

**NAMIC Testimony Regarding Proposed Amendments to S.342**  
*Concerning a Workers' Compensation Presumption for COVID-19*  
**House Committee on Commerce and Economic Development**  
June 23, 2020

Chairman Marcotte, Vice-Chair O'Sullivan, and members of the House Committee on Commerce and Economic Development:

On behalf of our policyholders, which includes the business community in Vermont, the National Association of Mutual Insurance Companies<sup>1</sup> writes to you to express our concerns regarding S.342.

Workers' compensation insurance has been a vital long-tail coverage for wage and medical indemnification for injured workers due to trauma and occupational disease for more than 100 years. Some policymakers, in a well-intentioned attempt to assist individuals who have contracted COVID-19, have offered proposals to force workers' compensation insurance coverage irrespective of an individual's job function or exposure fact pattern.

There is no doubt that the insurance industry is unified in protecting our public safety community, and that is precisely what the current workers' compensation system accomplishes. Any proposals to create presumptions are, at a minimum, premature. Compensability for COVID-19 related occupational diseases under state workers' compensation laws already provide much of the clarity needed on this issue, especially for our first responders and healthcare providers with jobs that present a hazard, greater than the general public, of contracting contract COVID-19. However, S.342 goes well beyond the protecting the first responder and medical community by extending a presumption to a much broader scope of employees in Vermont regardless of the risk for COVID-19 exposure.

No insurance dynamic can sustain the requirement to pay only losses that are considered adverse selection without additionally insuring non-loss risk. The rules should not be rewritten after the loss scenario has occurred. To this end, the actuarial analysis by NCCI<sup>2</sup>, which estimated the costs based on a variety of factors related to COVID-19, illustrates the financial toll these proposals may have on our business community and local governments.

On behalf of NAMIC, I will make myself available to Committee members to answer additional questions related to the legal implications for this legislation, protecting key legal principles, the financial implications, and the need to add certain and necessary constraints. While the draft amendments are generally more prudent public policy than previous drafts, NAMIC still has numerous concerns with the legislation. Notwithstanding the opposition to retroactive presumptions generally, NAMIC asks that the Committee further narrow the duration of this legislation, ensure that all employers may utilize compliance with health standards as a rebuttable defense, and limit the scope of this legislation to front-line workers. Without these amendments, employers throughout Vermont will bear a societal burden for a public health emergency which the business community joined together to mitigate from its onset.

Very truly yours,



Christopher Stark

Regional Vice President

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<sup>1</sup> NAMIC membership includes more than 1,400 member companies. The association supports regional and local mutual insurance companies on main streets across America and many of the country's largest national insurers. NAMIC member companies write \$268 billion in annual premiums. Our members account for 59 percent of homeowners, 46 percent of automobile, and 29 percent of the business insurance markets.

<sup>2</sup> <https://www.ncci.com/Articles/Documents/Insights-COVID-19-WorkersComp-Modeling-PotentialImpacts.pdf>