dimension. In terms of percentages it means that one motorist in ten may not be able to compensate his victim for death, injury or property damage resulting from a motor vehicle accident. If the high figure is accepted it means that one motorist in four may be in the position of not providing protection and compensation to victims of motor vehicle accidents.

Uncompensated Losses

The dollar amount of uncompensated losses can also only be estimated. The National Safety Council estimated that the total 1953 economic loss in Colorado resulting from motor vehicle accidents was $32,015,000. If the ten percent figure of those lacking insurance is accepted this means that, of the total loss, approximately $3,200,000 was uncompensated. If the higher figure is accepted, as being more indicative of the number of people who do not have insurance, the uncompensated losses were more than $8,600,000. These figures on total economic loss, however, represent items which are not subject to liability insurance, and are therefore high, insofar as this problem is concerned.

A better method of arriving at an estimate of the dollar value of the uncompensated loss is to analyze the losses of the insurance companies and apply to the figure the various estimated percentages of uninsured motorists. This will give an estimate of the total loss which would have been paid had all motorists been insured. In the calendar year 1953, the total bodily injury and property damage insurance premiums earned in Colorado amounted to $24,131,472. The insurance companies paid out in losses a total of $6,929,329, or 28.7 percent of the premiums collected.[1] The following data has been supplied by the Insurance Department, State of Colorado:

Table 1

COLORADO PREMIUMS EARNED AND LOSSES INCURRED

JANUARY 1 TO DECEMBER 31, 1953

	Auto Liability			Automobile Property Damage		
Type of Company	Premiums Earned	Losses Incurred	Percent	Premiums Earned	Losses Incurred	Percent
Multiple Line	$ 4,418,481	$ 1,805,679	40.9	$ 3,487,572	$1,520,894	43.6
Casualty	8,319,239	1,334,545	16	5,650,056	1,259,362	22.3
Fire	26,141	15,878	60.7	30,296	13,176	43.5
Reciprocal	1,360,264	514,660	37.8	839,419	465,131	55.4
	$ 14,124,127	$ 3,670,764	26.0	$10,007,345	$3,258.564	32.0

If payment of losses by the carriers represents 89 percent of the total, then the uninsured losses may be roughly estimated at $762,222. If the amount paid by the companies in claims represented only 73% of the losses, then the uninsured economic loss amounted to approximately $1,870,918.

These figures are estimates and should be taken as such. No claim is made that any of these guesses are more than that, but they do represent thoughtful esti-

mates; and despite their wide variation do indicate the area and extent of the problem created by the uninsured motorist in Colorado.

Estimate of Insurors

The estimate of 73% of motorists having liability insurance was made by the Colorado Insurors Association on the basis of a survey made by the group of all casualty underwriters in the state.[2.] In December, 1953, the Association asked each casualty underwriter doing business in Colorado to report on the number of bodily injury and property damage automobile policies written by them in the previous year (1952). This survey indicated that a total of 347,717 such policies were written on passenger cars. Even these figures are not absolutely accurate since some underwriters only estimated the number of policies, some reported policies for a different span than others, but nonetheless the figure is the best available on the number of insured motorists.

Since the number of policies covered the year 1952, it was compared to the number of passenger car registrations for the same year, which was 476,137. These figures give a percentage of 73% of passenger vehicles covered by liability insurance.

The same survey also asked for information on commercial coverage, and the various insurance underwriters reported a total of 56,146 policies written in 1952 as compared to a commercial vehicle registration of 133,350, or 42% of the commercial vehicles covered. These figures, however, do not provide any reliable information insofar as commercial carriers are concerned, since they include fleet coverage as a single policy even though the total number of vehicles in fleets are included in the registration figure. Neither do the figures on coverage include data on self-insured carriers, even though these vehicles are included in the total

registration figure.

168 of the 177 underwriters licensed to write casualty insurance in Colorado responded to the survey, thus providing virtually complete coverage. Those who did not respond were very small companies in comparison to the total insurance written.

Estimates from Safety Responsibility Files

The Safety Responsibility Section of the Motor Vehicle Department was asked to provide the number of persons reporting under the Safety Responsibility law who were not covered by insurance. A lack of staff within the section has prevented maintenance of current statistics on the subject. However, a sampling was made of 500 random files, taking the data from every fifth file. In the 100 files examined there were 198 cars involved in accidents. Of these, 160 were covered by liability insurance, or were otherwise able to prove financial responsibility, and 38 cars were not.[3.] This gives an average of 80% of the reporting motorists who established financial responsibility. This estimate compares with the 73% estimate of the Colorado Insurors Association survey relatively closely.

Subsequent to receiving this data, an analysis was made of the work load of the Safety Responsibility section, and this analysis reported that in 1953 a total of 46,534 accident reports were filed and, of this number, 4,791 persons were eventually suspended for lack of compliance with the law.[4.] This would indicate that 89% of the persons filing reports were able to show evidence of financial responsibility, by filing insurance, posting security, or securing a release from the other motorist.

Comparison of Colorado Problem with Other States

A 1953 report of a Wisconsin Legislative Council Committee investigating the problem of motor vehicle accidents commented on the number of uninsured motorists in that state as follows:

> "Actually only 2.5% of the persons involved in reportable accidents lost their driving privileges under the Safety Responsibility Law...(compared to 11% in Colorado). The committee is much concerned with this small group of totally irresponsible motorists. It is also concerned with the substantial group that were able to file releases. It is well known that many releases represent compromised cases, rather than full indemnification."[5].

The Bar Association of the City of New York, in a report entitled "Problems Created by Financially Irresponsible Motorists," had this to say:

> "A joint legislative committee has estimated that 94% of all motorists carry automobile liability insurance... Despite these facts, cases of hardship continue to exist, and the committee (of the Bar Association) has considered various methods of further alleviating this situation."[6].

These statements indicate that the problems created by uninsured motorists are a matter of considerable concern even in states where the problem is, percentagewise, much smaller than in Colorado.

A survey appearing in the May 1953 issue of the "Annals of the American Academy of Political Science" gives some further comparisons of the number of uninsured motorists in Colorado with other states. This study places Colorado in that group of states which have 80-89 percent coverage.[7]. These figures are in substantial agreement with the estimates made elsewhere in this report. Mr. Maryott, author of the article, in separate correspondence with the Legislative Council places Colorado at 81% of motorists having insurance.

The Overall Accident Problem and Financial Responsibility

Even though this report is not intended as a complete analysis of the broad problems of highway safety, it is important that the overall accident picture be presented so that the problem of the uninsured motorist may be evaluated in terms of the total highway safety problem and the total number of persons involved.

In 1953 there were 35,268 motor vehicle accidents in Colorado, involving 59,912 individual drivers. In 26,691 accidents two cars or more were involved. Seven percent of all drivers involved in accidents were non-Colorado drivers.[8.]

Automobile accidents resulted in some property damage in 28,796 cases. In other words, in approximately two out of every three vehicle accidents there is property damage. In nearly 24,000 of these property damage cases two cars or more were involved. Assuming that the damage exceeded $50.00 in each case involving two cars, a minimum of 48,000 reports should have been filed under the Safety Responsibility Law, as compared to 46,534 which were filed. Accidents caused some bodily injury in 9,418 cases during 1953, and in a number of cases there was property damage as well.

If there are applied to these figures the various estimates as to the number of persons covered by insurance in the state, some indication of the problem in terms of individuals may be gathered.

Assuming that 73% of all drivers are insured (the figure of the Colorado Insurors Association), this means that approximately 8,700 cases of property damage were not covered by insurance, and that 2,500 cases of bodily injury were not covered by liability insurance. Assuming the high figure of 89% coverage, there

were nearly 2,900 cases of property damage, and 940 cases of bodily injury which were not insured.

Again, these figures are estimated ones; they are not intended to be absolutely correct. They do, however, give an indication of the numbers of people with which this study is concerned.

In any study of this kind it is important to point out that the estimates made herein do not take into consideration the following factors:

(a) A percentage of cases would involve no liability either because of no negligence on the part of the uninsured motorist or contributory negligence on the part of the injured.

(b) A percentage of accidents involve cases where only the operator is injured in an accident classified as non-collision or with a fixed object and where there is no recovery possible against anyone.

(c) A certain percentage of the type of accident mentioned in (b) would also involve injuries to passengers who are so related to the owner or operator as to give them no right of action.

(d) A certain percentage would involve hit-and-run and stolen car cases.

(e) A part of the economic loss would be offset in that a certain percentage would involve persons injured while in the course of their employment and entitled to Workmen's Compensation benefits.

(f) Others would receive benefits under hospitalization and other forms of group or individual accident insurance.

Definition of Terms

To meet the problems created by the financially irresponsible motorist, a number of alternative programs have been devised, and, since these will be mentioned from time to time in the pages that follow, they are herein defined.

(1) Compulsory Automobile Insurance is any plan whereby the purchase of automobile bodily injury and property damage liability insurance of specified

amounts is made a prerequisite to the registration of a motor vehicle. Where the term is used to refer to the plan currently in effect in Massachusetts, it means the requirement of automobile bodily injury liability insurance only, since property damage liability insurance is not required in that state.

(2) Compensation Plan is a system of compulsory automobile insurance which imposes the rule of strict liability upon a motorist and schedules, in a manner similar to workmen's compensation insurance, the benefits payable to an injured party as the result of a motor vehicle accident. The Province of Saskatchewan, in 1947, adopted such a plan, which is usually referred to as the Saskatchewan Plan.

(3) Unsatisfied Judgment Fund is the accumulation fund by the state as a result of additional taxes on either registrations or motor vehicle operators' licenses for the purpose of paying unsatisfied judgments arising out of motor vehicle accidents. Various plans in actual operation or proposed differ as to certain technical details of deductibles and the like.

Alternative proposals have been made to have an unsatisfied judgment fund run by the insurance carriers under a common management with the revenues of the fund to come from a tax on motorists or insurance companies, or a combination of the two.

(4) Impounding Acts are generally considered to include provisions of law aimed at removing a motor vehicle from the use or control of its owner if the motor vehicle was uninsured at the time of an accident. Usually such plans provide for the remission of the impoundment following the posting of security or giving proof of financial responsibility, etc.

(5) Safety Responsibility Laws are generally understood to be laws which force the owner or operator of an uninsured vehicle which has been engaged in an accident causing personal injuries or property damage, sometimes in excess of a stipulated amount, to post security and to maintain proof of financial responsibility in the future until certain stipulated conditions are met. These conditions usually permit the maintenance of financial responsibility to be lifted after payment of judgment, the failure of the injured third party to sue, the entry of a release, etc.

(6) Financial Responsibility Laws are substantially similar to safety responsibility laws save for the fact that their provisions do not take effect until after a judgment which has not been satisfied by the uninsured motorist, has been obtained by the third party.

SUMMARY

1. Estimates of the number of uninsured motorists in Colorado vary from 11 percent to 27 percent, and in either case, the number is substantial enough to be of legislative concern.

2. Depending on the estimate used, the uncompensated economic loss resulting from automobile accidents ranged from $762,226 to $1,870,918 in 1953.

3. Based on the number of reported accidents in Colorado in 1953, and the various estimates as to the number of drivers and vehicles insured, there may have been as many as 8,700 individual cases of property damage which were not compensated by insurance, and as many as 2,700 cases of bodily injury which are in the same category. Using the lowest estimate as to the number of uninsured motorists, these figures are reduced to 2,900 cases of property damage and 940 cases of bodily injury in which compensation was probably not available. These estimates make no allowance for those without insurance to otherwise pay damages orfor those where no recovery is possible. It should also be noted that Colorado statutes prohibit recovery against the estate of a deceased person for personal injuries.

CHAPTER I

Footnotes

1. Data supplied by State Insurance Commissioner office.

2. Colorado Insurors Association Survey, December, 1953.

3. Figures supplied by Mr. Austin Nash, Supervisor, Safety Responsibility Section, Motor Vehicle Department, July 19, 1954.

4. Data supplied by Safety Responsibility Section, August 25, 1954.

5. Motor Vehicle Accidents. Wisconsin Legislative Council. December, 1952, p. 3.

6. Report on Problems Created by Financially Irresponsible Motorists. The Association of the Bar of the City of New York, December, 1952, p. 3.

7. Marryot, Franklin J. Automobile Accidents and Financial Responsibility. Annals of The American Academy of Political and Social Science, May, 1953.

8. Summary of Automobile Accidents in Colorado, 1953. Colorado Safety Council.

CHAPTER II

BASIC APPROACHES TO THE PROBLEM OF THE UNINSURED MOTORIST

Early Legislation

As early as 1925 state legislators and others were concerning themselves with the problem of minimizing the financial hardships created by the uninsured or otherwise financially irresponsible motorist. In 1926 Connecticut passed a law which required proof of ability to pay damages of motor vehicle operators who were convicted of reckless driving, driving while under the influence of liquor, leaving the scene of an accident, or being involved in an accident resulting in death or more than $100 in property damage. A number of states followed suit with similar laws.

By 1927 two basically divergent views on meeting the problem emerged, and these two views, or variations of them still represent the fundamental approaches to the problem of the uninsured motorist.

New Hampshire, in 1927, put into effect what is commonly recognized as the first Safety Responsibility Law. The New Hampshire Law required that upon preliminary motion the court might pass upon the question of whether or not a defendant in a damage suit was likely to be found liable. If the court so found, the defendant was then required to show ability to sustain payment of damages in case they were assessed or lose his driving privilege. At this time the American Automobile Association was conducting extensive studies into the problem of protecting the public from the reckless and irresponsible driver, and in December of 1928 published a

model Safety Responsibility Law. The latest revision is dated June, 1950. (See page 13 for a comparison of state vehicle responsibility laws.)

In 1927 the Massachusetts compulsory insurance law, which grew out of a series of conferences called by the Governor of Massachusetts in the spring of 1924, became effective. It was also in 1924 that the then Secretary of Commerce, Herbert Hoover, called the first national highway safety conference. The emphasis on both the Hoover Conference and the meetings in Massachusetts were on the broad program of highway safety, of which insurance was considered a part. Most writers in the field now separate highway safety and liability insurance, feeling that insurance is not a safety factor one way or the other.

The Massachusetts law required that a car owner possess bodily injury insurance to the extent of $5,000/$10,000 or post a surety bond to that effect before his vehicle could be licensed within the state. The plan, in effect only in that state, still stands as the only example in America of a "compulsory" solution to the problem. Safety Responsibility Laws, together with a number of companion measures, still stand as the principal "voluntary" approach to the problem. Today every state in the Union except Massachusetts has some type of Safety Responsibility or Financial Responsibility Law. Massachusetts is the only state which has a compulsory insurance law, though the approach has been considered in a number of other states. Since passage of the Massachusetts law at least 21 states have investigated the problem extensively through legislative or other study committees. In only one instance, New York, has a committee reported favorably on the plan, and

