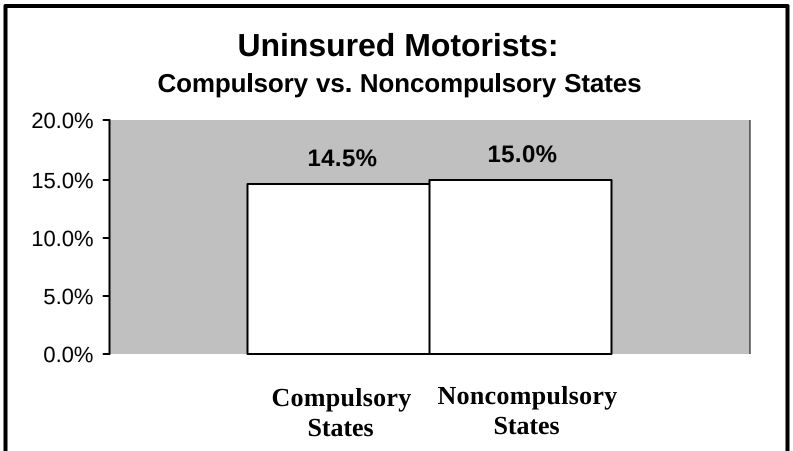
The Council for Affordable Health Insurance's
ISSUES & ANSWERS
Solutions for Today's Health Policy Challenges
No. 123 March 2004

Can Government Force People to Buy Insurance?

Some lawmakers have proposed a seemingly simple way to ensure that all Americans have health insurance: require them to buy it. These lawmakers often refer to state laws that require people to purchase auto insurance as a model for a new individual health insurance requirement. However, if government could successfully force people to buy insurance, virtually no drivers would be uninsured. Currently, 47 states require that drivers carry auto insurance. Yet the percentage of drivers who have no auto insurance is not much lower than the percentage of people who have no health insurance.

State laws requiring motorists to purchase coverage and sanctioning penalties for drivers who fail to comply have been ineffective at reducing the number of uninsured motorists. For America's drivers, the problem is so bad that *millions buy uninsured motorist coverage to protect themselves from the financial implications of an accident with an uninsured driver*. Thus supporters of mandating health insurance coverage must answer a question. If state governments can't force all drivers to buy auto insurance, what makes lawmakers think the federal government can force all Americans to buy health insurance?

Congressional Proposals for Mandating Health Coverage. Sen. John Breaux (D-LA) has proposed a federal law — referred to as an "individual mandate" — that would require every U.S. citizen to purchase health insurance. Some presidential candidates have proposed less comprehensive plans that would require parents to cover their children. They contend that their plans would significantly reduce the number of uninsured. But a close look at the effects of state auto insurance laws does not support that contention.



Source: Insurance Research Council (for 1995)

Auto Insurance Mandates and the Uninsured. Compulsory auto insurance, first introduced in Massachusetts in 1927, typically requires all drivers to buy liability coverage to pay for property damage and bodily injury resulting from an at-fault accident. Today, 47 states require drivers to carry at least liability coverage. How successful have these laws been in ensuring that motorists have coverage?

The Insurance Research Council (IRC) conducts the most reliable nationwide research on the number of uninsured motorists. The organization compares the claims of people who were injured in accidents by uninsured drivers to those injured by insured drivers. The IRC has used the same claims data for nine years, from 1989 to 1997, and the uninsured rate has fluctuated between 13 percent and 16 percent during this time. In its latest study, using 1997 insurance data, the IRC estimates that 13 percent of drivers are uninsured — not much lower than the 15 percent of Americans who don't have health insurance.

Simply put, the problem of uninsured motorists remains chronic, and an individual mandate requiring motorists to have auto insurance has not been a cure.

Ignoring Penalties. Proponents of mandating health insurance coverage further contend that the uninsured problem will be eliminated if the mandate is coupled with consequences, such as imposing tax penalties on those who do not purchase coverage.

