



Property Casualty Insurers
Association of America

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Testimony to the Committee on House Insurance
Opposition to 2018 HB 2487
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I am Larrie Ann Brown, Kansas Legislative Counsel for The Property Casualty Insurers Association of America (PCI). PCI is a trade association consisting of nearly 1,000 insurers of all sizes and types. Its member companies represent 35 percent of the total general insurance business. In Kansas PCI members represent about 31 percent of the total workers compensation market (\$134 million in direct written premium). PCI appreciates the opportunity to provide comments in opposition to 2018 House Bill 2487. PCI opposes 2018 HB 2487 which would limit the impact of not-at-fault vehicle accidents on employers' experience rating modifications (E-Mod's).

As you are aware Workers Compensation is a benefit to workers who are injured while they are working. Fault is not a determining factor in our system. This system protects the injured worker from needing to file unnecessary lawsuits and allows the employee to be compensated immediately for their lost wages and their medical care is paid for by the work comp carrier. The work comp carrier then subrogates against the other party's insurance carriers for recovery of their payouts. This bill seeks to change this system by inserting fault into a no-fault system.

While we understand the facts of this case appear to be unfortunate for the employer involved in this situation, we do not believe this bill is the way to fix this issue. As an alternative the legislature could consider implementing a prohibition on the use of e-mod as a way of determining those businesses that are allowed to bid on a project. The business itself could make an exception to their rule of only allowing certain business with a certain e-mod rating to bid on a job, or an appeals process could be implemented within the company restricting the bidders. Furthermore, it is our belief that the e-mod is not necessarily an indicator of an unsafe workplace. Not all employers are eligible for experience rating due to the length of loss history or the size of the payroll.

In addition, we believe excluding any motor vehicle accident could have undesirable safety consequences such as reducing the incentive for employers with traveling employees to focus on driving safety and could unfairly benefit companies that have more traveling employees, job sites in multiple locations and therefore, higher exposure to auto accidents.

This bill is also difficult to estimate the cost impact since many of the details will be left up to the rules and regulations process. Those details include the concept that the use of the vehicle is not an "integral part of the employer's business" and that the accident was not caused "wholly or in part" by the employee or employer. The bill gives no definition to the meaning of those terms. While it may seem clear that in this particular case the injured workers were not at fault, who determines fault and how? Do we simply take the word of the injured party or the employer? Does an attorney at the KID make a determination based on the evidence of the case?

As mentioned above, we believe there are other ways to handle the issues raised by this proposed legislation and would hope the legislature would agree with us rather than enter into unfamiliar territory by introducing fault into a no fault system. Thank you and I'll be happy to answer questions.