Legislative Audit Division

State of Montana

Report to the Legislature

January 2006

Performance Audit Survey

Compliance With Montana's Mandatory Motor Vehicle Liability Insurance Law

Department of Justice
Motor Vehicle Division

Montana state law requires most motor vehicles registered and operated in the state to be covered by motor vehicle liability insurance. Liability insurance pays for losses resulting from injury, death, or property damage for which a driver is legally responsible. This survey report provides information about:

- **The extent of compliance with the law.**
- **The effectiveness of Montana's enforcement practices.**
- **Information about enforcement practices other states have implemented to improve compliance.**

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January 2006

The Legislative Audit Committee
of the Montana State Legislature:

This survey report provides information to the Legislature about the state's mandatory motor vehicle liability insurance law. This report concludes that Montana has ineffective controls for ensuring compliance with this law. However, changing controls to increase compliance is a legislative policy issue. This report also provides information about other states' strategies for improving compliance with their insurance laws for legislative consideration.

We wish to express our appreciation to Department of Justice and State Auditor personnel for their cooperation and assistance during the audit survey. Additionally, we want to thank representatives of Montana's insurance industry for their cooperation and assistance.

Respectfully submitted,

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Members of the audit staff involved in this audit were Lisa Blanford and Kent Wilcox.

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Elected and Administrative Officials

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Chapter I - Introduction

Introduction

The Legislative Audit Committee requested performance audit work to examine compliance with Montana's mandatory motor vehicle liability insurance (insurance) law. The 1979 Legislature enacted the law for the benefit of the public. As state policy, the law is intended to protect victims of motor vehicle accidents.

In Montana, as in most states, non-compliance with the insurance law is generally considered to be a problem. Persons sustain substantial losses resulting from injuries, property damage, and death caused by uninsured motorists. The Motor Vehicle Division within the Montana Department of Justice (department) had general responsibilities for administering the law. State and local law enforcement agencies and courts of limited jurisdiction are responsible for detecting non-compliance and enforcing the law.

Audit Objectives, Methodologies, and Scope

Audit objectives were to:

- Assess the extent of compliance with the law.
- Assess the effectiveness of Montana's controls for ensuring compliance with the law.
- Identify alternative systems and strategies for improving compliance.
- Determine the need for further audit work.

To meet these objectives, we answered the following questions.

Question #1

Approximately how many motor vehicles are operated without liability insurance?

Between 9 percent and 15 percent of motor vehicles registered in Montana (approximately 74,000 to 123,000 vehicles) are operated without liability insurance.

Question #2

Does Montana have effective controls for detecting non-compliance with and enforcement of Montana's liability insurance law?

Montana has inherently ineffective controls for detecting non-compliance. The risk of drivers being caught driving without insurance is minimal because the state relies upon law enforcement to verify vehicle liability insurance during infrequent traffic stops and investigations.

Question #3

Does Montana have effective controls to prevent, or deter, non-compliance with the liability insurance law?

Montana has ineffective controls to prevent, or deter, non-compliance because penalties for violating the law are generally less costly than purchasing liability insurance.

Question #4

Does Montana have effective corrective controls for preventing offenders from continuing to drive without insurance?

Montana has ineffective corrective controls for preventing offenders from continuing to drive without insurance. While state law requires suspending vehicle registrations, and driver licenses for some repeat offenders, they can easily circumvent these controls.

Question #5

Are there enforcement strategies for improving compliance with Montana's insurance law?

Other states have implemented systems for comparing vehicle registration and insurance data to improve detection of non-compliance and increased penalties to increase deterrence.

To answer these five questions, we:

- Interviewed Department of Justice management and reviewed department data.
- Interviewed insurance industry representatives.
- Reviewed other states' strategies for increasing compliance by improving detection and deterrence capabilities.
- Reviewed academic and insurance industry studies and reports about compliance with insurance laws, and observed a presentation about a system for detecting non-compliance.

We reviewed department data from January 2001 through July 2005. Since state law prescribes enforcement practices, we examined this issue from a statewide perspective, and did not examine potential differences in local government resources or practices related to enforcing the law. Additionally, we did not examine insurer practices or methodologies for setting insurance premium rates.

Performance Audit Survey Conducted

Analysis of background information and data indicated Montana has inherently ineffective controls for enforcing the state's insurance law. However, implementing more effective controls would require substantive changes to state law. Since these are legislative policy decisions, further audit work would not resolve these issues.

