

2020 IIABL Legislative Report

2020 Regular Legislative Session

The 2020 Regular Session of the Louisiana Legislature was one for the history books! Shortly after opening, the Session was suspended as a result of the Covid-19 pandemic. When the legislature reconvened, the focus was on how to deal with Covid liability, economic, and state budget issues.

Demand for auto/tort reform was at a fever pitch when the session started. Covid diminished the momentum and confused the strategies for passing legislation and dealing with a likely veto by Governor Edwards.

The legislative process was severely diminished because of Covid safety measures like wearing masks and social distancing, which resulted in legislators barring lobbyists from lobbying in the House and Senate chambers. It is really hard to talk to a legislator from the balcony!

As usual, there were a significant number of bills which could have caused significant problems for independent agents and the insurance industry. Thankfully, we were able to favorably amend or kill virtually all of those bills. Following are some of the more important of those bills:

Bad Bills Which Were Amended or Killed

SB 477

Ward, Rick(R)

Provides relative to business interruption insurance. SB 477 would have required property insurers to pay business income claims for the Covid-19 pandemic. Thankfully, legislators understood the catastrophic impact that would have, and the bill failed in the House Insurance Committee.

Bill History: 05-27-20 H Vote failed in committee - House Insurance

HB 614 Seabaugh, Alan(R)
Talbot, Kirk (F)(R)

Provides relative to data security for persons regulated by the commissioner of insurance. HB 614 was introduced by the Louisiana Department of Insurance. The bill is the National Association of Insurance Commissioners Data Security Act. The original bill would have created extremely difficult problems for independent agents. IIABL worked extensively with Commissioner Donelon and his staff to amend the bill to exempt most agencies from the most onerous provisions of the bill. IIABL would like to thank Commissioner Donelon for working with IIABL on this legislation. IIABL will produce a Technical Advisory on HB 614 in the near future to provide more information.

Bill History: 08-01-20 G Effective

SB 13 Luneau, Jay(D)

Prohibits insurance rate determinations based on risks classified by the gender of an insured over the age of twenty-five. SB 13 was one of several "insurance reform" bills that Senator Luneau introduced to distract from tort reform efforts. Gender is recognized as a legitimate rating factor, and the Senate Insurance Committee killed the bill.

Bill History: 05-06-20 S Voted to Involuntarily Defer in Committee Senate Insurance

SB 14 Luneau, Jay(D)

Prohibits insurance rate determinations based on risks classified by the insured's credit score/rating.

SB 14 would have prohibited the use of insurance/credit scoring as a rating factor. The Senate Insurance Committee understood that it is used as a legitimate rating tool in almost every state and killed the bill.

Bill History: 05-06-20 S Voted to Involuntarily Defer in Committee Senate Insurance

SB 15 Luneau, Jay(D)

Prohibits insurance rate determinations based on risks classified due to the fact that the insured is a widow or widower.

SB 15 would have prohibited using the status of widow or widower as a rating factor. Insurers do not use those factors, but the death of a spouse can lead to increased premiums because of the loss of multi-car discounts or being single instead of married. The Senate Insurance Committee killed SB 15.

Bill History: 05-06-20 S Voted to Involuntarily Defer in Committee Senate Insurance

SB 16 Luneau, Jay(D)
 Brown, Chad(D)

Prohibits insurance rate determinations based on risk classifications due to the fact that the insured is deployed in the military in excess of six months.

SB 16 now Act 49, becomes effective 08-01-20, and prohibits increasing the cost of insurance on active duty military members for a lapse in coverage due to deployment. We want to thank Senator Luneau for working with us to amend the bill.

Bill History: 08-01-20 G Effective

The potential liabilities related to the Covid pandemic are potentially catastrophic. The legislature passed several bills to limit liability related to Covid, including the following:

Covid19 Bills

[HB 826](#) [Pressly, Thomas \(F\)\(R\)](#) [Peacock, Barrow\(R\)](#) Provides relative to the limitations of liability due to the COVID-19 public health emergency.
HB 826, now Act 336, effective 06/13/2020, protects persons, businesses, and other organizations from liability arising out of actual or alleged exposure to Covid-19 unless they failed to substantially comply with government Covid safety procedures.