ANALYSIS OF SECURITY-TYPE MOTOR VEHICLE SAFETY RESPONSIBILITY LAWS

STATE #	Requires: security (S); proof (P)	From driver (D); owner (O) of car involved	Regardless of fault?	Minimum property damage	LICENSES AFFECTED: Driver's license: Of driver	LICENSES AFFECTED: Driver's license: Of owner who was not the driver	LICENSES AFFECTED: All registrations: Of driver who was not the owner	LICENSES AFFECTED: All registrations: Of owner	Applicable by reciprocity to accidents in other states?	INSURANCE IN EFFECT: Liability limits affording exemption	INSURANCE IN EFFECT: Information required in accident report?	INSURANCE IN EFFECT: Notice or verification required from insurer? (* - Only if policy not in effect)	INSURANCE IN EFFECT: Unadmitted insurer acceptable for out-of-state car? (*-Must authorize service of process)	OTHER EXEMPTIONS: 1. Parked car; 2. Car stopped, standing or parked; 3. Certain motor carriers; 4. Certain publicly owned vehicles. From security	OTHER EXEMPTIONS: From proof	TERMINATION OF REQUIREMENTS: Security: Exoneration (E); release or agreement (R); lapse of one year without suit (L)	TERMINATION OF REQUIREMENTS: How long proof required	Unusual provision
Alabama	S only	D & O	Yes	$50	Yes	No	No	Yes	Yes	5/10/1	Yes	Verif.	Yes*	1,3,4	Not req.	E, R, L	Not req.	
Arizona	S only	D & O	Yes	$100	Yes	No	No	Yes	Yes	5/10/1	Yes	Verif.*	Yes*	2,3,4(s) (r)	Not req.	E, R, L	Not req.	
Arkansas	S only	D & O	Yes	$100	Yes	No	No	Yes	Yes	5/10/1	Yes	Notice	Yes*	1,3,4	Not req.	E, R, L	Not req.	
California	S only	D (v)	Yes	$100	Yes(w)	No	No	No (v)	Yes	5/10/1	Yes	Verif.*	Yes*	1,4(r)	Not req.	E, R, L	Not req.	(aa)
Colorado	S only	D & O	Yes	$50	Yes	No	No	Yes	No	5/10/1	Yes	Verif.*	Yes*	4	Not req.	E, R, L	Not req.	
Connecticut	S only	D & O	Yes	$100	Yes	No	No	Yes	Yes	20/20/1	Yes	Verif.*	Yes*	1,3,4	Not req.	E, R, L	Not req.	
Delaware	S only	D & O	Yes	$100	Yes	No	No	Yes	No	5/10/1	No	Notice	Yes*	2,3,4	Not req.	E, R, L	Not req.	(ff)
D. C. 5/25/55	S only	D & O	Yes	$100	Yes	No	No	Yes	Yes	10/20/5	Yes	(bb)	Yes*	1,3,4	Not req.	E, R, L	Not req.	
Florida	S & P	D	No	$50	Yes	No	No	No	Yes (f)	5/10/1	No	Notice	Yes*	4	4	E, R, L	1 yr.	
Georgia	S only	D & O	Yes	$50	Yes	No	No	Yes	No	5/10/1	Yes	Notice	Yes*	1,3,4	Not req.	E, R, L	Not req.	
Hawaii	S only	D & O	Yes	$100	Yes	Yes	No	No	No	5/10/1	No	Notice	Yes*	1,3,4	Not req.	E, R, L	Not req.	
Idaho	S only	D & O	Yes	$50	Yes	No	No	Yes	No	5/10/1	No	Notice	Yes*	1,4	Not req.	E, R, L	Not req.	
Illinois	S only	D & O	Yes	$100	Yes	No	No	Yes	No	5/10/1	Yes	Verif.*	Yes*	2,3,4	Not req.	E, R, L	Not req.	
Indiana	S & P (a)	D & O (x)	Yes	$50	Yes	Yes (x)	Yes	Yes (x)	No	5/10/1	No	Notice	No prov.	3	3 (a)	E, R, L	1 yr. (a)	
Iowa	S only	D & O	Yes	$50	Yes	No	No	Yes	No	5/10/1	Yes	Verif.*	Yes*	2,3,4	Not req.	E, R, L	Not req.	
Kentucky	S only	D & O	Yes	$100	Yes	No	No	Yes	No	5/10/1	No	Verif.*	Yes*	1,4	Not req.	E, R, L	riot req.	
Louisiana	S only	D & O(m)	Yes	$100	Yes	No	No	Yes (m)	Yes	5/10/1	Yes	Verif.*	Yes*	1,3,4	Not req.	E, R, L	Not req.	
Maine	S & P	D & O	No	$100	Yes	No	No	Yes	No	10/20/5	Yes	Verif.*	No	3,4	3, 4	E, R, L	3 yrs.	
Maryland	S & P	D & O	Yes	$75	Yes	No	No	Yes	Yes	10/20/5	No	Notice	Yes*	1(r)	1 (r)	E, R, L	Not spec.	
Michigan	S & P (d)	D & O	Yes	(d)	Yes	Yes	Yes	Yes	No	5/10/(d)	Yes	No	Yes*	1,4	1, 4	R, L	3 yrs. (d)	(d) (cc)
Minnesota	S only	D & O	No	$100	Yes	Yes	No	No	No	10/20/2	Yes	Verif.*	Yes*	2,4(r)	Not req.	E, R, L	Not req.	
Mississippi	S only	D & O	No	$50	Yes	No	No	Yes	Yes	5/10/5	Yes	Verif.*	Yes*	1,4	Not req.	E, R, L	Not req.	
Missouri	S only	D & O	Yes	$100	Yes	No	No	Yes	Yes	5/10/2	Yes	Verif.*	Yes*	1,3,4	Not req.	E, R, L	Not req.	
Montana	S only	D & O	Yes	$100	Yes	No	No	Yes	Yes	5/10/1	Yes	No	Yes*	1,3,4	Not req.	E, R, L	Not req.	
Nebraska	S only	D & O	Yes	$100	Yes	No	No	Yes	No	5/10/1	No	Notice	Yes*	1,4	Not req.	E, R, L (u)	Not req.	(u)
Nevada	S only	D & O	Yes	$100	Yes	No	No	Yes	No	5/10/1	Yes	Verif.	Yes*	1,4	Not req.	E, R, L	Not req.	
New Hamp.	S & P	D & O	No	$50	Yes	Yes	Yes	Yes	No	5/10/1	Yes	Verif.*	Yes	4	4	E, R, L	Indef.	
New Jersey	S only	D & O	Yes	$100	Yes	No	No	Yes	Yes	5/10/1	Yes	Verif.*	Yes*	1,3,4(s)	Not req.	E, R, L	Not req.	(z)
New York	S & P	D & O	Yes	$50	Yes	No	No	Yes	Yes	10/20/5	Yes	Verif.*	Yes	3,4(g)	3, 4	E, R, L	(h)	
N. Carolina	S only	D & O	No (b)	$100	Yes	Yes	No	No	Yes	5/10/1	Yes	Verif.*	Yes	1,3,4	Not req.	E, R, L	Not req.	
North Dakota	S only	D & O	Yes	$100	Yes	Yes	No	No	No	5/10/1	No	Notice	Yes*	2,4	Not req.	E, R, L	Not req.	(e) (k)
Ohio	S only	D & O	Yes	$100	Yes	Yes	Yes	Yes	No	5/10/5	Yes	Verif.*	Yes*	1,4	Not req.	E, R, L	Not req.	(dd)
Oklahoma	S only (t)	D & O	Yes	$100 (n)	Yes	No	No	Yes	No	5/10/1	Yes	Verif.*	Yes*	1,3,4	Not req. (t)	E, R, L	Notreq.(t)	(t) (n)
Oregon	S & P	D & O	Yes	$100	Yes	No	No	No (v)	No	5/10/1	Yes	Verif.*	Yes*	1,4(r)	None	E, R, L	3 yrs.	(y)
Pennsylvania	S only	D & O	Yes	$100	Yes	No	No	Yes	Yes	5/10/1	Yes	Verif.	Yes*	1,4	Not req.	E, R, L	Not req.	
Rhode Island	S only	D & O	Yes	$100	Yes	No	No	Yes	Yes	5/10/1	Yes	Verif.*	Yes*	1,3,4	Not req.	E, R, L	Not req.	
So. Carolina	S only	D & O	Yes	$50	Yes	No	No	Yes	No	5/10/1	Yes	No	Yes*	3,4	Not req.	E, R, L	Not req.	
Tennessee	S only	D & O	Yes	$50	Yes	No	No	Yes	Yes	5/10/1	No	Notice	Yes*	3,4	Not req.	E, R, L	Not req.	
Texas	S only	D & O	Yes	$100	Yes	No	No	Yes	Yes	5/10/5	Yes	Verif.*	Yes*	1,3,4	Not req.	E, R, L	Not req.	
Utah	S only	D (v)	Yes	$100	Yes	No	Yes	(ee)	Yes	5/10/1	Yes	No	Yes*	1,4(r)	Not req.	E, R, L	Not req.	
Vermont	S & P (i)	D	No (i)	$35	Yes	No	No	No	No	10/20/2	No	Verif.*	Yes*	1	1	E, R, L	3 yrs.	(i)
Virginia	S only	D	No	$50 (c)	Yes	No	Yes	Yes (o)	No	10/20/1	No	Notice	Yes	1,3,4(g)	Not req.	E, R, L (;)	Not req.	(c)
Washington	S only (p)	D or O	Yes	$200	Yes	Yes	No	No	No	5/10/1	Yes	Verif.*	Yes*	1(q)	Not req.	E, R, L	Not req.	(p) (a)
West Virginia	S only	D & O	Yes	$100	Yes	No	No	Yes	No	5/10/1	Yes	Verif.*	Yes*	1,4	Not req.	E, R, L	Not req.	(aa)
Wisconsin	S only	D & O	Yes	$100	Yes	No	No	Yes	Yes	10/20/5	No	Notice	Yes*	1,3,4	Not req	E, R, L	Not req.	
Wyoming	S only	D & O	Yes	$50	Yes	No	No	Yes	No	5/10/1	No	Notice	Yes*	1,3,4	Not req.	E, R, L	Not req.	

EXPLANATORY NOTE: These provisions are applicable to accidents causing bodily injury, and (except for Michigan) to accidents causing property damage in excess of the specified minimum. Nonresidents as well as residents are subject to the laws.

OTHER STATES: Kansas, New Mexico and South Dakota have financial responsibility laws of the old type. Massachusetts has a compulsory law.

a—Requirement of proof discretionary.

b—Appeal to court automatically stays suspension, and court may exempt motorist not at fault.

c—Where property damage is less than $300, security not required in behalf of nonresident except on request.

d—Law not applicable to property damage. Proof not required if claims settled or security filed BEFORE suspension.

e—Commissioner may stay suspension for not exceeding four months in case of hardship or doubt as to liability.

f—Commissioner authorized to establish reciprocal agreements with other states.

g—Person whose proof furnished by employer.

h—Requirement of proof terminable after lapse of one year without suit or settlement or after exoneration; otherwise proof to be maintained indefinitely. After 3 years, standard policy acceptable as proof.

i—Security required only if operator is convicted as a result of accident.

j—In case of undue hardship Commissioner may dispense with release.

k—Claimant must file notice of intention to make claim.

m—Registration of owner not suspended where under law owner is not legally liable.

n—Accident report to be accompanied by repairman's estimate.

o—Only if owner was the driver.

p—Applicable to personal injury only if serious enough to require medical attention by a doctor.

q—Inapplicable to person who was unable to procure insurance because of race or color.

r—Person who has received payment for his damages.

s—Operator employed by owner.

t—In hardship cases court may modify extent of compliance with security requirement, and in that event proof is required.

u—If insurer of any operator settles, all operators deemed released.

v—Owner subject to law if employer of driver. In that event registrations of employer suspended.

w—Privilege to drive as chauffeur in course of employment not suspended.

x—Discretionary as to owner.

y—Person injured or damaged must submit report or evidence as to extent of injury or damage.

z—Non-owner subject to requirements may operate vehicle when owner has furnished proof.

aa—Applicable only to accidents on streets and highways.

bb—Information not available at time of publication.

cc—Court has discretion to restore license where needed for occupation.

dd—Registrar shall not require security for benefit of person who fails, after notice, to give information as to extent of injury or damage.

ee—Only if owner was the driver or employer of driver.

ff—Commissioner may issue limited license or registration when necessary for occupation or livelihood.

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their State Legislature as recently as 1954 refused to adopt it.

Thus a general survey of the history of the problem indicates that with a single exception the states have resorted to voluntary means to solve the problems created by the uninsured motorist. A detailed description of each of the possible approaches to the problem follows:

COMPULSORY INSURANCE

As previously noted, Massachusetts was the first and only state to enact compulsory liability insurance laws. The bill was passed in 1925 and became effective in January, 1927. Before listing the various arguments pro and con, there will be presented the principal features of the law, both as written and as interpreted by the courts of Massachusetts. This summary of the law was presented to the Massachusetts Safety Council by the Deputy Commissioner of Insurance in that state as follows:[1].

> "The Act applies to all motor vehicles required to be registered, except motor vehicles or trailers, owned by public utilities, street railway systems and government owned vehicles.
>
> "There is no standard form of compulsory motor vehicle liability policy. It is provided by statute that the form of policy proposed by the insuror must be filed with the Commissioner of Insurance for at least 30 days, unless approved by him earlier, and it is subject to his approval. This policy may not contain any exceptions or exclusions as to specified accidents or injuries or causes thereof on the public highways in the state. The liability of any company under a compulsory policy is absolute whenever the loss or damage for which the insured is responsible occurs.
>
> "False statement made either in securing the policy or securing registration of the motor vehicle, violations of the terms of the policy, or default of the insured, either

prior or subsequent to the issue of the policy, do not void the policy so as to bar recovery.

"Cancellation may only be effected by written notice given by the company to the holder of the policy and to the Registrar of Motor Vehicles at least 20 days prior to the intended effective date of cancellation. The insured may appeal such cancellation.

'The policy terminates upon a sale or transfer by the owner of the motor vehicle or trailer covered thereby, or upon his surrender to the Registrar of Motor Vehicles of the registration plates issued to him.

"The policy does not apply to bodily injury or death of any guest occupant of the vehicle.

"The compulsory policy does not apply to bodily injury to or death of any employee of the insured, who is entitled to payments or benefits under the provisions of the Massachusetts Workmen's Compensation Law.

"In order to facilitate the obtaining of a Compulsory Motor Vehicle Liability Policy, a voluntary Assigned Risk Plan became effective January 16, 1939. The Plan provided for the apportionment among insurance companies of eligible applicants, who, in good faith, were entitled to insurance, but were unable to procure such insurance through ordinary methods."

Arguments Against Compulsory Insurance

In all the studies made of the compulsory insurance program in Massachusetts certain objections have consistently been raised, and these may be summarized as follows:

1. Compulsory insurance offers incomplete coverage. The Massachusetts plan does not apply to out-of-state cars, does not cover guest occupants, does not cover accidents on private roads, does not protect

from hit and run drivers, and does not cover property damage accidents, nor accidents involving stolen vehicles. This argument is cited as contrast to the standard automobile liability policy which offers comprehensive coverage. Applying the Massachusetts plan without any amendment to the Colorado accident situation of 1953 would mean that, in accidents involving some 4,000 drivers, or 7 percent of the total drivers in 1953 accidents, the plan would not have been applicable. These are the numbers of out-of-state drivers involved in accidents within Colorado in 1953. It also means that, assuming persons for the most part were covered under minimum compulsory insurance only, no compensation would have been made in the 28,796 accidents involving property damage in 1953.

The absence of guest coverage is another major argument used against compulsory insurance. The law originally covered such claims (claims of guests against their hosts in a car), but was removed in 1936 to effect a reduction in rates which otherwise could not have been made.

2. Political rate making. This is one of the most often made arguments against compulsory insurance, and every study, save one made by a special committee in New York, tends to list this as a serious weakness, which cannot be corrected. Even the New York study, which advocated compulsory insurance, said,

> "It is incontrovertible that the enactment of compulsory insurance in Massachusetts gave birth to a political football. It is also incontrovertible that automobile insurance rate-making has been tied into political campaigns in that state. It cannot be denied that the three urban areas in Massachusetts with the highest accident frequency and

> severity rates are extremely interested in having a flat rate throughout the state."[2]

The New York study goes on to point out ways which, in their judgment, this may be corrected. These will be discussed under the arguments, "For Compulsory Insurance."

After an exhaustive study of the Massachusetts plan, including visits to the state, the Legislative Research Committee of North Dakota concluded, "Political pressure on rates and rate making are inescapable in the operation of a compulsory law."

3. Penalizes Insurance Companies. Another major argument against the compulsory insurance law is that it unjustly penalizes the insurance companies by (a) imposing absolute liability upon them, regardless of whether or not the insured reports an accident, cooperates in the defense, or otherwise adds to the cost of the settlement, and (b) it has added to the companies cost of doing business by requiring that all policies expire as of the first of the year, thus creating a "peak load" situation and adding extra expense in making out policies to the companies and their agents, (c) it led to the formation of a large number of small unstable companies which went bankrupt, and (d) it forces legitimate companies to write casualty insurance at a loss in order to stay in the state for other types of business.

4. Compulsory insurance may lead to creation of a state insurance monopoly and state insurance fund. Mr. J. Dewey Dorsett, General Manager of the Association of Casualty and Surety Companies, probably summarizes this argument in a speech made in 1951 to the annual meeting of

the Association, when he said:

> "...if the present crusade to enact more compulsory automobile insurance succeeds, automobile liability insurance may well be written by the states instead of free enterprise insurance companies. When a substantial number of states have placed on their books statutes which say to every motorist that they must carry insurance, it won't be long before the people reply, 'All right, but you write it for us at cost.'" [3].

These four areas -- incomplete coverage, political rate making, unfairness to the insurance companies, and possibility of a state monopoly in the field of automobile insurance -- constitute the principal arguments against compulsory insurance. Though each of the arguments may be subdivided into numerous details, the broad statements are the ones which have principally been used against the compulsory insurance concepts.

Arguments for Compulsory Insurance

The principal arguments for compulsory insurance are to be found in a study conducted by the State of New York Insurance Department in 1951.[4]. The essence of the argument is that Compulsory Insurance should not be equated with the Massachusetts law, and that, despite the weaknesses in the Massachusetts law, it is possible to write a compulsory plan which overcomes them. The New York study by the State Insurance Department as well as a legislative committee study concluded that the compulsory insurance idea was the fairest and most direct way to solve what all agree is a mounting problem. The principal arguments may be summarized as follows:

> (1) A compulsory insurance law need not change the present Colorado laws on rate making, wherein rates are determined by rating bureaus and approved by the State

Insurance Commissioner. If the system were continued, rates would be kept out of politics.

