

Committee Meeting

NJ
10
A939
1992c

before

SUBCOMMITTEE ON FRAUD OF THE
ASSEMBLY INSURANCE COMMITTEE

ASSEMBLY BILL Nos. 1874, 1875, 1876, and 2058

(Automobile Theft Insurance)

New Jersey State Library

LOCATION: Woodbridge Hilton
South Iselin, New Jersey

DATE: December 4, 1992
10:00 a.m.

MEMBER OF SUBCOMMITTEE PRESENT:

Assemblywoman Clare M Farragher, Chair

ALSO PRESENT:

Assemblyman Ernest L. Oros
District 19

Carolyn S. Mealing
Office of Legislative Services
Aide, Subcommittee on Fraud of the
Assembly Insurance Committee



Hearing Recorded and Transcribed by
The Office of Legislative Services, Public Information Office,
Hearing Unit, State House Annex, CN 068, Trenton, New Jersey 08625



CLARE M. FARRAGHER

Chair

GERALD ZECKER

Vice-Chair

JOHN F. GAFFNEY

E. SCOTT GARRETT

PAUL KRAMER

JOSEPH CHARLES, JR.

WILLIAM J. PASCRELL, JR.

New Jersey State Legislature

ASSEMBLY INSURANCE COMMITTEE

LEGISLATIVE OFFICE BUILDING, CN-068

TRENTON, NEW JERSEY 08625-0068

(609) 984-0445

COMMITTEE NOTICE

TO: MEMBERS OF THE ASSEMBLY INSURANCE COMMITTEE
FROM: ASSEMBLYWOMAN CLARE M. FARRAGHER, CHAIRMAN
SUBJECT: COMMITTEE MEETING - December 4, 1992

The Subcommittee on Fraud of the Assembly Insurance Committee will meet on **Friday, December 4, 1992 at 10:00 A.M. at the Woodbridge Hilton, 120 Wood Avenue, South Iselin, New Jersey.**

The public may address comments and questions to Carolyn S. Mealing, Committee Aide, or make bill status and scheduling inquiries to Cynthia D. Petty, secretary, at (609) 984-0445.

Members of the Subcommittee are:

Assemblywoman Clare M. Farragher
Assemblyman John F. Gaffney
Assemblyman Joseph Charles, Jr.

The following bills will be considered:

FOR DISCUSSION ONLY:

A-1874
Oros/Ogden

Requires information regarding auto arson to be filed with local fire department.

A-1875
Oros/Ogden

Requires insurance company information to be included on automobile and motorcycle registration certificates.

A-1876
Oros/Ogden

Provides that motor vehicle insurance coverage shall be void and premium forfeited if certain false information is given.

(OVER)

Issued 11/25/92

A-2058
Oros
(pending intro)

Requires auto insurers to maintain
certain information on electronic data
base.

DIRECTIONS TO WOODBRIDGE HILTON - (908) 494-6200:

FROM NEW JERSEY SOUTHBOUND/NORTHBOUND:
GARDEN STATE PARKWAY TO EXIT 131A
HOTEL IS ON THE RIGHT AT THE EXIT.

HOTEL IS ALSO WALKING DISTANCE FROM/TO "METRO PARK" AMTRAK
TRAIN STATION.

ASSEMBLY, No. 1874
STATE OF NEW JERSEY

INTRODUCED OCTOBER 1, 1992

By Assemblyman OROS and Assemblywoman OGDEN

1 AN ACT concerning certain insurance fraud and supplementing
2 P.L.1983, c.320 (C.17:33A-1 et seq.).

3
4 BE IT ENACTED *by the Senate and General Assembly of the*
5 *State of New Jersey:*

6 1. a. No payment shall be made by an insurer for a claim of
7 loss or damage to an insured motor vehicle, due to fire, until the
8 insurance company, within a reasonable time, has reviewed a
9 statement prepared by the owner of record of the vehicle, as
10 required pursuant to subsection b. of this section, and has
11 determined that no fraud was involved.

12 b. Whenever an insured motor vehicle suffers loss due to fire,
13 the owner of record of the vehicle shall submit to the insurance
14 company and the appropriate fire department or other authority,
15 as determined by the commissioner, a signed statement
16 containing such information concerning the fire loss or damage to
17 the vehicle as the fire safety commission, established pursuant to
18 section 5 of P.L.1983, c.382 (C.52:27D-25), shall require.

19 c. The commissioner, in consultation with the Fire Safety
20 Commission, shall, pursuant to the provisions of the
21 "Administrative Procedure Act," P.L. 1968, c.410 (C.52:14B-1 et
22 seq.), adopt any rules and regulations necessary to effectuate the
23 purposes of this act.

24 2. This act shall take effect on the 90th day following
25 enactment.

26
27
28

STATEMENT

29
30 This bill requires the owner of record of an insured motor
31 vehicle which suffers fire loss or damage to submit to the
32 insurance company and to the appropriate fire department, or
33 other authority, as determined by the Commissioner of Insurance,
34 a signed statement containing such information concerning the
35 burning of the vehicle as the Fire Safety Commission may
36 require. An insurance company would then be required to review
37 this statement and would only pay such claims after the insurance
38 company had determined that no fraud was involved.

39 This bill is modeled after a similar statute enacted in
40 Massachusetts in 1987. The Massachusetts statute has lead to a
41 drop in auto arson in that state of approximately 30%.

42 It is currently estimated that motor vehicle arson accounts for
43 approximately 35% of all incidents of arson in New Jersey. In
44 1991 the Department of Insurance estimated that there were 948
45 cases of motor vehicle arson in New Jersey, on which
46 approximately \$4,660,000 was paid in insurance claims.

1

2

3 Requires information regarding auto arson to be filed with local
4 fire department.

ASSEMBLY, No. 1875
STATE OF NEW JERSEY

INTRODUCED OCTOBER 1, 1992

By Assemblyman OROS and Assemblywoman OGDEN

1 AN ACT concerning the registration of certain motor vehicles
2 and amending R.S.39:3-4.

3
4 BE IT ENACTED *by the Senate and General Assembly of the*
5 *State of New Jersey:*

6 1. R.S.39:3-4 is amended to read as follows:

7 39:3-4. Except as hereinafter provided, every resident of this
8 State and every nonresident whose automobile or motorcycle
9 shall be driven in this State shall, before using such vehicle on the
10 public highways, register the same, and no automobile or
11 motorcycle shall be driven unless so registered.

12 Such registration shall be made in the following manner: An
13 application in writing, signed by the applicant or by an agent or
14 officer, in case the applicant is a corporation, shall be made to
15 the director or his lawful agent, on forms prepared and supplied
16 by the director, containing the name, street address of the
17 residence or the business of the owner, mailing address, if
18 different from the street address of the owner's residence or
19 business, and age of the owner, together with a description of the
20 character of the automobile or motorcycle, including the name of
21 the maker and the [manufacturer's number or the motor number,
22 or both] vehicle identification number (VIN) and any other
23 statement that may be required by the director. A post office
24 box shall appear on the application only as part of a mailing
25 address that is submitted by the owner, agent or officer, as the
26 case may be, in addition to the street address of the applicant's
27 residence or business. An owner whose last address appears on
28 the records of the division as a post office box shall change his
29 address on his application for renewal to the street address of his
30 residence or business and, if different from his street address, his
31 mailing address. If the vehicle is insured by motor vehicle
32 liability insurance, as required by law, the application shall
33 contain the name of the insurer of said vehicle, the National
34 Association of Insurance Commissioners (NAIC) insurance
35 company code of the insurer of the vehicle and the policy number.

36 Thereupon the director shall have the power to grant a
37 registration certificate to the owner of any motor vehicle, if over
38 17 years of age, application for the registration having been
39 properly made and the fee therefor paid, and the vehicle being of
40 a type that complies with the requirements of this subtitle. The
41 form and contents of the registration certificate to be issued
42 shall be prescribed by the director, which contents shall include,
43 but not be limited to: the name, street address or business

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 address of the owner; a description of the character of the motor
2 vehicle; the name, maker, and the vehicle identification number
3 (VIN); the driver's license number of the owner; the National
4 Association of Insurance Commissioners (NAIC) insurance
5 company code of the insurer of the vehicle and the policy
6 number; and any other information deemed appropriate by the
7 director. The director shall maintain a record of all registration
8 certificates issued, and of the contents thereof on an electronic
9 data base. The contents of this data base shall be accessible, on
10 line, to law enforcement agencies, the New Jersey Division of
11 Insurance Fraud Prevention established pursuant to section 8 of
12 P.L.1983, c.320, (C.17:33A-8), and special investigation units
13 established by insurers in accord with fraud and theft prevention
14 plans filed and approved by the Commissioner of Insurance
15 pursuant to section 56 of P.L.1990, c.8 (C.17:33B-46).

16 Every registration shall expire and the certificate thereof
17 become void on the last day of the twelfth calendar month
18 following the calendar month in which the certificate was issued;
19 provided, however, that the director may, at his discretion and
20 for good cause shown, require registrations which shall expire,
21 and issue certificates thereof which shall become void, on a date
22 fixed by him, which date shall not be sooner than three months
23 nor later than 16 months after the date of issuance of such
24 certificates, and the fees for such registrations shall be fixed by
25 the director in amounts proportionately less or greater than the
26 fees established in this Title.

27 All motorcycles for which registrations have been issued prior
28 to the effective date of P.L.1989, c.167 and which are scheduled
29 to expire between November 1 and March 31 shall, upon renewal,
30 be issued registrations by the director which shall expire on a
31 date fixed by him, but in no case shall that expiration date be
32 earlier than April 30 nor later than October 31. The fees for the
33 renewal of the motorcycle registrations authorized under this
34 paragraph shall be fixed by the director in an amount
35 proportionately less or greater than the fee established by
36 R.S.39:3-21.

37 The director shall issue registration certificates for the
38 following registration period on and after the first day of the
39 calendar month immediately preceding the commencement of
40 such registration period, such registration certificates to be
41 effective immediately.

42 Application forms for all renewals of registrations for
43 passenger automobiles shall be mailed by the director from the
44 central office of the division to the last addresses of owners of
45 motor vehicles and motorcycles, as they appear on the records of
46 the division. The following statement shall be imprinted on the
47 envelopes in which these forms are mailed: "DO NOT
48 FORWARD, RETURN TO SENDER."

49 No person owning or having control over any unregistered
50 motor vehicle shall permit the same to be parked or to stand on a
51 public highway.

52 Any police officer is authorized to remove any such
53 unregistered vehicle from the public highway to a storage space
54 or garage, the expense involved in such removal and storing of

1 said motor vehicle to be borne by the owner of such vehicle.
2 Any person violating the provisions of this section shall be
3 subject to a fine not exceeding \$100.00, except that for the
4 misstatement of any fact in the application required to be made
5 to the director, the person making such statement shall be
6 subject to the penalties provided in R.S.39:3-37.
7 Nothing in this section shall be construed to alter or extend the
8 expiration date of any registration certificate issued prior to
9 March 1, 1956.
10 (cf: P.L.1989, c.326, s.1)

11 2. This act shall take effect on the 180th day after enactment,
12 but the Director of the Division of Motor Vehicles may take such
13 anticipatory administrative action in advance of that date as
14 shall be necessary for the implementation of the act.
15
16

17 STATEMENT

18
19 This bill requires the following information to be included on
20 automobile and motorcycle registration certificates: the name,
21 street address or business address of the owner; a description of
22 the character of the motor vehicle; the name, maker, and vehicle
23 identification number (VIN) of the vehicle; the driver's license
24 number of the owner; the National Association of Insurance
25 Commissioners (NAIC) insurance company code of the insurer of
26 the vehicle, the insurance policy number and any other
27 information deemed appropriate by the Director of the Division
28 of Motor Vehicles. The bill further requires that this information
29 be maintained by the division on an electronic data base and that
30 it be accessible, on line, to law enforcement agencies, the New
31 Jersey Division of Insurance Fraud Prevention, and special
32 investigation units established by insurance companies under
33 fraud and theft prevention plans which have been filed with and
34 approved by the Commissioner of Insurance pursuant to
35 requirements set forth in the section 56 of the "Fair Automobile
36 Insurance Reform Act of 1990," P.L.1990, c. 8 (C.17:33B-46).
37 Currently, insurance company information is not included on the
38 registration certificate and is not available to fraud investigators
39 on an electronic data base. These steps would greatly expedite
40 the investigation of automobile insurance fraud cases.
41
42
43

44
45 _____
46 Requires insurance company information to be included on
automobile and motorcycle registration certificates.

STATE OF NEW JERSEY

INTRODUCED OCTOBER 1, 1992

By Assemblyman OROS and Assemblywoman OGDEN

1 AN ACT concerning certain fraudulent insurance practices and
2 amending and supplementing P.L.1983, c.320.

3
4 BE IT ENACTED by the Senate and General Assembly of the
5 State of New Jersey:

6 1. (New section) Notwithstanding any other provision of law
7 to the contrary, a contract or policy of motor vehicle insurance
8 issued or delivered in this State shall be void if the named insured
9 or a person acting in concert with, or with the knowledge of, the
10 insured:

11 a. Presents, prepares or makes, or causes to be presented to
12 any insurance company, as part of, or in support of, any written
13 or oral statement including computer-generated documents or
14 data when making application for coverage or providing
15 information, or filing a claim for payment or other benefit
16 pursuant to an insurance policy, knowing that such statement
17 contains any false, incomplete, or misleading information
18 concerning any fact or thing material to that application, claim
19 or benefit; or

20 b. Conceals or knowingly fails to disclose as part of, or in
21 support of, an application for coverage, a request by the
22 insurance company for information, a claim for payment or other
23 benefit pursuant to an insurance policy, any material fact or
24 thing that affects: (1) any person's initial or continued right or
25 entitlement to any insurance benefit or payment; or (2) the
26 amount of any benefit or payment to which the person is entitled.

27 2. Section 6 of P.L.1983, c.320 (C.17:33A-6) is amended to
28 read as follows:

29 6. a. Insurance claim forms shall contain a statement in a
30 form approved by the commissioner that clearly states in
31 substance the following: "Any person who knowingly files a
32 statement of claim containing any false or misleading
33 information is subject to criminal and civil penalties."

34 b. (Deleted by amendment, P.L.1987, c.342.)

35 c. Insurance application forms for motor vehicle policies ,
36 policy forms, and renewal forms shall contain [a statement] the
37 following statements in 10-point, boldface type, in a form
38 approved by the commissioner that clearly [states] and
39 conspicuously state in substance the following: (1) "Any person
40 who knowingly makes an application for motor vehicle insurance
41 coverage containing any statement that the applicant resides or
42 is domiciled in this State when, in fact that applicant resides or is
43 domiciled in a state other than this State, is subject to criminal

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 and civil penalties;" and (2) "This contract or policy shall be
2 void from its inception and any premium paid therefor shall be
3 forfeited if the person making application for coverage knowingly
4 presents, prepares or makes, or causes to be presented to this
5 insurer any written or oral statement containing any false,
6 incomplete or misleading information."

7 d. No policy of motor vehicle insurance shall be effective until
8 an applicant has personally signed: (1) the application form for
9 motor vehicle insurance coverage; and (2) a statement, in a
10 form approved by the commissioner, that conforms to the
11 provisions of paragraph (2) of subsection c. of this section and
12 additionally states that by the applicant's signature he attests to
13 the fact that he has read that statement and fully understands its
14 meaning and the importance of his statements being true and
15 correct, to the best of his knowledge, since the insurance
16 company may rely upon such information in the issuance of any
17 policy.

18 (cf: P.L.1991, c.331, s.4)

19 3. This act shall take effect on the 180th day after enactment.
20
21

22 STATEMENT

23
24 This bill provides that a motor vehicle insurance policy shall be
25 void and any premium paid therefore forfeited if the person
26 making application for coverage or providing information to an
27 insurer knowingly makes any false, misleading or incomplete
28 statement, either orally or in writing. The bill also requires
29 insurance companies to clearly and conspicuously print in
30 10-point boldface type, a statement to that effect on all
31 application forms, policy forms, and renewal forms. The bill
32 further requires an applicant for motor vehicle insurance to
33 personally sign: a statement certifying that he understands the
34 meaning of this statement; and the insurance application form
35 before the insurance coverage can become effective.
36
37
38

39
40 _____
41 Provides that motor vehicle insurance coverage shall be void and
premium forfeited if certain false information is given.

