

AUTO INSURANCE FRAUD & THEFT PREVENTION

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House Bill 5701 (Substitute H-1)

Sponsor: Rep. Pete Lund

Committee: Insurance

Complete to 6-1-12

A SUMMARY OF HOUSE BILL 5701 AS REPORTED FROM COMMITTEE

The bill would create a new Insurance Fraud and Theft Prevention Authority. The authority would be supported by up to \$21 million in annual assessments from automobile insurance companies and self-insured entities. The authority would be required to provide financial support to state or local law enforcement agencies and to state and local prosecutorial agencies, in both cases for programs designed to reduce the incidence of automobile insurance fraud and theft.

The new authority also could provide financial support to law enforcement, prosecutorial, insurance, education, and training *associations* for programs designed to reduce the incidence of automobile insurance fraud and theft.

The bill would repeal the existing provisions in the Insurance Code that created the Automobile Theft Prevention Authority; the newly created authority would replace the existing authority effective January 1, 2013.

Each insurance company authorized to transact insurance in the state would be required, as a condition of its authority to transact insurance, to report automobile insurance fraud data to the new authority using the format and procedures established by the authority board. The Department of State Police would be required to cooperate with the authority and would have to provide available motor vehicle fraud and theft statistics to the authority on request.

New Authority

The new authority would be created within the Michigan Automobile Insurance Placement Facility, and the staff of that facility would provide staff for the new authority. That "facility" is a statutorily-created insurer of last resort sponsored by the auto insurance industry and intended for drivers who cannot get coverage in the regular marketplace. The current Theft Prevention Authority is housed within the Department of State Police but operates independently. The budgeting, procurement, and related functions of the authority and administrative responsibilities for authority employees are under the direction and supervision of the State Police Director.

On or before January 1, 2013, the Department of State Police would have to transfer all assets of the current Theft Prevention Authority to the Placement Facility for the benefit of the new Fraud and Theft Prevention Authority. The board of the new authority could

not reduce the amount available to support automobile theft reduction below \$6 million annually (out of the up-to-\$21 million annually raised through assessments).

Authority Not a State Agency

The Fraud and Theft Authority would not be a state agency, and the money of the authority would not be state money. A record of the authority would be exempt from disclosure under Section 13 of the Freedom of Information Act.

Board of Directors

The Fraud and Theft Authority would have a 15-member board of directors. Of those, nine would represent auto insurance companies and would be elected by the companies from a list of nominees proposed by the board of governors of the Placement Facility (who would solicit the names from insurance companies). The other members would be, the Commissioner of the Office of Financial and Insurance Regulation or a designee; the Attorney General or a designee; two members representing law enforcement; one member representing prosecuting attorneys; and one member representing the general public. The members representing law enforcement, prosecutors, and the general public would be appointed by the Governor with the advice and consent of the State Senate. Terms would be for four years (although initial terms would be staggered).

Members would serve without compensation except reimbursement for travel and expenses. A majority of the members would constitute a quorum, notwithstanding any vacancies. Action could be taken in person or through amplified telephonic equipment, if authorized in the board's bylaws or plan of operation. Meetings would be held at the call of the chair or as provided in the bylaws, and meetings could be held anywhere in the state. The board would adopt a plan of operation, and that plan would describe how board vacancies are to be filled.

[The existing Theft Prevention Authority has seven members, including the Director of the State Police and six others, all appointed by the Governor, with the advice and consent of the State Senate, two of whom represent insurance companies, two representing purchasers of insurance, two of whom represent law enforcement.]

Appointment Requirements

Of the nine insurance members on the board, at least two would represent insurer groups with 350,000 or more car years; at least two would represent insurer groups with between 100,000 and 350,000 car years; and at least one would represent insurer groups with less than 100,000 car years. ("Car years" is a measure of the amount of mandatory no-fault coverages a company has written in Michigan.)

The law enforcement members of the board would be appointed from input solicited from various law enforcement associations in the state, and the two members appointed could not be from the same type of law enforcement agency. Further, the Governor could not appoint a member representing the same law enforcement agency to more than two consecutive terms. The prosecuting attorney representative would be appointed based on input solicited from various prosecuting attorney associations. The public member could

not be employed by or under contract with any state or local unit of government or any insurance company.

Assessments

The assessments on insurance companies and self-insured entities would be determined by the plan of operation and would be based on the ratio of car years written to the statewide total car years written (meaning, essentially, that the assessments are made on the proportion of company's or entity's mandatory no-fault business). [The current anti-theft authority is also supported by an assessment; it is specified in statute as equal to \$1 multiplied by an insurance company's total earned car years (and this is typically passed along on customers' insurance bills).]

Annual Report to Legislature

The authority would have to prepare and publish an annual financial report, as well as an annual report to the Legislature on its efforts to prevent automobile insurance fraud and cost savings. Also, the authority would have to report to the Commissioner of the Office of Financial and Insurance Regulation (OFIR) and to the Legislature on its activities in the preceding year.

FISCAL IMPACT:

A fiscal analysis is in process.

POSITIONS:

Representatives from the Insurance Institute of Michigan and State Farm testified in support of the bill. (5-31-12)

Others indicating support include: the National Insurance Crime Bureau, the Coalition Against Insurance Fraud, the Michigan Insurance Coalition, the Michigan Association of Insurance Agents, and the Michigan Health and Hospital Association. (5-31-12)

The State Police are neutral on the bill. (5-31-12)

CPAN (the Coalition Protecting Auto No-Fault) indicated opposition to the bill as currently written. (5-31-12)

Legislative Analyst: Chris Couch
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■ 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.