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Standards for Monitoring Compulsory Auto Insurance and Financial Responsibility Laws

Background

Auto insurance is compulsory in most jurisdictions. In spite of the laws that compel the purchase of auto insurance, many people choose to drive without it. Paying for those that are not in compliance with legal requirements is a problem for those that abide by compulsory insurance laws. The costs are passed along to those in compliance with legal requirements in the form of uninsured motorists coverage. Thus, in addition to paying for their own actions, each insured motorists also pays for a portion of the costs for not in compliance with legal requirements.

Many jurisdictions have tried to solve the uninsured motorists problem in a variety of ways. Among the many solutions to the lack of compliance with compulsory auto insurance are mandating the offer or purchase of uninsured motorists coverage. This appears to be a legislative recognition that the compulsory auto insurance law does not work as intended. Other solutions include no-pay, no-play legislation—a system in which a person is barred from recovery if that person fails to maintain the minimum required auto insurance coverage—and a variety of verification systems. Addressing issues that increase the costs of auto insurance for citizens is a concern for insurance regulators. Further, if a uniform, national cost effective approach can be identified that minimizes the administrative costs associated with gathering information needed to monitor compliance with compulsory auto insurance laws, then insurers, motor vehicle administrators, insurance regulators, law enforcement authorities and the public will be better served. Without a uniform cost effective approach, each jurisdiction will eventually develop its own unique solution. Diversity in this area will run contrary to insurance regulators' current regulatory modernization efforts.

The purpose of this paper is to identify standards that can be applied to systems that monitor the public's compliance with mandatory auto insurance or financial responsibility laws using a uniform, cost effective approach. It is intended to be vendor-neutral so that any vendor that meets the standards set forth in this paper is afforded an opportunity to provide cost effective services to the public, insurers, law enforcement, motor vehicle administrators and insurance regulators.

The NAIC White Paper, prepared by the Property and Casualty Insurance (C) Committee on Oct. 18, 2005, concluded there is an obvious need for a national, standardized data verification system with law enforcement tools that would achieve the five criteria identified by Texas in their recent HB3588 Feasibility Study. And, there should also be strong leadership from the insurance regulatory community, insurance commissioners and the NAIC in this process. To that end, the Property and Casualty Insurance (C) Committee recommended that the NAIC proceed, subject to certain guidelines, with preliminary work on the possible development of a standardized national system, including discussions with vendors on technology and operational issues surrounding implementation of such a system.

March 24, 2006, the NAIC appointed an Uninsured Motorist Issues (C) Working Group to develop or review standards for a state-based cost-effective and uniform approach for reducing the number of uninsured motorists on the nation's highways. The Working Group is to develop business rules for auto insurance verification and consider whether it needs to draft a model law or model regulation to facilitate the development of such business rules. If a model law or regulation is needed, the final recommendations will be presented by the 2006 Winter National Meeting.

This document assembles a snapshot of State and industry attempts to develop a solution to reduce the growing number of uninsured motorists and the inherent challenges therein. It also defines "best practice" standards that can uniformly be implemented while providing for and achieving effective change.

Best Practices—Technology Processes

There are two technology processes that are generally employed to monitor compliance with mandatory auto insurance requirements. "Data matching" gathers information from insurers at periodic times and then matches this data with the State's motor vehicle administration's vehicle registration records. "Polling" is request driven whereby a system polls or queries insurers to determine insurance status and then feeds the information to the requesting user.

Today, several methods, variations and approaches exist even within the processes described above. As new technologies emerge, new methodologies are also likely to emerge. The best practice therefore should not be to subscribe to any one methodology over another, but rather to set standards of adherence to any monitoring system used. Adherence standards ensure that methods and systems utilized meet a specific threshold of accuracy, reliability and accessibility. Existing solutions have been product or process driven rather than stakeholder or solution focused. Monitoring compliance with compulsory insurance or financial responsibility laws is a multi-tiered issue involving law enforcement, insurance, vehicle administration, and state citizenry.

Recommendations: The best practice recommended by the Working Group is to allow the use of either data matching or polling, provided that the system employed provides results that are accurate, reliable and accessible in accordance with the standards set forth in other parts of this document.

Best Practices—Accurate Data

The longstanding issue of how best to acquire accurate data and, at the same time, achieve uniformity in insurance verification systems, while adequately accounting for the complexities of the various auto insurance reparation systems, has been a great challenge. The uninsured motorist issue is actually a much broader issue. States cannot afford to continue to build safety nets around the problem. Law-abiding taxpayers should not continue to carry the burden of cost when solutions exist. States need to address the fact that uninsured motorist populations are rising and unnecessarily contributing to the escalating costs of auto insurance and general health care.