ASSEMBLY, No. 2058

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 30, 1992

By Assemblyman OROS

1 AN ACT concerning certain insurance fraud and supplementing
2 P.L.1983, c.320 (C.17:33A-1 et seq.).

3

4 BE IT ENACTED by the Senate and General Assembly of the
5 State of New Jersey:

6 1. For purposes of this act:

7 "Automobile" means a private passenger automobile of a
8 private passenger or station wagon type that is owned or hired
9 and is neither used as a public or livery conveyance for
10 passengers nor rented to others with a driver; and a motor vehicle
11 with a pickup body, a delivery sedan, a van, or a panel truck or a
12 camper type vehicle used for recreational purposes owned by an
13 individual or by husband and wife who are residents of the same
14 household, not customarily used in the occupation, profession or
15 business of the insured other than farming or ranching. An
16 automobile owned by a farm family copartnership or corporation,
17 which is principally garaged on a farm or ranch and otherwise
18 meets the definitions contained in this section, shall be
19 considered a private passenger automobile owned by two or more
20 relatives resident in the same household.

21 "Commissioner" means the Commissioner of Insurance.

22 "Insurer" means any corporation, company, partnership,
23 association, society, order, individual or combination of
24 individuals transacting automobile insurance in this State.

25 "Network system" means an interconnected collection of
26 autonomous computers within a specified geographic area.

27 2. a. No later than 120 days following the effective date of
28 this act, every insurer transacting automobile insurance business
29 in this State, shall, as a condition of doing business, maintain on
30 an electronic data base the following information with respect to
31 every automobile insured by the insurer:

32 (1) the vehicle identification number of the insured vehicle;

33 (2) the name, address and driver's license number of the owner
34 of the insured automobile;

35 (3) the registration number of the insured automobile;

36 (4) the name, address and driver's license number of the owner
37 of the policy insuring the automobile, if other than the owner of
38 the automobile;

39 (5) the name and address of the title holder, if other than the
40 owner of the insured automobile; and

41 (6) the name and address of the insurance producer issuing the
42 insurance policy;

43 b. Information required pursuant to subsection a. of this
44 section with respect to the issuing of automobile insurance
45 policies shall remain accessible, on-line, for a period of not less

1 than seven years after the insured automobile is scrapped or
2 shredded.

3 3. a. The Commissioner of Insurance shall establish within the
4 Division of Fraud in the Department of Insurance a network
5 system which shall have the capability to interface with
6 electronic data bases in other departments and agencies in this
7 State and other states and with organizations that provide such
8 information as may be necessary for the prevention and
9 investigation of automobile insurance fraud. Such departments,
10 agencies and organizations shall include, but not be limited to:
11 the Division of Motor Vehicles, the National Insurance Crime
12 Bureau, the Central Index Bureau, the Property Information Loss
13 Registry, Atlas, TRW and Trans Union Credit Report, and the
14 electronic data base systems which contain the information
15 required to be maintained pursuant to subsection a. of section 2
16 of this act.

17 4. The Commissioner of Insurance shall, pursuant to the
18 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
19 seq.), establish rules and regulations necessary to effectuate the
20 purposes of this act.

21 5. This act shall take effect immediately.

22

23

24

STATEMENT

25

26 This bill requires insurance companies writing automobile
27 insurance policies in this State to maintain on an electronic data
28 base the following information: the vehicle identification number
29 of the insured vehicle; the name, address and driver's license
30 number of the owner of the insured automobile; the registration
31 number of the insured automobile; the name, address and
32 driver's license number of the holder of the policy insuring the
33 automobile and the name and address of the title holder of the
34 automobile, if other than the owner of the automobile; and the
35 name and address of the insurance producer issuing the insurance
36 policy. The bill requires that this information remain accessible,
37 on-line, for a period of seven years after the automobile is
38 scrapped or shredded.

39 The bill also authorizes the Commissioner of Insurance to
40 establish a network system in the Division of Fraud which would
41 have the capability of interfacing electronically with other
42 departments and agencies in this State and other states and with
43 other organizations for the purpose of exchanging information
44 necessary for the investigation and prevention of automobile
45 insurance fraud.

46

47

48

49

50 Requires auto insurers to maintain certain information on
51 electronic data base.

TABLE OF CONTENTS

	<u>Page</u>
Richard J. Pacheco President North Eastern Technical Services, Inc. Fall River, Massachusetts	5
Colonel Clinton L. Pagano Vice President Reciprocal Management Corp. Attorney-In-Fact for NJ CURE	6
John A. Rumplach, Jr. Legislative Chairman International Association of Arson Investigators New Jersey Chapter	10
Detective Robert A. Hennigar Jersey City Police Department, and President New Jersey Vehicle Theft Investigators	12
Gary Turnberger Member Board of Directors New Jersey Vehicle Theft Investigators	12
Detective Craig Hamblin Auto Theft Unit Atlantic City Police Department, Second Vice President Northeast Chapter International Association of Automobile Theft Investigators, and Vice President New Jersey Vehicle Theft Investigators	23
Patrick W. Breslin New Jersey Manufacturers Insurance Company	39

TABLE OF CONTENTS (continued)

	<u>Page</u>
Detective Robert Radecke Arson Squad Fire Department Division of Investigation Newark, New Jersey	44
Donald Vnencak Fireman Fire Department Newark, New Jersey	47
Frank Sztuk Divisional Manager Special Investigation Unit New York Metro Branch Hanover Insurance Company	51
Bruce Blum Vice President Independent Insurance Agents of New Jersey	54
Joseph J. Frankel, Esq. Prudential Insurance Company	57
Arthur Herman, Esq. Counsel for State Farm Insurance Company	59
Peter P. Guzzo Director Legislative Affairs New Jersey Department of Insurance	61
Robert M. King Legislative and Regulatory Officer New Jersey Department of Insurance	62

TABLE OF CONTENTS (continued)

APPENDIX:

	<u>Page</u>
Statement submitted by Colonel Clinton L. Pagano	1x
Miscellaneous materials submitted by Richard J. Pacheco	3x
Testimony submitted by Bruce Blum	10x

mjz: 1-21
bgs: 22-32
mjz: 33-62

* * * * *

ASSEMBLYWOMAN CLARE M. FARRAGHER (Chair): If everyone would take a seat, we would like to get started. A couple of housekeeping announcements: First of all, we would like to thank very much the Hilton for providing this facility. It is quite nice and certainly gives us a lot more room even than we have in Trenton.

Second, the microphones up here are for recording, not for amplification. When you come up to testify, it would be very much appreciated by the young ladies who are going to make the transcription if you would clearly state your name, and spell your last name, so that when it is transcribed they will have it exactly right.

I would like to welcome all of you here this morning to this first meeting of the Fraud Subcommittee. I guess we better change that name and make it "Antifraud." We wouldn't want anybody making any disparaging remarks about the nature of this Subcommittee.

Assemblyman Gaffney who normally would be here-- His mother passed away and he was not able to come. So Assemblyman Oros is sitting in in his place. Assemblyman Joe Charles, who is the third member of the Fraud Subcommittee, is out-of-state and could not attend, but Dave Smith, from the Democratic staff, is here.

As most of you know, each year insurance fraud costs insurance companies and policyholders millions of dollars. Public outcry on the ever-increasing insurance premiums is mounting. We, as lawmakers, and the regulators around the country, have turned our attention to combating insurance fraud. I, myself, have just returned from Charleston, South Carolina, where I attended a Conference of Insurance Legislators meeting, commonly known as NCOIL. That is the second meeting I have attended this year where the emphasis has been very much on fraud and fraud prevention.

Law enforcement officials throughout the nation struggle as they engage in what seems to be a never-ending fight to keep pace with sophisticated criminal elements who make millions of dollars through fraud schemes. Obviously, they wouldn't go to all this trouble if they weren't making money, and we will get into that a little bit later.

We are here today to discuss several proposals aimed at curbing the proliferation of insurance fraud rackets which bleed off policyholders' hard-earned premium dollars. Assemblyman Oros is taking the bold initiative to introduce the bills which we see before us today. It is my sincere hope that the dialogue that is about to start will ultimately lead to the adoption of concrete measures which will stop fraud and save the system millions of dollars.

With that, I turn to my honorable colleague, Assemblyman Ernie Oros, to start today's hearing.

ASSEMBLYMAN OROS: Thank you, Assemblywoman. May I stay here?

ASSEMBLYWOMAN FARRAGHER: Sure.

ASSEMBLYMAN OROS: These microphones--

ASSEMBLYWOMAN FARRAGHER: These are for the recording.

ASSEMBLYMAN OROS: These are just for the recording, okay. We'll speak loud, okay.

I would like to thank everyone here for coming: members of our General Assembly, law enforcement officers, investigators, and members of the press and media.

We will be hearing from a number of distinguished witnesses today, and I especially thank these gentlemen for traveling here from around the State, and from as far away as Massachusetts.

The reason I have introduced this legislation, and the reason we are here, is that the insurance situation in New Jersey is out of control:

We have a 25-year history of auto insurance reforms that seem to travel in circles.

In a mandatory insurance State, it is estimated that between one-third and one-half a million people are driving without auto insurance.

As you will see today, perhaps one-half of all insurance claims involve some degree of fraud.

This situation is made worse by the hard fact that the cost of this situation is passed directly on to the consumer. This legislation is meant as a beginning to correct that.

Briefly, we set out to close those loopholes that are commonly used for fraud and can be attacked quickly. Next, we approached this problem from the point of view of using existing technology to fight this problem.

Auto arson -- A-1874 is the number of that bill -- is the leading factor in illegal fires in this State. This is because payment on an arson claim is often higher than the resale value of the car that is burned.

Now, the State of Massachusetts has had a very successful program to deal with this type of crime. In 1986, Massachusetts experienced 5500 automobile arsons. In 1987, they passed legislation similar to what I'll describe here, and their auto arsons peaked that year. Last year, they had a total of just over 2000 auto arsons, a drop of 62 percent. Interestingly enough, vehicle fires of all descriptions, which totaled 12,400 in 1987, have been cut in half.

The Office of the Fire Marshall in Massachusetts' Department of Public Safety called the results of this law: "A huge success," and I intend to follow their example. Our Auto Arson Act simply requires that the owner of an insured motor vehicle that suffers fire loss or damage, must submit a signed statement concerning the circumstances of the loss to an appropriate fire agency.

The insurer may not make a payment until it has, within a reasonable period of time, reviewed the statement and determined that no fraud was involved. At the start this may seem an additional burden on fire authorities, but the proven, immediate effect is a drastic drop in arsons that towns and cities have to expend resources in answering.

Insurance Policy Voided in Cases of Fraud, A-1876: This bill amends laws concerning fraudulent insurance statements, policies, and claims. It addresses a major omission that makes auto insurance policies different from other coverage.

My amendments require that a motor vehicle insurance policy shall be considered absolutely void, and any premiums paid towards it shall be forfeited, if the person applying for insurance coverage or filing a claim makes a fraudulent statement. The bill requires a conspicuous statement to that effect to appear on all applications, policies, and renewal forms.

Finally, this bill requires that the applicant personally sign a statement that this is understood, before insurance coverage becomes effective.

Uniform Registration Requirements: This bill amends laws regarding motor vehicle registration. It requires that, in addition to the usual registration information, the Division of Motor Vehicles maintain, in an on-line electronic data base, the Vehicle Identification or VIN number and NAIC insurance company code for each vehicle registered.

Also, the VIN number, the NAIC code, and the policy number are to appear on each individual vehicle registration. My bill further requires that this information, which will be maintained, as I said, on an electronic data base, and I quote: "Shall be accessible, on-line, to law enforcement agencies, the New Jersey Division of Insurance Fraud

Prevention, and special investigation units established by insurers." This information will greatly expedite the investigation of insurance fraud and vehicle theft cases.

Uniform Data Base Requirement: In short, this bill requires that the Division of Motor Vehicles, and all insurance companies, maintain an interfaceable computer network that can be accessed by relevant law enforcement groups and investigators.

It requires that this data base be kept for each vehicle up to seven years after the vehicle is supposed to have been destroyed.

The DMV would be prevented from issuing vehicle registrations until they confirmed that that vehicle is actually insured.

As this is only a brief background, I would ask that the Committee hear our expert witnesses before asking their questions. Thank you, Madam Chairman.

ASSEMBLYWOMAN FARRAGHER: Thank you, Assemblyman.

The Assemblyman has outlined the topics of all four pieces of legislation. Some of the speakers have signed up to testify with regard to all of the bills. So, rather than get into the lengthy reading of bill statements, since many of you seem to be very familiar with the content of the legislation, we will just begin hearing from you. Please let us know which bill you will be speaking of, if you don't mind.

We have someone here who has traveled all the way from Fall River, Massachusetts -- Richard Pacheco, from the North Eastern Technical Services. As a courtesy to a visitor to New Jersey, I would like to call him first.

R I C H A R D J. P A C H E C O: (speaking from audience) Thank you, but at the present time they still haven't delivered the projector and screen, so you might want to call someone else. As soon as they deliver them, I will be glad to show you what has happened in Massachusetts.

ASSEMBLYWOMAN FARRAGHER: Thank you very much. Colonel Pagano is here. He has indicated that he has some time constraints. Colonel Pagano is representing NJ CURE. Would you care to come up, sir? (Colonel complies) Good morning.

C O L O N E L C L I N T O N L. P A G A N O: Good morning. I thank you for accommodating my time. I know there are a lot of people here who have the same situation.

ASSEMBLYWOMAN FARRAGHER: Colonel, excuse me. Would you please speak a little louder, because behind you they can't hear, and the microphone is for the recorder.

COLONEL PAGANO: I will do better. Normally, I am accused of shouting, but I have been out of action for awhile, and maybe that's better.

In any event, I have a prepared statement I would like to at least present to you, if I may, and I will give a copy to the hearing reporters so they will have it.

I appear today representing New Jersey CURE. From the statement I have, and from the conversation to this point, obviously we have an interest in the package of bills, but we are directing our attention to A-1876 because of our continuing concern over the language in the policies we are currently using.

Obviously, I have had a long history as a State policeman; a shorter history as the Director of the Division of Motor Vehicles; and about as long a history in the insurance industry, but nonetheless a long history in the area of fraud and how to prevent fraud and how to face up to fraud.

The statements made here this morning are really right on point. The industry has gone in circles for many, many years. I am surprised by some of the things I have seen since I have been in my latest seat.

I would like to start by saying that New Jersey CURE is not an insurance company. It is a reciprocal, or it is an

inter-insurance exchange that was established under New Jersey law -- an old 40-year-old Act -- which authorizes New Jersey citizens with a common insurance problem to gather together to exchange contracts with each other, wherein they agree to share the risk of loss with each other. We look like an insurance company. Many people look to CURE as an insurance company, but CURE truly is a reciprocal; it is a joining together of people to assess and to cover each other's risk of loss. It is an aggregation of people known as subscribers who, under a common name, engage in the business of inter-insurance or exchanging contracts of insurance on the reciprocal plan through an attorney.

In fact, what we have gone to, really, is right back to basics, and that is what we look at when we view A-1876. When you look to the insurance industry per se, what you will find in history is that it started in Philadelphia, as best as has been recorded in history. Benjamin Franklin started it by calling the people together who were having difficulty with barn burnings. We are not burning barns in New Jersey, but we are insuring each other through the reciprocal plan in the same way that insurance was intended in the very beginning.

We have been in business-- We are the first company, or the first group, that came in following the Fair Act. Currently, we represent over 13,000 New Jersey families, 92.3 percent of whom came directly from the JUA or the MTF. These are people who have gone through a lengthy questionnaire. We found them to be the risks that meet our underwriting guidelines.

In plain English, New Jersey CURE provides responsible New Jersey residents with an opportunity to insure against risk at cost. We are a nonprofit, member-owned insurance group. Assembly Bill No. 1876 fits the NJ CURE objective of providing protection against those who engage in the practice of supplying information or misleading information in an

application for insurance in order to pay less for insurance protection than their own experience would require, really increasing the burden on others by so doing.

