INSURANCE REVIEW STUDY COMMITTEE

Report to the General Assembly

Senator Brad Hutto, Chairman
Senator Shane Massey
Senator Ross Turner
Representative Roger Kirby
Representative Micah Caskey
Representative William Bailey
Mr. Lee Jedziniak, Esq.
Mr. Rob Tyson, Esq.
Mr. Charlie Condon, Esq.

January 7, 2025

Executive Summary

Creation of the Insurance Study Committee

Part 1B Section 78.5-R200 of the 2024-2025 Appropriation Act established the Insurance Review and Study Committee to examine the adequacy, equity, and efficiency of South Carolina's civil justice and insurance laws. In the review of such adequacy, equity, and efficiency, the State's interest in attracting and maintaining business and residential growth is to be considered.

The Study Committee is charged with addressing coverage, availability, premium rates, and deductibles in the following categories:

- Property and casualty for single-family dwellings, multi-family dwellings, condominium complexes, and commercial buildings;
- Automobiles and trucks;
- Commercial general liability;
- Business; and
- Restaurant, tavern, bar liability, and liquor liability.

The Study Committee is comprised of 9 members. The President of the Senate, the Chairman of the Senate Banking and Insurance Committee, and the Chairman of the Senate Judiciary Committee each select one Senator as member. Three Members of the House of Representatives are appointed by the Speaker of the House. The final three members are appointed by the Governor and are members of the public at large. Of the Senate members, Senator Massey was appointed by the President, Senator Turner was appointed by the Chairman of the Banking and Insurance Committee, and Senator Hutto was appointed by the Chairman of the Senate Judiciary Committee. The Speaker of the House of Representatives appointed Representatives Kirby, Caskey, and Bailey. Mr. Lee Jedziniak, Mr. Rob Tyson, and Mr. Charlie Condon were appointed by the Governor.

Study Committee Meetings

The Study Committee held three meetings. The first meeting was held on September 19, 2024, the second on October 29, 2024, and the final meeting was held on December 10, 2024.

During the first meeting, the Study Committee heard testimony from the Director of the Department of Insurance, Mr. Michael Wise. Director Wise presented the Study Committee with an overview of the state's insurance markets and additional background regarding the regulatory oversight of these markets by the Department of Insurance. Further dividing the state's overall market into individual submarkets, Director Wise provided the Study Committee with information regarding the profitability and general state of the market of the following insurance submarkets: homeowner's, personal auto, commercial auto, commercial multiple-peril, worker's compensation, and liquor liability. The Study Committee's discussion focused primarily on the homeowner's insurance and liquor liability insurance markets, both of which have been the subject of concerns regarding both coverage availability and premium affordability.

The Study Committee heard testimony from three speakers during the October 29, 2024, meeting. These speakers were: Mr. J. Smith Harrison, Jr., Executive Director of the South Carolina Wind and Hail Underwriting Association; Ms. Maria Cox, State Coordinator of the Flood Mitigation Program in the South Carolina Department of Natural Resources; and Dr. Robert P. Hartwig, Director of the Risk and Uncertainty Management Center and Clinical Associate Professor of Finance, Risk Management, and Insurance at the University of South Carolina Darla Moore School of Business.

Director Harrison explained that the South Carolina Wind and Hail Underwriting Association is an insurer of last resort for coastal consumers and discussed challenges facing the industry; he recommended that the Study Committee, in their examination of homeowner's insurance, consider the effects of strengthening building codes and associated standards, and consider county delegation earmarks for roof improvement programs. The Study Committee heard testimony from Ms. Maria Cox regarding flood insurance in the State. Ms. Cox explained the importance of flood insurance in South Carolina and the importance of participation in the National Flood Insurance Program. Ms. Cox strongly recommended that the Study Committee consider promoting the funding of the state's Flood Inundation and Mapping for Action system with an additional $4.5 million, which would both improve public safety and provide various entities with data regarding special flood hazard areas. Dr. Hartwig's testimony before the Study Committee also focused on the South Carolina homeowner's insurance market and highlighted the industry's relative strength in spite of various challenges posed to property/casualty insurers in the past decade. The Study Committee heard from Dr. Hartwig that, relative to other markets, homeowner's and automobile insurers have experienced contrasting, deteriorating operating performance in previous years. That deterioration is related to inflationary pressures and the increase in operating and loss costs. In South Carolina, high catastrophe losses, inflation, and inadequately insured properties have been an issue of particular concern for the industry. Dr. Hartwig did not offer any recommendations to the Study Committee.

The Study Committee meeting held on December 10, 2024, focused on South Carolina's liquor liability insurance market and heard testimony from several speakers.

