



Independent Democratic Conference

AUTO INSURANCE RATE EVASION

A Report on the Fraudulent Practice of Insurance Rate Evasion Through Illegal Out-Of-State Vehicle Registration

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Report by
Gwendolyn L. Bluemich

Introduction¹

Each year, thousands of New York State residents register their vehicles in states other than New York to take advantage of significantly lower auto insurance rates. This practice is illegal and, according to a report published by the State Commission on Investigations (SCI) in 2006, results in millions of dollars in lost state and municipal revenue every year. Fraud-related losses and above average insurance rates to compensate for the uninsured are only a few examples of the negative impact insurance rate evasion has on the New York State economy.

Background

Insurance rates are based primarily on the insurer's cost of paying claims – claims, which are influenced by accident rates, traffic and population density, vehicle theft rates, and per capita disposable income, to name a few – and therefore affect insurance prices between states. Studies have shown that high-premium states tend to be highly urban, with higher wage and price levels and greater traffic density than low-premium states.

Fig. 1 Average Auto Insurance Premiums By State² (2008)

Rank	State	Combined Average Premium	Liability Average Premium	Collision Average Premium	Comprehensive Average Premium
1	LA	\$1,274.55	\$650.78	\$410.02	\$213.76
2	DC	\$1,262.42	\$582.90	\$429.51	\$250.01
3	NJ	\$1,197.91	\$721.11	\$342.42	\$134.38
4	NY	\$1,171.97	\$686.72	\$331.21	\$154.04
5	RI	\$1,138.63	\$645.91	\$371.74	\$120.98
6	FL	\$1,131.76	\$736.05	\$281.35	\$114.37
7	NV	\$1,098.94	\$630.68	\$334.52	\$133.74
8	DE	\$1,090.66	\$697.61	\$287.32	\$105.73
9	AK	\$1,082.58	\$558.19	\$375.03	\$149.37
10	CT	\$1,045.63	\$592.10	\$332.28	\$121.24
Total	Countrywide	\$902.86	\$471.09	\$298.25	\$133.52

¹ Preliminary research conducted by Jay Martin, Chief of Staff to Senator David Carlucci.

² National Association of Insurance Commissioners, *2007/2008 Auto Insurance Database Report (2010)*, pp.19-27.

According to data provided by the National Association of Insurance Commissioners, five of the top ten most expensive states for auto insurance are located along the North-East. As of 2008, the latest figures available, Louisiana ranks highest in the nation with a combined average premium (including liability, collision and comprehensive) of \$1,274.55, followed closely by Washington, DC, and New Jersey. New York ranks fourth with a combined average premium of \$1,171.97 (Fig.1) – nearly 30% higher than the combined average countrywide premium of \$902.86 – followed by Rhode Island.³

Auto Insurance Rate Evasion: Definition & Impact

Auto insurance rate evasion is a type of insurance fraud that is committed by residents of a high-insurance rated state or territory who register their cars in a lower-rated state or territory in order to take advantage of lower premiums. Legally, vehicle owners are not allowed to register their cars in any state in which they do not reside; yet, the promise of lower insurance rates entices some to do so by misrepresenting their address on the vehicle registration application.⁴

According to a recent study conducted by the Quality Planning Corporation (QPC), insurance companies across the country lost approximately \$15.9 billion (or 10% of the \$161.7 billion in personal auto premiums written) due to rating errors (including insurance evasion and other types of fraud) in 2009.⁵ QPC also found “a small upward trend in the misreporting of garaging addresses and youthful drivers, most likely due to an attempt by policyholders to lower their insurance costs.” The trend was most prominent in large urban areas, causing more than \$2 billion in “annual premium leakage.”⁶

While insurance companies suffer, on average, a 20% profit loss for every 1% in rating error left uncorrected,⁷ they are not the only ones affected. By filing claims in their actual high-risk residential areas and paying premiums calculated for places where theft and accident rates are low, dishonest policy holders are also hurting all other vehicle owners by forcing insurance premiums to rise.⁸

³ For more information on insurance premium terms and calculations, please see Appendix.

⁴ New York State Commission of Investigation (SCI), “Preliminary Report of an Investigation Into Rate Evasion Through the Use of Out-Of-State License Plates,” December 2006, p.3.

⁵ Coalition Against Insurance Fraud (CAIF), “Go figure: fraud data,” retrieved 10 May 2010 from CAIF website, available at: <http://www.insurancefraud.org/autoinsurance.htm>.

⁶ Ibid.

⁷ Ibid.

⁸ In some cases, they only insure their cars until they are registered; then the policy lapses, which only contributes to the number of uninsured motorists.

In addition to increased premiums and other fraud-related losses, insurance rate evasion also causes problems for law enforcement: (1) individuals who register their vehicles in other states using fake addresses are often difficult to locate; (2) vehicles with out-of-state (OOS) license plates are not subject to New York State inspection regulations posing a potential safety hazard; and (3) state police are precluded from issuing summonses to OOS vehicle owners who fail to have their vehicles inspected.

A slightly different, yet related, problem is the loss of revenue that could be generated from parking tickets issued to vehicles with OOS license plates. Rate evading vehicle owners have no incentive to pay parking tickets because the process of tracking down an OOS address that matches a given vehicle registration is often too cumbersome for law enforcement to pursue. The same is true of vehicle owners with OOS license plates who are issued tickets for being caught on camera while failing to stop at a red light. Moreover, a weakening of the red light camera program, and its effectiveness as a deterrent, is likely to lead to an increased number of intersection crashes and an attendant increase in the number of property damage, injury and death claimants costs.

Insurance Rate Evasion Under Law

In New York State, resident drivers are only allowed to operate a motor vehicle on public roads if the vehicle has been registered with the Department of Motor Vehicles (DMV). According to §251(5) of the Vehicle & Traffic Law, a resident is “a person who maintains a place of abode in this state for a period of at least ninety days.” As soon as that person becomes a resident, he or she is entitled to a grace period of 30 days before having to register his or her vehicle with the DMV.⁹ Any New York State resident who operates an unregistered motor vehicle on a public highway is in violation of the law, an offense that is punishable by a fine of \$75-\$300 and/or imprisonment for up to 15 days.¹⁰

Although State law clearly prohibits this act, proving that the owner of a vehicle registered in another state is, in fact, a New York State resident is a lot more difficult. The inability to offer evidence of rate evasion, in turn, has made not only enforcement of State registration requirements but also the tracking of auto insurance rate evasion virtually impossible.