It has been CURE's experience that people are frequently aided in their efforts to beat the system by health care providers who willingly participate for profit, thinking that they are immune from detection because of their professional status. The language in A-1876 is broad enough to bring everyone into the loop where prosecution will be possible. This bill, as we view it, and as we have reviewed it, will strengthen the authorities already available to the Department of Insurance, Division of Insurance Fraud Protection. We think it would be a valuable tool, and that it would aid them in the good work that they have already done to date.

Most policy language in vogue today requires material misrepresentation. This is very often difficult to establish. The language proposed in A-1876 will broaden the definition of material misrepresentation and provide plain English language understandable to those who make statements which are false, incomplete, or misleading, leaving them without the defense that they really didn't understand the law. The warning contained in the proposed Act places the applicant for insurance in a new position. As they apply for insurance, or as they file a claim, there will be a clear deterrent in place that will not only deter those who are bent on improperly gaining a policy or improperly moving a claim, but it is also going to deter that individual that we have seen so much of in New Jersey, the rate evader.

The language in the forms that are being proposed clearly defines the practices that are proscribed when an individual is seeking insurance or moving a claim. Assembly Bill No. 1876 also requires a clear acknowledgement from all applicants that they understand the provisions that allow for

cancellation of a policy and the forfeiture of premium, if they are caught giving false or misleading information. What it does also, is require-- The bill will require that they attest to the fact that they have read these admonitions; that they understand them, much the same as what we have done in other areas, in applications for loans or for motor vehicle data, things of that sort.

We believe that A-1876 will act as a deterrent to those who, for too long, have been placing the burden on other New Jerseyans, and not really accepting their own responsibilities.

I am available for questions, Madam Chairman, if you so desire.

ASSEMBLYWOMAN FARRAGHER: Thank you. Ernie, do you have any questions?

ASSEMBLYMAN OROS: No, I don't, but I certainly thank the Colonel for appearing. His reputation certainly precedes him. His knowledge of this type of situation is very well known.

ASSEMBLYWOMAN FARRAGHER: I would like to make just one comment: Something that you said is very important, and that is the invasion of rates, which is another component of fraud. Typically when people -- and I am talking about the man on the street -- think of insurance fraud, they think of auto repair shops or running up medical bills, when, in fact, that is only a small segment of the efforts that can be made to defraud a company.

COLONEL PAGANO: Sure. The reason we got back to you on A-1876 alone instead of coming in with all the bills, is because as we established CURE and went back to basics in the insurance concept, so do you go back to basics with A-1876. You go back to the individual who, because of rate evasion or a variety of reasons, will make misstatements. We have addressed ourselves, I know, because it is such a problem, to those

people who live out-of-state -- New York, Pennsylvania, Philadelphia -- and pretty much class them as rate evaders. We have rate evaders in-state also. Someone who lives in a low-rated area has an advantage over an individual where the accident experience is different. Frequently, you will find people coming from the lower counties and actually living in the much more populated areas, and they are in-state rate evaders.

As you said, Madam Chairman, I have had a lot of experience, and the one number that comes through in my mind the clearest is, when I left the Division of Motor Vehicles, we had 479,000 New Jerseyans who were revoked or suspended. I don't know what the number is today, but I would imagine it is more. That means that these people are not all really bad people. They may very well be driving, as they are suspended or revoked, but they are still going to have that responsibility for insurance. The kind of language in A-1876 that is now proposed is going to go directly to that type of person who, for a variety of reasons, because of his own revocation, or revocation of the household, is going to give false or misleading information to an insurer, which is eventually going to jack up the rates, because of his bad habits, on everyone else insured by that company. So I think it is well advised.

ASSEMBLYWOMAN FARRAGHER: Thank you, Colonel.

For anyone who came in after we started, there is a form to sign up if you wish to speak, and we would appreciate it if you would fill one out.

John Rumplach, of the International Association of Arson Investigators, who wishes to speak on A-1874 and A-2058. Good morning.

J O H N A. R U M P L A S C H, JR.: Good morning. I am John Rumplach. I am a retired detective from the New Jersey State Police, now a private investigator working with insurance

companies on arson fires, and also the Legislative Chairman of the International Association of Arson Investigators, New Jersey Chapter.

I would like to speak first on Assembly Bill No. 1874 on behalf of the New Jersey Chapter of the IAAI. We are in favor of this bill. We feel this will help to deter the crime of arson with insurance fires -- arson fires with vehicles, and will also assist in initiating the investigations in a more positive way.

In the past, I have been personally involved in investigations where a claim comes in to an insurance company; the fire is investigated; and the insured makes a statement to the insurance company, and then later recants the statement, saying that the insurance company misunderstood what he said. Later investigation proves that he was directly involved in the fire. If this bill goes forth, this would surely ensure the companies and the law enforcement agencies of a signed statement, with the insured knowing that he has to make, you know, correct statements to the proper authorities.

On Assembly Bill No. 2058, which we feel is jointly associated with Assembly Bill No. 1875, with the registration information listing the insurance company, a lot of times law enforcement investigators have a hard time locating the insurance company. If this is on record with the registration, they have it right in front of them, accessing it through the data base.

With Assembly Bill No. 2058, a lot of times we run into a problem with a lack of communication between the insurance companies and law enforcement. Myself, I am usually retained by an insurance company to assist in the investigation of a fraud fire of a vehicle, or what have you. A lot of my time is spent running around getting information from law enforcement agencies and giving it to the insurance companies; also, maybe working with the law enforcement agencies getting

information from the insurance companies and giving it to law enforcement. Whereas, if an electronic data base is established, a lot of this information can be easily obtained by either party, making the initial investigation of the fraud, or the situation, run a lot smoother and a lot faster in the beginning stages.

I would just like to conclude by saying that the Association is well in favor of these bills, and hope they will be moved forward.

ASSEMBLYWOMAN FARRAGHER: Thank you. Any questions?

ASSEMBLYMAN OROS: No. Thank you very much, though.

ASSEMBLYWOMAN FARRAGHER: I have two people I am going to call up together: Detective Robert A. Hennigar, President of New Jersey Vehicle Theft Investigators, and Gary Turnberger, of the same organization.

D E T E C T I V E R O B E R T A . H E N N I G A R: Good morning.

ASSEMBLYWOMAN FARRAGHER: Good morning.

ASSEMBLYMAN OROS: Good morning.

DETECTIVE HENNIGAR: My name is Bob Hennigar. I am President of the New Jersey Vehicle Theft Investigators. I am also a detective with the Jersey City Police Department. I will let Gary Turnberger introduce himself.

G A R Y T U R N B E R G E R: My name is Gary Turnberger. I am a retired police officer, and I currently serve on the Board of Directors of the New Jersey Vehicle Theft Investigators Association.

DETECTIVE HENNIGAR: This morning, I am very interested in Assembly Bill No. 1875. This concerns insurance information on vehicle registrations. It is long overdue. As a police officer, I can tell you that stopping a motor vehicle on the street and trying to determine the insurances of the insured who does not have his insurance card in his possession-- If he is not a New Jersey resident, I can easily

access a New York data base and find out that he is insured, but if he is a New Jersey resident, I have no way of knowing that he does have insurance. I would have to take his word, and would probably issue a ticket for being uninsured, and let him present that insurance card in court. In today's market, it is not unusual for an insured, or a defendant, to go to court with a temporary insurance card and present it to the judge as legitimate insurance, knowing, in fact, that it is not insurance. We can't verify that insurance information with the insurance companies.

At one time, I requested that the insurance agent be subpoenaed in court to verify that the insured was insured. That seemed to be out of the realm of the court. They didn't want to drag in the businesspeople who were issuing insurances. Rather than penalize the guy, they just found him as not having an insurance card in his possession.

If there was some way that we could simply put in a license plate number and verify that the insurance was in effect, it would help out law enforcement. It is totally unbelievable today, knowing the DMV has this information, that it is not provided to law enforcement. I have asked DMV many times in the past why we can't get it, and have only been told that because the insurance information is written on the back of the card, the computer only scans the front of the card with the name of the registered owner. I asked them why they couldn't simply put a three-digit code on the front and scan that. I was told they would have to change all of the registration forms, and that it would cost millions of dollars.

I think it is foolish and silly that they are not giving this information to law enforcement. If I make a call to DMV, sometimes it takes me two to three days just to verify that there was insurance information on the card. Then I later determine that the insurance information was bogus right from the beginning. No one in the Division of Motor Vehicles will

ask the insured for a card. They just assume this information is correct when the applicant signs a card. There are bogus numbers in the system; there are bogus names of insurance companies. In some cases, they will use a legitimate insurance number and utilize it with a different name of another insurance company.

It is just frustrating that we can't even verify the insurance. With this bill, and hopefully with the electronic data information, DMV will be able to verify the insurance with the insurance company, and so forth. This, in turn, will help law enforcement. There are thousands of drivers out there violating this law every day, and they know they can get over. It is not unusual just to get temporary insurance card after insurance card. In fact, the insurance cards are so available-- I had a recent case where I arrested one individual for having 5000 blank insurance cards. He was selling them on the street for \$15 apiece. We can't do anything to him. All we did was find him guilty of one violation where he filled out a card himself. So there were 4999 other cards, but no violation.

When the insurance agencies lack in securing these types of cards, when an individual can go to his insurance broker and get temporary after temporary, there is something wrong with the system. Hopefully when he makes that first purchase of insurance it is recorded, and then the minute he no longer keeps up with his payments, the insurance should be revoked and we should know that immediately, so when we stop this driver on the road, we can immediately take that driver off the road.

Thank you.

ASSEMBLYWOMAN FARRAGHER: Did you have something to add, Mr. Turnberger?

MR. TURNBERGER: Yes, I did. As I said, I am here today as a representative of the New Jersey Vehicle Theft

Investigators Association. I am the Regional Manager of Hertz Claim Management Corporation's Special Investigation Unit. As part of my duties, I oversee the investigation of suspicious automobile claims evolving from over 200,000 personal automobile policies issued on behalf of New Jersey's Market Transition Facility.

In the past seven years, I have personally examined approximately 2000 stolen and recovered motor vehicles and supervised the investigation of approximately 4000 suspicious theft claims involving recovered stolen, recovered burned, and unrecovered vehicles.

The FBI's Uniform Crime Report has indicated that there were over 72,000 vehicles stolen in New Jersey in 1991. These statistics also tell us that about 66 percent of these vehicles are recovered. The remaining 34 percent represent unrecovered vehicles, which are believed to have disappeared into the criminal distribution system; i.e., chop shops, body substitutions, or illegal exportations.

At face value, we know what these figures represent. I would like to address this public hearing on the underlying significance of what these figures do not represent.

Of the 66 percent of recovered vehicles, 40 percent of these are recovered as total losses due to collision, vandalism, or strip damage. The insurance industry is compelled to pay Actual Cash Value plus 6 percent sales tax on each of these vehicles. The remains of these vehicles are then sold at salvage yard auctions to the highest bidders.

The salvage return on these cars may vary from 9 percent to 15 percent. Considering impound and storage charges, these vehicles are occasionally sold with a deficit remaining to the insurance company. The 34 percent of unrecovered vehicles net no salvage return to the insurance company, since in most cases they are never found.

Some of these unrecovered vehicles represent those which have been found to have been buried, submerged, or dismantled by their owners. Also included in the 66 percent of recovered vehicles are those that are recovered burned. In most cases, the vehicle is completely consumed by fire and also represents no salvage return to the insurance company.

The incidence of owner involvement in intentionally burned motor vehicles is, in my opinion, quite frequent, because the arsonist's goal is to destroy the vehicle and to destroy evidence of the act. Most vehicles reported stolen, particularly those recovered burned, prove to be both financed and insured.

Uniform Crime Report statistics also do not represent the incidence of owner participation in the auto give-up claim for insurance fraud, claims in which the owner is directly linked with the theft or destruction of the vehicle. NICB statistics indicate that as many as 20 percent of insurance claims contain at least some element of fraud. In 1991, my investigative staff, which consists of about 40 people, found that of the stolen car claims investigated, determinable fraud was confirmed in 47 percent of the auto theft cases referred.

In 1991, 15 percent of all stolen car claims were referred to the Special Investigation Unit because of suspicious claim activity, resulting in the intervention of \$1.9 million in fraudulent claim settlements. In the past three years, \$4.2 million worth of fraudulent stolen car claims have been identified by my staff, and we represent only one of a few servicing carriers on behalf of the Market Transition Facility.

As a professional insurance investigator, I have a duty to the legitimate policyholder to prove his/her claim worthy of merit. That same duty extends to all consumers and the insurance industry when fraud is determined.

In order to realize a reduction in the incidents of auto theft, auto arson, and insurance fraud, the NJVTI supports Assemblyman Oros' proposals on new legislation:

1) The FAIR Act of 1990 requires the investigation of suspicious insurance claims. Presently, there is no electronic retrieval mechanism available to law enforcement or the insurance industry's special investigation units, which would indicate the insurance company NAIC code and policy number for each registered vehicle in this State. To obtain that information requires a manual search by the New Jersey DMV, either obtained via a private service at \$11 per inquiry, or requiring an investigator from my staff to personally appear in Trenton at DMV to obtain that information. It is my understanding that one person can submit no more than three requests for information at a time. So there is a limit on a request that could be submitted. Generally, it takes two to three weeks to receive that information back if it is requested through a private service.

The delay in receiving this information represents a hardship to both law enforcement arson and insurance investigators. Law enforcement and fire officials have no way of alerting an insurance company of the suspected fraud, since in many cases insurance documents are removed from the vehicle in an owner-involved loss. The typical vehicle arson and owner-involved loss occurs at night. Insurance companies could be immediately notified of the loss the following morning by law enforcement and fire officials if the NAIC code were available to them by computer and an insurance investigation could begin immediately.

2) Each owner of a stolen and burned motor vehicle should be required by law to submit a signed statement to the appropriate fire department, or other authority, concerning the burning of the vehicle.

Arson for profit losses is seldom solved via finding the vehicle owner standing at the crime scene with a match smoking in his hand. Rather, these cases are resolved through the coordination of efforts between arson officials, law enforcement, and insurance investigators; the accumulation of various types of evidence; and comparison of contradictory statements and incompatible testimony.

Since the enactment of the Massachusetts arson statute, that state has seen a significant reduction in auto arson.

3) The NJVTI endorses the Fraud Insurance Practices Bill as it pertains to persons knowingly misrepresenting material facts in the application for insurance. The NJVTI supports the voidance of the policy and forfeiture of premium when fraudulent applications have been uncovered.

It is within our experience that insurance policies -- and more often than one might think -- are purchased with the sole and factual expectation that a loss will take place. These incidents may take the form of insuring a nonexistent or "paper car," an unrepaired "salvage" car, or the illegal export of the vehicle by its owner prior to the police theft report.

In addition to forfeiture of premium, additional sanctions, including the recovery of investigative fees of both law enforcement and insurance company SIUs, should be considered.

In conclusion, the NJVTI is in full support of Assemblyman Oros' proposed legislation. Through the successful passage of this legislation, it is anticipated that New Jersey will realize a significant reduction in auto theft, auto arson, and insurance fraud, and a corresponding decrease in the cost of insurance premiums in this State.

Thank you.

ASSEMBLYWOMAN FARRAGHER: Thank you very much.
Questions?

ASSEMBLYMAN OROS: Yes, I have a question, Madam Chairman. The statistics are astounding, to say the least. Once again, with the experience of people, it is just amazing.

When you have a claim, let's call it, or you get involved in something, to check into the availability of the records-- How long do you estimate it takes you right now to do that?

MR. TURNBERGER: To find insurance information?

ASSEMBLYMAN OROS: Yes, to get this information -- just a rough estimate. I would like to hear that.

MR. TURNBERGER: Typically, for myself as an insurance person -- and Detective Hennigar may tell you differently-- As an insurance investigator, typically it is about three weeks to receive information from Motor Vehicles.

DETECTIVE HENNIGAR: As law enforcement, it takes me-- Number one, I have to make a telephone call, and then it may take two or three days to hand-search the records to see who the insurance company is. Now, this also creates a problem. A lot of times the insured is notified of a recovered vehicle, and because it is close to the time period when they are getting paid, normally within 30 days, they don't want the car found on the 29th day. It upsets their applegart. So what happens is, when we send them a registered letter, it comes back "unknown" or "returned."

