

Claims fraud rule on NY's court docket

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ALBANY — Auto insurance fraud will be among the topics before New York's highest court in a September session that begins this week.

Near the top of the list of cases the judges will hear is a familiar one in both the insurance and legal communities. It's also a cases in which the lines of authority between the executive and legislative branches of government are at issue.

The state Insurance Department issued regulations in 2001 that it said were vital to fighting what it called "pervasive" fraud in the no-fault insurance industry in New York. The rules reduce the time someone has to report an accident to an insurance company from 90 days to 30 days and reduce the time for submitting injury claims from 180 days to 45 days.

Both shorter timetables reduce the chances that people can concoct and pull off auto insurance scams, state and insurance industry officials contend.

But a coalition of groups, including the state Trial Lawyers Association, the state Medical Society and the New York Public Interest Research Group (NYPIRG), have challenged the regulations. They argue that the "draconian" regulations will cause thousands of motorists entitled to benefits to miss filing deadlines while having a "doubtful" impact on fraud.

The groups are also arguing that the rule, known formally as Revised Regulation 68, is too broad and needs legislative authorization first. They contend that the state Legislature considered adopting shorter claim filing deadlines in 1997 but did not, reflecting lawmakers' opposition to what became Revised Regulation 68.

Insurance Superintendent Gregory Serio has estimated the cost of auto insurance fraud at \$1 billion a year in New York, a cost passed through by companies to their New York consumers. The state has the second-highest average auto insurance rates in the country at just over \$1,000 per car, according to the National Association of Insurance Commissioners.

In August, prosecutors announced filing nearly 600 indictments in connection with a Brooklyn-based fraud ring that authorities suspect of bilking companies of tens of millions of dollars in claims on staged accidents.

But NYPIRG's Russ Haven said the regulation is not the answer to auto insurance fraud.

"We think the state Insurance Department overstepped its authority and essentially engaged in legislatively rewriting the no-fault law," Haven said. "The time frames that they put in their regulations are so short that people with legitimate claims, and health care providers and hospitals with legitimate bills, will be left in the lurch."

The Court of Appeals is expected to hand down written rulings in the cases it hears this month in the fall.

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