

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

Held in Room 526, at the Statehouse at 3:30 a. m./p. m., on February 22, 1979.

All members were present except:

The next meeting of the Committee will be held at 3:30 a. m./p. m., on February 26, 19 79.

These minutes of the meeting held on February 21, 19 79 were considered, corrected and approved.

JOSEPH J. HOAGLAND

Chairman

The conferees appearing before the Committee were:

Ron Todd, Assistant Commissioner of Insurance

Chairman Hoagland called the meeting to order at 3:30 p.m. and introduced Ron Todd who passed out a Review of Products Liability Insurance Statistics and Closed Claims and explained the report to the committee. (SEE ATTACHMENT # 1). Following the explanation by Mr. Todd, Chairman Hoagland explained that the committee would not hold hearings on the product liability bills currently in the committee, but would wait for the Senate to act on a similar bill.

The Chairman then asked for a report from the Civil Law Sub-Committee. Rep. Douville, chairman of the sub-committee reported first on HB 2122, a bill relating to authorizing medical care for children. The sub-committee favored holding this bill for further study. They further recommended that HB 2066 be held over until next session so that the Secretary of State can further study and make recommendations.

Rep. Douville then indicated the sub-committee recommends that the committee report HB 2196 adversely. Mr. Douville so moved and it was seconded by Rep. Foster. Motion passed.

Rep. Douville then moved that HB 2218 be recommended adversely. It was seconded by Rep. Foster. Motion carried.

It was moved by Rep. Miller to report HB 2233 adversely. Seconded by Representative Douville. Motion carried. Reps. Foster and Roth were recorded as voting "no."

The sub-committee recommended HB 2237 favorably. After some discussion, Rep. Stites moved HB 2237 be recommended adversely. Rep. Frey seconded. Motion carried. Reps. Gillmore and Crow voted "NO."

The sub-committee recommended that HB 2119 and HB 2190 both be held over for further study.

CONTINUATION SHEET

Minutes of the HOUSE Committee on JUDICIARY February 22, 19 79

The sub-committee recommended HB 2311 be reported adversely. Rep. Douville moved HB 2311 be reported adversely. Seconded by Rep. Gillmore. Motion carried.

Civil Sub-Committee recommended HB 2426 be amended by inserting a period after (\$5,000)" and striking the remainder of the sentence, and that the bill be passed favorably as amended. It was moved by Rep. Crow to adopt the amendment. Seconded by Rep. Douville. Motion passed. It was then moved by Rep. Crow to pass the bill favorably as amended. Seconded by Rep. Douville. Motion carried.

HB 2424 and HB 2425 were discussed by the committee and then Chairman Hoagland assigned the two bills to the Civil Sub-Committee for further study and recommendation.

Chairman Hoagland adjourned the meeting at 4:55 p.m.

REVIEW OF
PRODUCTS LIABILITY INSURANCE
STATISTICS AND CLOSED CLAIMS
REPORTED IN ACCORDANCE WITH
K.S.A. 40-1130

FLETCHER BELL
COMMISSIONER OF INSURANCE

FEBRUARY 14, 1979

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REVIEW OF PRODUCTS LIABILITY INSURANCE STATISTICS
AND KANSAS CLOSED CLAIMS

K.S.A. 40-1130 was enacted by the 1977 Kansas Legislature in an effort to obtain further information to aid in the study of products liability. This report discusses the implementation procedures and results of the first reporting period.

The law requires the reporting of data relative to company business and to closed claim information. Subsections (a) through (h) and (m) through (s) of Section 1 direct attention to premiums collected, reserves established and overall claim activity. Subsections (i) and (j) require the reporting of individual claims which resulted in (1) a final judgment in any amount; (2) a settlement in any amount; or (3) a final disposition not resulting in payment on behalf of the insured. For clarity, these results are presented in this review in two separate sections.

I. COMPILATION OF PRODUCTS LIABILITY INSURANCE STATISTICS

This department implemented procedures for the reporting of statistical information through Bulletins 1977-22 and 1978-2 (attachments I and II). These bulletins were sent to all companies authorized to write fire and/or casualty insurance in the State of Kansas. All companies receiving these bulletins were required to respond. However, as the law requires information from only those companies authorized to transact business in Kansas and writing products liability insurance, only these companies' responses have been included in the compilation of data.

This must be realized while reviewing the total dollar amounts collected for all lines of insurance. One hundred forty-seven (147) companies reported products liability business on a countrywide basis. Of these, 105 reported products liability business in Kansas.