Now, the insurance company in the process is getting ready to pay off, and they are sending the check to the owner. The owner will not tell the insurance company, "Hey, the Jersey City Police found my car," because they know the condition of the car. They know it has been destroyed. They don't want it. They want to get paid. They don't want any questions.

Having the availability of the insurance information at the time of the recovery or the impoundment would certainly make a difference to law enforcement, because not only would we notify the owner of the vehicle, but we would automatically

notify the insurance company that we had that car in our possession. If we can get some type of electronic data base-- That information is available in Trenton. They are just not providing it. If we can get that, I think it would help with the insurance industry, and it is going to help with law enforcement to solve these problems and expedite matters. It will also help us to keep our police impound yards a little clearer and a lot freer than what they are now. We are piling cars up. We can't get them out fast enough, because of the lack of information.

MR. TURNBERGER: And that is increased storage charges, also, that have to be saved.

We receive many calls from arson officials regarding cars that they recovered during the night burned, total losses. They have no idea who the insurance company is, so they start calling insurance companies at random, hoping they can find the owner of the vehicle so they can alert the insurance company to put a watch if a claim is submitted.

DETECTIVE HENNIGAR: I believe that in most cases when arson fraud is committed, it is done prior to the police report. Usually the night before the car is taken, it is burnt, and then the next morning the insured wakes up and says, "Oh my God, someone stole my car." It always seems to be that car that is burnt up, a total loss. It may only be a couple of towns away, or it may be in the same town.

MR. TURNBERGER: That's why the police are able to get the vehicle identification number. Whatever state of destruction that car is in as a result of a fire, there should be some identifying numbers that law enforcement can use to put into the Motor Vehicle computer, and that would automatically return the three digits that would allow him to know who the insurance company is, so they could alert the insurance company that it is a suspect fire.

ASSEMBLYMAN OROS: One other question I have: I think when we did some research we found that the State furnished us information. There were about 974 arson cases last year. What's your response to that?

DETECTIVE HENNIGAR: I think there were 974 cases just in Jersey City. (laughter) Now, what happens is, the fire departments aren't reporting it as arson, because once they do they have to conduct an investigation. So what they're doing is just classifying it as a car fire and letting the police departments impound the car and take it away. Once they say it's an arson, they have to conduct an investigation. They don't have the manpower to do that. I know we have car fires every day just in Jersey City. I don't know how many in Newark. We're probably sending smoke signals back and forth to each other. (laughter)

MR. TURNBERGER: In my opinion, I believe the incidence of owner involvement in arson cases is probably the majority of the time. Either the owner contracted to have it done or actually did it himself. I have talked to hundreds of people that I have arrested for car theft. Not one of them that I talked to has stolen a car simply to burn the car. When someone steals a car and has it burned, that's insurance fraud. That's owner involvement. It may not be directly done by the owner, but the owner is putting out the word that he wants to get rid of his car. And that's another problem -- lien holders.

The Division of Motor Vehicles was giving the Police Department lien holder information. When we checked the title, we were able to get a lien holder such as GMAC, or the trust company, or whatever bank it was -- someone who had interest. For some strange reason, the DMV now has taken that information back away from law enforcement. I was under the impression that they are selling that information now to insurance companies, or whatever, at \$5 or \$7 a lookup, yet law

enforcement can't get that information. And it's there. It's important that we have that information, because these arson fires are normally done because they can't get out of the lease or because of the overhead on the payment of that car. The best thing to do is to burn the car and let the insurance company bail them out of their bill. That's all it is.

ASSEMBLYWOMAN FARRAGHER: Getting back to identifying who the insurer is or who even is the owner, I am assuming that these burned vehicles no longer have plates on them.

DETECTIVE HENNIGAR: In most cases, the plates are taken off prior to the fire. Another unique feature is that the contents of the vehicle have been removed, such as documentation with names. In some cases even the temporary spare tires are taken out, although I've seen them left behind. They're really not worth much, but for some reason the owner has that car cleaned out. He doesn't want any personal items left in that car when it's going on fire.

ASSEMBLYWOMAN FARRAGHER: So, the only thing that could probably be left, depending on where the VIN number--

DETECTIVE HENNIGAR: Is the vehicle identification number.

ASSEMBLYWOMAN FARRAGHER: Right.

DETECTIVE HENNIGAR: The vehicle identification number is the most important. Even in cases when that's destroyed by fire, which is not uncommon in Japanese type cars, the plates are made out aluminum and are melted in the fire. There are other identifying numbers on that car where law enforcement can identify that car.

MR. TURNBERGER: There's no incentive for a car thief to set the car on fire, presuming the car was actually stolen in the first place, because to set the car on fire only calls attention to the act. A passerby or witness might see the flames and call the police and directly link this person, so

there's seldom any incentive at all for this so-called car thief.

ASSEMBLYWOMAN FARRAGHER: That totally goes against the whole modus operandi of the car thief who wants to get away quick.

DETECTIVE HENNIGAR: Exactly.

MR. TURNBERGER: The modus of the car thief typically is to take something of value from the car -- its parts, to steal it for its parts, or for some other purpose, even to ride around in the car. Even if the purpose was simply to ride around in the car, it's not to his advantage at all to set the car on fire because he now exposes himself to a charge of arson; the criminal charge of arson as opposed to some joyriding complaint where he most likely would be released the same day.

DETECTIVE HENNIGAR: I think if the municipalities had a better reporting system on arson fires, the State arson rate would be much higher. A lot of departments aren't classifying fire as arson. They're just classifying it as a car fire, and that's the end of it.

That's all I have.

ASSEMBLYWOMAN FARRAGHER: Thank you very much.

DETECTIVE HENNIGAR: Thank you.

MR. TURNBERGER: Thank you.

ASSEMBLYWOMAN FARRAGHER: Craig Hamblin, from the Atlantic City Police Department. Good morning.

D E T E C T I V E C R A I G H A M B L I N: Good morning. My name is Craig Hamblin of the Atlantic City Police Department. I have served with the City since 1974 in a variety of capacities, including Dispatcher, Traffic Division, Patrol Division, the Casino Hotel Investigation Unit, the Vice Unit, and finally, the Auto Theft Unit. Since 1979, I've actively participated in the recovery of over 2200 stolen motor vehicles. As of 1987, when I was assigned to the Auto Theft

Unit, I've handled every auto theft case for Atlantic City. During my normal course of duties, I instruct at two State-certified academies, examine vehicles after recover for alteration, perform ignition analysis on vehicles, and investigate cases of insurance fraud. Many times I've been called upon by outside agencies, both law enforcement and fire departments, for vehicle examinations. To date, I have physically examined in excess of 50,000 cars.

I have received the Northeast Chapter of the International Association of Auto Theft Investigators Vehicle Theft Investigators Achievement Award, and I'm one of only nine officers in the country to receive the International Association of Chiefs of Police/National Automobile Theft Bureau Vehicle Theft Prevention Award. I currently serve as second Vice President of the Northeast Chapter of the International Association of Automobile Theft Investigators, and Vice President of the New Jersey Vehicle Theft Investigators. Each of these organizations are actively involved in vehicle theft investigations. Our paramount goal is to thwart auto theft, auto arson, and insurance fraud.

I am here today to add my support to Assemblyman Oros' proposed legislation on vehicle theft, arson, and insurance fraud.

During my career as a law enforcement officer, I have seen a steady rise in vehicle theft each year. Sadly, along with this increase, I've also seen an exponential rise in insurance fraud. National Insurance Crime Bureau statistics indicate that a significant number of all vehicles nationwide contain some element of fraud. Here in New Jersey, those of us involved in vehicle theft investigations estimate that over 50 percent of all reported thefts have a common denominator of fraud. Proving such cases is both difficult and time-consuming. Most law enforcement officials feel that insurance fraud is an insurance problem. Most insurance

investigators rely on law enforcement in assisting them to help prove their cases. There are other internal barriers which remain within certain companies. Insurance carriers may require subpoenas to obtain records showing that a vehicle is insured by their company or to attain an affidavit of theft from the insured.

Even though as trained investigators we know that over half of all our claims contain an element of fraud, proving it and bringing each case to a successful conclusion may not always be easy.

One such case that I recently had an opportunity to work on involved an alleged robbery of a vehicle and its contents totaling some \$27,000 in claims between the vehicle, its contents, jewelry that the victim was wearing at the time of the robbery, bodily injury that the victim allegedly received during the time of the robbery, psychological treatment that she received after the alleged robbery, and rental fees for a vehicle that she used while her vehicle was reported as missing. It was later proven that the victim and her friend parked the vehicle at Newark International Airport two days before the reported robbery. During a question and answer statement taken from the victim, she admitted to the scam and stated that she was doing it to try to gain money to buy out her business partner. She went on to say that she saw nothing wrong with what she was attempting, and she had done it since she had been paying insurance premiums for a number of years and never really made any large claims except for a few minor ones for automobile accidents.

I will pose to you the same question I posed to her: "Would you mind terribly if I took \$27,000 from you?"

This case was successful because there was full cooperation between my agency, the recovering agency, the auto theft carrier, the home owner's insurance carrier, and the State Insurance Fraud Division. Even with this cooperation, the case took nearly two months to put together for denial of

the claim by the insurance company and prosecution by law enforcement. Such cooperation is a rarity, and the criminal is all too well aware of the fact that seldom will they get caught if a fraud is attempted.

It has been a well-documented fact that vehicle theft in the United States is second only to narcotics in total cash gain. With this in mind, we must make every effort to reduce vehicle theft from all angles, including the angle of insurance fraud.

The legislation that has been proposed by Assemblyman Oros on requiring the National Association of Insurance Commissioners Insurance Company Code on Division of Motor Vehicle Lookups and New Jersey Vehicle Registrations will create a closer link between law enforcement, the insurance company, the NICB, and the Division of Motor Vehicles. The networking of computers and allowing law enforcement and the insurance industry to access these computers will enhance the quality of investigations for all agencies. As a secondary benefit, there would never be more than a minimal amount of time that the insurance information would not be up-to-date on the State Division of Motor Vehicles' computer system. We are recommending that the insurance information be updated via electronic communications by the insurance company within 72 hours. Patrol officers stopping persons who provide counterfeit insurance cards, or whose coverage has lapsed, would be detected immediately. Officers would take the appropriate action as they would with anyone who violates the provisions of our current insurance laws.

We in law enforcement have seen motorists place a 60-day binder insurance policy on a vehicle for approximately \$100. This policy is not renewed until such time as the individual operating the vehicle commits an infraction and is stopped by police. Even then, it is possible for the person to keep placing binders on the vehicles and never pay the rates

that those of the rest of New Jersey's residents are paying to drive legitimately with proper insurance.

Clearly, this bill will require the Division of Motor Vehicles to verify and validate information from motorists providing insurance information when registering and titling their vehicles. This bill would correct deficiencies in the current system and provide vital information to law enforcement and insurance for proper deterrent measures and detection of fraudulent activities on the part of those who insist upon utilizing the current insurance system as a limitless resource for illegally obtainable funds.

Finally, we must examine Assemblyman Oros' proposed arson bill. I'm sure that there's no one in this room that would dream of robbing a bank and then burning the money. Yet in many cases that's exactly what those who are involved in arson scams expect us to believe. When a vehicle is stolen the payoff time is usually 30 days. At that time the insured receives a check for the book value of the vehicle. When a vehicle is discovered burned, the insurance company pays off almost immediately. Many times these payoffs are made with little or no examination to determine the cause and origin of the fire. This bill would require examination to determine if arson was involved. It would severely limit those who burn their vehicles for profit, and, of course, as a result, would reduce insurance premiums.

Overall, this package of bills is a good beginning. There will be other problems that have to be addressed that relate to insurance fraud. These bills begin to address the problem of cooperation between law enforcement, State agencies, and the private sector. Their passage is essential to reduction of insurance rates. They will also send a clear message to those involved in insurance fraud that New Jersey will not tolerate the continual theft that occurs when residents file fraudulent claims. These bills will update and

streamline investigative techniques, and provide a catalyst for cutting through the red tape that currently exists.

As a law enforcement officer, and Vice President of the New Jersey Vehicle Theft Investigators, I fully support Assemblyman Oros' proposed legislation. With the passage of this legislation in its present state, New Jersey will benefit from a substantial reduction in reported vehicle theft, vehicle arson, and insurance fraud. Ultimately, by reducing fraudulent payouts, and by reducing precious time spent on investigating fraudulent cases, the residents of New Jersey will benefit from reduced insurance premiums.

ASSEMBLYWOMAN FARRAGHER: Thank you very much.

Assemblyman?

ASSEMBLYMAN OROS: The only comment I have, is that the background of Detective Hamblin in his statement is outstanding.

ASSEMBLYWOMAN FARRAGHER: The comment that I have is, we've only just begun. This is the first of what I expect to almost be a monthly occurrence for this Subcommittee. It's only the beginning, and we're only addressing a small part of auto fraud. We haven't even started on the health and the life and the other things yet.

Thank you very much for coming and sharing your information with us. We greatly appreciate it.

ASSEMBLYMAN OROS: Thank you, Detective.

DETECTIVE HAMBLIN: Thank you.

ASSEMBLYWOMAN FARRAGHER: Richard, are you all ready?

MR. PACHECO: I think so. While he's getting the machine, let me introduce myself. My name is Richard J. Pacheco. I'm the President of North Eastern Technical Services out of Fall River, Massachusetts.

I guess a little bit about my background: I've been assisting law enforcement agencies and insurance companies in the investigation of insurance fraud, whether it be auto,

marine, even aircraft, for almost 20 years. In that time, I've seen it go from where our hands were literally tied -- you could do almost nothing -- to the point now where the tide has turned and nationwide -- and this is the area I work, nationwide, not just the State of Massachusetts or Rhode Island, etc.-- Everywhere I go, the situation is the same. We are beginning to fight back, simply because of the fact that we're tired of being held prisoner by the criminals, and that's all these people are.

I recently returned from a tour through the Midwest. I've got some ideas that they're using which I'll provide to you, to look at for your own decision. I've also brought with me -- and I Faxed this down a while ago -- a copy of the Massachusetts law which generates the FP-33, which says, "No insured may be paid, and no insurance company may pay, for any motor conveyance which is burnt, until the owner of record has filed a statement under the pains and penalties of perjury, the circumstances regarding that."

Tuesday, at the Providence Police Academy during a training session with their people, I received a copy of Rhode Island's state law 422847 -- which I have a copy of and which I will provide for you -- which makes for a uniform reporting form, which was another major problem where every different town was using a different form. It makes it very difficult to input the information into the computer, which is one of the biggest things the registry of motor vehicles, etc. found trouble with. I've also got some other things in here that are Federal laws that are being enacted, and, just of interest, I have a court case on insurance fraud, the judge's decision, what they viewed as the particular problem, etc., and I'll give this all to you.

Are we ready, or are we having trouble? (speaking to aide who is setting up slides and projector)

UNIDENTIFIED AIDE: Keep your fingers crossed.

MR. PACHECO: It's all backwards. Actually, it is only the date. It is going to come up the same thing.

UNIDENTIFIED AIDE: Okay, keep talking.

I'll keep talking while he corrects that. My tray and his tray are not compatible and he's attempting to rectify the situation.

Part of my background is, I've attended numerous schools. I'm a member of a tremendous amount of organizations because I do deal nationwide: The International Association of Arson Investigators, The International Association of Auto Theft Investigators, The National Association of Fire Investigators, and I'm a member of the Northeastern Association of Forensic Scientists. That is basically what I do. I'm a forensic analyst. I take the stolen and burnt motor vehicle or boat and I reconstruct it to determine if, in fact, it was stolen. It took a number of years to perfect the system. It took another year or two to convince the judicial system that the system was viable and was fair to not only the police and the fire departments, but the people whose vehicle had been stolen. The process of doing that expedited the entire judicial and claim-handling procedure as it weeded out the innocent from the guilty, using physical hard evidence versus misstatements or misunderstandings in statements. What we basically did was provide actual facts.

I think you've got to back up one more. (speaking to aide) No, back up picture 1, and see what happens. You've got this pretty good now. You can just work it for me.

