

# MAINE STATE LEGISLATURE

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# **THE UNINSURED MOTORIST**

Report of a Study by the  
JOINT STANDING COMMITTEE ON BUSINESS LEGISLATION  
to the  
111th Maine Legislature  
January, 1984

## **Study Subcommittee:**

Sen. Nancy Randall Clark, Chair  
Rep. Joseph C. Brannigan, Chair  
Rep. Lionel Conary  
Rep. Mary H. MacBride  
Rep. Alfred W. Perkins  
Rep. Roger M. Pouliot  
Rep. John Telow

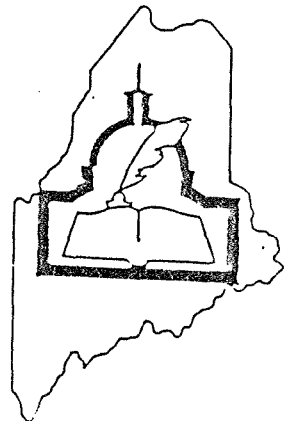
## **Additional Members of the Full Committee:**

Sen. Richard Charette  
Sen. Charlotte Zahn Sewall  
Rep. Hilda C. Martin  
Rep. Robert Murray, Jr.  
Rep. Norman O. Racine  
Rep. Patricia Stevens

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REPORT OF THE  
JOINT STANDING COMMITTEE ON BUSINESS LEGISLATION  
STUDY OF AUTOMOBILE INSURANCE

During the First Regular Session of the 111th Maine Legislature, two bills were introduced which called for compulsory liability insurance coverage of all motor vehicles principally garaged or required to be registered in this State.<sup>1</sup> Both of these bills received a public hearing on February 3, 1983.

At subsequent work sessions and committee discussions, it became apparent that the compulsory liability insurance issue presented a recurrent and difficult issue, which might best be addressed through a study in the 1983 interim. The committee report on each bill was "Leave to Withdraw," and those reports were accepted. At the same time, the committee submitted a request to the Legislative Council for authority to conduct an interim study of this issue, pursuant to study request procedures prescribed by the Council. A copy of the study request is attached as Appendix A.

The following members of the committee were designated to serve as the study subcommittee:

Sen. Nancy Randall Clark, Senate Chair	Rep. Lionel H. Conary
Rep. Joseph C. Brannigan, House Chair	Rep. Mary H. MacBride
	Rep. Alfred W. Perkins
	Rep. Roger M. Pouliot
	Rep. John Telow

Members of the study subcommittee met at the State House in Augusta on two occasions: Wednesday, September 21, and Monday, November 14, 1982. While the meetings were not widely publicized, they were well attended by representatives of the insurance industry, insurance agents and the regulatory agencies concerned. Consumer input came primarily from personal contacts between legislators and constituents and correspondence.

The subcommittee decided upon recommendations, including recommending introduction of two pieces of legislation. The report and draft legislation were submitted for a vote of the full committee.

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<sup>1</sup>H.P. 119, L.D. 127, "AN ACT Concerning Mandatory Motor Vehicle Liability Insurance," (MacBride, Conners, P. Paradis and Charette), and H.P. 146, L.D. 154, "AN ACT to Require Financial Responsibility and Insurance be Provided before being Permitted to Operate a Motor Vehicle," (Foster, Swazey).

"In our hospitals can be found the injured and disabled men, women and children, some hopelessly crippled for the remainder of their lives through no fault of their own, attempting to endure the physical tortures of maimed and broken bodies. Law-abiding citizens properly using the highways, often themselves bearing the cost of liability insurance from which others may benefit, are subjected to financial loss, through the careless or wilful misconduct of some less responsible motorist. Until a means is found of eliminating, or substantially reducing, the accidents now so prevalent, we submit that every reasonable measure should be adopted to facilitate financial redress for the victims of the reckless drivers on our roads."

-- Majority Report, Recess Committee on Compulsory Liability Insurance for Motor Vehicles, 88th Maine Legislature (1937).

## I. History

The problems of personal injury and property damage arising out of the negligent operation of motor vehicles have no doubt existed since the advent of the automobile. In recognition of the economic devastation that might follow an automobile accident the first automobile liability insurance policy was issued in 1898.<sup>2</sup>

Liability insurance is designed to protect the owner or operator of a motor vehicle from the economic loss he or she may suffer as a result of being found liable for injury or damage to another. Nonetheless, automobile liability insurance does provide some protection from economic loss which might otherwise be suffered by the innocent victim of an insured motorist.

The remaining and persistent problem has been the injuries and losses suffered by victims of uninsured motorists. As early as 1925, the Commonwealth of Massachusetts responded to this problem by enacting a law requiring all motor vehicle owners to carry liability insurance covering death or personal injury.<sup>3</sup> A different approach was taken in the early financial responsibility laws enacted elsewhere during the same period - in Connecticut in 1926; in Minnesota, New Hampshire, Rhode Island and Vermont in 1927.<sup>4</sup> Following the creation of a "model" financial responsibility, or "Safety-Responsibility Bill," by the American Automobile Association (AAA) in 1928, and its revision in 1930, financial responsibility laws gained wide and ultimately universal ac-

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<sup>2</sup>J. Gudmundsen, Insurance Industry Committee for the New York Insurance Department Centennial, In the Public Interest: One Hundred Years of Insurance Supervision in New York State (January 1960), p.21.

<sup>3</sup>Massachusetts Senate Report No. 466 (January, 1959).

<sup>4</sup>P.T. Sherman, Assn. of Casualty and Surety Executives, Comments on "Report by the Committee to Study Compensation for Automobile Accidents to the Columbia University Council for Research in the Social Sciences", (February 1, 1932) (New York: August, 1932), p. 14.

ceptance in the U.S. and Canada.

Maine was also among the states enacting a proof of financial responsibility law in 1927. Chapter 210 of the Public Laws of 1927 was approved on April 15, 1927, to become effective January 1, 1928.

In the 87th Maine Legislature, in 1935, a bill was introduced which would have instituted a program of compulsory automobile liability insurance in Maine.<sup>5</sup> The Judiciary Committee, on a divided report, presented a new draft of the bill with the same title.<sup>6</sup> Accepted in the House, this measure was defeated in the Senate, and a committee of conference initiated a resolve which created a recess committee to consider the issue further.<sup>7</sup>

The reports of the Recess Committee on Compulsory Liability Insurance for Motor Vehicles were presented to the 88th Maine Legislature in February, 1937.<sup>8</sup> The bill included in the majority report of that committee, requiring coverage for death or personal injury but not for property damage, was defeated.

In subsequent years there was further study of the compulsory liability insurance issue,<sup>9</sup> and more proposals for such a system. Between the convening of the 90th Legislature in 1941 and the current time, there have been at least 14 such proposals, including two during the First Regular Session of the 111th Legislature.<sup>10</sup>

The Maine Legislature has not sought to address this issue solely from the perspective of compulsory liability insurance.

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<sup>5</sup>H.P.1234, L.D.601, "AN ACT Requiring Owners of Certain Motor Vehicles and Trailers to Furnish Security for Their Civil Liability on Account of Personal Injuries and Property Damage Caused by Their Motor Vehicles and Trailers." (Rep. Jacobsen, Portland)(87th Legis. 1935).

<sup>6</sup>L.D. 905 (87th Legis. 1935).

<sup>7</sup>P&S.L. 1935, ch. 125.

<sup>8</sup>L.D. 297 (88th Legis. 1937). This document, including the reports and legislation recommended by the majority, has been incorporated into a bound volume which chronicles the activity of that and a subsequent committee. The volume, part of the law and Legislative Reference Library's Legislative Reference collection is entitled Maine Legislative Reference Committee Uninsured Motorist Study, 1957-1958.

<sup>9</sup>Legislative Research Committee, Problems of the Uninsured Motorist, study authorized by Resolves 1957, ch. 153 (materials compiled in volume cited at note 8, supra).

<sup>10</sup>See note 1, supra.

Since enacting the financial responsibility law in 1927, numerous changes have been made in its provisions. Amidst a flurry of activity at both the state and Congressional levels in the 1970's, Maine also considered a number of proposals for a system of "no-fault" insurance (also called, "Personal Injury Protection"). The 106th Legislature rejected some 6 proposals in this area. After contracting for a detailed actuarial study by the firm of Milliman and Robertson, Inc., of Los Angeles, California, the Business Legislation Committee conducted a study of the subject in 1973, pursuant to joint order.<sup>11</sup> Both bills endorsed by the study were defeated in the Special Session. Three proposals in the 107th Legislature met a similar fate.