(2) The fears of compulsory insurance leading to a state fund are groundless. Massachusetts has had compulsory insurance for 27 years without creation of state owned insurance.*

(3) Compulsory insurance provides a direct answer while other schemes are covert methods of forcing motorists to have insurance.

THE COMPENSATION APPROACH

Normal liability insurance policies, be they voluntary or compulsory, are based on the legal theory that there is no liability without fault. The province of Saskatchewan, Canada, has however, adopted a state owned and operated system of compensation for automobile accidents which adopts a theory similar to that of workmen's compensation, which assumes a blanket liability, regardless of fault. Under workmen's compensation, employers pay a tax into a state fund from which accident and death benefits are paid. Under the Saskatchewan insurance plan, each motorist pays into a state fund from which a standard schedule of benefits for injury, and other items, is paid, regardless of the fault of the motorist. The schedule of benefits paid under the Saskatchewan plan may be found in the appendix.

Background of Compensation Approach

Perhaps the earliest discussion of solving the problem of the uninsured motorist through the compensation approach was made by Judge Marx of Columbia University in 1924.[5] Judge Marx advocated that (a) strict liability be imposed on motorists, regardless of fault, and that all motorists

*Massachusetts Constitution prohibits state fund.

be required to carry liability insurance, (b) compensation cases be litigated by special administrative bodies or referees outside normal court room procedures, and (c) a definite schedule of awards be set up and indemnity paid on a workmen's compensation basis. A study by Columbia University in 1932 advocated much the same thing.

The Legislative Research Committee of North Dakota, investigating the field of automobile liability insurance in that state, presented the following synopsis of the development of and principal features of the Saskatchewan plan: [6].

> The first automobile accident Insurance Act, passed in 1946, provided that, at the time the license for any motor vehicle was obtained, the owner of the motor vehicle had to pay a fee of $5, plus a personal premium of $1 per driver, and for this additional amount automobile accident compensation benefits were provided, regardless of fault, for persons injured in motor vehicle accidents, and death benefits to dependents of persons killed in such accidents.
>
> This Act provides substantial death benefits for primary dependents as well as for secondary dependents. Dismemberment benefits are provided on a fixed schedule with supplemental allowances for medical services according to a specified schedule and weekly indemnities are payable on a sliding scale which will bring the injured person's income up to a subsistence level.
>
> At the end of the first year it was found that the plan had accumulated a surplus of nearly three quarters of a million dollars. This, the Committee was told, indicated that rates could be reduced or more benefits could be provided. It was decided to follow the latter course and so, in April, 1947, compulsory collision insurance was added with a $100 deductible provision.
>
> It should be pointed out that the accident provisions incorporated in the Automobile Insurance Act of 1946

were applicable to Saskatchewan residents only, and only to accidents which occurred in the Province of Saskatchewan.

At the time the collision coverage was added to this compulsory program, premium rates were adjusted and instead of charging a flat premium, certain classes of vehicles were graded into model or age groups. This adjustment resulted in a rate increase to some motor vehicle owners.

In 1948 bodily injury liability and property damage liability was added to the program with bodily injury limits of $5,000 and $10,000, and property damage limit of $1,000. The property damage coverage was subject to a $100 deductible provision.

In 1949 the program was further expanded to include fire and theft insurance with a $100 deductible provision applying to each of these coverages.

Operating Experience in Saskatchewan

Under the Saskatchewan plan no policy is issued to the insured, but rather, the standard policy terms are part of the Automobile Accidents Insurance Act, which set up the program. At the time a person applies for motor vehicle licenses he pays not only for his registration fee, but also the annual fee for the insurance. Thus each licensed car is automatically insured under the state-owned plan. Vehicles which do not have up-to-date registrations are, of course, uninsured. In the event that a motorist purchases his license for only part of a year, he still pays the fee for the entire year's insurance.

The compulsory program, which the motorist buys at the time he registers his vehicle, is a minimum policy, which was found not to satisfy

the needs of a large number of motorists. Accordingly, the government insurance office introduced a package insurance policy, which was optional with the motorists, and which provided additional benefits, such as $25.00 deductible collision insurance. This optional insurance is sold through government agents. All claims are handled through the government's claim adjusters, and rates for policies are uniform throughout the province.

It is interesting to note that, despite the compulsory government insurance, the demand for privately written automobile insurance has increased in Saskatchewan. According to reports of the North Dakota Legislative Committee net premiums on private automobile insurance increased from slightly less than $700,000 in 1946 to more than $1,100,000 in 1949.[7] The Committee found that the reasons for this were active and aggressive sales campaigns on the part of the private carriers, introduction of new types of policies to meet the challenge of the government owned policies, and rates based on driving hazards so that farmers and residents of rural areas could get cheaper rates than those in urban areas. In those cases where a motorist has purchased the private insurance, as well as the compulsory government insurance, he receives settlement from both sources.

Arguments for Compulsory State Managed Insurance

The following arguments are generally advanced by the advocates of state managed insurance based on the compensation approach to the problem.

1. The doctrine of "no liability without fault" has outlived its usefulness in the field of automobile accidents.

2. Claims are settled expeditiously without the expense and delays of establishing negligence in court trials.

3. It is a simple and direct method of providing universal protection against the financial consequences of highway accidents.

4. Assuming that compulsory insurance is needed, it is more equitable to maintain a state fund, run without profit, than to force persons to patronize commercial organizations.

Arguments Against State Managed Insurance

The principal arguments against the compensation approach have been listed as follows:

1. It is an invasion by the state of a field which should be left to private enterprise. The Saskatchewan plan was admittedly part of the overall program of the socialist cooperative commonwealth federation, which was in power in the province.

2. The doctrine of no liability without fault is a basic part of American legal procedures, and has not outlived its usefulness.

3. Abandoning the concept of "no liability without fault" would reward a person for his own negligence -- since, regardless of error, he would be compensated for damages resulting therefrom.

4. State owned insurance in Saskatchewan has led to political settlement of claims.

The North Dakota committee had available to it the services of a

trained actuary from the New York State Insurance Department, who visited the province of Saskatchewan and, on the basis of their data, computed the rates for a similar program in North Dakota. These rates were slightly lower than commercial insurance rates. Since no similar services were available to the Colorado Legislative Council, the computations for such a plan have not been made.

UNSATISFIED JUDGMENT FUND

This approach to the problem of the uninsured motorists involves setting up a state-operated fund from which claims against financially irresponsible motorists are settled. The unsatisfied judgment fund has been adopted in several Canadian provinces and in the states of North Dakota and New Jersey. Since the New Jersey law is the most recent one to be enacted, a summary of its principal features follows:[8].

The New Jersey Unsatisfied Claim and Judgment Fund is not yet in effect. It will apply to accidents occurring after April 1, 1955. The following is a brief digest of the law:

Every person registering an uninsured motor vehicle for the period commencing April 1, 1954, is required to pay an additional fee of $3.00; every other person registering a motor vehicle is required to pay $1.00; and each insurer writing automobile liability insurance is required to pay one-half of one percent of its net direct premiums. Thereafter, the State Treasurer is required to calculate the probable amount needed to carry out the provisions of the law for the ensuing registration license year; and to assess not more than one-half of one percent on insurers, not more than

$1 on insured motorists and not more than $3 on uninsured motorists.

The law creates an Unsatisfied Claim and Judgment Fund Board, consisting of the state treasurer and four representatives of insurers. A person who suffers injury or damage arising out of the ownership, maintenance or use of a motor vehicle in the state on or after April 1, 1955, and whose damages may be satisfied in whole or in part from the fund, is required, within 30 days after accident, as a condition precedent to the right thereafter to apply for payment from the fund, to give notice to the Board of his intention to make a claim, such notice to be accompanied by certain prescribed information. The Board is required to assign to insurers for investigation and defense, all default actions and hit-and-run cases, and is authorized to assign to insurers such other claims as it deems advisable, for the purpose of making an investigation or for the purpose of conducting the defense, such assignments to be made in proportion to premium writings.

A person who recovers a valid judgment for an amount in excess of $200, is authorized to apply for payment out of the fund to the limits of $5,000/$10,000 and $1,000. Upon application for such payment the applicant is required to show, among other things, that he is not covered by workmen's compensation; is not the spouse, parent or child of the judgment debtor; was not a guest occupant of the motor vehicle owned by the judgment debtor; was not at the time of the accident operating or riding in an uninsured motor vehicle owned by him or his spouse, parent or child; that the judgment debtor was not insured; that the applicant has taken all possible steps to collect the judgment but has not been able to collect in full.

The law also contains provision for settlement of actions, in certain cases, with the consent of the Board and of the court, and upon execution of a confession of judgment by the defendant. Settlements involving payments of less than $1,000 are permitted without court approval, upon recommendation of the assigned insurer and with the approval of the treasurer and one other member of the Board.

In connection with the cost of an Unsatisfied Judgment Fund it is interesting to note the procedures used by New Jersey in adopting the plan. When the law was passed in 1953 it was not made effective until 1955. At the same time a comprehensive safety responsibility law was passed. Presumably the comprehensive safety responsibility law was to have two years to increase the number of insured motorists and build up the fund to a point where an Unsatisfied Judgment Fund could be maintained at a reasonable assessment on all concerned.

North Dakota

The North Dakota Unsatisfied Judgment Fund became effective July 1, 1947. The fund is made up of the proceeds of an annual assessment not exceeding $1, on registrations, of which there are about 282,000. Assessment was made in 1948 and in 1953. The fund is required to pay, to the limits of $5,000/$10,000, judgments in excess of $300 for bodily injury or death. It does not apply to property damage. By a 1951 amendment the fund was made applicable to hit-and-run cases.

A statement of payments into and out of the above fund for the period January 1, 1948 to September 10, 1953 may be found in Table 3, page 27.

TABLE 3

NORTH DAKOTA

UNSATISFIED JUDGMENT FUND PAYMENTS

Year	Revenue Receipts	Repayment Receipts	Disbursements	Number and Amounts of Payments from Fund
1948	$236,282.00	None	$1,224.50	1 - $1000 to $1999
1949	$1,550.00	$5.00 1 - Repaying at $5.00 per Mo. per Judgment	$20,021.02	1 - Under $1000 3 - $1000 to $1999 3 - $5000 to $5999 7 Payments
1950	$1,500.00	$45.00 1 - Repaying at $5.00 per Mo. per Judgment	$15,671.04	3 - Under $1000 2 - $1000 to $1999 2 - $2000 to $2999 1 - $3000 to $3999 1 - $4000 to $4999 9 Payments
1951	$1,500.00	$100.00 2 - Repaying at $5.00 per Mo. per Judgment	$119,717.80	1 - Under $1000 11 - $1000 to $1999 5 - $2000 to $2999 6 - $3000 to $3999 7 - $4000 to $4999 8 - $5000 to $5999 38 Payments
1952	$1,875.00	$225.00 3 - Repaying at $5.00 per Mo. per Judgment	$65,935.52	2 - Under $1000 4 - $1000 to $1999 8 - $2000 to $2999 3 - $3000 to $3999 2 - $4000 to $4999 4 - $5000 to $5999 23 Payments
1953	$281,156.00	$145.00 3 - Repaying at $5.00 per Mo. per Judgment 1 - Repaying at $20.00 per Mo. per Judgment 1 - In Default at $5.00 per Mo.	$54,812.79 $100.00	2 - Under $1000 6 - $1000 to $1999 4 - $2000 to $2999 2 - $3000 to $3999 2 - $4000 to $4999 4 - $5000 to $5999 20 Payments 1 Payment for Defense
Totals:	$523,863.00	$520.00	$277,482.67	98 Judgment Payments 1 Defense Payment
	520.00	Repayments to the Fund		
	$524,383.00	Total All Receipts		
	277,482.67	Payments from the Fund		
	$246,900.33	Balance September 20, 1953		

Source: North Dakota Safety Responsibility Division

TABLE 3

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Totals:	$523,863.00	$520.00	$277,482.67	98 Judgment Payments 1 Defense Payment

$520.00	Repayments to the Fund
$524,383.00	Total All Receipts
$277,482.67	Payments from the Fund
$246,900.33	Balance September 20, '953

Source: North Dakota Safety Responsibility Division

Experience With Fund In North Dakota

In an effort to determine the North Dakota experience with an Unsatisfied Judgment Fund, inquiry was made of the North Dakota Safety Responsibility Division which administers the fund. The following is their reply:

> "North Dakota made its original levy in 1948, further levy was required in 1953, and we expect to again levy in 1955. We do not believe that enactment of such a measure has a material effect on the liability insurance coverage in effect. We believe it would be inadvisable for any State to enact such legislation unless they had the security provisions of the Uniform Safety Responsibility Act and were vigorously administrating it. One difficulty which has arisen in North Dakota is that our Safety Responsibility Act has been amended to provide that the security provisions do not become operative unless one of the persons damaged or injured files written notice of intent to make claim within 60 days after the accident. The security provisions now go into operation in only a sprinkling of the accidents and the result has been that our ratio of coverage has been declining rapidly. As you know, the enactment and vigorous administration of the security provisions of the Uniform Code would bring the percentage of insured vehicles up into the high eighties so that you are left with approximately a ten percent fringe of uninsured motorists.
>
> "The big problem in the administration of the fund is the matter of defense. Generally speaking, the defendant is all too often not available or is completely uninterested. The defense of our fund is handled by the regular staff of the Attorney General's office and no additional appropriation was provided with the result that they have not been able to give the defense of these actions as much attention as they would like.
>
> "You are probably familiar with the New Jersey statute and we have been wondering whether their approach to this problem might not merit considerable consideration; however, only time will tell. We do not believe their operating fee idea is feasible because administratively there is no simple method of separating the insured from the uninsured motorists.

"We sincerely believe that if Colorado considers the enactment of such legislation that it would be extremely profitable for your State to send a representative to North Dakota to gain first hand ideas and information from the attorneys and officials concerned with the operation of this law. We have been continually amending our statute and it is still far from perfect."

Application of Unsatisfied Judgment Fund in Colorado

In discussing the extent of the problem in Colorado (Chapter I), the amount of uninsured losses were estimated at somewhere between $769,750 and $1,609,475. These figures were based on the losses now paid under liability policies and the percentage of motorists now estimated as not being covered by insurance. Assuming that all of these uninsured losses would be paid from an unsatisfied judgment fund, it is possible to estimate the requirements to maintain such a fund under current uninsured losses.

If one-half the fund were motorist supported, on the basis of 476,137 registered vehicles in Colorado, this would require an additional income of about $1.69 per vehicle. If the roughly 80 per cent of insured vehicles were required to pay only a $1.00 assessment into the fund, the 20 percent of uninsured vehicles would have to pay an assessment of about $4.50.

On the basis of the insurance carriers providing one-half of the fund, and using the 1953 premiums of $24,131,000 as a basis of computation a tax of about 3 per cent would be required for the insurance companies' $804,000 share of the fund. Adjustments up or down from this situation could be made accordingly.

Arguments for the Unsatisfied Judgment Fund

The principal arguments in favor of the unsatisfied judgment fund are:

1. It affords complete protection to the motorist without the necessity of compulsory insurance.

2. It gives protection to both the victims of hit-and-run and out of state drivers.

3. The plan retains all present judicial concepts of no liability without fault.

Arguments against the Unsatisfied Judgment Fund

Principal arguments against the plan are:

1. Even though the noninsured pays a higher assessment than the insured, the motorist who takes out insurance is penalized by having to pay some additional fee. As the New York study put it, "The equity of the state taxing those who are already insuring their financial responsibility for the benefit of those who do not, is subject to grave doubt."

2. A state fund would undoubtedly lead to demands that it be maintained solely by the tax on the uninsured. If this happened, the burden would become so great on this relatively small group that there would be demands for state insurance.

3. It taxes the insurance industry for a problem that is not of its making.

IMPOUNDING ACTS

Impounding acts have been adopted by some Canadian provinces and provide that, if the driver of a vehicle involved in a property damage or bodily injury accident does not possess evidence of liability insurance, his car is impounded at the time of the accident regardless of fault, which is determined later, and released only when evidence of insurance or other

financial responsibility is established.

Such a law generally provides that impoundment ceases if (a) the motorist provides evidence of financial responsibility, or (b) presents evidence of satisfying the claim. The usual procedure in such cases is to set a maximum time limit in which the motorist can satisfy the requirement for release of the car and if the requirements are not satisfied then to sell the impounded vehicle. The proceeds are used to first satisfy storage costs; second, prior liens against the vehicle, and third, the balance to the claimant.