Conclusion: Since the Legislature is responsible for setting state policy for administering and enforcing the motor vehicle liability insurance law, we determined a performance audit survey that provided information about the law and alternative enforcement strategies would be the most appropriate and cost-effective response to the Committee's request.

Survey Report Organization

Chapter II provides background information about Montana's insurance law, registered vehicles, insurance premiums, and characteristics of uninsured motorists. Chapter III presents information about Montana's compliance rates and the effectiveness of existing controls. Chapter IV provides information about strategies other states have implemented to improve compliance with liability insurance laws.

Chapter II - Montana's Liability Insurance Requirements

CHAPTER II OVERVIEW

Chapter II provides background information about motor vehicle insurance products, Montana's liability insurance law, the numbers of registered motor vehicles and licensed drivers, insurance premium rates, and a profile of uninsured motorists.

Introduction

The Legislature enacted state law that requires motor vehicles operated on Montana's public roads to have liability insurance coverage. This chapter provides background information about Montana's mandatory motor vehicle liability insurance (insurance) law. The Motor Vehicle Division within the Department of Justice (department) is generally responsible for administering the law. In addition to maintaining driver records and motor vehicle accident data, the department is responsible for taking administrative action to suspend vehicle registrations and driver licenses in accordance with state law.

Insurers Offer Numerous Vehicle Insurance Products

Insurance companies (insurers) offer numerous vehicle insurance products to meet the needs of vehicle owners. While product benefits offered vary among insurance carriers, the following list provides general descriptions of commonly purchased insurance products.

- Liability. This is the most basic insurance and only pays for damages or injuries to others resulting from an accident for which a driver is legally liable. Liability insurance may cover legal fees, but generally provides no other benefits for an at-fault driver.
- Uninsured/underinsured motorist. Provides benefits if the at-fault driver does not have insurance, does not have enough insurance to cover damages, or for hit and run accidents. This coverage typically provides benefits only for medical expenses, lost wages, and other injury-related losses, but not property damage losses.
- Collision. Collision insurance covers vehicle damages resulting from an accident regardless of whether the vehicle collides with another vehicle or a single-vehicle accident such as a rollover.

- Comprehensive. Comprehensive insurance covers vehicle damages resulting from an incident other than a collision, such as a fire, theft, or flood.
- Medical. Insurance carriers offer various medical-related products that may provide benefits regardless of fault. Some products may also cover lost wages or funeral expenses.
- Miscellaneous products. Companies may offer add-on products that pay for other costs, such as vehicle towing, rental reimbursement, or vehicle replacement coverage (repair or replace vehicle regardless of depreciated value).

Montana's Motor Vehicle Liability Insurance Requirements

Section 61-6-301, MCA, sets vehicle liability insurance requirements for motor vehicles and drivers. The owner of any motor vehicle registered and operated in Montana must continuously provide insurance against loss resulting from liability for death, bodily injury, and property damage caused by the owner's vehicle. Persons may also post an indemnity bond for the registration period. Section 61-6-302, MCA, also requires vehicle owners and drivers to provide "proof of compliance" upon request by a law enforcement officer or a court. Most persons demonstrate proof of compliance by showing a department-approved insurance card issued by an insurer.

State law exempts some vehicles and their drivers from the liability insurance law, including:

- Vehicles owned by federal, state, or local governments.
- Self-insured vehicles for fleets of 25 or more motor vehicles.
- Agricultural equipment or special mobile equipment only operated incidentally on public roads.
- Motorcycles and quadricycles.

Table 1 provides information on the number of motor vehicles registered in Montana for which liability insurance is required.

Table 1

Motor Vehicles Registered In Montana
Calendar Years 2001-2005

	2001	2002	2003	2004	July 2005
Passenger Cars	456,213	464,403	476,334	489,545	489,149
Trucks *	322,821	326,394	333,247	341,826	332,242
Total	**779,034**	**790,797**	**809,581**	**831,371**	**821,391**

Based on vehicles registered at calendar year end, except for July 2005.
* Includes trucks over 1 ton.

Source: Compiled by the Legislative Audit Division from Department of Justice records.