Other suggestions which also met defeat were those for a competitive state fund for automobile liability insurance<sup>12</sup> and various "unsatisfied judgment" or uninsured motorist fund bills.

The development of "uninsured/underinsured motorist coverage" (also called "Family Protection"), first-party protection against personal injury (but not property damage) caused by an uninsured or underinsured motorist was a positive event. Beginning in 1969, 24-A M.R.S.A. §2902 required that a liability insurance policy also include uninsured motorist coverage, at least up to the minimum amounts of liability coverage required under the financial responsibility laws. In 1975, the Legislature required this coverage also to extend to "underinsured" motorists, and provided that the purchaser of liability coverage would receive coverage to the extent of his or her own liability coverage, unless he or she rejected this amount, but coverage could in no event be less than that provided under the financial responsibility laws.<sup>13</sup> With uncharacteristic haste, this latter provision was repealed in the following session, and the financial responsibility limits reinstituted as the only criterion.<sup>14</sup>

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<sup>11</sup>S.P. 663 (106th Legis. 1973) (The meetings of the study committee were transcribed in a large, 4-part volume).

<sup>12</sup>One such proposal was L.D. 1772 (106th Legis. 1973).

<sup>13</sup>P.L. 1975, ch. 437, §§1 and 2 (effective October 1, 1975).

<sup>14</sup>P.L. 1975, ch. 676 (Emergency)(effective March 23, 1976).

"Cocaine cannot cure a cancer; and no compensatory scheme can provide a real remedy for the ills which result from negligent operation of automobiles;"

-- Statement by the "Committee of Nine on Financial Responsibility for Automobile Accidents," Association of Casualty & Surety Executives (1932).

## II. Recommendations

Obviously, legislators in Maine and elsewhere have been grappling with this problem for some time. Had a universally acceptable legislative response been designed, it would no doubt have been welcomed with equal unanimity. Instead, about 9 states have some form of compulsory liability insurance; in the neighborhood of 16 states have no-fault insurance; and financial responsibility laws, although everywhere in place, may vary as to their particulars.

Part of this diversity may be attributable to the different states' individual priorities. No-fault insurance programs may be proposed more because of problems associated with court delays and other pressures on premiums than in an attempt to address the uninsured motorist problem. For this and other reasons, this study subcommittee elected not to deal with the no-fault issue.

Still, Maine continues to have a problem with uninsured motorists. The extent of the problem evades precise measurement. In hearings and subcommittee meetings, an estimate of 15.1% of Maine drivers as uninsured was made by the Secretary of State representative, based solely on 1982 accident reports.<sup>15</sup> While the same representatives noted that this figure is unusually high in recent history, it is nonetheless significant. In addition, other sources indicate that the percentage is actually much higher, perhaps in the vicinity of 19.5%, with as many as 114,000 Maine drivers operating without liability coverage.<sup>16</sup>

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<sup>15</sup> Of 51,460 accident reports, 7,781 persons were uninsured of these, only 2,544 were subsequently required to file proof of financial responsibility; others were absolved by operation of 29 M.R.S.A. §783(5), especially §783(5)(B), providing that proof is not required where a person shows he or she did not cause the accident.

<sup>16</sup> Comparison of number of private passenger vehicles registered in Maine on January 17, 1981 (587,232) and the number of written car years for private passenger cars in Maine in 1980 (472,650). The number of registered vehicles is perhaps understated, since it does not include vehicles with "handicap" or "antique" plates; government and commercial vehicles are intentionally excluded. Data on insurance written is derived from information compiled by the Automobile Insurance Plans Service Office, presented in, Insurance Information Institute, Insurance Facts (1982-83 ed.), p. 35. Similar figures for 1981 indicate an uninsured rate of 16.9%, based on 608,867 registrations (on 2-19-82), 505,626 insured, and 103,241 uninsured.

The system has yet to be devised which totally cures the problems of pain and economic devastation which welcome the victim of an uninsured motorist. What follows are our recommendations to take some positive, albeit limited steps to address these problems. Some of these recommendations, but not all, will be supplemented by proposed legislation.

**RECOMMENDATION 1: Insurers and agents should educate policyholders regarding the need for higher than minimum uninsured motorist coverage.**

While this proposal does not contemplate any immediate legislative action, it was the unanimous view of the subcommittee that this is of major importance. It appears beyond dispute that uninsured motorist coverage represents the least onerous and only certain way for the consumer to protect himself, family and passengers from the perils of the uninsured or underinsured motorist. Based on information from the Bureau of Insurance, it also represents a sound economic choice.

Uninsured motorist coverage provides for personal injuries suffered by the policyholder or a member of the policyholder's family, whether that person is injured by an uninsured motorist while the covered individual is in his own vehicle, that of another, or in no vehicle at all. In addition, coverage is extended to passengers in the policyholder's vehicle.

The "underinsured" portion of this coverage is designed to compensate the victim of a motorist who is insured, but whose policy limits are less than the amount of injuries suffered by the insured. Uninsured motorist coverage pays the difference between the guilty party's liability insurance and the limits of the policyholder's UM coverage. Thus, for the policyholder who maintains minimum UM coverage (20/40)<sup>17</sup>, in an accident where he or she incurs a \$25,000 loss as a result of a personal injury from a motorist insured at the financial responsibility minimum (20/40/10), will recover nothing under his own UM coverage. That is why higher uninsured motorist coverage is essential.

**RECOMMENDATION 2: The minimum uninsured motorist coverage which is required to accompany a policy of liability insurance in this State should be increased, at least to \$25,000/\$50,000.**

As a minimal extension of the previous recommendation, we recommend that an increase be mandated in the level of uninsured

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<sup>17</sup> In this field, limits of coverage are usually referred to in thousands, in order of (1) bodily injury to one person; (2) total bodily injury payable per occurrence, and (3) liability for property damage. Maine's financial responsibility law (at 29 MRSA §787(1)) provides respective limits of \$20,000/\$40,000/\$10,000. Since UM coverage does not provide payment for property damage, that limit is ignored here.



motorist coverage required to accompany liability policies.

24-A M.R.S.A. §2902, subsection 1, requires that every automobile liability insurance policy in Maine provide this coverage. Subsection 2 of that section provides that the UM coverage must be at least at the minimum limits set in the financial responsibility law for bodily injury (20/40). While we believe this is woefully inadequate, the response to the 1975 legislation tending to raise UM coverage to the policyholder's liability limits<sup>18</sup> indicates a popular and legislative unwillingness to compel what may well be the most reasonable approach. Without entirely preempting this individual choice, therefore, we conclude that this small step is in the best interests of all Maine policyholders.

**RECOMMENDATION 3: The State should take reasonable efforts toward assuring that all motorists are financially responsible.**

Under Maine's current financial responsibility law, a motorist may be required to file proof of financial responsibility under the following types of circumstances:

- (1) Conviction of serious motor vehicle law violations (29 M.R.S.A. §782);
- (2) Causing an accident involving bodily injury, death or property damage to someone else while uninsured (29 M.R.S.A. §783(2),(5));
- (3) Being found liable in court for damages from an accident (29 M.R.S.A. §783(2)(F)); or
- (4) Other "reasonable grounds" appearing in the records of the Secretary of State (29 M.R.S.A. §783(2)(D)).

It is evident that the Maine statute provides no requirement of insurance until after a motorist has shown himself to be irresponsible, whether by injuring someone else while uninsured or by engaging in serious motor vehicle violations. The only remedy available to the injured party is to go to court, secure a judgment and try to collect it. So long as there is an unsatisfied judgment, the liable party is supposed to be prevented from licensing or registration (see 29 M.R.S.A. §§783(2)(F), 783(6) and 784). However, due to the cost of lawsuits and the typical inability of the uninsured motorist to pay, insurers and insureds seldom take this approach.

Despite this glaring injustice, the Maine Legislature has repeatedly rejected proposals for compulsory automobile insurance, and alternative mechanisms such as no-fault insurance.

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<sup>18</sup> See text accompanying note 13, *supra* at 4.

<sup>19</sup> See Appendix B for a summary of arguments.

While there are a number of arguments advanced on either side of the issue<sup>19</sup>, the principal bases for defeating past proposals have been: (a) increased costs, both to taxpayers and all insurance consumers; and (b) the failure of other states' compulsory insurance laws to solve the problems created by uninsured motorists.

