

**REPORT OF THE
STATE CORPORATION COMMISSION'S
BUREAU OF INSURANCE ON**

**Insurance Premium Increases
Resulting From Not-At-Fault
and Partially-At-Fault Motor
Vehicle Accidents**

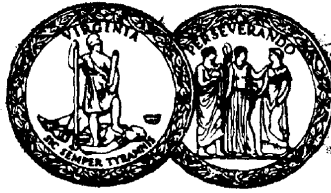
**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



House Document No. 14

**COMMONWEALTH OF VIRGINIA
RICHMOND
1989**

COMMONWEALTH OF VIRGINIA



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STATE CORPORATION COMMISSION

November 17, 1988

TO: The Honorable Gerald L. Baliles
Governor of Virginia
and
The General Assembly of Virginia

We are pleased to transmit this Report of the State Corporation Commission's Bureau of Insurance on Insurance Premium Increases Resulting From Not-At-Fault And Partially-At-Fault Motor Vehicle Accidents.

The study was initiated and the report prepared pursuant to House Joint Resolution 72 of the 1988 Session of the General Assembly of Virginia.

Respectfully submitted,

A large, stylized handwritten signature of Preston C. Shannon, written in black ink over a horizontal line.

Preston C. Shannon
Chairman

A handwritten signature of Thomas P. Harwood, Jr., written in black ink over a horizontal line.

Thomas P. Harwood, Jr.
Commissioner

A handwritten signature of Elizabeth B. Lacy, written in black ink over a horizontal line.

Elizabeth B. Lacy
Commissioner

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EXECUTIVE SUMMARY

Legislative Request

The State Corporation Commission's Bureau of Insurance was requested by the 1988 Session of the General Assembly to study the issue of insurance companies' increasing premiums due to not-at-fault and partially-at-fault motor vehicle accidents. The study resolution assumed (1) there had been a dramatic increase in automobile insurance premiums resulting from the recent insurance crisis and (2) there had been an increase in insurance premiums due to not-at-fault and partially-at-fault losses.

Rate Increases

A review of the top 10 private passenger automobile insurance companies in Virginia indicated that the average of the annual automobile insurance rate increases over the past five years has been 3.8%.

Statutory Requirements

Under Virginia insurance law, no insurance company may charge points (add a premium surcharge) as a result of a motor vehicle accident unless the accident was caused either wholly or partially by the named insured, a resident of the same household, or other customary operator, except where the operator causing the accident is a principal operator insured under a separate policy. Insurers that charge points are required to notify the insured in writing and advise the insured that he has a right to appeal the decision of the insurer to the Commissioner of Insurance within 60 days of receiving the notice. Virginia insurance law also stipulates that a surcharge may not be applied for a period longer than 36 months and that the surcharge period may not begin later than 12 months from the date of the motor vehicle accident.

Company Filings

All rates and rules pertaining to point surcharges must be filed with the State Corporation Commission before they may be used. Many companies use similar rules in determining when a surcharge will be applied although there are variations among companies. Some companies base their decision to surcharge for an accident according to the insured's degree of fault and will not apply a surcharge unless the insured is at least 50% at-fault. Fault is sometimes determined according to whether the insured was convicted of a moving traffic violation in conjunction with the accident. Even when the insured is determined to be at-fault, however, most companies have rules which stipulate that a surcharge will not be applied unless damages resulting from a motor vehicle accident exceed a certain

dollar amount. This is usually set at \$500 or less and varies according to each company's rate filings. When a surcharge is applied, the premium is generally increased for liability, medical payments, comprehensive, and collision coverages.

Statutory Provisions of Other States

A review of the laws of the 50 states revealed several regulatory approaches being taken including:

1. Not addressing the issue of point surcharges in the law;
2. Stating that a surcharge may not be applied if the insured is not-at-fault (this is the approach taken in Virginia);
3. Determining chargeability in terms of the insured's degree of fault in the accident (i.e., the insured must be 50% at-fault before a surcharge may be applied);
4. Specifying the conditions under which a surcharge may not be applied (i.e., if the car is lawfully parked when the accident occurs, a surcharge may not be applied); and
5. Specifying a dollar amount which damages must exceed before a surcharge may be applied.

