

Issue Brief

Auto Insurance-Related Bills Dominate 2005 Legislative Enactments

By
Kate Ciravolo, Esq., CPCU

Introduction

Annually, the National Association of Mutual Insurance Companies (NAMIC) conducts a survey of the new state laws directly affecting its member companies around the country. The 2005 survey reveals that more than 625 property/casualty laws were approved by 48 state legislatures last year.

The 10 states with the most new enacted laws directly affecting the property/casualty industry were: Virginia (58), Tennessee (45), Louisiana (36), Florida (28), North Dakota (25), North Carolina (24), South Carolina (23), Rhode Island (21), Connecticut (20) and Georgia (20).

At the other end of the spectrum states like Nebraska, New Jersey, Pennsylvania and Vermont each had one new law pass directly affecting the property/casualty industry.

States with no new laws directly affecting the property/casualty industry in 2005 were Alabama and Wisconsin. In Wisconsin, the Legislature passed Assembly Bill 766, the purpose of which was to restore caps on non-economic damages in medical malpractice cases; however, this legislation was vetoed by Gov. Jim Doyle.

Major Issues Addressed

Automobile insurance represented the most common issue trend in 2005, with more than 190 automobile insurance-related laws recorded. Thirty-eight states enacted motor vehicle-related laws. Automobile issues addressed include motor vehicle traffic safety, proof of coverage/ financial responsibility, UM/UIM, salvage title, and cancellation and non-renewal requirements. New laws expanding requirements for the use of child restraint systems for small children and DUI thresholds were among the most frequently recorded laws.

Workers' compensation was again the second most common issue trend to surface among the many new state laws identified in this report. Thirty-two different states enacted workers' compensation legislation in 2005. Several specific subcategories stand out as the most common themes. They are: Benefits, Claims and Authorized Treatments; Disputes and Settlements; Workers' Compensation Funds; Omnibus State Law Changes; Contractor Requirements; Fees / Taxes / Services; State Oversight; and Miscellaneous New Provisions.

Tort reform was the third most common issue trend identified in this 2005 report. Closely mirroring prior years' NAMIC report findings, new provisions within this category include medical malpractice, asbestos litigation reform, expert witnesses, and class action suits. More comprehensive tort reform legislation was enacted in Missouri and South Carolina. A total of 60 laws in 32 states were enacted in 2005.

Emerging Issues in 2005

Identity theft. Legislatures in at least 20 states, including Colorado, Connecticut, Delaware, Florida, Georgia, Louisiana, Maine, Minnesota, Montana, Nevada, New Mexico, North Carolina, North Dakota, Ohio, Pennsylvania, Rhode Island, Tennessee, Texas, Virginia and Washington, passed laws relating to identify theft. Reoccurring themes were restricting the use of a consumer's social security number; prohibiting "skimming," which occurs when a scanner or other device is used to take encoded information from the magnetic strip on the back of a credit or other payment card and replaced by another card with the intent to defraud; and notification to individuals when the security of their personal financial data has been breached.

Natural disasters. In light of the year's natural disasters, including Hurricanes Katrina, Rita and Wilma, legislatures in Florida and Louisiana enacted laws related to catastrophe insurance, including tougher statewide building ordinances. The Louisiana legislature met in special session in late 2005 to address issues and pass laws specific to Hurricanes Katrina and Rita. In addition, North Carolina created a disaster relief fund for victims of the 2004 hurricane season.

Colorado legislation was passed prohibiting insurers from reducing or canceling coverage (except for nonpayment), refusing to issue or renew a policy, or surcharging a newly issued or renewed policy due to an individual's failure to maintain coverage during a period in which the individual was deployed or called to active military duty. Other military personnel-related laws were enacted in Florida, Indiana, Kansas, Louisiana, Maryland, Mississippi and Virginia.

