

COLORADO DEPARTMENT OF REGULATORY AGENCIES  
OFFICE OF POLICY AND RESEARCH

# COLORADO MOTORIST INSURANCE IDENTIFICATION DATABASE PROGRAM

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## 2000 SUNSET REVIEW



October 15, 2000

Members of the Colorado General Assembly  
c/o the Office of Legislative Legal Services  
State Capitol Building  
Denver, Colorado 80203

Dear Members of the General Assembly:

The Colorado Department of Regulatory Agencies has completed the evaluation of the Motorist Insurance Identification Database Program. I am pleased to submit this written report, which will be the basis for my office's oral testimony before the 2001 Legislative Committees of Reference. The report is submitted pursuant to §24-34-104(8)(a), of the Colorado Revised Statutes (C.R.S.), which states in part:

*"The department of regulatory agencies shall conduct an analysis of the performance of each division, board or agency or each function scheduled for termination under this section...*

*The department of regulatory agencies shall submit a report and supporting materials to the office of legislative legal services no later than October 15 of the year preceding the date established for termination . . ."*

The report discusses the question of whether there is a need for the regulation provided under Article 7 of Title 42, C.R.S. The report also discusses the effectiveness of the Motorist Insurance Identification Database Program and staff in carrying out the intention of the statutes and makes recommendations for statutory and administrative changes in the event this regulatory program is continued by the General Assembly.

Sincerely,

M. Michael Cooke  
Executive Director

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## **Background**

### *The Sunset Process*

The Department of Regulatory Agencies (DORA) is required by §24-34-104(30)(a)(IV), of the Colorado Revised Statutes (C.R.S.), to conduct a sunset review of the motorist insurance identification database program created in section 10-4-615, C.R.S., as conducted by the Department of Revenue (DOR).

The sunset review provision in §24-34-104, C.R.S., refers to a statutory cite in title 10, article 4, part 6, which is part of Colorado's insurance statutes. This part 6 is titled "Automobile Insurance Policy - Regulations". The applicable section pertains to insurers' responsibilities of reporting insurance information for the database, including penalties for noncompliance. The repeal provision of §10-4-615(6), C.R.S., reads:

**10-4-615. Motorist insurance identification database program - reporting required - fine - repeal.** (6) This section is repealed, effective July 1, 2001, unless the review conducted by the department of regulatory agencies pursuant to section 42-7-608, C.R.S., and reported to the general assembly indicates that the number of uninsured motorists claims reported by insurers declined between July 1, 1997, and the date of the department's review.

The above referenced insurance related provision refers to title 42, article 7, part 6, which actually creates the Uninsured Motorist Identification Database Program. The repeal provisions in §§42-7-608 and 609, C.R.S., state:

**42-7-608. Review by department of regulatory agencies - repeal.** (1) The department of regulatory agencies shall review the operation and performance of the motorist insurance identification database program pursuant to section 24-34-104, C.R.S., to determine whether the number of uninsured motorists claims reported by insurers had declined between July 1, 1997, and the date of the review and shall submit a report of its findings to the general assembly no later than October 15, 1999. The department of regulatory agencies shall make copies of its report available to each member of the general assembly.

(2) This section is repealed, effective July 1, 2001.

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**42-7-609. Repeal of sections.** Sections 42-7-603 to 42-7-609 are repealed, effective July 1, 2001, unless the review conducted by the department of regulatory agencies pursuant to section 42-7-608 and reported to the general assembly indicates that the number of uninsured motorists claims reported by insurers declined between July 1, 1997, and the date of the department's review.

The Motor Vehicle Division in the Department of Revenue administers the Uninsured Motorist Identification Database Program. The Act in §42-7-609, C.R.S., requires a repeal of the program unless this review finds a decline in the number of uninsured motorist claims between 1997 and the date of the review.

The sunset review process includes an analysis of the statute, interviews with program staff, and other interested parties. Similar programs in other states were reviewed and a literature search was conducted. Every effort is made to elicit information and comments from all interested parties. The review includes an evaluation of the performance of the Motor Vehicle Division (Division) in the Department of Revenue (DOR) in accordance with the statutory criteria contained in §24-34-104(9)(b), C.R.S. which are included in this report as Appendix A.

### *History of the Motorist Insurance Identification Database Program*

The Motorist Insurance Identification Database Program evolved from SB 95-172, known as Uninsured Motorist Identification Database Program Act. This legislation directed the Transportation Legislation Review Committee to examine Colorado's compulsory motor vehicle insurance system and the problem of uninsured motorists in the state for the purpose of proposing legislation to "...alleviate if not eliminate the problem."

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In 1997, HB 97-1209 was passed by the General Assembly. This bill amended several provisions in the motor vehicle statutes and replaced the Uninsured Motorist Identification Database Program with the Motorist Insurance Identification Database Program (MIDB). The bill amended insurance and motor vehicle statutes in Titles 10 and 42 of the Colorado Revised Statutes. All insurance companies licensed in the State of Colorado writing motor vehicle insurance are required by these provisions to report information about policyholders to an agent designated by the Division.

HB 97-1209 established funding for the program by imposing a surcharge on motor vehicle registrations effective September 1, 1997. The program, as expanded by HB 97-1209, requires the Department of Revenue (DOR) to contract with a vendor to establish a database to match motor vehicle insurance policies as reported by insurers with motor vehicle registrations filed with the Division.

The Act was amended again in 1998 by HB 98-1213, to prohibit the initial registration, or renewal of a motor vehicle registration without proof of valid insurance. This bill also requires the Commissioner of Insurance (Commissioner) in DORA to inform the public of the requirements of mandatory motor vehicle insurance and the restrictions regarding motor vehicle registration.