Accuracy of data or lack thereof, is by far the leading cause of ineffective auto insurance verification systems. Several states that currently employ systems experience accuracy issues where at least 20% of the data reported contains errors. To address this concern, data needs to be checked and purified. The process requires the cooperation of the insurance industry and the motor vehicle administrators. Policy data is only part of the purification equation. States must mandate validation and verification of important data, and the subsequent cleansing process should be sufficiently rigorous to deliver the desired and reliable accuracy rate. Only then can a State expect to reduce the number of uninsured motorists.

Recommendations: The best practices recommended by the Working Group are intended to minimize inaccuracy of data and to build confidence in system reporting results. At a minimum, the system should contain:

- Clearly defined data elements. At a minimum these would include;
 - o The Vehicle Identification Number or VIN;
 - o Insurer NAIC number;
 - o The policy number providing coverage for the vehicle;
 - o Vehicle license number and issuing State; and
 - o Name and address of the vehicle owner.
- Validation of the data elements once they have been received or stored for access;
- Clearly written and documented quality assurance procedures for identifying and correcting erroneous data;
- Data that is deemed suspect (bad or that which cannot be validated) must be checked and segregated until corrected. This activity should be performed at the source of data, but it is also recommended that states actively engage insurer's assistance in validating and correcting bad vehicle and owner information. This process should be accomplished in a timely manner (as determined by the participating state). Data that is not validated should never be used to determine insurance status, thereby helping to eliminate false reporting;
- Validation and verification processes should reach a 98 ±2% confidence level once data is purified and validated.
- Verification systems should protect the State's citizens and err on the side of caution. If there is any indication that a vehicle or owner may be questionably insured then the system must assume that they are insured until the data is validated, corrected or proven otherwise; and
- Any validation, purification, and correction process should be annually audited and certified by an independent auditor for its accuracy and confidence level. Standard auditing procedures and reporting should apply. The resulting report is to be filed with the State motor vehicle administrator with a copy provided to the insurance commissioner.

Best Practices—Accessibility

In order for any system to monitor the public's compliance with mandatory auto insurance or financial responsibility laws to be effective, it must be both accessible and systematically used by individuals that are designated by the State to have access. Issues centering on privacy and confidentiality should be put in perspective with a rigorous set of standards that err on the side of safeguarding sensitive information. These standards are set forth in the section on privacy and confidentiality. Internet accessibility is pervasive, readily available and cost-effective and should be considered as part of any solution.

Recommendations: The best practices recommended by the Working Group are that:

- Systems should follow industry standard formats such as XML protocols and industry standard data procedures, such as ODBC, ensuring that information is easily shared, and accessed;
- Systems that require interface or screens should be made available over the worldwide web; following HTTP standard protocols;
- States should maintain flexibility to manage, dictate, and monitor who has access to their data and the compulsory auto insurance and financial responsibility monitoring system at all times.
- Access should be audited as part of the annual audit of the system and results included in the report filed with the State motor vehicle administrator.

Best Practices—Enforcement

Without enforcement of compulsory auto insurance and financial responsibility laws, states will not be able to reduce the number of uninsured motorists. Effective solution management involves multiple levels of enforcement, as determined by the State, and involves escalating levels of aggressiveness. Accurate data leads to trusted data. And, trusted, ready data ensures that it will be used as an effective enforcement tool. Trusted data, for instance, that is readily accessible to law enforcement officers will directly and positively affect the number of uninsured motorists. It will help to identify fraudulent activity and provide a sound system for instituting and collecting fees and fines that regularly go uncollected.

The best practice needs to include all stakeholders in a community enforcement effort of state compulsory auto insurance and financial responsibility laws. “Community enforcement” includes outreach to individuals other than local or state law enforcement, such as insurance producers, lien holders, vehicle inspection stations or other interested third parties. In order to reduce the number of uninsured motorists, the problem needs to be clearly defined and a coordinated enforcement effort instituted that is backed by accurate and easily accessible information about the driver’s current insurance status.

Recommendations: The best practices recommended by the Working Group related to enforcement are that enforcement must:

- Support active rather than reactive enforcement methods;
- The system must allow law enforcement officials to positively identify those without insurance;
- Support as aggressive an enforcement process as the individual State desires; and
- Support community enforcement whereby compulsory auto insurance and financial responsibility laws are enforced by individuals other than local or state law enforcement, such as insurance producers, lien holders, vehicle inspection stations or other interested third parties.

