

**SENATE BILL REPORT**

**SB 6466**

**AS REPORTED BY COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE,  
FEBRUARY 7, 1992**

**Brief Description:** Establishing penalties for breaking food product delivery guarantees.

**SPONSORS:** Senators von Reichbauer, Owen, Erwin, West and Pelz

**SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE**

**Majority Report:** That Substitute Senate Bill No. 6466 be substituted therefor, and the substitute bill do pass.

Signed by Senators von Reichbauer, Chairman; Erwin, Vice Chairman; Owen, Pelz, Rasmussen, Sellar, Vognild, and West.

**Staff:** Tom Fender (786-7414)

**Hearing Dates:** February 4, 1992; February 7, 1992

**BACKGROUND:**

As a consequence of a rapidly expanding retail fast food sales environment and a concurrent increase in competition, there has developed a practice of requiring entry level employees to use their personal vehicles for the delivery of these products to customer's homes. This practice is concentrated primarily in retail pizza sales but also extends into other restaurant areas as well.

Universally individual automobile insurance policies specifically exclude delivery services and most exclude any type of business use of a vehicle without either an endorsement allowing such operation and/or an increased premium to offset the greater risk borne by the carrier by this type of use. Further, there is an apparent reluctance or refusal on the part of some employers to either provide business "umbrella" coverage or reimburse the employee for the additional expense of proper insurance coverage.

In December, this committee focused on this issue with the principal subject being the question of delivery times and the traffic safety consequences of asking employees to accommodate unrealistic advertised policies regarding delivery time. That hearing revealed accidents wherein the operator's insurance company rightfully denied coverage to the claimant based upon the delivery use of the vehicle.

This hearing also raised the issue that the employee may not be aware of the potential problem until an accident has in fact occurred. The insurance industry's response is similar in that they do not become aware of this problem until after

an accident has occurred and they have chosen to deny coverage to their insured.

While there is little doubt that a persistent well-represented third party claimant will be compensated for their loss, there is a real question as to the consequences that the employee will suffer as a result of having an uninsured accident. In most cases, these individuals not only will lose their jobs, but may face large personal judgments, and lose their ability to purchase insurance at standard rates.

Finally, the staff, in consultation with franchisees of certain national food distribution companies, has learned that these independent businesses do not support the concept of a time guarantee. They indicate such a guarantee creates a poor public perception regarding traffic safety and also inures against the quality of their food product in a market that is becoming increasingly selective.

**SUMMARY:**

Food service companies providing a warranty of delivery times for food products are subject to increased civil penalties. Insurance or surety is required to be engaged in such activity. The Attorney General is allowed to proceed in actions and impose a civil penalty for injury or damage. Attorney's fees and costs to prevailing parties is provided.

**EFFECT OF PROPOSED SUBSTITUTE:**

The application of warranty provisions is limited to cooked food for retail delivery. Non-owned auto insurance coverage is required for all business delivery of prepared food by an employee using own vehicle.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** none requested

**TESTIMONY FOR:**

Public protection is required against higher risk driving experience. Business should insure their drivers.

**TESTIMONY AGAINST:**

Wholesale food and retail grocery products should be exempt from application of warranty provisions.

**TESTIFIED:** Ian MacGowan, West Coast Grocery; Jan Gee, Washington Retail Association; Rob Carlile