The Act required DORA to submit a special report to the General Assembly in October of 1999 analyzing the number of uninsured motorist claims. The report was submitted; however, the report findings were inconclusive because the newness of the program did not allow for an analysis of data trends.

### *Different Approaches to Identify Uninsured Motorists*

Enforcement of mandatory insurance laws is an issue for every state with compulsory insurance statutes. Several states have enacted reporting programs to enforce the requirement. Reporting programs can be grouped into one of three category types.<sup>1</sup>

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<sup>1</sup> Booz-Allen & Hamilton Electronic Insurance Reporting: A Lessons Learned Study - Final Analysis Report October 1999, Prepared for American Association of Motor Vehicle Administrators Inc.

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- Preemptive programs seek to identify all uninsured vehicles or motorists by actively comparing registrations and driving records against policy information provided by insurance carriers on a regular basis. These programs are typically the most complex and the most demanding of resources.
  - Sampling programs actively seek to identify uninsured vehicles or motorists by verifying that a statistical sample of the population has valid insurance coverage. These programs are smaller in scale than preemptive programs and somewhat less complex.
  - Passive/Reactive programs, as the classification indicates, only seek to verify that motorists that have exhibited behavior indicative of an unwillingness or inability to make restitution, or of an elevated likelihood to cause loss, have the means to pay for the losses incurred by others. These programs are the least complex of the three, and typically the least resource intensive.

Modern technology has provided additional mechanisms for states to employ in order to enforce compulsory insurance laws. A recent trend in compulsory insurance enforcement is linking law enforcement officials with a computerized database that cross-references registered motor vehicles with insurance policies. The MIDB used in Colorado is an example of a preemptive program attempting to provide real-time vehicle registration and insurance information to law enforcement agencies. Utah is one state that reports that this type of program has been successful in increasing compliance with compulsory motor vehicle insurance requirements. However, opponents of reporting programs question the methodology in measuring success.

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## **Summary of Statute and Related Statutes**

The major provisions of the Motorist Identification Database Program Act (Act) are contained in §42-7-601, et seq., C.R.S. The Act directs the Transportation Legislation Review Committee to examine the issue of uninsured motorists and propose legislation to alleviate the problem. The Committee is also directed to review the mandatory motor vehicle insurance requirements in Colorado and uninsured motorist database programs in other states.

The Act states the intention of the General Assembly to reduce the uninsured motorist population in the state. The General Assembly recognizes that information required of insurance carriers is proprietary in nature and directs parties with access to the information to maintain confidentiality with respect to all proprietary information.

The Motor Vehicle Division (Division) within the Department of Revenue (DOR) is directed by the Act to contract with a private vender, termed "designated agent" (Agent), by January 1, 1998. The Agent is required to convene a work group consisting of representatives of the insurance industry, the Division of Insurance (DOI), the Colorado Department of Public Safety, the Division, and DOR to develop a plan to implement the database program.

The Act requires the Agent to establish a database of insured motorists cross referenced with Division motor vehicle registrations and drivers license information by January 1, 1999. The Division is required to develop procedures to ensure that the database is easily accessible to law enforcement personnel. The Agent is required to update the database monthly, beginning January 1, 1999. The Agent is directed to contact the owner of a motor vehicle that has been found to be without insurance for three consecutive months. Owners are notified that they have 45 days to demonstrate that the vehicle has the required insurance.

All insurance companies writing motor vehicle insurance in Colorado are required by the Act to report policyholder information to the MIDB and uninsured motorist claim numbers to the Commissioner. The DOI is required by the Act to contract with a vendor to compile information reported by insurance companies for the purpose of comparing claims prior to the implementation of the MIDB to those after the MIDB was established.



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Section 42-7-606, C.R.S., details the information to be included in the database and restricts access to the information to specific agencies and individuals identified in the statute. Unauthorized disclosure of confidential information included in the database is a Class I misdemeanor punishable under §18-1-106, C.R.S.

### *Related Statutes*

The Division of Insurance (DOI) in DORA regulates motor vehicle insurance companies. Insurance statutes are contained in Title 10 of the Colorado Revised Statutes.

- The Colorado Auto Accident Reparations Act (No Fault Insurance) is contained in §10-4-701 et seq., C.R.S.;
- The Commissioner of Insurance (Commissioner) is required by §10-1-108(17)(a), C.R.S., to inform the public of the state's compulsory insurance requirements;
- Insurance companies are required by §10-4-604.5, C.R.S., to provide consumers with proof of insurance documentation.
- Motorist Insurance Identification Database Program (MIDB) reporting requirements for insurance companies are contained in §10-4-615, C.R.S.; and,
- The DOR may fine insurance companies \$250 per day for failure to comply with the reporting requirements of the database under §10-4-615 (4)(a), C.R.S.

Title 42 concerns the regulation of motor vehicles and traffic.

- Compulsory insurance requirements for motor vehicles is contained in §42-4-1409, C.R.S.;
- Under §42-7-310.5 (1), C.R.S., individuals who provide false motor vehicle insurance documentation to the Division are subject to a \$500 fine for the first offense. The second offense may result in a \$1,000 fine and seizure of the vehicle.
- Persons providing false motor vehicle insurance documentation to another person are subject to a \$500 fine for the first offense and \$1,000 for the second offense under §42-7-310.5 (2), C.R.S.

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- All persons involved in a reportable accident are required by §42-7-202, C.R.S., to report insurance information to the DOR within 10 days of the accident.
  - Section 42-7-501, C.R.S., allows owners of 25 or more vehicles to obtain a certificate self-insurance if they meet the requirements of §10-4- 716, C.R.S.