⁹ New York State Vehicle & Traffic Law §250(1).

¹⁰ New York State Vehicle & Traffic Law §401(18).

The SCI Report

In 2006, the State Commission on Investigation (SCI) issued a preliminary report on the prevalence of auto insurance rate evasion through the illegitimate use of OOS license plates. The Commission conducted its investigation by gathering information from newspapers and reports, contacting various transportation, motor vehicle, and insurance agencies, recording OOS license plates observed on vehicles in New York City and the metropolitan area, and obtaining information on the registered owners of those vehicles.

Due to the sheer scope of this issue, the Committee focused on OOS license plates from Pennsylvania (PA), a favored state for rate evaders for several reasons: the state's privatized tag and registration system, the lax reporting of insurance companies to the Pennsylvania Bureau of Motor Vehicles (BMV) when a driver loses his or her insurance, and the relative ease to forge residency documents.

Unlike New York State whose DMV is an entity separate from its Department of Transportation (DOT), Pennsylvania's BMV is a smaller subdivision of its DOT ("PennDOT"). Instead of a state-run system as in New York, Pennsylvania also has a privatized vehicle registration process administered by approximately 8,000 private contractors, known as "tag agents." Located throughout the State, these tag agents are responsible for reviewing vehicle registration applications prior to messengering the paperwork to the BMV in Harrisburg. Approximately, 2,000 – or one quarter – of these tag agents currently offer their services online as a way to make the registration process both convenient and faster for Pennsylvania residents to complete.

Prior to 2006, BMV did not require proof of an applicant's date of birth in order to issue a vehicle registration. The Bureau also accepted foreign and OOS driver's licenses as valid forms of identification. At the time the SCI report was written, however, Pennsylvania had just changed its laws to require state ID cards, although applicants still do not have to hold a valid driver's license in order to register a vehicle. The new policy was implemented in part as a result of rising insurance rate evasion, specifically as evidenced with New York residents who were registering their cars in Pennsylvania to obtain lower insurance premiums.

In order to prevent tag agents from processing registrations documented through fraudulent IDs, PennDOT now provides them with a manual and requires them to complete a training class every two years. A spokesperson at PennDOT, however, admitted that tag agents often still accept counterfeit identification, in some cases knowingly in return for bribes. To ensure that policies on the documentation of proper identification are followed, an Agent Audit Unit was established in 2009.

Over 1,065 audits have been performed thus far, resulting in 19 tag agent suspensions and 44 terminations.¹¹

In addition to Pennsylvania's privatized tag and registration system, the Commission's 2006 report determined that its motor vehicle laws were not as effective as New York's in confirming that vehicle owners maintain proper insurance coverage. Proof of insurance or financial responsibility is required by both New York and Pennsylvania; however, while New York has an Insurance Information and Enforcement System (IIES)¹² that directly connects both DMV and law enforcement with insurance companies and allows them to obtain electronic updates on drivers' insurance policies, Pennsylvania still relies on insurance companies to notify its BMV "the old-fashioned way" whenever a policy has been terminated or canceled.

Insurers are obligated to notify PennDOT no later than 10 days following the effective date of the cancellation or termination. However, this requirement only applies to policies that have been in effect for more than 6 months from the date they were initially issued.¹³ A spokesperson explained that PennDOT does not advertise the 6-month requirement because they prefer to be notified on all policies which have lapsed, been terminated or cancelled. Still, this regulation is a loophole that vehicle owners, and in particular those with the intention to commit fraud, are likely to find and exploit.

Combined with the fact that law enforcement in Pennsylvania are often unable to identify uninsured vehicles, many vehicle owners do not have an incentive to keep their insurance policies once the 6-month requirement has expired. This is especially the case in times of financial distress, when vehicles owners face the choice between feeding their families and paying their bills.

¹¹ As of 1 January 2011. Information provided by PennDOT on 12 January 2011.

¹² The Insurance Information and Enforcement System (IIES) is administered by the New York State Insurance Department in conjunction with the DMV. Vehicle insurance cards issued to New York residents are required to include a barcode capturing the name of the policy holder's insurance number, the name of the insurance company, the registrant's full name, address and drivers license ID number, as well as the vehicle's year, make, and vehicle ID number (or, "VIN"). The IIES database is also linked to New York's Statewide Police Information Network, which greatly enhances both enforcement and compliance with vehicle insurance requirements

¹³ See §1786(e) of the PA Vehicle & Traffic Law and Title 67 of Pennsylvania Code §221.3.

Overall, the SCI report revealed some interesting findings:¹⁴

- 1,650 vehicles in New York were registered to just 14 Pennsylvania addresses – an average of 120 vehicles per address (largely one- to two-family residences);
- In 2004, 4,495 accidents involving PA-registered vehicles were reported to the DMV; although 10 different New York counties border Pennsylvania, 1,098 of these accidents (or nearly 25%) occurred in Brooklyn, suggesting that the owners of these vehicles were more likely to be New York residents as opposed to visitors;
- In 2005, over 9 million parking summonses were issued in New York City, 295,963 of which were issued to 127,243 vehicles registered in Pennsylvania; as of February 2006, 152,957 (or nearly half) – valued at more than \$14.3 million dollars – remained unpaid;
- In 2004, New York City issued 5,961 notices to the owners of PA-registered vehicles whose drivers were caught on camera passing through a red traffic light; 2,264 of these notices were still outstanding. In 2005, the number of notices increased to 7,378, half of which remained unpaid as of March 2006.
- Finally, between December 2002 and March 2006, MVAIC¹⁵ received 935 insurance claims stemming from accidents involving PA-registered vehicles, 122 of which involved vehicle owners who resided in New York State. The cost of the payments made by MVAIC to claimants totaled \$730,000 – all of which was ultimately passed on to New York policy holders.

The Commission also suggested that, while the measurable effect on New York City was glaringly obvious, the State as a whole was deeply affected financially on account of the loss of revenue in license plate fees, title certificates, and vehicle registrations. For the 1,098 accidents with PA-registered vehicles that occurred in Brooklyn alone, the City and State lost out on at least \$203,130.¹⁶ While this number may seem relatively small, it is a troubling vignette of the larger problem

¹⁴ New York State Commission of Investigation, pp.6-11.