Consumer Complaints

Consumer complaints involving point surcharges have escalated over the past three years. In approximately one-third of all such complaints received by the Bureau of Insurance since 1984, either the Bureau required the point surcharge to be removed or the company removed the surcharge voluntarily. In at least half of the complaints received, however, the Bureau determined that the surcharge was justified and, therefore, the company was not required to remove the point.

Underwriting Decisions Affecting Premium Increases

If a company is prohibited from surcharging for an accident because the insured was neither wholly nor partially-at-fault, the company may seek other means of increasing the insured's premium. A company may non-renew the insured's policy in the company's preferred program, and instead, offer coverage in its standard or substandard program with higher rates. New statutory provisions which were enacted during the 1988 General Assembly Session limit this practice to a certain extent; certain types of not-at-fault losses may not be used as grounds for non-renewal.

Conclusion

The State Corporation Commission concluded that the current regulatory scheme effectively monitors point surcharges for motor vehicle accidents. Any person aggrieved by the assignment of points may appeal the insurer's decision to the Commissioner of Insurance who is authorized to require the removal of these points if they have been improperly applied.

GENERAL ASSEMBLY OF VIRGINIA – 1988 SESSION
HOUSE JOINT RESOLUTION NO. 72

Requesting the Bureau of Insurance to study the issue of insurance companies' increasing premiums for drivers not-at-fault or partially at-fault

Agreed to by the House of Delegates, March 12, 1988

Agreed to by the Senate, March 12, 1988

WHEREAS, as a result of the recent crisis in the insurance industry, automobile insurance premiums have dramatically increased for practically every driver; and

WHEREAS, many have experienced increases in premiums because of claims filed with their own insurers for accidents in which they were not-at-fault or partially at-fault; and

WHEREAS, good drivers should not be penalized with additional premiums because of these claims filed for accidents for which they were not-at-fault or partially at-fault; and

WHEREAS, Virginia citizens need to be protected from such unwarranted premium increases; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Bureau of Insurance is requested to study the issue of insurance companies' increasing premiums for drivers not-at-fault or partially at-fault because of claims filed with them.

Upon completion of this study the Bureau of Insurance shall report its findings to the Governor and General Assembly as provided in the procedures of the Division of Legislative Automated Systems for processing legislative documents.

INTRODUCTION

Legislative Request

The State Corporation Commission's Bureau of Insurance was requested by the 1988 Session of the General Assembly to study the issue of insurance companies' increasing premiums due to not-at-fault and partially-at-fault motor vehicle accidents. The study resolution assumed (1) there had been a dramatic increase in automobile insurance premiums resulting from the recent insurance crisis and (2) there had been an increase in insurance premiums due to not-at-fault and partially-at-fault losses.

Methodology

In addition to reviewing the rate filings submitted by the top 10 private passenger automobile insurers in Virginia, several other surveys were conducted for this study. The first survey analyzed the types of insurance laws other states have enacted which limit an insurer's right to surcharge due to a motor vehicle accident. The second survey determined what types of safe driver plans private passenger automobile insurance companies have filed with the Bureau of Insurance. Safe driver plans are rules which specify the conditions under which points will be assigned for motor vehicle accidents. The third survey analyzed the Bureau's Property and Casualty Consumer Services Division's Activity Reports. These reports were reviewed to determine the number of consumer complaints involving point surcharges which had been filed with the Bureau over the past three years. The results of these surveys are contained in this report.

MAJOR FINDINGS

Rate Increases

A review was made of the rate changes filed by Virginia's top 10 private passenger automobile insurance companies since 1983. These top 10 companies represent approximately 62% of the market share in Virginia. It was noted that the average of these companies' annual automobile rate increases has been 3.8% since 1983. Appendix A shows the increase and decrease in the statewide average rates for each company from 1983 to 1988.

Statutory Requirements

Every authorized insurer and rate service organization licensed to sell private passenger automobile insurance in Virginia is required to file all rates and supplementary rate information with the State Corporation Commission.

These rates must be filed before they may be used. Supplementary rate information includes rating rules, manuals, and rate-related underwriting rules. These filings are required pursuant to Section 38.2-1906 of the Code of Virginia.

The rating manuals filed by each company contain the company's safe driver plan. The safe driver plan determines how point surcharges will be applied as a result of a motor vehicle accident. Point surcharges increase the policyholder's premium. The amount of increase will depend on the company's rate filings. If a company fails to adhere to the point surcharge rules contained in its safe driver plan, the company is in violation of Section 38.2-1906.