The principal argument for impounding acts is that it makes for better enforcement of safety responsibility laws. In other words, if the penalties for not having insurance are severe, then more motorists will "voluntarily" take out insurance. If the experience of the provice of Manitoba, Canada is any guide, there is considerable validity to this argument. A reliable estimate places the number of insured motorists under the financial responsibility act at 27% after fifteen years of operation. After passage of a security type safety responsibility act, with an unsatisfied judgment fund, this increased to 87 percent and, after adoption of an impoundment act, the number of insured motorists increased to 97%.[9.]

The arguments against impounding acts are (a) it provides an unduly severe penalty for failure to provide protection, and (b) impoundment of a vehicle still does not provide adequate compensation for the injured, since sale of the car seldom will bring much more than enough to satisfy

storage costs and other liens against it, such as the mortgage on the car.

SUMMARY

All approaches to the problem of the uninsured motorist may be categorized into the following main headings:

1. Compulsory insurance, which is in effect in Massachusetts, provides that a motorist possess an automobile bodily injury policy, or post a surety bond as prerequisite for licensing a motor vehicle.

2. Financial Responsibility Laws. These laws, which are rapidly being replaced, provide that a motorist must prove future responsibility after conviction of a serious traffic violation, or after a judgment is rendered against him, and further provide suspension until a judgment is satisfied.

3. Safety Responsibility Laws. This is becoming the most common law in the states, and provides that any party not insured and involved in an accident must furnish security to pay all damages within the limits prescribed by the law if found liable therefor. Some in addition to such security require proof of financial responsibility for the future, under penalty of loss of driving privilege. In addition, driving privilege is suspended until future financial responsibility is established for certain serious driving or traffic violations.

4. Unsatisfied Judgment Fund. This is commonly used in Canada, and is in effect in North Dakota and will be in New Jersey after April 1st, 1955. This method establishes a state fund supported by assessments against motorists only, or against motorists and insurance companies to pay the

claims against financially irresponsible motorists.

5. Impounding Acts. In force in many Canadian provinces, Impounding Acts provide for impounding of a vehicle on the scene of an accident if a motorist is unable to produce evidence of a liability policy. Impoundment is made regardless of fault and is generally used as an enforcement procedure in safety responsbility laws.

6. State Owned Insurance based on Compensation. This is in effect only in the Province of Saskatchewan and established a state fund with payments made to all injured regardless of liability on a standard schedule of benefits. It is supported by taxes on all motorists.

Of all the basic approaches to the problem of the uninsured motorist the Safety Responsibility law is the one most in evidence. Compulsory Insurance, while being increasingly advocated in recent years, has not been accepted in any other state save Massachusetts.

CHAPTER II

Footnotes

1. Louden, John H., Address before Eighth Annual Governor's Highway Safety Conference, May 25, 1951.

2. Kline, George H. and Pearson, Carl O., The Problem of the Uninsured Motorist, State of New York Insurance Department, p. 60.

3. J.Dewey Dorsett, General Manager, to the Annual Meeting of the Association of Casualty and Surety Companies, 1951. p. 7.

4. See footnote 2.

5. Marx, Compulsory Automobile Insurance, American Bar Association Journal (July 1924 and November 1925). Also Marx, Compulsory Compensation Insurance, 25 Columbia Law Review 164 (1925).

6. Legislative Research Committee of North Dakota, Automobile Liability Insurance, 1950. p. 26, 27.

7. Ibid.

8. 1952, New Jersey Public Laws, Chapter 174 (Assembly Bill 410).

9. See footnote 6.

CHAPTER III

MEETING THE PROBLEM OF THE UNINSURED MOTORIST IN COLORADO

Colorado has attempted to answer the problem of securing financial responsibility of motorists by passage of what is known as The Safety Responsibility law. This Act was first passed in 1935 and subsequently amended by action of the 1939 and 1947 General Assemblies. The original law was a relatively mild one and provided only that if a judgment were entered against a driver as a result of damages he inflicted in an accident, his license was to be suspended until he either satisfied the outstanding judgment or established proof of future financial responsibility. In other words, under the original terms of the Colorado Act, proof of future financial responsibility was all that was needed to avoid suspension once a judgment had been entered. It was not required to necessarily satisfy the judgment which had been issued by the court.

This obvious loophole was corrected by action of the 1939 General Assembly which amended the act to provide that suspensions under the Safety Responsibility Law were to remain in effect until the judgment was satisfied, regardless of future responsibility. In other words, emphasis was placed on compensation for the victim rather than insuring future responsibility of the driver. Even this change, however, required that a driver have a judgment entered against him before any financial responsibility need be established. This is a long process, which many

motorists are not willing to undergo for the sake of recovery of damages. Recognizing that even this was a weakness, the law was again amended by the General Assembly in 1947 and now provides the following principal features:

1. Motorists are required to report each accident involving property damage in excess of $50, or bodily injury.

2. Proof of financial responsibility is required within sixty days of the time the accident is reported, regardless of fault.

3. Suspensions of driving privileges made under the Safety Responsibility Act remain in force until (a) a security bond is posted, (b) a release is obtained, or (c) one year passes without a suit to recover damages being brought.

Administration of the Safety Responsibility Law

The 1947 Statute provides the Director of Revenue with the principal responsibility for enforcing the Safety Responsibility Law, and gives him wide latitude in setting up procedures to accomplish this administration. The department has placed responsibility for operation of the law in the Safety Plans section of the Motor Vehicle Department. A flow chart which describes the various procedures which take place in the enforcement process follows:

TABLE 4

STEPS IN ENFORCEMENT OF COLORADO SAFETY RESPONSIBILITY LAW

Normal Procedure

1. Driver reports accident to State Motor Vehicle Department. Report goes to Safety Plans section.

2. File is set up and insurance coverage verified.

3. Drivers without insurance coverage are notified by form letter of the requirement.

4. If driver fails to establish financial responsibility, a warning notice is sent.

5. Failure to establish financial responsibility after warning results in suspension, mailed on 57th day after accident.

6. Name of driver is placed on file of drivers under suspension.

7. File is closed, if compliance with law proved; held for future action if suspension issued.

Procedure where Apprehended while Driving under Suspension

1. List of court convictions and moving traffic violations is sent to Motor Vehicle Department.

2. Drivers under suspension are checked against lists.

3. Names of drivers convicted or ticketed while driving under suspension are sent to Enforcement Section of Revenue Department.

4. Revenue Department enforcement officer picks up driver's license, or registration, or both. (If enforcement personnel available.)

The chart indicates that reporting is the responsibility of the motorist and that, once the report comes to the Safety Responsibility section a check is made by them to determine if the reporting motorist's insurance coverage is in force, or whether he does not have insurance. After this check is made with the insurance companies, a series of form letters is sent the motorist which, if not complied with, results in the eventual suspension of the motorist failing to provide proof of financial responsibility under the law. The paper work involved in enforcing the Financial Responsibility Act amounts to a considerable volume of material, as may be indicated by Table 5, which analyzes the work load in the Financial Responsibility Section for the calendar year 1953. This table follows:

TABLE 5

ANALYSIS OF WORK LOAD, 1953
SAFETY RESPONSIBILITY SECTION

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Total	Monthly Average
Accident Reports Received	9,938	3,410	3,383	4,134	3,271	3,219	4,236	3,641	4,349	3,324	3,478	5,151	46,534	3,879
Cases set up	1,861	1,509	1,379	1,454	1,272	1,328	1,855	1,449	1,623	1,221	1,311	1,652	17,914	1,493
Total Suspensions	475	383	314	282	270	355	405	451	544	421	362	529	4,791	399
Form Letters sent out	5,455	4,749	4,446	3,815	3,936	3,469	5,458	4,521	5,045	3,371	3,892	4,760	52,917	4,409
Total Interviews	1,382	1,171	1,194	1,382	1,155	1,046	1,442	1,201	1,294	1,131	1,025	1,426	14,849	1,237
Non-form Letters sent out	300	297	443	480	410	265	441	356	358	348	302	382	4,382	365
Correspondence Received	770	605	679	775	647	629	1,046	957	1,230	928	1,025	1,669	11,140	928
Percentage of Suspensions*	9.6%	11.2%	9.3%	6.8%	8.3%	11.4%	9.6%	12.4%	12.5%	12.7%	10.4%	10.3%	10.3%	10.3%

*Based on individual accident reports

ACCIDENT REPORTING

Conversations with personnel in the Safety Plans Division indicate that a substantial number of motorists are failing to report accidents as required by the Safety Responsibility Act. While no exact estimate was made, it was felt that the numbers were significant. This is borne out by a comparison of the total number of vehicle accidents reported in Colorado in 1953, as compared with the number of accident reports filed with the Safety Responsibility Section. As previously indicated in this study, there were 35,268 motor vehicle accidents of all types reported in Colorado in 1953. There was property damage in 24,000 of these accidents. Since even minor accidents are apt to cause damage in excess of $50, it may be assumed that virtually all of these accidents involving property damage were reportable under the Safety Responsibility Law. Assuming that each property damage accident involved two cars, there should have been approximately 48,000 reports of accidents filed with the Safety Responsibility Section. This may be compared with the 46,500 reports which were actually made. This is a substantial number of people failing to comply with even the most basic requirements of the law, and points up one of the weaknesses in the present statute, that of failing to provide a mechanism whereby each accident involving property damage in excess of $50, or personal injury, is definitely reported to the State Motor Vehicle Department.

SUSPENSIONS

Under the current system of enforcing the suspension of driving privileges, it is quite possible for motorists to be suspended, to have both their drivers license and motor vehicle registration suspended, and still drive on Colorado highways with impunity, and even have their vehicles re-registered at the time license plates are again required. The Safety Responsibility files do not provide data on the number of persons failing to comply with suspensions.

The present procedures for enforcing the Safety Responsibility Law do not provide for sending to each police force or County Clerk in Colorado, and to the State Highway Patrol, a list of drivers under suspension. Instead, copies of these suspensions are sent to the Department of Revenue, Enforcement Division. In order to properly understand the suspension features of the law, it is necessary to trace the administrative processes being followed. As indicated in Table 5, when an accident is reported to the Department of Revenue, a check is made with the insurance company to determine whether or not the reporting driver is covered by automobile liability insurance. In case he is not covered by insurance, or the insurance company reports that his policy has lapsed, the motorist is sent a form letter reminding him of his responsibilities under the law to either post liability insurance, or bond, in the proper amount, or face suspension of his driving privileges. The law specifies that such financial responsibility must be established within sixty days, therefore, the file is kept open for that length

of time, and if, by the 55th day after a motor vehicle accident is reported, the reporting person has not established financial responsibility, he is sent a notice of suspension and is requested to mail to the Department of Revenue his operator's license or motor vehicle registration, or both as the case may be.

The Safety Plan Section which administers the law then sets up a file listing the names of all drivers who are under suspension. Only recently have they begun to indicate by a different colored code the names of those drivers under suspension for violation of the Safety Responsibility Law, as contrasted to suspensions under some other section of the Motor Vehicle Code. Theoretically the Safety Responsibility Section is able to determine from its files whether or not a motorist has complied with the notice of suspension, and has in fact mailed to the Department his operator's license or motor vehicle registration. However, the only time the Department actually determines that a motorist has not complied with suspension is if he is subsequently picked up for a moving traffic violation. Since the various state police forces are required to submit to the Department of Revenue a copy of all moving traffic violations, as well as a record of all court convictions, it is possible to check the list of drivers under suspension against these lists to determine whether anyone was picked up for a violation, or convicted in a traffic court, while driving under a suspension. In cases where this is determined to be true, the names of individuals are sent to the Revenue Department, and the Rev-

enue Department inspectors then pick up the licenses of the drivers. It should be pointed out, however, that such names are sent only in cases where the driver lives in a district where a revenue agent is now stationed and only after he has driven while under suspension.

The obvious weaknesses in this system are apparent; first, there is no active record kept of whether or not a driver has, in fact, complied with the notice of suspension; second, there is little or no liaison between the various local police departments in the state and the State Patrol to pick up the registrations of suspended motorists; third, the enforcement by the Department of Revenue is, because of limitations of staff, limited only to those areas where there is a revenue officer in the field. At one time, the State Highway Patrol, as well as local law enforcement agencies, were provided with lists of drivers who were under suspension, so that police officers might check motorists against these lists. This practice, however, was discontinued sometime ago because a lack of staff within the Safety Responsibility Section of the Revenue Department prevented maintenance of these lists on a current basis and because local agencies seldom took action on them.

It should be pointed out that, in those cases where the driver has his operator's license suspended, law enforcement agents felt there was a legal question involved in their picking up drivers' licenses or motor vehicle registrations at the direction of the Director of Revenue.

Where the driver has his operator's license only suspended, he is

able to drive until the time when his next license must be renewed. This could be for as long as three years. Since all driver's licenses are mailed by the Revenue Department, no license is dispatched until every name is checked against the master files in the Safety Responsibility section. In cases where a driver is under suspension no new license is issued. However, with motor vehicle registrations it is quite possible, and undoubtedly happens in many cases, that the car is relicensed even though the driver of the automobile and the owner may be under suspension.

Originally, lists of vehicles whose plates had been suspended were sent to county clerks, but this practice was discontinued in all counties, except Denver, in about 1950. The Denver list was discontinued in 1953 by mutual agreement of the Denver Motor Vehicle Department and the State Motor Vehicle Department because the state department found it impossible, because of a small staff and the volume of suspensions, to maintain the lists current. At the present time, therefore, in no county in the state is there maintained a list of suspended motor vehicle registrations, with the result that, should a driver have his license plate suspended, he may re-register his car and secure new plates at each licensing period.

Lack of Public Information and Education

Another weakness in the present Safety Responsibility Law is the lack of a continuous educational program designed to acquaint the motoring public with their responsibilities and liabilities under the present act. When the statute was first enacted a considerable effort was made to acquaint

motorists with the requirements of the Safety Responsibility Law. However, discussions with personnel in the Safety Plan Section indicate that a substantial number of motorists come into the division unfamiliar with the Act, or with its provisions. It seems apparent that any voluntary program must have as one of its principal features continued public education as to the requirements of the law. As a result of interest in the problem by the subcommittee studying the problem, the Department of Revenue has prepared a pamphlet explaining the Safety Responsibility Law which will be given to each applicant for automobile licenses in 1955.

There are a considerable number of administrative improvements which can be made in the present Safety Responsibility Law to make it a more effective instrument in providing compensation to the victims of automobile accidents. Regardless of what other steps are taken in a voluntary program of providing liability insurance, a combination of the following changes in the present Colorado Safety Responsibility Law seems to be indicated.

1. Inauguration of an intensive educational campaign.

2. Amending the statute to provide for more stringent penalties and better enforcement procedures.

3. Inauguration of improved administrative practices within the Safety Plans Section of the Department of Revenue.

4. Providing heavier penalties for violation of the law in its entirety.

Each of these four possibilities will be discussed in greater detail in Chapter V, which deals with alternative suggestions, in solving the problem of the uninsured motorist in Colorado.

AVAILABILITY OF INSURANCE

Operation of the Colorado Automobile Assigned Risk Plan

Under any system wherein the state requires some form of financial responsibility, either prior to or after an automobile accident, it is imperative that all those who wish to be insured, and are insurable, are able to receive liability insurance. The Assigned Risk Plan is the insurance industry's method of providing such coverage. The plan was inaugurated in Colorado on August 1, 1944, but came into its greatest use following the passage of the revised Safety Responsibility Law. Table 6 shows the growth of the plan:

TABLE 6

GROWTH OF COLORADO
ASSIGNED RISK PLAN

	1946	1947	1948	1949	1950	1951	1952	1953
Applications	170	606	1,247	1,708	1,934	2,391	4,142	6,341
Policies Issued	102	282	897	1,207	1,411	1,854	3,535	5,686
Policies Not Issued	52	171	356	460	523	485	657	770
Net Premiums Collected	$ 3,547	4,846	32,174	43,578	50,640	55,341	109,317	229,708

Source: Colorado Assigned Risks Plan, Annual Reports

The Assigned Risk Plan was originally a voluntary association of most companies writing liability insurance within the state of Colorado, but in 1953 the Insurance Law was amended to make participation mandatory for all casualty companies in Colorado writing automobile liability insurance.

In general, the types of drivers who are given insurance through the Assigned Risk Plan are: 1. Those under twenty-five years of age who

are not married; 2. Persons over 65 years of age; 3. Persons who are in Colorado on a transient basis, such as servicemen or temporary workers; 4. Public carriers and long haul carriers; 5. Persons in various industrial or job situations which the insurance companies do not consider as good credit risks; 6. Persons with records of habitual traffic violations or motor vehicle accidents.

