2019 HOUSE INDUSTRY, BUSINESS AND LABOR COMMITTEE

HB 1137

2019 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Peace Garden Room, State Capitol

HB 1137
1/14/2019
30738

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Ellen LeTang

Explanation or reason for introduction of bill/resolution:

Electronic delivery of property & casualty insurance notices & documents.

Minutes: Attachment 1, 2

Dennis Pathroff~Attorney with Zuger, Kirmis & Smith representing State Farm Insurance Company: Attachment 1.

4:12

Rep Laning: What do you do in a case where you accidently delete something & you get penalized for it?

Dennis Pathroff: You are going to have to opt in.

Rep Laning: How does the insurance company know that I made an accidental deleting & how is the insurance company going to know that that individual has really been notified?

Dennis Pathroff: In that case you are right. That would be very similar to me getting a hard copy in the mail & I accidently throw it away. I don't think it will make a difference in some cases.

Vice Chairman Lefor: The opt in feature, how do you verify that there was a meeting of the minds with the consumer? How do you know that that consumer is just clicking forward? Is there a safeguard?

Dennis Pathroff: Page 2, subsection 4, there are some requirements that insurers have to follow.

Rep Richter: Page 3, number 6, what guarantee or follow-up on if it doesn't require verification to know that it was actually delivered, not deleted?

Dennis Pathroff: We are relying on the features that we are currently relying on. There are technologies in place to see whether it was seen or not.

Rep Kasper: What are you putting in here to require the agent or agency that brought that customer to be kept in the loop & given the same type of notice that the customer received?

Dennis Pathroff: As written there is nothing in the bill that addresses that.

Rep Kasper: Would State Farm object to putting that in there?

Dennis Pathroff: I don't think they would object.

Rep Adams: How many payments on the policy are posted electronically.

Dennis Pathroff: I don't know.

Rep Adams: I don't think a lot of people will have a problem with electronic delivery, do you agree?

Dennis Pathroff: If this bill goes through, there is e-posting. The policy itself isn't going to be sent electronically. I don't think that's a problem.

Rep M Nelson: Is there going to be electronic version of my actual policy or is it a general policy?

Dennis Pathroff: Those are going to be general, a generic policy. When you opt in you get a deck page, you are going to get an address where you can view the generic policy & whatever specific endorsements you have.

Rep M Nelson: Will I get an electronic version of my actual policy?

Dennis Pathroff: No.

Chairman Keiser: Page 2, subsection c, how do we protect against that?

Dennis Pathroff: If you look down to subsection d, if there is a change, the insurer will be advised.

Chairman Keiser: My understanding is low.

Dennis Pathroff: You still have to opt in.

Rep Kasper: Can you opt out?

Dennis Pathroff: Yes.

Steve Becher~Executive director of the Professional Insurance Agents of ND: Attachment 2.

18:45

Chairman Keiser: You're telling me that only thing that this bill does, is cancelations & renewals?

Steve Becher: From the last session when we passed the bill was the only thing was exempted out was cancelations & nonrenewals. This bill puts those back in.

Rep Kasper: This is all new language & it has to be doing something more.

Steve Becher: It's language that's in the PNC section right now. This expands it to the life & health section and the nonrenewals & cancelations on the PNC section.

Rep Kasper: Are you not concerned about the continued lack of communication from the insurance companies with the agents?

Steve Becher: Absolutely, I would like all our agents to get all the correspondence that the clients get. We haven't legislated that, it's just the company practice. This bill doesn't address that?

Rep Kasper: Would you object to requiring companies to include that?

Steve Becher: I would not object to that.

Pat Ward~Represent the Association of ND Insurers & State Farm: This will expand of what we have now. It is an option for the people who likes to do it electronically. Yes, the companies can verify that the email was opened.

24:00

Rep Kasper: We have a lot of mergers & acquisitions of insurance companies. Would you object to requiring an insurance company to provide the entire policy in that electronic notice?

Pat Ward: I don't think we would. We are interested in reducing postage. Anything on the internet doesn't go away.

Rep Kasper: Do you object that the agent in the notice.

Pat Ward: I don't.

Chairman Keiser: In terms of notifying the agent, what agent are we talking about who is dissatisfied & goes to a new agent?