Every company's safe driver plan must be filed with the State Corporation Commission and must comply with Virginia's laws pertaining to point surcharges. Under Section 38.2-1905 of the Code of Virginia, no insurer may charge points under a safe driver plan as a result of a motor vehicle accident unless the accident was caused either wholly or partially by the named insured, a resident of the same household, or other customary operator, except where the operator causing the accident is a principal operator insured under a separate policy. Section 38.2-1905 also requires an insurer that charges points under its safe driver plan to notify the insured in writing and advise the insured that he has a right to appeal the decision of the insurer to the Commissioner of Insurance. The insured's request for an appeal must be made in writing within 60 days of receiving the notice.

Under Section 38.2-1904 of the Code of Virginia, an insurer is prohibited from applying a surcharge as a result of a motor vehicle accident for a period longer than 36 months. The law also stipulates that the surcharge period may not begin later than 12 months from the date of the motor vehicle accident.

Company Filings

A review was made of the safe driver plans filed with the Bureau of Insurance by the major private passenger automobile writers in Virginia. This review also included an examination of the safe driver plan filed by the Insurance Services Office, Inc. (ISO). ISO is a rate service organization that files rates and rules on behalf of its member companies.

The private passenger automobile rating manual filed by ISO states that a point surcharge will be applied for each automobile accident involving the applicant, or any operator of the automobile currently a resident in the same household, while operating any private passenger-type automobile resulting in (1) bodily injury or death, or (2) damage to any property in excess of \$500. The ISO manual also states that a point surcharge will be applied if there

have been two or more accidents that have resulted in damage to any property for which a surcharge has not already been applied under the aforementioned circumstances.

The ISO manual further states that a surcharge will not be applied as the result of an accident under the following circumstances:

1. the auto was lawfully parked;
2. the insured (operator, applicant) was reimbursed by or has a judgement against the person responsible for the accident;
3. the auto was rear-ended and the insured (operator, applicant) was not convicted of a moving traffic violation;
4. the other operator was convicted of a moving traffic violation and the insured (operator, applicant) was not;
5. the auto was damaged by a hit-and-run driver and the insured (operator, applicant) reported it to the authorities within 24 hours;
6. the accident involved damage by contact with animals or fowl;
7. the accident involved physical damage limited to and caused by flying gravel, missiles, or falling objects; or
8. the accident occurred as a result of an emergency call and the operator was a paid or volunteer member of a police or fire department, first aid squad, or any law enforcement agency.

Most companies follow these same guidelines; however, there are a few exceptions such as those shown below:

1. Liberty Mutual Fire Insurance Company will not surcharge for an accident that results in payment of claims adjustment expense only or that results in payments under medical expense or uninsured motorist coverage only. They have also revised ISO Rule #7 by stating that surcharges may not be applied for accidents involving only physical damage coverage unless the accident is a consequence of collision with a stationary object, other than a person or motor vehicle, or is a consequence of upset, or is a consequence of running off the road. The other guidelines follow the ISO rules.
2. Erie Insurance Company generally follows ISO's rules, but they have added a rule which prohibits surcharging if payment has been made only under medical payments or comprehensive coverage, and they have also stated that a surcharge will not be applied if the responsible operator is now deceased, excluded from coverage, or no longer drives the insured auto. Erie also stipulates in its manual that a surcharge will not be applied unless the insured was 50% or more at-fault.

