

Senate Commerce Committee

Angela Leach 271-3077

SB 39, relative to automobile insurance cancellation.

Hearing Date: January 24, 2017

Time Opened: 1:00 p.m.

Time Closed: 1:30 p.m.

Members of the Committee Present: Senators Innis, French, Sanborn, Soucy and Lasky

Members of the Committee Absent : None

Bill Analysis: This bill declares that failure to sign the New Hampshire residency form shall not be a sufficient reason to cancel an insurance policy.

This bill is a request of the insurance department.

Sponsors:

Sen. Bradley

Sen. Innis

Sen. French

Sen. Soucy

Rep. Butler

Who supports the bill: Sponsors, Marty Mobley, Emily Doherty and James Fox, Insurance Department; Lindsey Nadeau, AIA and NHADIC

Who opposes the bill:

Bruce Berke, PIA

Summary of testimony presented:

Senator Sanborn stated because of the new ethics laws he may or may not have a conflict but will still be participating.

James Fox- Department of Insurance – The bill amends the personal lines automobile cancellation statute. Under the current version of the statute, personal lines auto carrier can cancel a policy for three reasons, nonpayment, at the insurers request and failure to sign the NH residency form. The purpose of the residency form is to ensure a provision of 412, which is the prohibition against nonresident auto coverage is enforced. The unintended consequences of the current version is people would get the form in the mail and neglect to sign it and send it back and get a cancellation notice, they then might not notice a cancellation notice, then get into an accident and then they don't have coverage. They call the department and even though they are a NH resident, their cancellation is legal under the NH cancellation statute. This is unique statute to NH. Some direct insurance carriers, if you go online you can sign it electronically, for seniors who don't have a computer, they do it on the phone, then they receive the residency form in the packet with the policy, sometimes they will sign the form and send it back but because the insurance company doesn't have a lot of experience, the insurance company has a hard time locating it. Then they erroneously send out a cancellation notice. With this amendment, the insurer can start the cancellation process as long as they sent a separate mailing with a notice of the requirement to sign the form in a self-addressed returned envelope. This protects the

consumer, one envelope with these three documents. This properly balances that interest of the nonresident aspect for the state of NH, the insurance carrier and the consumer.

Senator Soucy- The residency form is unique to NH, other states don't have a requirement.

James Fox- They don't have a requirement at all. We are the only state that has the residency requirement, no mandatory insurance.

Senator Sanborn- The state of NH receives 2% of insurance policies written, why would we prohibit ourselves from not selling outside of the state.

James Fox- It is called rate invasion, when an insurance company writes a policy for a NH risk, they know the experienced driver living in NH and the characteristics. Someone living in Boston is very different, on the rating side, and if you live in Massachusetts you need to have a no fault policy. Each state has their unique standards and all our policies are written to those standards which is why we don't sell across state lines.

Senator Sanborn- Should we be writing policies on where people reside, the state of NH allows people to buy policies for the car that is up at the lake or up in the woods so I am concerned about the declaration of residency and how ownership and location of the vehicle would be in conflict.

James Fox- It isn't your place of residency, the Supreme Court looks at the principal location of the insured risk. Looking at the residency form, there is an exception if the principal vehicle is garaged in the state of NH. Must apply NH laws for principled vehicles in NH.

Senator French- As I read this amendment, it says cancellation can happen if you have a different mailing address then your physical address.

James Fox- No, if you fail to sign the form and the insurance companies sent you notice and a SASE to your address on your policy and then you failed to return it they have a right to cancel you.

Senator French- May be the intent but not how it is written, it says if you have a separate physical mailing address, so if you have a PO Box it could be cancelled.

James Fox- If your insurance company mails to the physical address listed on your policy and you have a PO Box, you may not get it. The residency form standard mimics the cancellation form standard. You would get the documents to fill out and you fail to do that, in a certain amount of time, they would cancel you. It is a 60 day underwriting window, within the first 60 days the insurance companies determine if they have a right to cancel you basically immediately outside of this statute.

Senator Innis- item c, end it at "failed to sign the residency form".

James Fox- This is what created the problem, the insurance company sent the residency form in packets, for example page 6 of 42 and the person doesn't see it and their insurance is cancelled, this makes sure the person has the best chance to see the form and send it back.

Senator Innis- Items A and B don't take care of that.

James Fox- Items A and B was the original idea, the person that falsely attested or that the Insurance company makes an independent determination that the person was not a resident. The feedback is that there is usefulness of the actual form.

Senator Lasky- Small "a" - falsely contested, would be triggered just because you question the residency requirement.

James Fox- That is how it is triggered, when this residency form came into place, then people came into NH to register their car and for an insurance policy because NH was cheaper, that is not the case anymore.

Senator Lasky- Why don't they send out the form via certified mail.

James Fox- We did have another version that is certified mail or proof of receipt, the idea was to do just 3 documents and it would probably get there but another option would be certified mail.

Senator Sanborn- Are we trying to solve a problem that no longer exists.

James Fox- We have a lot of problems with people not getting the form and not getting it back.

Senator Sanborn- The problem is filing the claim fraudulently.

Jamie Fox- People trying to buy insurance in NH because it is cheaper is not a problem due to the fact that we are not cheaper anymore.

Senator Sanborn- If we are no longer having a problem because NH is no longer affordable, and we no longer have a problem with people trying to obtain insurance on the vehicle that does not reside in our state, If we feel compelled that the person needs to be a resident, when someone files a claim why isn't it up to the insurance carrier to prove that the person is domiciled in NH.

James Fox- 412:8 has that prohibition in terms of it is illegal to have that coverage, slightly different issues, the commissioner did remove the residency requirement but we heard from the industry that

the form has some value.

Senator Soucy- My understanding is that we were attempting to resolve an issue for consumers who neglected to sign a form, and then they find their policy has been cancelled, aren't we trying to make it easier for them.

Jamie Fox- Correct. Harms the consumer, fill out the form, insurance company doesn't see the form and they get a cancellation notice, get in an accident don't have insurance coverage. This is an issue for direct writers.

Bruce Berke- Professional Insurance Agents of NH- Opposed- Was here in 2002 when the law was put into place requiring the residency form. There was a lot of fraudulent activity taking place along our borders. This statute seemed to really address the issue. We are concerned with changing it right now. Could be detrimental to agents and consumers.

Senator Soucy- Have you seen the amendment, could you in follow up, comment on that proposal.

Bruce Berke- Yes I can follow up.

Senator French- Why would the insurance companies want less paper work demanded by the state.

Bruce Berke- You would have to ask the insurance companies.

Lindsey Nadeau- American Insurance Agents We are okay with the amendment, did work with Mr. Fox and the department with getting rid of the failure to sign and the amendment does address our concerns.

Future Action: Pending

AJL

Date Hearing Report completed: January 25, 2017