Drivers Must Also Have Liability Insurance

State law also requires any person operating a motor vehicle provide the same insurance as required for motor vehicles, regardless of vehicle ownership. Liability insurance policies do not necessarily extend coverage beyond the policyholder. Similarly, a policyholder's coverage may not extend to vehicles owned by other persons. Policy limitations or exclusions may affect persons who lend or borrow vehicles. Consequently, drivers are ultimately responsible for complying with the insurance law.

State Law Sets Minimum Insurance Requirements

Section 61-6-103, MCA, sets minimum insurance coverage per incident, which is:

- $25,000 for bodily injury or death for one person.
- $50,000 for bodily injury or death for two or more persons.
- $10,000 for property damages.

These minimum insurance coverage requirements have remained unchanged since the law was enacted in 1979, except for increasing the minimum property damage coverage in 1989 from $5,000 to $10,000.

Chapter II - Montana's Liability Insurance Requirements

Penalties for Driving Without Liability Insurance

Persons convicted of violating the state's liability insurance law face penalties that range from fines and jail time to department administrative actions suspending vehicle registrations and driver licenses. For first-offense convictions, Montana's penalties are generally comparable to other states' penalties. Table 2 provides detailed information about penalties for non-compliance.

Table 2

Penalties for Violating Motor Vehicle Liability Insurance Law

Conviction [1]	Fine [2, 3]	County Jail (Maximum) [3]	Vehicle Registration Suspended [4]	Driver Licenses Suspended [4, 5]
1st	$250-$500	10 Days	No	No
2nd	$350	10 Days	90 Days	No
3rd or Subsequent	$500	6 Months	180 Days	No
4th or Subsequent	$500	6 Months	180 Days	Yes

[1] Considered a second or subsequent conviction if offense occurs within five years of a previous conviction.

[2] In addition to the fine, persons convicted are required to pay a $35 court surcharge.

[3] Convictions may result in a fine, imprisonment, or both.

[4] Registration and driver license suspensions are mandatory.

[5] Driver licenses may be reinstated after demonstrating compliance with state law.

Source: Compiled by the Legislative Audit Division from Montana Code Annotated.

Fees Assessed for Reinstating Suspended Vehicle Registrations and Driver Licenses

State law allows reinstatement of suspended vehicle registrations or driver licenses at the end of a suspension period upon showing proof of compliance with the law. The 2005 Legislature passed Senate Bill 248, which requires the department to issue a restricted registration for employment purposes only during a suspension period if a person provides proof of compliance. Persons must pay approximately $10 for reinstating a vehicle registration and $100 for reinstating a driver license.

Some Offenders Must Obtain Proof Of Financial Responsibility - SR22 Insurance

Before reinstating a revoked driver license, state law requires a person obtain "proof of financial responsibility." Proof of financial responsibility certifies an individual, not a vehicle, has the minimum required insurance and is a higher standard than proof of compliance. State law requires the department to revoke driver licenses for certain felony convictions, such as negligent homicide resulting from operating a motor vehicle, or for accumulating 30 or more conviction points within a three-year period.

Drivers can purchase "SR22" insurance, a nationally recognized insurance product, to meet proof of financial responsibility requirements. State law requires insurers notify the department when a person cancels an SR22 policy. Persons may also meet proof of financial responsibility by providing a bond or through self-insurance if they have a fleet of 25 or more vehicles.

Many Factors Affect Insurance Premium Costs

Liability insurance premium costs vary greatly because so many factors impact premiums. Costs vary among insurers based upon their target "markets." According to the Montana State Auditor's Office, there are three basic insurance markets:

- Non-standard market (highest premiums). This market includes drivers with less experience and numerous tickets or accidents.
- Standard market. This market is for the average driver.
- Preferred market (lowest premiums). This market is available for low-risk drivers.

Other factors that significantly impact insurance premium rates include the vehicle driven, insured's residence, vehicle use, insured's

credit rating, and annual mileage. Insurers may also offer premium rate reductions, such as good student or accident-free discounts.

Insurance Premium Costs in Montana

The Montana State Auditor's office published comparative six-month premium rate information for liability insurance provided by insurers. The Montana State Auditor's office surveyed the fifteen insurers that write the most insurance in the state. Fourteen insurers responded to the survey, which requested premium information for seven larger communities and two rural communities. Insurers provided comparative information for seven different household scenarios. The survey also requested insurers to provide comparative information for each household scenario based on two different driving records, such as being the cause of a previous accident or having traffic violation convictions. Table 3 provides comparative cost information for four scenarios. Costs are based on policies that provide liability insurance coverage to comply with state law.