The arguments are not without merit. However, in view of the alternative--keeping the current system, which condones irresponsible drivers--it is the judgment of the committee that some corrective action is necessary. The legislation we are proposing, to require financial responsibility to be maintained by all motorists, represents an attempt to address this issue without committing the State to massive administrative costs for both the State licensing agency and insurers.

The proposal would operate by providing a system of insurance identification cards, and by providing penalties for motorists who do not maintain financial responsibility. It does not implement a system of filing proof for all motorists; as such, it is likely to be somewhat less effective, but undoubtedly less intrusive and expensive for all concerned to administer. The enforcement mechanism, while imperfect, is the same used for other crimes and violations; not all offenses against the law are prevented, but neither are they condoned.

We are not confident that either this approach or even a very expensive, actively monitored compulsory insurance law is capable of solving the problems created by the uninsured motorist. At worst, however, our proposal at least makes it clear that irresponsible drivers are not approved by our laws; while at best, the proposal might result in a reduced percentage of uninsured motorists, without substantially increasing costs to taxpayers and responsible motorists.

Perhaps, too, by introducing this type of legislation, refinements or alternatives will be generated which can more nearly approach our objectives. Our proposal thus represents our conclusion that this problem should no longer go unaddressed; any alternative that is presented during the session which might better accomplish these important goals should also be considered.

## APPENDIX A

### RECOMMENDED COMMITTEE STUDY

1. COMMITTEE: Joint Standing Committee on Business Legislation.
2. SUBJECT OF STUDY: Motor Vehicle Insurance.
3. PRIORITY NUMBER: (Only study request thus far.)
4. COMPLETION DATE: Second Regular Session, 111th Legislature.
5. ANALYSIS OF THE PROBLEM: Current Maine law allows most motor vehicle operators to operate without any form of liability insurance. Despite the Financial Responsibility law requiring a limited number of drivers to maintain insurance for short periods of time, and despite mandatory inclusion of uninsured motorist coverage for personal injuries in policies, Maine citizens who are victims of accidents caused by uninsured motorists are forced to absorb a number of costs. These costs may stem from the amount of the deductible in their own policies to the full amount of damage caused by the accident. The costs of bringing a civil action against an uninsured motorist who may in any case be "judgment-proof," is often prohibitive. As a result, there is a perceived inequity between the operators who are not at fault, but who must bear the cost burden, and the uninsured motorist who escapes any financial responsibility for his actions.

In addition, other features of the automobile insurance system have been cited as contributing to the burdens on insureds, such as delays in recovery from insurance companies without sufficient cause.

6. REASON FOR STUDY: Despite the currently perceived inequities, and the popular appeal of the compulsory liability insurance concept, proposals to institute such a program in Maine have been defeated by each Legislature since 1975. In the First Regular Session of the 111th Legislature, the Joint Standing Committee on Business Legislation considered two bills in this area. Opponents of compulsory insurance argued that the institution of the program would result in higher insurance costs for all motorists, would cost the State over \$1.3 million annually to administer, would be impossible to enforce, and would prevent indigent Maine citizens from being able to drive. The Committee was told of the problems encountered in New York in implementing and enforcing a similar law, and noted that South Carolina has recently repealed its compulsory insurance law. At the same time, the Committee noted that compulsory insurance is still common in other states, particularly in those states providing a "no-fault" system, and has been recently adopted or is being currently considered in other states in current legislative sessions.

Other proposals for reform to address other parts of the problem outlined above were also proposed during the session. The Committee concurred that a study in the area of compulsory automobile insurance might be extended justifiably into separate but related areas of automobile insurance payments delivery.

Because of the seriousness and persistence of the concerns in this area, the Committee believes that this subject deserves a more comprehensive examination than could be afforded during the session.

7. MEMBERS OF SUBCOMMITTEE: While the Committee would anticipate addressing this subject through a subcommittee, the membership of the subcommittee has not yet been established.

APPENDIX B

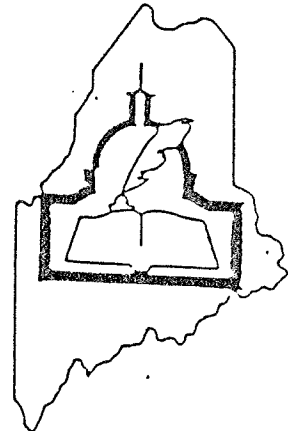
ISSUE BRIEF  
PROS & CONS  
OF  
COMPULSORY AUTOMOBILE LIABILITY INSURANCE

October 26, 1983

Prepared for the study subcommittee  
of the Joint Standing Committee  
on Business Legislation for use  
in its study of compulsory auto  
liability insurance.

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**ARGUMENTS AGAINST COMPULSORY  
MOTOR VEHICLE LIABILITY INSURANCE**

What follows is a summary of the arguments generally advanced against state measures to compel all motorists to carry liability insurance. The relevance of some arguments depends upon the type of compulsory law in effect. Obviously, too, the accuracy of some arguments is based on data and methods outside this discussion.

**1. Unworkable.** The primary argument against compulsory liability insurance is that such laws have not been successful in substantially reducing the proportion of uninsured motorists. Examples cited in this regard include:

- a. An estimated 15-20% of drivers in New York and Pennsylvania remain unlicensed;
- b. Ontario estimates a constant 5% uninsured population before and after enactment of compulsory liability;
- c. At great cost, California and Maryland increased the percentage of insured drivers by only 5%, South Carolina by 8%.

In this regard, other factors which make compulsory liability insurance unworkable are:

- (i) Volume of out-of-state motorists (Florida, faced with over 12 million such vehicles annually, repealed its compulsory provision in 1978);
- (ii) Lack of an efficient means to ensure whether coverage currently exists (i.e., it has not been canceled or allowed to lapse); and
- (iii) Typical penalties, such as suspensions of licenses or registrations, fail to prevent illegal operation of the vehicle by the uninsured. Also, in many cases, the penalty is only a fine, which is less than the cost of maintaining insurance.

**2. Taxpayer cost.** This argument points out the corollary to the difficulty of enforcement, i.e., attempts at enforcement are costly. In support of this, opponents of compulsory liability point out that:

a. Maine officials have estimated the additional costs to the Secretary of State's office to annually exceed \$1.3 million (Fiscal Notes to LD 127 and LD 154, 111th Legislature); and

b. Costs in other states have run as follows:

- California: \$2,324,000

- Maryland: \$1,500,000
- New York: \$9,000,000 (other estimate: \$4,000,000)
- South Carolina: \$1,300,000

**3. Increased rates.** It is argued that insurance rates for all drivers increase under a compulsory liability law, due to 4 factors:

- a. Insurers are forced to insure all poor risks (while this may not be the original design of the law, experience under statutorily-mandated insurance systems, such as workers' compensation and Massachusetts auto no-fault, as well as practically mandated systems, such as medical malpractice, demonstrates that constituent pressures soon develop that demand lower-priced coverage for all risks);
- b. Statistics show dramatic increases in filing of claims;
- c. Higher court awards may be granted, because of the assumption that any defendant is insured; and
- d. Such laws tend to increase insurer costs of administration.

The chart attached as Appendix A, submitted by representatives for the American Insurance Association, seeks to demonstrate the impact of these laws upon rates in demographically comparable areas.

**4. Less costly alternatives.** Uninsured motorist coverage, which provides coverage to the insured and his or her family and guests for bodily injury arising out of the act of an uninsured motorist, is available at very low cost (minimum 20,000/40,000 coverage now runs at about \$16 annually in Maine). The purchaser of this coverage settles the claim directly with his or her own insurer.

In every state having compulsory liability, uninsured motorist coverage is required to be offered. Given that no such state can claim to have achieved universal coverage, a concerned motorist will still require this coverage, even under a compulsory liability law. Thus, the enactment of compulsory liability will result in one of two undesirable situations: the maintenance of uninsured coverage which should be unnecessary, but in reality continues to be necessary; or the reliance of the motorist on the effectiveness of the compulsory liability law, his or her consequent abandonment of uninsured motorist coverage, followed by a serious loss at the hands of a motorist who defies the liability insurance requirement.

**5. Harm to the poor.** Under a Proof of Financial Responsibility Law such as exists in every state, once a driver has been at fault in an accident, he or she must prove in the future (e.g., for three years) an ability to pay for damages from any subsequent injury that person may cause. This type of "first

bite" approach thus treats all drivers as responsible until they prove otherwise; at that time, the irresponsible must either carry insurance or, if they are incapable of doing so, they must stay off the highways.