UNIDENTIFIED AIDE: Okay. It would be much easier--

ASSEMBLYWOMAN FARRAGHER: Yes, we are going to move. You can hit the light switch on the wall, too.

MR. PACHECO: I can provide this on videotape for you at any time. I would be glad to give it to you.

UNIDENTIFIED AIDE: Okay, here we go.

MR. PACHECO: Basically, what you're seeing here is a reenactment by Nationwide Insurance of an actual case of the burning of a motor vehicle. The gentleman there is Mr. Dave Reo of the SIU, Manager of the Nationwide Insurance Company. This was turned into a complete video. Gasoline was poured in the vehicle there, which is valued at approximately \$6000 in its stated case. A trailer led from a soaked interior bringing it all the way down to where the flare was dropped. As you can see, the date-- This was 1991. It was part of a test procedure to teach appraisers, law enforcement, and fire departments the proper handling of fraudulent claims of arson fires, and the suppression of an arson fire.

As you can see here, the fire has followed the trailer and jumped into the vehicle and the vehicle immediately erupts into flames. As you can see here, the flare is sometimes found 20 to 30 feet away. The vehicle is totally engulfed and is a total loss. What you see here is highly toxic fumes and approximately \$6000 of the people's money, because when insurance companies pay out, basically it comes from us.

The next thing we have is a fire response. They have to come out and put out the fire. In Fall River, it was determined that there were approximately 40 fires put out per month, at a cost of \$800 apiece. In Boston, the cost to put out a car fire was estimated to be \$1800 apiece, and this comes from property taxes in my State.

The next thing that you have here is the responding fire department now poses a risk to not only the personnel, but also their equipment as they attempt to put out the fire. We have many injuries. We have many flashbacks when the tanks rupture and pour gasoline along the ground. In this case it was purposely put in the position that if this happened it would flow away from the firemen. And basically, what you have here is \$800 of the city's money being put out.

When Fall River decided to combat this using the Massachusetts Anti-Car Burning -- and they used "burning" versus "arson" in the wording of the law to avoid fire departments not reporting them-- If it burnt it had to be reported, and that eliminated the problem right there and then. The result was it peaked immediately. In '87 the reports were a lot more, and as prosecution in the first year-- I initiated with the several law enforcement agencies in Fall River, Boston, Worcester, approximately 200 prosecutions in one year. The result was that there was approximately a 36 percent to 38 percent decrease in stolen and burnt cars in Massachusetts.

A problem that immediately became evident was that there was a corresponding percentage increase -- 36 percent to 38 percent -- in surrounding states. The 38 percent went next door and burnt their cars, but this made it easy to target the investigation. Therefore, because Massachusetts was doing something, Rhode Island took the brunt of it. We took it across to the Rhode Island border, burnt it, and we eliminated half of the problem that Massachusetts was making for the arsonist and the insurance fraud person.

We have a couple of slides that wouldn't fit in because they're made on thick glass. We're definitely having some technical problems. (referring to slide projector) Here we go. This slide was made in approximately 1987, and that's why it's in thicker glass, so it won't destroy itself.

Twenty-six percent of this country's auto theft vehicles -- their parts -- are in the northeast United States. On a per capita basis, Massachusetts and Rhode Island vied for second and third place overall and second and fourth place per 100,000. In that year, 50 percent of the car thefts in Massachusetts were estimated to be fraud, done at the instigation or with the cooperation of the owner. And basically it was very simple. No one in their right mind who

steals a \$10,000 car could part it out for \$30,000. It's going to burn \$30,000 worth of parts. They just won't do it. If you're a professional thief, you take the car solely for the purpose of money, and you're not going to burn it. I used per 100,000 because it would be easier for everyone to understand the differences in the population on overall thefts. The per 100,000 is extremely fair.

In 1988, New Jersey rated second, while Massachusetts played third, and fifth was Rhode Island. New York rated fourth. California rated first, and you'll notice it's always states that have a highly concentrated population.

In 1989, California, New York and Rhode Island, again because of the FP-33 Law -- and that's what it's called because the form number is FP-33-- The FP-33 law pushed Massachusetts to fifth, and meanwhile Rhode Island got dumped on and became third. New Jersey is still in the running at fourth place.

In 1990, New York, California, Rhode Island, New Jersey, and Massachusetts were roughly in the same position as they were. New York and California now are vying for first place. I think we have '91, also. Go ahead and see what it is. (speaking to aide) Per 100,000 is on the right-hand side of the screen. Again, you've got California, New York, Texas, New Jersey, Massachusetts.

Rhode Island decided they were tired of being dumped on and they commenced to pass all these laws, some of which we have here; especially the new one they just passed standardizing the form, which will make things even easier for any police or fire department to retrieve information. It will also make it extremely easy for the registry, insurance companies, etc. to input the information, because all the information will be in the same place. I've got copies of the law. I even have a copy of the form which I'll be glad to give you. As you can see here, New Jersey still is number four. Again, that's in per 100,000.

Per city, if you go back to 1989, you'll find that Newark was number 10, and Boston was ninth. New York, which is right next door-- Well, they're always either first or second in anything, unfortunately for them. Again, same thing here. Newark dropped to 11, but Boston dropped even further to 12, and that's only because several other cities pushed us out of our place, shall we say. There it had a higher increase.

One thing you should notice, is that the overall thefts of Newark actually went down slightly. This is a reporting problem. No one can tell me that thefts have gone down. I've been to the -- it used to be the Hudson County Task Force on Auto Theft. The one day I was there to work with them -- I flew in early in the morning -- I worked with a gentleman all day. I saw the paperwork come in. This was three, four, five years ago, and they were getting 40 cars a day. We were doing 40 a month in Fall River. They were getting 40 a day, and that's one city. So, somewhere along the line somebody is cheating on the paperwork. You need to cure that to find out exactly what your problem is.

Again here, Newark is number 11, and you can see that Boston has now dropped to 14. Here the numbers have gone down, yet nothing is being done to try to suppress it. So, the figures here, somehow or another, even though this is from the FBI reporting figures-- I have reason to suspect that some of these figures are not totally accurate.

Next slide, please. Here it is in a nutshell from 1991. These are the latest figures available. They came out August 30, 1992. There were 1,661,738 thefts for the year 1990. If you come down here, you are going to find that a theft occurred every 19 seconds -- three per minute.

This is where the problem really corresponds to the figures I just showed you. If you look at this figure-- I can quote you what the year before was -- 1989. It was 15.2 percent that were cleared by law enforcement. In 1990, 14.6

percent; in 1991, 13.9 percent. The figures are going down. The one thing that everybody here should understand is, the insurance companies have to clear 100 percent. They either have to pay, or they have to deny. One of the things I have seen in the last three years-- Just figure the value of the vehicle reported stolen. I say there is a difference between reported stolen and actually stolen, and the figure is anywhere from 35 percent to 50 percent, whether it is really stolen or not. When it was burnt cars-- In Boston, the figure a couple of years ago was as high as 60 percent or 70 percent of the burnt cars were not stolen.

One of the things we did in Rhode Island at a major mall, which shall remain nameless because they are still doing it-- We put up TV cameras for 24-hour videotaping of the entire parking lot. They were losing approximately 20 or 30 cars a weekend, 10 a day -- Friday, Saturday, and Sunday. Immediately upon the vehicle being reported stolen, the police department arrived and took the report under the pains and penalties of perjury. Then they would take the owner of the vehicle reporting it stolen to the place where he said his car was parked, and they would ask him what time he parked it there. They would then take him into the mall security office and show him the video cameras. They then played the video back 15 to 30 minutes prior to the person's arrival until 30 minutes after his arrival. What they found was that seven out of ten cars were never there.

It was frightening, because what it said was-- The old joke theory that if you took your car to the mall, it would probably be stolen, turned around and became, "If you want to report your car stolen, take it to the mall," and you are committing insurance fraud. The value of the vehicle started out three years ago at \$5222; last year it was \$5035, I think; and this year it is \$4983. This is a sign of the economy. People are holding their cars longer, and they are not buying

new cars as often. So this is an exact sign of how bad the economy is doing.

This is the final sad figure just in stolen cars -- vehicle thefts. The loss last year to the United States was \$8.3 billion.

Next slide, please. It is the only growth industry since 1984 that the United States has. It is grown on an average of 50 percent. If you added it all up -- which I never have-- I can just do it quickly and tell you it is over 50 percent. If we could invest in it we would probably make money, if the Japanese didn't beat us to investing in it. It is as simple as that.

Next slide, please. We are going to have a little difficulty with these, but bear with us, please. In overall fires, 62 percent of all fires reported were vehicle arsons, while the structure arsons accounted for only 26 percent. So by far vehicle arsons are more frequent. Even though the dollar value may be \$5000 versus \$80,000, the weight of this taking a bite out of the pie far exceeds structure fires.

Another one. He's good at this. I think I am going to hire him. The leading causes of vehicle fires are, in fact, arson, by 43 percent. Twenty-seven percent is mechanical failure, and to an insurance company that is subrogation. You know, somebody misfixed your car and there it is. Here we have 17 percent undetermined. This is usually a volunteer fire department; an undertrained fire department, understaffed, underbudgeted. I travel all over the nation, and I hear the same stories over and over again. But the actual figures to this should only be about .2 percent, with approximately 15 percent going back into the arson, which brings us up to the 62 percent roughly. The rest would fall over here.

I believe there is only one more slide, right? This tells you the time of day that most vehicle fires happen. This is military or police time. If you deduct 12, you get-- It's

8:00 at night. This shows you what time of the night most fires occur. Now, there is nothing in the cars that is timed. This is just because it is an hour of darkness, and is most convenient for secrecy. It also shows you that the people who do it do not stay up late. They quit at midnight, and they don't get up before noontime. So they're usually not doing an honest day's work anyway.

Okay, you can shut that off, and we can all sit down again.

As I said, I travel all over the nation teaching fire departments, police departments, insurance companies how to combat fraud. It appears that every time we develop a scientific means to uncover the fraud, the thieves come up with a better mouse, so to speak, in the cat and mouse game we play.

One of the things that I recently came across was, there was an auto theft person -- a crook -- who was apprehended, and he had one of these IHLCs, the Indiana auto hot line tips. What he was doing was making money by calling the tip line and turning in his own friends who were stealing cars. He found that he could make more money doing this, with less risk. His friends would never find out because the police would never tell them. But then he got greedy and stole a car and got caught, and they put him in jail. They found his code number, and found out that he had turned in dozens of people. I will leave you these in case you want to look at them, too. They are a good idea.

The sad thing is, when you really begin looking at it-- In my career I have uncovered insurance fraud being conducted by everybody from priests, clergymen, other firemen, policemen, and people in every walk of life. They believe it is like cheating on your taxes. It's okay, everybody does it. It is not okay. It is a sad state of affairs. It really gets depressing after awhile; it really gets depressing. When you have been in it for about 20 years, you really begin thinking

about getting out of it, simply because of the fact that, regardless of what you seem to do, you no sooner do it than the other side comes up with a way to combat you.

With that, I say that what you are doing here-- The laws that have been proposed are a darned good head start. It took us 10 years to get there, and you are going to do it in one fell swoop of the pen. My saying is: "If somebody else has a good idea and you can use it, use it." It's as simple as that.

Thank you very much. I will leave these with you.

ASSEMBLYWOMAN FARRAGHER: Thank you very much, Richard.

I would just like to make a comment. The organization I spoke of earlier -- the National Conference of Insurance Legislators -- generally that is our function. We share the information. So, for example, I have been working with Senator Halperin from New York and Assemblyman Lasher from New York. It would make perfect sense for them to adopt something like the Massachusetts law at the same time we do, and maybe we could keep New York down a little bit. That would be a nice favor for them. But that is the function of the organization. Have you ever been invited to speak to them?

MR. PACHECO: I just came back from teaching at Tarrytown for the New Jersey/New York ACT Committee, which is the Anti-Car Theft Committee. I met some prosecutors there, and they were telling me along the same lines you have been telling me. I made them the same offer I make at every seminar. I will go anywhere, even at my own expense, to tell people what this problem is. I'm here.

ASSEMBLYWOMAN FARRAGHER: I wish you had been at Charleston two weeks ago, because we had a fantastic meeting. We had over 110 legislators there from around the country who are involved in insurance issues. I think that presentation is something that they should see. I am going to write to them and recommend that they invite you to their next meeting.

MR. PACHECO: I would be more than happy to go.

ASSEMBLYWOMAN FARRAGHER: Thank you very much.

ASSEMBLYMAN OROS: Thank you very much, Richard.

MR. PACHECO: Thank you.

ASSEMBLYWOMAN FARRAGHER: Pat Breslin, from the New Jersey Manufacturers. While Pat is up here, Detective Radecke, if you wouldn't mind getting ready, because you will be next.

Hi, Pat.

P A T R I C K W. B R E S L I N: Hi. Thank you very much.

Please put us -- the New Jersey Manufacturers Insurance Company --- on record as being in favor of the legislation in a general sense. We do, though, have some concerns. So, although I will be speaking mainly about some problems with the bill, please do not misinterpret it. We are generally in favor of the goals of the bill.

I will be very brief, but specific. On the legislation that would suspend coverage for a car if there is evidence of fraudulent information, it does make sense that a first-party coverage would be eliminated upon proof of fraud. But, especially if the premium is going to be forfeited, there should be reconsideration of what happens for a third-party claim if there is a liability, because that third party, theoretically, is an innocent party, and should not be penalized if the first party is committing fraud.

ASSEMBLYWOMAN FARRAGHER: Pat, that was a concern that I also had. I was skimming through, and there is someone else who is going to testify who has the same concern. So, it's something. That is why we have the Subcommittee: to identify little pitfalls and fix them before it gets to the full Committee.

MR. BRESLIN: That is my purpose, too, helpful suggestions.

Similarly, it is extremely appropriate that policyholders understand the implications of fraudulent

information, and there should be a warning. We are concerned, though, about the specificity in the bill, because of the fact that different companies have different forms. In my company, I happen to be the one in charge of designing forms. Our Coverage Selection Form happens to be eight pages long. Other companies might have a two-page or a three-page or a four-page Coverage Selection Form. Companies should have some leeway in deciding how to achieve the same goal of prominently providing the information. It may be-- For instance, one company might think it would be much more effective to have a separate card inside the package that would highlight it. We have to tell you quite honestly that if the bill is not specific, the Insurance Department may take the general language of the bill and make it very specific, and make it all the more difficult for insurance companies to do so.

We would also point out that on that point, there is a requirement that the renewal form have a warning and that the questionnaire have a warning. At renewal time, both forms come in the same package.

ASSEMBLYWOMAN FARRAGHER: Doesn't yours? I thought yours-- I just filled yours out not too long ago, so--

MR. BRESLIN: It's one form in our case.

ASSEMBLYWOMAN FARRAGHER: Yes.

MR. BRESLIN: We don't want you to be required to say the same thing twice on one form.

The last part is actually the most complicated. This regards the data base that needs to be compiled under one of the bills. Certainly there ought to be a data base, and it ought to be maintained. Some of the information, though, is not realistic for an insurance company to maintain, especially for a seven-year period, if the starting point of the seven years is the scrapping of the vehicle. Scrapping of the vehicle would make sense if you had a total loss, but if a vehicle is sold, or somehow leaves the control of the insurance

company, how are we to possibly know what happens to it? We could lose the policyholder. In our case, our company covers mainly New Jersey people -- 98 percent New Jersey. If that family moves to Florida with that car, we can't be responsible for what happens for seven years after that point.

Another point is the kind of information that this bill requires us to collect. We currently do not collect registration numbers for cars, license plates, or exactly who the owner is. Under law, the named insured for a policy is both the husband and wife. If a car is registered in the husband's name and the other car is in the wife's name, we cover them both and we do not track whose is whose. It is not important to us. But what we do have is the vehicle identification number. That is a number that does not change. Registration numbers will change if a car is sold; certainly if a couple moves outside of New Jersey that changes. The vehicle identification number really is the magic number that ought to be collected. We do collect it.

To go further, if you believe that there is information that insurance companies don't collect now but should collect, we would need some gear-up time -- at least six months -- to encode our computers, and then a year to collect the data during the renewal time with our policyholders.