¹⁵ MVAIC (Motor Vehicle Accident Indemnification Corporation) is a non-profit corporation created by the Legislature and funded by insurance companies to pay bodily injury damages and no-fault benefits to “qualified” victims of motor vehicle accidents caused by uninsured motorists.

¹⁶ This number was calculated assuming a \$25 license plate fee, \$50 original title certificate fee, \$80 average 2-year registration fee, and \$30 2-year vehicle use tax (required only for residents of New York City).

of insurance rate evasion that is costing the State millions of dollars each year. Multiply that number by 5 boroughs, and you have a State revenue loss of over \$1 million for New York City alone.¹⁷

Recent Developments

When the report was first released by the SCI in 2006, it was the hope of the Commission to follow up with several other investigations; unfortunately, the SCI was terminated in 2008 before it could conduct any further research. Since then, evidence on the number of persons engaging in the practice of rate evasion has been growing. According to data provided by the Insurance Information Institute, auto insurance fraud cost drivers over \$229 million in 2009.¹⁸ The highest rates of motor vehicle insurance fraud were found in New York City with 140.3 cases for every 100,000 residents, accounting for 25.6% of all reported incidents of motor vehicle insurance fraud in the State.¹⁹

(a) Rising Insurance Premiums

An informal survey of auto insurance companies conducted by the New York Insurance Association in 2009 further found that the majority of companies were seeing increases in personal automobile premium rate evasion of anywhere between 20% and 40%. Some individual companies even witnessed over 50% increases in rate evasion for auto insurance.²⁰

According to the most recent estimates available,²¹ the average combined auto insurance premium statewide is \$1,196. ²²The lowest average combined premium (33% lower than the statewide average) is available in Saratoga Springs at \$801, followed closely by Syracuse and Albany at \$868 and \$888, respectively. In

¹⁷ While this is clearly a simplified assumption, it does point to the vast amount of State revenue that is likely lost on account of auto insurance rate evasion every year.

¹⁸ Fraud Costs New York, "About NY Fraud Costs," retrieved 16 May 2010, from Fraud Costs NY website, available at: <http://www.i-issues.com/new-york/page/about-ny-fraud-costs>. Data based on a study conducted by Dr. Robert Hartwig, Insurance Information Institute.

¹⁹ Division of Criminal Justice Services (DCJS), "2009 Plan of Operation For Motor Vehicle Theft And Insurance Fraud Prevention Board."

²⁰ Per the New York Insurance Association, 23 March 2010.

²¹ Source: Property Casualty Insurers Association of America (PCI), based on data compiled by the Independent Statistical Service and the National Association of Insurance Commissioners. (Note: Average premiums for liability reflect bodily injury and property damage liability, personal injury protection, and UM/UIM (BI) coverages. Average premiums for physical damage reflect \$500 Ded. Comprehensive and \$500 Ded. Collision coverages. Premiums are estimated for 2009.)

²² This figure slightly differs from the \$1,171.97 cited in Fig.1 (page 2) because it was retrieved from a different source.

general, average combined premiums in Upstate New York tend to be significantly lower than downstate, with the exception of Buffalo, where the average estimated combined premium is 26.6% higher than the statewide average (Fig.2²³).

The estimated average cost of combined insurance premiums in New York City is approximately 60% higher than the statewide average. The highest estimated cost of average combined insurance premiums is found in Brooklyn with \$2,143 – 79.2% higher than the statewide average. Queens is in second place with \$1,924, followed by Manhattan (\$1,886), the Bronx (\$1,881), and Staten Island (\$1,579) (Fig.2). While greater population size, traffic density and a larger number of accidents are some factors that have influenced the high cost of these premiums, the prevalence of insurance rate evasion in New York City, as evidenced in the SCI's 2006 report, is another factor that must not be overlooked.

(b) Accidents Involving OOS-Registered Vehicles

As previously mentioned, one major indicator of auto insurance rate evasion is the high incidence of accidents involving OOS-registered vehicles. According to DMV, the total number of OOS-registered vehicles involved in accidents in New York State in 2009 was 44,463. Unfortunately, efforts to replicate the data cited in the Commission's 2006 report were unsuccessful, so it is unclear how many of these accidents actually involved vehicles registered in Pennsylvania.