Pat Ward: I going to leave that to one of the company people to address that better than I can.

Rep Kasper: The insured has a right to change agents.

Chairman Keiser: I don't want the agent notified that I'm leaving.

Pat Ward: If you change, I believe the old & new will be notified.

Chairman Keiser: Anyone else here to testify in support to HB 1137, opposite, neutral position.

Krystal Bartuska~Division Director over our Product Filing Group for the Insurance Department: This is opening up to all business lines. The deck page is in the PNC world; this is going to impact your schedule in the health world too. In the PNC, it needs to be cleaned up before you take any action.

Chairman Keiser: Can you involve Rep Kasper to provide the language?

Chairman Keiser: Anyone else here to testify in the neutral position on HB 1137, closes the hearing & we'll wait for the amendments.

2019 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Peace Garden Room, State Capitol

HB 1137
1/23/2019
30738

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Ellen LeTang

Explanation or reason for introduction of bill/resolution:

Electronic delivery of property & casualty insurance notices & documents.

Minutes: Attachment 1

Chairman Keiser: Reopens the hearing on HB 1137.

Dennis Pathroff~Attorney with Zuger, Kirmis & Smith representing State Farm Insurance Company: Attachment 1. Goes over the amendment.

Rep Adams: Should that say subdivision d?

Dennis Pathroff: Actually, I think is right as it is.

Rep Kasper: Moves the amendment.

Rep Schauer: Second.

Chairman Keiser: Further discussion?

Voice vote ~ motion carried.

Chairman Keiser: We have HB 1137 before us.

Rep Adams: Moves the motion for a Do Pass as Amended.

Rep Kasper: Second.

Roll call was taken for a Do Pass as Amended on HB 1137 with 13 yes, 0 no, 1 absent & Rep Adams is the carrier.

DP 1/24/19

19.0700.01001
Title.02000

Adopted by the Industry, Business and Labor Committee

January 24, 2019

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1137

Page 2, line 31, after the underscored period insert:

"e. The insurer has provided a copy of the notice or document to the party's insurance producer by electronic means or regular mail."

Renumber accordingly

Date: Jan 23, 2019

Roll Call Vote #: 1

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 1137

House Industry, Business and Labor **Committee**

☐ **Subcommittee**

Amendment LC# or Description: 19.0700.01001 title 02000

Recommendation

☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions ☐ Reconsider ☐ _____

Motion Made by Rep Kasper **Seconded By** Rep Schauer

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Rep O'Brien		
Vice Chairman Lefor			Rep Richter		
Rep Bosch			Rep Ruby		
Rep C Johnson			Rep Schauer		
Rep Kasper			Rep Adams		
Rep Laning			Rep P Anderson		
Rep Louser			Rep M Nelson		

Total (Yes) _____ No _____

Absent _____

Floor Assignment voice vote - motion carried

Date: Jan 23, 2019

Roll Call Vote #: 2

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 1137

House Industry, Business and Labor **Committee**

☐ **Subcommittee**

Amendment LC# or Description:

Recommendation

☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions ☐ Reconsider ☐

Motion Made by Rep Adams **Seconded By** Rep Kasper

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	X		Rep O'Brien	X	
Vice Chairman Lefor	X		Rep Richter	X	
Rep Bosch	X		Rep Ruby	X	
Rep C Johnson	X		Rep Schauer	X	
Rep Kasper	X		Rep Adams	X	
Rep Laning	X		Rep P Anderson	X	
Rep Louser	X		Rep M Nelson	AB	

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep Adams

REPORT OF STANDING COMMITTEE

HB 1137: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1137 was placed on the Sixth order on the calendar.

Page 2, line 31, after the underscored period insert:

"e. The insurer has provided a copy of the notice or document to the party's insurance producer by electronic means or regular mail."

Renumber accordingly

2019 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1137

2019 SENATE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Roosevelt Park Room, State Capitol

HB 1137
3/11/2019
Job #33474

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Amy Crane

Explanation or reason for introduction of bill/resolution:

relating to electronic delivery of insurance notices and documents; relating to electronic delivery of property and casualty insurance notices and documents.