Bill History: 06-13-20 G Effective

[SB 491](#) [Hewitt, Sharon\(R\)](#) [Miller, Gregory\(R\)](#) Limits liability of persons who provide relief or recovery equipment or services during a declared state emergency.
SB 491 provides liability protection to persons or businesses that provide products or services used during a declared state of emergency.

Bill History: 06-12-20 G Effective

[SB 508](#) [McMath, Patrick \(F\)\(R\)](#) [Edmonds, Rick\(R\)](#) Limits liability for restaurants that provide food-to-go during a state declared emergency.
SB 508, now Act 305, effective 06/12/2020, protects restaurants, their owners, employees, etc. from liability related to Covid-19 except for gross negligence or willful or wanton misconduct.

Bill History: 06-12-20 G Effective

The biggest issue of the session was tort reform aimed at improving personal and commercial automobile insurance markets and reducing Louisiana's high premiums. Following are some of the more important auto/tort reform bills of the regular session:

Auto/Tort Related Bills

SB 418 **Talbot, Kirk (F)(R)**
Garofalo, Raymond(R) Enacts the Omnibus Premium Reduction Act of 2020. SB 418 was THE BILL of the 2020 Regular Session. This was the culmination of almost 3 years of work by IIABL, LABI and a host of other business organizations. Unfortunately, negotiations in the last few hours of the session resulted in some deeply flawed last minute amendments. Doesn't matter...Governor Edwards vetoed the bill. IIABL would like to thank...and give a shout out...to Senator Kirk Talbot, who has been a champion on this issue for two years.

Bill History: 06-12-20 G Vetoed - Senate Bill 418 is neither a compromise nor is it a mandate to decrease rates. Further, the rate reduction in this bill is permissive, rather than mandatory.

HB 9 **Garofalo, Raymond(R)** Enacts the Omnibus Premium Reduction Act of 2020. HB 9 was a companion bill to Talbot's SB 418. Legislative leadership decided strategically to focus all their efforts on the Talbot bill and let HB 9 on the calendar. Rep. Ray Garafalo has worked tirelessly to reform our tort system. Shout out to him as well!

Bill History: 05-20-20 H Returned to the calendar - subject to call

SB 50 McMath, Patrick (F)(R)
 Huval, Mike(R)

Prohibits use of a handheld wireless telecommunications device by a person when operating a motor vehicle upon any public roadway in this state. SB 50 would have required hands free use of cellphones. Cellphone distracted driving is a major cause of automobile accidents. Rep. Mike Huval has tried for the past 3-4 years to pass a distracted driving bill. This year Huval had his own bill but also joined Senator McMath to try to pass such a bill, but the House rejected both bills.

Bill History: 05-27-20 H Failed to pass (Vote: Y: 40/N: 59)

Following are some other important insurance related bills on various subjects:

Other Important Insurance Bills

SB 65 Talbot, Kirk (F)(R)
 Brown, Chad(D)

Creates an exemption for members of the armed services to avoid a penalty for lapse of automobile coverage.

Bill History: 08-01-20 G Effective

SB 156 Luneau, Jay(D)
 Larvadain, Ed (F)(D)

Prohibits insurance contracts from depriving courts of this state of the jurisdiction or venue of action against insurer.

Bill History: 08-01-20 G Effective

SB 345 Johns, Ronnie(R)
 Stefanski, John(R)

Provides relative to noncompete agreements.

Bill History: 08-01-20 G Effective

SB 395 Cloud, Heather (F)(R) Provides relative to false, misleading, or deceptive advertising by lawyers.
Johnson, Mike (F)(R)

Bill History: 06-12-20 G Vetoes - Since SB 115 by Senator Pat Connick is now signed, the enactment of Senate Bill 395 would lead to confusion and duplication.