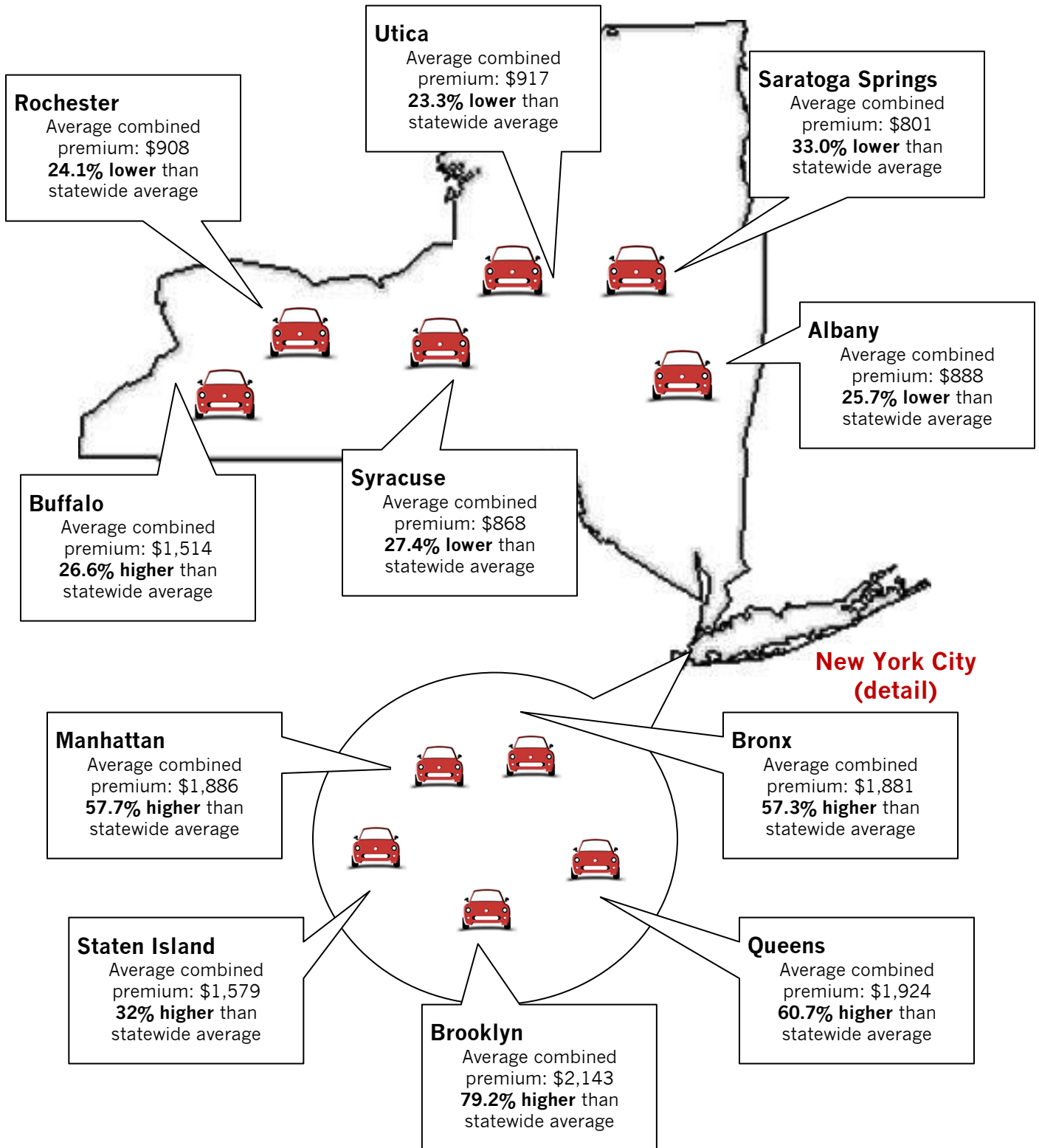
A call to the Special Investigation Unit (SIU) of the New York Automobile Insurance Plan (NYAIP) revealed that the original information had been provided by an investigator at DMV. This person, in turn, was charged with tracking and analyzing the number of accidents involving vehicles with OOS license plates. Since DMV's findings in 2004, however, no follow-up report has been issued, and any attempts to contact the original investigator have failed.

Nevertheless, when one-quarter of the state's accidents involving PA-registered vehicles in 2004 occurred in Brooklyn alone, it is not difficult to deduce from these findings a high prevalence of auto insurance rate evasion. Faced with lax monitoring and enforcement, it is no wonder that residents in a \$2,143-premium borough will seek insurance policies in a neighboring state where insurance policies are offered at a price nearly 60% lower.²⁴

²³ Map reproduced from Fraud Costs New York website, available at: <http://www.i-issues.com/new-york/>. Figures represent estimates for average combined insurance premiums for 2009, based on data provided by PCI.

²⁴ National Association of Insurance Commissioners, *2007/2008 Auto Insurance Database Report* (2010), p.27.

Fig.2 Estimated Average Auto Insurance Premiums by Region (2009)



(c) Unpaid Parking Tickets

A second indicator of insurance rate evasion referenced in the Commission's 2006 report is the number of parking violations by owners of OOS-registered vehicles. Many parking tickets issued to vehicles with OOS license plates are not paid because violators are aware of the fact that law enforcement often does not have the time, money, and resources to track them down. Until recently, New York City's efforts to obtain the names and addresses of parking violators with vehicles registered in Pennsylvania and Connecticut have not been returned, and in July 2009, New Jersey raised its price to \$12 per address request.

Once officials have an address, they send out one collection letter prior to judgment and a few after judgment. For some accounts, the City uses the services of an outside collection agency. If the City does not hear back from OOS debtors, they have to hire an attorney or pay the collection agent's attorneys to take enforcement action on OOS debt. This option is not always the preferred one, however, because the costs can be prohibitive. The upside, according to a spokesperson at the New York City Department of Finance, is that, as soon as an OOS vehicle has over \$350 in judgments, it is eligible to be towed – which, in turn, generates revenue.

As of September 2009, New York City has been allowed to retrieve names and addresses for parking violations using a national law enforcement database. While this process has significantly reduced the cost of OOS violator address requests (the standard price for PA, CT, and NJ is now \$2-\$4 per request) and increased the revenue generated from collection fees, the City is still losing a significant amount of money each year. Since the SCI's report, the number of summonses issued to PA-registered vehicles has jumped from 181,997 in 2006 to 250,259 in 2010 – a 38% increase in just 4 years. As of January 2011, only 60% of these parking tickets have been paid. The rest – valued at nearly \$10 million – remains outstanding (Fig.3).

On the list of top 5 target states for insurance rate evaders, Pennsylvania is in second place, right after New Jersey, which accounts for nearly one-third of the \$72.7 million in NYC parking fees owed by drivers of OOS-registered vehicles. The third highest number of summonses was issued to owners of vehicles registered in Connecticut, followed by Florida and Massachusetts – other notorious target states for insurance rate evaders (Fig.3).

Fig.3 Top 5 Target States for Insurance Rate Evaders as Evidenced by NYC Parking Summonses for Calendar Year 2010

Rank	State	Number of Summons	Number of Plates	Number of Owners	Number Unsatisfied	Percent Unsatisfied	Total Due
1	NJ	904,593	353,791	363,048	234,983	26%	\$23,104,442.81
2	PA	250,259	102,910	250,259	100,547	40%	\$9,863,918.36
3	CT	149,904	87,538	149,904	48,335	32%	\$4,600,268.75
4	FL	131,534	54,404	131,534	50,059	38%	\$4,694,433.12
5	MA	81,382	48,834	81,210	29,080	36%	\$2,737,940.21
Total		2,192,399	941,727	1,647,014	774,158	35%	\$72,705,716.71

Source: New York City Department of Finance

(d) Red Light Camera Tickets

Similar to unpaid parking tickets, a third indicator of insurance rate evasion is the high number of notices issued to owners of OOS-registered vehicles whose drivers were caught on camera for running a red light. In 2005, New York City issued 7,378 notices to owners of PA-registered vehicles caught with the help of its Red Light Camera Program, half of which remained unpaid. Updated statistics are not yet available; an official from the New York City Department of Transportation explained that obtaining the required data through their service provider was a labor-intensive process that could take several weeks, if not longer.