The plan specifically denies insurance to those who fall in one of the following categories: 1. Anyone who, within 36 months prior to application, has been convicted of driving a motor vehicle while under the influence of liquor; 2. Failure to stop and report when involved in an accident; 3. Homicide or assault arising out of the operation of a motor vehicle; 4. Driving a motor vehicle at an excessive rate of speed, where injury to person or damage to property results thereform; 5. Reckless driving involving property damage or bodily injury; 6. Operating during a period when driver's license or vehicle registration are under suspension; 7. Operating a motor vehicle without state or owner's authority; 8. Loaning operator's license to an unlicensed operator; 9. Making false statements in the application; 10. Impersonating an applicant; 11. Illegally registering a motor vehicle in the state during the preceding twelve months; 12. If the applicant, or anyone who usually drives the automobile, is subject to epilepsy.

Only those who fall in any of these listed categories may be denied insurance by the Assigned Risk Plan. All other risks who make application

through the plan must be given normal liability insurance with 10/20 thousand dollar limits and $5,000 coverage for property damage. The plan is available to nonresidents of the state who have their automobiles registered within Colorado.

Assignment of Risks

Each participating company in the Assigned Risks Plan files a statement of the amount of bodily injury insurance written in the previous year. Risks are then assigned by the Plan to member companies on a pro rata basis according to the amount of business written during the previous year. In other words, if one company writes 25% of the total business (bodily injury insurance) within Colorado, this company automatically gets 25% of the assigned risks coming into the plan. Each company must take its risks in turn as its name comes up on the list. The company is then required to write the liability policy at its standard rate, providing however, that it may add a surcharge of 10% for public passengercarrying vehicles, 15% for all applicants who, during the past 36 months, have either:

1. Been involved in an accident resulting in the injury to, or death of any person, or damage to the property of another.

2. Been convicted of the violation of the Motor Vehicle Code other than minor offenses, and

3. Been convicted of any non-motor vehicle offense and sentenced to imprisonment for five or more days and fined $25.00 or more.

An additional charge of 25% over and above the standard rate may be made to anyone who has (a) been involved in more than one accident during the past 36 months involving property damage or death, or injury; (b) been convicted during the past 36 months of more than one violation of the Motor Vehicle Code; (c) had a judgment entered against him under a financial responsibility case.

In the circumstances mentioned above the insurance must be written by the carrier, but they are allowed to charge the additional rate specified.

Once an applicant makes application for a policy under the Assigned Risk Plan his application then goes to the carrier, whose turn it is to write insurance, and the carrier writes his policy. All contacts are then made between the insured and the insuror in a normal manner. The insured has the option of refusing to accept the policy, in which case the policy is cancelled at the short term rate, and the insured loses some money. He may also protest the surcharges which are levied by the company. His first protest is to the Assigned Risk Plan Governing Committee, which may hear the appeal, and their decision is binding upon the insurance companies, but may be appealed by the insuror to the State Insurance Commissioner, whose decision is binding upon the companies. There have been less than a dozen appeals to the State Insurance Commissioner since the Plan was inaugurated.

The Assigned Risks Plan now operates under the provisions of Chap. 137 of the 1953 Session Laws of Colorado. The Insurance Commissioner has the authority to set up a plan which requires the companies to parti-

cipate, and to apportion among themselves insurance applicants who would normally be denied insurance. This section provides that such assigned risk agreements and rate modifications as may be made, are to be subject to the approval of the State Insurance Commissioner.

Use of the Assigned Risk Plan

Since the calendar year 1946 the number of applicants for insurance under the Assigned Risk Plan has increased from 170 in 1946 to 6,341 in 1953, and the number of policies issued has increased from 102 in 1946 to 5,686 in 1953. The premiums collected on assigned risks by the insurance companies under the plan have increased from $3,547 in 1946 to $229,708 in 1953. Table 7 charts the growth of the Assigned Risk Plan since 1946. It can readily be seen from these figures that the plan has been providing substantially greater service to people who normally would not be able to obtain liability coverage within Colorado. The figures from the Assigned Risk Plan also indicate that by and large most applicants who come to the plan are able to secure insurance. It will be noted from Table 7 that in 1953, 770 applicants were not issued policies out of the 6,341 who applied.

It should be noted however, that inquiries by the study group of insurance agents indicates a reluctance on the part of many agents to explain the assigned risk plan to those for whom they cannot write insurance. This lack of explanation by insurance agents results in some

people not being insured, who otherwise might qualify.

An analysis of those who were not issued policies showed that only 195, or slightly more than 3% of the total applicants (6,341), were denied insurance for cause; the remainder refused to accept the policies after they were issued to them for one reason or another. The analysis of rejects follows:

TABLE 7

ANALYSIS OF ASSIGNED RISK
APPLICANTS DENIED INSURANCE

	1946	1947	1948	1949	1950	1951	1952	1953
Applications rejected for cause	15	28	49	32	34	30	69	195
Policies not accepted	26	96	260	409	484	453	588	575
Applications dropped	11	47	47	19	5	2	0	0
	52	171	356	460	523	485	657	770
Percentage of rejected applications by plan or companies	8.8%	4.6%	3.9%	1.76%	1.3%	1.7%	3.07%	

It is interesting to examine the group of 575 who did not accept the policies. In many cases these policies were not accepted because the insured was able to arrange for his own coverage through standard sources some time after he had made application, and, in other cases, the policies were rejected because the insureds were not satisfied with the company to which they were assigned for underwriting, and in some cases the balance of the premium was not paid. In any event, this group represents applicants to whom insurance was available, had they so chosen.

Discrimination in Insurance

The following is a report on possible discrimination in auto liability insurance towards ethnic minorities in the city of Denver, made by the Denver Urban League to the committee.

The information in our files indicates sufficient evidence to warrant further investigation of discrimination in auto liability insurance.

1. It was learned that one company has a policy to not underwrite auto liability for Negroes or orientals.

2. Under current investigation are five alleged cases of discrimination against Negroes by four local insurance companies. Two involved refusal on the part of the companies to insure minorities; one involved failure of the company to pay property damage as underwritten in the contract; one case involved a Negro who obtained coverage automatically through another insurance company when his own insurance company dissolved. It was later learned that he was Negro and notice of cancellation was given. The last case involves the dropping of a policy holder by an insurance company several weeks after the policy was begun on the basis that a minor accident had occurred.

3. Individual contacts with insurance brokers and agents to obtain information was met with a noncommittal attitude of secrecy in regard to insurance of minorities. It was admitted by a few of these insurance men that "gentlemen's agreements" are entered into between insurance companies with their agents, and in this manner, ethnic minorities may be discouraged and thus forced into the Assigned Risk bureau.

SUMMARY

1. Colorado's principal method of meeting the problem of the uninsured motorist has been the passage of a Safety Responsibility Law. Under this statute the number of insured motorists is approximately 80%, which is a considerably lower figure than is generally found in states having modern and Safety Responsibility laws.

2. The principal difficulty with the Colorado approach to the problem is centered on a general lack of enforcement procedures in the Safety Responsibility Law. Under present practices it is quite possible for a motorist to drive while under suspension and continue to have his vehicle re-registered. The lack of enforcement is due principally to (a) understaffing in the Motor Vehicle Department, Safety Responsibility Section; (b) lack of effective liaison between the State Motor Vehicle Department and local law enforcement officials and county clerks, and (c) a lack of widespread publicity as to the requirements of the Safety Responsibility Law. It also seems that there may be some arrangements for increasing the penalties for violation of law, in addition to tightening up the enforcement procedures.

3. The lack of insurance of Colorado motorists cannot be attributed to a lack of availability thereof.

4. The Colorado automobile Assigned Risk Plan, which is a standard device used in many states, has provided a substantial number of motorists with property damage and bodily injury liability insurance, who otherwise

would not have been able to acquire such protection through normal sources. Since the inception of the plan 18,553 applications have been received, and 14,981 policies written. Of the applications received, only 453, or less than 2 1/2%, had been rejected by either the Plan itself or by the underwriting companies. These rejections have all been because the drivers are ineligible under one of the disqualifying features in the plan itself, and for no other reason. In 1953 more than 6,000 applications were received, and over 5,600 policies were actually issued by the plan, 195 applications were rejected for cause, or slightly more than 3% of the total applications received during the year.

It must also be noted that the passage of the revised Safety Responsibility Law has had a significant effect on increasing the number of people taking advantage of the Assigned Risk Plan.

5. Some evidence exists that there may be discrimination against certain ethnic minorities by individual insurance agents and companies in selling automobile liability insurance.

CHAPTER IV

CONCLUSIONS AND RECOMMENDATIONS

The facts indicate that a substantial problem exists in Colorado with regard to the number of uninsured or otherwise financially irresponsible motorists operating vehicles on the public highways. While a lack of reliable data for previous years has prevented determining whether or not the problem is increasing or decreasing in its seriousness, it is an established fact that there are a substantial amount of losses which go uncompensated during the course of the year. It is in the public interest to have as many persons as possible be able to indemnify their victims in automobile accidents. This can be accomplished either through a series of voluntary approaches or attempts at the "compulsory" way.

It is the conclusion of this report that a compulsory system should not be considered at this time. Compulsory insurance involves a basic departure from our present philosophy of handling state problems; there are a number of methods which can be appropriately used within the State of Colorado to reduce or eliminate the problem, without resorting to compulsory liability insurance. It should be pointed out that even were Colorado to adopt a system of compulsory automobile liability insurance for its residents, a substantial number of accidents, seven per cent, would still not come within the law, since this represents the number of accidents caused by non-Colorado residents. The fact cannot be ignored that at least

21 other states, since 1927, have carefully investigated compulsory insurance as the solution to their problems and have rejected it.

There are a substantial number of improvements which can be made in Colorado's present Safety Responsibility Law, and the enactment of companion devices can greatly increase the number of insured motorists operating on the Colorado highways. The percentage of motorists with liability insurance is low in Colorado among states with modern safety responsibility laws, and the low percentage of motorists insured is due principally to a lack of enforcement on the one hand, and a lack of statutory penalties for failure to comply with the act, on the other.

It should be pointed out, however, that the lack of enforcement has been due principally to a lack of staff within the Safety Plans Section of the Department of Revenue and the Department of Revenue enforcement divisions. Other reasons for lack of enforcement revolve around a lack of liaison between the State Motor Vehicle Division, Safety Plans Section, and local police departments, and other law enforcing agencies in Colorado.

Changes in the Safety Responsibility Law are advocated on both an administrative and a statutory level. The administrative changes suggested are as follows: (1) The files of the Safety Responsibility Section should be set up on a punch card system so that the names of motorists who have not complied with the order of suspension can be quickly and easily checked on a routine basis, and the names of such motorists be immediately sent to the Enforcement Division of the Revenue Department.

(2) An adequate staff should be made available to both the Enforcement Division and the Safety Plans Section of the Revenue Department so that proper enforcement of the Safety Responsibility Law may be obtained and proper files and statistical data be accumulated. It is suggested that the possibility of increasing drivers' license fees be considered by the General Assembly as a means of providing funds for this purpose. (3) It is suggested that the Department of Revenue re-establish its program of providing each county clerk within the state a list of those vehicles whose licenses have been suspended, and that the State Highway Patrol and local law enforcement officers be provided with current lists of the drivers who are under suspension. By this method local agencies can be brought into the enforcement of the Safety Responsibility Act. (4) It is suggested that the Department of Revenue request that local police officers as well as the State Highway Patrol send to the Safety Plans Section a copy of each accident report so that these accident reports may then be checked against the reports filed under the Safety Responsibility Law. In this way determination can be made of those motorists who are failing to report when involved in accidents in which there is property damage in excess of $50.00, or personal injury. If such a procedure requires statutory change, it is recommended that such changes be made by the General Assembly. (5) It is suggested that a more comprehensive program of publicity regarding the requirements of the Safety Responsibility Law be undertaken by the State Department of Revenue.

In this connection it should be noted that as a result of the work of this subcommittee a pamphlet has been prepared by the State Revenue Department which will be given to each applicant for motor vehicle registration in 1955. This pamphlet will briefly explain the responsibilities of the motorist to protect himself with liability insurance in the event he has an accident. It is suggested that further and continuing efforts to acquaint the motoring public with its responsibilities be undertaken by the department.

The following statutory changes in the Safety Responsibility Law are suggested for consideration by the General Assembly. Colorado's Safety Responsibility Law was last amended in 1947, and since that time a revision of the model statute has been published by the American Automobile Association, as well as other interested groups. Colorado's law is generally a good one, but it should provide (1) For proof of future financial responsibility as well as security for the current accident. Under the present statute it is only necessary for a person involved in an accident to post an insurance policy or security covering the damages of the accident in which he is currently involved. There is no requirement that proof of future financial responsibility be established. We suggest that such changes be made in our present law. (2) It is suggested that the penalties for failure to comply with notice of suspension by the Department of Revenue be strengthened so as to make it more difficult and less desirable to avoid compliance with the suspension notice of the Department of Revenue. (3) It is suggested that the General Assembly

give careful consideration to the advantages of an impoundment act which would require impounding of vehicles involved in accidents if such vehicles were not covered by liability insurance at the time of the accident. A copy of an impoundment statute which was proposed for the state of New York is found in the appendix of this overall report. The experience of Manitoba, which adopted an impoundment statute lends considerable evidence to the proposition that impoundment of vehicles will result in more motorists carrying liability insurance than does a suspension of driving privileges. In Manitoba the number of insured motorists rose to 97 per cent once an impoundment statute was adopted.

Once these administrative and statutory measures are adopted to raise the level of insured motorists, the problem should again be studied two or three years hence to determine whether or not there still exists a substantial number of financially irresponsible motorists. An unsatisfied judgment fund might well be considered by the General Assembly at that time. An unsatisfied judgment fund is not presently recommended because experience of other states indicates that such funds are not feasible until the number of uninsured motorists drops well below 10 per cent. Under Colorado's present position an unsatisfied judgment fund does not appear workable since at least 20 per cent of the motorists are uninsured. If the measures which are suggested bring the number of insured motorists up in the 90 per cent bracket, an unsatisfied judgment fund might be considered at some future date. It is suggested that the Legislative Council be instructed to re-examine the problem of the uninsured motorist and

report to the 1957 Session of the General Assembly on its findings.

In connection with an unsatisfied judgment fund it should be pointed out that at the present time a number of studies are currently in process by agencies in other states, as well as the insurance industry itself, to determine how best such funds might be created. The insurance industry is now exploring the possibilities of privately writing insurance by which the insured motorist could protect himself against damages from an uninsured vehicle. Some insurance of this type is already being written. At such time as these studies are completed, a better answer to the unsatisfied judgment fund approach will be available for the Colorado General Assembly to consider.

In regard to the second overall phase of the study, that of availability of insurance, this report finds that by and large the assigned risk plan operating Colorado does provide insurance for those who are denied it through normal channels and are otherwise eligible. However, in some cases individual insurance agents are not calling to the attention of applicants the availability of insurance under the assigned risk plan. While this is not a matter of legislative concern, it is suggested that the Insurors' Association and the Association of Mutual Agents voluntarily undertake to promote use of the assigned risk plan by members of their group so that people who are normally denied insurance because of various reasons may get proper coverage through the plan. It should be pointed out that the assigned risk plan operates under Colorado statute and is regulated by the State Insurance Commissioner. But it is felt that voluntary action on the part of the

industry would be preferable to action on the part of a state agency.

In regard to the problem of racial discrimination in insurance, there are cases in which insurance has been denied to otherwise good risks because of the race of the applicant. Since the State of Colorado through its Safety Responsibility Law requires motorists to establish financial responsibility at the time of an accident, the state has a corollary responsibility to make certain that liability insurance is available to all qualified people who wish to avail themselves of this protection. Accordingly, it is suggested that the insurance laws of the State of Colorado be amended to include a non-discriminatory clause which would prohibit discrimination in the selling of liability insurance to any person because of race, color or creed.

These conclusions and recommendations represent the unanimous judgment of the subcommittee which has had the problem of the uninsured motorist in Colorado under consideration during the past year.

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APPENDIX A

1950 EDITION MODEL SAFETY RESPONSIBILITY LAW

TITLE OF ACT

An act to eliminate the reckless and irresponsible driver from the highways, and to provide for the giving of security and proof of financial responsibility by owners and operators of motor vehicles.

Be it enacted . . . . . .

(Each state should draw its own title to Act and enacting clause)

ARTICLE I

WORDS AND PHRASES DEFINED

SECTION 1 - DEFINITIONS

The following words and phrases, when used in this Act, shall, for the purposes of this Act, have the meanings respectively ascribed to them in this Section, except in those instances where the context clearly indicates a different meaning:

1. "Commissioner" - The Commissioner of Motor Vehicles of this State.