The final compilation of data received is as follows:

States in Which Companies are Authorized to
Write Products Liability Insurance

<u>State</u>	<u>No. of Writers</u>	<u>State</u>	<u>No. of Writers</u>
Alabama -----	105	New Hampshire -----	85
Alaska -----	82	New Jersey -----	94
Arizona -----	105	New Mexico -----	111
Arkansas -----	117	New York -----	89
California -----	108	North Carolina -----	101
Colorado -----	124	North Dakota -----	115
Connecticut ----	82	Ohio -----	111
Delaware -----	93	Oklahoma -----	121
Florida -----	110	Oregon -----	108
Georgia -----	108	Pennsylvania -----	98
Hawaii -----	66	Rhode Island -----	89
Idaho -----	104	South Carolina -----	105
Illinois -----	126	South Dakota -----	118
Indiana -----	123	Tennessee -----	109
Iowa -----	121	Texas -----	122
Kansas -----	134	Utah -----	101
Kentucky -----	120	Vermont -----	87
Louisiana -----	106	Virginia -----	97
Maine -----	89	Washington -----	107
Maryland -----	96	West Virginia -----	92
Massachusetts --	88	Wisconsin -----	111
Michigan -----	107	Wyoming -----	96
Minnesota -----	118	Canada -----	6
Mississippi ----	109	District of Columbia -----	33
Missouri -----	132	Puerto Rico -----	13
Montana -----	106	Virgin Islands -----	8
Nebraska -----	122		
Nevada -----	94	TOTAL WRITERS -----	147

Total Premium Dollar Amounts Collected for all Lines of Insurance
Both Kansas and Countrywide

These figures are for only those companies
writing Products Liability.

	<u>Kansas</u>	<u>Countrywide</u> <u>(Including Kansas)</u>
1972	\$ 817,597,886	\$ 71,917,621,589
1973	903,493,770	75,999,212,984
1974	1,022,229,579	85,422,193,323
1975	1,136,628,180	94,323,699,612
1976	1,343,086,761	112,425,086,382
1977	1,611,883,402	131,982,775,101

Dollar Amounts Collected for Products Liability
Both Kansas and Countrywide for 1977

	<u>Kansas</u>	<u>Countrywide</u> <u>(Including Kansas)</u>
Monoline	\$10,448,997	\$ 817,375,272
Other than Monoline	3,052,989	368,665,935
Total	<u>\$13,501,986</u>	<u>\$1,186,041,207</u>

Monoline figures reflect amounts collected where coverage is provided for the products liability exposure specifically.

Other than Monoline figures reflect amounts collected from policies issued as a package which include premises and operations and cannot be considered as providing products liability coverage exclusively.

Dollar Amounts Collected for Primary and Excess Coverage
Both Kansas and Countrywide for 1977

	<u>Kansas</u>	<u>Countrywide</u> <u>(Including Kansas)</u>
Primary	\$12,436,166	\$1,091,995,623
Excess (Includes any products premium that provides coverage above primary underlying insurance)	<u>1,065,820</u>	<u>94,045,584</u>
Total	\$13,501,986	\$1,186,041,207

NOTE: The amounts indicated in the above charts reflect company responses with a variance of not more than + or - 5%.

Reserves

Of the total 147 companies writing products liability insurance in Kansas and/or Countrywide, all companies reporting advised that reserves are set for claims filed. Approximately 86% of the companies reporting set reserves for claims which have been incurred but not reported. The total reserves established for products liability claims countrywide in 1977 was \$1,016,191,545.

In response to a question regarding the treatment of reserves for Federal Income Tax purposes, companies indicated, where applicable, that loss reserves are treated as incurred losses and are used as a deduction from premiums earned to arrive at federal taxable income.

Securities

The total value of all securities held in investment portfolios as of December 31, 1977 was \$63,744,879,407.

Overall Claims Statistics

The following figures were compiled directly from the statistical reporting form and reflect Kansas closed claims only. Further information gathered from individual closed claim files are presented in Section II, Products Liability Closed Claims.

	<u>1976</u>	<u>1977</u>
Total Number of Suits Filed	97	100
Verdicts or Judgments for Defendants	28	26
Verdicts or Judgments for Plaintiffs	29	35
Total Awards to Plaintiffs (excluding plaintiff's attorney fees)	\$585,853	\$1,032,842
Total Amount Reserved at Time of Disposition (1977 only)		\$2,893,774
Total Initial Amount Reserved (1977 only)		\$2,442,607

II. PRODUCTS LIABILITY CLOSED CLAIMS

The following data is a compilation of all individual closed claim report forms received relating to Kansas closed claims only. The figures in this section differ from those indicated on lines 11 through 14 of the statistical composit report. This is due to the amendment of the reporting requiriements by the 1978 legislative session, effective March 1, 1978, which was also the date these reports were due. Originally, companies were required to report information on all 1976 and 1977 claims. This was amended to require reporting of only those claims closed from July 1, 1977 to December 31, 1977.