Minutes: Att. #1-2

Chairman Klein: Opened the hearing on SB. All members were present.

Dennis Pathroff, State Farm Insurance Company: see attachment #1 for testimony in support of the bill.

Chairman Klein: The one on the top is?

Dennis: The top picture is e-posting and the bottom picture is e-delivery which the majority of other states already have.

Senator Piepkorn: When you talk about the posting, I would imagine people can make some conclusions on their own? It's not going to be so generic that it won't do anything?

Dennis: When you sign up for a new policy or renewal, you're going to get a declaration page from your insurance company either via email or mail. Either on that declaration page or adjacent to it, the insurance company is going to say you have policy number such and such. You can find information on that policy on this publicly available website. Additionally, it'll see you have these endorsements and you can find them on this website. So that is going to allow the insured to go to a website to find that policy. And there is language in here that if you want to get a hard copy of that policy, you can do that and the insurance department will provide that for you.

Senator Burckhard: I'm one of those cyber insecure baby boomers. So they always have this little tiny box in the corner that says unless you check here you will be get electronic things. You really have to watch that stuff.

Dennis: This is opt in language. You have to affirmatively consent to the electronic form of delivery, and you have to not withdraw the consent. Also, you have to confirm your consent

electronically so if you're not really sure about it, this is affirmative consent so I don't think this will be too much of a question as to whether you're opting in or not.

Chairman Klein: You would have to write your email somewhere on that form in order for them to get it to you.

Dennis: I also have additional testimony from Steve Becher and the Professional Insurance Agents of North Dakota in support of the bill **(see attachment #2).**

2019 SENATE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Roosevelt Park Room, State Capitol

HB 1137
3/11/2019
Job #33487

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Amy Crane

Explanation or reason for introduction of bill/resolution:

relating to electronic delivery of insurance notices and documents; relating to electronic delivery of property and casualty insurance notices and documents.

Minutes: None.

Chairman Klein: Opened the committee work session on HB 1137.

Senator Burckhard: Moved a Do Pass.

Senator Roers: Seconded.

Chairman Klein: Full disclosure when I started here everything was on paper and when we had a bill book, it was a bill book. There were some that never until the end had computer.

A Roll Call Vote Was Taken: 6 yeas, 0 nays, 0 absent.

Motion Carried.

Senator Burckhard will carry the bill.

Date: 3/1
Roll Call Vote #: 1

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1137

Senate Industry, Business and Labor Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Burckhard Seconded By Roers

Senators	Yes	No	Senators	Yes	No
Chairman Klein	X		Senator Piepkorn	X	
Vice Chairman Vedaa	X				
Senator Burckhard	X				
Senator Kreun	X				
Senator Roers	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Burckhard

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1137, as engrossed: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1137 was placed on the Fourteenth order on the calendar.

2019 TESTIMONY

HB 1137

Attachment 1
Jan 14, 2019
Page 1

Testimony of Dennis Pathroff in Support of HB 1137

Good morning Chairman Keiser and members of the House IBL Committee.

My name is Dennis Pathroff. I am an attorney with the Zuger Kirmis & Smith law firm in Bismarck. I am here today of behalf of State Farm Insurance Company.

We stand in support of HB 1137. This bill expands the electronic modernization of insurance by allowing insurers to (1) deliver *all* insurance documents and notices electronically and (2) post insurance policies and endorsements that do not contain personally identifiable information online.

We live in an electronic age that has changed how consumers conduct their personal business. For example, we can do our banking online. We can buy and sell stocks online. We get our news, sports scores, and other information online. And, in North Dakota, we can currently even get our property casualty insurance documents (except for notices of cancellations and nonrenewals) online. HB 1137 expands our current insurance e-delivery law and creates an insurance e-posting law in an effort to make consumers' everyday lives just a little easier. In so doing, HB 1137 is also going to save a few trees.

What is e-delivery?

E-delivery refers broadly to the electronic transmission of any and all insurance documents (policy declaration pages, billing notices, cancellations, non-renewal notices, etc.) to policyholders who consent or opt-in to receive such materials.

What is e-posting?