Mr. Perry Mathis, the Administrator for the ABL Division of the Department of Revenue, explained the basic tenets of the relevant South Carolina's statutory requirement: a business or nonprofit that is serving alcoholic beverages for on-premises consumption after 5 pm, and that is operating under a biennial permit, must maintain at least $1 million of liquor liability insurance or general liability insurance with a liquor liability endorsement. Failure to meet this requirement results in suspension of the ABL permit. Mr. Mathis further presented the Study Committee with an overview of the number of license applications, renewals, and suspensions in the past years. According to Mr. Mathis's data, the number of active licenses in the state has remained steady and there is not an anomalous rate of license suspensions due to failure to meet the statutory liquor liability insurance requirement, which contrasts with anecdotal reports of mass closures of bars and restaurants due to inability to maintain liquor liability coverage. Mr. Mathis further reported that the rate of new ABL applications has remained steady and that 7 or 8 providers are offering liquor liability insurance in the South Carolina market.

Major Frank O’Neil, of SLED, testified that SLED ensures that the subjects of inspections have active liquor liability insurance policies, but that the vast majority of violations are for offenses unrelated to liquor liability insurance.

The Program Director of the South Carolina Medical Malpractice Association and Senior Vice President of Marsh USA, Mr. Tim Ward, testified that the medical malpractice market experienced a scarcity in provider availability during the mid 1970s that was similar to that presently occurring in the liquor liability insurance market. In response, the General Assembly passed legislation creating a Joint Underwriting Association to serve as an alternative market, which increased provider availability. On this basis, Mr. Ward recommended the creation of a Joint Underwriting Association to address the scarcity of providers in the liquor liability market.

The Study Committee also heard testimony from Mr. Stephen Clark, who serves in Government Relations for the Insurance Services Office (ISO). Mr. Clark explained the advisory nature of the ISO within the insurance industry, including to those companies that underwrite liquor liability policies. In evaluating the exposure risk for companies writing policies in South Carolina, the ISO promulgates an environmental risk rating of 1-10, with 1 being the least risk and 10 being the most. Mr. Clark noted that South Carolina’s liquor liability insurers have a significant loss ratio and companies have paid more in claims than they have collected in premiums. Mr. Clark also pointed to South Carolina’s tort liability environment as the cause. South Carolina’s ISO score is, as of a 2010 increase, 6. When asked for his recommendations, Mr. Clark suggested examining liability caps, server training, and mitigating factors for assignation of liability as solutions that other states have employed.

Steven Cook, representing the South Carolina Restaurant and Lodging Association, testified before the Study Committee that bars and restaurants have seen large increases in the cost of their liquor liability coverage.

Steven Burritt, the South Carolina Director of Mothers Against Drunk Driving, informed the study committee that South Carolina is the worst state in the nation for drunk driving. He emphasized that tort reform could harm victims, and he recommended that the General Assembly strengthen DUI laws.

Chris Oxford, an insurance broker with Pinckney Carter, which specializes in hospitality insurance, stated that he believes that South Carolina is experiencing an availability and affordability crisis of liquor liability insurance in South Carolina, with most large carriers no longer offering liquor liability insurance and limiting renewals by both reducing the offering volume and dramatically increasing prices.

Daniel Hinkle, representing the American Association for Justice and the South Carolina Association for Justice, explained to the Study Committee how insurance companies have experienced record profits despite underwriting losses, and further explained that insurance companies have blamed lawsuits for rising premiums in spite of the fact that the overall number of lawsuits has decreased in recent years.

David Anderson (of Richardson Plowden) representing the civil defense bar offered testimony that South Carolina's scheme of joint and several liability has created an inequitable burden for defendants that also drives up insurance prices. Mr. Anderson made the following recommendations to the Study Committee: (1) that the willful, wanton, reckless, grossly negligent, and alcohol and drug exception be removed from Section 15-38-15 of the South Carolina Code of Laws; (2) that plaintiffs be required to prove that the defendants served alcohol to a visibly intoxicated person; (3) that meaningful safeguards regarding fraud against retailers be enacted; (4) that a reinsurance program be enacted; and (5) that recovery be barred for a plaintiff who is of-age and knowingly rides with an intoxicated driver.

Libby Chaney, who represented the South Carolina Association for Justice, is a commercial underwriter for a large insurer. Through her experience with writing workers' compensation insurance, among other lines, and seeing what has lowered rates for these lines, Ms. Chaney recommended that the General Assembly focus on requiring certain education and training for alcohol servers in order to lower liquor liability insurance rates.