A compulsory liability insurance law requires coverage in the first instance, regardless either of the person's driving skill or ability to pay. The person who is economically disadvantaged may thus be faced with a choice between purchasing insurance (e.g., in order to drive a vehicle to work) or feeding the family. Unlike the result under the Financial Responsibility law, this Hobson's choice is presented without any prior determination that the individual is an irresponsible driver.

This argument carries perhaps its greatest weight when viewed in the context of the previous argument. The example would be where a fully insured motorist (carrying both collision and uninsured motorist coverage) has an accident with a poor uninsured motorist. Assuming that the uninsured motorist is at fault, the insured driver may recover up to the full amount of bodily injury damages, and the cost of the damage to his or her vehicle, less a deductible of, for example, \$100. In this event, by enacting a compulsory liability law, the state may be requiring the economically disadvantaged driver to divert a substantial percentage of family resources in order to protect a stranger against an almost nominal loss.

Insurance sources indicate that studies of the California system have shown that a majority of the drivers who continue to drive without insurance are economically disadvantaged.

**6. Nature of coverage.** The preceding argument makes a fundamental point about liability insurance: traditionally, liability insurance is purchased not for the benefit of third parties, but for the benefit of the insured. Decisions about the chosen limits of a liability policy are not based on the potential damage the insured plans to cause, but on the insured's personal exposure should he or she be found liable for that damage. The owner of a business therefore requires higher limits of coverage than a person of more modest means or prospects.

Compulsory liability insurance laws treat the policy as a third-party benefit, designed to protect the victim of an accident. Such laws therefore depart from the original purpose of this type of coverage.

This argument points to the fallacy contained in the regularly-advanced argument: "I have to pay for insurance to cover them if I'm at fault; they should have insurance to cover me." In point of fact, the declarant in that statement is purchasing insurance for his or her own protection, not that of others.

**7. Disrespect for law.** An argument advanced against any law which seems unenforceable is that an unenforced law breeds general disrespect for all laws. This is, of course, a social



cost which evades quantification.

8. Regulatory overkill. Some would argue that this type of legislation constitutes more unnecessary government intervention in private affairs. They state that, even among uninsured drivers, carless drivers are in the minority, and this type of law therefore penalizes a number of people for the irresponsibility of a few.

9. Impact on private insurance. It is sometimes argued that the conflicting pressures for universal coverage and for affordable rates, combined with other cost factors, will tend to drive private carriers out of the field and to install state funds in their places.

10. Encouragement of underinsurance. This argument says that consumers, faced with a mandatory minimum, may in their resentment effectively make that level a maximum, turning down any liability coverage above the level required. In many cases, this would create a problem of underinsurance.

Also, as pointed out earlier, drivers may neglect to adequately insure for their own damages under uninsured motorist or collision coverages.

**ARGUMENTS IN FAVOR OF COMPULSORY  
MOTOR VEHICLE LIABILITY INSURANCE**

Following is a summary of arguments made in favor of a state requirement of motor vehicle liability insurance.

**1. Compensation of injured parties.** Personal injury and property damages from a motor vehicle accident can be financially devastating. Insurance industry figures for states not having no-fault insurance indicate that between 1972 and 1981, the average paid bodily injury liability claim rose 131.2%, from \$1,926 to \$4,453. The average paid property damage liability claim rose 150.4% from \$355 to \$889 over the same period.

Even average amounts such as these can create a great burden on the injured party. Without some kind of insurance coverage, these injuries can have dire results.

For some of these injuries, such as the "first dollar" amounts of property damage to a vehicle, an innocent party has no viable insurance alternative; even if insured under a collision policy, a sometimes substantial amount must come from personal resources. And the cost of collision coverage itself, together with rate increases to be anticipated after an accident, create a serious burden on the innocent party.

**2. Responsibility for damages.** The crux of this argument is that the driver of a motor vehicle should assure that payment will be forthcoming for any liability he or she incurs by operation of the vehicle. This is essentially an argument of fairness; the person who is legally responsible for causing the damage should also be financially responsible for remedying it, or at least ameliorating its harshness.

At issue in this argument is not simply whether the victim's economic loss will be compensated (since that might be at least partially resolved through the person's own insurance), but who should be responsible for ensuring that compensation.

Because of the possibility of great loss, only the relatively wealthy may be able to assure compensation from personal resources for damages created by them. For most drivers, insurance is the only practical manner to assure financial responsibility. Therefore, compulsory liability laws are the only generally practicable means for assuring that the responsible party has provided adequately for the risk of loss to others.

Despite the name, so-called "(Proof of) Financial Responsibility" laws fail to provide this assurance, since they come into effect only after the individual has either had an accident or has otherwise been shown to be irresponsible.

**3. Proper cost-sharing.** In the case of accidents involving uninsured motorists, costs presently may not be borne equitably.

Instead, costs may be paid by:

- a. The auto insurance-buying public in general;
- b. Health and life insurance programs;
- c. The state; and
- d. The victim, either through uncompensated loss, direct payments or increased premiums.

Aside from the individual responsibility of the uninsured motorist, this argument alludes to the fact that accidents at the hands of uninsured motorists create costs for groups which are not responsible for the accident, and which may not include the uninsured. Of these, perhaps the most egregious example is where the injured victim assumes some of the cost directly (e.g., his or her insurance deductible) and some of it indirectly, through higher insurance rates.

To the extent that insurers argue against compulsory liability on the basis that more bad drivers are thereby added to pool of insureds, this can only mean that the costs of these bad drivers are currently being borne by others, such as the individuals and groups listed above. By bringing those bad drivers into the pool, then, we may at least assess them some part of the costs they represent, and "internalize" costs to the auto insurance system which have so far remained "external." The result would be a fairer and broader sharing in the costs of motor vehicle injuries.

**4. Removal of bad drivers.** Currently, if the cost of insurance becomes prohibitive, a person may simply elect to drive uninsured. Unless that person is currently required to file proof of financial responsibility with the state, that option is perfectly legal. This argument would propose instead that when bad experience results in insurance rates that are too high, the driver be removed from the road, rather than the insurance from the driver.

This argument frequently takes the form that if a person is incapable of assuring financial responsibility for damages he or she inflicts on others, then that person should be disqualified from operating a vehicle, much as we would disqualify a person who is incapable of passing vision or examination requirements.

**5. Popular demand.** While not exactly an argument of principle, it is pointed out that there is strong, steady constituent pressure to enact this kind of law. In a representative form of government, that alone may be a compelling reason for action.

In an often-cited Harris poll, 91% of people surveyed stated that all drivers should be required by the government to carry auto insurance. Of those who had auto insurance, 94% favored compulsory. Surprisingly, of those who owned vehicles but were

uninsured, 62% were nonetheless in favor.

In addition to the arguments in favor of compulsory liability, a number of responses are made in response to the counter-arguments against it. Among these are the following:

**a. Workability.** While no system has ensured universal coverage, many states which have enacted compulsory liability have at least narrowed the gap between the number of insureds and the total number of drivers. With estimates of up to 15% of Maine drivers being uninsured, a program which reduced the chances of being left without recourse by an accident from one in 7 to one in 10 or 15 might constitute a great success.

**b. Cost to taxpayers.** While some states have suffered high administrative costs, other states, by utilizing a "self-certification" process, have reaped substantial savings. The traditional approach required extensive recordkeeping by insurers and the state, in an attempt to keep a constant record of insurance in force and more importantly, policies lapsed or canceled. This required a massive affirmative effort of all parties.

The "self-certification" methods, by contrast, take a more passive approach by enforcing the law only where it becomes apparent in the course of other business that the person is uninsured. Admittedly, this is "after the fact," such as an accident in many cases; at the same time, it makes use of the theory relied upon in so many laws, that most people will obey the law, particularly when faced with the possible penalties for violation. And unlike the financial responsibility laws, it at least does not condone the original act of driving while uninsured.

**c. Cost in premiums.** Some would argue that this argument is purely speculative, that no basis exists for determining a quantifiable increase to Maine policyholders, and that previous studies fail to isolate cost increases attributable to a particular enforcement mechanism or other idiosyncratic state factors. In addition, it may be argued that any additional costs are presently being paid on an erratic basis by victims of accidents who fall prey to the Russian roulette of insurance coverage.