2020 Regular Session of the Louisiana Legislature **Bills That Will Become Law or Were Vetoes**

[HB 614](#) [Seabaugh, Alan\(R\)](#) Provides relative to data security for persons regulated by the commissioner of insurance.
[Talbot, Kirk \(F\)\(R\)](#)

Last Action: 8- 1-20 G Effective (Act: 283)

[HB 826](#) [Pressly, Thomas \(F\)\(R\)](#) Provides relative to the limitations of liability due to the COVID-19 public health emergency.
[Peacock, Barrow\(R\)](#)

Last Action: 6-13-20 G Effective (Act: 336)

[SB 16](#) [Luneau, Jay\(D\)](#) Prohibits insurance rate determinations based on risk classifications due to the fact that the insured is deployed in the military in excess of six months.
[Brown, Chad\(D\)](#)

Last Action: 8- 1-20 G Effective (Act: 49)

[SB 65](#) [Talbot, Kirk \(F\)\(R\)](#) Creates an exemption for members of the armed services to avoid a penalty for lapse of automobile coverage.
[Brown, Chad\(D\)](#)

Last Action: 8- 1-20 G Effective (Act: 52)

[SB 156](#) [Luneau, Jay\(D\)](#) Prohibits insurance contracts from depriving courts of this state of the jurisdiction or venue of action against insurer.
[Larvadain, Ed \(F\)\(D\)](#)

Last Action: 8- 1-20 G Effective (Act: 307)

[SB 345](#) [Johns, Ronnie\(R\)](#) Provides relative to noncompete agreements.
[Stefanski, John\(R\)](#)

Last Action: 8- 1-20 G Effective (Act: 121)

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| <input type="checkbox"/> SB 395 | Cloud, Heather (F)(R)
Johnson, Mike (F)(R) | Provides relative to false, misleading, or deceptive advertising. |
| Last Action: | | 6-12-20 G Vetoed - Since SB 115 by Senator Pat Connick is now signed, the enactment of Senate Bill 395 would lead to confusion and duplication. |
| <input type="checkbox"/> SB 418 | Talbot, Kirk (F)(R)
Garofalo, Raymond(R) | Enacts the Omnibus Premium Reduction Act of 2020. |
| Last Action: | | 6-12-20 G Vetoed - Senate Bill 418 is neither a compromise nor is it a mandate to decrease rates. Further, the rate reduction in this bill is permissive, rather than mandatory. |
| <input type="checkbox"/> SB 508 | McMath, Patrick (F)(R)
Edmonds, Rick(R) | Limits liability for restaurants that provide food-to-go during a state declared emergency. |
| Last Action: | | 6-12-20 G Effective (Act: 305) |
| <input type="checkbox"/> HB 98 | Magee, Tanner(R)
Luneau, Jay(D) | Provides relative to the signing of civil pleadings. |
| Last Action: | | 8- 1-20 G Effective (Act: 13) |
| <input type="checkbox"/> HB 131 | Firment, Gabe (F)(R)
Bernard, Louie (F)(R) | Provides relative to covered claims of the Louisiana Insurance Guaranty Association. |
| Last Action: | | 7- 1-20 G Effective (Act: 287) |
| <input type="checkbox"/> HB 152 | Brown, Chad(D)
Mills, Fred(R) | Provides for insurance coverage for acupuncture. |
| Last Action: | | 1- 1-21 G Effective (Act: 250) |
| <input type="checkbox"/> HB 247 | Green, Jr., Kyle (F)(D)
Talbot, Kirk (F)(R) | Provides relative to credit for reinsurance. |
| Last Action: | | 8- 1-20 G Effective (Act: 179) |
| <input type="checkbox"/> HB 296 | Illg, Jr., John "Big" (F)(R)
Smith, Gary(D) | Provides for cancellation of a policy by the insured party. |
| Last Action: | | 1- 1-21 G Effective (Act: 185) |
| <input type="checkbox"/> HB 313 | Pressly, Thomas (F)(R)
Peacock, Barrow(R) | Provides for the recognition of separate legal personalities among affiliated corporations and other business entities. |
| Last Action: | | 6-12-20 G Vetoed - Because it could hurt small businesses. |

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| <input type="checkbox"/> | HB 597 Nelson, Richard (F)(R)
Peacock, Barrow(R) | Provides for evidence in personal injury claims.