(e) Insurance Claims from Accidents Involving OOS-Registered Vehicles

Another indicator of insurance rate evasion relates to the number of insurance claims stemming from accidents involving OOS-registered vehicles. As mentioned in the SCI report, MVAIC received 935 insurance claims involving PA-registered vehicles between December 2002 and March 2006, 122 of whose owners resided in New York State. The cost of these claims totaled \$730,000, all of which were passed on by participating insurance companies to their customers.²⁵ Since then, however, MVAIC changed its claim tracking system in a manner that no longer enables claims to be tracked by the responsible party's license plate or origin. As a result, the 2006 findings could not be updated.

When asked why MVAIC changed its claims system, a representative explained that the Corporation's main priority was tracking information that would offer the most insight into their customers (i.e. the injured party), not the uninsured

²⁵ New York State Commission of Investigation, p.12.

motorists (or, the party responsible). Their claims system was changed with customer service and satisfaction in mind, not the goal of identifying insurance rate evaders. This is unfortunate, since MVAIC's previous ability to track the uninsured could have aided the State in its enforcement efforts.

(f) Loss in New York Automobile Insurance Plan (NYAIP) Customers

A second agency created by the New York State Legislature to address the problem of uninsured drivers is the New York Automobile Insurance Plan (NYAIP). Whereas MVAIC was established to provide pedestrians and other specified parties injured by uninsured vehicles a source of recovery, NYAIP was created to provide auto liability and physical damages coverage to all of those residents who, in good faith, were unable to obtain such auto insurance in the voluntary market in the first place. NYAIP is a processing service for the State's assigned risk program and, similar to MVAIC, it is funded by insurance companies.²⁶

At the time the DMV study was conducted to identify accidents involving vehicles with OOS license plates, NYAIP had approximately 500,000 customers.²⁷ By 2010, that number had dwindled to 100,000, representing a loss of 400,000, or 4/5 of its customers, in less than 10 years. According to Jack Houston, Special Investigations Unit Manager at NYAIP, there are only two explanations for this finding: (1) some of these former NYAIP customers switched over to the voluntary market, and (2) some found cheaper insurance premiums in other states. The signs, he says, are obvious: "Look around, and anywhere in the five boroughs you will find cars with license plates from Pennsylvania, Rhode Island, and North Carolina."

Current Initiatives to Combat Insurance Fraud

While insurance rate evasion is extremely difficult not only to track but also to prove, the little evidence available indicates that the problem has only worsened over the years. In 2006, the State Commission of Investigation made three key recommendations:

1. New York State and New York City law enforcement agencies should investigate aggressively all allegations of rate evasion;

²⁶ In order to obtain NYAIP coverage, applicants are required to "declare and certify that they have tried and failed to obtain automobile coverage in New York State within the preceding 60 days and have been unable to obtain such insurance at rates not exceeding those applicable under the plan" (New York Automobile Insurance Plan, "Plan Information," retrieved 16 May 2010 from NYAIP website, available at: <https://www.aipso.com/NY/default.asp?v=1>.)

²⁷ In the early 1990s, NYAIP reported approximately 1.2 million customers. By 2001/2002, the number was reduced to nearly 500,000.

2. New York State and New York City should establish telephone hotlines and Internet websites where citizens may report rate evasion; and
3. New York State should establish a multi-state task force to work together to address the problems caused by rate evasion.

(1) Agencies Involved in the Investigation of Insurance Rate Evasion

Insurance rate evasion is typically investigated under the larger umbrella of insurance fraud by the following agencies:

New York State Insurance Frauds Bureau

The New York State Frauds Bureau (“Frauds Bureau”) was created in 1981 to serve as a law enforcement agency within the State Insurance Department. Its primary mission is “to effectively detect, investigate and prevent insurance fraud and to refer for prosecution those persons or groups that commit acts of insurance fraud.” The Bureau consists of 8 specialized units, including the Auto Unit which routinely investigates individuals and auto body shop operators suspected of enhancing auto damage and related fraudulent activities.²⁸ In 2009, the Auto Unit investigated a total of 338 cases, up from 323 the year before.²⁹

Under §405 of the Insurance Law, the Frauds Bureau is required to furnish a detailed report to the Governor and the State Legislature that contains a comprehensive summary and assessment of its investigation efforts and findings as well as recommendations for future changes to meet the Bureau’s objectives. Until recently, the Frauds Bureau’s reporting requirements pertained only to the broad definitions of insurance and life settlement fraud. In an effort to curtail the problem of insurance rate evasion, however, the law was expanded to include reporting on “the incidence of misrepresentation by insureds of the principal place where motor vehicles are garaged and driven,” effective as of July 21, 2010.³⁰

Motor Vehicle Theft and Insurance Fraud Prevention Board (DCJS)

In addition to conducting its own, independent investigations, the Frauds Bureau frequently teams up with the NYPD’s Fraudulent Accident Investigation Squad and

²⁸ New York State Insurance Frauds Bureau (IFB), “About the Insurance Frauds Bureau: Bureau Structure,” retrieved 19 May 2010 from IFB website, available at: <http://www.ins.state.ny.us/frauds/fd1abouc.htm>.

²⁹ New York State Insurance Frauds Bureau (IFB), “The Annual Report to the Governor and the Legislature of the State of New York on the Operations of the Insurance Frauds Prevention Act,” published March 12, 2010, p.29.

³⁰ New York State Insurance Law §405(d)(11). Based on S.638-A (Larkin), signed into law on March 23, 2010, Chapter 11.

Auto Crime Division as well as other task forces and working groups. One particular group the Bureau is a member of is the Motor Vehicle Theft and Insurance Fraud Prevention Board headed by the Division of Criminal Justice Services (DCJS).