Distribution of Claims by Range of Payment

	1976		1977	
	<u># of Claims</u>	<u>% of Total</u>	<u># of Claims</u>	<u>% of Total</u>
No Payment	190	36.5%	248	32.9%
\$1 - \$9,999	325	62.4%	475	63.1%
\$10,000 - \$19,999	2	.4%	9	1.2%
\$20,000 - \$29,999			4	.5%
\$30,000 - \$39,999	1	.2%	6	.8%
\$40,000 - \$49,999	1	.2%	1	.1%
\$50,000 - \$59,999			1	.1%
\$60,000 - \$69,999			3	.4%
\$70,000 - \$79,999	1	.2%	1	.1%
\$80,000 - \$89,999				
\$90,000 - \$99,999			1	.1%
Over \$100,000	1	.2%	4	.5%
TOTALS	521	100.0%	753	100.0%

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Distribution of Company Costs

	<u>1976</u>	<u>1977</u>
Total Cost Reported for Closed Claims	\$851,450	\$2,949,740
A. Defense Costs, Settlement Costs & Other Costs *	205,220	499,449
B. Total Paid in Settlements or Awards	646,230	2,450,291
C. Average Settlement Based on Claims Producing Payment to Claimant	1,952	4,852
D. Average Settlement Based on Total Number of Claims	1,240	3,254

* These figures include Loss adjustment, Interest Expense, Company Expense but exclude Settlements or Awards. It is important to note that many expenses which were incurred were not readily identifiable. For example, companies advised of employees salaries but dollar amounts were not given.

Date Of Incident to Date Claim Made

<u>Years</u>	<u>1976</u>		<u>1977</u>	
	<u># of Claims</u>	<u>%</u>	<u># of Claims</u>	<u>%</u>
Over Six Years	4	.8%	3	.4
Five - Six Years	0	0.0%	2	.3%
Four - Five Years	1	.2%	1	.1%
Three - Four Years	4	.8%	10	1.3%
Two - Three Years	30	5.8%	46	6.1%
One - Two Years	83	16.0%	125	16.7%
Under 12 Months	399	76.5%	566	75.0%
TOTAL	521	100.0%	753	100.0%

Claims Resulting in Settlements Over \$100,000

<u>Incident Giving Rise to Claim</u>	<u>Settlement</u>	<u>Defense Costs</u>	<u>Settlement Costs</u>	<u>Other Costs</u>
BI & PD - Product Gave Rise to Fire	\$100,000	\$22,687	\$7,175	0
PD - Gen. Product Malfunction	245,000	15,000	0	0
BI - Gen. Product Malfunction	298,000	15,738	0	0
PD - Product Gave Rise to Fire	250,000	10,742	0	0
BI - Gen. Product Malfunction	230,000	0	0	192

Distribution of Claims by Type of Incident

<u>Type of Incident</u>	1976		1977	
	<u># of Claims</u>	<u>% of Total</u>	<u># of Claims</u>	<u>% of Total</u>
BI & PD - Product Explosion	1	.2%	9	1.2%
BI - Product Explosion	8	1.5%	8	1.1%
PD - Product Explosion	8	1.5%	9	1.2%
BI - Food or Beverage	134	25.7%	156	20.7%
PD - Food or Beverage	6	1.2%	7	.9%
BI - Product Gave Rise to Fire	4	.8%	2	.3%
PD - Product Gave Rise to Fire	21	4.0%	39	5.2%
BI & PD - Product Gave Rise to Fire	7	1.3%	4	.5%
BI - General Product Malfunction	39	7.5%	69	9.2%
PD - General Product Malfunction	93	17.9%	116	15.4
BI & PD - General Product Malfunction	1	.2%	3	.4%
PD - Agricultural (Crop or Livestock)	35	6.7%	18	2.4%
BI - Cosmetic Preparation	0	0.0%	3	.4%
BI - Completed Operations	0	0.0%	3	.4%
PD - Completed Operations	62	11.9%	104	13.8%
BI or PD - Under Garage Liability Policy	83	15.9%	152	20.2%
BI or PD - Under Store-Keepers Liability Policy	8	1.5%	32	4.2%
BI - Drug or Pharmaceutical	0	0.0%	7	.9%
Other	<u>11</u>	<u>2.1%</u>	<u>12</u>	<u>1.6%</u>
TOTAL	521	100.0%	753	100.0%