NOTE: If a state enacting this Act does not have an officer entitled Commissioner of Motor Vehicles, then insert the proper title of the state officer in charge of the issuance of operators' and chauffeurs' licenses and the registration of motor vehicles.

2. "Judgment" - Any judgment which shall have become final by expiration without appeal of the time within which an appeal might have been perfected, or by final affirmation on appeal, rendered by a court of competent jurisdiction of any state or of the United States, upon a cause of action arising out of the ownership, maintenance or use of any motor vehicle, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, or upon a cause of action on an agreement of settlement for such damages.

3. "License" - Any license, temporary instruction permit or temporary license issued under the laws of this State pertaining to the licensing of persons to operate motor vehicles.

4. "Motor Vehicle" - Every self-propelled vehicle which is designed for use upon a highway, including trailers and semi-trailers designed for use with such vehicles (except traction engines, road rollers, farm tractors, tractor cranes, power shovels, and well drillers) and every vehicle which is propelled by electric power obtained from overhead wires but not operated upon rails.

5. "Non-resident" - Every person who is not a resident of this State.

6. "Non-Resident's Operating Privilege" - The privilege conferred upon a non-resident by the laws of this State pertaining to the operation by him of a motor vehicle, or the use of a motor vehicle owned by him, in this State.

7. "Operator" - Every person who is in actual physical control of a motor vehicle.

8. "Owner" - A person who holds the legal title of a motor vehicle, or in the event a motor vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purposes of this Act.

9. "Person" - Every natural person, firm, co-partnership, association or corporation.

10. "Proof of Financial Responsibility" - Proof of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of said proof, arising out of the ownership, maintenance or use of a motor vehicle, in the amount of $5,000 because of bodily injury to or death or one person in any one accident, and, subject to said limit for one person, in the amount of $10,000 because of bodily injury to or death of two or more persons in any one accident, and in the amount of $1,000 because of injury to or destruction of property of others in any one accident.

11. "Registration" - Registration certificate or certificates and registration plates issued under the laws of this State pertaining to the registration of motor vehicles.

12. "State" - Any state, territory or possession of the United States, the District of Columbia, or any province of the Dominion of Canada.

ARTICLE II

ADMINISTRATION OF ACT

SECTION 2 - COMMISSIONER TO ADMINISTER ACT - APPEAL TO COURT

(a) The Commissioner shall administer and enforce the provisions of this Act and may make rules and regulations necessary for its administration and shall provide for hearings upon request of persons aggrieved by orders or acts of the Commissioner under the provisions of this Act.

(b) Any order or act of the Commissioner, under the provisions of this Act, shall be subject to review (here insert language indicating scope of the review) by (appeal)* writ of certiorari)* to (the ... court) at the instance of any party in interest. The court shall determine whether the filing of the (appeal)* (petition for such writ)* shall operate as a stay of any such order or decision of the Commissioner. The court may, in disposing of the issue before it, modify, affirm or reverse the order or decision of the Commissioner in whole or in part.

SECTION 3 - COMMISSIONER TO FURNISH OPERATING RECORD

The Commissioner shall upon request furnish any person a certified abstract of the operating record of any person subject to the provisions of this Act, which abstract shall also fully designate the motor vehicles, if any, registered in the name of such person, and, if there shall be no record of any conviction of such person of violating any law relating to the operation of a motor vehicle or of any injury or damage caused by such person, the Commissioner shall so certify.

ARTICLE III

SECURITY FOLLOWING ACCIDENT

SECTION 4 - REPORT REQUIRED FOLLOWING ACCIDENT

The operator of every motor vehicle which is in any manner involved in an accident within this State, in which any person is killed or injured or in which damage to the property of any one person, including himself, in excess of $100 is sustained, shall within 10 days after such accident report the matter in writing to the Commissioner. Such report, the form of which shall be prescribed by the Commissioner, shall contain information to enable the Commissioner to determine whether the requirements for the deposit of

* Consideration should be given to the practice and procedure in each state.

security under Section 5 are inapplicable by reason of the existence of insurance or other exceptions specified in this Act. The Commissioner may rely upon the accuracy of the information unless and until he has reason to believe that the information is erroneous. If such operator be physically incapable of making such report, the owner of the motor vehicle involved in such accident shall, within 10 days after learning of the accident, make such report. The operator or the owner shall furnish such additional relevant information as the Commissioner shall require.

NOTE: In the event the law of the State enacting this Act already requires that the operator of a motor vehicle shall make written report of any traffic accident, such statute should be repealed.

SECTION 5 - SECURITY REQUIRED UNLESS EVIDENCE OF INSURANCE - WHEN SECURITY DETERMINED - SUSPENSION - EXCEPTIONS

(a) If 20 days after the receipt of a report of a motor vehicle accident within this State which has resulted in bodily injury or death, or damage to the property of any one person in excess of $100, the Commissioner does not have on file evidence satisfactory to him that the person who would otherwise be required to file security under Subsection (b) of this Section has been released from liability, or has been finally adjudicated not to be liable, or has executed a duly acknowledged written agreement providing for the payment of an agreed amount in installments with respect to all claims for injuries or damages resulting from the accident, the Commissioner shall determine the amount of security which shall be sufficient in his judgment to satisfy any judgment or judgments for damages resulting from such accident as may be recovered against each operator or owner.

(b) The Commissioner shall, within 60 days after the receipt of such report of a motor vehicle accident, suspend the license of each operator and all registrations of each owner of a motor vehicle in any manner involved in such accident, and if such operator is a non-resident the privilege of operating a motor vehicle within this State, and if such owner is a non-resident the privilege of the use within this State of any motor vehicle owned by him, unless such operator or owner or both shall deposit security in the sum so determined by the Commissioner; provided notice of uuch suspension shall be sent by the Commissioner to such operator and owner not less than 10 days prior to the effective date of such suspension and shall state the amount required as security. Where erroneous information is given the Commissioner with respect to the matters set forth in Subdivisions 1,2 or 3 of Subsection (c) of this Section, he shall take appropriate action as hereinbefore provided, within 60 days after receipt by him of correct information with respect to said matters.

(c) This Section shall not apply under the conditions stated in Section 6 nor:

1. to such operator or owner if such owner had in effect at the time of such accident an automobile liability policy with respect to the motor vehicle involved in such accident;

2. to such operator, if not the owner of such motor vehicle, if there was in effect at the time of such accident an automobile liability policy or bond with respect to his operation of motor vehicles not owned by him;

3. to such operator or owner if the liability of such operator or owner for damages resulting from such accident is, in the judgment of the Commissioner, covered by any other form of liability insurance policy or bond; nor

4. to any person qualifying as a self-insurer under Section 34, or to any person operating a motor vehicle for such self-insurer.

No such policy or bond shall be effective under this Section unless issued by an insurance company or surety company authorized to do business in this State, except that if such motor vehicle was not registered in this State, or was a motor vehicle which was registered elsewhere than in this State at the effective date of the policy or bond, or the most recent renewal thereof, such policy or bond shall not be effective under this Section unless the insurance company or surety company if not authorized to do business in this State shall execute a power of attorney authorizing the Commissioner to accept service on its behalf of notice or process in any action upon such policy or bond arising out of such accident; provided, however, every such policy or bond is subject, if the accident has resulted in bodily injury or death, to a limit, exclusive of interest and costs, of not less than $5,000 because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, to a limit of not less than $10,000 because of bodily injury to or death of two or more persons in any one accident, and, if the accident has resulted in injury to or destruction of property, to a limit of not less than $1,000 because of injury to or destruction of property of others in any one accident.

SECTION 6 - FURTHER EXCEPTIONS TO REQUIREMENT OF SECURITY

The requirements as to security and suspension in Section 5 shall not apply:

1. to the operator or the owner of a motor vehicle involved in an accident wherein no injury or damage was caused to the person or property of any one other than such operator or owner;

2. to the operator or the owner of a motor vehicle legally parked at the time of the accident;

3. to the owner of a motor vehicle if at the time of the accident the vehicle was being operated without his permission, express or implied, or was parked by a person who had been operating such motor vehicle without such permission; nor

4. if, prior to the date that the Commissioner would otherwise suspend license and registration or non-resident's operating privilege under Section 5, there shall be filed with the Commissioner evidence satisfactory to him that the person who would otherwise have to file security has been released from liability or been finally adjudicated not to be liable or has executed a duly acknowledged written agreement providing for the payment of an agreed amount in installments, with respect to all claims for injuries or damages resulting from the accident.

SECTION 7 - DURATION OF SUSPENSION

The license and registration and non-resident's operating privilege suspended as provided in Section 5 shall remain so suspended and shall not be renewed nor shall any such license or registration be issued to such person until:

1. such person shall deposit or there shall be deposited on his behalf the security required under Section 5; or

2. one year shall have elapsed following the date of such suspension and evidence satisfactory to the Commissioner has been filed with him that during such period no action for damages arising out of the accident has been instituted; or

3. evidence satisfactory to the Commissioner has been filed with him of a release from liability, or a final adjudication of non-liability, or a duly acknowledged written agreement, in accordance with Subdivision 4 of Section 6; provided, however, in the event there shall be any default in the payment of any installment under any duly acknowledged written agreement, then, upon notice of such default, the Commissioner shall forthwith suspend the license and registration or non-resident's operating privilege of such person defaulting which shall not be restored unless and until

   (1) such person deposits and thereafter maintains security as required under Section 5 in such amount as the Commissioner may then determine; or

(2) one year shall have elapsed following the date when such security was required and during such period no action upon such agreement has been instituted in a court in this state.

SECTION 8 - APPLICATION TO NON-RESIDENTS, UNLICENSED DRIVERS, UNREGISTERED MOTOR VEHICLES AND ACCIDENTS IN OTHER STATES

(a) In case the operator or the owner of a motor vehicle involved in an accident within this State has no license or registration, or is a non-resident, he shall not be allowed a license or registration until he has complied with the requirements of this Article to the same extent that would be necessary if, at the time of the accident, he had held a license and registration.

(b) When a non-resident's operating privilege is suspended pursuant to Section 5 or Section 7, the Commissioner shall transmit a certified copy of the record of such action to the official in charge of the issuance of licenses and registration certificates in the state in which such non-resident resides, if the law of such other state provides for action in relation thereto similar to that provided for in Subsection (c) of this Section.

(c) Upon receipt of such certification that the operating privilege of a resident of this State has been suspended or revoked in any such other state pursuant to a law providing for its suspension or revocation for failure to deposit security for the payment of judgments arising out of a motor vehicle accident, under circumstances which would require the Commissioner to suspend a non-resident's operating privilege had the accident occurred in this State, the Commissioner shall suspend the license of such resident if he was the operator, and all of his registrations if he was the owner of a motor vehicle involved in such accident. Such suspension shall continue until such resident furnishes evidence of his compliance with the law of such other state relating to the deposit of such security.

SECTION 9 - FORM AND AMOUNT OF SECURITY

The security required under this Article shall be in such form and in such amount as the Commissioner may require but in no case in excess of the limits specified in Section 5 in reference to the acceptable limits of a policy or bond. The person depositing security shall specify in writing the person or persons on whose behalf the deposit is made and, at any time while such deposit is in the custody of the Commissioner or State Treasurer, the person depositing it may, in writing, amend the specification of the person or persons on whose behalf the deposit is made to include an additional person or persons; provided, however, that a single deposit of security shall be applicable only on behalf of persons required to furnish security because of the same accident.

The Commissioner may reduce the amount of security ordered in any case within 6 months after the date of the accident if, in his judgment, the amount ordered is excessive. In case the security originally ordered has been deposited the excess deposited over the reduced amount ordered shall be returned to the depositor or his personal representative forthwith, notwithstanding the provisions of Section 10.

SECTION 10 - CUSTODY, DISPOSITION AND RETURN OF SECURITY

Security deposited in compliance with the requirements of this Article shall be placed by the Commissioner in the custody of the State Trearurer and shall be applicable only to the payment of a judgment or judgments rendered against the person or persons on whose behalf the deposit was made, for damages arising out of the accident in question in an action at law, begun not later than one year after the date of such accident, or within one year after the date of deposit of any security under Subdivision 3 of Section 7, or to the payment in settlement, agreed to by the depositor, of a claim or claims arising out of such accident. Such deposit or any balance thereof shall be returned to the depositor or his personal representative when evidence satisfactory to the Commissioner has been filed with him that there has been a release from liability, or a final adjudication of non-liability, or a duly acknowledged agreement, in accordance with Subdivision 4 of Section 6, or whenever, after the expiration of one year (1) from the date of the accident, or (2) from the date of any security under Subdivision 3 of Section 7, the Commissioner shall be given reasonable evidence that there is no such action pending and no judgment rendered in such action left unpaid.

SECTION 11 - MATTERS NOT TO BE EVIDENCE IN CIVIL SUITS

Neither the report required by Section 4, the action taken by the Commissioner pursuant to this Article, the findings, if any, of the Commissioner upon which such action is based, nor the security filed as provided in this Article shall be referred to in any way, nor be any evidence of the negligence or due care of either party, at the trial of any action at law to recover damages.

ARTICLE IV

PROOF OF FINANCIAL RESPONSIBILITY FOR THE FUTURE

SECTION 12 - COURTS TO REPORT NON-PAYMENT OF JUDGMENTS (AND CONVICTIONS)*

Whenever any person fails within 60 days to satisfy any judgment, upon the written request of the judgment creditor or his attorney it shall be the duty of the clerk of the court, or of the judge of a court which has no clerk, in which any such judgment is rendered within this State, to forward to the Commissioner immediately after the expiration of said 60 days, a certified copy of such judgment.

If the defendant named in any certified copy of a judgment reported to the Commissioner is a non-resident, the Commissioner shall transmit a certified copy of the judgment to the official in charge of the issuance of licenses and registration certificates of the state of which the defendant is a resident.

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* In any state where the drivers license law does not require the report of convictions, such provisions should be added here and title should include words "and convictions."

SECTION 13 - SUSPENSION FOR NON-PAYMENT OF JUDGMENT-EXCEPTIONS

(a) The Commissioner, upon the receipt of a certified copy of a judgment, shall forthwith suspend the license and registration and any non-resident's operating privilege of any person against whom such judgment was rendered, except as hereinafter otherwise provided in this Section and in Section 16.

(b) If the judgment creditor consents in writing, in such form as the Commissioner may prescribe, that the judgment debtor be allowed license and registration or non-resident's operating privilege, the same may be allowed by the Commissioner, in his discretion, for 6 months from the date of such consent and thereafter until such consent is revoked in writing notwithstanding default in the payment of such judgment, or of any installments thereof prescribed in Section 16, provided the judgment debtor furnishes proof of financial responsibility.

SECTION 14 - SUSPENSION TO CONTINUE UNTIL JUDGMENTS PAID AND PROOF GIVEN

Such license, registration and non-resident's operating privilege shall remain so suspended and shall not be renewed, nor shall any such license or registration be thereafter issued in the name of such person, including any such person not previously licensed, unless and until every such judgment is stayed, satisfied in full or to the extent hereinafter provided and until the said person gives proof of financial responsibility subject to the exemptions stated in Sections 13 and 16 of this Act.

A discharge in bankruptcy following the rendering of any such judgment shall not relieve the judgment debtor from any of the requirements of this Article.

SECTION 15 - PAYMENTS SUFFICIENT TO SATISFY REQUIREMENTS

Judgments herein referred to shall, for the purpose of this Act only, be deemed satisfied:

1. when $5,000 has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death or one person as the result of any one accident; or

2. when, subject to such limit of $5,000 because of bodily injury to or death of one person, the sum of $10,000 has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of two or more persons as the result of any one accident; or

3. when $1,000 has been credited upon any judgment or judgments rendered in excess of that amount because of injury to or destruction of property of others as a result of any one accident;

Provided, however, payments made in settlement of any claims because of bodily injury, death or property damage arising from a motor vehicle accident shall be credited in reduction of the amounts provided for in this Section.

SECTION 16 - INSTALLMENT PAYMENT OF JUDGMENTS - DEFAULT

(a) A judgment debtor upon due notice to the judgment creditor may apply to the Court in which such judgment was rendered for the privilege of paying such judgment in installments and the Court, in its discretion and without prejudice to any other legal remedies which the judgment creditor may have, may so order and fix the amounts and times of payment of the installments.

(b) The Commissioner shall not suspend a license, registration or a non-resident's operating privilege, and shall restore any license, registration or non-resident's operating privilege suspended following non-payment of a judgment, when the judgment debtor gives proof of financial responsibility and obtains such an order permitting the payment of such judgment in installments, and while the payment of any said installment is not in default.

(c) In the event the judgment debtor fails to pay any installment as specified by such order, then upon notice of such default, the Commissioner shall forthwith suspend the license, registration or non-resident's operating privilege of the judgment debtor until such judgment is satisfied, as provided in this Act.