Best Practices—Privacy and Confidentiality

The development of a compulsory auto insurance and financial responsibility law verification and enforcement system involves access to information that might contain sensitive personal or business information. Protecting sensitive personal information is crucial to a successful program. Also, protection of customer lists is important to securing the cooperation of insurers in providing information that is necessary for a program to function. Sensitive information must be protected and secured at all times by any compulsory auto insurance or financial responsibility verification and enforcement system.

Recommendations: The best practices recommended by the Working Group related to privacy and confidentiality are that the compulsory auto insurance and financial responsibility law verification and enforcement system must:

- Have a positive mechanism for identifying system users and be able to validate the user with a username and password structure;
- Have all passwords follow current Federal standards for security;
- Have a written security policy addressing, at a minimum, passwords and user names that is reviewed and updated at least annually;
- Have all physically stored data properly protected from unauthorized access and downloads;
- Have a written back-up and disaster recovery plan in place;
- Have back-up systems available that comply with the requirements of the plan;
- Protect transmitted data through use of standard acceptable transmission standards such as Secure File Transfer Protocols;

- Allow a user to only view the minimum amount of data that a State has determined each user needs to fulfill their function within the system;
- Monitor access to the system and be able to spot, deny access and report suspect behavior;
- Report within 24 hours any suspected breach of security, data integrity or unauthorized access or attempts at unauthorized access;
- Have system security, policies, procedures and activities, regarding protection of privacy, confidentiality and security of data, audited by an independent auditor as part of the annual audit of the system and the results included in the report filed with the State motor vehicle administrator.

Best Practices—Protection of Citizens

A compulsory auto insurance or financial responsibility law verification and enforcement system must allow a State to aggressively enforce its compulsory auto insurance or financial responsibility laws while protecting State citizens from undue or false identification of failure to maintain the required insurance coverage. It is recognized that there are issues regarding notifications to citizens and that some citizens can be deemed by any system to be not properly insured at a given moment in time. The object of this best practice is to provide mechanisms that greatly reduce this occurrence. It is also understood that states may need to change systems or add a call center to serve its citizens when financially feasible.

To minimize impact of any system on law-abiding citizens, a state must support safety nets for citizens who receive notifications of failure to comply with mandatory auto insurance or financial responsibility laws and truly cannot afford to pay for the minimum required insurance. Safety nets should include publication of information about the State's compulsory auto insurance or financial responsibility laws and each citizen's rights and responsibilities under those laws. Safety nets should also include publication of information regarding how to dispute a notification that one has failed to comply with mandatory insurance requirements. In addition, if the State sponsors or knows of organizations that provide financial support for those that truly cannot afford the required auto insurance; this information should also be published.

Recommendations: The best practices recommended by the Working Group related to protection of citizens are that the compulsory auto insurance and financial responsibility law verification and enforcement system must include the following:

- Communication tools to publish information regarding the State's compulsory auto insurance or financial responsibility laws and its safety nets in print form. The printed documents should then be available at State designated locations, through the mail by request of the citizen, or in electronic form via a State designated website;
- Maintenance of a website containing information regarding the State's compulsory auto insurance or financial responsibility system and informing citizens of their rights and responsibilities regarding compulsory auto insurance or financial responsibility laws. The website should contain a Frequently Asked Question section that explains the processes used to ascertain that a person is properly insured and how one goes about correcting inaccurate information; and
- Maintenance of a call center to provide citizens with State assistance regarding insurance status.

Best Practices—Alternate or Reduced Insurance Coverage Requirements

The differences in state auto insurance laws require that verification and enforcement systems respond to the varied needs of a diverse population. Alternative mechanisms can begin to respond to variances, but there will always be a segment of the population that cannot afford to buy the required auto insurance coverage. Since having this segment insured better serves the total population, alternative and low-cost programs should be encouraged.

Some states offer alternative low-cost or reduced auto insurance coverage options to enable citizens to meet their obligations under compulsory auto insurance or financial responsibility laws. States usually have a process where an individual or business can be authorized to self-insure. Compulsory auto insurance or financial responsibility verification and enforcement systems should allow for alternative methods of compliance.

Recommendations: The best practices recommended by the Working Group are that financial responsibility systems must include the following:

- State defined mechanisms to allow for alternative forms of meeting compulsory auto insurance or financial responsibility requirements;
- Tracking, by State, of whether an individual or business is properly insured, properly insured through an alternative low-cost or reduced coverage option, or authorized to be self-insured;

- Matching the tracked data against the approved State list, roster, or other means identified by the State on a periodic basis (monthly at a minimum); and
- An independent auditor, as part of the annual system audit, shall audit data on the use of alternative forms of meeting compulsory auto insurance or financial responsibility requirements. These results shall be included in the report filed with the State motor vehicle administrator.