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## **Program Description and Administration**

### *Funding and Expenditures of the Motorist Insurance Identification Database (MIDB)*

The program is funded by a surcharge on each vehicle registered in the state as provided for in §42-3-134 (26)(a)(II)(d), C.R.S. The surcharge may not exceed one dollar and is adjusted annually to meet the anticipated expenses of the program. The fines collected pursuant to §10-4-615 (4)(a), and §42-7-310.5, C.R.S., are also directed to fund the program. All specified moneys are deposited in a designated special Highway User Tax Fund account by the State Treasurer and are subject to appropriation by the General Assembly.

Initial expenses for the program were limited to \$220,000 for development of the database by Explore Information Services (Explore), the designated agent selected by the Division. However, the expenses peaked at just under three million dollars in fiscal year 1998/99. FY00 expenses totaled a little over \$1.4 million and are estimated to be \$1.6 million dollars for FY01. The Division has eight (8) full time equivalent employees (FTE) devoted to maintaining the database and the affiliated program. Table 1 below details the actual and estimated expenses of the program since fiscal year 1998/99.

Table 1

#### Motorist Insurance Identification Database Program Expenses

<b>Expenses</b>	<b>FY 1998/99</b>	<b>FY 1999/00</b>	<b>FY 2000/01</b>
Personal Services	\$ 85,655	\$ 221,637	\$1,600,000*
Contract Services	2,767,811	1,224,255	0
Operating	66,490	8,042	46,500
Capital Outlay	31,985	0	0
<b>TOTAL</b>	<b>\$2,951,941</b>	<b>\$1,453,933</b>	<b>\$1,646,500</b>

\*The DOR 2000/01 budget estimate combined personal services and contract services.

### *MIDB Process*

According to the Division, there are approximately 600 insurance companies reporting information to Explore. The Division reports vehicle registration information for the approximately four million vehicles registered in Colorado. Explore then matches vehicle registration information with the insured vehicle information. The results are maintained in the Motorist Insurance Identification Database (MIDB). The reporting and notification processes are illustrated in the flow chart on the following page.



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Under the terms of the Act, the Division has authorized Explore to send notices to the owners of vehicles that are identified by the database as unknown for three consecutive months. Explore began sending notices in April of 1999 in compliance with the Act. Initially, the Division received numerous complaints from vehicle owners that were able to document insurance coverage. DOR officials report that a cooperative effort by motor vehicle dealers, insurance companies, and county clerks who register motor vehicles, has reduced errors in reporting vehicle identification numbers to Explore. However, DOR reports that this remains an issue with consumers.

Explore sends an average of 40,000 notices each month to vehicle owners who may not be in compliance with the state's mandatory insurance requirements. The notice requests the owner to provide documentation to Explore in order to prevent further action under the Act. A copy of the notice is included in this report as Appendix B.

When a vehicle owner receives a notice from Explore, the owner has 45 days to respond with proof of insurance. When Explore receives the proof of insurance, it is forwarded to the insurance carrier for verification. The carrier has 30 days to verify that the vehicle is insured. Once the verification is received, the information is entered into the database and the vehicle is identified as insured.

If the insurance company responds that the vehicle is not insured, the vehicle is identified as unknown in the database. If the vehicle remains in the unknown category for another three months, the notification cycle is started again.

Explore maintains a database of vehicle owners who have failed to reply to the 45 day notice. If a vehicle owner fails to provide proof of insurance to Explore, the vehicle is classified in the MIDB as "unknown". After another three months of the vehicle identification number not matching with an active insurance policy, the owner is sent another 45-day notice from Explore. This process can go on indefinitely, with no penalties imposed on the vehicle owner. Vehicle owners are only penalized when unable to provide proof of insurance during traffic stops by law enforcement personnel.

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Explore also reports to the Division owners who have submitted false proof of insurance. Colorado law provides penalties for persons who falsify proof of insurance documents. However, the Division has not taken enforcement action under the provisions of §42-7-310.5 (1), C.R.S.

The Division monitors drivers with a history of driving without insurance. These drivers are subject to supervised insurance known as SR-22. The Division is also responsible for suspending drivers' licenses for drivers ticketed by law enforcement agencies or who are involved in accidents reported under §42-7-202, C.R.S., for failure to comply with the state's mandatory insurance laws. These suspensions are known as Financial Responsibility Act (FRA) suspensions.

Law enforcement officials routinely ask for proof of insurance when investigating an accident or making a routine traffic stop. Under the provisions of the FRA, a driver who is unable to produce proof of insurance is subject to immediate suspension of his or her drivers' license. However, immediate suspensions are not common. Typically, a police officer issues a ticket to the driver. If the driver appears in court and is able to prove that insurance was in force at the time of the ticket the case is dismissed. However, if the driver is unable to demonstrate that insurance was in force at the time of the ticket, the license of the driver is subject to suspension under the FRA.

The number of FRA suspensions is one indicator of the number of drivers operating without insurance. Persons ticketed for driving without insurance are entitled to a hearing before a municipal judge or a Division hearing officer. Drivers who are not able to document insurance on either the vehicle or themselves are subject to suspension. Table 2 identifies suspensions by the Division for violations of the FRA from 1997 through 1999.

Table 2

FRA Suspensions

1997	1998	1999
20,209	21,630	16,538

The number of FRA suspensions has declined since 1997. However, one cannot reasonably attribute the reduction to the database, especially considering that the process of sending notification letters to the owners of vehicles that were not matched with insurance policies did not begin until April of 1999.

Another measure of uninsured vehicles is the maximum insured rate. The maximum insured rate is arrived at by dividing the total number of vehicles reported to be insured in the state by the number of registered vehicles. This calculation is considered by Explore to be a more accurate reflection of the uninsured motorist population than the percentage of vehicles with matched insurance policies. The maximum insured rate has increased from just over 76 percent in April of 1999 to 84 percent in June 2000. Table 3 summarizes the vehicle insurance rate information from Explore.

