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Dorena Ballantyne
Operator's Signature

10/2/03
Date

2003 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1190

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Doreen Hall
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10/2/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1190

House Industry, Business and Labor Committee

Conference Committee

Hearing Date 1/27/03

Tape Number	Side A	Side B	Meter #
1	x		0.00-52.5
4	x		0.0-6.8
Committee Clerk Signature <i>Judith Hammer</i>			

Minutes: **Chairman Keiser** opened the hearing on HB 1190.

Rod Hovland, Chairman of the ND Domestic Insurers Association, appeared in support of this proposed legislation. (See attached)

Rep. Ekstrom: Is no fault insurance working? If not, is there any consideration for increasing the penalty for driving while uninsured?

Hovland: No, it is not. In answer to your second question, a fine is cheaper than insurance premiums to those drivers who take the risk of driving while uninsured.

Patrick Ward, Zuger, Kirmis & Smith, appeared in support of HB 1190. He offered proposed amendments as well. (See attached)

Rep. Ekstrom: Please explain "unrelated convictions" It seems too broad.

Ward: We didn't want for the particular incident (the basis of the personal injury lawsuit) to be the same incident where the person gets a conviction for driving without insurance. Other legislation to be introduced this session would increase the fine for driving without insurance.

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Deanna Ballerath
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1/27/03
Date

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House Industry, Business and Labor Committee
Bill/Resolution Number HB 1190
Hearing Date 1/27/03

Rep. Thorpe: Please explain the glass/hail total damage language in Section 5.

Ward: The point is to address hidden defects, there is no need for a salvage title for cosmetic damage.

John Olson, ND Trial Lawyers Association, appeared to oppose HB 1190 and was prepared to give oral testimony. However, with the proposed amendments from Ward, he allowed that the Trial Lawyers Ass'n would henceforth hold a neutral position. He introduced Rod Pagel, who elaborated on various aspects of this proposed legislation.

Rod Pagel, Pagel & Weikman Law Firm, appeared to oppose HB 1190 and gave oral testimony.

Chairman Keiser: Are there occasions when someone settles out of court rather than adjudicate?

Pagel: It happens every day.

John Risch, United Transportation Union, appeared and gave oral testimony in opposition to HB 1190. He stated that a salvage title is worth far less than a vehicle without a salvage title.

As no one else was present who wished to testify on HB 1190, the hearing was closed.

Prior to taking up hearings scheduled for the afternoon, **Chairman Keiser** called for committee work on HB 1190.

It was suggested that all of Section 4 be deleted in the proposed amendments because that issue does come up in another bill.

Rep. Tieman moved to adopt the amendments as submitted by Patrick Ward. (See attached)

Rep. Johnson seconded the motion. A voice vote carried this motion.

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House Industry, Business and Labor Committee
Bill/Resolution Number HB 1190
Hearing Date 1/27/03

Rep. Klein: What does this amendment do in Sections 1 & 2? If you're going to sue and the attorney takes his 40 or 50 per cent, you don't get what's due you. I don't think we're doing the right thing.

Rep. Ekstrom: I agree with Rep. Klein.

Chairman Keiser: If you're not happy with what your insurance company does, you can sue the other company and your insurance company will subrogate any of the winnings you had to pay for any part they have paid for. What this addresses is this: it is unfair is if the other party is uninsured or under insured and in that scenario you get your portion paid up to the limit, you then must sue your own insurance company to get the rest of your damages. Whatever the outcome, you'll get your attorney fees paid, if you have a good claim

It was decided to delay taking immediate action on HB 1190 so that further information and input can be brought to the committee from those who testified today.

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1/27/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1190

House Industry, Business and Labor Committee

Conference Committee

Hearing Date 2/4/03

Tape Number	Side A	Side B	Meter #
3	x		50.0-end
3		x	0.0-14.5
Committee Clerk Signature <i>Judith Hamma</i>			

Minutes: **Chairman Keiser** called for committee work on HB 1190.

Rep. Severson led discussion on the amendments proposed by Pat Ward at the initial hearing.

The intent is to create a lesser but reasonable cost only if the insured is the prevailing party.

Insurance companies prefer the language to remain as is. The second amendment states that "the insured and insurer each bear" be replaced with "the prevailing party's" recovery costs of litigation not to exceed one third of the damages.

Rep. Klein: What is the basic difference between these two options?

Rep. Severson: The first option allows the prevailing party to receive, or their lawyer, reasonable costs, the second option limits it to one third of the damages awarded.

Rep. Klein moved to adopt amendment option 1.

Rep. Ruby seconded the motion.

Rep. Ekstrom: What about the consumer protection issues regarding 75% valuation for hail damage in Section 5? We can wait till this gets over to the Senate to address that issue.

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Dorinda Holbrook
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House Industry, Business and Labor Committee
Bill/Resolution Number HB 1190
Hearing Date 2/4/03

Rep. Thorpe: There is reaction to this 75% hail damage, it seems excessive. I don't know if it should be a dollar amount or a percentage. This damaged title issue is tough.

Rep. Kasper: Pat Ward said that the original bill would be the best "vehicle" to reduce the possibility and number of frivolous lawsuits.

Rep. Klein: A damaged title should reflect structural not cosmetic damage.

Rep. Dosch: As far as consumer protection is concerned, it bothers me that a policy holder has to sue his own company in order to get the coverage you've paid for.

Results of a roll call vote to adopt Amendment Option 1 were: 6-8-0. The motion failed.

Rep. Severson moved a Do Pass As Amended on the originally proposed amendments.

Rep. Ekstrom seconded the motion.

Results of the roll call vote were: 10-4-0.

Rep. Severson will carry this bill on the floor.

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Deanna G. Holcomb
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10/2/03
Date

30334.0101
Title.0200

Adopted by the Industry, Business and Labor
Committee ^{VR} 2/6/03
February 4, 2003

HOUSE AMENDMENTS TO HOUSE BILL NO. 1190 IBL 2-6-03

Page 1, line 1, after the second "to" insert "section"

Page 1, line 3, replace "section" with "sections" and remove ", subsection 1 of section"

Page 1, line 4, remove "32-03.2-02.1," and remove "section"

HOUSE AMENDMENTS TO HB 1190

IBL 2-6-03

Page 2, remove lines 6 through 9

Renumber accordingly

Page No. 1

30334.0101

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