

MEMORANDUM IN SUPPORT

Date: 3/21/2023
Bill Number: A.3172-A (Zebrowski)/S.5889 (Breslin)
Subject: Pre-insurance photo inspections
Contact: Scott Hobson, Assistant Vice President, Government Relations
SHobson@BigINY.org
518-708-3247

Big I NY is New York's leading association representing independent insurance agents and brokers, representing over 1,700 agencies and their 12,000 employees. We believe independent insurance agents serve customers best with trusted advice and the right coverage options to protect what matters most.

Summary:

This legislation would reduce unnecessary burdens on auto insurance policyholders by creating a four-year period during which insurance carriers will be permitted to waive the vehicle photo inspection typically required under Insurance Regulation 79 to obtain comprehensive or collision coverage. While once a valuable fraud protection tool, these photo inspections have outlived their usefulness, having been surpassed by an array of vastly more effective and less burdensome tools. In 2022, the Senate and Assembly passed the Auto Insurance Consumer Relief Act (AICRA) (S.6028/A.6877), which is substantially the same as this proposal, except that it did not include a sunset clause.

Why We Support this Legislation:

- The photo requirement is inconvenient for policyholders who must bring their vehicle to an inspection location for the photos, which are increasingly few and far between.
- It is also an additional burden and business expense on the agent or broker who must take the photo. If a third party is used, there is an additional cost to the insurer associated with the report.
- A driver can inadvertently lose physical damage coverage if the inspection is not completed within 14 days. Big I NY has heard from numerous member agents who have had customers suffer an uncovered loss due to an accident that occurred after coverage was canceled. According to estimates by the New York Insurance Association, which represents property and casualty insurance companies, the number of policyholders who have coverage suspended due to not completing a photo inspection is in the tens of thousands annually. This represents a serious impact on policyholders and the public at large.
- Photo inspections are no longer a cost-effective tool for preventing fraud and represent a burden without benefit to New York's drivers and the public at large.

Making Auto Photo Inspections Voluntary Would Not Result In Increased Insurance Fraud:

The photo inspection requirement was first made mandatory in the late 1970s, as a tool to combat insurance fraud schemes involving claims against non-existent vehicles (“phantom vehicle” fraud). At that time, Big I NY supported the photo inspection program due to our strong interest in preventing insurance fraud.

It is important to bear in mind that “phantom vehicle” fraud is virtually non-existent now – both in NY and in the 49 states which do not require pre-insurance photo inspections. Furthermore, this type of fraud is specifically perpetrated against insurance companies, as opposed to other insurance fraud schemes in which customers are personally harmed, either physically or financially. Thus, it is insurance carriers that have the greatest incentive to use every tool available to them to protect themselves – and they universally support making such inspections optional.

The rationale is simple. Fraud detection and prevention techniques and technology have advanced dramatically since then, and the photo inspection requirement provides little if any practical value to insurance companies and fraud investigators.

- Today, federal law requires all states to follow uniform salvage procedures for motor vehicles, and insurers are required to report total losses to the DMV.
- Furthermore, insurers are required to report claims to a central registry.
- Notably, John Reiersen, the former Chief Examiner of the Property and Casualty Insurance Bureau and “father” of the photo inspection law, has opined that the law is no longer effective and should be made optional.
- The National Insurance Crime Bureau recently stated that only six stolen vehicles were recovered in 2021 from the CARCO (photo inspection) program.
- Perhaps the most compelling argument that this bill will not increase insurance fraud is that it enjoys the support of all the state’s property and casualty insurance trades (New York Insurance Association, American Property and Casualty Association, and the National Association of Mutual Insurance Companies). Insurance companies have the greatest financial interest in preventing insurance fraud, and they strongly support this bill.
- The bill preserves insurance carriers’ ability to utilize photo inspections if they so choose, therefore providing a safeguard, should fraud begin to rise.

This Proposal Will Help Small Businesses

Making photo inspections optional would help many small businesses. Businesses that operate small fleets (less than 5) of used vehicles – for example landscapers, contractors, and many

other small firms, are inconvenienced by having to perform photo inspections any time they seek to change insurance carriers.

Accordingly, the bill enjoys the support of virtually all the state's small business associations, including the National Federation of Independent Business, Business Council of NYS, Associated General Contractors, the Farm Bureau, and numerous chambers of commerce.

The financial impact of this bill would be insignificant on auto repair shops and other businesses that conduct photo inspections. When asked about the impact of this bill in 2022, Edward Kizenberger, executive director of the Long Island Auto Body Repairmen's Association and the New York State Auto Collision Technician Association (LIABRA/NYSACT), told *Repairer Driven News*, an industry trade publication, that the bill would have little impact on the collision repair industry:

*"Other than bringing potential new customers into a facility that may do Carco or photo inspections for verifying existing damage for insurance companies, the proposed change really does not affect us."*¹

Facilities that perform photo inspections are paid a minimal fee for the service. For years, the number of inspection sites has declined steadily, strong evidence that performing inspections is not profitable.

A Broad Constituency Supports the AICRA:

The following groups have publicly stated their support for the Auto Insurance Consumer Relief Act:

Associated Builders and Contractors of New York State
Associated General Contractors of New York State
Big I Central New York
Big I Monroe County
Big I New York
Big I Tri-County
Big I Westchester
Big I Western New York
Capital Region Chamber of Commerce
Council of Insurance Brokers of Greater New York
Empire State Forest Products Association
Greater Binghamton Chamber of Commerce

¹ <https://www.repairerdrivennews.com/2022/05/13/new-york-considers-eliminating-requirement-for-pre-insurance-vehicle-inspections/>

Long Island African American Chamber of Commerce
National Association of Mutual Insurance Companies
National Federation of Independent Business/NY
New York Farm Bureau
New York Insurance Association
Northeastern Retail Lumber Association
Professional Insurance Agents of New York
Queens Chamber of Commerce
The Business Council of New York
The Business Council of Westchester

Support for the AICRA is Bipartisan and Geographically Diverse:

AICRA is one of vanishingly few proposals that enjoys strong support from lawmakers of all political ideologies and regions in the state. The 2022 bill's cosponsors included Democrats and Republicans, Conservatives and Progressives, and Libertarians and Independents. Many cosponsors publicly stated their support for the bill. It also enjoyed the support of lawmakers in key leadership roles such as:

- Senator Neil Breslin, Insurance Committee Chair
- Senate Minority Leader Robert Ort
- Senator Kevin Thomas, Consumer Protection Committee Chair

Assembly Co-Sponsors:

Donna Lupardo
Fred Thiele
Jake Ashby
Sandy Galef

John T. McDonald III
Nader Sayegh
Jo Anne Simon
Monica P. Wallace

Marjorie Byrnes
Mark Walczyk

Senate Co-Sponsors:

Joseph P. Addabbo Jr
George M. Borrello
John E. Brooks
Jeremy A. Cooney
Patrick M. Gallivan
Pete Harckham
Pamela Helming

Daphne Jordan
Anna M. Kaplan
John W. Mannion
Mike Martucci
Rachel May
Thomas F. O'Mara
Robert G. Ort

Elijah Reichlin-Melnick
Patty Ritchie
Sean M. Ryan
James Skoufis
Kevin Thomas