Table 3

Motor Vehicle Insurance Rate Data

Month	Registered Vehicles	Insured Vehicles	Matched Vehicles	Unmatched Vehicles	Maximum Insured Rate
April 99	3,817,904	2,931,343	2,879,663	938,241	76.78
May 99	3,859,361	2,985,696	2,938,371	920,990	77.36
June 99	3,939,350	3,144,145	3,060,215	879,135	79.81
July 99	3,981,028	3,205,585	3,109,103	871,925	80.52
August 99	3,756,122	3,112,808	3,049,130	706,992	82.87
September 99	3,732,071	3,140,120	3,043,054	689,017	83.17
October 99	3,744,055	3,107,016	3,055,455	688,610	82.99
November 99	3,750,595	3,118,113	3,072,202	678,393	83.14
December 99	3,738,360	3,103,856	3,057,603	680,757	83.03
January 00	3,752,392	3,107,706	3,061,614	690,778	82.82
February 00	3,761,299	3,118,971	3,071,069	690,230	82.92
March 00	3,772,680	3,145,258	3,094,913	677,767	83.37
April 00	3,781,908	3,173,075	3,111,057	670,851	83.90
May 00	3,800,168	3,206,495	3,137,003	663,165	84.38
June 00	3,814,218	3,222,814	3,158,127	656,091	84.49

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## **Analysis and Recommendations**

### *Has the Number of Uninsured Motorist Claims Declined?*

The Act contains three separate provisions requiring analysis of uninsured motorist claims:

- Section 42-7-604 (7), C.R.S., requires the Division of Insurance to contract with a private company to annually provide a report comparing claims using 1997 as the base year.
- Section §42-7-608(1), C.R.S. required Department of Regulatory Agencies to provide a report by October 15, 1999 on the number of uninsured motorist claims, using 1997 as the base year.
- The repeal provision in the MIBD statute, §42-7-609, C.R.S., directs DORA to compare the number of uninsured motorist claims in 1997 to the current year in addition to an analysis of the program required by the sunset criteria.

All of these provisions are specific in comparing the number of uninsured motorist claims in calendar year 1997 to future years. While all the required reports attempt to make the comparison, the data necessary to quantify that figure is not readily available.

The report prepared by the vendor for the Division of Insurance attempts to adjust the data reported to the DOI for uninsured motorist claims and arrives at an estimated percent of uninsured motorists as well as a rate for uninsured motorist claims frequency. The initial report released in January of 1998 was criticized by the Colorado Trial Lawyers Association because of the method used for uninsured motorist reporting motorist claims under Colorado law. The vendor adjusted the formula used to calculate claims frequency for the 1999 report to recognize the different treatment of uninsured motorist accidents. The 1999 DOI report explained the adjustment in the following manner:



"Under Colorado's no-fault law, an injured party must have medical costs exceeding a \$2,500 tort threshold before a bodily injury (BI) claim can be filed against an insured driver. Because of the medical expense tort threshold, the above formula must be adjusted either by adjusting the BI claim frequency upward to eliminate the \$2,500 threshold impact, or by adjusting the UMBI claim frequency downward to remove those UMBI claims which were filed by claimants with \$2,500 or less in medical expenses."<sup>2</sup>

The 1999 report prepared for the DOI found that total uninsured motorist bodily injury claims (UMBI) paid declined 7.6 percent from 3,477 in 1997 to 3,213 in 1999. Total uninsured motorist property damage (UMPD) claims paid during this same period increased 25.6 percent from 1,080 in 1997 to 1,356 in 1999. Because some insurance companies did not separate UMPD from UMBI claims, there was also a category for unspecified claims. There was a 15.9 percent decrease from 151 unspecified claims paid in 1997 to 127 unspecified claims paid in 1999. Table 4 summarizes the findings of the report prepared for the DOI for January 1999.

Table 4  
**Colorado Personal Auto Uninsured Motorist Data in Response to HB 97-1209 -  
 Summary Report**

	Year Ending			% of Change FY 97 to FY 99
	FY 1997	FY 1998	FY 1999	
Annualized Earned Policy Count	2,054,877	2,087,657	2,188,626	
Number of Paid UMBI Claims	3,477	3,259	3,213	(7.6%)
Number of UMBI Claims Closed without Payment	2,842	3,152	2,572	(9.5%)
Total UMBI Claims	6,319	6,411	5,785	(8.5%)
Number of Paid UMPD Claims	1,080	1,172	1,356	25.6%
Number of UMPD Claims Closed without Payment	358	476	558	55.9%
Total UMPD Claims	1,438	1,648	1,914	33.1%
Number of Paid UM Claims *	151	163	127	(15.9%)
Number of UM Claims Closed without Payment *	231	220	128	(44.6%)
Total UM Claims	382	383	255	(33.2%)
Total Claims	8,139	8,442	7,954	(2.3%)
Total Claims as a Percentage of Policy Count	3.96%	4.04%	3.63%	

\* To be used only if UM claims cannot be separated into BI and PD claims

<sup>2</sup> 1999 Colorado Uninsured Motorist Report to the Division of Insurance In Response to HB 97-1209, prepared by Insurance Services Office, Inc. New York, NY

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In terms of raw numbers, there were fewer uninsured motorist claims paid in 1999 than in 1997. Motor vehicle registrations increased from 3,840,901 at the beginning of 1997 to 4,053,457 in the beginning of 1999. Therefore, the percentage of claims to registered vehicles also declined.

Because of the wording contained in §42-7-604 (7), C.R.S. the data contained in the DOI report is inconsistent with the information contained in the database maintained for DOR. The database maintained by Explore contains information on all registered motor vehicles and all motor vehicle insurance carriers writing insurance in Colorado. However, the report required by §42-7-604 (7), C.R.S., requires data specific to private passenger automobile insurance. This excludes commercial automobile insurance carriers, which amount to almost 300 of the companies reporting to Explore.