Best Practices—State Owned Data

States must always balance guarding and protecting the rights and privacy of its citizens and the trade secrets of the insurance industry that insures them with the responsibility to provide services and enforce the laws.

It is imperative for security, privacy, and State economics that States own and control access to the data in any compulsory auto insurance and financial responsibility law verification and enforcement system. Whether information is collected directly by the State or accessed from insurer databases through a polling mechanism, data that is stored, transmitted, received or captured should be the property of the State and safeguarded as provided in the section on privacy and confidentiality.

Recommendations: The best practices recommended by the Working Group to ensure State ownership of any data used in the compulsory auto insurance and financial responsibility law verification and enforcement system are to:

- Identify the State of residence of the vehicle owner. The State where the vehicle owner resides or where a business is located owns the data associated with that vehicle and its owner;
- Allow each State to decide whether to share its information, considering the privacy of individuals or businesses and the proprietary value of customer lists to insurers, and the option of associating a cost with doing so;
- Assist States in recognizing the benefits of sharing their information with other states;
- Each compulsory auto insurance and financial responsibility law verification and enforcement system should make data sharing easy and seamless through a uniform and consistent set of data and transmission standards; and
- All states should monitor access to the information and report this access to the owning State through a uniform and consistent set of data and transmission standards.

Best Practices—Commercial Insurance

Currently, many systems find difficulty in handling commercial auto insurance policies, particularly for fleets, because fleet policies do not have specific vehicle identification information such as the VIN as part of the policy. This practice makes it very difficult to match, or access from insurer databases through a polling mechanism, vehicle data to determine compliance with compulsory auto insurance or financial responsibility laws.

Recommendations: The best practices recommended by the Working Group are for financial responsibility systems to take commercial, particularly fleet, coverage into consideration by:

- Providing alternative methods of matching vehicles to a commercial or fleet policy (e.g., number of vehicles owned by business compared to the number of vehicles they insure);
- Identifying a commercial or fleet vehicle as properly insured unless a method of positively determining otherwise exists;
- Having an independent audit of any method of determining fleet or commercial insured status, as part of the annual audit of the compulsory auto insurance or financial responsibility verification and enforcement system. These results shall be included in the report filed with the State motor vehicle administrator.

Best Practices—Measurements

Best practice standards must be monitored, reported and audited. Doing so requires a clear set of measurements and metrics by which compliance with the standards is monitored.

Recommendations: The best practices recommended by the Working Group are for measurements are listed in several categories below:

Accuracy Reports or Measurements

- 98 ±2% confidence level in data after purification and validation;
- Correction duration report; and
- An annual audit.

Accessibility Reports and Measurements

- System response time reports and measurements (recommended 5 to 7 seconds);
- Periodic user utilization reports; and
- Ratio of number of potential users vs. the number of actual users during a specific period.

Enforcement Reports and Measurements

- User activity by user type reports; and
- Number of inquiries for specified periods.

Privacy and Confidentiality Reports and Measurements

- Periodic user behavior reports;
- Reports of attacks on the system;
- Password monitoring and expiration reports; and
- Measuring password expirations with changes in passwords.

Use Ability Reports and Measurements

- Number of brochures distributed;
- Number of hits on the website;
- Number of hits by page on the website; and
- Call Center reports that include number of calls, type of calls, and actions taken as a result of call.

Best Practices—Vendor Neutrality

Several states currently have in-house or vendor operated compulsory auto insurance and financial responsibility law verification and enforcement systems and some states are in the process of adopting or testing systems. In recognition of that effort and to assure that states benefit from competition among vendors, vendor neutrality is important.

Recommendations: It is the intent of the Working Group to be both vendor and technology approach neutral to ensure its success and flexibility to allow a State to join other states in sharing insured status information and other pertinent data.

Best Practices—NAIC/AAMVA involvement

The Working Group believes that both the NAIC and American Association of Motor Vehicle Administrators (AAMVA) need to be involved in monitoring compulsory auto insurance and financial responsibility law verification and enforcement systems.

Recommendations: The Working Group's intent is that both the NAIC and AAMVA will recognize these standards as a starting point for the establishment and on-going monitoring of a cost-effective uniform compulsory auto insurance and financial responsibility law verification and enforcement system that effectively monitors compliance with statutory requirements and reduces the number of uninsured motorists on our nation's highways.

In summary, the Working Group recognizes that establishing a common set of standards will benefit all States and stakeholders with regard to compulsory insurance and financial responsibility issues and will ensure that the methods and systems used meet a threshold of accuracy, reliability and accessibility.