SECTION 17 - PROOF REQUIRED UPON CERTAIN CONVICTIONS

(a) Whenever the Commissioner, under any law of this State, suspends or revokes the license of any person upon receiving record of a conviction or a forfeiture of bail, the Commissioner shall also suspend the registration for all motor vehicles registered in the name of such person, except that he shall not suspend such registration, unless otherwise required by law, if such person has previously given or shall immediately give and thereafter maintain proof of financial responsibility with respect to all motor vehicles registered by such person.

(b) Such license and registration shall remain suspended or revoked and shall not at any time thereafter be renewed nor shall any license be thereafter issued to such person, nor shall any motor vehicle be thereafter registered in the name of such person until permitted under the Motor Vehicle Laws of this State and not then unless and until he shall give and thereafter maintain proof of financial responsibility.

(c) If a person is not licensed, but by final order or judgment is convicted of or forfeits any bail or collateral deposited to secure an appearance for trial for any offense requiring the suspension or revocation of license, or for operating a motor vehicle upon the highways without being licensed to do so, or for operating an unregistered motor vehicle upon the highways, no license shall be thereafter issued to such person and no motor vehicle shall continue to be registered or thereafter be registered in the name of such person until he shall give and thereafter maintain proof of financial responsibility.

(d) Whenever the Commissioner suspends or revokes a non-resident's operating privilege by reason of a conviction or forfeiture of bail, such privilege shall remain so suspended or revoked unless such person shall have previously given or shall immediately give and thereafter maintain proof of financial responsibility.

SECTION 18 - ALTERNATE METHODS OF GIVING PROOF

Proof of financial responsibility when required under this Act with respect to a motor vehicle or with respect to a person who is not the owner of a motor vehicle may be given by filing:

1. a certificate of insurance as provided in Section 19 or Section 20; or

2. a bond as provided in Section 24; or

3. a certificate of deposit of money or securities as provided in Section 25; or

4. a certificate of self-insurance, as provided in Section 34, supplemented by an agreement by the self-insurer that, with respect to accidents occurring while the certificate is in force, he will pay the same judgments and in the same amounts that an insurer would have been obligated to pay under an owner's motor vehicle liability policy if it had issued such a policy to said self-insurer.

No motor vehicle shall be or continue to be registered in the name of any person required to file proof of financial responsibility unless such proof shall be furnished for such motor vehicle.

SECTION 19 - CERTIFICATE OF INSURANCE AS PROOF.

(a) Proof of financial responsibility may be furnished by filing with the Commissioner the written certificate of any insurance carrier duly authorized to do business in this State certifying that there is in effect a motor vehicle liability policy for the benefit of the person required to furnish proof of financial responsibility. Such certificate shall give the effective date of such motor vehicle liability policy, which date shall be the same as the effective date of the certificate, and shall designate by explicit description or by appropriate reference all motor vehicles covered thereby, unless the policy is issued to a person who is not the owner of a motor vehicle.

(b) No motor vehicle shall be or continue to be registered in the name of any person required to file proof of financial responsibility unless such motor vehicle is so designated in such a certificate.

SECTION 20 - CERTIFICATE FURNISHED BY NON-RESIDENT AS PROOF.

(a) The non-resident owner of a motor vehicle not registered in this State may give proof of financial responsibility by filing with the Commissioner a written certificate or certificates of an insurance carrier authorized to transact business in the state in which the motor vehicle or motor vehicles described in such certificate is registered, or if such non-resident does not own a motor vehicle, then in the state in which the insured resides, provided such certificate otherwise conforms to the provisions of this Act, and the Commissioner shall accept the same upon condition that said insurance carrier complies with the following provisions with respect to the policies so certified:

1. said insurance carrier shall execute a power of attorney authorizing the Commissioner to accept service on its behalf of notice or process in any action arising out of a motor vehicle accident in this State; and

2. said insurance carrier shall agree in writing that such policies shall be deemed to conform with the laws of this State relating to the terms of motor vehicle liability policies issued herein.

(b) If any insurance carrier not authorized to transact business in this State, which has qualified to furnish proof of financial responsibility, defaults in any said undertakings or agreements, the Commissioner shall not thereafter accept as proof any certificate of said carrier whether theretofore filed or thereafter tendered as proof, so long as such default continues.

SECTION 21 - "MOTOR VEHICLE LIABILITY POLICY" DEFINED.

(a) A "motor vehicle liability policy" as said term is used in this Act shall mean an owner's or an operator's policy of liability insurance, certified as provided in Section 19 or Section 20 as proof of financial responsibility, and issued, except as otherwise provided in Section 20, by an insurance carrier duly authorized to transact business in this State, to or for the benefit of the person named therein as insured.

(b) Such owner's policy of liability insurance:

1. shall designate by explicit description or by appropriate reference all motor vehicles with respect to which coverage is thereby to be granted; and

2. shall insure the person named therein and any other person, as insured, using any such motor vehicle or motor vehicles with the express or implied permission of such named insured, against loss from the liability imposed by law for damages arising out of the ownership, maintenance or use of such motor vehicle or motor vehicles within the United States of America or the Dominion of Canada, subject to limits exclusive of interest and costs, with respect to each such motor vehicle, as follows: $5,000 because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, $10,000 because of bodily injury to or death of two or more persons in any one accident, and $1,000 because of injury to or destruction of property of others in any one accident.

(c) Such operator's policy of liability insurance shall insure the person named as insured therein against loss from the liability imposed upon him by law for damages arising out of the use by him of any motor vehicle not owned by him, within the same territorial limits and subject to the same limits of liability as are set forth above with respect to an owner's policy of liability insurance.

(d) Such motor vehicle liability policy shall state the name and address of the named insured, the coverage afforded by the policy, the premium charged therefor, the policy period and the limits of liability, and shall contain an agreement or be endorsed that insurance is provided thereunder in accordance with the coverage defined in this Act as respects bodily injury and death or property damage, or both, and is subject to all the provisions of this Act.

(e) Such motor vehicle liability policy need not insure any liability under any Workmen's Compensation Law nor any liability on account of bodily injury to or death of an employee of the insured while engaged in the employment, other than domestic, of the insured, or while engaged in the operation, maintenance or repair of any such motor vehicle nor any liability for damage to property owned by, rented to, in charge of or transported by the insured.

(f) Every motor vehicle liability policy shall be subject to the following provisions which need not be contained therein:

1. the liability of the insurance carrier with respect to the insurance required by this Act shall become absolute whenever injury or damage covered by said motor vehicle liability policy occurs; said policy may not be cancelled or annulled as to such liability by any agreement between the insurance carrier and the insured after the occurrence of the injury or damage; no statement made by the insured or on his behalf and no violation of said policy shall defeat or void said policy;

2. the satisfaction by the insured of a judgment for such injury or damage shall not be a condition precedent to the right or duty of the insurance carrier to make payment on account of such injury or damage;

3. the insurance carrier shall have the right to settle any claim covered by the policy, and if such settlement is made in good faith, the amount thereof shall be deductible from the limits of liability specified in Subdivision 2 of Subsection (b) of this Section;

4. the policy, the written application therefor, if any, and any rider or endorsement which does not conflict with the provisions of the Act shall constitute the entire contract between the parties.

(g) Any policy which grants the coverage required for a motor vehicle liability policy may also grant any lawful coverage in excess of or in addition to the coverage specified for a motor vehicle liability policy and such excess or additional coverage shall not be subject to the provisions of this Act. With respect to a policy which grants such excess or additional coverage the term "motor vehicle liability policy" shall apply only to that part of the coverage which is required by this Section.

(h) Any motor vehicle liability policy may provide that the insured shall reimburse the insurance carrier for any payment the insurance carrier would not have been obligated to make under the terms of the policy except for the provisions of this Act.

(i) Any motor vehicle liability policy may provide for the prorating of the insurance thereunder with other valid and collectible insurance.

(j) The requirements for a motor vehicle liability policy may be fulfilled by the policies of one or more insurance carriers which policies together meet such requirements.

(k) Any binder issued pending the issuance of a motor vehicle liability policy shall be deemed to fulfill the requirements for such a policy.

SECTION 22 - NOTICE OF CANCELLATION OR TERMINATION OF CERTIFIED POLICY.

When an insurance carrier has certified a motor vehicle liability policy under Section 19 or a policy under Section 20, the insurance so certified shall not be cancelled or terminated until at least ten days after a notice of cancellation or termination of the insurance so certified shall be filed in the office of the Commissioner, except that such a policy subsequently procured and certified shall, on the effective date of its certification, terminate the insurance previously certified with respect to any motor vehicle designated in both certificates.

SECTION 23 - ACT NOT TO AFFECT OTHER POLICIES.

(a) This Act shall not be held to apply to or affect policies of automobile insurance against liability which may now or hereafter be required by any other law of this State, and such policies, if they contain an agreement or are endorsed to conform to the requirements of this Act, may be certified as proof of financial responsibility under this Act.

(b) This Act shall not be held to apply to or affect policies insuring solely the insured named in the policy against liability resulting from the maintenance or use by persons in the insured's employ or on his behalf of motor vehicles not owned by the insured.

SECTION 24 - BOND AS PROOF.

(a) Proof of financial responsibility may be furnished by filing with the Commissioner the bond of a surety company duly authorized to transact business in the State, or a bond with at least two individual sureties each owning real estate within this State, and together having equities equal in value to at least twice the amount of such bond, which real estate shall be

scheduled in the bond approved by a judge of a court of record. Such bond shall be conditioned for payments in amounts and under the same circumstances as would be required in a motor vehicle liability policy, and shall not be cancelable except after ten days' written notice to the Commissioner. Upon the filing of notice to such effect by the Commissioner in the office of the proper clerk or court of the county or city where such real estate shall be located, such bond shall constitute a lien in favor of the State upon the real estate so scheduled of any surety, which lien shall exist in favor of any holder of a judgment against the person who has filed such bond.

(Here add provisions, in conformity with local practice, to regulate the recording of such liens.)

(b) If such a judgment, rendered against the principal on such bond shall not be satisfied within sixty days after it has become final, the judgment creditor may, for his own use and benefit and at his sole expense, bring an action or actions in the name of the State against the company or persons executing such bond, including an action or proceeding to foreclose any lien that may exist upon the real estate of a person who has executed such bond.

(Here add provisions, in conformity with local practice, to fix the procedure for foreclosure of such liens.)

SECTION 25 - MONEY OR SECURITIES AS PROOF.

(a) Proof of financial responsibility may be evidenced by the certificate of the State Treasurer that the person named therein has deposited with him $11,000 in cash, or securities such as may legally be purchased by savings banks or for trust funds of a marked value of $11,000. The State Treasurer shall not accept any such deposit and issue a certificate therefor and the Commissioner shall not accept such certificate unless accompanied by evidence that there are no unsatisfied judgments of any character against the depositor in the county where the depositor resides.

(b) Such deposit shall be held by the State Treasurer to satisfy, in accordance with the provisions of this Act, any execution on a judgment issued against such person making the deposit, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, resulting from the ownership, maintenance, use or operation of a motor vehicle after such deposit was made. Money or securities so deposited shall not be subject to attachment or execution unless such attachment or execution shall arise out of a suit for damages as aforesaid.

SECTION 26 - OWNER MAY GIVE PROOF FOR OTHERS.

Whenever any person required to give proof of financial responsibility hereunder is or later becomes an operator in the employ of any owner, or is or later becomes a member of the immediate family or household of the owner, the Commissioner shall accept proof given by such owner in lieu of proof by such other person to permit such other person to operate a motor vehicle for which the owner has given proof as herein provided. The Commissioner shall designate the restrictions imposed by this Section on the face of such person's license.

SECTION 27 - SUBSTITUTION OF PROOF.

The Commissioner shall consent to the cancellation of any bond or certificate of insurance or the Commissioner shall direct and the State Treasurer shall return any money or securities to the person entitled thereto upon the substitution and acceptance of other adequate proof of financial responsibility pursuant to this Act.

SECTION 28 - OTHER PROOF MAY BE REQUIRED.

Whenever any proof of financial responsibility filed under the provisions of this Act no longer fulfills the purposes for which required, the Commissioner shall for the purpose of this Act, require other proof as required by this Act and shall suspend the license and registration or the non-resident's operating privilege pending the filing of such other proof.

SECTION 29 - DURATION OF PROOF -- WHEN PROOF MAY BE CANCELLED OR RETURNED.

The Commissioner shall upon request consent to the immediate cancellation of any bond or certificate of insurance, or the Commissioner shall direct and the State Treasurer shall return to the person entitled thereto any money or securities deposited pursuant to this Act as proof of financial responsibility, or the Commissioner shall waive the requirement of filing proof, in any of the following events:

1. at any time after three years from the date such proof was required when, during the three-year period preceding the request, the Commissioner has not received record of a conviction or a forfeiture of bail which would require or permit the suspension or revocation of the license, registration or non-resident's operating privilege of the person by or for whom such proof was furnished; or

2. in the event of the death of the person on whose behalf such proof was filed or the permanent incapacity of such person to operate a motor vehicle; or

3. in the event the person who has given proof surrenders his license and registration to the Commissioner;

Provided, however, that the Commissioner shall not consent to the cancellation of any bond or the return of any money or securities in the event any action for damages upon a liability covered by such proof is then pending or any judgment upon any such liability is then unsatisfied or in the event the person who has filed such bond or deposited such money or securities, has, within one year immediately preceding such request been involved as an operator or owner in any motor vehicle accident resulting in injury or damage to the person or property of others. An affidavit of the applicant as to the non-existence of such facts, or that he has been released from all of his liability, or has been finally adjudicated not to be liable, for such injury or damage, shall be sufficient evidence thereof in the absence of evidence to the contrary in the records of the Commissioner.

Whenever any person whose proof has been cancelled or returned under Subdivision 3 of this Section applies for a license or registration within a period of three years from the date proof was originally required, any such application shall be refused unless the applicant shall re-establish such proof for the remainder of such three-year period.

ARTICLE V

VIOLATION OF PROVISIONS OF ACT - PENALTIES

SECTION 30 - TRANSFER OF REGISTRATION TO DEFEAT PURPOSE OF ACT PROHIBITED.

If an owner's registration has been suspended hereunder, such registration shall not be transferred nor the motor vehicle in respect of which such registration was issued registered in any other name until the Commissioner is satisfied that such transfer of registration is proposed in good faith and not for the purpose or with the effect of defeating the purposes of this Act. Nothing in this Section shall in any wise affect the rights of any conditional vendor, chattel mortgagee or lessor of a motor vehicle registered in the name of another as owner who becomes subject to the provisions of this Section.

SECTION 31 - SURRENDER OF LICENSE AND REGISTRATION.

Any person whose license or registration shall have been suspended as herein provided, or whose policy of insurance or bond, when required under this Act, shall have been cancelled or terminated, or who shall neglect to furnish other proof upon request of the Commissioner shall immediately return his license and registration to the Commissioner. If any person shall fail to return to the

Commissioner the license or registration as provided herein, the Commissioner shall forthwith direct any peace officer to secure possession thereof and to return the same to the Commission.

SECTION 32 - OTHER VIOLATIONS - PENALTIES.

(a) Failure to report an accident as required in Section 4 shall be punished by a fine not in excess of $25, and in the event of injury or damage to the person or property of another in such accident, the Commissioner shall suspend the license of the person failing to make such report, or the non-resident's operating privilege of such person, until such report has been filed and for such further period not to exceed thirty days as the Commissioner may fix.

(b) Any person who gives information required in a report or otherwise as provided for in Section 4, knowing or having reason to believe that such information is false, or who shall forge or, without authority, sign any evidence of proof of financial responsibility, or who files or offers for filing any such evidence of proof knowing or having reason to believe that it is forged or signed without authority, shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

(c) Any person whose license or registration or non-resident's operating privilege has been suspended or revoked under this Act and who, during such suspension or revocation drives any motor vehicle upon any highway or knowingly permits any motor vehicle owned by such person to be operated by another upon any highway, except as permitted under this Act, shall be fined not more than $500 or imprisoned not exceeding six months, or both.

(d) Any person willfully failing to return license or registration as required in Section 31 shall be fined not more than $500 or imprisoned not to exceed thirty days, or both.

(e) Any person who shall violate any provision of this Act for which no penalty is otherwise provided shall be fined not more than $500 or imprisoned not more than ninety days, or both.

(If the penalties in Subsections (c), (d) or (e) exceed the maximum permitted penalties for misdemeanors in the enacting state, the section should be revised to conform with local requirements.)

ARTICLE VI

GENERAL PROVISIONS

SECTION 33 - EXCEPTIONS.