Table 3

Four Liability Insurance Premium Rate Scenarios
Six-month Premiums as Reported by Insurance Companies
Effective January 1, 2005

	Lowest Premium	Highest Premium
Scenario #1: 19-year-old driving a 1999 Ford Escort. 10,000 total annual miles.		
No at-fault accidents or traffic citations.	$280	$953
At-fault accident 2 years ago settled for $10,000, and one minor speeding citation.	$352	$1529
Scenario #2: 27-year-old with previous insurance driving a 2004 Chrysler Concorde. 15,000 total annual miles.		
No at-fault accidents or traffic citations.	$109	$295
One major speeding violation 1 year ago.	$160	$582
Scenario #3: 40-year-old single parent, driving 2003 Ford Taurus sedan 15,000 miles annually. 16-year-old drives 1997 Chevy Blazer and 17-year-old drives 1999 Nissan Pathfinder for total of 5,000 miles each vehicle annually. Teenagers do not have any traffic citations, and 17-year-old qualifies for good student discount. There were no at-fault accidents or traffic citations.		
Teenagers completed driver training.	$427	$2843
Teenagers did not complete driver training.	$548	$2843
Scenario #4: Two-parent farming household (48 and 50 years old) with three teenage drivers. 48-year-old drives a 2003 Nissan Pathfinder with 28,000 total annual miles. 50-year-old drives a 2003 GMC 4 WD for farm use only. 14- and 15-year-old children drive a 1989 Ford F350 4WD for farm use only. 17-year-old drives a 1996 Ford F250 2WD to school for a total of 12,000 annual total miles.		
No accidents or citations.	$555	$4148
50-year-old had at-fault accident 2 years ago for $20,000 settlement.	$665	$4348

Six-month premiums reflect surveys completed by 14 insurers who responded to a State Auditor's Office survey request. Rates were effective on January 1, 2005 and may have changed.

Includes uninsured motorist premium costs, since state law requires insurers provide the coverage unless the customer rejects the coverage. According to insurance industry representatives, uninsured motorist coverage generally costs approximately 10 percent or less of the combined premium for liability and uninsured motorist coverage.

Source: Compiled by the Legislative Audit Division from State Auditor's Office Auto Insurance Rate Comparison Guide.

Comparison information indicated a single insurer's premium rates could vary by more than $300 for the same scenario in different communities. Furthermore, premium rates among insurers varied

more than $2,000 for the same scenario in the same community. Additionally, premium rates for high-risk drivers were not included in the rate comparison scenarios.

Profile of an Uninsured Driver

Industry and academic research about compliance with liability insurance laws indicates uninsured motorists tend to have some common characteristics or factors, such as:

- Insurance is a low priority. Some individuals place a low priority on purchasing liability insurance.
- Perceived risks. Some individuals perceive themselves as having minimal assets to protect or at minimal risk of being caught.
- Poor driving records. Uninsured motorists are more prone to accidents. Additionally, persons with poor driving records are considered higher-risk drivers, resulting in substantially higher insurance costs.
- Lower socioeconomic status. Uninsured motorists are more likely to be lower income, have less education, and be unemployed or work part-time.

Chapter III - Effectiveness of Montana's Enforcement Controls

CHAPTER III OVERVIEW

Effectively enforcing liability insurance laws requires three types of controls: detective controls to identify non-compliance, preventive controls to deter non-compliance, and corrective controls to prevent offenders from continued non-compliance. Analysis of insurance industry and department data and other states' information indicates a relatively large number of motor vehicles registered in Montana, between 9 and 15 percent, are operated without liability insurance. Several factors impact the effectiveness of Montana's controls: a relatively low risk of being caught, penalties that are often less costly than purchasing insurance, and statute that provides opportunities for offenders to circumvent sanctions intended to prevent them from continuing to drive without liability insurance.

Introduction

This chapter presents information about the estimated number of uninsured motorists in Montana based on Department of Justice, insurance industry, and other states' information. This chapter also concludes on the effectiveness of the state's enforcement efforts.

