

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

May 5, 2011

ASSEMBLY BILL NO. 1471
(Second Reprint)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Assembly Bill No. 1471 (Second Reprint) with my recommendations for reconsideration.

I commend the sponsors for this legislation, which would modernize the taxicab law by allowing a competitive process in the award of taxicab licenses by municipalities, and by increasing consumer protections, including increasing mandatory insurance coverage and requiring taxicab operators to undergo a state criminal history background check.

However, I am concerned with the provision of the legislation that would require the \$35,000 minimum insurance coverage be provided by an "admitted insurance company." Admitted insurance companies are licensed to do business in the State and are an important component in ensuring the availability of insurance coverage for taxicabs. The changes in this bill, however, would eliminate the role of risk retention groups, which provide a form of self insurance, and currently issue approximately 65% of taxicab liability insurance coverage in the State. Risk retention groups are registered with the Department of Banking and Insurance. The federal "Liability Risk Retention Act of 1986" (LRRRA), 15 U.S.C. §3091 et seq., authorizes the establishment of risk retention groups and largely exempts these entities from state regulation. Further, the LRRRA prohibits states from discriminating against risk retention groups.

A review of the LRRRA, and the case law interpreting it, suggests that the provision in the bill prohibiting risk

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retention groups from providing the \$35,000 of mandatory insurance coverage may be discriminatory under federal law, and thus unenforceable. In addition, excluding primary insurance coverage by all risk retention groups appears to be overbroad, and may have the unintended consequence of making it more difficult for taxicab owners to obtain insurance coverage, leading to higher insurance costs ultimately absorbed by consumers.

While I share the sponsors' commitment to consumer protection, the LRRRA presently requires a risk retention group to submit to an examination by a state insurance commissioner under certain circumstances to determine its financial solvency. The Department of Banking and Insurance stands ready to address such concerns in New Jersey, thus ensuring that risk retention groups operate with adequate safeguards.

Accordingly, I recommend that risk retention groups registered in the State should continue to be authorized to provide primary insurance coverage for taxicabs.

Therefore, I herewith return Assembly Bill No. 1471 (Second Reprint) and recommend that it be amended as follows:

Page 3, Section 5, Line 29:

After "State" insert "or a
company registered to do
business in the State"

Respectfully,

/s/ Chris Christie

Governor

[seal]

Attest:

/s/ Jeffrey S. Chiesa

Chief Counsel to the Governor