3. Virginia Mutual Insurance Company also uses several of the ISO rules. They do not, however, make an exception for accidents that are the result of rear-end collisions nor do they make an exception for accidents where the insured was not convicted of a traffic violation and the other operator was convicted. Instead they have a rule which states that no point will be assigned if the insured has had a Virginia Mutual policy in force continuously for three years and has not had another at-fault or partially-at-fault accident within three years.
4. Aetna Casualty and Surety Company uses the eight ISO rules and also has a rule that a point will not be assigned if the insured has had an Aetna policy in force continuously for five years and there have been no other accidents.
5. Horace Mann Insurance Company also follows these ISO rules. However, they have added an additional rule that prohibits surcharging if the accident occurred in a no-fault state and it can be reasonably determined that the insured was not-at-fault. They also stipulate under rule #2, regarding reimbursement, that the operator must be reimbursed over 50% by the person responsible for the accident in order to avoid the surcharge.
6. Allstate and Allstate Indemnity make the same substitution under rule #2 by stating that an accident will not be surcharged if the insured has been reimbursed, or has obtained judgement against the other operator, for 50% or more of the property damage loss. Under their new business rating plans both companies use the same rules that ISO has adopted with the exception of two: they do not forgo the surcharge if the accident was in response to an emergency call or if the physical damage was caused by flying gravel, missiles, or falling objects. Under their renewal rating plan an accident is chargeable if it was caused in whole or in part by the insured (more than 50%) and payments totalled at least \$300 under bodily injury liability, property damage liability, and collision coverage.
7. State Farm files separate plans for new and renewal business. Under the new business rating plan any accident is chargeable if it results in death or bodily injury or in property damage of \$400 or more. The exceptions to this rule are similar to the ISO rules. However, the exception regarding accidents resulting from emergency calls is omitted and has been substituted with a rule that states that an accident is not chargeable if the insured was "operating a vehicle of the type not eligible for rating under this Rule". Under State Farm's renewal rating plan an accident is chargeable if the insured was wholly or

partially-at-fault (at least 50%) and the company has paid \$400 or more under property damage liability or, in the case of a single car accident, \$400 or more under collision coverage.

8. Nationwide Mutual Fire Insurance Company files separate rating rules for new and renewal business. The new business rating rules which apply to surcharges are almost identical to those filed by State Farm. The renewal rating plan is slightly different, however, in that an accident is chargeable if the company has paid over \$400 under property damage liability and/or bodily injury liability (excluding uninsured motorist coverage) and/or collision coverage. An exception is made for payments made under collision coverage where there are valid grounds for subrogation.
9. Virginia Farm Bureau has a unique rating plan that does not surcharge policyholders for accidents. Instead, good drivers are rewarded for not having had accidents by receiving a careful driver discount. The amount of premium deduction depends on the length of time the insured has been accident-free.

As noted above, some companies determine chargeability in terms of the degree of fault. Erie Insurance Company defines "wholly or partially-at-fault" to mean at least 50% at-fault. Allstate and Allstate Indemnity require in their renewal rating plan that the insured be more than 50% at-fault in order to be surcharged for an accident. If the insured recovers 50% or more of the property damage loss or has a judgement that demonstrates that he is 50% or less at-fault, the accident is not chargeable. State Farm likewise does not surcharge for an accident unless the driver was 50% or more at-fault. Fault is sometimes determined according to whether the insured was convicted of a moving traffic violation as a result of the accident.

It should be mentioned that these rules are applied in conjunction with the company's dollar threshold rule so that even if the insured is determined to be at-fault, a surcharge will not be applied unless damages exceed the specified level. This level is usually set at \$500 or less and varies according to each company's rate filings. When a surcharge is applied, the premium is generally increased for liability, medical payments, comprehensive, and collision coverages.

Statutory Provisions of Other States

State laws vary in the way they regulate point surcharges for motor vehicle accidents. Some states such as Alabama, Arkansas, Delaware, Idaho, Illinois, Indiana, Iowa, Montana, North Dakota, Ohio, Oregon, South Dakota, Tennessee, Utah, West Virginia, and Wyoming do not set standards to determine chargeability nor do their statutes

define "chargeable accidents" or distinguish between at-fault losses and partially-at-fault losses. Other states have laws which simply state that driving record points may not be assigned due to accidents in which the insured was not-at-fault. These states include California, Georgia, Hawaii, Kentucky, Nevada, New Mexico, North Carolina, Oklahoma, Virginia, and Wisconsin.

Connecticut insurance law states that a surcharge may not be assigned due to an accident unless damage to property exceeds \$600. This figure will change to \$1,000 on October 1, 1988. Alaska has a similar law, but the dollar threshold is set at \$100 and applies to damage to property and bodily injury.

Some states define chargeability in terms of the degree to which the insured must be at-fault in order to be surcharged for an accident. These states include Louisiana (must be 51% at-fault), Massachusetts (must be more than 50% at-fault), Michigan (must be more than 50% at-fault), New Jersey (must be at least 50% at-fault), and Washington (must be at least 50% at-fault). States such as Alaska, Florida, Minnesota, Missouri, New Jersey, New York, Pennsylvania, Rhode Island, South Carolina, and Texas provide very detailed statutory guidelines which specify the circumstances under which a point surcharge may not be assigned. These laws are very similar to the safe driver plans filed in Virginia by ISO and the other insurance companies. In these particular states, however, insurers may not use point surcharge rules which contradict those provided by statute. A chart which summarizes each state's law is provided in Appendix B at the back of this report.