Uninsured Motor Vehicles Are A Problem In Montana

Each year many Montanans incur losses resulting from motor vehicle accidents involving uninsured motor vehicles. Department of Justice data indicates more than 10 percent of all motor vehicle accidents reported by Montana law enforcement agencies involve at least one individual cited for violating the insurance law. However, since accident reporting forms only allow documenting two citations for each driver, "hazardous driving" citations are likely given priority over "non-hazardous" citations such as driving without insurance. Because of the citation reporting limitations, the number of accidents involving no insurance citations is likely underreported. Table 4 provides information on the numbers of accidents with a reported no insurance citation.

Table 4

Number Of Motor Vehicle Accidents Involving Citations For No Insurance
Calendar Years 2001 through 2004

Calendar Year	Reported Accidents	Accidents Reports With No Insurance Citations	
2001	22,148	2,355	(10.63%)
2002	23,556	2,522	(10.71%)
2003	23,677	2,541	(10.73%)
2004	21,797	2,417	(11.09%)

Source: Compiled by Legislative Audit Division from Department of Justice records (unaudited).

Difficulties Measuring Non-Compliance in Montana

Accurately determining the number of registered motor vehicles operated without insurance in Montana is difficult. The state has no mechanism to compare motor vehicle registration and insurance policy data. The insurance industry estimates the number of uninsured vehicles using claims data. We analyzed department data to provide information about potential non-compliance rates based on conviction data. However, using different data and methodologies may result in significantly different estimates. While available data limits the ability to accurately determine the number of uninsured motor vehicles, it does provide useful information for estimating the probable range of uninsured motor vehicles.

Insurance Industry Estimates Based on Claims Data

The Insurance Research Council, an industry trade group that examines uninsured motorist issues reported in 2001 that 9 percent of Montana motor vehicles are not covered by liability insurance. The group calculates estimates using the ratio of uninsured motorist insurance injury claims to bodily injury claims caused by insured drivers. However, studies analyzing compliance rates indicate these estimates underreport the number of uninsured motor vehicles for several reasons. First, uninsured motorist claims do not include accidents resulting in only property damage. Second, it excludes accidents involving drivers who do not purchase uninsured motorist insurance.

Data Shows Non-Compliance in Montana is Increasing

Department data indicates an increase in convictions related to driving without insurance. Between 2001 and 2004, the number of convictions for either driving without insurance or not showing proof of insurance increased 16.95 percent, with these offenses accounting for 14.9 percent of all traffic offense convictions in 2004. Table 5 provides detailed information about no insurance-related convictions during calendar years 2001-2004.

Table 5

No Insurance-Related Convictions In Montana
Calendar Years 2001-2004

Total Convictions	**2001**	**2002**	**2003**	**2004**
Liability insurance violation convictions [1]	13,138	14,209	14,954	15,365
Second or Subsequent Convictions				
2nd or Subsequent Conviction [2]	1,434	2,026	2,101	2,483
4th or Subsequent [3]	256	219	183	219

[1] Includes not having proof of insurance in vehicle or not showing proof of insurance on demand.
[2] Based on number of motor vehicle registrations suspended.
[3] Based on number of driver licenses suspended.

Source: Compiled by the Legislative Audit Division from Department of Justice Records (unaudited).

Other States' Reported Non-Compliance Rates

The Insurance Research Council estimates 14 percent of motor vehicles nationwide do not have liability insurance. Review of information from other states indicates the percentage of uninsured motor vehicles ranged from approximately 6 percent to more than 20 percent. Information also indicates states with more effective controls had significantly lower non-compliance rates.

Montana Uninsured Motorist Estimates

Based on insurance industry estimates, department data, and other states' experiences, we estimate between 9 percent and 15 percent of Montana's registered vehicles (approximately 74,000 to 123,000 vehicles) do not comply with the liability insurance law. Table 6

provides estimates of uninsured registered motor vehicles using different non-compliance rates.

Table 6

Estimated Number Of Registered Motor Vehicles Without Liability Insurance Using July 2005 Data

	Registered Vehicles	9 Percent	15 Percent
Passenger Cars	489,149	44,023	73,372
Trucks *	332,242	29,902	49,836
Total	**821,391**	**73,925**	**123,208**

* Includes trucks over 1 ton.

Source: Compiled by Legislative Audit Division from Department of Justice Records.

Conclusion: Between 9 percent and 15 percent of the motor vehicles registered in Montana do not have motor vehicle liability insurance.

