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Montana Legislative Audit Division

Performance Audit Summary

# Uninsured Motorists

December 2005

## Introduction

The 1979 Legislature enacted Montana's mandatory motor vehicle liability insurance (insurance) law for the benefit of the public to protect victims of motor vehicle accidents. In Montana, as in most states, non-compliance with insurance laws is generally considered to be a problem. According to Department of Justice (DOJ) data, at least 10 percent of all reported vehicle accidents involve at least one uninsured motor vehicle. The DOJ is responsible for administering the law and law enforcement agencies and courts are responsible for enforcing the law.

## Audit Objectives

Audit objectives were to:

- Assess the extent of compliance with the law.
- Assess the effectiveness of Montana's controls for ensuring compliance with the law.
- Identify alternative systems and strategies for enforcing the law.
- Determine the need for further audit work.

***After audit planning, we concluded Montana has inherently ineffective controls to enforce the law. Implementing more effective controls would require substantive changes to state law and is a legislative policy issue. Therefore, a performance audit survey providing information about Montana's insurance law and alternative enforcement strategies is the most appropriate and cost-effective response to the request for performance audit work.***

## Montana's Vehicle Liability Insurance Law

State law minimum insurance coverage per accident is:

- $25,000 for injury to or death of one person
- $50,000 for injury to or death of two or more persons
- $10,000 for property damage.

The minimum requirements are unchanged except for increasing the minimum property damage coverage from $5,000 in 1989. We also noted:

- There were 821,391 registered vehicles that were required to have insurance in July 2005.
- Six-month insurance premiums vary substantially. Premiums for an average household can range from approximately $150 to more than $4,000 depending driver history, residence, and other factors.
- Uninsured motorists are more likely to be lower income, have poor driving records, or place a lower priority on purchasing liability insurance.

## Accurately Measuring Non-Compliance Is Difficult

Accurately determining Montana's non-compliance rate is difficult. The state has no system for comparing vehicle registrations and insurance policy data. The insurance industry estimates 9 percent of Montana's registered motor vehicles are not insured, based on vehicle accident injury claims. DOJ data indicates convictions for insurance violations accounted for 14.9 percent of all traffic convictions in 2004, and had increased almost 17 percent since 2001. ***Between 9 percent and 15 percent of motor vehicles registered in Montana, or 75,000 to 123,000 vehicles, do not have vehicle liability insurance.***

## Montana Has Ineffective Controls For Detecting Non-Compliance

Montana relies on law enforcement officers to detect non-compliance with the insurance law. The National Association of Insurance Commissioners reported persons have a 5 percent chance of being caught driving without insurance, which also increases the likelihood persons will not comply with the law. Additionally, insurance cards issued by insurers only demonstrate compliance at the time the card was issued since vehicle owners can cancel policies without returning the cards. Insurance cards are also easily counterfeited. ***Montana has relatively ineffective controls to detect non-compliance with the insurance law because of the low risk of being caught driving without insurance. Additionally, insurance cards have limited value for demonstrating proof of compliance.***

## Montana's Penalties Are Ineffective Deterrents (Preventive Controls)

Fines for driving without insurance range from $250 to $500 plus a $35 court surcharge. However, six-month insurance premiums for many vehicle owners can be more costly than fines. A court can also sentence an offender to jail, but this is an unlikely option because of jail overcrowding and non-compliance is a non-hazardous offense. ***Montana's penalties are ineffective deterrents to driving without insurance because the opportunity***

***cost for violating the law is substantially less than the cost of liability insurance.***

## Administrative Sanctions Are Ineffective Corrective Controls

To prevent offenders from continuing to drive uninsured vehicles, state law requires suspending vehicle registrations for second or subsequent offenses and suspending driver licenses for fourth or subsequent offenses. However, these sanctions do not prevent persons from registering or driving other vehicles and offenders can circumvent the law by selling vehicles to family members or friends. ***Suspending vehicle registrations and driver licenses are relatively ineffective corrective controls because offenders can easily circumvent the intent of the sanctions.***

## State Law Impacts Effectiveness Of Controls

Some sections of state law appear to diminish the effectiveness of the controls, and warrant legislative consideration. For example:

- State law requires suspending an offender's driver license for a fourth or subsequent conviction, but only if the vehicle operated at the time is registered to the offender or an immediate family member.
- Persons cited for a second or subsequent insurance violation are not required to appear before a court, although state law requires a court to confiscate vehicle registrations license plates for second or subsequent convictions.

## Other States Have Implemented Systems To Improve Non-Compliance Detection

Other states' information suggests improved detection systems are the most effective strategies for improving compliance. For example, Florida and Utah report non-compliance rates of less than 6 percent after implementing a detection system. There are three basic systems for improving non-compliance detection.

- Sampling programs require selected vehicle owners verify insurance status. Sampling programs may be less costly, but are less effective because they only detect non-compliance in the sampled population.
- Reporting systems require insurers to provide the state liability insurance policy data for comparison with vehicle registration data. Reporting systems are widely used by other states, but can be more costly and policy data is quickly outdated.
- Verification systems, which appear similar to financial transaction verification systems, permit real-time verification of a vehicle's insurance status. These systems only transfer data necessary to verify insurance status and may be less costly than other detection systems. However, verification systems are new, and only a few states have implemented or are testing them.

## Some States Increased Penalties (Preventive Controls)

Some states increased penalties to deter non-compliance. State have also implemented or increased administrative fees for reinstating suspended vehicle registrations or driver licenses. Increasing penalties would likely result in only marginal improvements to compliance rates because the risk of detection remains relatively low at 5 percent.

## Increasing Corrective Controls

Montana could expand use of "SR22" insurance to improve monitoring capabilities of repeat offenders. SR22 insurance requires an insurer to notify the state when an SR22 policy is cancelled.

## Impact of Improved Compliance Unknown

Other states report that improved controls increase compliance, although it is difficult to measure increased compliance because of limited baseline comparison data. Insurance industry representatives said improved compliance would not immediately impact insurance premiums, which are based on prior years data. Industry representatives also said other factors, such as improved highway safety, may be more effective in reducing insurance premiums.

## Conclusion: Improving Controls To Improve Compliance Is A Legislative Policy Decision

***Montana can improve compliance with the law by enhancing the state's ability to detect, deter, and respond to non-compliance. However, neither the potential reduction in non-compliance nor the estimated cost-benefits can be readily determined. Ultimately, legislators must balance the potential costs for implementing more effective controls and the public benefits of improved compliance with the law. Since these are legislative policy decisions, this report only provides information about the state's insurance law and alternative enforcement strategies used in other states.***

For a complete copy of the report (05P-06) or for further information contact the Legislative Audit Division at 406-444-3122; e-mail to lad@mt.gov; or check the web site at http://leg.mt.gov/audit.