### *Conclusion*

Taking into account the pros and cons of the various reports, the following measurements emerge:

1. Uninsured motorist bodily injury claims declined 7.6 percent during the review period.
2. Uninsured motorist property damage claims increased 25.6 percent during the review period.
3. Unspecified uninsured claims decreased 15.9 percent during the review period.
4. Total uninsured motorist claims decreased 2.3 percent during the review period.
5. The percentage of maximum number of vehicles identified by Explore as having insurance has increased from 76.78 percent to 87.49 percent during the review period.

The statute requires a finding of a decline in uninsured motorist claims during the review period in order to continue the program. To that specific end, it appears the data supports continuation. However, the reduction is not significant and it is questionable if the reduction can be attributed to the MIDB.

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## *Should the MIDB be Continued?*

### **MIDB Accomplishments**

The development of Colorado's database has been controversial. Some insurance companies resisted the reporting requirement believing that proprietary information, such as customer lists could be obtained by competitors. There was also a concern that reporting requirements would increase costs to the companies, which would be passed on to consumers. Critics and advocates of the program agree that the first few months the program had operational difficulties. The data was questionable and the results of matching vehicles to insurance policies contained frequent errors. Consumers were confused and angry about receiving mandatory notices in error.

There are approximately 600 insurance companies reporting motor vehicle insurance policy information monthly to Explore, the vendor selected by the DOR to serve as the designated agent. The DOR supplies data on approximately 3.9 million Colorado registered vehicles each month to Explore. Explore then matches insurance policy information to registered vehicles.

As shown in Table 3 on page 12 of this report, April of 1999 was the first month that the notice provision of the program was operational. In that month, DOR reported 3,818,904 registered vehicles that should have had insurance. Insurance companies reported policies covering 2,931,343 vehicles. However, only 2,879,663 policies matched vehicles registered with the DOR. This meant that 938,241, or 24.68%, of the registered vehicles could not be matched with active insurance policies. By June 2000, the number of matched vehicles increased to 3,158,127 (82.8%), and the number of unmatched vehicles decreased to 656,091 (17.2%). In addition, the overall maximum insured rate has increased from 76.8% to 84.5% during the period under review.

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## MIDB Shortcomings

- The MIDB is not able to accurately identify the insurance status of all vehicles. There are several reasons that a vehicle may not match directly with a reported insurance policy.
  - Owners of newly purchased vehicles have 60 days under Colorado law to register their vehicle. However, most insurance policies require first time vehicle owners to report the purchase of a new vehicle to their agent immediately to obtain coverage. When a vehicle is traded in, most policies allow the covered owner 30 days to notify their agent to modify coverage.
  - Not all registered vehicles are operated on public highways and are therefore not required to have insurance. Typical examples of these vehicles are seasonal vehicles such as motorcycles, recreational vehicles, and vehicles kept at vacation homes. Owners of these vehicles frequently maintain insurance only for the part of the year they intend to operate the vehicles, however they maintain the registration on a year round basis.
  - Self-insured and fleet vehicles also present a gap in database information. Owners of 25 or more vehicles may self insure, self-insured owners are not required to report to Explore. Large organizations usually obtain a type of motor vehicle insurance known as fleet insurance. These policies do not generally list individual vehicles by vehicle number, making database tracking difficult.
  - Incorrect Vehicle Identification Numbers (VIN) were reported either to DOR or to the insurance company.
  - Insurance companies of students and military personnel that register their vehicles in Colorado but obtain insurance in another state do not report to Explore.

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- There is an inherent delay in gathering statistical data on loss claims, particularly those involving bodily injury, which is the most significant factor in calculating automobile insurance premiums. A more accurate analysis of the impact of the MIDB would include accident year data collected over a period of several years. Data collected and used by insurance companies for an accident year are updated frequently, taking several years to be finalized. Therefore, realistic accident year data for 1997 is only now becoming available. It will be another two years before realistic data is available for accident year 1999.

### **Does the MIDB Increase Compliance with Colorado's Vehicle Insurance Requirements?**

The intent of the General Assembly in creating the MIDB was to reduce the number of uninsured motorists in Colorado. The program has the potential to identify uninsured motorists, and to provide timely information to law enforcement officials. However, enforcement is reliant upon a motorist being caught while operating an uninsured vehicle. This is not a major change over the system which was in place before the database was created.

While the Act requires notices to be sent to vehicle owners with registrations that fail to match insurance records in the MIDB, there is no real enforcement mechanism. At the end of fiscal year 1999/00, 1,293,000 notices had been sent to vehicle owners requesting verification of insurance information. Approximately 470,000 notices (36%) were never responded to. By law, owners must respond within 45 days of receipt of the notice. According to Explore, only 15% of the responses are received in the required 45 days. The average response time is 75 days.

While the notice contains a warning that failure to respond may result in confiscation of license plates, there is no provision for enforcement. There are penalties for being caught operating a vehicle without proper insurance. However, there are no penalties for failure to respond to the notice by Explore.

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The only time a vehicle owner is penalized for operating a vehicle without insurance is if law enforcement personnel ticket the owner as a result of an accident or routine traffic stop or if the Division finds a vehicle was uninsured following an accident report. The MIDB is not necessary to continue this type of enforcement action.

Therefore, the value of the MIDB can be called to question. Advocates of the program will highlight the fact that the maximum insured rate for vehicles (as illustrated in Table 3 on page 9) has increased from 76.78 percent to 84.49 percent. However, it is doubtful that this increase can be entirely attributed to the MIDB. The only enforcement tool available to the program is a written letter. Real enforcement takes place at two separate levels. First, county clerks check for proof of insurance when vehicles are initially registered. The most effective enforcement mechanism is when a police officer requests proof of insurance during a traffic stop.