## APPENDIX

INSURANCE RATE LEVELS IN STATES WITH COMPULSORY SYSTEMS  
VERSUS  
RATE LEVELS IN COMPARABLE STATES WITHOUT COMPULSORY SYSTEMS

Compulsory States (a)	Comparable States (b)	Overall Pure Premium Percent Change (c)	Average Annual Pure Premium Percent Change (c)
<b>CALIFORNIA</b> (1/1/75)		<b>43.0%</b>	<b>8.2%</b>
	Illinois	24.2	5.5
	Ohio	17.7	3.4
	Texas	34.0	6.0
<b>LOUISIANA</b> (7/1/78)		<b>14.2%</b>	<b>11.2%</b>
	Alabama	0.1	0.9
	Mississippi	-1.2	1.4
	Tennessee	1.6	-1.3
<b>MARYLAND</b> (7/1/73)		<b>43.3%</b>	<b>7.9%</b>
	Indiana	21.3	5.0
	Virginia	32.0	6.2
	D.C.	23.9	4.4
<b>OKLAHOMA</b> (12/11/76)		<b>11.6%</b>	<b>3.7%</b>
	Arkansas	10.9	3.5
	Iowa	7.0	2.8
	Missouri	3.7	1.0
<b>OREGON</b> (1/1/76)		<b>35.0%</b>	<b>8.4%</b>
	Maine	19.6	3.9
	West Virginia	18.8	6.8
	Wisconsin	12.8	3.7
<b>SOUTH CAROLINA</b> (10/1/74)		<b>27.0%</b>	<b>5.6%</b>
	Alabama	22.5	5.5
	Arkansas	21.1	4.1
	Tennessee	14.9	2.9

- (a) - The figures in the parentheses by the compulsory states are the effective dates of their compulsory laws.
- (b) - The comparison states were chosen for their similarity to a compulsory state in demographic characteristics, geographic characteristics and the number of insured vehicles.
- (c) - The liability pure premium ratio was used as a basis for comparison because it represents the average amount of loss per insured vehicle. An increase in pure premium suggests that the average claim per insured vehicle has risen as a result of the inclusion of those motorists who did not carry auto liability insurance prior to the adoption of the compulsory law.

(Source and other information on following page)

SOURCE OF DATA: Fast Track Monitoring System, comprising loss experience of companies reporting to the National Association of Independent Insurers and the Insurance Services Office. The Fast Track Monitoring System loss experience begins with data for the year ending fourth quarter of 1976.

TIME PERIOD: The time period selected for comparison purposes is that period after which each compulsory law has become effective (and limited to when the Fast Track Monitoring System loss experience begins) through the year ending second quarter 1981.

Table provided to the Joint Standing Committee on Business Legislation as part of the presentation by Bruce C. Gerrity, Esq., representing the American Insurance Association in opposition to L.D. 127 and L.D. 154, February 3, 1983.

APPENDIX C

1 SECOND REGULAR SESSION  
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE  
4

5 Legislative Document

No.

7 H.P. House of Representatives,  
8

9  
10 EDWIN H. PERT, Clerk

11  
12 STATE OF MAINE  
13

14 IN THE YEAR OF OUR LORD  
15 NINETEEN HUNDRED AND EIGHTY-FOUR  
16

17 AN ACT to Require Maintenance of  
18 Financial Responsibility by All Motorists.  
19

20 Be it enacted by the People of the State of Maine as  
21 follows:

22 Sec. 1. 24-A MRSA §2412, sub-§6 is enacted to  
23 read:

24 6. Motor vehicle insurance identification cards.  
25 Pursuant to this section, the superintendent, with  
26 the advice of the Secretary of State, shall prescribe  
27 a uniform motor vehicle insurance identification card  
28 form. The superintendent shall require all insurance  
29 companies transacting business within this State to  
30 provide with each motor vehicle liability insurance  
31 policy an insurance identification card for each ve-  
32 hicle, describing the vehicle covered. When an in-  
33 sured has 5 or more motor vehicles registered in this  
34 State, the insurer may use the designation "all owned  
35 vehicles" on each card in lieu of a specific descrip-  
36 tion.

1     The superintendent shall prescribe a similar form to  
2     accompany a binder for this type of coverage. The  
3     superintendent, with the advice and assistance of the  
4     Secretary of State, shall promulgate such rules as  
5     are necessary to the implementation of this subsec-  
6     tion.

7             Sec. 2. 29 MRSA c. 9, sub-c. I as amended is re-  
8     pealed.

9             Sec. 3. 29 MRSA c. 9, sub-c. I-A is enacted to  
10    read;

#### 11                     SUBCHAPTER I-A

#### 12                     GENERAL FINANCIAL RESPONSIBILITY

#### 13     §791. Definitions

14             As used in this subchapter, unless the context  
15     otherwise indicates, the following terms have the  
16     following meanings.

17             1. Certificate. "Certificate" means the certif-  
18     icate of an insurance company authorized to transact  
19     the business specified in Title 24-A, that it has is-  
20     sued to or for the benefit of any person a motor ve-  
21     hicle liability policy covering a motor vehicle,  
22     trailer or semitrailer. The insurance company or  
23     surety company may, at its election, specify on the  
24     certificate the expiration date of the motor vehicle  
25     liability policy and, if the company elects to so  
26     provide, the policy shall, on and after the date, be  
27     terminated for purposes of this subchapter, unless  
28     the policy or bond is previously canceled or super-  
29     seded in accordance with section 794, subsection 7.  
30     Where no expiration date is specified on the certifi-  
31     cate, the policy or bond shall, for the purposes of  
32     this subchapter, continue in effect until it is can-  
33     celed or superseded in accordance with section 794,  
34     subsection 7.

35             2. Insurance identification card. "Insurance  
36     identification card" means a card issued to an in-  
37     sured by an insurer pursuant to Title 24-A, section  
38     2412, or a card issued pursuant to section 794, sub-  
39     section 9.



1       3. Judgment. "Judgment" means any judgment  
2       which becomes final by expiration without appeal of  
3       the time within which appeal might have been perfect-  
4       ed, or by final affirmance on appeal, rendered by a  
5       court of competent jurisdiction of any state of the  
6       United States.

7       4. Motor vehicle liability policy. "Motor vehi-  
8       cle liability policy" means a policy of liability in-  
9       surance certified as proof of financial responsibili-  
10      ty in accordance with section 794, and which provides  
11      indemnity for or protection to the insured and any  
12      person responsible to him for the operation of the  
13      insured's motor vehicle, trailer or semitrailer who  
14      has obtained possession or control thereof with his  
15      express or implied consent, against loss by reason of  
16      the liability to pay damages to others for damage to  
17      property, except property of others in charge of the  
18      insured or his employees, or bodily injuries, includ-  
19      ing death at any time resulting therefrom, acciden-  
20      tally sustained during the term of the policy by any  
21      person other than the insured, or employees of the  
22      insured actually operating the motor vehicle or of  
23      any other responsible persons who are entitled to  
24      payments of benefits under any Workers' Compensation  
25      Act, arising out of the ownership, operation, mainte-  
26      nance, control or use within the limits of the United  
27      States or Canada of the motor vehicles, trailer or  
28      semitrailer, to the amount or limit of at least  
29      \$20,000 on account of injury to or death of any one  
30      person, and subject to such limits as respects injury  
31      to or death of one person, of at least \$40,000 on ac-  
32      count of any one accident resulting in injury to or  
33      death of more than one person, and of at least  
34      \$10,000 for damage to property of others, or a binder  
35      pending the issue of that policy.

36      5. Owner. "Owner" means a person who holds the  
37      legal title to a motor vehicle, trailer or semitrail-  
38      er, or in the event a motor vehicle, trailer or semi-  
39      trailer is the subject of an agreement for the condi-  
40      tional sale or lease thereof with the right of pur-  
41      chase upon performance of the conditions stated in  
42      the agreement and with an immediate right of posses-  
43      sion vested in the conditional vendee or lessee, or  
44      in the event a mortgagor of a motor vehicle, trailer  
45      or semitrailer is entitled to possession, then that

1 conditional vendee or lessee or mortgagor shall be  
2 the owner for the purposes of this subchapter.

3 6. Person. "Person" means every person, firm,  
4 copartnership, association or corporation, but not  
5 the State or any political subdivision thereof.

6 7. State. "State" means any state of the United  
7 States, the District of Columbia or any province of  
8 the Dominion of Canada.

