



HEADQUARTERS	WASHINGTON OFFICE
3601 VINCENNES ROAD	122 "C" STREET, NW
INDIANAPOLIS, INDIANA 46268	SUITE 540
TELEPHONE: (317) 875-5250	WASHINGTON, D.C. 20001
FAX: (317) 879-8408	TELEPHONE: (202) 628-1558
WWW.NAMIC.ORG	FAX: (202) 628-1601

May 4, 2005

The Honorable Mitch Daniels
Governor, State of Indiana
Room 206
200 West Washington Street
Indianapolis, Indiana 46204-2792

Dear Governor Daniels:

NAMIC requests your veto of Senate Enrolled Act 218. Until the conference committee report, NAMIC supported the language contained in SEA 218 which brought Indiana in line with 15 states that have seat belt defense laws. Although the Hoosier state has an overall positive tort system, ranked 11th in the U.S. Chamber of Commerce's *2004 State Liability Systems Ranking Study*, the absence of a law acknowledging the lack of personal responsibility regarding seat belt use is significant.

During the conference committee negotiations, unfortunately some of the insurance industry's traditional allies yielded to the demands of the Indiana Trial Lawyers Association. Those concessions have obliterated the original intent of the legislation.

NAMIC is a full-service national trade association with more than 1,400 member companies that underwrite 43 percent (\$196 billion) of the property/casualty insurance premium in the United States and 43.78 percent of the Indiana market. NAMIC's members are well acquainted with the tort systems and insurance markets of all the states. Our members have practical experience with those other states' seat belt defense laws. By comparison, the enactment of SB 218 would be a minus for Indiana's tort system and insurance market.

Our members' strongest objections to SEA 218 focus on two areas. First, although some states' seat belt defense statutes have caps, SEA 218's four percent cap coupled with the expert testimony requirements renders it useless. Secondly, SEA 218 invalidates the positive effect of a March 2005 Indiana Supreme Court ruling, *Kocher v. Getz*, which states a person's non-use of a safety device can be used to determine fault. Language inserted into SEA 218, by the trial lawyers, reverses the ruling by stating failure to wear a seat belt is not fault. It is another negative aspect of the legislation for businesses and their insurers, contradicting the original purpose for the bill.

NAMIC strongly supports the passage of a seat belt defense bill in the state of Indiana. Unfortunately, NAMIC's members cannot support SEA 218 in the transmutative form endorsed by the trial lawyers. We agree with the quote from the U. S. Chamber of Commerce's *2004 State Liability Systems Ranking Study*:

“From people across America, I am hearing that our legal system needs reform. That our courts aren’t serving the people, they are serving the lawyers. That frivolous lawsuits are hurting people. Some think this special interest group is too powerful to take on. That money determines everything. This is not an argument; it is an excuse. This cause is not hopeless. But it requires leadership to get results.

- George W. Bush

Please veto Senate Enrolled Act 218.

Sincerely,

A handwritten signature in cursive script that reads "Tami Stanton".

Tami Stanton
NAMIC State Affairs Manager
tstanton@namic.org
(317) 875-5250
www.namic.org