This Act shall not apply with respect to any motor vehicle owned by the United States, this State or any political subdivision of this State or any municipality therein; nor, except

for Sections 4 and 26 of this Act, with respect to any motor vehicle which is subject to the requirements of (insert reference to provisions of the existing law requiring insurance or other security on certain types of vehicles).

SECTION 34 - SELF-INSURERS.

(a) Any person in whose name more than twenty-five motor vehicles are registered may qualify as a self-insurer by obtaining a certificate of self-insurance issued by the Commissioner as provided in Subsection (b) of this Section.

(b) The Commissioner may, in his discretion, upon the application of such a person, issue a certificate of self-insurance when he is satisfied that such person is possessed and will continue to be possessed of ability to pay judgments obtained against such person.

(c) Upon not less than five days' notice and a hearing pursuant to such notice, the Commissioner may upon reasonable grounds cancel a certificate of self-insurance. Failure to pay any judgment within thirty days after such judgment shall have become final shall constitute a reasonable ground for the cancellation of a certificate of self-insurance.

SECTION 35 - ASSIGNED RISK PLANS.

After consultation with insurance companies authorized to issue automobile liability policies in this state, the (Insurance Commissioner)* shall approve a reasonable plan or plans for the equitable apportionment among such companies of applicants for such policies and for motor vehicle liability policies who are in good faith entitled to but are unable to procure such policies through ordinary methods. When any such plan has been approved, all such insurance companies shall subscribe thereto and participate therein. Any applicant for any such policy, any person insured under any such plan, and any insurance company affected, may appeal to the (Insurance Commissioner)* from any ruling or decision of the manager or committee designated to operate such plan. Any person aggrieved hereunder by any order or act of the (Insurance Commissioner)* may, within ten days after notice thereof, file a petition in the (....) court of the County of (....) for a review thereof. The court shall summarily hear the petition and may make any appropriate order or decree.

* Insert proper title of State officer in charge of the administration of the general insurance laws.

(Alternative No. 1)

SECTION 36 - ACT SUPPLEMENTAL TO (MOTOR VEHICLE LAWS.)

This Act shall in no respect be considered as a repeal of the (State Motor Vehicle Laws) but shall be construed as supplemental thereto.

(The above Section should appear in the statute if the enacting state has not theretofore had in force a Safety-Responsibility Law)

(Alternative No. 2)

SECTION 36 - REPEAL OF EXISTING LAWS.

This Act shall in no respect be considered as a repeal of the (State Motor Vehicle Laws) but shall be construed as supplemental thereto.

The (existing Motor Vehicle Safety Responsibility Act) is hereby repealed except with respect to any accident, or judgment arising therefrom, or violation of the motor vehicle laws of this State, occurring prior to the effective date of this Act.

(The above Section should appear in the statute if the enacting state has theretofore had in force a Safety-Responsibility Law)

SECTION 37 - PAST APPLICATION OF ACT.

This Act shall not apply with respect to any accident, or judgment arising therefrom, or violation of the motor vehicle laws of this State, occurring prior to the effective date of this Act.

SECTION 38 - ACT NOT TO PREVENT OTHER PROCESS.

Nothing in this Act shall be construed as preventing the plaintiff in any action at law from relying for relief upon the other processes provided by law.

SECTION 39 - UNIFORMITY OF INTERPRETATION.

This Act shall be so interpreted and construed as to effectuate its general purpose to make uniform the laws of those states which enact it.

SECTION 40 - CONSTITUTIONALITY

If any part or parts of this Act shall be held unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this Act. The legislature hereby declares that it would have passed the remaining parts of this Act if it had known that such part or parts thereof would be declared unconstitutional.

SECTION 41 - TITLE OF ACT.

This Act may be cited as the Motor Vehicle Safety-Responsibility Act.

SECTION 42 - EFFECTIVE DATE OF ACT.

This Act shall take effect the day of , 19

June, 1950

APPENDIX B

INDEMNITY PAYMENTS UNDER SASKATCHEWAN PLAN

Both hands by severance at or above the wrists	$2,000.00
Both feet by severance at or above the ankles	$2,000.00
One hand at or above the wrist and one foot at or above the ankle, by severance	$2,000.00
Entire sight of both eyes, if irrecoverably lost	$2,000.00
Entire sight of one eye, if irrecoverably lost, and one hand at or above the wrist by severance	$2,000.00
Entire sight of one eye, if irrecoverably lost, and one foot at or above the ankle by severance	$2,000.00
One arm by severance at or above the elbow	$1,350.00
One leg by severance at or above the knee	$1,350.00
Either hand by severance at or above the wrist	$1,000.00
Either foot by severance at or above the ankle	$1,000.00
Entire sight of one eye if irrecoverably lost	$1,000.00
Thumb and index finger of either hand at or above the metacarpo-phalangeal joints	$ 500.00
Thumb of either hand at or above the metacarpo-phalangeal joints	$ 250.00

APPENDIX C

OPINION OF COLORADO ATTORNEY GENERAL'S OFFICE ON VALIDITY OF IMPOUNDMENT ACT IN COLORADO

DUKE W. DUNBAR
ATTORNEY GENERAL

The State of Colorado

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL
DENVER 2

FRANK A. WACHOB
DEPUTY ATTORNEY GENERAL
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WILBUR M. PRYOR, JR.
DONALD B. ROBERTSON
WILBUR ROCCHIO
WENDELL P. SAYERS
WILLIAM T. SECOR
NEIL TASHER
ROBERT S. WHAM
HENRY E. ZARLENGO
ASSISTANT ATTORNEYS GENERAL

November 9, 1954

Mr. Harry S. Allen
Senior Research Analyst
Legislative Counsel
State Capitol Building
Denver, Colorado

Dear Mr. Allen:

Receipt is acknowledged of your request for an opinion concerning the existence of statutory or constitutional provisions which would prevent the passage of an impoundment act, which act would force local peace officers to impound motor vehicles involved in an accident without regard to eventual fault or liability.

Since the meeting with the sub-committee on insurance of the legislative counsel, this office has attempted to research the matter requested in your letter. So far as we are advised, no impoundment statute is in force in the United States. One such statute failed of passage in the New York legislature. We are further informed that an impoundment statute is in existence in Manitoba, Canada and in modified form in several other provinces.

The validity of an impoundment statute would rest upon the police power of the State to prescribe rules and regulations for the use of its highway. Under a properly drafted law and favorable fact situation that type statute might be sustained. However, it certainly would be subject to attack on the basis of the statute being a deprivation of property without due process of law. Whether such attack would be successful would depend upon the fact situation arising at the time of challenge and the wording of the statute itself.

Presumably the acts of the legislature are valid unless they conflict with an express or implied restriction of the State or Federal Constitution. The validity of an exercise of a police power is tested upon the basis of reasonableness thereof. Such reasonableness would have a definite influence on the question of whether the restrictions imposed on the bill of rights were valid.

Since this office has not been presented with a copy of the proposed impoundment statute, it is impossible to determine the constitutionality of a specific law. The wisdom of such statute, of course, is a question of policy for the legislative branch of government. However, in the absence of authority on the subject, it is not deemed advisable to state categorically that such statute would be valid or invalid.

Very truly yours,

DWD-OLG-b

DUKE W. DUNBAR
Attorney General

APPENDIX D

IMPOUNDMENT ACT PROPOSED IN NEW YORK LEGISLATURE 1954

From
The Legislative Index Company
Albany 10, N.Y.

January 20, 1954

Int. No. 626 IN SENATE By Mr. Peterson
(Same As A. Int. 841) AN ACT

to Amend the vhicle and traffic law, the uniform conditional sales law and the lien law, in relation to providing for the impoundment of certain motor vehicles involved in accidents.

Section 1. The vehicle and traffic law is hereby amended by inserting therein a new section to be section ninety-four-oo, to read as follows:

§ 94-oo. Impoundment. (a) Any motor vehicle in any manner involved in an accident, with respect to which the commissioner is required to suspend the registration certificate and registration plates under section ninety-four-e or the operating privileges of a non-resident motor vehicle owner or operator under section ninety-four-i, shall be subject to impoundment immediately after such accident. Except as provided in subdivision (d) and (f) of this section, the owner of each such motor vehicle or his representative shall within forty-eight hours after the accident cause such motor vehicle to be stored at the expense of the owner, in such private or public garage or storage place in this state as the owner or his representative may select and shall continue such storage for such period of time as is provided in this section. Such storage shall constitute "impoundment" within the meaning of this section. So long as the impoundment is in force no person shall remove the impounded vehicle or permit it to be removed from its place of impoundment except upon the order of the commissioner.

(b) Immediately following the commencement of the impoundment such owner or his representative shall forthwith:

1. Notify the commissioner in writing of the street address and city or municipality where said motor vehicle is stored, and

2. If the owner is a resident of this state, return the registration certificate and registration plates with respect to such motor vehicle to the commissioner.

If the owner or his representative fails to return such registration certificate and registration plates the commissioner is authorized to take possession thereof and to return the same to the office of the commissioner.

(c) The impoundment shall continue until the owner or operator (or chauffeur) of such motor vehicle, or both, shall furnish security required under section ninety-four-e or ninety-four-i; provided that such impoundment shall not be operative pending the determination by the commissioner of the amount of security to be required if security in the sum of five hundred dollars is furnished in the event of an accident which has resulted in bodily injury or death and in the sum of one hundred dollars in the event of an accident which has resulted in damage to property and such security shall be subject to all the provisions of section ninety-four-e (c).

(d) If repairs to a motor vehicle subject to impoundment are necessary and immediately desired by the owner, the owner may, notwithstanding the provisions of subdivision (a), cause such motor vehicle to be taken to such repair shop or garage as he may select for the purpose of having it repaired. Upon completion of such repairs, such motor vehicle shall be impounded as provided in subdivision (a).

Where the commissioner is satisfied by a certificate signed by a qualified mechanic or by such other written or documentary evidence as he deems sufficient, that any motor vehicle is so damaged that it is impracticable to restore it to operable condition, he may, upon such conditions as he deems proper, consent to the release of such motor vehicle from the requirement of impoundment.

(e) The commissioner shall order the release of the motor vehicle from impoundment, and if the term for which the registration certificate and registration plates surrendered to the commissioner has not expired, shall return such certificate and plates to the woner, when

(1) security has been furnished in accordance with the requirements of this article, or

(2) the owner has obtained a release or a final judgment in his favor has been rendered in an action at law to recover damages resulting from the accident, or

(3) any judement against the owner or operator in any such action has been satisfied in the manner in this article provided, or

(4) one year has elapsed since the date of the accident and no notice has been given to the commissioner, on a form prescribed by him, of the instituion of any action against such owner to recover damages because of such accident, or

(5) a judgment has been rendered against the owner and the motor vehicle has not, within sixty days from the date the judgment became final, been seized under an execution issued on such judgment.

(f) Upon receipt of notice of an accident involving a motor vehicle owned by a non-resident of this state which may require the commissioner to take action under section ninety-four-i, the commissioner shall notify the motor vehicle commissioner or other officer performing the functions of a commissioner of the state in which non-resident resides, of the occurrence of such accident, if the law of such other state provides for action similar to that provided for in this subdivision. The owner of such vehicle shall not be required to impound such vehicle in this state provided it shall be removed from the state within forty-eight hours after the accident, or within forty-eight hours after necessary repairs thereto are completed.

A resident of this state owning a motor vehicle involved in an accident in another state and with respect to which a motor vehicle commissioner or other officer thereof may be required to suspend operating privileges, shall impound such motor vehicle in this state within forty-eight hours after the vehicle is returned to this state and such resident shall comply with subdivision (b) of this section, if the law of such other state provides for action similar to that provided for in this subdivision. Such impoundment shall continue until such motor vehicle is ordered released by the commissioner upon a showing that the owner is entitled to a release thereof in accordance witht the provisions of the law of such other state.

(g) If a judgement has been recovered in an action against the owner of the motor vehicle impounded pursuant to this section and the motor vehicle has been seized under an execution issued pursuant thereto, the commissioner shall order the motor vehicle to be released to the person making the seizure.

(h) No owner, including a purchaser under a conditional sales contract, of a motor vehicle subject to impoundment hereunder shall transfer title to said motor vehicle nor his interest therein unless he furnishes to the commissioner security in an amount which the commissioner is satisfied is equivalent to the value of said vehicle or his interest therein, but not exceeding the amount of security fixed by the commissioner under this article.

(i) Nothin herein contained shall affect the rights or remedies of any persons holding prior valid liens on impounded vehicles, including the right to take possession; provided, that such persons shall, after the sales of such vehicles for the satisfaction of any liens thereon, remit to the commissioner as deposits of security under this article on behalf of the former owner or purchasers of such vehicles any sums which such owners or purchasers would otherwise be entitled to receive to the extent of the required deposits.

(j) Any person who violates any of the provisions of this section shall be guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars and not more than one thousand dollars for each offense or by imprisonment for not more than ninety days, or both,

Section 2. Section eighty-a of the uniform conditional sales law, as added by chapter six hundred and forty-two of the laws of nineteen hundred twenty-two, and last amended by chapter eight hundred and sixty-one of the laws of nineteen hundred forty-one, is hereby amended to read as follows:

§ 80-a. Proceeds of resale. The proceeds of the resale shall be applied (1) to the payment of the expenses thereof, (2) to the payment of any expenses of retaking, keeping and storing the goods, to which the seller may be entitled, (3) to the satisfaction of the balance due uner the contract. Any sum remaining after the satisfaction of such claims shall be paid to the buyer[.] (NEW MATTER BEGINS HERE) , provided, however, where the property sold is a motor vehicle, impounded pursuant to section ninety-four-oo of the vehicle and traffic law, such remaining sum shall be delivered to the commissioner of motor vehicles as a deposit of security on behalf of the buyer, to the extent of the required deposit.(NEW MATTER ENDS HERE)

Section 3. Section two hundred four of the lien law is hereby amended to read as follows:

§ 204. Disposition of proceeds. Of the proceeds of such sale, the lienor shall retain an amount sufficient to satisfy his lien, and the expenses of advertisement and sale. The balance of such proceeds, if any, shall be held by the lienor subject to the demand of the owner, or his assignee or legal representative, and a notice that such balance is so held shall be served personally or by mail upon the owner of the property sold [.] (NEW MATTER BEGINS HERE) , provided, however, that where the property sold is a motor vehicle impounded pursuant to section ninety-four-oo of the motor vehicle and traffic law, such balance shall be held by the lienor subject to the demand of the commissioner of motor vehicles, instead of the owner, as a deposit of secuirty of motor vehicles, instead of the owner, as a deposit of security on behalf of the owner and a notice that such balance is so held shall be served personally or by mail upon said commissioner. (NEW MATTER ENDS HERE) If such balance is not claimed by the owner or his assignee or legal representative or the commissioner of motor vehicles, within thirty days from the day of sale, such balance shall be deposited with the treasurer or chamberlain of the city or village, or the supervisor of the town, where such sale was held. There shall be filed with such deposit, the affidavit of the lienor, stating the name and place of residence of the owner of the property sold, if known, the articles sold, the prices obtained therefor, that the notice required by this article was duly served and how served upon such owner, and that such sale was legally and how advertised. There shall also be filed therewith a copy of the notice served upon the owner of the property and the notice of sale published or posted as required by this article. The officer with whom such balance is deposited shall credit the same to the owner of the property, and pay the same to such owner, his assignee or legal representative, on demand and satisfactory evidence of identity. If such balance remains in the possession of such officer for a period of five years, unclaimed by the person legally entitled thereto, it shall be transferred to the general funds of the town, village or city, and be applied and used as other moneys belonging to such town, village or city.

Section 4. Section two hundred eight of such law is hereby amended to read as follows:

§208. Judgment. In an action brought in a court specified in the last section, final judgment, in favor of the plaintiff, must specify the amount of the lien, and direct a sale of the chattel to satisfy the same and the costs, if any, by a referee appointed thereby, or an officer designated therein, in like manner as where a sheriff sells personal property by virtue of an execution; and the application by him of the proceeds of the sale, less his fees and expenses, to the payment of the amount of the lien, and the costs of the action. It must also provide for the payment of the surplus to the owner of the chattel, and for the safe keeping of the surplus, if necessary, until it is claimed by him [.] (NEW MATTER BEGINS HERE) provided, however, that where the chattel is a motor vehicle impounded pursuant to section ninety-four-oo of the vehicle and traffic law, it must provide for delivery of such surplus to the commissioner fo motor vehicles as a deposit of security on behalf of the mortgagor, to the extent of the required deposit. (NEW MATTER ENDS HERE) If a defendant, upon whom the summons is personally served, is liable for the amount of the lien, or for any part thereof, it may also award payment accordingly.

Section 5. This act shall take effect July first, nineteen hundred fifty-four.

Referred to Motor Vehicle Committee.

***** means same as old law
[ ] means old matter omitted
_____ means new matter

D.