9 §792. Secretary of State to administer rules

10 The Secretary of State shall administer and en-  
11 force this subchapter and may adopt and enforce such  
12 rules as may be necessary for that administration.

13 §793. Required maintenance of financial responsibil-  
14 ity

15 1. Requirement. Every operator of or owner of a  
16 motor vehicle, trailer or semitrailer shall at all  
17 times maintain in force the amounts of financial re-  
18 sponsibility specified in section 794, subsection 2.

19 2. Penalty. Violation of this section is a civ-  
20 il violation, for which a forfeiture of not more than  
21 \$100 may be assessed.

22 3. Suspension. The Secretary of State shall  
23 suspend, in accordance with chapter 17, the license,  
24 right to operate and right to obtain a license of any  
25 person operating a motor vehicle, and the registra-  
26 tion certificate and registration plates and the  
27 right to register of any person owning a motor vehi-  
28 cle, trailer or semitrailer under the following cir-  
29 cumstances:

30 A. Upon receipt by the Secretary of State of a  
31 copy of an adjudication of a violation of subsec-  
32 tion 1; or

33 B. If it otherwise appears from the records of  
34 his office or other sufficient evidence that per-  
35 son is in violation of subsection 1.

1       4. Term of suspension. Any suspension issued  
2 under this subchapter shall remain in effect until  
3 the person provides the Secretary of State with sat-  
4 isfactory evidence of financial responsibility by one  
5 of the methods provided in section 794, subsection 3.

6       §794. Proof of financial responsibility

7       1. Security and proof of financial responsibili-  
8 ty may be required. Notwithstanding any other provi-  
9 sion of this subchapter, the Secretary of State may  
10 require any motor vehicle operator or owner to file  
11 with this office proof of financial responsibility  
12 for a period not to exceed 3 years from the date of  
13 requirement, that period to be determined by the Sec-  
14 retary of State, under any of the following condi-  
15 tions:

16       A. Noncompliance with section 793, subsection 1;

17       B. Accident record; or

18       C. Record of motor vehicle violations.

19       2. Amount of proof required. Proof of financial  
20 responsibility means proof of ability to respond in  
21 damages for any liability thereafter incurred, aris-  
22 ing out of the ownership, maintenance, control or use  
23 of a motor vehicle, trailer or semitrailer in the  
24 amount of \$20,000 because of bodily injury or death  
25 to any one person, and subject to the limit respect-  
26 ing one person, in the amount of \$40,000 because of  
27 bodily injury to or death to 2 or more persons in any  
28 one accident, and in the amount of \$10,000 because of  
29 injury to and destruction of property in any one ac-  
30 cident. Whenever required under this subchapter,  
31 that proof in those amounts shall be furnished for  
32 each motor vehicle, trailer or semitrailer registered  
33 by that person, except that any trailer, semitrailer,  
34 camp trailer or mobile home registered in the name of  
35 any person required to file proof of financial re-  
36 sponsibility, which is automatically covered by a  
37 policy on any motor vehicle registered by that per-  
38 son, which also provides the coverage required for a  
39 motor vehicle liability policy, shall not be subject  
40 to this section.

1       3. Methods of giving proof. Proof of financial  
2 responsibility when required under this subchapter  
3 may be given by any of the following methods:

4       A. By filing with the Secretary of State a cer-  
5 tificate, as defined in section 791, subsection  
6 1, of an insurance company or of a surety compa-  
7 ny;

8       B. By the deposit of money or securities as pro-  
9 vided in subsection 4; or

10       C. By satisfying the Secretary of State that any  
11 corporation has financial ability to comply with  
12 the requirements of this subchapter.

13       4. Money or securities deposited as proof. A  
14 person may give proof of financial responsibility by  
15 delivering to the Secretary of State a receipt of the  
16 Treasurer of State showing the deposit with the Trea-  
17 surer of State of money in an amount or of securities  
18 approved by the Treasurer of State and of a market  
19 value in a total amount, as would be required for  
20 coverage in a motor vehicle liability policy fur-  
21 nished by the person giving proof under this subchap-  
22 ter. The securities shall be of a type which may le-  
23 gally be purchased by savings banks or for trust  
24 funds. All money or securities so deposited shall be  
25 subject to execution to satisfy any judgment men-  
26 tioned in this subchapter but shall not otherwise be  
27 subject to attachment or execution.

28       5. Limitation. The Treasurer of State shall not  
29 accept any deposit or issue a certificate therefor  
30 and the Secretary of State shall not accept any cer-  
31 tificate, unless accompanied by evidence that there  
32 are no unsatisfied judgments against the depositor  
33 registered in the office of the clerk of the Superior  
34 Court for the county where the depositor resides.

35       6. May substitute other proof. The Secretary of  
36 State shall return any certificate of insurance, or  
37 shall direct the Treasurer of State to return any  
38 money or securities to the person entitled thereto  
39 upon the substitution and acceptance of other ade-  
40 quate proof of financial responsibility pursuant to  
41 this subchapter.

1       7. Cancellation of policy. No motor vehicle li-  
2 ability policy may be canceled until at least 10 days  
3 after notice of cancellation of the insurance so cer-  
4 tified is filed in the office of the Secretary of  
5 State, except that such a policy subsequently pro-  
6 cured and certified shall, on the effective date of  
7 its certification, terminate the insurance previously  
8 certified with respect to any motor vehicle desig-  
9 ated in both certificates.

10       8. Operating without giving proof. Any person  
11 whose operator's license or registration certificates  
12 or other privilege to operate a motor vehicle, trail-  
13 er or semitrailer has been suspended or revoked, res-  
14 toration thereof or the issuance of a new license or  
15 registration being contingent upon the furnishing of  
16 security or proof of financial responsibility, and  
17 who, during that suspension or revocation or in the  
18 absence of full authorization from the Secretary of  
19 State, drives any motor vehicle, trailer or semi-  
20 trailer upon any highway or knowingly permits any mo-  
21 tor vehicle, trailer or semitrailer owned by that  
22 person to be operated by another upon any highway,  
23 except as permitted under this subchapter, shall be  
24 punished as provided in section 2184. Where any per-  
25 son is required under this subchapter to maintain  
26 proof of financial responsibility, the Secretary of  
27 State may issue a restricted license to that person,  
28 authorizing the operation of any motor vehicle,  
29 trailer or semitrailer so long as the owner thereof  
30 shall maintain proof of financial responsibility.

31       9. Identification card. The Secretary of State  
32 shall approve for use an insurance identification  
33 card, as defined in section 791, subsection 2, by any  
34 person who elects in lieu of maintaining a motor ve-  
35 hicle liability policy, to provide proof of financial  
36 responsibility in any other manner authorized by this  
37 section. The Secretary of State shall determine the  
38 form of the card insofar as possible to be consistent  
39 with the form prescribed by the Superintendent of In-  
40 surance for similar cards issued by insurers pursuant  
41 to Title 24-A, section 2412, subsection 6.

42       §795. Policy form

1       1. Policy form. No motor vehicle liability poli-  
2       cy, as defined in section 791, subsection 4, may be  
3       certified as proof of financial responsibility in ac-  
4       cordance with section 794 until a copy of the form of  
5       the policy has been on file with the Superintendent  
6       of Insurance for at least 30 days, unless, before the  
7       expiration of that period, the Superintendent of In-  
8       surance approves the form of the policy in writing,  
9       or if the Superintendent of Insurance notifies the  
10       company in writing that, in his opinion, the form of  
11       the policy does not comply with the laws of the  
12       State, provided that he shall notify the company in  
13       writing within the period of his approval or disap-  
14       approval thereof. The Superintendent of Insurance  
15       shall approve a form of policy which contains the  
16       name and address of the insured, a description of the  
17       motor vehicles and trailers or semitrailers covered,  
18       with the premium charges therefor, the policy period,  
19       the limits of liability and an agreement that insur-  
20       ance is provided in accordance with and subject to  
21       this subchapter.

22       2. Required provisions. A motor vehicle liabil-  
23       ity policy certified as proof of financial responsi-  
24       bility in accordance with section 794 is subject to  
25       the following provisions which need not be contained  
26       therein.

