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NCOIL SUMMER MEETING

July 10—13, 2019
Newport Beach, CA

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Sen. Dan "Blade" Morrish, LA
President



Thomas B. Considine
NCOIL CEO



Rep. Matt Lehman, IN
Vice President

NCOIL PRAISES COMMITTEE PASSAGE OF LONG TERM NFIP BILL

Louisiana Senator Dan "Blade" Morrish, NCOIL President, reacted to the unanimous passage of HR 3167, The National Flood Insurance Program Reauthorization Act of 2019 by the House Financial Services Committee.

"Just last week I urged Congress and the President to come together to find a long-term solution to the NFIP. Unanimous passage last night of HR 3167 by the House Financial Services Committee is a positive first step. I urge the full House and Senate to follow suit and ask President Trump to sign this needed long term flood insurance program."

Commissioner Tom Considine, NCOIL CEO, reacted to the passage of the bipartisan legislation that provides a five-year reauthorization of the NFIP introduced by House Financial Services Committee Chair Rep. Maxine Waters (CA) and supported by Ranking Member Rep. Patrick McHenry (NC):

"This bipartisan effort is a glimmer of hope for a congress and president that seem deeply divided on most issues. NCOIL will continue to raise this issue until it is passed by both houses of congress and signed by the President."

NCOIL URGES CONGRESS TO REAUTHORIZE TRIA

Louisiana Senator Dan "Blade" Morrish and Commissioner Tom Considine, NCOIL CEO, reacted to the Senate Banking Committee hearing this week regarding the reauthorization of the terrorism risk insurance program (TRIA).

"I appreciate Chairman Crapo and the Senate Banking Committee for starting the TRIA reauthorization dialogue far in advance of the expiration at the end of next year" said Morrish. "This program is vital to every state, and Congress should reauthorize it well in advance of the deadline and for as long a duration as possible."

"TRIA provides a significant backstop and is the one area where the federal government is in a unique position to provide a value-added solution in insurance" said Considine. "I will repeat what I recently stated about the NFIP, TRIA also will be high on our list of discussion items with Congress when NCOIL legislators meet with their federal counterparts this fall."

Morrish concluded "I agree with Ranking Member Sherrod Brown's opening remarks during the committee that the Terrorism Risk Insurance Program is emblematic of our ability to use government to make the economy work for everybody, especially during the most difficult of times."



Asm. Ken Cooley, CA
Treasurer



Asm. Kevin Cahill, NY
Secretary



Sen. Jason Rapert, AR
Immediate Past President



Sen. Travis Holdman, IN
Immediate Past President

LAST-MILE TRANSPORTATION AND LIABILITY

Sharing electric scooters might be the current craze, but they create a magnitude of potential liability issues.

By Lauren Anderson and Andrew Kirkner, National Association of Mutual Insurance Companies (NAMIC)

If you've spent any time in a major metropolitan area lately, you've probably noticed the streets and sidewalks are riddled with electric scooters. The technology behind this emerging last-mile transportation option is simple. Users download an app that lets them find and, for a small fee, unlock and use nearby electric scooters. Users then scoot around town at speeds approaching 20 mph, starting and stopping anywhere they want because a dock isn't required.

Electric scooters in their current iterations are plentiful, useful, affordable, and undeniably fun. They are also immensely popular. Electric scooter industry leaders Bird and Lime have been closely tracking the number of rides their scooters have handled — more than 20 million combined and growing every day. Investors in Silicon Valley are also taking notices of the last-mile transportation phenomenon. After an impressive first year on the market, Bird and Lime are now two of the youngest startups to earn unicorn status in Silicon Valley, becoming rare successful ventures valued at more than \$1 billion.

Despite the many positives, these scooters also bring ample risk along for the ride. As municipalities and states across the country consider regulations and laws governing scooters, rider safety and ample insurance coverage in the event of an accident will be important questions to address.

Potential Issues for Insurers

The overnight success of this technology has left little room for doubt that these companies have created a convenient — albeit sometimes dangerous — service. There is also little doubt that this service, the way it is used, and the corresponding regulations create a magnitude of potential liability issues for insurers.

In one instance, nine people who were injured by scooters filed in the Los Angeles County Superior Court a class action lawsuit against Bird, Lime, and their manufacturers. The lawsuit accuses the startups of gross negligence, claiming the companies dumped thousands of scooters on California roads without regard to public safety and well-being. The injured included riders and pedestrians who say they sustained broken wrists, toes, and fingers, torn ligaments, face lacerations, and damaged teeth.

Adding to the adversity, at least three people died in 2018 while riding scooters, according to multiple reports. As injured parties are left wondering who's responsible, scooter companies will likely point to the fine print of the user agreement, where operators waive liability coverage by clicking the "I Agree" button under the terms and conditions prior to their first ride. Furthermore, while helmet use and other safety precautions are encouraged by these companies, there is no way — and little incentive — for these companies to ensure compliance with local laws.

Riders are also advised to operate scooters on the roads — as opposed to sidewalks - oftentimes in heavy traffic areas where there are few protected bike lanes. Assuming users are following these terms and conditions and get into an accident involving an automobile on a public street, it isn't difficult to imagine an enterprising plaintiff attorney attempting to seek coverage under a scooter user's automobile policy.

It's also not difficult to imagine a scenario in which a scooter operated in accordance with all applicable rules and regulations makes a driver swerve into another vehicle. What portion of liability should be assigned to the operator of the scooter? What if one or both drivers involved in the subsequent collision are uninsured or underinsured? Despite the terms and conditions of scooter use, should Bird and Lime be required to carry insurance to cover users' actions?

Con'd on Page 3.