New categories were created for corporate governance, farm mutual and producer compensation issues. Four states – Connecticut, Rhode Island, South Dakota and Texas – passed producer compensation legislation requiring certain insurance producers to disclose their compensation arrangements to consumers prior to the delivery of a new insurance contract.

Other more general categories identified in state legislation in 2005 included captives, catastrophe, CLUE, E-Commerce/Electronic, FAIR plans, financial regulation, fire insurance, fraud, guaranty funds, insurance scoring, licensure, military personnel, mold, premium tax, producer compensation, rate

regulation, reinsurance, self audit, state building codes, state regulator, structured settlements, surplus lines, telephone sales, terrorism coverage, unfair practice, uniform commercial code, omnibus, and miscellaneous insurance provisions.

2005 Enactments By State

The following states enacted new property/casualty laws in 2005. The number of new laws is indicated parenthetically.

Alaska (5), Arizona (6), Arkansas (11), California (6), Colorado (10), Connecticut (20), Delaware (12), Florida (28), Georgia (20), Hawaii (8), Idaho (16), Illinois (11), Indiana (10), Iowa (6), Kansas (9), Kentucky (15), Louisiana (36), Maine (17), Maryland (12), Massachusetts (3), Michigan (2), Minnesota (15), Mississippi (10), Missouri (6), Montana (11), Nebraska (1), Nevada (10), New Hampshire (11), New Jersey (1), New Mexico (6), New York (11), North Carolina (24), North Dakota (25), Ohio (4), Oklahoma (4), Oregon (17), Pennsylvania (1), Rhode Island (21), South Carolina (23), South Dakota (16), Tennessee (45), Texas (17), Utah (11), Vermont (1), Virginia (58), Washington (9), West Virginia (19), Wyoming (6).

Inside the NAMIC Survey

The following issues are covered by a brief summary and analysis in NAMIC's 2005 listing of new laws available at www.namic.org/reports/2005NewLaws/default.asp.

Motor Vehicle Insurance

- Traffic Safety
- Proof of Coverage/ Financial Responsibility
- UI/UIM
- Salvage Title
- Cancellation and Nonrenewal Requirements
- Miscellaneous New Motor Vehicle Insurance Laws

Workers' Compensation

- Benefits, Claims and Authorized Treatments
- Disputes and Settlements
- Workers' Compensation Funds
- Omnibus State Law Changes
- Contractor Requirements
- Fees / Taxes / Services
- State Oversight
- Miscellaneous New Provisions

Tort Reform

- Medical Malpractice
- Judgment Interest
- Asbestos
- Comprehensive Legislation
- Juries
- Miscellaneous New Insurance Laws

Identify Theft

- Credit “Freeze”
- Security Breach
- Data Practices

Catastrophe-Related Legislation

Military Personnel Insurance-Related Legislation

Additional Emerging New Law Issue Trends

- Captives
- CLUE
- Corporate Governance
- E-Commerce / Electronic Transmittal
- FAIR Plans
- Farm Mutuals
- Financial Regulation
- Fire Insurance
- Fraud
- Guaranty Funds
- Insurance Scoring
- Mold
- Premium Tax
- Producer Compensation
- Producer Licensure
- Rate Regulation
- Reinsurance
- Self Audit
- State Building Codes
- State Regulator
- Structured Settlements
- Surplus Lines
- Telephone Sales
- Terrorism Coverage
- Unfair Practices
- Uniform Commercial Code
- Omnibus Insurance Law Changes
- Miscellaneous New Insurance Provisions

About the Author

Kate Ciravolo was Vice President and Counsel, Government Affairs at ACORD. She came to ACORD from Atlantic Mutual Insurance Company where she was Manager of Government Relations, and previously served as assistant vice president and assistant counsel at Chubb & Son, and as an account executive for Victor O. Schinnerer, a Marsh & McLennan company. She began her career at Aetna. Ciravolo is admitted to practice law in New York, New Jersey and Washington, DC. In addition she holds the CPCU (Chartered Property Casualty Underwriters) designation.