Both of these low-tech enforcement tools can take place without the MIDB. It can be argued that the MIDB provides additional support for these low-tech enforcement mechanisms, however, the General Assembly may want to consider whether or not the additional support is worth \$1.5 million dollars each year.

*Recommendation 1 - The General Assembly Should Continue the Motorist Insurance Identification Database.*

Sunset criteria establish that the burden of proof for continuation is on the agency or program under review. While the MIDB has no doubt had some impact on the number of uninsured vehicles, this review is persuaded to recommend sunset based on the inherent weaknesses of the database and by the lack of any meaningful enforcement generated by the database. However, the repeal provision for the MIDB appears to supercede the requirements of a standard sunset review and require only a finding of reduced uninsured motorist claims for continuation.

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One may tend to believe that the MIDB contributes to a reduction in uninsured motorists, but the data to draw that conclusion is not present. It will take several years for trends to be identified and a reasonable analysis of the impact of the MIDB on the uninsured vehicle population in the state.

Should the General Assembly determine to continue the database, the MIDB should be reviewed annually to determine its effectiveness. To a great extent, that review can be accomplished in conjunction with Division's annual report to the to the Legislative Transportation Committees. However, the Joint Legislative Audit Committee may want to schedule the program and vendor for a complete audit in the near future.

*Recommendation 2 - Repeal the Statutory Requirements for Similar Reports from Various Agencies.*

The legislation creating the MIDB was a complex bill involving the insurance and motor vehicle statutes. During the course of the legislative process, there were many amendments to the bill. The multiple reports from different entities on the same subject required by the legislation are redundant and unnecessary. If the General Assembly is going to continue receiving regular reports from the DOR, additional reports by DOI should be discontinued. In addition, since the MIDB is not truly a regulatory program, and since the DOR is providing regular reports, the sunset provision should be repealed.

The statute requires the DOI to contract with a private vendor to report on the frequency of uninsured motorist claims and to compare the number of claims with the number of claims occurring in calendar year 1997. Since this provision was implemented, the DOI has received two reports, one in January of 1998 the other in January of 1999. Both of the reports attempted to estimate the number of uninsured motorists claims and the number and percentage of uninsured motorists in the state.

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The estimated number of uninsured vehicles in the reports is provided as a broad range. The 1999 report estimated the figure to be between 300,000 to just under 1.2 million motor vehicles in the state. At the time the report was published, the Motor Vehicle Division reported 3.8 million registered vehicles. Therefore, according to the DOI report, between 11 percent and 30 percent of the vehicles in the state are uninsured.

To prepare the DOI report, the vendor gathered data from private passenger auto insurance carriers in the state, as required by the statute. However, the statute excluded almost 300 commercial line carriers, thereby compromising the accuracy of the report. Even if commercial line carriers were included, the usefulness of the information is questionable.

The estimated number of uninsured motorists in the DOI report can be compared to the number generated by the MIDB to check for accuracy. However, the broad range of vehicles estimated in the reports provides too large a margin to be useful. If the General Assembly is going to continue to require insurance companies to report data to a vendor to create a database matched with motor vehicle information, the estimates created by the DOI reports are not necessary.

***Recommendation 3 - Continue the Colorado No-Fault Motor Vehicle Insurance Law.***

The repeal provision placed in the Colorado Auto Accident Reparations Act (No Fault Law) contained in §10-4-726, C.R.S., repeals the entire mandatory no fault insurance section effective July 1, 2001. Repealing the No Fault Law would substantially change the motor vehicle financial responsibility landscape. It would open the door to litigation for any damages occurring in a motor vehicle accident. The General Assembly should repeal this section and continue the Auto Accident Reparations Act.



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This repeal provision was placed in the statute as part of HB 97-1209, which created the MIDB. The bill was amended several times and there may have been some provisions in the original draft, which modified sections of the No Fault Law. However, it is not likely the General Assembly intended to repeal Colorado's entire No Fault Law based on the success of the MIDB without a public debate. The repeal provision in the No Fault Law should be removed unless the General Assembly determines, after a full hearing, that the law should be repealed.

*Recommendation 4 - Amend §10-4-615(4)(A), C.R.S., to Allow the Department of Revenue to Fine Insurers for Failure to Comply with all Reporting Requirements in Statute or Regulations.*

The insurance statute authorizes the Division to fine insurance companies \$250 per day for failure to report policy information required by the provisions of §42-7-604, C.R.S. The regulations promulgated to implement the database require insurance companies to verify information provided to Explore by motor vehicle owners within 30 days. Explore reports that these verifications from insurance companies are received in an average of 89 days.

Verifications are an important part of the database process. Until Explore receives verification, the owner of the motor vehicle is classified in the database as unknown. This distorts the accuracy of the database information and potentially places consumers in the position of receiving additional notifications from the Division and the possibility of receiving traffic tickets from law enforcement personnel. While the traffic tickets will be dismissed once evidence is shown at hearings, it is an unnecessary inconvenience to vehicle owners.

The regulations are clear regarding the requirements for insurance carriers to report. However, there is no statutory enforcement mechanism. The General Assembly should provide an enforcement mechanism to the Division in order to enhance the accuracy of the database information and reduce potential inconveniences to the public.

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*Recommendation 5 - Delete the Requirement that the Designated Agent Notify Vehicle Owners that their License Plates are Subject to Seizure.*

The Act, in §42-7-605 (1), C.R.S., requires the Division to direct the designated agent to include in the 45 day notice a warning that the vehicle owner's license plates are subject to seizure. In fact, there is no authorization for any agency to seize plates. Even if the statute were amended to provide for seizing plates, the resources required for implementing this provision would be prohibitive.