The Board was established by the State Legislature in 1994 together with the Motor Vehicle Theft and Insurance Fraud Prevention Program as a way to “prevent, deter and reduce the incidence of motor vehicle theft and motor vehicle insurance fraud.” The goal was to develop and provide funding for educational programs and specialized law enforcement units to combat motor vehicle theft and insurance fraud.³¹ In 2010, the Board awarded \$3.7 million in grants to 28 district attorney’s offices, police departments, sheriff’s offices and training organizations across the state to combat motor vehicle theft and insurance fraud.³²

(2) Public Outreach & Prevention Efforts

Under State law, all insurance providers writing at least 3,000 policies annually are required to submit to the Insurance Department a “Fraud Prevention Plan.” This Plan must provide for a Special Investigation Unit (SIU), separate from claims and underwriting, responsible for investigating cases of suspected fraud and implementing the insurer’s fraud prevention and reduction activities.³³ Additionally, the Plan must address training for claims and underwriting personnel, public awareness programs, interface with law enforcement and prosecutorial agencies, among others.³⁴

All public awareness programs, in turn, must be “focused on the cost and frequency of insurance fraud and the methods by which the public can assist in its prevention. The programs must be geared to reach a wider audience than an insurer’s policyholders and applicants.” In order to implement such public awareness campaigns, the New York Alliance Against Insurance Fraud (NYAAIF) was formed in 2000. According to the Fraud Bureau’s 2010 report to the Legislature, 108 insurers with Fraud Prevention Plans participated in NYAAIF’s

³¹ Division of Criminal Justice Services (DCJS), “2009 Plan of Operation For Motor Vehicle Theft and Insurance Fraud Prevention Board,” Appendix A, p.2

³² DCJS, “NYS awards more than \$3.7 million in grants to combat motor vehicle theft and insurance fraud,” Press Release, published 31 December 2010, retrieved 4 February 2011 from DCJS website, available at: http://www.criminaljustice.state.ny.us/pio/press_releases/2010-12-31_pressrelease.html.

³³ In lieu of SIUs, insurers may contract with a separate provider of these services as long as they submit a detailed copy of the signed contract to the Superintendent.

³⁴ New York State Insurance Frauds Bureau (IFB), “The Annual Report to the Governor and the Legislature of the State of New York on the Operations of the Insurance Frauds Prevention Act,” p.7.

2009 campaign using newspapers, radio and television to target insurance consumers.³⁵

Since the Commission's 2006 report, the Bureau also created a hotline for consumers to report suspected insurance fraud (1-888-FRAUD NY). "Although the hotline is not dedicated solely to rate evasion, the Frauds Bureau Director and Deputy Director routinely inform the public during their community outreach appearances that they should report all instances of suspected insurance fraud and fraud-related transactions – including rate evasion – to the hotline."³⁶ In 2009, the Bureau recorded an average of 28 calls per week.³⁷

A second organization involved in public awareness campaigns to combat insurance fraud is the Coalition Against Insurance Fraud (CAIF), a national anti-fraud watchdog that speaks for consumers, insurance companies, legislators, regulators, and others. Since its founding in 1933, the Coalition has worked effectively to enact more stringent anti-fraud laws and regulations, educate the public on how to combat insurance fraud, and serve as a national clearinghouse on fraud information.³⁸

While public awareness programs have clearly made a difference, changing general attitudes towards insurance fraud is still difficult to achieve, especially in times of financial hardship. According to a 2008 survey³⁹:

- 72.4% of all New Yorkers agree that insurance companies make too much money;
- Only 74.3% feel it is not at all appropriate for a person living in a major city, who pays approximately three times the amount of auto insurance premiums as elsewhere, to give an address where lower premiums are charged; and
- Only 63.5% are likely to report someone for giving a false address to lower their insurance premiums.

³⁵ Ibid.

³⁶ Information provided by the New York State Insurance Frauds Bureau on 26 May 2010.

³⁷ New York State Insurance Frauds Bureau (IFB), "The Annual Report to the Governor and the Legislature of the State of New York on the Operations of the Insurance Frauds Prevention Act," p.7.

³⁸ Coalition Against Insurance Fraud, "About the Coalition," retrieved 18 May 2010 from CAIF website, available at: <http://www.insurancefraud.org/aboutus.htm>.

³⁹ Source: New York Alliance Against Insurance Fraud.

How these public attitudes will shift in the future depends in part on educational programs to inform consumers about the causes and repercussions of insurance rate evasion but also on the general health of the economy. The more strapped New Yorkers become financially, the more likely they will be to engage in the practice of insurance rate evasion.

(3) Multi-State Efforts to Address Insurance Rate Evasion

National Insurance Crime Bureau

The primary organization to take on the fight against insurance fraud and crime on a national level is the National Insurance Crime Bureau (NICB). As a non-profit organization, the NICB receives support from approximately 1,000 property/casualty insurance companies and partners with law enforcement agencies across the country to lead a united effort against insurance fraud “through data analytics, investigations, training, legislative advocacy, and public awareness.”⁴⁰

While the Commission’s 2006 report recommended establishing a multi-state task force – starting with a task force between New York and Pennsylvania – to address the problems of insurance rate evasion, no such task force has been created thus far. However, cognizant of the fact that insurance rate evasion is a problem that crosses State lines, the Frauds Bureau has established relationships with law enforcement entities in Pennsylvania and New Jersey to help combat this problem. According to a spokesperson, “Frauds Bureau investigators, working in conjunction with the Pennsylvania Attorney General’s Office, have conducted surveillance of targeted areas and have supplied information concerning vehicles which they suspected to be involved in rate evasion to the Pennsylvania authorities for further investigation.”⁴¹

NAIC & CIPR Antifraud Task Force

The only known multi-state task force that exists to combat insurance fraud is a joint venture set up by the National Association of Insurance Commissioners (NAIC) and the Center for Insurance Policy Research (CIPR). The mission of this Antifraud Task Force is to assist state insurance supervisory officials in detecting, monitoring, and referring for investigation any insurance crime committed both by and against consumers. In particular, the Task Force helps maintain and improve the electronic databases on fraudulent insurance activities, disseminates the results of research and analysis of insurance fraud trends to the insurance

⁴⁰ National Insurance Crime Bureau (NICB), “Vision and Mission,” retrieved 19 May 2010 from NICB website, available at: https://www.nicb.org/about-nicb/vision_and_mission.