Consumer Complaints

Policyholders have the right, under Section 38.2-1905 of the Code of Virginia, to appeal the assignment of points resulting from a motor vehicle accident if the policyholder feels that the assignment has been made without just cause. If a written request is made within 60 days of receiving notification of the surcharge, the Commissioner of Insurance is required to review the assignment of points to determine whether the surcharge is justified. These "point reviews" as they are referred to by the Bureau of Insurance are handled by the Property and Casualty Consumer Services Division. Each year this division tabulates the number of point reviews it has conducted.

During fiscal year 1984-1985, a total of 962 point reviews were handled. In 205 cases (21%) the point surcharges were removed voluntarily by the company once the complaint had been filed with the Bureau of Insurance. In 78 cases (8%) the Bureau required the company to remove the point surcharge, and in 589 cases (61%) the Bureau ruled that the assignment of the surcharge was in compliance with the law and had been applied in accordance with the company's rate filings. The remaining 90 complaints that

had been filed with the Bureau were dropped by the consumers.

During fiscal year 1985-86, a total of 1106 point reviews were handled. This represented a 15% increase over the previous fiscal year. In 292 cases (26%) the point surcharges were removed voluntarily by the company once the complaint had been filed. In 61 cases (6%) the Bureau required the company to remove the point surcharge, and in 648 cases (59%) the Bureau ruled that the assignment of points was in compliance with the law and had been made in accordance with the company's filings. The remaining 105 complaints were dropped by the consumers.

During fiscal year 1986-87, a total of 1182 point reviews were handled. This represented a 7% increase over the previous fiscal year. In 356 cases (30%) the point surcharges were removed voluntarily by the company. In 73 cases (6%) the Bureau required the company to remove the point surcharge, and in 656 cases (55%) the Bureau ruled that the assignment of points was in compliance with the law and had been made in accordance with the company's filings. The remaining 97 complaints were dropped by the consumers.

During fiscal year 1987-88, a total of 1281 point reviews were handled. This represented an 8% increase over the previous fiscal year. In 387 of these cases (30%), the surcharges were removed voluntarily by the company. In 108 cases (8%) the Bureau required the point surcharge to be removed. In 658 cases (51%) the Bureau ruled that the assignment of points was in compliance with the law and had been made in accordance with the company's filings. The remaining 128 complaints were dropped by the consumers.

These figures show an increase in the number of point reviews conducted over the past three years. In approximately one-third of all cases reviewed by the Bureau of Insurance since 1984 the surcharge was either required to be removed or was removed voluntarily by the company. In at least half of the cases, however, the Bureau determined that the surcharge was justified and, therefore, the company was not required to remove the point.

Underwriting Decisions Affecting Premium Increases

If a company is prohibited from surcharging for an accident because the insured was neither wholly nor partially-at-fault, the company may seek other means of increasing the insured's premium. A company may choose to non-renew an insured's policy in its preferred program, and instead, offer coverage in its standard or substandard program with higher rates. In this way, the insurance company is able to retain an otherwise unacceptable risk. Many companies consider risks unacceptable and no longer eligible for the preferred program if the insured has had too many not-at-fault losses.

Several new laws were enacted during the 1988 General Assembly Session which prohibit a company from non-renewing a motor vehicle policy due to certain types of not-at-fault losses. These new laws are found in Section 38.2-2212 and prohibit insurers from non-renewing a policy solely on the basis of (i) one or more claims submitted under the uninsured motorist coverage of the policy where the uninsured motorist is known or there is physical evidence of contact; (ii) a single claim by a single insured submitted under the medical payments or medical expense coverage of the policy due to an accident for which the insured was neither wholly nor partially-at-fault; or (iii) one or more claims submitted under the comprehensive or towing coverages of the policy (these are usually considered to be not-at-fault losses). Other types of not-at-fault or partially-at-fault losses may become the basis for an underwriting decision to non-renew a motor vehicle insurance policy as they would not be prohibited by law.