Effective Enforcement Requires Three Types of Controls

Effectively enforcing liability insurance laws requires three types of controls:

- Detective controls to identify non-compliance.
- Preventive controls to deter drivers from non-compliance.
- Corrective controls to prevent offenders from continuing to drive without insurance.

These controls are intended to encourage or force those individuals who make conscious decisions to not purchase liability insurance to comply with the law.

Montana Has Ineffective Controls For Detecting Non-Compliance

Montana relies upon law enforcement officers to detect non-compliance. However, this is an ineffective control because law enforcement has limited opportunities for checking compliance, such as during infrequent traffic stops, traffic safety checkpoints, and vehicle accident investigations. The National Association of

Insurance Commissioners reported persons have a 5 percent chance of being caught driving without liability insurance. The association also stated that relying upon law enforcement to detect non-compliance reduces the likelihood non-compliant persons will be caught and increases the likelihood persons will not comply with the law.

Insurance Cards Have Limited Value

Detecting non-compliance is further complicated because Montana relies upon insurance cards to demonstrate proof of compliance with the law. Although commonly used to demonstrate compliance, an insurance card is an ineffective control measure. First, insurance cards only demonstrate compliance at the time a card was issued because persons can immediately cancel insurance policies without returning the cards. Second, insurance cards are easily counterfeited using copying and printing technology.

Conclusion: Montana has relatively ineffective controls to detect non-compliance with the insurance law because of the low risk of being caught driving without insurance. Additionally, insurance cards have limited value for demonstrating proof of compliance.

Montana's Penalties are Ineffective Preventive Controls

Montana's penalties appear to be ineffective preventive controls, or deterrents, to driving without insurance. While the financial penalties for driving without insurance range from $250 to $500, plus a $35 court surcharge, the six-month premium for many vehicle owners exceeds the maximum allowable fine. Six-month insurance premiums for drivers with multiple traffic convictions or accidents can be more than twice the cost of the maximum fine. With the relatively low risk of being caught driving without insurance and existing fines, the cost for non-compliance is significantly lower than the cost of purchasing insurance.

Additionally, jail time is generally considered an ineffective deterrent. One study indicated jail time was not an effective deterrent, while higher fines were more effective deterrents. The study indicated most motorists probably don't believe that jail penalties will be enforced. Jail is not a likely option in Montana

because of jail overcrowding and non-compliance is a non-hazardous offense.

Conclusion: Montana's penalties are ineffective deterrents to driving without insurance because the penalties are substantially less costly than purchasing liability insurance.

Administrative Sanctions are Ineffective Corrective Controls

Suspending vehicle registrations and driver licenses is intended to prevent persons from driving uninsured motor vehicles. However, these are relatively ineffective controls because offenders can easily avoid this penalty by selling vehicles to family members or friends. Also, this penalty does not restrict a convicted person's ability to register or drive other vehicles.

Conclusion: Suspending vehicle registrations and driver licenses are relatively ineffective corrective controls because offenders can easily circumvent the intent of the sanctions.

State Law Impacts Effectiveness of Controls

Some sections of state law also appear to further diminish the effectiveness of these controls. Enforcement controls, particularly deterrent and corrective controls, are primarily directed at vehicle registrations, which may have limited effect on some offenders. The following bullets provide information about insurance law that warrants legislative consideration.

- Suspensions may not affect some drivers. Suspending vehicle registrations does not prohibit persons from driving or registering other motor vehicles. Vehicle owners can also sell vehicles to family members or friends to avoid registration suspensions.
- Suspending registrations may unfairly penalize some vehicle owners. State law mandates suspending vehicle registrations if the driver is convicted of a second or subsequent offense, even if the driver does not own the vehicle and the owner provides liability insurance. For example, if a person borrows an insured vehicle and is subsequently cited and convicted of not showing proof of insurance (second offense), state law still requires suspending the vehicle's registration.
- State law restricts driver license suspensions. State law requires suspension of driver licenses for fourth or subsequent

convictions, but only if the vehicle operated at the time is registered to the offender or a member of the offender's immediate family. If an offender is convicted of a fourth offense while driving an uninsured vehicle owned by another person, state law does not permit suspending the offender's driver license.