The Study Committee also received written testimony from the Wholesale and Specialty Insurance Association, which testimony pointed to South Carolina's "uncapped punitive awards and joint and several liability frameworks…[which] contribute to an unpredictable litigation environment." Proposals included statutorily amending South Carolina's dram shop law to be more in line with Alabama's, which law requires businesses to knowingly serve visibly intoxicated individuals and that the intoxication be the proximate cause of any injury or death in order for an establishment to be held liable.

Summary from September 19, 2024, meeting regarding an overview of South Carolina Insurance:

- Michael Wise, Department of Insurance (DOI), presented testimony regarding the overview of the insurance market in South Carolina.
- Insurance regulation focuses on:
  - Licensing
  - Solvency
  - Products
  - Conduct
- Mr. Wise highlighted the extent of DOI regulation and approval of rate-making processes, stating that the DOI authority over rates applies primarily to personal lines of business with carveouts for commercial lines (medical malpractice and worker's comp).
- Mr. Wise stated that the DOI can review filings and even disagree with the bases utilized by the insurance company to justify rates in filings. (DOI authority is established by statute and regulation.)
- Mr. Wise stated that some insurance rates have decreased over the last few years, such as auto insurance and worker's comp.
- Mr. Wise stated that excess and surplus lines are not regulated by DOI.
- Mr. Wise spoke about the homeowner's insurance market:
  - There are 79 insurers in SC.
  - There has been 80% market growth in 10 years.
  - Availability homeowner's insurance varies across the state, with less availability along the coast.
  - DOI has no authority to require notification if changes in underwriting criteria are made, but DOI must be informed if companies desire coverage stoppage in certain geographic areas.
  - DOI fields complaints re: availability of insurers, and can direct consumers toward agents.
  - DOI does have the authority to track complaints, but Mr. Wise is unsure about the current status of tracking.
  - A fair profit margin for the South Carolina homeowner's insurance market depends upon the line of insurance. There is a higher margin for lines with greater exposure.
- The study committee wanted the DOI to provide info regarding the homeowner's market in comparison to other Southeastern states with similar exposure.
- The study committee had questions regarding potential increased availability concerns due to more natural disasters and higher reinsurance costs, potential delayed inflationary pressures post-COVID, and if it is the burden of both the customer and the insurance company to adjust for changing market prices of homes.
- DOI recruits companies for troubled lines of business. In the past decade, the DOI attracted around 120 new companies.
- Regarding insurers' reticence to enter the South Carolina market, DOI mostly hears about reinsurance costs and difficulties expanding market because of such costs.
- Mr. Wise presented information regarding the personal auto market in South Carolina:
  - This is a competitive market in SC.
  - There have been premium increases in SC and nationwide.

    - South Carolina is in the top ranking of states for fatalities per miles driven.
    - Most companies use telematics for rate making, and in this way can determine cell phone usage.

Commercial auto market insurance:

- Study committee members inquired about what sort of entities are subject to the commercial market.
- Commercial auto Premiums have increased due to loses.
- Study committee members inquired as to why commercial insurers don't submit their rates.
    - Study committee members inquired about what has caused revenues to nearly double.
    - Underwriting losses mitigated somewhat by:
        - Investment income
        - More profitable companion policies
- Study committee members inquired about what makes up commercial general liability. Premises and operations.
- Study committee members inquired how companies stay in business when this line of insurance is so unprofitable.
    - Lines are paired with more profitable lines ("companion policies").
- Study committee members inquired if there is a way to look at profit lines and break them down via "areas". For example, if commercial auto is unprofitable but homeowner's is profitable.
    - Mr. Wise stated that could be done. but filings would have to be examined line-by-line.
- There is also a residual market for last resort, which functions well in South Carolina and is very competitive. DOI oversees these rates.

Liquor liability insurance market:

- Mr. Wise testified that there is a significantly lower underwriting profit in South Carolina than other Southeastern states (-190.4%).
- Study committee members asked how DOI tracks complaints related to liquor liability premiums, coverage, availability, etc.
    - Mr. Wise stated that there is no empirical way to track complaints, but there is a lot of anecdotal data.
- Mr. Wise stated that liquor liability is the most distressed market in South Carolina, and that DOI's efforts to recruit have been unsuccessful in past few years.
- Mr. Wise stated that there are 3 types of risks DOI hears about (though these types are exemplary and not defined by statute):
    - Restaurants with alcohol sales comprising less than 30% of revenue. These restaurants have less trouble than others finding coverage.
    - Restaurants with 30%-50% alcohol sales. These restaurants have some trouble finding coverage.
    - Restaurants with a majority of alcohol sales. These restaurants have the most trouble finding coverage.
- Study committee members inquired about how the liquor liability market has changed.