Last Action: 6-12-20 G Vetoed - The jurisprudential rule this bill overturns has stood the test of time and need not be changed. |
| <input type="checkbox"/> | HB 805 Pressly, Thomas (F)(R)
Peacock, Barrow(R) | Provides for the suspension of prescription.

Last Action: 6- 9-20 G Effective (Act: 162) |
| <input type="checkbox"/> | HB 808 Magee, Tanner(R)
Talbot, Kirk (F)(R) | Provides for premium discounts on motor vehicle insurance when an insured consents to have data provided to third parties.

Last Action: 8- 1-20 G Effective (Act: 95) |
| <input type="checkbox"/> | SB 115 Connick, Patrick (F)(R)
Stefanski, John(R) | Provides relative to advertisements for legal services.

Last Action: 1- 1-21 G Effective (Act: 231) |
| <input type="checkbox"/> | SB 373 Cloud, Heather (F)(R)
Butler, Rhonda (F)(R) | Revises time period in which insurer must provide an insured loss claims history upon request.

Last Action: 8- 1-20 G Effective (Act: 351) |
| <input type="checkbox"/> | SB 426 Barrow, Regina(D)
Jordan, Edmond(D) | Requires health insurance coverage for COVID-19 (Coronavirus) diagnostic testing.

Last Action: 6-11-20 G Effective (Act: 230) |
| <input type="checkbox"/> | SB 435 Abraham, Mark (F)(R)
Edmonds, Rick(R) | Provides relative to certain immunity from civil liability during state of emergencies.

Last Action: 6-12-20 G Effective (Act: 362) |
| <input type="checkbox"/> | SB 491 Hewitt, Sharon(R)
Miller, Gregory(R) | Limits liability of persons who provide relief or recovery equipment or services during a declared state emergency.

Last Action: 6-12-20 G Effective (Act: 303) |
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<input type="checkbox"/>	HB 109	Marino, Joseph(I) Connick, Patrick (F)(R)	Prohibits vaping in motor vehicles under certain circumstances.
		Last Action:	8- 1-20 G Effective (Act: 65)
<input type="checkbox"/>	HB 185	Willard, Matthew (F)(D) Bouie, Joseph (F)(D)	Requires licensure for insurance producers acting on behalf of fraternal benefit societies.
		Last Action:	7- 1-20 G Effective (Act: 134)
<input type="checkbox"/>	HB 189	Carter, Wilford (F)(D) Johns, Ronnie(R)	Provides relative to the time for filing pretrial motions.
		Last Action:	8- 1-20 G Effective (Act: 252)
<input type="checkbox"/>	HB 209	Huval, Mike(R) Peacock, Barrow(R)	Authorizes a health insurance issuer to provide policy information electronically.
		Last Action:	8- 1-20 G Effective (Act: 176)
<input type="checkbox"/>	HB 263	Huval, Mike(R) Mills, Fred(R)	Provides for insurance coverage of step therapy or fail first protocols.
		Last Action:	6-11-20 G Effective (Act: 181)
<input type="checkbox"/>	HB 284	Davis, Paula(R) Johns, Ronnie(R)	Provides relative to financial institutions.
		Last Action:	8- 1-20 G Effective (Act: 183)
<input type="checkbox"/>	HB 311	Huval, Mike(R) Hensgens, Bob (F)(R)	Provides relative to denial of coverage by dental plans.
		Last Action:	8- 1-20 G Effective (Act: 256)
<input type="checkbox"/>	HB 343	Jordan, Edmond(D) Fields, Cleo (F)(D)	Provides relative to the Bail Bond Apprentice Program.
		Last Action:	8- 1-20 G Effective (Act: 139)
<input type="checkbox"/>	HB 353	Brown, Chad(D) Hensgens, Bob (F)(R)	Provides relative to claims for dental services made by healthcare providers.
		Last Action:	8- 1-20 G Effective (Act: 187)
<input type="checkbox"/>	HB 421	Brown, Chad(D) Barrow, Regina(D)	Provides relative to bail bond enforcement.
		Last Action:	8- 1-20 G Effective (Act: 267)
<input type="checkbox"/>	HB 530	Echols, Michael (F)(R) Talbot, Kirk (F)(R)	Provides for coverage of healthcare services provided through telehealth or telemedicine.
		Last Action:	1- 1-21 G Effective (Act: 276)
<input type="checkbox"/>	HB 532	Jordan, Edmond(D) Cathey, Jr., Stewart (F)(R)	Provides relative to Peer-to-Peer Car Sharing.
		Last Action:	8- 1-20 G Effective (Act: 277)