Then there is a very tricky question: What happens if a policyholder does not fill out the questionnaire? Our experience is that 25 percent -- 50 percent of the people do not fill out the questionnaires at renewal. We renew the coverages as previously selected. If they are required this one time to provide information they never provided before, what are we to do if they just don't complete the form? Do we have the authority to cancel the policy? Well, that is not in the bill right now.

Another question is: Do we want that kind of authority. As a business, we want to serve our policyholders.

We do not want to displease them. Quite frankly, I am not sure that this Committee would want us to say, "Well, the Legislature is making us do it." You would have some very unhappy policyholders. So these are some practical problems that need to be addressed.

I am just looking at my notes. I think I have covered all the points. Oh, lastly, the location of the central point of information really could well be the Division of Motor Vehicles or some third party. If all the insurance companies would electronically provide information, that agency could be the repository of the seven-year data, and could then track if a car went from one insurance company to another.

ASSEMBLYWOMAN FARRAGHER: That is an excellent point, and one I thought of because I have changed insurance companies on my car. My daughter has changed-- She has had three different companies in the course of-- In the period of seven years, you could theoretically have seven different insurance companies. People are now able to shop around for coverage. It makes perfect sense to have the repository be the State, because they are the continuation; they are the constant; they are the place where the vehicles are registered. So that is what makes the most sense. Therein, Assemblyman Oros, lies our biggest problem.

ASSEMBLYMAN OROS: Well, also networking is what we are really after here. That is what we are really after.

MR. BRESLIN: Right.

ASSEMBLYWOMAN FARRAGHER: Yes, right.

MR. BRESLIN: And we are certainly happy to cooperate in any way we can.

ASSEMBLYWOMAN FARRAGHER: May I ask a question, Pat? You are familiar with the CLU Reports.

MR. BRESLIN: Yes.

ASSEMBLYWOMAN FARRAGHER: Okay. Now, it was amazing when I saw a demonstration of an actual case. It just spoke

very clearly to the fact that someone who will go to all the trouble of registering a car in five different names, with five different insurance companies, and filing five different claims-- They've got to be making a lot of money. And that was the case in the one that was demonstrated to us. The losses were for small amounts on each policy. They weren't filing for \$5000 on everything. They were physical damage claims, as opposed to bodily injury. But on the CLU Report, they are tracked by VIN number. Now, that is only entered on the first claim. Okay? The first claim goes into CLU.

MR. BRESLIN: Right.

ASSEMBLYWOMAN FARRAGHER: Okay? So the second one that comes along will find the first one.

MR. BRESLIN: Right.

ASSEMBLYWOMAN FARRAGHER: Okay. Is there a way to use CLU as a registry of VIN numbers? Is there a way to do that? I am not really familiar with the whole thing. I only know how claims -- multiple claims on a single vehicle are found. I know how they can find claims in different years for the honest person who has several losses over a period of time. Is there a way that that can be used, something like a central registry?

MR. BRESLIN: I can't speak for separate organizations such as CLU, but I would think that the possibility is there and that it is worth looking into. It would be presumptuous for us to say that the Division of Motor Vehicles is the very best agency to do it. I do want to make clear that one insurance company shouldn't, and can't, really do the whole job, because there are too many insurance companies. But a central collection point, which could be a private company like CLU, or it could be a State agency, is the more logical way to go.

ASSEMBLYWOMAN FARRAGHER: Okay. Thank you. Questions?

ASSEMBLYMAN OROS: No.

MR. BRESLIN: Thank you very much.

ASSEMBLYWOMAN FARRAGHER: Thanks, Pat.

Detective Bob Radecke, from the Newark Arson Squad.

D E T E C T I V E R O B E R T R A D E C K E: Good morning. My name is Bob Radecke. I am a 28-year veteran of the Newark Fire Department, and since 1979 I have been assigned as a detective in the Division of Investigation, more commonly known as the Arson Squad.

First I would like to commend Assemblyman Oros on the presentation of these bills. The fire service, for some time, has been without a voice since the death of our former Director and State Senator, John Caufield, who we could always go to for fire-related matters and have them treated in a professional manner. This is a big step in the right direction for something we have been needing for quite awhile.

The bills have been very well received. I spoke in front of the New Jersey State Insurance Investigators two months ago. Everyone I talked to there was very much in favor of it, and you can see the reaction of a lot of them here today. I was out in Las Vegas last month and did a seminar for the International Association of Arson Investigators, and I have had five calls from five different states asking for copies of these bills because their states were interested in seeing them and possibly using them for their situations.

Assembly Bill No. 1874: Bob Hennigar hit it on the head when he said 948 cases of motor vehicle arson in New Jersey. So far in Newark, up through November 17 of this year, we have had 1187 car fires. At the same time last year, we had 1450 car fires. Now, we are very proud of this figure, because in 1989 we were well over 3000.

Along with the information we have seen in the papers that we are the vehicle theft capital of America, followed by our neighboring communities of Elizabeth and East Orange, we also lead in car fires. Bob also made a valid point about the reporting process. Because of the way it is entered in the

Uniform Crime Report, because of the chance of some of these going to court and followed further, oftentimes a car fire that is found, say, in the Meadows, no plate, no VIN, no wheels on it, believed to be destroyed by fire, more than likely we would call it "suspicious."

A few years ago when I started in this business, we had two options: You didn't leave the office after having done an arson report unless you said it was incendiary or accidental. Now we have more leeway. We have undetermined; we have suspicious, along with accidental and a deliberately set arson fire. It is a better situation, particularly if you have to go to court with it. If we haven't been on the scene, we haven't had control of the vehicle, we've got no container with a flammable liquid in it, we've got no odor of gasoline, we've got no punched out locks, or certain evidence that we would need to make a strong case, we are more comfortable in calling it "suspicious," as opposed to "arson."

In other municipalities-- Union County did away with their Arson Unit. So, most of the car fires in those municipalities-- Who is going to report on them? Who is going to investigate them? They are not being done. I think Middlesex is just starting their Arson Unit back up, after having had it closed. It is the stepchild of law enforcement, is what it amounts to.

We have gotten great support from the insurance companies. The reason Newark's car fires are down so much are: We have identified the problem. We are working with a limited amount of manpower, but what we do is increase our patrols in the high risk areas. We have chased people out of areas. My partners and I did a series of undercover operations where we made numerous arrests, at gun point, catching the people right in the act of burning their vehicles.

Now, I really don't think that most people understand what a vehicle fire is. Shown with the slides, they don't look

like fires. To be there, be part of it, and know the seriousness and the gravity of it really escapes most people. It is just another crime.

Now, because of the SIUs and our increased patrols, we are driving the average citizen out of the business. We are not getting rid of the pros; you are not going to scare them off. Your neighbor, or the guy down the street-- As someone mentioned before, the woman didn't think it was that big a crime. That is a prevailing thought with some people. "I'm selling it back to the insurance company." That is just not the fact. It is a very dangerous situation. To many of us who have been in high speed chases or who have arrested people at gun point trying to escape from committing this crime, it is not a game, and it is not a matter-of-fact situation.

Under the bill on the fining of the insurance companies, if I, because of my interest in the subject and the lecturing I do on the subject-- I would go a little further than most guys, but the people you will have here are the same type as I am. I'll have to call Tom Mulvey at Amgro. I'll have to call Gary Turnberger and say, "Run this name through, and see if you come up with anything." I did one the other day. It took me two-and-a-half hours to locate the insurance company, because it was Atlantic Employers and they are part of Cigna. I finally got someone in Philadelphia. When Jim Mesgel (phonetic spelling) called back, they were as cooperative as could be. It took me hours on the telephone just to find out who they are insured by. Now, the vehicle I was talking about, the job stinks to high heaven. The insured is dirty. But the only way they are going to know about it is a cooperative effort between the two sides.

The SIUs and the insurance companies have a tremendous tool that we don't have. By bringing the insured in for an interview, and he is a suspect, I read him his rights-- They don't have to talk to me. They want to bring their lawyer in,

and that is the end of the discussion. With the insurance companies, it is a different story. They have to talk to them. Since they have become more aggressive, they have come up with great information. I just reviewed one yesterday from Hartford, where the girl's story-- All of a sudden she spilled her guts. Her husband had a different name than her. He had been using the car because he had a bad record. She defrauded the company, and it was a leased vehicle. It was all because their investigator went a little bit further than they had gone in the past.

Now, I want to show you-- I just took a little bit of video of what a car fire is all about. This is out of, like, a 30-minute film. I just have three minutes. Then I am going to follow that up with the guy who we call the "enemy." I took a 40-minute tape, and Fireman Vnencak took pieces of it, just to show you somebody who actually does this for a living. He is a confidential informant of mine who we arrested for burning vehicles. He is a car thief; a career criminal, and there are more than him out there. When you hear what he has to say, it's pretty frightening.

D O N A L D V N E N C A K: I think I will be able to see it on this one here -- hopefully. (starts videotape)

ASSEMBLYWOMAN FARRAGHER: Hopefully. Good.

DETECTIVE RADECKE: Now, that first one, that Bronco-- This guy lost a car last year at the same time. This is a leased vehicle. Last year he lost a leased vehicle; it disappeared off the face of the earth. An airtight alibi; can't do a thing with him. We had great cooperation from the insurance company, but we're stuck, and he's walking.

Now, when this happened, my partner at that time had been hidden in a parking lot behind a large fence. He had a motor vehicle problem when he came out. I made the mistake, when he yelled to me over the air, "Stop him. He did it." I came out of hiding. We were running a six-man operation with

New Jersey State Library

two people. Instead of staying where I was with the camera, filming them going by, I came out, drew my weapon, and they tried to run me down and continued on their way.

Now, the week before we had made three arrests right in that same spot, the same way, with me sitting in the bushes, and they burned the car right in front of us. Three Ecuadorians from up in Bergen County found this isolated street in Newark and burned one of the wives' vehicle.

We did this for six months on our own with the blessing of Chief Raymond, and it appeared in the paper, which was fine. They put the address in the paper; they put the street in the paper. Six months' work down the drain. Now the good part that happened, though, was, we were getting 50 car fires a year on that street, and I don't think we have had three in the last nine months. So the paper did help by publishing it. It screwed up a good operation, but it stopped the cars from being burnt.

ASSEMBLYWOMAN FARRAGHER: Bob, excuse me.

DETECTIVE RADECKE: Yes?

ASSEMBLYWOMAN FARRAGHER: Could you please use the microphone so they can pick you up on the tape?

DETECTIVE RADECKE: Okay, fine.

Now, this next bit of tape is a gentleman who is a career criminal. He was a confidential informant of mine. He got caught, rolled over on the owner of the vehicle, the owner and his wife were found guilty, and he flat out made a deal. In return for my cooperation, he finally agreed to be taped so we could get some useful information right from the horse's mouth. As I said, this was, like, 40 minutes long. We had been having a little problem in this immediate area. (videotape resumes)

All right. As you can see, he regards it as a game. The kids who are joyriding in Newark and crashing the cars into the radio cars -- it's all a game to them, also. Interesting

food for thought: He said, "If the manufacturer spent more money." Now, I said this at a lecture I did recently, and I had a gentleman come up to me who said he was an automotive engineer. He felt that I was-- How did he put it? He said my blanket condemnation of the manufacturers, he felt, was unfair. And I said, "Well, I have been rammed, seen enough guys injured; I've seen people killed. I was an eye witness to the juveniles who burned to death in that Acura two weeks ago. They cut a telephone pole in half at 100 miles an hour. The boy who was thrown into the street-- His hips blew out of his body and his legs were facing the opposite direction." I had to look at the global approach of the financial situation concerning the manufacturers.

When California told them, "You cannot sell your cars in our state without meeting certain emission requirements," they all went along with it. I would think there is an area to pursue here about making it more difficult to start a car. My partner has a Geo. It's a \$12,000 car. He's got a chip in it that he paid \$100 for at the dealer's. The car will not start. Now, someone will be able to do it because of the mechanics, but we are talking about a 14-year-old. This guy mentioned stealing a Jeep with a windshield wiper. It's preposterous.

Now, is it so farfetched for us to say to the manufacturers, "Well, you are not going to sell your cars in this State--" I made a mistake in the tape. I said Hondas and Accords, and I meant Acuras. I have other videotape of kids the other night -- this was just last week, my last night tour -- with matching Hondas, right outside my office doing donuts. Matched colors; matched colors, and each of them had four kids in it, spinning around in the intersection, up the hill, back and forth. I taped part of it and called a radio car. You can't chase them, God forbid, because they are going to kill somebody. It's preposterous.

Am I going too far in saying, "Maybe we should make them address this problem," at least certain manufacturers? This guy here-- I have another guy in Northern State Prison, who-- You heard from Bob Hennigar that most people don't burn them, and this kid agreed with that. He is not going to go through the trouble of burning the car when he stole it. But, I have a guy in Northern State Prison who, at 17, when he was still a juvenile, had a \$500 a day cocaine habit. He was stealing five to seven cars a day, and he bragged that once he was in your car, he would be gone in five seconds. His friend says, "He lied. It was seven. We timed him." Seven seconds and he is gone.

Let me give you a little numbers game before I wrap up -- the scary part of this whole thing. He said he stole five cars a day. The other kid is stealing five cars a day. That's 10 -- Camaros, Corvettes, Firebirds, Hondas, Acuras, all top of the line vehicles -- Blazers. Just for the sake of argument, if they burn them, trash them, tear them apart for parts, say a \$10,000 loss per car. Okay? That's \$100,000 they are causing each day. That's \$3 million a month; it's \$36 million a year that two guys are causing. Two people are causing \$36 million in losses.

Take it a step further: Suppose there are two of these individuals in each state. Claude Colman, who used to be our Police Director, at an auto theft seminar, estimated these people in Newark to be 50 to 100 in the entire city, who are causing all this havoc. Let's take it at a nationwide level. If there are two of this guy in each state, do you realize that's \$1.8 billion that they are causing; that two functional illiterates are causing a year. Andrew cost Allstate \$1.7 billion; cost the Pru \$900 million. These companies were shaken to their roots by these losses, but yet here are a couple of guys like this who are causing \$1.8 billion a year in losses. It is never in the paper. We don't address it. No

one deals with the problem, and they are causing more than one of the most damaging storms of all time.

I thank you for your time. If you have any questions, I would be glad to answer them.

ASSEMBLYWOMAN FARRAGHER: Thank you, Bob. Ernie?

ASSEMBLYMAN OROS: What can you add to this. The analogy that you just used about the damaging storm versus this, is spectacular. It really is.

The thing I must do, though, is commend these people. They never lose their enthusiasm for their job. They just keep up on their job, and that is to be commended. It really is. Thank God for these people. That's all I can say.

DETECTIVE RADECKE: Thank you.

ASSEMBLYWOMAN FARRAGHER: Thank you, Bob.

DETECTIVE RADECKE: Thanks a lot.

ASSEMBLYWOMAN FARRAGHER: Hanover Insurance, Frank Sztuk. Where's Tom?

F R A N K S Z T U K: He left.

ASSEMBLYWOMAN FARRAGHER: Oh, that's too bad. Tom Mulvey, from your company, of course, is the person who sat in my office one day earlier this year and got me totally fascinated with the criminal mind and the trouble people will go to to commit, not only in auto, but in all lines of insurance. He is responsible for my heightened interest. It was something that I was marginally aware of, was thinking in terms of typical body shop fraud, the consumer participatory type fraud, and things like that. He opened my eyes to the global situation of the entire -- the rate evasion, the life fraud, the health fraud. Wait until you see what we are going to do. But, thank you for coming.

MR. SZTUK: I want to thank you for those comments. I'll make sure that Tom is aware of them when I see him this afternoon.

My name is Frank Sztuk. I am the Divisional SIU Manager for the Hanover Insurance Company, the New York Metro Branch. I direct the efforts of a 50-person Special Investigation Unit.

I would like to thank, and applaud, this Committee for the efforts surrounding these bills designed to stem the tide of insurance fraud in the State of New Jersey. My only hope is that these bills, when they become law -- and I say "when they become law" -- represent only an initial thrust toward this problem, and that they open the avenues of opportunity to similar legislation in the future.