E-posting refers to the posting of generic policy forms and endorsements that do not contain personally identifiable or policyholder-specific policy information to a publicly available website. The insurer will provide the insured the internet address at which the policies and endorsements are posted.

What does HB 1137 do to the Century Code?

(1) HB 1137 expands North Dakota's insurance e-delivery laws. Currently, section 26.1-39-26 allows insurers to deliver property and casualty insurance documents via e-delivery (except notices of cancellation and nonrenewal). HB 1137 repeals the property and casualty e-delivery section and moves the section to the General Provisions Chapter – 26.1-02. Therefore, with the adoption of this bill, North Dakotans will be able to opt-in to e-delivery of *all* insurance documents.
(2) HB 1137 adds an e-posting section to the Century Code.

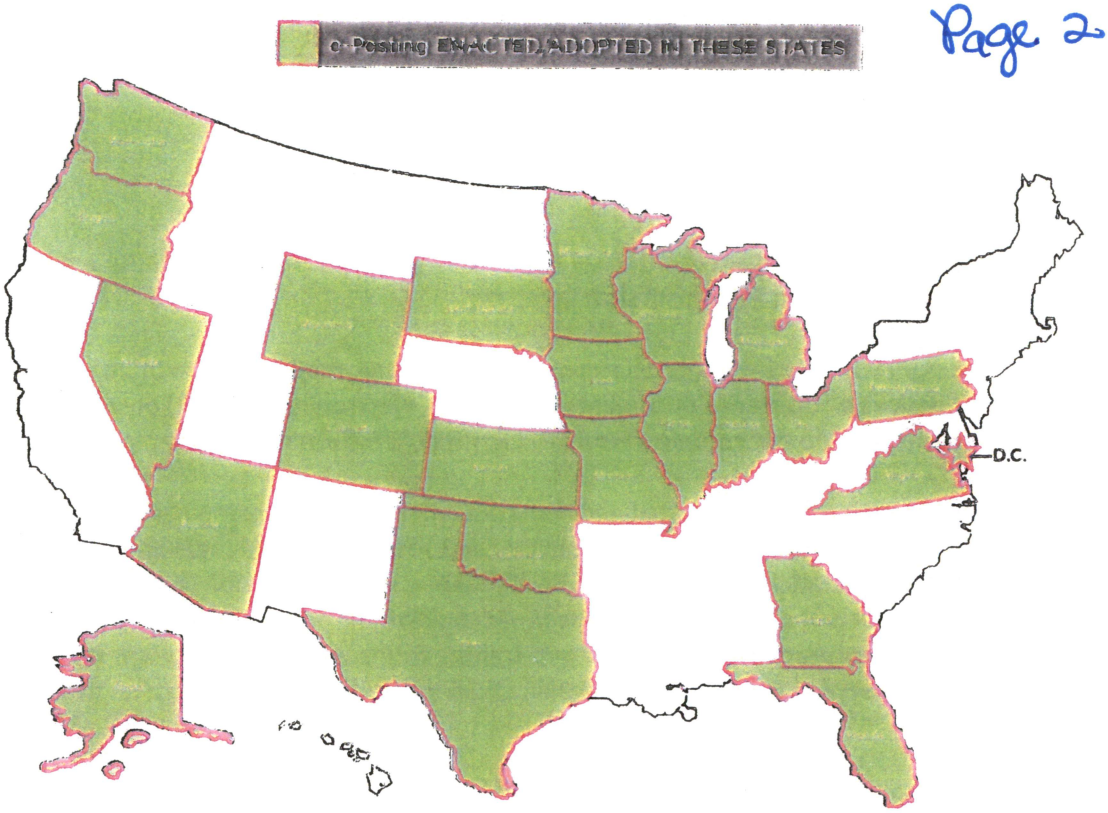
Other States

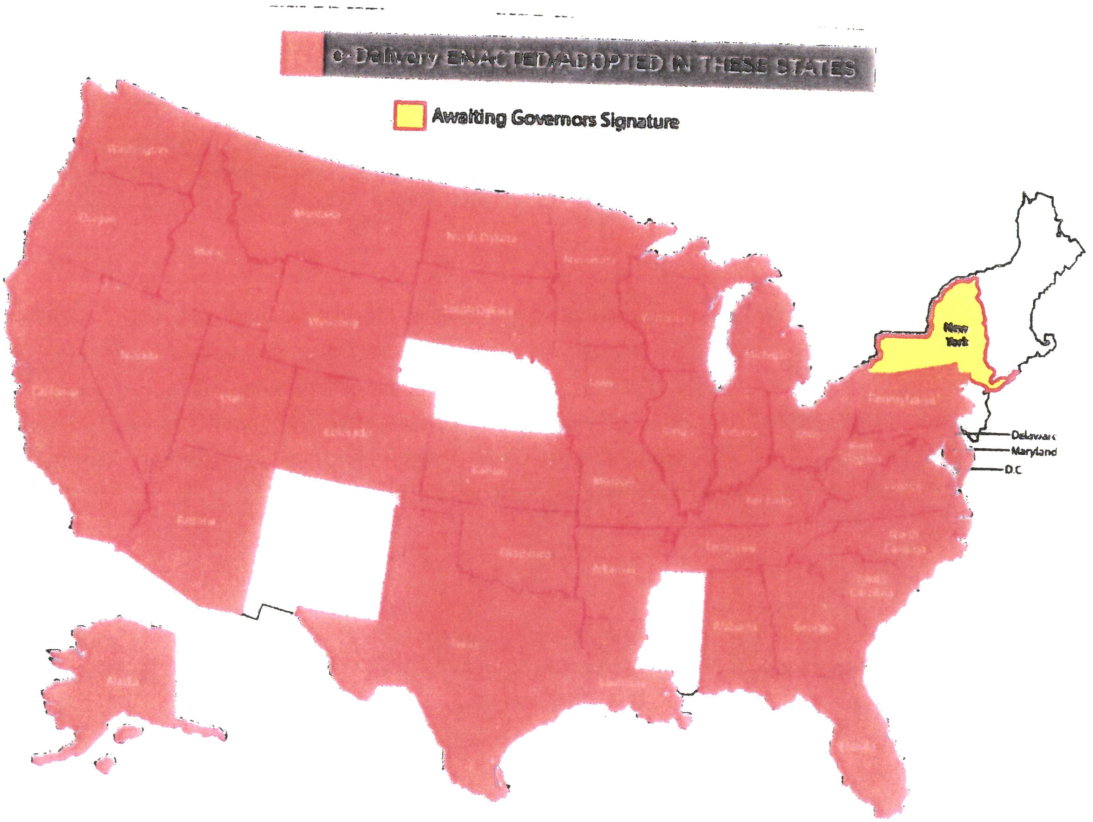
Currently, 38 states have some form of e-delivery of insurance documents and 24 states have e-posting of generic policy forms and endorsements. Please see the map on the back of this testimony.

We ask for your support in modernizing our insurance delivery laws. Please vote "do pass" on HB 1137.

HB 1137

Attachment 1
Jan 14, 2019
Page 2





Attachment 2
Jan 14, 2019
Page 1

Testimony of Steve Becher in Support of HB 1137

ND House IBL Committee

Chairman Keiser and members of the House Industry, Business, and Labor Committee for the record my name is Steve Becher and I am Executive Director of the Professional Insurance Agents of ND. PIA of ND represents over 300 main street insurance agencies with over 1000 agents across the state of North Dakota. I am providing testimony today and asking you for a Do Pass recommendation on House Bill **1137.**

Our society is changing in the way that consumers want to receive correspondence from people as well as businesses and the insurance industry is no different. I teach a class to agents on customer service and one of the main themes of these sessions is that to provide a superior customer experience we need to communicate with our clients in the way that the client wants to communicate. While some clients may still want to receive regular mail there are many clients that rarely look at their mail and would rather receive an email or a text if there is information that they need to know and will respond quicker to these types of communications. Allowing insurance companies to use electronic delivery to those insureds that opt-in will allow our agents and insurance companies to better service the customer by the method that the customer chooses. The 2015 legislature passed HB 1311 which allowed electronic delivery of insurance documents, but it exempted the electronic delivery of cancellations and nonrenewal notices. This bill just expands the current law to allow electronic delivery of all types of insurance company/ client correspondence while providing a set of requirements to protect the consumer and to ensure the consumer's ability to receive and/or view the documents. A key component to this legislation is that it only applies to consumers that opt-in for electronic correspondence and that the consumer may opt-out at any time.