If the General Assembly does desire to invalidate license plates, it is more practical to suspend the vehicle registration administratively. This would not be as obvious as seizing plates; however, it would allow law enforcement agencies to impound vehicles found on public roadways.

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## **Appendix A - Sunset Statutory Evaluation Criteria**

- (I) Whether regulation by the agency is necessary to protect the public health, safety and welfare; whether the conditions which led to the initial regulation have changed; and whether other conditions have arisen which would warrant more, less or the same degree of regulation;
- (II) If regulation is necessary, whether the existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest, considering other available regulatory mechanisms and whether agency rules enhance the public interest and are within the scope of legislative intent;
- (III) Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures and practices and any other circumstances, including budgetary, resource and personnel matters;
- (IV) Whether an analysis of agency operations indicates that the agency performs its statutory duties efficiently and effectively;
- (V) Whether the composition of the agency's board or commission adequately represents the public interest and whether the agency encourages public participation in its decisions rather than participation only by the people it regulates;
- (VI) The economic impact of regulation and, if national economic information is not available, whether the agency stimulates or restricts competition;
- (VII) Whether complaint, investigation and disciplinary procedures adequately protect the public and whether final dispositions of complaints are in the public interest or self-serving to the profession;
- (VIII) Whether the scope of practice of the regulated occupation contributes to the optimum utilization of personnel and whether entry requirements encourage affirmative action; and
- (IX) Whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest.

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***Appendix B -  
Sample Notice  
From Explore***



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**Appendix C -  
Motorist Insurance  
Identification  
Database Program  
Statutes**

**10-4-615. Motorist insurance identification database program - reporting required - fine - repeal.** (1) Before the seventh working day of each calendar month, each insurer that issues a policy pursuant to this part 6 or part 7 of this article shall provide to the designated agent selected in accordance with section 42-7-604 (4), C.R.S., a record of each policy issued during the immediately preceding month. Such record shall comply with the requirements of subsections (2) and (3) of this section, except as may otherwise be provided for commercial lines of insurance in rules adopted by the department. This subsection (1) shall not be construed to prohibit more frequent reporting.

(2) The record described in subsection (1) of this section shall include:

(a) The name, date of birth, driver's license number, and address of each named insured owner or operator;

(b) The make, year, and vehicle identification number of each insured motor vehicle; and

(c) The policy number, effective date, and expiration date of each policy.

(3) Each insurer shall provide the required information in a form or manner acceptable to the designated agent.

(4) (a) The department of revenue shall assess a fine of not more than two hundred fifty dollars against an insurer for each day such insurer fails to comply with this section.

(b) The commissioner shall excuse the fine if an insurer provides proof that its failure to comply was inadvertent, accidental, or the result of excusable neglect.

(5) This section is effective thirty days after notification is given by the designated agent, but not later than January 1, 1998.

(6) This section is repealed, effective July 1, 2001, unless the review conducted by the department of regulatory agencies pursuant to section 42-7-608, C.R.S., and reported to the general assembly indicates that the number of uninsured motorist claims reported by insurers declined between July 1, 1997, and the date of the department's review.

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**42-7-601 - Short title.**

(1) This part 6 shall be known and may be cited as the "Motorist Insurance Identification Database Program Act".

(2) Effective July 1, 2001, this part 6 shall be known and may be cited as the "Motorist Identification Database Program Act" unless the review conducted by the department of regulatory agencies pursuant to section 42-7-608 and reported to the general assembly indicates that the number of uninsured motorist claims reported by insurers declined between July 1, 1997, and the date of the department's review.

**42-7-602 - Uninsured motorist identification database program - creation.**

The general assembly hereby directs the transportation legislation review committee to conduct an examination of the problem of uninsured motorists in this state and to propose legislation which shall alleviate if not eliminate the problem. The general assembly further directs the transportation legislation review committee to examine Colorado's compulsory motor vehicle insurance system. Such examination shall include a review of whether such system should be maintained or repealed and whether there are more effective enforcement mechanisms that might be employed. The committee shall also study the effectiveness of other enforcement mechanisms including, but not limited to, uninsured motorist database programs that have been employed in other compulsory insurance states.

**42-7-603 - Definitions.**

As used in this part 6, unless the context otherwise requires:

(1) "Database" means the motorist insurance identification database described in section 42-7-604 (5).

(2) "Department" means the department of revenue.

(3) "Designated agent" means the party with which the division contracts under section 42-7-604.

(4) "Division" means the motor vehicle division in the department of revenue created in section 24-1-117, C.R.S.

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(5) "Program" means the motorist insurance identification database program created in section 42-7-604.

**42-7-604 - Motorist insurance identification database program - creation - administration - selection of designated agent - legislative declaration.**

(1) The general assembly hereby finds, determines, and declares that the purpose of this section is to help reduce the uninsured motorist population in this state and measure the effectiveness of the motorist insurance identification database created herein.

(2) The general assembly further recognizes that the information and data required to be disclosed by insurers in creating and maintaining the motorist insurance identification database is proprietary in nature. Accordingly, the parties handling such information and data shall at all times maintain their confidential and proprietary nature.

(3) The motorist insurance identification database program is hereby created for the purpose of establishing a database to use when verifying compliance with the motor vehicle security requirements in this article and in articles 3 and 4 of this title. The program shall be administered by the division.

(4) (a) Not later than January 1, 1998, the division shall contract with a designated agent, which shall monitor compliance with the financial security requirements of this article; except that the division shall not enter into any contract under this subsection (4) unless at least two entities bid on said contract.

(b) After a contract has been entered into with a designated agent, the department shall convene a working group for the purpose of facilitating the implementation of the program. The working group shall consist of representatives of the insurance industry, the division of insurance, the department of public safety, the division, and the department.