Yet states have long attached penalties and enforcement provisions to compulsory auto insurance laws, and millions of motorists continue to ignore the laws. Consequences for not having auto insurance include fines, jail time, license or registration revocation, confiscation of license plates and vehicle impounding. Nearly 86 percent of the states can impose fines, which can be as high as $5,000, for failure to purchase insurance. In addition, according to the Insurance Information Institute:

- 7 states can confiscate license plates.
- 22 states can revoke or suspend vehicle registrations.
- 21 states can revoke or suspend vehicle licenses.
- In 3 states vehicles can be impounded.

Most states combine punishments such as fines and registration revocation for first offences with much tougher penalties for subsequent violations.

None of these penalties have significantly reduced the rate of uninsured drivers. Many people simply ignore the law, accept the penalties or find ways to game the system. For example, some drivers sign up for a policy before renewing their annual car registration and allow the insurance to lapse within a month or two by not paying the premiums. Other drivers let the pound keep the car (especially if it isn't worth much) and obtain another inexpensive vehicle. For example, a Louisiana House insurance committee recently learned that 60 percent of impounded vehicles are never reclaimed.

Studies have shown that jail time also is an ineffective deterrent because drivers do not think it will be enforced. Indeed, judges are reluctant to impose such a harsh penalty for noncompliance. Many adjudicators are equally hesitant to inflict large monetary fines on people too poor to afford auto insurance.

Catch Me if You Can. To encourage compliance, many states have implemented seemingly strong enforcement mechanisms that allow state police to confirm auto insurance information, issue tickets and conduct verifications at random checkpoints, yet uninsured motorists are rampant.

Several states have set up large databases to match insurance records with auto registration. But database matching is expensive, and no state has yet been able to match registration and insurance information quickly and accurately. Moreover, the National Association of Independent Insurers (NAII) points out that thousands of insured drivers have been falsely identified and unjustly reprimanded.

At least four states have used checkpoints to stem the tide of uninsured drivers. But the random and periodic nature of the checks has limited their impact. While the insurance regulators have previously suggested that strict enforcement of compulsory laws might help lower the uninsured population, no state has the money, resources or mechanisms to strictly enforce compulsory auto insurance laws.

Comparing Mandatory with Nonmandatory States. The Insurance Research Council recently completed a study of motorists that compared the 1995 uninsured rate in the 43 (at that time) compulsory states with the seven noncompulsory states that did not require drivers have insurance. The study found that in the compulsory states, 14.5 percent of drivers were uninsured, compared to 15 percent in the noncompulsory states. [See the figure on the opposite page.]

As mentioned previously, only three states still do not require drivers to carry liability coverage. Using the latest 1997 IRC data, two of these states, New Hampshire and Wisconsin, have uninsured rates of 8 percent and 10 percent, respectively — well below the national average of 13 percent.

The above comparisons do not necessarily demonstrate that compulsory states would have fewer uninsured motorists in the absence of their compulsory laws, but they clearly show that auto insurance mandates have not led to universal coverage. The majority of states have maintained compulsory laws on their books for at least 20 years with negligible effects on the number of uninsured motorists. In 1982, the *Journal of American Insurance* reported, "In states where these [compulsory] laws have been tried, they have proven both difficult and costly to enforce.… And they don't seem to be doing much to get uninsured drivers off the road." Twenty years later, this assessment rings even more true.

Why Don't Mandates Work? With laws and penalties on the books, why do so many people forgo auto insurance? Many don't buy liability auto insurance for the same reason they don't buy health insurance: they can't afford it. A 1998 IRC survey indicated that the primary reason two-fifths of uninsured motorists did not buy auto insurance was that premiums were too high. A 2000 Kaiser Family Foundation study found that 48 percent of those without health insurance cited cost as the most important reason why they were uninsured.

What's the Solution? If mandating insurance coverage won't work, what's the alternative? At least with respect to health insurance, the answer is tax credits for the uninsured. The Fair Care for the Uninsured Act (H.R. 583) provides a refundable, "advancable" tax credit of $1,000 for an individual, $2,000 per couple and $500 per child, for a maximum of $3,000 per household, for those who do not receive subsidized health benefits through their employer or government health plans.

Tax credits are the carrots; mandates and penalties are the sticks. The former approach uses the tax code to help millions of Americans do the right thing. The latter will result in millions of Americans looking for ways to avoid the law and prove futile in reducing the number of people without health coverage.

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