



## *The District of Columbia Bar*

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CONSUMER AFFAIRS COMMITTEE  
Division 2

### RESOLUTION

GOOD DRIVER PROTECTION IS NEEDED  
UNDER ANY MANDATORY INSURANCE LAW

The Consumer Affairs Committee of the Division on Antitrust, Trade Regulation, and Consumer Affairs, 1/ strongly recommends that the District of Columbia Council enact a "Good Driver Protection" law entitling good drivers to obtain auto insurance at standard rates from the company of their choice.

Such protection, long needed, is now urgent. The recently enacted no-fault auto insurance law (Bill No. 4-140), as well as the proposed substitute tort law, will require all drivers to have insurance, but each fails to assure that good drivers will be able to get insurance at standard rates.

Under either law, although citizens will be required to buy insurance, insurance companies can refuse to insure them for any reason not among the few expressly prohibited by law (viz., race, sex, legal occupation, whether previously uninsured). The law thus continues to permit companies to refuse to insure for reasons unrelated to the

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1/ The view expressed here represent only those of the Consumer Affairs Committee of Division 2 (Antitrust, Trade Regulation, and Consumer Affairs) of the District of Columbia Bar and not those of the D.C. Bar or of its Board of Governors. This resolution was prepared by Carol A. Cowgill, Chairperson, and Ellen Broadman, Russell Hatchl, Ron Landsman and Anita Johnson.

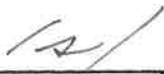
driver's risk of accidents, viz., age of car, income, credit rating, previous claims without regard to fault, etc. The result is that many good drivers -- indeed, drivers with perfect records -- may be denied the insurance (at lower rates) which the law requires they have.

The lack of standards, along with inadequate enforcement mechanisms, raises a serious question about the constitutionality of requiring all citizens to have insurance. See Shavers v. Attorney General, 402 Mich. 554, 267 N.W.2d 72 (1978), which holds that compulsory insurance is state action, and as such due process requires that citizens have substantial guarantees that insurance be available at reasonable rates and on a fair and equitable basis. The solution, like that adopted by Michigan in response to Shavers, Essential Insurance Act, Public Acts 1979, No. 145, MCL §500.2101 et seq., is to require insurance at the rate determined by the appropriate rating classification category.

Protection for good drivers should contain the following elements:

1. Insurance companies should be required to insure all good drivers who apply, at the appropriate rating classification rate.
2. Good drivers should be identified and defined in the law by their driving records -- moving violations (reflecting their severity) and accidents for which the driver was substantially responsible.
3. Insurance companies should be required to file their underwriting rules with the Department of Insurance, and to comply with them uniformly, throughout the District at all times.
4. Insurance companies should be required to inform all applicants and policyholders who are good drivers of their right to insurance at standard rates with the company of their choice.
5. Applicants denied insurance at good driver rates should have the right to obtain review of a company's decision to deny insurance, both within the company and with the Superintendent of Insurance, and the company should be required to inform them in writing of the reasons for denial and of their right to appeal within the company and to the Superintendent.

We urge the District of Columbia Council to pass and the Mayor to sign a Good Driver Protection law that is fair and effective before any mandatory insurance law goes into effect. We believe the provisions outlined above would go far in meeting the needs of District consumers seeking to comply with a mandatory insurance law.

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May 10, 1983