I want to speak specifically about Assembly Bill No. 1876. Any comments towards the other bills would just be repetitious of the experts who appeared before me. This proposed bill gives strength to the abilities of the insurance companies' Special Investigation Units to properly investigate cases of insurance fraud. As mentioned before by one of the previous testifiers, insurance fraud is a problem of financially catastrophic proportion. The Insurance Department stated that fraud adds up to \$100 for every car driven in the State of New Jersey, and this can be a true hardship to any family.

Pertaining to this particular bill, I would like to add this information: Insofar as claim fraud is a problem, the ability to commit fraud is only limited to those persons who file a claim. This number varies by company and areas that they write business in. Fraud committed in support of an application for insurance allows a much broader base of people who have the opportunity to commit this form of fraud. This must be seen as no less fraud than that of any other misrepresented claim scheme.

By examining the opportunity to commit application fraud, we must look at the information that is material to the writing of the policy and the rating of same. Insurance

companies have the obligation to collect proper premium for those policies written, and we have a duty to do that for our honest policyholder. That information material to the writing of a policy entails the fact patterns relied on to write the policy. What may appear to be a little white lie on an application may relate to a large reduction in the actual premium that a person has to pay.

To give you an example of that, Madam Assemblywoman, just by leaving a youthful driver off the policy may add up to as much as \$1000 to \$1200 to that policy proper rate. That is no less insurance fraud than going out and claiming that your radio was stolen, when it wasn't. This is insurance fraud in its most basic form, and has long been seen as acceptable by a portion of the gentle public. This bill would alert people who choose to defraud an insurance company that it is not okay to steal from the insurance-paying public, the true victims of insurance fraud. It would give teeth to the abilities of the Special Investigation Units in the insurance companies to fight this aspect of fraud.

By having this bill in effect, we, the insurance industry, will be able to make an impact on rates. I think that is the bottom line here; that we are trying to make insurance affordable for people in the State of New Jersey. And, contrary to popular belief, I think most insurance companies -- and I would like to say "all insurance companies" -- would like to charge what is really proper to somebody for automobile insurance. I am an insurance payer in the State of New Jersey. I am not happy about the cost of insurance fraud.

In conclusion, insurance fraud is not a victimless crime. We are the victims -- the insurance paying public. I think, in further conclusion, that these bills, when they become law, will only strengthen the Special Investigation Unit opportunity to control this serious problem.

Thank you.

ASSEMBLYWOMAN FARRAGHER: Thank you, Frank. I don't have any questions.

Bruce Blum, IIANJ.

B R U C E B L U M: Good afternoon. I am Bruce Blum, Vice President of the Independent Insurance Agents of New Jersey. I would like to thank you for allowing me to come before you today to testify. You have our written testimony. You can read it at a later date, if you want.

We are here today to discuss A-1876. As our association does believe in fraud prevention and its stricter controls, we do have some major concerns with the legislation that is currently before us, in its present form.

The bill states that if a person knowingly makes any false, misleading, or incomplete statement, orally or in writing, that coverage will be void upon its inception. What is the adequate definition of "knowingly" or "misleading" or "incomplete"? Will Company A use the same definition or interpretation as Company B, and so on and so forth? Where do we draw the line between a major or a minor misrepresentation of a fact?

One example that can be used is, if an applicant puts down to use their car to drive to work five miles, and, in essence, it really is nine miles, is this going to be grounds for voiding the contract? Another example is that the insured motor vehicle record is required either on a three-year or a five-year basis, depending on some insurance carriers. Most consumers don't remember what type of violation they had, how many years ago, if it was two years or two-and-a-half years ago or three years ago. Again, will some companies use this as a reason for voiding a policy contract?

We would recommend that standards for voiding a policy from misrepresentation be specifically stated, so that each insurance company can treat each insured equally. We also suggest that a written, signed application be used as the true

intent between both parties, and that the oral statement at the time of an application for grounds of voiding the coverage be dropped from the current bill.

A-1876 states that the policy should be void from its inception, and the premium paid will be forfeited due to fraudulent information. Here again, the term "inception" is not clearly defined. Are we referring to the original date the policy was issued based on the original application information, or from the date of a renewal, which may or may not have any updated information, for most companies do not require it? And, for how long of a time period is this going to go on?

It should also be noted -- and this is a real major concern -- that a third-party claim could have been paid or incurred prior to the discovery of the so-called fraudulent act. If coverage is voided through this legislation, who is going to be the responsible party for paying either the pending claim or that which had already been paid? We believe that an innocent third-party claim should never be denied, unless they participated in the fraudulent act.

An example of a possible serious fraudulent act could be made when an insured states that they garage a vehicle in a New Jersey town that has a lower rate than where they actually live. This is a way of reducing their premium expenses. When the claim is presented and the act is discovered, instead of voiding the coverage, would it not be better for all parties to charge the proper premium based on the actual exposure, and pay the third-party claimant? We are not concerned with the first-party claimant at this particular point in time, because that can be addressed through this legislation.

Additional support can be made of this fact because of the all comers provision in the Fair Act. The carrier would have taken the risk regardless of where the New Jersey insured had lived.

Lastly, the bill states that the premium paid will be forfeited. Our association believes the company should be able to deduct the expenses involved in issuing the contract, as well as the producer's commission, but the balance be applied to either the JUA deficit or the UCJF. Currently in the legislation there is no area of where or who is going to get the forfeited premium. (witness hesitates at this point waiting for Chair)

ASSEMBLYWOMAN FARRAGHER: I'm sorry. We were just clarifying the forfeiting claim question. I'm sorry.

MR. BLUM: Okay. We would hope that these suggestions would be incorporated in the current A-1876. Do you have any questions?

ASSEMBLYWOMAN FARRAGHER: No. As you heard, there were other concerns. Mr. Breslin from NJM raised similar questions. I also had some concerns. We have made note of them, and, of course, they will be incorporated in an amendment that we will prepare.

By the way, everything is being recorded. All the information, all the testimony is going to be shared with the full Committee. So, when the full Committee-- By the way, there is a new Chairman. I don't know if you all know that Assemblyman Garrett is the new Chairman of the Insurance Committee. When the full Committee takes up the legislation, they will have all of the information. Assemblyman Oros and I will, of course, be speaking in favor of some of these changes, so it shouldn't be a problem.

MR. BLUM: That would be great. If you need any assistance, please feel free to call on us.

ASSEMBLYWOMAN FARRAGHER: I expect you'll be there. Thank you.

MR. BLUM: Thank you.

ASSEMBLYWOMAN FARRAGHER: Joe Frankel, from Prudential.

J O S E P H J. F R A N K E L, E S Q.: Hi.

ASSEMBLYWOMAN FARRAGHER: Hi.

MR. FRANKEL: I'm sorry Assemblyman Oros is out of the room at the present time--

ASSEMBLYWOMAN FARRAGHER: He is becoming a television star.

MR. FRANKEL: --Madam Chairperson, because I wanted to begin my remarks by complimenting him and all the members of the Committee for taking the lead on aggressively attacking the fraud issue, and sending a clear signal to people in New Jersey that fraud will not be tolerated.

I am also sorry that the gentleman from the Newark Department left the room, because I thought the presentation he made was very, very interesting. I know I learned a lot listening to and watching the tape. (Assemblyman Oros returns to Committee table)

Assemblyman, you were out of the room, and I just wanted to compliment you on your taking the lead on these bills.

I just want to go through quickly some of the issues in the bills. Pat Breslin mentioned some of them before. On A-1874, we think it is a good bill. It is going to force carriers to look at each particular case. On A-1875, we see this as expediting insurance fraud investigations and as a good bill. On A-1876, also a good bill, but we are concerned about the language in the bill that talks about a "knowing act." Our suggestion there would be that the person knew or should have known what they were doing, because using the term "knowingly" could lead to some type of litigation. We think the language that we have suggested -- we have mentioned it to Carolyn--

ASSEMBLYWOMAN FARRAGHER: Would you share that with Carolyn.

MR. FRANKEL: Yes, I think we already have.

ASSEMBLYWOMAN FARRAGHER: Okay.

MR. FRANKEL: On A-2058, we started to really get into this bill and, as I mentioned to Assemblyman Oros, we haven't nearly completed our review. However, we do have some of the concerns that Pat Breslin mentioned before about the seven years, and also about the scrapped and shredding part of it. That seemed to be an initial problem: to try to track that, for us.

ASSEMBLYWOMAN FARRAGHER: We have been conferring up here, Mark and I, and I think maybe we can make some suggestions to Assemblyman Oros as to language that should take care of it, having to do with a vehicle no longer registered in this State, and things of that nature; some language changes that would relieve the insurance companies of that responsibility.

MR. FRANKEL: Well, at the time, you mentioned before when the bills come before the full Committee, we would hope at that point to have more definitive comments on that particular bill. But on the whole, I want to again compliment you on the package. I know our company is very concerned about the fraud issue. I also want to mention, I know there are Insurance Department representatives in the room, too, and I think Commissioner Fortunato has taken a strong lead on fighting the fraud issue. He should be commended for it, as well.

ASSEMBLYWOMAN FARRAGHER: At the NCOIL meeting in Charleston, South Carolina, it was mentioned that New Jersey probably, of all the states, has the best fraud department within any Department of Insurance in the country. That is probably something I should have led off with. What we are focusing on more are difficulties in terms of the law enforcement end dealing with it. Mr. Parisi and I have had very interesting conversations. He and I are committed to making people who commit fraud, or even attempt to commit fraud very, very poor.

MR. FRANKEL: Good. Thank you very, much.

ASSEMBLYMAN OROS: I just want to say one thing, too, Chairman Lady. I have met many of the insurance people here today besides yourself. They are just so willing to cooperate. There was nice input, too, and we are certainly going to listen to what you have to say. We thank you very much.

MR. FRANKEL: Thank you very much.

ASSEMBLYWOMAN FARRAGHER: Thank you, Joe.

Arthur Herman, State Farm.

A R T H U R H E R M A N, ESQ.: Thank you. I'll be brief. I would also like to commend Assemblyman Oros and the Committee for taking up this issue of fraud, and for proposing these bills, which, by and large, are an excellent package.

I will go into some specific comments about the bills. On A-1874: State Farm already requires affidavits, so it believes that this is a very good measure, you know, to compel all companies to have written statements when arson is involved.

On 1876, the application bill: We believe that this is perhaps the strongest antifraud tool in the package, and we want to commend you for the sponsoring of that. We would make several suggestions about specific language. In section 2, which is 6.c. of the former law, you require renewal forms to contain a statement. State Farm really doesn't have, and many other insurers don't really do, a renewal notice or forms, so we would suggest that you delete that because it will be in the initial applications in the policy form itself.

Secondly, we certainly support Prudential's suggestion that it be knowing, or should have known, as the operative language.

Thirdly, in the very last subsection d. there is a requirement that there be a separate statement form signed by the policyholder. We would suggest that that statement form be collapsed into the application form, rather than having

separate paperwork that would have to be retained. The statement in there where the applicant signs and attests that he understands everything, all that could be done right in the application form and would prevent having to keep around the whole separate form, which you would need to then use to prove your case at some point.

Finally, in A-2058, like Prudential, we may have more specific comments as this reaches the full Committee, but generally the bill seems to create a dual system where insurers, as well as DMV, would have accessible data banks. If every insurer out there has to create this data system, we believe it would duplicate the effort at DMV and would cause a lot of expense which would get passed on to the policyholders.

Rather, we suggest that the existing uninsured motorist system at DMV-- This is something the Fair Act created which has a very comprehensive data base with most of the information this bill requires right there. I think that with very simple amendments to the law you could make this uninsured motorist insurance system at DMV acceptable for the purposes of antifraud investigation, and avoid a lot of expense. Most of this information insurers do capture, I think, except-- At least State Farm doesn't capture the producer, but we can begin providing that to the DMV. I think then you would have a unified data base that would be readily accessible to all law enforcement, who are always in contact with DMV for other purposes now, and you could save a lot of costs and duplication that might be -- on the literal reading of the bill as written -- created by having separate systems in every insurance company.

Once again I would like to thank the sponsor and the Committee for putting forth these bills, which could do a lot of good in preventing the costs coming from auto theft.

ASSEMBLYWOMAN FARRAGHER: Thank you very much.

Last, but not least -- the last ones we have signed up -- Peter Guzzo and Bob King, from the Department of Insurance.

P E T E R P. G U Z Z O: I guess I could say "good afternoon" now.

ASSEMBLYWOMAN FARRAGHER: Yes.

MR. GUZZO: We would like to echo -- the Department of Insurance-- I am Pete Guzzo, Director of Legislative Affairs, and Bob King is a Legislative and Regulatory Officer with the Department. We would like to echo the previous comments and commend the Committee and the sponsor of the bills for initiating this effort.

As Assemblywoman Farragher stated, the Division of Fraud Prevention -- and I would emphasize "Prevention" in that title, also -- in New Jersey is a model, and is looked upon by other states for its aggressive efforts in New Jersey. It is a Division that came about through a 1983 law, and in the last three or four years, under the direction of Lou Parisi, the Director, has really begun a major thrust at fraud prevention in New Jersey, and it has been very successful. It started out with auto insurance and, as you mentioned, Assemblywoman, there are other areas that need to be addressed. The Division and the Department are working with the Legislature presently on a health insurance fraud prevention bill Senator Bennett has sponsored. It was released from the Senate Commerce Committee in the last couple of weeks. We are also looking at fraud prevention in the Workers' Comp area, as you have been seeing in the newspaper lately.

The Department supports the concepts in the bills. I am using bills collectively, rather than looking at them individually. We have some concerns. They were expressed by representatives of various companies, so I won't repeat or go through those, really. But again, we are willing to sit down, and the personnel in the Division on Fraud are willing to sit down, to address these points with your staff.

One concern the Department has that hasn't been raised, of course, is the cost impact on the Department of Insurance in implementing these bills when they reach that stage. I know fiscal notes are being prepared, and we would like to be able to discuss that with the Committee when they are completed.

The major thrust of these bills is on the physical damage costs of auto insurance, although they do touch on other areas -- the bodily injury and the liability side of it also. But again, physical damage is a major component of auto insurance costs, and any attempts, or any effects on physical damage costs, help to reduce the cost of insurance. Again, in a specific way, the cost, the implementation times-- But these are things we can sit down and work out with the Committee. We would be available, and we would appreciate having that input.

I don't know, Bob, if there is any--

R O B E R T M. K I N G: There is nothing that I could add to what has already been said. We thank you for our opportunity to appear here.

ASSEMBLYWOMAN FARRAGHER: I thank you very much for coming. Do you have anything to say, Assemblyman?

ASSEMBLYMAN OROS: I have no questions, but I certainly thank them for their support. We certainly will work together. We are working toward a common goal, so we will be very happy to sit down with you at any time.

MR. GUZZO: Sure. The Commissioner of Insurance, as mentioned, recognizes this area as a major area, and staff is available. We will wait to be contacted and will provide you with all the resources you need. Okay?

ASSEMBLYWOMAN FARRAGHER: Thank you very much.

Seeing no others wishing to testify, this Subcommittee stands adjourned.

(MEETING CONCLUDED)

APPENDIX



Attorney-In-Fact For
New Jersey Citizens United
Reciprocal Exchange (NJ CURE)

103 Carnegie Center
P.O. Box 7228
Princeton, NJ 08543-7228
(609) 520-0800
1-800-535-CURE (2873)
FAX No. 609-951-0091

STATEMENT
REGARDING ASSEMBLY, #1876

I am pleased to appear today representing the Reciprocal Management Corporation, Attorney-In-Fact for the New Jersey Citizens United Reciprocal Exchange (NJ CURE) in support of Assembly, No. 1876.

NJ CURE is not an insurance company. It is a reciprocal or inter-insurance exchange, established under a forty year old Act (N.J.S.A. 17:50-1 et seq.), which authorized New Jersey citizens with a common insurance problem to gather together and exchange contracts with each other, wherein they agree to share the risk of loss with each other.

A reciprocal is an aggregation of persons, known as subscribers, who, under a common name, engage in the business of inter-insurance or exchanging contracts of insurance on the reciprocal plan through an Attorney-In-Fact. This Attorney-In-Fact has the authority to obligate the subscribers severally, within such limits as may lawfully be specified in the subscriber's agreement, on reciprocal contracts exchanged with all other subscribers.