27       A. The liability of any company under a motor  
28       vehicle liability policy shall become absolute  
29       whenever loss or damage covered by the policy oc-  
30       curs, and the satisfaction by the insured of a  
31       final judgment for that loss or damage shall not  
32       be a condition precedent to the right or duty of  
33       the company to make payment on account of that  
34       loss or damage. No such contract of insurance  
35       may be canceled or annulled by any agreement be-  
36       tween the company and the insured after the in-  
37       sured has become responsible for the loss or dam-  
38       age, and any such cancellation or annulment shall  
39       be void. Upon the recovery of a final judgment  
40       against any person for any loss or damage speci-  
41       fied in this section, if the judgment debtor was,  
42       at the accrual of the cause of action, insured  
43       against liability therefor under a motor vehicle  
44       liability insurance policy, the judgment creditor  
45       shall be entitled to have the insurance money ap-  
46       plied to the satisfaction of the judgment.

1        B. The policy, the written application therefor,  
2        if any, and any rider or endorsement which shall  
3        not conflict with this subchapter shall consti-  
4        tute the entire contract between the parties.

5        C. No statement made by the insured or on his  
6        behalf, and no violation of the terms of the  
7        policy, may operate to defeat or avoid the policy  
8        so as to bar recovery within the limit provided  
9        in the policy.

10       D. If the death, insolvency or bankruptcy of the  
11       insured occurs within the policy period, the pol-  
12       icy during the unexpired portion of that period  
13       shall cover the legal representatives of the in-  
14       sured. The policy shall contain such provisions  
15       as are not inconsistent with this subchapter as  
16       may be required by the Superintendent of Insur-  
17       ance.

18       E. Damages shall not be assessed except by spe-  
19       cial order of the court in a civil action, pay-  
20       ment of the judgment wherein is secured by a mo-  
21       tor vehicle liability policy and the defendant  
22       has been defaulted for failure to enter an ap-  
23       pearance until the expiration of 30 days after  
24       the plaintiff has given notice of that default to  
25       the company issuing or executing the policy and  
26       has filed an affidavit thereof. This notice may  
27       be given by mailing it, postage prepaid, to the  
28       company or to its agent who issued or executed  
29       the policy. Upon receipt of information and hav-  
30       ing become satisfied that the insured has failed  
31       to comply with the terms of his policy in regard  
32       to notice to the company of an accident, the Sec-  
33       retary of State, pursuant and subject to chapter  
34       17, shall revoke his license and registration for  
35       such period as the Secretary of State shall de-  
36       termine.

37       3. Prohibition. No motor vehicle liability pol-  
38       icy other than that defined in section 791 may be  
39       certified as proof of financial responsibility in ac-  
40       cordance with section 794, by any authorized insur-  
41       ance company, except that an authorized insurance  
42       company may certify what is known as a standard auto-

1 mobile liability policy containing an agreement that  
2 insurance is provided in accordance with and subject  
3 to this subchapter which agreement has been approved  
4 by the Superintendent of Insurance.

5 §796. Presentation of insurance identification card

6 1. Requirement. The insurance identification  
7 card issued for a vehicle subject to section 793  
8 shall at all times, while the vehicle is being oper-  
9 ated within this State on a public way or any place  
10 where public traffic may reasonably be anticipated,  
11 be in the possession of the operator of the vehicle  
12 or carried in the vehicle and shall be produced upon  
13 the request of a law enforcement officer.

14 2. Penalty. Violation of this section is a  
15 traffic infraction.

16 3. Dismissal. If a person charged with a viola-  
17 tion of this section exhibits to a law enforcement  
18 officer designated by the issuing officer an insur-  
19 ance identification card or a certificate of an in-  
20 surance company showing maintenance of financial re-  
21 sponsibility at the time of the issuance of the Uni-  
22 form Traffic Ticket and Complaint, no later than 24  
23 hours before the time set for the court appearance,  
24 then the traffic infraction proceeding shall be dis-  
25 missed.

26 §797. Judgment debtors

27 Upon receipt by the Secretary of State of a copy  
28 of any judgment which has been rendered against ei-  
29 ther the owner or the operator of the motor vehicle  
30 involved in an accident required to be reported under  
31 section 798, subsection 1, which judgment resulted  
32 from a cause of action that arose from that accident,  
33 the Secretary of State shall, pursuant to chapter 17,  
34 immediately suspend the license, the right to obtain  
35 a license, or the right to operate of a person oper-  
36 ating who has thus become a judgment debtor, and the  
37 registration certificates and plates or the right to  
38 register any vehicle of any person owning a motor ve-  
39 hicle, trailer or semitrailer involved in the acci-  
40 dent who has thus become a judgment debtor, until:



1        1. Satisfied judgment. The judgment is satis-  
2 fied, in the following amounts:

3        A. When \$20,000 has been credited upon any judg-  
4 ment or judgments rendered in excess of that  
5 amount because of bodily injury to or death of  
6 one person as the result of any one accident;

7        B. When, subject to such a limit of \$20,000 be-  
8 cause of bodily injury to or death of one person,  
9 the sum of \$40,000 has been credited upon any  
10 judgment or judgments rendered in excess of that  
11 amount because of bodily injury to or death of 2  
12 or more persons as the result of any one acci-  
13 dent; or

14        C. When \$10,000 has been credited upon any judg-  
15 ment or judgments rendered in excess of that  
16 amount because of injury to or destruction of  
17 property of others as a result of any one acci-  
18 dent.

19        Credit for these amounts shall be deemed a satisfac-  
20 tion of any such judgment or judgments in excess of  
21 the amounts only for the purposes of this subchapter.

22        Payments made in settlement of any claims because of  
23 bodily injury, death or property damage arising from  
24 a motor vehicle accident shall be credited in reduc-  
25 tion of the amounts provided for in this section;

26        2. Written release. The judgment debtor or  
27 debtors secure a written release, in the form re-  
28 quired by the Secretary of State, from the judgment  
29 creditors; or

30        3. Bankruptcy. The judgment debtor obtains a  
31 discharge of the debt in bankruptcy.

32        §798. Reports

33        1. Contents of report and duty of the Chief of  
34 the State Police. Where an accident on a public way,  
35 or in any place where public traffic may reasonably  
36 be anticipated, has resulted in bodily injury to or  
37 death of any person, or in property damage to an ap-  
38 parent extent of \$300 or more, the accident report

1 required by section 891 shall contain, in a form pre-  
2 scribed by the Secretary of State, such additional  
3 relevant information as the Secretary of State shall  
4 require. The Secretary of State may rely upon the  
5 accuracy of the information unless and until he has  
6 reason to believe that the information is erroneous.

7 2. Verification by insurer. Upon receipt of no-  
8 tice from the Secretary of State that an automobile  
9 liability policy was carried at a certain time, or  
10 that the liability of the owner or operator for dam-  
11 ages resulting from an accident was covered by any  
12 other form of insurance or bond, the insurance carri-  
13 er shall notify the Secretary of State within 15  
14 days, in such manner as he may require, if the policy  
15 was not in effect at the time of the accident. When  
16 erroneous information with respect to the existence  
17 of insurance is furnished to the Secretary of State,  
18 he shall take appropriate action after receiving cor-  
19 rect information with respect to that coverage.

20 3. Penalty. Any person who gives information  
21 required in a report or otherwise, as provided for in  
22 this section, knowing or having reason to believe  
23 that information is false, commits a Class E crime.

24 §799. Application of provisions to nonresidents and  
25 accidents in other states

26 1. Nonresidents. The operation of a motor vehi-  
27 cle, trailer or semitrailer on a public way of the  
28 State by a nonresident, or with his express or im-  
29 plied consent if an owner, shall be deemed equivalent  
30 to an appointment by the nonresident of the Secretary  
31 of State or his successor in office to be his true  
32 and lawful attorney, upon whom may be served all law-  
33 ful processes in any action against the nonresident  
34 growing out of any accident in which he may be in-  
35 volved while so operating or so permitting to be op-  
36 erated a motor vehicle on such a way.

37 2. Information to home state. When a  
38 nonresident's operating privilege is suspended, pur-  
39 suant to section 792, the Secretary of State shall  
40 transmit a certified copy of the record of the action  
41 to the official in charge of the issuance of licenses  
42 and registration certificates in the state in which

1 the nonresident resides, if the law of that state  
2 provides for action in relation thereto similar to  
3 that provided for in subsection 3.