CONCLUSION

The State Corporation Commission concluded that the current regulatory scheme effectively monitors point surcharges for motor vehicle accidents. Every insurance company and rate service organization licensed to sell private passenger automobile insurance coverage in Virginia is required to file its rates and rules with the State Corporation Commission. These rates and rules must comply with the sections of Title 38.2 of the Code of Virginia which pertain to point surcharges. These provisions restrict the time period a company may surcharge for an accident and prohibit the assignment of points unless the insured is wholly or partially-at-fault. Any person aggrieved by the assignment of points as a result of a motor vehicle accident has the right to appeal the insurer's decision to the Commissioner of Insurance within 60 days of receiving notification. The insured's request for an appeal must be made in writing. The Commissioner then has the right to require the surcharge to be removed if it has been improperly applied.

APPENDIX A

Statewide Average Rate Level Changes Since 1983 for Virginia's
Top Ten Private Passenger Automobile Companies

	<u>1983</u>	<u>1984</u>	<u>1985</u>	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>Average Annual Rate Increase</u>
State Farm Mutual	-0.5%	-5.0%	11.7%	10.1%	-2.0%	0%	2.4%
Allstate Ins.	-3.1%	5.6%	9.0%	7.9%	-0.8%	0%	3.1%
Nationwide	9.0%	-10.3%	0%	14.0%	3.3%	0%	2.7%
GEICO	0%	-3.6%	6.9%	8.8%	5.9%	4.4%	3.7%
USAA	0%	-7.7%	7.1%	13.9%	7.1%	0%	3.4%
Aetna	2.2%	1.4%	11.9%	13.0%	7.1%	0%	5.9%
Progressive	9.6%	1.2%	12.5%	8.5%	5.4%	-3.2%	5.7%
Allstate Indemnity	-3.3%	16.3%	0%	9.4%	0%	0%	3.7%
Colonial	5.3%	8.3%	5.2%	9.2%	0%	4.7%	5.4%
State Farm Fire	-1.4%	-6.3%	13.2%	12.7%	-8.3%	0%	1.6%

Average
of All
Rate
Increases = 3.8%

APPENDIX B

STATE LAWS REGULATING ACCIDENT SURCHARGES

Alabama	Laws do not regulate surcharges.
Alaska	Insurers may surcharge for at-fault accidents involving bodily injury or damage to property in excess of \$100 except for accidents where (1) the auto was lawfully parked, (2) the insured was reimbursed or received a judgement against the other driver, (3) the car was rear-ended and the insured was not convicted of a moving violation, (4) the other party was convicted of a moving violation and the insured was not, (5) the car was hit by a hit-and-run vehicle and it was reported to the authorities within 24 hours, (6) the damage was the result of contact with animals or fowl, or (7) the damage was caused by flying gravel, missiles, or falling objects.
Arizona	Insurers may not surcharge as the result of an accident not caused or significantly contributed by the actions of the insured.
Arkansas	Laws do not address chargeability for motor vehicle accidents.
California	Insurers may not surcharge if the insured was not-at-fault in any manner as determined by the accident report or the insurer; also may not surcharge a firefighter, member of highway patrol, or peace officer in performance of their duties.
Colorado	Insurers may surcharge for accidents which occurred during the 3 year period preceding the date of the proposed action; does not have to be based upon fault.
Connecticut	Insurers may not surcharge unless damage to property exceeds \$600. Will change to \$1,000 on October 1, 1988.
Delaware	Laws do not set standards to determine chargeability.
D.C.	Insurers may not surcharge unless the insured caused the accident.

Florida Insurers may not surcharge for comprehensive or uninsured motorist claims; insurers must notify the insured in the premium notice that the insured may request reimbursement for surcharges imposed in the following situations: (1) the car was legally parked, (2) the insured was reimbursed by the other driver, (3) the insured was struck in the rear and was not convicted of a violation, (4) the insured was struck by a hit and run driver and it was reported to the police, (5) the insured was not convicted of a traffic violation but the other driver was convicted, (6) the insured was found not to be liable by a court of competent jurisdiction.

Georgia Insurers may not surcharge for a multi-car accident in which the insured was not-at-fault.

Hawaii Insurers may not surcharge for an accident if the insured was not-at-fault.

Idaho Laws do not regulate surcharges.

Illinois No authority to regulate surcharges for motor vehicle accidents.