⁴¹ Information provided by the New York State Insurance Frauds Bureau on 26 May 2010.

regulatory community, and serves as a liaison between insurance regulators, federal, state, local and international law enforcement.⁴²

Recent Developments

To date, the auto insurance industry uncovered 161 vehicles used in New York State but registered to one Pennsylvania address. One Brooklyn family provided an address in Tobyhanna, PA, to obtain auto insurance for 14 vehicles. These included two 15-seat passenger vans, which were titled, tagged, and insured in Pennsylvania as non-commercial passenger vehicles but used to operate an illegal school bus service in Brooklyn.⁴³

In November 2009, three other individuals pled guilty to 11 counts in a scheme to obtain Pennsylvania auto insurance policies for individuals residing in New York City. Most of the policies were obtained from the Lincoln General Insurance Company and the American Independent Insurance Company. Using flyers, one of the individuals would lure unassuming customers into purchasing vehicles from him and then deal with his other two accomplices to obtain Pennsylvania insurance policies. Hundreds of applications were submitted to insurance companies containing false Pennsylvania addresses, some of which included PO Box numbers. "Many of the applications also contained false information about the applicant's driver's license, prior insurance and whether they owned a home, in order to receive discounts and avoid detection."⁴⁴ The scam cost insurance companies more than \$62,000 in claims and \$500,000 in lost premiums.

In February of 2010, Tom Corbett, Attorney General of Pennsylvania, announced the results of a sting operation conducted in conjunction with the Frauds Bureau and the New York City Police Department (NYPD). The sting netted 5 individuals in Brooklyn who were selling used cars and insurance policies to residents of the Little Haiti section of Brooklyn. These insurance policies were obtained from various insurance companies using forged documents with fake Pennsylvania addresses. In total, over 200 people were sold illegal insurance policies and vehicle registrations using the same 4 Pennsylvania addresses. The corrupt firm charged the individuals approximately \$400 for this "service" and was later prosecuted for mail fraud by the U.S. Attorney's Office for the Western District of New York.⁴⁵

⁴² National Association of Insurance Commissioners & The Center for Insurance Policy and Research, "Antifraud (D) Task Force," retrieved 18 May 2010 from NAIC website, available at: http://www.naic.org/committees_d_antifraud.htm.

⁴³ Per the New York Insurance Association, 23 March 2010.

⁴⁴ Office of the Pennsylvania Attorney General, "Insurance Fraud Section Newsletter," December 2009, p.1.

⁴⁵ Information provided by the New York State Insurance Frauds Bureau on 26 May 2010.

The IDC's Solution

In response to this growing problem, the IDC has introduced comprehensive legislation (S.988) that will provide law enforcement agencies with the power and tools necessary to investigate and prosecute individuals who habitually exploit the auto insurance loophole.

Specifically, S.988 addresses auto insurance rate evasion by:

- Granting the Superintendent of Insurance the authority to investigate fraudulent activities, such as motor vehicle operators who drive without insurance coverage, and those who misrepresent their principal place of residence or where their motor vehicle is garaged and operated;
- Authorizing the Insurance Frauds Bureau to accept reports of suspected fraudulent insurance actions from any self-insurer with regards to health insurance coverage, motor vehicle liability coverage, and workers compensation coverage;
- Allowing members of the general public to report suspected cases of auto insurance fraud to the Attorney General, the local District Attorney or the Insurance Fraud Bureau for a cash reward of up to 15% of the proceeds of the action or a settlement of the claim not exceeding \$25,000;
- Expanding the scope of prohibition of any insurance company, insurance agent, broker, or other person who knowingly possesses, transfers, or uses a forged insurance ID card to also include other false insurance documents which purport to evince insurance coverage when it is not in effect or is at limits less than those stated in the document;
- Strengthening the existing toll-free hotline and creating a website to collect tips and information from the general public to assist in the investigation and prosecution of insurance fraud crimes;
- Directing the Superintendent of State Police to establish a state-wide Insurance Fraud Reward Program paying between \$1,000 and \$5,000 in awards to anyone who provides information leading to the arrest and conviction of persons guilty of insurance fraud;⁴⁶ and
- Providing that, as of January 1, 2011, at least one quarter of the State Police Motor Vehicle Law Enforcement Account shall be used to support activities undertaken by local district attorneys to detect, identify, and prosecute auto insurance fraud.

In addition, the bill:

- Requires the State Police to include in its Annual Auto Theft Prevention Report efforts to curb automobile insurance fraud;

⁴⁶ The Rewards Program will be financed through the State Police Motor Vehicle Law Enforcement Account. Revenue for the account is collected from surcharges levied on all motor vehicle insurance policies issued in New York, pursuant to Insurance Law 9110.

- Expands the class D felony of “forgery in the second degree” to include forgery of a certificate of insurance or an insurance identification card;
- Expands the class C felony of “forgery in the first degree” to include forgery of 10 or more written instruments such as certificates of insurance or insurance ID cards;
- Makes it a class E felony to offer a false application for motor vehicle insurance or registration using a document that contains a false statement or information with regard to where a respective applicant resides or where such applicant’s motor vehicle is garaged or operated;
- Expands the definition of “insurance fraud” to include any false document used to either secure insurance coverage, file an insurance policy claim, or obtain payment for personal lines insurance coverage (i.e. auto and homeowners insurance);⁴⁷
- Expands the scope of “insurance fraud in the fourth degree” to include the operation of a motor vehicle on a public highway when such operator is insured under a policy issued under the laws of another state but in fact primarily lives and garages his or her vehicle in New York;
- Includes within the definition of “specified felony offense” the conviction of a person of crimes of insurance fraud, pursuant to Article 176 of the penal law;⁴⁸
- Adds the commission of insurance fraud to the list of crimes in which forfeiture actions may be taken to seize illegally secured assets or other “fruits” of the crime;
- Provides for notice to the Insurance Frauds Bureau in cases of forfeiture of assets proceeding and stipulation or settlement agreement of such action which is based on a felony of insurance fraud;
- Authorizes the Insurance Frauds Bureau to use funds secured from a criminal activity forfeiture to finance the operations of its Bureau or those of the Insurance Fraud Prevention Program established by Insurance Law section 40S-a;
- Gives law enforcement personnel access to any individual’s street address provided to the DMV to register a motor vehicle in this state or to obtain a driver’s license in this state;⁴⁹ and

⁴⁷ Under current law, only false documents that are used to secure commercial lines policies or money for claims against a commercial lines policy (i.e. general liability or business property policies) are considered to be insurance fraud. This bill expands the types of insurance policies that persons cannot lie about to obtain coverage or claims payment to include personal lines coverage such as motor vehicle liability or homeowners insurance.