NJ CURE represents over 13,000 New Jersey families, 92.3% of whom have come directly out of the JUA or the MTF. NJ CURE is a not-for-profit plan where all unused premium is returned to its subscribers if good loss experience develops.

In plain English, NJ CURE provides responsible New Jersey residents with an opportunity to insure against risk at cost.

Assembly, No. 1876 fits the NJ CURE objective of providing protection against those who engage in the practice of supplying fraudulent or misleading information in an application for insurance in order to pay less for

New Jersey State Library

BACK TO BASICS INSURANCE

insurance protection than their own experience requires, thereby increasing the burden on others. It has been NJ CURE's experience that people are frequently aided in their efforts to beat the system by health care providers who willingly participate for profit, thinking they are immune from detection because of their professional status. The language in Assembly, No. 1876 is broad enough to bring everyone into the loop where prosecution is possible.

This proposed Bill will strengthen the authorities already available to the Department of Insurance's Division of Insurance Fraud Protection, and will add a valuable tool and aid in the good work the Fraud Division is already doing.

Most policy language currently used requires "material misrepresentation," which is often difficult to establish. The language proposed in Assembly, No. 1876 will broaden the definition of material misrepresentation and provide plain English language understandable to those who make statements which are false, incomplete or misleading, and leaving them without the defense that they didn't understand the law.

The warnings contained in this proposed Act, placed in the application for insurance and claim forms, offers a clear deterrent to the rate evader because the language in those forms clearly defines the practices proscribed against when seeking insurance.

Assembly, No. 1876 requires a clear acknowledgment from applicants that they understand the provisions that allow for cancellation of a policy and the forfeiture of premium if they are caught giving false or misleading information.

We believe that Assembly, No. 1876 will act as a deterrent to those who have for too long have been taking advantage of New Jersey residents who have paid for the misdeeds of others.

I welcome any questions you may have..

Colonel Clinton L. Pagano
Vice President
Reciprocal Management Corp.
Attorney-In-Fact for NJ CURE

/lad



The Commonwealth of Massachusetts

Department of Public Safety

OFFICE OF THE STATE FIRE MARSHAL

1010 Commonwealth Avenue

Boston, Massachusetts 02215

JOSEPH A. O'KEEFE, PE
State Fire Marshal

(617) 566-4500

August 13, 1987

TO: Heads of Fire Departments/Fire Districts.

From: Joseph A. O'Keefe, Sr., PE
State Fire Marshal *Joseph A. O'Keefe, Sr.*

Subject: "AN ACT RELATIVE TO AUTOMOBILE INSURANCE FRAUD"
Implementation of M.G.L. Chapter 175, Sec. 113o
As Amended; and Chapter 266, Section 29B
(Act & Resolves of 1987 - Chapter 44)

In 1984 a pilot program, known as M.C.A.R.S. was initiated in Middlesex County relative to combatting auto arsons. The program was a large success; however, the success of the program was limited to the city/town where it was implemented and a "state-wide" program was needed.

On August 5, 1987 Chapter 44 relative to automobile insurance fraud became effective wherein;

1. No payment shall be made by the insurer of loss or damage to the insured vehicle on a claim for "fire coverage", so called, until the insured has filed a statement in conformity with the provisions of Sec. 29B of Chap. 266 and the insurer has, within a reasonable time, reviewed said statement with the appropriate fire authority and determined no fraud was involved;

2. Chapter 266, Section 29B; whenever a motor-vehicle is burned, the owner of record of such vehicle shall submit to the appropriate fire department a statement signed under the penalties of perjury containing such information concerning the burning of such vehicle as the State Fire Marshal shall require;

The success of the law and of the program is dependant on the cooperation of the cities and towns within the Commonwealth. A joint effort of cooperation between local fire and police departments is most essential.

Fire Prevention pays the greatest dividends--the saving of life and property

Attached are two forms used in the implementation of this statute (M.G.L. Chapter 266 Section 29B);

A- Form FP-33C is a one page/three part No-Carbon-Required (NCR) statement form to be executed and signed in person by the OWNER OF RECORD OF THE MOTOR VEHICLE. The bottom two lines of this statement form must be executed by the person taking the report for the fire authority (department). Upon satisfactory completion of the statement form the disposition of the statement is as follows:

- White (top) copy is retained by local fire authority (department).
- Yellow copy is given the owner of record of the motor vehicle.
- Pink copy should be forwarded to the State Fire Marshal's Office attached to the MFIRS Form FP-32.

Although the law does not stipulate we receive the pink copy we believe the Form FP-33C statement contains many data elements necessary for proper completion of Form FP-32. Therefore we suggest you wait until completion of Form FP-33C before you send the Form FP-32 fire incident form. Form FP-33C is carbonless paper - check all forms for legibility.

B- Form FP-33D is a fire department motor vehicle fire report which should be made out by the fire authority (department) taking the Form FP-33C report. This form is retained by the fire department and is used to assist in forming an opinion regarding automobile insurance fraud.

IT IS ESSENTIAL THAT THESE FORMS ARE SIGNED AND PROPERLY DATED AND ALL PARTS ARE FILLED OUT AND LEGIBLE.

This system has been set up to put as little burden on fire departments as possible. The responsibility of implementing this program rests on the Fire Chiefs and Fire Department. Your cooperation will ultimately reflect a significant decrease in motor vehicle fire incidents in your community.

For the purposes of this program at this time minor fires; i.e. cigarette burns, minor fires possibly not involving fire companies for extinguishment and fraud is obviously not involved, and motor vehicle accidents need not be reported on Forms FP 33 C & D. The main scope of this law is to deter automobile insurance fraud that plagues the Commonwealth.

For any questions or problems please call Trooper George B. Wilson, c/o State Fire Marshal's Office, (617) 566-4500 Ext 314.

DEFINITIONS

MOTOR VEHICLE - All vehicles (including motor-cycles) and tractors constructed and designed for propulsion by power other than muscular power; excluded are motorized bicycles and trailers or an object on wheels and having no motive power of its own.

STATEMENT IN CONFORMITY - That information contained within DPS Forms FP-33C and FP-33D.

OWNER OF RECORD - That person named upon the Registration Certificate issued by the Registrar of Motor Vehicles or that person who is named as lawful owner recorded for the Vehicle Identification Number by the Registrar.

APPROPRIATE FIRE AUTHORITY - The municipal fire department or fire district in which the burning of such vehicle occurred.

BURNED MOTOR VEHICLE - A vehicle that is significantly destroyed by fire or where an obvious attempt to burn the vehicle was found, or where "items" of arson are found; i.e. containers of accelerants, gas can, etc. trailers, and or where an indication of theft is observed, i.e. ignition defeated etc.

NOTE - Form FP-33C is a replacement of Form FP-89 M.C.A.R.S. cards.

THE COMMONWEALTH OF MASSACHUSETTS

In the Year One Thousand Nine Hundred and Eighty-seven

AN ACT RELATIVE TO AUTOMOBILE INSURANCE FRAUD.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

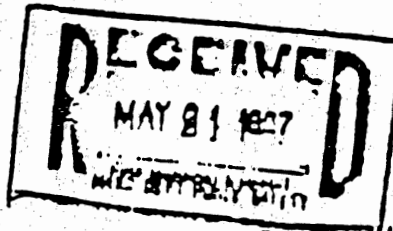
SECTION 1. The first paragraph of section 113 O of chapter 175 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the last sentence and inserting in place thereof the following two sentences:- No payment shall be made by the insurer of loss or damage to the insured vehicle on a claim for theft coverage, so-called, until the insured received notice from the appropriate police authority that a statement in conformity with the provisions of section twenty-nine of chapter two hundred and sixty-six has been filed. No payment shall be made by the insurer of loss or damage to the insured vehicle on a claim for fire coverage, so-called, until the insured has filed a statement in conformity with the provisions of section twenty-nine B of said chapter two hundred and sixty-six and the insurer has, within a reasonable time, reviewed said statement with the appropriate fire authority and determined no fraud was involved.

SECTION 2. Chapter 266 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after section 29 the following section:-

Section 29B. Whenever a motor vehicle is burned, the owner of record of such vehicle shall submit to the appropriate fire department a statement signed under the penalties of perjury containing such information concerning the burning of such vehicle as the state fire marshal shall require.

House of Representatives, April 23, 1987.

Passed to be enacted. George Luinain, Speaker.



MASS. DEPARTMENT OF PUBLIC SAFETY STATE FIRE MARSHAL'S COPY - NO. 4

MEMORANDUM

TO: Heads of Fire Departments/Fire Districts
FROM: Joseph A. O'Keefe, Sr. PE State Fire Marshal

This law becomes effective August 5, 1987. Forms for use with this law will be provided to Fire Departments prior to the effective date.

History of Section.

P.L. 1925, ch. 588, § 14; G.L. 1938, ch. 8, § 15; G.L. 1956, § 42-28-24; P.L. 1989, ch. 131, § 1.

Compiler's Notes. In 1989, the compiler inserted a comma following "superintendent" near the end of the section.

42-28-47. Stolen or fire damaged vehicle report forms. — The state police shall draft a uniform statewide report form to be utilized by all the police departments in the state when a motor vehicle is reported stolen or is damaged by fire. Once drafted, the report shall be made available to the several police departments within the state. Every owner of a motor vehicle which is stolen or damaged by fire shall be required to complete the standardized report form according to the instructions contained therein upon the request of any police department within the state. Any person willfully failing to complete and submit a report form as required by this section may be fined one hundred dollars (\$100).

History of Section.

P.L. 1991, ch. 164, § 1.

CHAPTER 28.1

MUNICIPAL POLICE — INCENTIVE PAY

SECTION.

42-28.1-3. Incentive steps.

42-28.1-1. Incentive pay plan.

NOTES TO DECISIONS

ANALYSIS

- 1. Reimbursement for obtaining J.D. degree.
- 2. Withholding and payment of taxes.
- 1. Reimbursement for Obtaining J.D. Degree.

A full-time police officer is entitled to reimbursement from the city or town in which he is employed for the expenses incurred in obtaining a graduate degree of Juris Doctor.

Geaber v. Town of Kingstown, 560 A.2d 945 (R.I. 1989).

- 2. Withholding and Payment of Taxes. Municipality, whose firefighters and police officers received incentive pay from the state, had the obligation to withhold and pay the employees' share of social security taxes and to pay the employers' share of such taxes on the incentive payments. State v. Eight Cities & Town, 571 A.2d 27 (R.I. 1990).

42-28.1-3. Incentive steps. — (a) Advancement to each of the incentive salary steps shall be based on a point system as set forth in § 42-28.1-4 and shall be accomplished as follows:

Incentive Step	Increase above Basic Salary	Points Acquired
1	\$1,000	30
2	\$2,000	Associate Degree in Law Enforcement

H.R. 4542 - THE ANTI CAR THEFT ACT OF 1992
as adopted by the House of Representatives

Title I - Tougher Law Enforcement Against Auto Theft

- Creates a new federal crime for armed carjacking.
- Doubles from five to ten years the maximum terms of imprisonment under 18 U.S.C. §§ 553 (export or import of stolen vehicles), 2312 (transportation of stolen vehicles), and 2313 (sale or receipt of stolen vehicles).
- Establishes a grant program, authorized at \$10 million per year, for state and local anti car theft committees funded by per-car taxes or fees.

Title II - Automobile Title Fraud

- Provides start-up funding to link state motor vehicle departments by computer so that each state will have access to other states' lists of valid titles.
- Requires that a state Dept. of Motor Vehicles, before it issues a title to an owner presenting an out-of-state title, check with the state of origin to verify that the title is legitimate.

Title III - Illicit Trafficking in Stolen Auto Parts

- Extends the current parts marking program to new passenger vehicles, over a five-year phase-in period, keeping the current law's maximum cost of \$15 per vehicle. Requires the car's Vehicle Identification Number to be permanently marked on its engine, frame, transmission, and other "major parts." Removing or altering such markings is already a federal crime. In 1999, the Attorney General can decide to sunset this law if he or she determines that expanding parts marking to all vehicles is not effective.
- Requires insurance companies selling junk or salvage vehicles (the source of 90% of legitimate used parts) to verify that the vehicle is not stolen. This verification would convey with the part as it is bought and sold by aftermarket firms. Businesses purchasing used parts from other sources must check the VIN against the FBI database of stolen-car VINs. These inquiries would be handled by a clearinghouse operating under contract with the Department of Justice. Operation of the clearinghouse and the verification procedures will be developed in cooperation with an advisory committee consisting of involved businesses, law enforcement and consumers.

Title IV - Export of Stolen Cars

- Directs Customs to conduct spot checks of cars and containers leaving the country.
- Directs Customs to conduct a pilot study of the utility of a "nondestructive examination system" (x-raying outgoing containers) for preventing the export of stolen vehicles. Customs is already exploring using such a system in its other export control responsibilities.

senate bill 2247 was recently enacted which allows for sharing of information on automobile theft or insurance fraud between auto insurers & authorized government agencies. the act also indemnifies the insurer from liability based on the release of that info & preserves the confidentiality of that information. the authorized governmental agencies are defined as *atty general, *state police, *municipal police, *u.s. attorney, *f.b.i., *municipal solicitor or prosecuting atty, *director of the rhode island insurance division, *motor vehicle director.

section 27-49-3 (disclosure) requires insurers to release all relevant information requested by a authorized governmental agency (section a) and (section b) notify an authorized agency of any knowlwdge or information pertaining to a criminal or fraudulent act arising out of a motor vehicle theft or motor vehicle insurance claim. the immunity piece is found in 27-47-5. i'll send you the text of the act under seperate cover. please advise all claim personnel handling auto claims in rhode island.

FF 1=help 2=Exit 3=Return 4=Query 5=Action 7=Backward 8=Forward

EMCC0000



INDEPENDENT INSURANCE AGENTS OF NEW JERSEY

73 Woodbridge Avenue
Highland Park, New Jersey 08904-3295
(908) 572-5300 FAX (908) 572-2536

TESTIMONY

Bruce Blum, Vice President & Legislative Chairman

INDEPENDENT INSURANCE AGENTS OF NEW JERSEY

before the

ASSEMBLY INSURANCE SUBCOMMITTEE

on

ASSEMBLY BILL A-1876

December 4, 1992

10X

INDEPENDENT INSURANCE AGENTS OF NEW JERSEY TESTIMONY

INTRODUCTION

IIANJ would like to thank the Committee for allowing us to come before you today. We represent over 1400 independent insurance agencies in New Jersey employing over 10,000 state residents.

THIS LEGISLATION

A-1876 provides that motor vehicle insurance coverage shall be void and premium forfeited if certain false information is given.

POSITION

IIANJ believes there should be more stringent attempts to end fraudulent insurance practices, however, we oppose A-1876 as it is presently drafted.

RECOMMENDATIONS

The bill states that a policy will be void upon inception if the person making application for coverage or providing information to an insurer knowingly makes any false, misleading or incomplete statement either orally or in writing.

IIANJ recommends adequately defining the terms knowingly and material. It is possible to misrepresent a fact that is of minor significance and not grounds for voiding said policy. Standards for voiding a policy for misrepresentation should be specifically stated so each company treat insureds equally.

The insureds oral statement should not be grounds for voiding the policy. The written insurance application should be the final representation reflecting the true intent of the parties.

A-1876 states the policy "should be void from its inception and any premium paid therefore shall be forfeited" if fraudulent information was given.

The term inception is not clearly defined. Will the policy be void from its original date of issuance or from the date of renewal?

It is foreseeable that a third party claim could already have been paid or incurred prior to discovery of the fraudulent misrepresentation. The bill must specifically state whether the insurance company or the insured is liable for a paid or pending claim.

IIANJ believes that a third party's claim should never be denied because of a misrepresentation in the application unless the third party participated in the performance of the fraudulent act.

The bill states the premium paid will be forfeited. It would be an unjust enrichment for the insurance company to keep the premium. IIANJ believes the company should be able to deduct

expenses involved in issuing the contract, as well as the producer's commission, but the balance should be applied to the Joint Underwriting Association (JUA) deficit, or the Unsatisfied Claim and Judgement Fund (UCJF).

SUMMATION

IIANJ believes that the amendments proposed in this testimony will correctly regulate the fraudulent misrepresentation of information given on a motor vehicle insurance application. Hopefully, this legislation with amendments will deter insureds from giving fraudulent information.