

# Trial lawyers say Mass. commissioner has too much power to change policies

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BOSTON — Drivers would be given a chance to scrutinize changes in their auto insurance policies before they take effect, under legislation backed by a bipartisan group of state lawmakers.

Current law allows the state insurance commissioner - a gubernatorial appointee - to change auto insurance policies without public scrutiny. Critics say the arrangement is unfair and virtually without equal in administrative law.

"In this day and age, to have insurance changes never be publicized until after they go into effect is a little out of date," said Lloyd Rosenberg, chairman of the auto insurance committee of the Massachusetts Academy of Trial Attorneys.

"I don't think there is any other area of Massachusetts administrative law where there is so much secrecy as there is in auto insurance, which affects so many people."

Even arcane changes in insurance policies can hurt average drivers, Rosenberg said. In one 1984 case, a judge ruled that the spouse of an injured driver could not collect damages for the driver's loss of sexual functioning. The judge cited a change by the state insurance commissioner in "per person accident limits" in deciding that the spouse did not qualify as an additional insured person.

"There's never any open hearing to determine whether these changes are good or bad for the consumer," Rosenberg said. "Essentially what happens is, behind closed doors, representatives of the insurance industry put together changes in the policies, which are approved or disapproved by the commissioner."

The auto insurance industry disagrees. James Harrington, executive director of the Massachusetts Insurance Federation, said the current insurance commissioner, Julianne Bowler, appointed by former Acting Gov. Jane Swift in March 2002, and previous commissioners have been "extremely open" to dissenting viewpoints before changing insurance policies.

In addition to the insurance commissioner's powers to change insurance policies, the attorney general is also empowered to act as a "second regulator," Harrington said.

"How much regulation do we need in the business of insurance?" he asked.

The legislation, if it becomes law, would require the insurance commissioner to hold a public hearing before making any changes in auto liability policies. The measure would also set up an advisory panel of insurance industry representatives, insurance agents, consumer groups, defense lawyers and prosecutors to review proposed changes.

The bill, now before the Legislature's Insurance Committee, is backed by Reps. John Quinn (D-Dartmouth) and Robert Koczera (D-New Bedford) and Sen. Bruce Tarr (R-Gloucester). □

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