<input type="checkbox"/>	HB 722	Miller, Gregory(R) Smith, Gary(D)	Provides for the enforcement of electronic signatures by financial institutions.
		Last Action:	8- 1-20 G Effective (Act: 109)
<input type="checkbox"/>	SB 71	Smith, Gary(D) Green, Jr., Kyle (F)(D)	Provides for the Louisiana Automotive Insurance Plan.
		Last Action:	1- 1-21 G Effective (Act: 53)
<input type="checkbox"/>	SB 72	Smith, Gary(D) Green, Jr., Kyle (F)(D)	Provides for certain fees collected by the commissioner of insurance from property and casualty insurers.
		Last Action:	7- 1-20 G Effective (Act: 55)
<input type="checkbox"/>	SB 174	Bernard, Louie (F)(R) Firment, Gabe (F)(R)	Provides relative to health insurance.
		Last Action:	8- 1-20 G Effective (Act: 36)
<input type="checkbox"/>	SB 180	Morris, Jay (F)(R) Brown, Chad(D)	Provides qualifications and licensing requirements for title insurance producers.
		Last Action:	1- 1-21 G Effective (Act: 310)
<input type="checkbox"/>	SB 186	Harris, Jimmy (F)(D) Carter, Gary(D)	Provides relative to the Municipal and Traffic Court of New Orleans.
		Last Action:	6- 4-20 G Effective (Act: 37)
<input type="checkbox"/>	SB 204	Talbot, Kirk (F)(R) LaCombe, Jeremy (F)(D)	Provides for health insurance coverage of cancer treatments.
		Last Action:	1- 1-21 G Effective (Act: 222)
<input type="checkbox"/>	SB 231	Talbot, Kirk (F)(R) Brown, Chad(D)	Provides with respect to the Louisiana Health Plan. gov sig.
		Last Action:	6-12-20 G Effective (Act: 313)
<input type="checkbox"/>	SB 270	Fields, Cleo (F)(D) Jordan, Edmond(D)	Provides that jurors be paid an amount at equal to the amount that jurors in federal cases receive.
		Last Action:	1- 1-21 G Effective (Act: 237)
<input type="checkbox"/>	SB 271	Johns, Ronnie(R) Farnum, Les (F)(R)	Provides relative to the Health Care Consumer Billing and Disclosure Protection Act.
		Last Action:	8- 1-20 G Effective (Act: 315)
<input type="checkbox"/>	SB 322	Smith, Gary(D) LaCombe, Jeremy (F)(D)	Provides relative to tests for suspected drunken drivers.
		Last Action:	6- 4-20 G Effective (Act: 40)

2020 1st Special Session of the Louisiana Legislature

For only the second time in history, the Louisiana Legislature called themselves into special session, rather than deferring to the governor. And what a Special Session it was. "The Call" (which is the list of topics that can be legislated during the Special Session) included 41 topics. The two primary issues were the state budget bills and auto/tort reform.

During the Regular Session the legislature passed HB 418 by Senator Kirk Talbot, the Omnibus Premium Reduction Act of 2020. But in the last hour of the Regular Session, negotiations with Governor John Bel Edwards broke down, desperate amendments were added to the bill and the final result was tort reform that no one wanted. Thankfully, Governor Edwards vetoed HB 418 and the legislature started over with auto/tort reform again in the Special Session.

HB 57 by House Speaker Clay Schexnayder was the highlight of the Special Session.

