

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS (NCOIL)

Resolution in Support of “No Pay, No Play” Laws to Address the Problem of Uninsured Motorists Knowingly Driving Uninsured

Adopted by the NCOIL Property-Casualty Insurance Committee on March 8, 2014, and by the NCOIL Executive Committee on March 9, 2014. Sponsored by Rep. Don Gosen (MO) and Rep. George Keiser (ND)

WHEREAS, states require that drivers purchase liability insurance to ensure that individuals who cause auto accidents will be able to compensate those who suffer losses as a result; and

WHEREAS, those who violate the law by failing to purchase mandatory liability auto insurance are in effect “free riders” on a liability system meant to protect all drivers, enabling them to take advantage of a compensation structure to which they do not contribute; and

WHEREAS, an injured person generally has little realistic hope of recovering from the at-fault driver for his or her injury if that at-fault driver is uninsured; and

WHEREAS, in many states an illegally uninsured injured person may recover not only out-of-pocket economic loss, but non-economic intangible loss, such as pain and suffering, from a financially responsible at-fault driver; and

WHEREAS, as a result, responsible motorists who comply with the law and purchase insurance unfairly have to pay more for the coverage they buy in the form of uninsured motorist coverage; and

WHEREAS, “no pay, no play” legislation that prohibits uninsured drivers from recovering non-economic damages serves as an incentive to comply with the compulsory automobile liability insurance laws in the states; and

WHEREAS, “no pay, no play” laws have the potential of reducing insurance costs and auto insurance premiums of insured persons, as shown in studies by the Rand Corporation and the Insurance Research Council; and

WHEREAS, “no pay, no play” laws also have the potential of reducing claims fraud, since many “victims” recruited by “accident mills” are uninsured; and

WHEREAS, generally, in a no-fault state with meaningful restrictions on the right to sue, an injured uninsured person cannot recover first-party personal injury protection; and

WHEREAS, eleven states, including California voters by ballot proposition, have already adopted a version of “no pay, no play.”

NOW, THEREFORE BE IT RESOLVED that NCOIL supports the adoption of “no pay, no play” legislation in the states and urges states to adopt “no pay, no play” legislation that:

- limits the ability of an illegally uninsured owner or an illegally uninsured driver to state a claim for non-economic loss against an at-fault driver, whether or not the at-fault driver is insured, while retaining the right to sue for economic damages; and
- enables an illegally uninsured person to retain the right to recover if he or she is injured as a pedestrian, is injured while an occupant of a non-owned vehicle, is injured by an at-

fault fleeing felon, or is injured by a driver convicted of driving while under the influence;
and

BE IT FURTHER RESOLVED that a copy of this Resolution be sent to state legislators and
governors.