Indiana Statutes do not regulate surcharges.

Iowa Statutes do not address the issue of chargeability.

Kansas Statutes do not define chargeable accidents. Bulletin states that if the insured is reimbursed any amount no surcharge may be applied.

Kentucky Insurers may not surcharge for an accident if the insured was not-at-fault or contributorily negligent.

Louisiana The insured can only be surcharged for an accident in which he was found to be 51% or more to blame.

Maine Chargeability is not addressed in the law but the Bureau's position is not to allow surcharges unless there have been 2 or more at-fault losses over \$500.

Maryland May not surcharge for claims made under personal injury protection (no-fault coverage) - may not surcharge longer than 3 years.

Massachusetts Insurers must surcharge if the insured was more than 50% at-fault and the company paid more than \$200 in property damage liability or collision coverage; two points are assigned for a minor at-fault accident in which the insurer paid between \$200 and \$1500; three points are assigned for a major at-fault accident where the insurer paid more than \$1500 in damages. Insurers must also surcharge if the insured has filed 4 or more comprehensive claims totaling \$2000 or more. Premiums are increased by \$100 for a 2-point surcharge and \$200 for a 3-point surcharge.

Michigan Insurers may only surcharge for "substantially-at-fault" accidents which is defined as being more than 50% at-fault.

Minnesota Law defines "surcharge" and "chargeable accident" - Law also requires an insurer to disclose to the applicant its "surcharge plan" which term is also defined in the law. Although not stated in the law, the insurance department will not approve a surcharge plan in its rate filing if the surcharge is applied to anyone who (1) is rear-ended at a traffic control device, (2) has a judgement against the other motorist, (3) has been reimbursed by the other motorist, or (4) files a no-fault claim unless the accident was a single-car loss.

Mississippi Laws do not determine chargeability.

Missouri Insurers may not surcharge for an accident if the insured was not-at-fault. Insurers may not surcharge if (1) the auto was lawfully parked, (2) the insured has been reimbursed by the other operator, (3) the insured was rear-ended and was not convicted of a violation, (4) the other operator was convicted of a violation and the insured was not convicted, (5) the insured auto was damaged by a hit-and-run auto, (6) the accident involved damage by contact with animals or fowl, (7) the accident involved damage by flying gravel, missiles, or falling objects, (8) the accident was the result of an emergency call by a paid or volunteer member of the police or fire department or rescue squad.

Montana Statutes do not regulate surcharges.

Nebraska Insurers may not surcharge for an accident involving an uninsured motorist.

Nevada Insurers may not surcharge as a result of claims made in which the insured was not-at-fault.

New Hampshire Defines "accident" as an occurrence resulting in death, over \$250 in personal injury, or over \$500 in property damage; or personal injury or property damage to the insured if the insured is also convicted of a moving traffic violation in connection with the accident.

New Jersey Insurers may only surcharge for at-fault accidents over \$300. The insured must be at least 50% at-fault in order to be surcharged. Premiums will be increased by \$300 per year for 3 years. The following accidents are not considered "at-fault": the insured obtained a judgement against or settlement from the other driver; the auto was rear-ended; the other driver was convicted and the insured was not; the auto was struck by a hit-and-run driver; the accident was in response to an emergency by a paid or volunteer member of the fire or police department or rescue squad; the accident involved physical damage loss other than collision.

New Mexico Insurers may not surcharge for a not-at-fault loss.

New York Regulations prohibit surcharging for accidents in which the insured was responding to an emergency on behalf of a fire department or rescue squad; also cannot surcharge for property damage under \$600 unless there has been more than one accident; cannot surcharge if (1) the auto was lawfully parked, (2) the auto was struck in the rear and the insured was not convicted of a violation, (3) the auto was struck by a hit and run driver, (4) the accident occurred during the course of employment in a vehicle used for hire and no conviction resulted, (5) the accident occurred during the course of employment in an auto furnished by the employer, (6) the insured has received reimbursement or a judgement equal to one-third or more of the value of the property damage claim.

North Carolina Insurers may only charge for at-fault accidents; safe driver plans may provide for separate surcharges for major accidents, minor accidents, and intermediate accidents.

North Dakota Statutes are silent in the matter of accident surcharges - there are no administrative rulings on this subject.

Ohio Statutes do not address the issue of chargeability.