- Penalties for convictions. Fines imposed for a first conviction may be the same or greater than fines for second or subsequent convictions. For example, a person convicted of a first offense could be fined up to $500, while an offender convicted of a second offense is fined $350.
- Convicted drivers can retain license plates. Persons cited for second or subsequent driving without insurance violations are not required to appear in court, although state law requires the court confiscate registrations and license plates. While the department would still suspend the registration, these offenders can potentially retain their license plates.

Chapter Summary

Our review indicates a relatively large number of Montana motor vehicles are operated without liability insurance in violation of state law. Additionally, Montana has ineffective controls for detecting non-compliance and enforcing the law. Chapter IV provides information about other states' efforts to improve compliance with mandatory liability insurance laws.

Chapter IV - Strategies for Improving Compliance With Liability Insurance Laws

CHAPTER IV OVERVIEW

Other states have implemented systems to improve compliance with liability insurance laws by increasing capabilities for detecting and deterring non-compliance. We conclude Montana could implement alternatives to improve compliance, but the level of improved compliance is not fully known.

Introduction

This chapter provides information about other states' strategies for improving compliance with mandatory motor vehicle liability insurance laws. Some states have implemented programs that appear to improve their capabilities for detecting and deterring non-compliance.

Improving Detection of Non-Compliance

We identified three approaches other states implemented to improve detection of non-compliance with insurance laws:

- Liability insurance sampling programs.
- Liability insurance reporting systems.
- Liability insurance verification systems.

Sampling Programs

These programs select samples of registered motor vehicles and require owners of the sampled vehicles to demonstrate compliance with the law. The programs may also require insurers to verify insurance status of the sampled population. States may also expand the programs to select stratified samples of vehicles previously identified as not having insurance or persons convicted of driving without insurance.

Sampling Programs May Be Less Costly

Sampling programs may be one of the less costly systems for verifying compliance. During the 2005 Legislative Session, Senate Bill 3 was introduced to implement a sampling program in Montana. The bill did not pass. This bill would have required the department to sample two populations – a sample of all registered motor vehicles and a sample of individuals previously convicted of driving without

insurance. The Department of Justice estimated total program costs for the 2007 biennium to be approximately $274,000, including approximately $34,400 in one-time implementation costs.

Sampling Programs are Less Effective Detective Controls

Sampling programs only detect non-compliance within a sampled population. If sampled populations are stratified to select persons with previous convictions, it further reduces the ability to detect non-compliance in the general population. Sampling systems also place a burden on compliant vehicle owners since they must still demonstrate compliance. Also, these systems do not prevent persons from purchasing insurance to demonstrate compliance and then canceling policies.

Reporting Systems

Approximately one-half of the states have implemented liability insurance reporting systems (reporting systems), which appear to significantly improve states' abilities to detect non-compliance. Laws enacting reporting systems require insurers licensed in a state to report insurance policy data. States then compare the vehicle identification numbers (VIN) on vehicle registrations and policy data to identify uninsured vehicles. When these systems detect potential non-compliance, a notice is sent to the registered owner requesting documentation or an explanation of compliance status. For example, part-time residents who store a vehicle during an absence may not be required to have liability insurance. Vehicle owners who do not respond or are unable to substantiate compliance may face additional enforcement or administrative actions. Reporting systems also allow regulatory agencies to periodically check motor vehicle insurance status to improve detection capabilities.

States reported significant improvements in compliance rates after implementing a reporting system. For example, Utah reported non-compliance rates decreased from 23.2 percent to 5.8 percent between 1995 and 2005. Similarly, Florida reported their non-compliance rate for registered vehicles decreased from 18.7 percent to 5.9 percent between 2000 and 2004.

Reporting Systems Are Widely Used

Reporting systems became increasingly common in the 1990s and approximately half the states have implemented some type of reporting system. Regulatory agencies have substantial experience with reporting systems and have resolved many of the implementation and maintenance difficulties.

Reporting System Data is Quickly Outdated

Reporting systems require insurers to periodically provide policy data, but the data is only valid as of the reporting date. Policy data is constantly changing as vehicle owners cancel policies, change insurers, and sell vehicles. Consequently, there is an increased risk of incorrectly identifying compliance status, which can inconvenience vehicle owners who comply with the law.