(5) (a) Not later than January 1, 1999, the designated agent, using its own computer network, shall develop and maintain a computer database with information provided by:



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(I) Insurers, pursuant to section 10-4-615, C.R.S.; except that any person who qualifies as self-insured pursuant to section 10-4-716, C.R.S., shall not be required to provide information to the designated agent; and

(II) The division, which shall provide the designated agent with the name, date of birth, address, and driver's license number of all persons in its computer database, and the make, year, and vehicle identification number of all registered vehicles.

(b) The division shall establish guidelines for the development and maintenance of a database so that said database can easily be accessed by state and local law enforcement agencies. Such access shall be within procedures already established and shall not require additional computer keystrokes by dispatch or law enforcement personnel or any other additional procedures.

(6) Not later than January 1, 1999, the designated agent shall, at least monthly:

(a) Update the database with information provided by insurers in accordance with section 10-4-615, C.R.S.;

(b) Compare then-current motor vehicle registrations against the database.

(6.5) All insurers actively writing automobile insurance will report their policyholder and uninsured motorist claim numbers to the commissioner in a manner prescribed by the commissioner, starting with data for the twelve-month period immediately preceding July 1, 1997.

(7) The division of insurance in the department of regulatory agencies shall contract with a company that gathers statistical information concerning personal lines of property and casualty insurance. Said company shall be paid from the motorist insurance identification account within the highway users tax fund, and shall report the frequency of uninsured motorist claims to the division of insurance on a regular basis. Such report shall include a comparison of the number of uninsured motorist claims with the average number of such claims reported for the twelve-month period immediately preceding July 1, 1997. The division shall transmit such information to the general assembly no later than January 1, 1999, and each January 1 thereafter.

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(8) The department, in cooperation with the division, shall promulgate rules and develop procedures for administering and enforcing this part 6. Such rules shall specify the reporting requirements that are necessary and appropriate for commercial lines of insurance and shall be developed with input by insurers and the designated agent.

**42-7-605 - Notice of lack of financial responsibility.**

(1) If the comparison made pursuant to section 42-7-604 (6) (b) shows that a motor vehicle has not been insured for three consecutive months, the division shall direct the designated agent to notify the owner of the motor vehicle that said owner has forty-five days to provide the designated agent with one of the following, or said owner's license plates will be subject to immediate seizure after the expiration of said forty-five day period:

(a) Proof of complying coverage in accordance with section 10-4-705, C.R.S., or of self-insurance in accordance with section 10-4-716, C.R.S.; or

(b) Proof of exemption from the financial security requirements.

(2) Any person who steals a license plate shall be in violation of section 42-5-104 (2) (a).

(3) A letter from an insurer or agent verifying that the person had the required motor vehicle insurance coverage on the date specified shall be considered proof of financial responsibility for purposes of this section. Such letter may be mailed to the division.

(4) The provisions of this section shall take effect not later than January 1, 1999.

**42-7-606 - Disclosure of insurance information - penalty.**

(1) Information provided to the designated agent by insurers and the division for inclusion in the database established pursuant to section 42-7-604 is the property of the insurer or the division, as the case may be, and may not be disclosed except as follows:

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(a) The designated agent shall verify a person's insurance coverage upon request by any state or local government agency investigating, litigating, or enforcing such person's compliance with the financial security requirements.

(b) The division shall disclose whether an individual has the required insurance coverage upon request by the following individuals and agencies only:

(I) The individual;

(II) The parent or legal guardian of the individual if the individual is an unemancipated minor;

(III) The legal guardian of the individual if the individual is legally incapacitated;

(IV) Any person who has power of attorney from the individual;

(V) Any person who submits a notarized release from the individual that is dated no more than ninety days before the date the request is made;

(VI) Any person suffering loss or injury in a motor vehicle accident in which the individual is involved, but only as part of an accident report authorized in part 16 of article 4 of this title; or

(VII) The office of the state auditor, for the purpose of conducting any audit authorized by law.

(2) Any person or agency who knowingly discloses information from the database for a purpose or to a person other than those authorized in this section commits a class 1 misdemeanor and shall be punished as provided in section 18-1-106, C.R.S.

(3) The state shall not be liable to any person for gathering, managing, or using information in the database pursuant to this part 6.

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(4) The designated agent shall not be liable to any person for performing its duties under this part 6, unless and to the extent said agent commits a willful and wanton act or omission. The designated agent shall be liable to any insurer damaged by the designated agent's negligent failure to protect the confidential and proprietary nature of the information and data disclosed by the insurer to the designated agent.

(5) The designated agent shall provide to this state an errors and omissions insurance policy covering said designated agent in an appropriate amount.

(6) No insurer shall be liable to any person for performing its duties under this part 6, unless and to the extent the insurer commits a willful and wanton act or omission.

**42-7-607 - Part 6 not to supersede other provisions.**

This part 6 shall not supersede other actions or penalties that may be taken or imposed for violation of the financial security requirements of this article.

**42-7-608 - Review by department of regulatory agencies - repeal.**

(1) The department of regulatory agencies shall review the operation and performance of the motorist insurance identification database program pursuant to section 24-34-104, C.R.S., to determine whether the number of uninsured motorist claims reported by insurers had declined between July 1, 1997, and the date of the review and shall submit a report of its findings to the general assembly no later than October 15, 1999. The department of regulatory agencies shall make copies of its report available to each member of the general assembly.

(2) This section is repealed, effective July 1, 2001.

**42-7-609 - Repeal of sections.**

Sections 42-7-603 to 42-7-609 are repealed, effective July 1, 2001, unless the review conducted by the department of regulatory agencies pursuant to section 42-7-608 and reported to the general assembly indicates that the number of uninsured motorist claims reported by insurers declined between July 1, 1997, and the date of the department's review.