Oklahoma Insurers may not assign driving record points due to an accident in which the insured was not at fault.

Oregon Laws do not set standards to determine chargeability.

Pennsylvania Insurers may not surcharge for an accident unless the insured was at fault; fault is not defined; also may not surcharge if (1) the auto was lawfully parked, (2) the insured was reimbursed by or has a judgement against the other driver, (3) the auto was struck in the rear and the insured has not been convicted of a violation, (4) the other driver was convicted of a violation and the insured was not convicted, (5) the auto was struck by a hit-and-run driver and it was reported to the police, (6) the accident involved damage by contact with animals or fowl, (7) the damage was caused by flying gravel, missiles, or falling objects, (8) the accident was in response to an emergency and the operator was a paid or volunteer member of a police or fire department, first aid squad, or any law enforcement agency, (9) the accident occurred more than 36 months prior to the inception or anniversary date.

Rhode Island Regulation establishes guidelines for determining what is not a chargeable accident - insurers cannot surcharge if (1) the car was legally parked and unattended, (2) the owner or operator has received at least 51% reimbursement from the other driver, (3) the individual has received a judgement against the other owner or operator for at least 51% of the physical damages, (4) the damage inflicted was done by an individual operating a stolen car, or (5) the other owner or operator's license

Rhode Island
(cont'd.)

was suspended for failing to satisfy the financial responsibility requirements - insurers must surcharge for chargeable accidents for at least 3 years.

South Carolina

All insurers must use the uniform merit rating plan which gives a 15% discount for drivers with no accidents and provides for a \$20 annual surcharge for each point assigned in excess of one point. The number of points assigned varies according to the frequency and severity of the accident involvement. An accident is not chargeable if (1) it is the first accident resulting in damage to property less than \$400 and there are no injuries, (2) the other driver pays for the damages, (3) the car was hit while legally parked, (4) the insured was rear-ended and did not get a ticket, (5) the other driver received a ticket but the insured did not, (6) the insured was struck by a hit and run driver and reported it to the police, (7) the car was damaged by flying objects, animals, or birds. In addition to the uniform rating plan, drivers will be subject to an additional 25% surcharge if they have had 2 or more chargeable accidents or one chargeable accident and 2 convictions within the past 36 months. A chargeable accident is one resulting in bodily injury in excess of \$300 per person, death, or property damage in excess of \$750. An exception is made for the circumstances previously enumerated plus accidents resulting from an emergency call by a paid or volunteer member of the police or fire department, rescue squad, or law enforcement agency.

South Dakota

Laws do not regulate surcharges.

Tennessee

Laws do not regulate surcharges.

Texas

All insurers must use the Texas Driving Insurance Plan which allows insurers to assess one point for each chargeable accident that results in bodily injury, death, or property damage over \$500. One point is surcharged 15%, 2 points are surcharged 35%, 3 points are surcharged 60%, 4 points are surcharged 90%. An accident is not chargeable if (1) the claim is made under medical payments coverage, (2) the car is legally parked, (3) the car

Texas
(cont'd.)

is unattended, (4) the insured has been reimbursed by the other driver, (5) the accident involved government-owned property, (6) the car was rear-ended, (7) the other party was charged, (8) the car was hit by a hit and run driver, (9) the car was damaged by falling objects, (10) the car involved damage with an animal or a bird, (11) the accident occurred on the insured's premise, (12) the insured was not-at-fault (if the accident was investigated by the police and the insured was not charged, it is presumed that the insured was not-at-fault).

Utah

Laws do not regulate surcharging.

Vermont

Statute allows for surcharge only when insurer makes payment for death, personal injury of more than \$300, or property damage over \$500. Accident is defined as physical contact between owner or operator and a person or another object. Statute also allows the Commissioner to establish rules to designate mitigating circumstances to serve as the basis for the removal of a surcharge.

Virginia

Statute prohibits insurers from charging points unless the accident was caused either wholly or partially by the insured.

Washington

Statutes do not set standards for determining chargeability, but the department has set guidelines which require an individual to be at least 50% at fault in order to be surcharged for an accident.

West Virginia

Neither statutes nor regulations address the issue of surcharges.

Wisconsin

Laws do not regulate surcharging but the department takes the position that a surcharge may not be imposed for an accident in which the insured was not-at-fault.

Wyoming

Laws do not regulate surcharges.