In the interest of allowing consumers to have a say in their preferred method of insurance policy communication and service, **I would urge a "Do Pass" on House bill 1137.**

Attachment 1
Jan 23, 2019

Prepared by Zuger, Kirmis & Smith law firm at the request of the IBL Committee

PROPOSED AMENDMENT TO HOUSE BILL NO. 1137

Page 2, line 31, after "subdivision b." insert "e. The insurer has provided a copy of the notice or document to the party's insurance producer by electronic means or regular mail.

Renumber Accordingly

Testimony of Dennis Pathroff in Support of HB 1137

Good morning Chairman Klein and members of the committee.

My name is Dennis Pathroff. I am an attorney with the Zuger Kirmis & Smith law firm in Bismarck. I am here today on behalf of State Farm Insurance Company.

We stand in support of HB 1137. This bill allows insurers to (1) deliver ***all*** insurance documents and notices electronically and (2) post insurance policies and endorsements that do not contain personally identifiable information online.

Part One of the Bill

Part one of the bill addresses e-delivery. E-delivery refers broadly to the electronic transmission of all insurance documents to policyholders who consent or "opt-in" to receive such material. Simply put, HB 1137 provides insureds with the option to have all of their insurance documents delivered via email.

The bill provides that e-delivery is "opt-in". Therefore, if an insured wants to receive documents electronically, the insured can do so. Alternatively, if the insured wants to continue to receive insurance documents via regular mail, the insured does not have to "opt-in" to e-delivery. Currently, North Dakota allows insurers to e-deliver only property and casualty documents (except notices of cancellation and nonrenewal). HB 1137 expands insurers' ability to e-deliver for **all** lines of insurance, not just property and casualty.

Thirty-eight other states allow for e-delivery of insurance documents.