4 3. Accidents in other states. Upon receipt of  
5 the certification that the operating privilege of a  
6 resident of this State has been suspended or revoked  
7 in any other state pursuant to a law providing for  
8 its suspension or revocation for failure to provide  
9 proof of financial responsibility, under circum-  
10 stances which require the Secretary of State to sus-  
11 pend a nonresident's operating privilege had the ac-  
12 cident occurred in this State, the Secretary of State  
13 may suspend the license of that resident and all reg-  
14 istration certificates and registration plates. The  
15 suspension may continue until that resident furnishes  
16 evidence of his compliance with the law of the other  
17 state and until that resident files proof of finan-  
18 cial responsibility if required by that law.

19 §800. Opportunity for hearing

20 1. Desire for hearing. Any person entitled un-  
21 der this subchapter to a hearing on the decision of  
22 the Secretary of State in applying or invoking the  
23 requirements of this subchapter shall notify the Sec-  
24 retary of State in writing of his desire for a hear-  
25 ing within 10 days after receipt of the requirement.  
26 Pending the hearing, the requirement of the subchap-  
27 ter may not be invoked. This provision shall not be  
28 construed to relieve any person from maintaining a  
29 form of financial responsibility as required by sec-  
30 tion 793, subsection 1.

31 2. Determination of issuance. If the Secretary  
32 of State, in carrying out his responsibilities to ad-  
33 minister and enforce this subchapter, holds a hearing  
34 as provided in section 53 to determine whether or not  
35 a motor vehicle operator's license or certificate of  
36 registration should be issued to a person against  
37 whom the motor vehicle financial responsibility law  
38 has been invoked, he shall provide notice of the  
39 hearing to the other party or parties in the accident  
40 which gave rise to that law being invoked.

41 §801. Limitation and saving clause

This subchapter shall not be construed to prevent the plaintiff in any civil action from relying upon the other processes provided by law.

## STATEMENT OF FACT

This bill requires all motorists to maintain motor vehicle liability insurance or equivalent assurance of financial responsibility, in the amounts specified under the proof of financial responsibility law, the Revised Statutes, Title 29, chapter 9, subchapter I-A. This bill also clarifies the current financial responsibility law by reorganizing it both to reflect this change and to make present provisions more understandable.

The requirement follows the approach taken in other states, and represents an intermediate position between 2 undesirable alternatives, namely: The absence of any requirement of responsibility, and consequent untold losses to substantial numbers of responsible citizens; or on the other hand, a complex, actively monitored compulsory insurance law, with its attendant administrative costs to the State and insurers, to be ultimately borne by taxpayers and consumers.

This bill institutes a system of identification cards, which serves as an indication whether a person is maintaining the level of financial responsibility to be required of all motorists. This requirement is commonplace among other states, including those with "no-fault" insurance; but unlike provision in many of those states, this bill doesn't require automatically forwarding thousands of these cards to the licensing authority.

Presumably, a motorist providing false information, such as a forged identification card, would be subject to criminal prosecution for an offense such as unsworn falsification, a Class D crime in the Revised Statutes, Title 17-A, section 453.

Like the current law, this bill does not require the filing of actual proof of financial responsibility for all owners and operators. This would still be reserved for motorists who violate the law.

APPENDIX D

1 SECOND REGULAR SESSION  
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE  
4

5 Legislative Document

No.

7 H.P. House of Representatives,  
8  
9

10 EDWIN H. PERT, Clerk

11  
12 STATE OF MAINE  
13

14 IN THE YEAR OF OUR LORD  
15 NINETEEN HUNDRED AND EIGHTY-FOUR  
16

17 AN ACT to Increase the Minimum Limits  
18 for Uninsured Motorists' Coverage in  
19 Automobile Insurance Policies.  
20

21 Be it enacted by the People of the State of Maine as  
22 follows:

23 Sec. 1. 24-A MRSA §2902, sub-§1, as amended by  
24 PL 1975, c. 437, §1, is further amended to read:

25 1. No policy insuring against liability arising  
26 out of the ownership, maintenance or use of any motor  
27 vehicle shall be delivered or issued for delivery in  
28 this State with respect to any such vehicle regis-  
29 tered or principally garaged in this State, unless  
30 coverage is provided therein or supplemental thereto  
31 for the protection of persons insured thereunder who  
32 are legally entitled to recover damages from owners  
33 or operators of uninsured, underinsured or hit-  
34 and-run motor vehicles, for bodily injury, sickness  
35 or disease, including death, resulting from the own-

1     ership, maintenance or use of such uninsured,  
2     underinsured or hit-and-run motor vehicle. The cover-  
3     age herein required may be referred to as "uninsured  
4     vehicle coverage." For the purposes of this section,  
5     "underinsured motor vehicle" means a motor vehicle  
6     for which coverage is provided, but in amounts less  
7     than the minimum limits for bodily injury liability  
8     insurance provided for under the motorist's financial  
9     responsibility laws of this State or less than the  
10    limits of the injured party's uninsured vehicle cov-  
11    erage.

12       Sec. 2. 24-A MRSA §2902, sub-§2, as amended by  
13    PL 1975, c. 676, is further amended to read:

14       2. The amount of coverage to be so provided  
15    shall not be less than the minimum limits for bodily  
16    injury liability insurance provided for under Title  
17    29, section 787, subsection 1 \$25,000 for bodily in-  
18    jury or death to any one person and \$50,000 for bodi-  
19    ly injury or death of 2 or more persons in any one  
20    accident.

## 21                                   STATEMENT OF FACT

22       This measure is recommended as a result of the  
23    study on automobile insurance as a small but signifi-  
24    cant step toward reducing the harsh effects of the  
25    uninsured motorist.

26       To date, no state has been successful in assuring  
27    that all motorists are insured. Uninsured motorist  
28    insurance is therefore a necessity to guard against  
29    the economic loss that may result from injuries  
30    caused by the uninsured.

31       Despite the availability and low cost of this  
32    type of protection, responsible motorists have been  
33    observed not to take full advantage of it, opting in-  
34    stead for the minimum limits provided for in the law.  
35    Efforts to assure a more reasonable level of coverage  
36    by statute led to the enactment in 1975 of a law  
37    tying the level of uninsured motorist coverage to the  
38    amount of liability coverage purchased. That measure  
39    was quickly repealed in the following legislative  
40    session.

1        This bill is far more moderate, but would consti-  
2        tute an affirmative step, and might further serve to  
3        call attention to this important area of coverage.

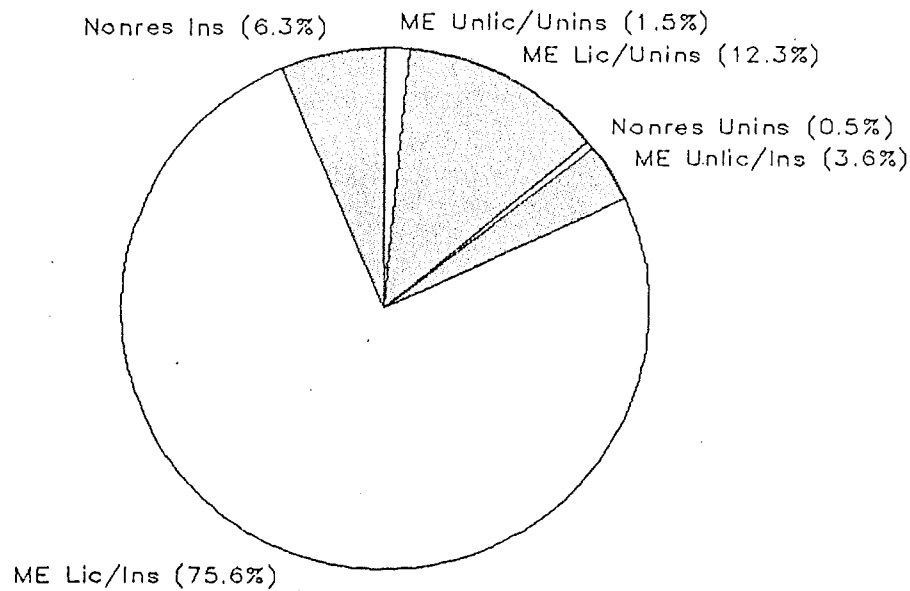
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APPENDIX E

# LICENSES AND INSURANCE INFORMATION

From 1983 Accident Reports



	Insured	% of Total	Uninsured	% of Total	Total
ME Licensees	39539	85.98%	6448	14.02%	45987
ME Unlicensed	1905	70.61%	793	29.39%	2698
Nonresidents	3315	92.47%	270	7.53%	3585
TOTAL	44759	85.63%	7511	14.37%	52270

Information provided by the Secretary of State, Division of Motor Vehicles. January, 1984.