

HB-711

INDEPENDENT INS. AGENTS

242-9555

EXHIBIT 2  
DATE 2-18-05  
HB 711

The legislature finds and declares as follows:

- (1) That the McCarran Act, 15 U.S.C. section 1011 et seq., reserved to the states the power and authority to regulate the business of insurance; that the Legislature of this State has passed legislation and authorized the Commissioner of Insurance to develop regulations to regulate the business of insurance; and that in 1981 the Legislature enacted section 33-23-203, Mont. Code Ann., providing for the limitation of liability under motor vehicle insurance policies as a reasonable means of making and keeping insurance premiums affordable for all Montanans; that the Legislature amended section 33-23-203 to clarify it in response to decisions of the Montana Supreme Court, including *Bennett v. State Farm Mutual Automobile Insurance Co.*, 261 Mont. 386, 862 P.2d 1146 (1993) and *Farmers Alliance Mutual Insurance Co. v. Holeman*, 278 Mont. 274, 924 P.2d 1315 (1996); section 33-23-203 specified that the limits of all coverages available for one insured party were the limits available for the motor vehicle involved in the accident and that the limits of coverage for other vehicles not involved in the accident could not be added together;
- (2) That in 2003 the Montana Supreme Court declared section 33-23-203 unconstitutional, holding that it was "not reasonably related to the stated objective of maintaining affordable insurance in Montana" because insurers charged premiums for each motor vehicle but section 33-23-203 limited the coverage available for any one accident to the coverage on the vehicle involved in the accident or, if no insured vehicle was involved in the accident, to the highest limits of coverage specified under one policy; that the court held section 33-23-203 allows insurers to charge premiums for non-existent coverage;
- (3) That the Legislature believes the best interests of all Montanans are best served by maintaining the affordability of insurance while making sure that insurers provide coverage for which Montanans pay valuable premiums;
- (4) That the practice of charging a premium for each vehicle is an historical practice based on convenience and derived from the fact that the Legislature in 1979 enacted section 61-6-301 "requiring motor vehicle liability protection on motor vehicles as a condition of operation of those vehicles upon the highways or other premises open to use by the public"; that because liability insurance generally follows the car, not the person, insurers found it convenient to charge a premium for each motor vehicle; that later so-called personal and portable coverages like uninsured motorist coverage, underinsured motorist coverage, and medical payment coverage were added by insurers to motor vehicle liability policies as supplemental insurance not required by law; that insurers found it convenient to charge a premium for this insurance based on the number of motor vehicles just like the mandatory liability insurance; that in most cases the premiums charged did not contemplate stacking of coverages but instead assumed that the coverage from one vehicle could not be added to the coverage for another vehicle even though this supplemental insurance followed the person, not the car;
- (5) That other alternative methods of premium assessment for this supplemental insurance include charging a separate premium for each person resident in each household who would

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be insured under the insurance, but even that method would not fully recognize the risk insured because motor vehicle passengers who are not residents of the household are also covered by this supplemental insurance when they are occupying the motor vehicle insured under the policy; that the Montana Supreme Court has held that these non-resident passengers are also entitled to stack coverage limits even though they paid no premiums for the policies involved;

(6) That the Legislature finds that most alternative methods of premium assessment for this supplemental insurance would result in higher premiums for most Montanans and that continued stacking of coverage limits has and will continue to result in higher premiums and lower available insurance limits for Montanans; that Montana families as well as public school districts, private religious schools, and both small and large businesses with multiple motor vehicles will be forced to pay higher premiums and accept lower available limits of insurance if stacking is permitted to continue;

(7) That higher motor vehicle liability insurance premiums in Montana will mean that more Montanans will be unable to afford motor vehicle liability insurance and the supplemental insurance offered in the same policies or will be unable to afford adequate limits of coverage; that, as a result, more Montanans will drive motor vehicles with no motor vehicle liability insurance in violation of state law or with inadequate limits of both liability and supplemental insurance; that, as a result, more innocent victims of motor vehicle accidents will be uncompensated or inadequately compensated for their injuries;

(8) That preventing the stacking of supplemental insurance limits, like liability insurance limits, will not result in Montanans paying for "non-existent coverage" because each motor vehicle, like each insured person, represents a separate risk under the insurance policy: when the insured vehicle is being driven, the driver is covered under the supplemental insurance for that vehicle, the passengers who are residents of the named insured's household are covered, and other occupants of the car who are not residents of the named insured's household are also covered;

(9) That the Legislature declares it to be the public policy of this state that insurance companies be allowed to reasonably develop their insurance policies to limit duplication of coverages, develop fair and reasonable rates for insurance, and design competitive insurance products to give consumers a meaningful choice in the competitive marketplace, so long as the insurance company does not charge excessive premiums and otherwise complies with the laws and regulations of the state as enforced by the Commissioner of Insurance.