ADVERTISE IN THE 50TH ANNIVERSARY EDITION

NCOIL will celebrate its 50th year this December at the Annual Meeting in Austin, TX. You can help support NCOIL with an advertisement in the 50th anniversary commemorative edition that will be distributed at the meeting.

Please visit www.ncoil.org/50thanniversary for more information and pricing.

LAST-MILE TRANSPORTATION AND LIABILITY Con'd

Premises liability is another issue ripe for the battlefield. What about the liability of store owners when a scooter is left — without permission — on their properties that connect to a public space? Are scooter operators invitees on private roads that connect to public roads? Does Lime or Bird pick up the tab for liability stemming from in-home charging of their property? Or would Bird and Lime encourage those charging the vehicle to file a claim with their homeowners or renters insurance carriers?

Beginning to Answer These Questions

Efforts to answer these questions and establish regulations have begun in many cities. Some officials have taken extreme measures to remove the unsolicited scooters. Scooter launches in municipalities to date have taken a familiar form — the companies place their scooters on city sidewalks overnight without advance notice. These unannounced and unpermitted launches have led to conflicts between city officials and the scooter companies. A litany of U.S. cities temporarily banned operation of the scooters within city limits and several municipalities have gone so far as to impound the scooters after they were deployed.

After temporary banning or impoundment of their property, the scooter companies generally begin to negotiate permit systems and corresponding regulations with municipalities. In 2018, Los Angeles, Columbus, Ohio, and Nashville, Tennessee, among other cities reversed temporary bans and now allow Bird and Lime to operate within city limits. These jurisdictions have also taken steps to enact operational rules such as speed limits in Los Angeles, parking restrictions in Columbus, and a prohibition against operating on sidewalks in business districts in Nashville. The regulations even go so far as to outline insurance requirements for scooter companies. The rental agreements between scooter companies and users by and large place liability on the rider, absolving the scooter companies; however, cities such as San Francisco require these companies to have adequate insurance for each user.

While many of the answers to the questions stemming from last-mile transportation will be dependent on the specific language of an insurance policy, several insurance regulatory bodies have stepped up to offer guidance and solutions. In December 2018, NAMIC testified at the National Council of Insurance Legislators' Annual Meeting, reiterating its support of the emerging technology as well as the need for appropriate liability structures in the scooter space. NAMIC and representatives from Bird and Lime co-hosted a meeting this past January to discuss the insurance challenges and how they might be overcome by policy or legislative action. NAMIC is now working through its member-engaged policy development process to find solutions that meet the industry's needs in any insurance framework that is contemplated by states.

The insurance industry has a history of embracing innovation and emerging technologies. Starting in the 1960s, insurers advocated for safer vehicles by promoting the mandatory use of seatbelts and airbags. More recently, the Insurance Institute for Business and Home Safety, sponsored by the industry, has pushed for safer, stronger building codes through its groundbreaking research on home resilience. As it has in the past, the industry should continue to embrace emerging technologies, but that embrace and associated participation in the marketplace must focus on safety.

**The views expressed in this IEC column do not necessarily reflect those of NCOIL.*

FIRST STAFF TRAINING WEBINAR LINK AVAILABLE

The NCOIL staff training introductory webinar can be listened to [HERE](#) for staff members and interested parties that were unavailable to participate when it occurred on May 14th.

The in-person training will occur with two sessions at the Summer National Meeting on July 12th and will conclude with a closing webinar on September 17th.

NCOIL SUMMER MEETING SCHEDULE

Wednesday July 10th

Audit Committee (<i>Members Only</i>)	5:30 PM	-	6:00 PM
Budget Committee	6:00 PM	-	6:30 PM
Welcome Reception	6:30 PM	-	7:30 PM

Thursday July 11th

Welcome Breakfast	8:30 AM	-	10:00 AM
Networking Break	10:00 AM	-	10:15 AM
Workers' Compensation Insurance Committee	10:15 AM	-	11:30 AM
Health General Session	11:30 AM	-	12:45 PM
The Institutes Griffith Foundation Legislator Luncheon **Open to Public Policymakers Only**	12:45 PM	-	1:45 PM
Special Committee on Natural Disaster Recovery	1:45 PM	-	3:00 PM
General Session	3:00 PM	-	4:15 PM
Networking Break	4:15 PM	-	4:30 PM
Joint State-Federal Relations & International Insurance Issues Committee	4:30 PM	-	6:00 PM
CIP Member & Sponsor Reception	6:00 PM	-	7:00 PM

Friday July 12th

Financial Services & Multi-Lines Issues Committee	9:00 AM	-	10:45 AM
Essential Education for Legislative Staff: Exploring Risk Management & Insurance Regulation	9:00 AM	-	10:00 AM
Networking Break	10:45 AM	-	11:00 AM
Special Discussion on Federal Insurance Office Priorities	11:00 AM	-	11:30 AM
NCOIL—NAIC Dialogue	11:30 AM	-	12:45 PM
Luncheon with Keynote Address	12:45 PM	-	2:15 PM
Legislative Micro Meetings	2:15 PM	-	2:45 PM
Innovation General Session	2:45 PM	-	4:15 PM
Essential Education for Legislative Staff: Exploring Risk Management & Insurance Regulation Fundamentals	2:45 PM	-	3:45 PM
Networking Break	4:15 PM	-	4:30 PM
Property & Casualty Insurance Committee	4:30 PM	-	6:00 PM
IEC Board Meeting	6:00 PM	-	6:45 PM

Saturday July 13th

Life Insurance & Financial Planning Committee	8:45 AM	-	10:00 AM
Networking Break	10:00 AM	-	10:15 AM
Health Insurance & Long Term Care Issues Committee	10:15 AM	-	12:00 PM
Business Planning Committee & Executive Committee	12:00 PM	-	1:00 PM



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