

AUTO FIRE LOSSES

House Bill 4332 (Substitute H-1) First Analysis (11-30-00)

Sponsor: Rep. Andrew Richner
Committee: Insurance and Financial Services

THE APPARENT PROBLEM:

People engaged in combating motor vehicle arson point to the experience in Massachusetts where they say car fires in Boston were reduced dramatically as the result of the passage of a state law guarding against insurance fraud. Reportedly, arson has dropped by nearly 80 percent since the law was adopted over ten years ago. The crux of the law is to make an insurance policyholder file a statement to be reviewed by local fire officials and the insurance company before he or she can collect on a claim for fire coverage. Behind this kind of law is the notion that a vehicle owner will hesitate to commit insurance fraud by burning his or her car, or hiring someone to steal and burn the car, if sending a report to a fire investigator or other law enforcement agency is the first step in collecting on a claim. According to testimony by fire investigators, vehicle owners are typically the weakest link in arson investigations; that is, they are the most shaken by contact with law enforcement. Witnesses told the House Insurance and Financial Services Committee that automobile arson is a serious problem in Detroit and statewide. By some estimates, there are 100 car fires each week in the city, with perhaps 85 percent of them considered arson, and with nearly half of the cars reported stolen from suburban communities. In addition to the costs imposed by insurance fraud on insurance companies (and, ultimately, their customers), intentionally set car fires impose a burden on the fire departments that must respond to and investigate them. Legislation has been introduced to address this problem.

THE CONTENT OF THE BILL:

The bill would amend the Insurance Code so that in certain participating municipalities an automobile insurance company could not pay a claim of \$2,000 or more for loss or damage to an insured motor vehicle caused by fire or explosion until the insured person had submitted a report on the fire and explosion to the appropriate municipal fire or law enforcement authority and the insurer had received a certified and true copy of

the report from the insured. The report would have to be in a form prescribed by the state fire marshal. This requirement would not apply to accidental fires or explosions as determined by the insurance company or the appropriate municipal fire or law enforcement authority.

The reporting requirement would only apply when the fire or law enforcement authority responsible for investigating the explosion was located in a city, village, or township that elected to participate. A municipality of any size in a county with a population of 425,000 or more could participate, as could a municipality with a population of 50,000 or more in a county of any size. To participate, the governing body of the city, village, or township would have to adopt a resolution and notify the commissioner of the Office of Insurance and Financial Services (OFIS) that the municipality would receive the fire and explosion reports and inform the commissioner of the name and address of the fire or law enforcement authority designated by the municipality to receive the reports.

The commissioner would be required to prepare and distribute a list of all participating cities, villages, and townships to all insurance companies transacting automobile insurance in the state. A municipality could be added to the list by passing a resolution and notifying the commissioner. The addition would be effective within 30 days after insurance companies were notified of the addition, with the exact date to be set by the commissioner. Losses occurring before the effective date would not be affected. Similarly, a municipality could request to be deleted from the list, or could cease to participate for six months or more, upon 30 days' written notice to the commissioner. Losses that occurred before the effective date of the deletion would be subject to the reporting requirement.

The bill says there would be no liability on the part of, and a cause of action would not arise against, an insurance company or an agent or employee of an insurance company for withholding money in the

course of complying with or attempting to comply with the bill.

MCL 500.3010

FISCAL IMPLICATIONS:

The Office of Insurance and Financial Services reports that additional resources would need to be allocated to the Division of Insurance to compile and maintain the list of participating municipalities. (Departmental analysis dated 11-27-00)

ARGUMENTS:

For:

The bill's aim is to combat automobile arson. It requires a driver making an insurance claim for an auto fire or explosion to first complete a report designed by the state fire marshal and submit it to a local fire or law enforcement authority, with a copy to the insurance company. This only applies in municipalities that choose to participate and only for claims of \$2,000 and above. The reporting requirement is seen as a deterrent to arson, and proponents say a similar law in Massachusetts has significantly reduced auto arson. While investigators say only a short form will be needed, the very act of submitting a report to fire officials or law enforcement officials is seen as discouraging drivers from intentionally setting fire to their cars. If the fire or explosion is determined to be an accident, the reporting requirement does not apply, and the claim should be paid without delay. Reducing arson will reduce the burden on fire departments where car fires are prevalent, such as in Detroit. That city must bear the burden of arson committed on cars brought in from outside the city. It could also reduce insurance costs for law-abiding customers. It should be noted that the bill is aimed at the most populous counties (Wayne, Oakland, Macomb, and Kent) and larger cities outside of those counties (including Lansing, Ann Arbor, Kalamazoo, Saginaw, Flint, and Battle Creek), although participation is optional.

Against:

There are concerns that in order to get cases of fraud, all policyholders making claims will be treated as potential arsonists and subjected to more delays in paying claims and unwarranted investigations. Critics of insurance companies say they already unreasonably deny or delay valid claims; often policyholders must hire lawyers to sue their insurers to get claims paid. Insurance companies already need not pay claims for suspected arson, and they already investigate cases of

arson, as do fire inspectors and police. Policyholders must already make statements to adjusters and insurance companies about the nature of a loss suffered. There are also some technical issues. How is a driver to know if a municipality is participating? Where does he or she get the report form? Shouldn't insurers be required to notify a policyholder if a claim is held up due to this new requirement? Why should insurers be given immunity for withholding payments under the bill, without at least some additional requirement for dealing fairly and in good faith with the customer and some additional penalties for failing to do so? How will fire investigators and police deal with all of the reports submitted? Is it wise to put them in the middle of disputes between insurance companies and insureds in every case?

POSITIONS:

The Office of Financial and Insurance Services (OFIS), within the Department of Consumer and Industry Services, supports the bill. (11-27-00)

Representatives of the Detroit Fire Department and the City of Detroit have indicated support for the bill. (11-29-00)

The Michigan Insurance Federation has indicated support for the bill. (11-29-00)

AAA Michigan has indicated support for the bill. (11-29-00)

The Michigan Arson Prevention Committee has indicated support for the bill. (11-29-00)

The Michigan Trial Lawyers Association does not support the bill. (11-29-00)

Analyst: C. Couch

#This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.