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Tuesday, March 4, 2008

Don't believe hype that law would increase insurance rates

By Scott Sexton
JOURNAL COLUMNIST

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Scott Sexton
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On its face, insurance law - specifically a legal concept called "contributory negligence" - is something that only a serious policy nerd could love.

That is, unless (or until) you or someone you know gets hosed by that law. Then it's not so boring.

Contributory negligence works like this: If you're in an accident and deemed to be just 1 percent at fault, you're not legally entitled to one red cent to cover your damages from the idiot (or his or her insurance company) who was 99 percent to blame.

Three recent columns explored some of the more outrageous abuses of this law. Possibly the worst was the insurance-company attorney who argued that a 27-year-old man killed by a hit-and-run

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driver in October 2003 while changing a flat tire in Orange County was partly responsible for his own death.

It's a shameless, outdated blame-the-victim strategy. It also seems like an easy law to change.

Yet objections remain. The state, for example, could switch to a "comparative-negligence" system. If you're 90 percent at fault, you (or your insurance company) pay 90 percent of the damages.

"Comparative negligence is a nightmare to apply. Few people agree on the percent fault they are assessed, it increases lawsuits, is a cash cow for lawyers, and raises everyone's insurance rates," wrote one reader who works in the insurance industry. "If you haven't noticed, N.C. enjoys some of the lowest auto-insurance rates in the country."

Good point. And it's one worth exploring.

Low-rate state

North Carolina does indeed enjoy consumer-friendly auto-insurance rates, ranked sixth lowest in the country, according to the N.C. Department of Insurance.

That's not, however, because of any sense of fair play by insurance companies nor because contributory negligence keeps costs down.

The credit goes to a man who next to nobody has heard of, state Insurance Commissioner Jim Long. He is basically the final word on insurance rates in North Carolina.

Every Feb. 1, the N.C. Rate Bureau - an umbrella organization representing insurance companies - files a rate request. The bureau then makes a rate recommendation. Actuaries and attorneys with the Department of Insurance negotiate any changes with the rate bureau. If there's no agreement, then Long decides.

"It's a pretty long and pretty dull process unless you are an actuary," said Chrissy Pearson, a spokeswoman for the Department of Insurance.

Given that background, I figured that Long's thoughts on the merits of contributory negligence versus comparative merits would be worth hearing.

I figured wrong. Through Pearson, Long declined my interview request, even though he's not running for re-election.

"He feels that's up to the legislature to decide," Pearson said.

Not exactly a profile in political courage, but then again, the commissioner is correct on his point.



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'Compelling case'

Given Long's history, it is safe to say that he wouldn't make any snap judgments.

Since he took office in 1984, insurance companies have asked for rate increases 18 times, including a request for a 13 percent increase this year. Long has never given what was asked, and he has ordered a decrease nine times.

So if legislators changed to a system of comparative negligence, rates would not automatically go up.

"They could, but we would have to see some hard data - probably two or three years worth," Pearson said. "I think it would have to be a compelling case." Companies, she said, would have to prove that they needed a rate increase if the state did away with contributory negligence.

Those are the facts. If you're someone who has contacted legislators about changing the contributory-negligence law, don't let the honorables tell you that your rates will increase if the system is changed.

By the same token, don't hold your breath waiting for them to act.

"Unfortunately, legislators have been browbeaten into accepting the industry threat of rate increases," said George Gates, the father of the 27-year-old man killed by the hit-and-run driver.

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Posted on 03/05 at 08:09 AM

As I understand, this is a Republican vs. Democrat issue and the Republicans in the General Assembly don't want to necessarily see contributory negligence rescinded. I am the mother of a son killed as a result of a drunk driver and we were confronted as well with this horrific contributory negligence law. We lost. I have been to the legislature and have been told by Sen. Tony Rand that this law is going nowhere anytime soon. He knows how everybody votes. We need to protest and take this public

Lisa Vogel

Posted on 03/04 at 06:10 AM

Don't expect the legislators to do anything to help the citizens in this regard. They never do much except try to find a free dinner (that is getting harder to do) and spend more time than necessary making dumb statements such as apologizing for past events. They are such a useless bunch of individuals and it is time for a change.

voter

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