⁴⁸ CPLR Article 13-A (of which section 1310 is the definitions section of this Article) lays out the procedure to seize ill-gotten profits from criminal activity. Therefore, any profits secured by persons through fraudulent insurance acts can be seized and used for other law enforcement purposes.

⁴⁹ Information is intended to assist law enforcement in verifying that a driver’s place of residence or domicile also coincides with the place where his/her motor vehicles is operated and garaged for auto insurance premium rating purposes.

- Requires all persons filing an application to register an automobile in New York to provide their street address, even if using a P.O. box for mailing purposes.⁵⁰

Finally, the bill creates a Temporary Task Force on Motor Vehicle Insurance Fraud to examine the feasibility and cost effectiveness of developing methodologies to identify owners and operators of motor vehicles who misrepresent their principle place of residence and the place or location where they operate and garage their automobiles. The Task Force shall consist of 13 members, with the Superintendent of Insurance and the Commissioner of Motor Vehicles to act as co-chairs.⁵¹ At least 7 of the Task Force's members shall include representatives of: the insurance agent and broker community who actively sell motor vehicle insurance policies in this state (3); companies whose business involves collecting, dispersing, and synthesizing data (2); and the motor vehicles insurance buying public (2). The Task Force shall submit a report to the Governor and the Legislature of its findings, conclusions and recommendations within 15 months of its establishment.

Conclusion

In these times of fiscal crisis when the State is cutting funding at all corners, including schools, parks, and healthcare programs, real opportunity exists to recover the revenue that is currently being lost to auto insurance rate evasion. An acute problem that affects not only insurance companies but all law abiding vehicle owners alike, rate evasion is a direct rebuke to the honest, hardworking residents of our state who play by the rules and pay their auto insurance rates as required.

While this fraud often goes undetected, evidence of insurance rate evasion has been consistently growing, and the problem is only getting worse. The sheer size of insurance rate evasion and its repercussions on the New York State economy are a serious public threat that can and must be averted. The IDC has developed comprehensive legislation to address these fraudulent activities, ensuring that the State collects the revenue it is owed and that law-abiding vehicle owners are no longer cheated on their auto insurance premiums. It is time to close the auto insurance loophole, and the time to act is now.

⁵⁰ The purpose of this provision is to curtail the practice of submitting fraudulent information with regards to an applicant's true place of residence or domicile.

⁵¹ One member shall be a representative from the New York Automobile Insurance Plan. The remaining 10 members shall be appointed by the Governor (4), the Temporary President of the Senate (2), the Speaker of the Assembly (2), and each chamber's minority leaders (2).

Appendix: Insurance Premiums Terms & Calculations⁵²

<u>Terms</u>	<u>Formulas</u>
<p><u>Written Premiums:</u> The total premium amount of all policies issued during a given time period.</p> <p><u>Premium:</u> The dollar amount paid for an insurance policy.</p> <p><u>Written Exposures:</u> The total number of exposures, in car-years, of all policies issued during a given time period.</p> <p><u>Exposure:</u> A finite unit of risk related to a specific insurance coverage, here expressed in car-years. One car-year is the risk associated with insurance on car for one year.</p>	<p><u>Combined Average Premium:</u></p> <p style="text-align: center;">Liability Average Premium + Collision Average Premium + Comprehensive Average Premium</p> <p><u>Liability Average Premium:</u></p> <p style="text-align: center;"><u>Liability Written Premiums</u> Liability Written Exposures</p> <p><u>Collision Average Premium:</u></p> <p style="text-align: center;"><u>Collision Written Premiums</u> Collision Written Exposures</p> <p><u>Comprehensive Average Premium:</u></p> <p style="text-align: center;"><u>Comprehensive Written Premiums</u> Comprehensive Written Exposures</p>

Liability:

Liability insurance pays for the damage that drivers do to others, including bodily injury and property damages. Bodily injury liability covers medical bills and lost wages; property damage liability pays to repair or replace property that the insured destroys. Coverage limits are written in 3 numbers, such as 20/50/10, which is the minimum required coverage in New York. This translates into \$20,000 in bodily injury coverage per person, \$50,000 in bodily injury coverage per accident, and \$10,000 in property damage coverage per accident.

Collision:

In the event of an accident, collision insurance pays to repair the insured's own vehicle. If the repair costs exceed a certain threshold of a car's value, such as 70, the car is considered "totaled," so the insurance company will tow the car to the

⁵² National Association of Insurance Commissioners, *2006/2007 Auto Insurance Database Report*, pp.2-3.

nearest salvage yard and offer the vehicle owner cash value for his or her car. According to the Insurance Information Institute, collision coverage is generally sold with a deductible of \$250 to \$1,000. The higher the deductible, the lower the premium.⁵³

Comprehensive:

Comprehensive coverage pays for any damage done to an insured's car that was not caused due to car accidents. Examples include theft, fire, vandalism, natural disasters, and collisions with animals (e.g. deer). Comprehensive insurance is usually sold with a \$100 to \$300 deductible, though many customers will chose higher deductibles as a way to lower their premiums.⁵⁴

Additional Insurance Coverage⁵⁵

MedPay: medical payments coverage that pays for medical expenses suffered by the driver and his passengers after an accident. MedPay covers medical expenses no matter who caused the accident, although if someone else is at fault, the insurer may subrogate against this person and seek damages from that party.

Personal Injury Protection (PIP): also known as “no-fault” insurance, coverage (required in New York) that pays for medical expenses and lost wages for the insured and his/her passengers who are injured in an accident. PIP also covers funeral costs, if necessary.

Uninsured/Underinsured Motorist Coverage (UM): pays for the insured's medical bills if an uninsured drivers strikes his/her car or if the insured is the victim of a hit-and-run. UM also covers any damages done by motorists who do not have enough insurance to cover all medical bills. The organization processing insurance claims against uninsured or underinsured motorists in New York is MVAIC.

⁵³ Insure.com, “Collision and Comprehensive Coverage,” retrieved 20 May 2010, from Insure.com, available at: <http://www.insure.com/car-insurance/basics.html>.

⁵⁴ Insurance Information Institute, “What is covered by basic auto policy?” retrieved 20 May 2010, from Insurance Information Institute website, available at: <http://www.iii.org/individuals/auto/a/basic/>.

⁵⁵ Insure.com, “Car Insurance Basics,” retrieved 20 May 2010, from Insure.com, available at: <http://www.insure.com/car-insurance/basics.html>.