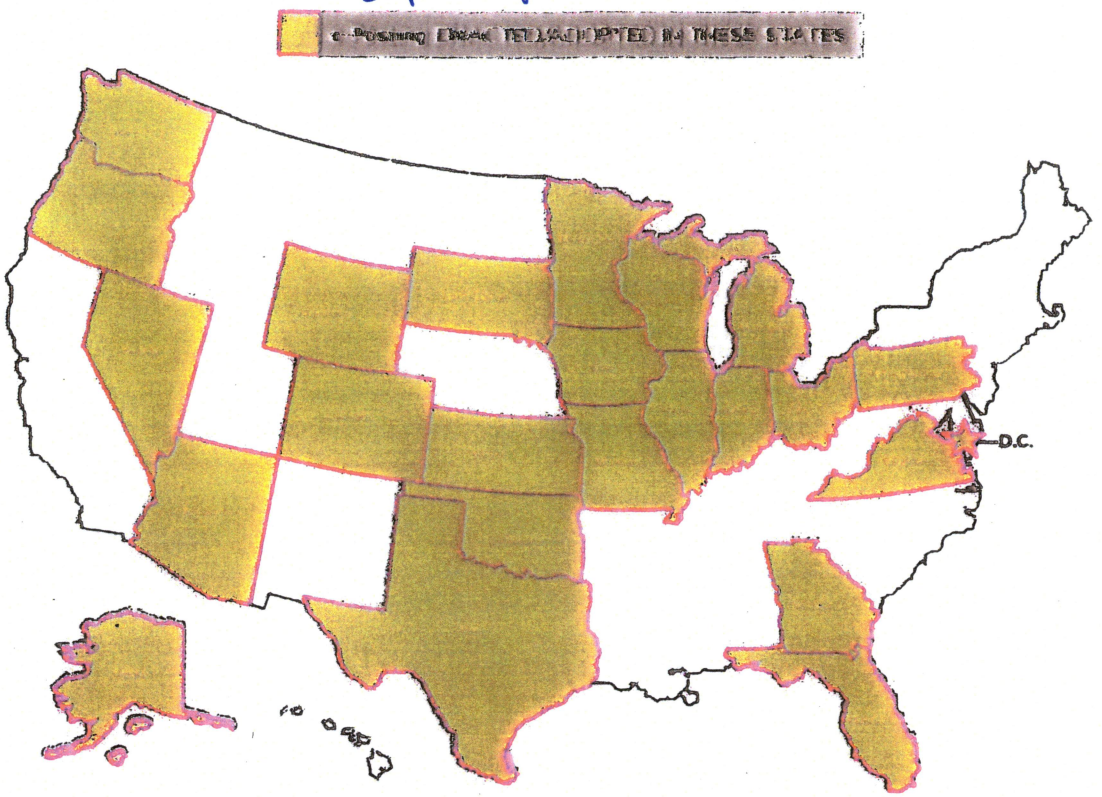
Part Two of the Bill

The second part of the bill deals with e-posting. E-posting refers to the posting of generic policy forms that do not contain policyholder-specific information on a publicly available website. E-posting will enable an insured to access generic policy information online. Twenty-four other states allow e-posting of insurance policies.

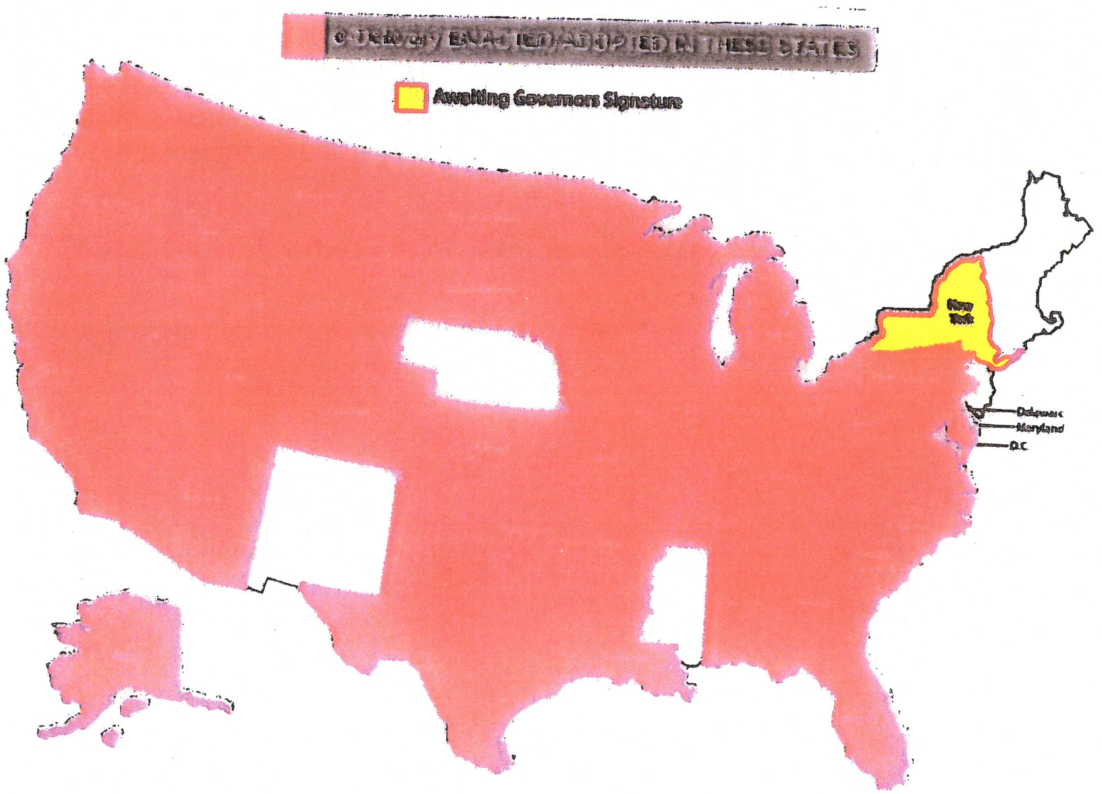
Conclusion

HB 1137 expands North Dakota's current e-delivery law and creates an insurance e-posting law in an effort to make consumers' lives just a little easier. Please vote do pass on HB 1137.

E-posting



E-delivery



Testimony for HB 1137 – ND Senate IBL Committee

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