HB 57 will:

- Lower the jury trial threshold from \$50,000 to \$10,000;
- Reform the direct action statute;
- Repeal the seat belt gag law;
- Change collateral source to allow judges the discretion to award no more than 40% of the difference between the amount billed and the amount paid. (Current law does not allow the court to consider the difference between the amount billed and the amount paid.)

The bill passed by a vote of **86-15** in the House and **35-4** in the Senate. It is on the governor's desk waiting for approval. Governor John Bel Edwards pledged to sign the compromise legal reform bill, and the bill is expected to become law.

Following are bills that were passed or vetoed in the 2020 1st Special Session. Governor John Bel Edwards has not acted on all of these bills at the time this report was prepared.

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| <input type="checkbox"/> | HB 5 | Marino, Joseph(I)
McMath, Patrick (F)(R) | Provides for the emergency suspension of time limitations in certain civil proceedings (Item #40). |
| | | Last Action: | 6-25-20 G Effective (Act: 3) |
| <input type="checkbox"/> | HB 21 | Magee, Tanner(R)
Johns, Ronnie(R) | Provides relative to motor vehicle repairs (Item #39). |
| | | Last Action: | 8- 1-20 G Effective (Act: 4) |
| <input type="checkbox"/> | HB 55 | Johnson, Mike (F)(R)
Hewitt, Sharon(R) | Provides relative to evidence of causation from nonuse of a safety belt. |
| | | Last Action: | 6-29-20 G Enrolled |
| <input type="checkbox"/> | HB 57 | Schexnayder, Clay(R)
Peacock, Barrow(R) | Enacts the Civil Justice Reform Act of 2020. |
| | | Last Action: | 7- 1-20 G Enrolled |
| <input type="checkbox"/> | HB 59 | Mincey, Buddy (F)(R)
Pope, Rogers (F)(R) | Provides relative to limitations of liability for public school districts during declared states of emergency and public health emergencies (Item #40). |
| | | Last Action: | 7- 1-20 G Enrolled |
| <input type="checkbox"/> | HCR 26 | Brown, Chad(D)
Talbot, Kirk (F)(R) | Requests a joint subcommittee of the House Committee on Insurance and Senate Committee on Insurance to undertake a study to make recommendations for proposed legislation relative to balance or surprise billing in Louisiana. |
| | | Last Action: | 6-29-20 G Enrolled |
| <input type="checkbox"/> | HCR 27 | Hilferty, Stephanie(R)
Peacock, Barrow(R) | Requests a study by the respective legislative committees to study the rights of caregivers and the establishment of a "caregivers' bill of rights" for family members, legal guardians, and other persons who provide care. |
| | | Last Action: | 6-29-20 G Enrolled |
| <input type="checkbox"/> | HR 36 | Magee, Tanner(R) | Requests the House Committee on Insurance to study and make recommendations regarding the effects of making the commissioner of insurance an appointed position. |
| | | Last Action: | 6-25-20 G Enrolled |
| <input type="checkbox"/> | SB 9 | Hewitt, Sharon(R)
Garofalo, Raymond(R) | Provides relative to safety belts. |
| | | Last Action: | 6-24-20 G Enrolled |

- [SCR 3](#) [Mills, Robert \(F\)\(R\)](#)
[McFarland, Jack\(R\)](#) Creates the Task Force on Log Truck and Agriculture Vehicle Liability Insurance.

Last Action: 6-25-20 G Enrolled

- [SCR 28](#) [Jackson, Katrina \(F\)\(D\)](#)
[Jones, Frederick \(F\)\(D\)](#) Requests that the Department of Insurance study and report on approaches taken by other southern states to reduce automobile insurance premiums, report statistics obtained by the insurance fraud investigation unit, and to advise...

Last Action: 6-30-20 G Enrolled

- [SR 26](#) [Jackson, Katrina \(F\)\(D\)](#) Requests the Dept. of Insurance to report to the Senate on legislation from the 2020 sessions intended to lower automobile insurance premiums for policyholders.

Last Action: 6-28-20 G Enrolled

The End