Reporting System Costs

Other states have reported implementation costs ranging from approximately $1 million to $4 million and similar annual costs for system administration and maintenance. Insurers also incur costs for developing and maintaining reporting systems, which may be passed on to consumers. These costs may be decreasing because many insurers have already developed and implemented reporting systems for other states.

Verification Systems

Liability insurance verification systems (verification systems) are a new method for detecting non-compliance. This type of system appears similar to those used to verify financial transactions, such as check or credit card purchases, and does not require insurers to provide regular reports of liability insurance policy data. One such system is a web-based inquiry system that allows real-time verification of a motor vehicle's insurance status. Verification systems allow law enforcement, motor vehicle regulatory agencies, and other authorized agencies or personnel the capability of immediately determining whether a valid insurance policy is in-force for any VIN, regardless of vehicle registration status. These systems may pose fewer security risks and privacy issues because data transfers are limited to a specific inquiry and they only report information necessary to confirm insurance status.

Since verification systems are new, we were unable to identify potential implementation or operational costs. However, these systems are reported to be less costly to regulatory agencies since they probably require less investment in hardware systems. Systems based on industry and regulatory standards and capable of using existing data transfer structures would reduce insurers' costs. Additionally, insurers do not incur costs for providing regular reports of insurance policy data.

Some States Have Increased Penalties

Some states have increased penalties to improve deterrent capabilities. In addition to increasing fines, some states also implemented or increased administrative fees for reinstating vehicle registrations and driver licenses.

Increasing Corrective Controls

Montana could also use SR22 insurance more extensively to increase assurance repeat offenders continuously provide liability insurance. Since insurers must notify the state if a person cancels an SR22 policy, the state would have increased capabilities to monitor compliance.

Effectiveness of Strategies Appears to Vary

It is difficult to accurately determine the impact these programs may have on state compliance rates. Accurately measuring the effectiveness of any of these programs or systems is difficult because most states do not have reliable baseline data for comparison. Also, states calculate compliance rates and enforce insurance laws differently.

Some vehicle owners and drivers will likely disregard the law regardless of improved controls. For many owners and drivers, increased compliance will likely depend upon their perceived risks of being caught. Simply increasing penalties would likely result in only marginal improvements to compliance rates. While some persons may be unwilling to risk paying increased fines or incurring more severe penalties, the risk of law enforcement detecting non-compliance remains relatively low at 5 percent.

Detection Systems Appear to Be More Effective

Implementing a system for detecting non-compliance could result in greater compliance than only increasing penalties because of the increased risk that non-compliance would be detected. However, the type of detection system implemented would likely affect rates of improved compliance.

Sampling systems are probably the least effective since the rate of detection may remain relatively low, depending on the populations sampled, sample sizes, sampling frequency, and vehicle owners' perceived risks of being identified. It might be even less effective if the law implementing the system allows non-compliant vehicle owners to come into compliance after being notified. Furthermore, a sampling system does not prevent persons from purchasing insurance to demonstrate compliance and then canceling policies.

Reporting and verification systems may be more effective since they would allow the department to regularly check insurance status for all vehicles. Consequently, vehicle owners who purchase and then cancel insurance policies are much more likely to be caught.

Detection Program Costs Will Vary

Implementation and operational costs for detection programs can vary. Any implementation of a detection program in Montana would likely require increased expenditures. The Legislature could require offenders to pay higher registration and driver license reinstatement fees and fines to offset some program costs.

Impact on Insurance Premium Rates Unknown

The reports and studies reviewed did not indicate whether increased detection and enforcement reduced insurance premiums, but implementing a program will probably not result in immediate insurance premium rate reductions. Insurance industry representatives said improved compliance with insurance laws would not result in any immediate insurance premium rate reductions since rates are based on prior years data. Since insurance rates are calculated based on various risk factors and claims paid by insurers, industry representatives said other factors, such as improving

highway safety to reduce the number or severity of accidents, may be more effective in reducing insurance premiums.

Conclusion: Montana can improve compliance with the mandatory motor vehicle liability insurance law by enhancing the state's ability to detect, deter, and respond to non-compliance. However, neither the potential reduction in non-compliance nor any estimated cost-benefits can be readily determined. Ultimately, legislators must balance the potential costs for implementing more effective controls and the public benefits of improved compliance with the state's liability insurance law. Since these are legislative policy decisions, this report only provides information about the state's insurance law and alternative enforcement strategies for legislative consideration.