- Study committee members expressed concern that DOI is not sufficiently tracking data regarding coverage availability, and that the study committee has insufficient data to work with in order to craft policy solutions.
- Study committee members inquired if data calls were mandatory.
- Mr. Wise stated that liquor liability coverage is needed for everyone serving, from restaurants to special events.
- Study committee members noted anecdotal bar and restaurant closures, but also noted the increase in liquor licenses issued by the Department of Revenue.
- Sen. Turner explained that the tiered approach to offering liquor liability coverage has been the longstanding practice.
- Study committee members inquired about the efforts to recruit LL carriers. The DOI estimates that it has approached 10-12 carriers in the last 2 years.

Summary from the October 29, 2024, meeting regarding property and homeowners' insurance:

- Speaker: J. Smith "Smitty" Harrison, Jr., Executive Director, South Carolina Wind and Hail Underwriting Association
  - Mr. Harrison explained the purpose and makeup of the South Carolina Wind and Hail Underwriting Association ("SC Wind"), describing SC Wind as "a safety net for coastal consumers."
  - SC Wind is an unincorporated association of member insurers that is regulated by the South Carolina Department of Insurance.
  - Mr. Harrison explained that 75% of dwellings are currently covered at actual cash value ("ACV"), with 38% having either 5% or 10% deductibles.
  - SC Wind has 1,442 agencies on its list, with 62% of those agencies having 5 or less policies.
  - SC Wind's policies in-force peaked with over 45,000 total policies in 2011, compared to less than 20,000 policies in 2024.
  - Mr. Harrison testified regarding challenges in the industry, including increases in home construction values.
  - Mr. Harrison addressed the issue of roofing and best practices with roofing. He explained that SC Wind inspects new businesses, rewrites policies every three to five years, and follows up as necessary.
  - Mr. Harrison explained that the Insurance Institute for Business & Home Safety ("IBHS") has a state-of-the-art research facility on a 90-acre parcel of land in Chester County, South Carolina. The IBHS Research Center allows researchers to fully and accurately evaluate residential and commercial construction materials and systems, under realistic recreations of severe weather hazards.
  - Mr. Harrison gave the study committee a few "steps forward," including recommendations to shop insurance, strengthen building codes via fortified standards, and consider county delegation earmarks for roof programs.
- Speaker: Maria Cox, State Coordinator, Flood Mitigation Program, South Carolian Department of Natural Resources
  - Ms. Cox presented on the national flood insurance program in South Carolina, noting the contributions to flood inundation mapping, floodplain management, floodplain mapping, and mitigation.
  - South Carolian is 5th highest in the nation for flood insurance policies with 198,189 policies.
  - There are currently 46 counties and 194 municipalities participating in the South Carolina national flood insurance program, with 19% of the entities located in a special flood hazard area.
  - Ms. Cox explained that a community must join the national flood insurance program, and the community must agree to adopt and enforce floodplain management regulations. For participating communities, claims are paid for all flooding events in all flood zones with no payback required, and policies are not cancelled for repeated losses.
  - Ms. Cox explained the need for additional and updated mapping in South Carolina. South Carolina currently has 17,651 mapped riverine and coastal miles; however, several counties have not had flood mapping conducted in over 15 years.

- Ms. Cox discussed the devastating losses floods can cause, as well as some of the causes of floods, such as the 2015 rainfall event in South Carolina and the 2024 Hurricane Helene rainfall.
- Ms. Cox presented information regarding the SC Flood Inundation and Mapping for Action ("SC Flood IMPACT"), which is a warning system that provides forecasted and current conditions relating to flooding in particular areas. Ms. Cox asserted that the SC Flood IMPACT warning system could be used across the State for flood effects, such as evacuations, resource placement, water/wastewater operations, road impacts, and hunting season issues. Ms. Cox stated that $4.5 million in funding is needed to finish the inundation mapping and modeling to bring SC Flood IMPACT to the entire state. Information about SC Flood IMPACT is available at www.scfloodimpact.com.

▪ Speaker: Robert P. Hartwig, PhD, Director, Risk and Uncertainty Management Center, Clinical Associate Professor of Finance, Risk Management & Insurance, Darla Moore School of Business, University of South Carolina
  - Dr. Hartwig presented on the state of the South Carolian homeowners insurance market.
  - Dr. Hartwig presented a financial overview, asserting the industry remains strong; although, the current economic environment presents many challenges for property/casualty ("P/C") insurers. Dr. Hartwig stated that 2023 was the industry's worst underwriting performance since 2019, and demonstrated that P/C insurer underwriting performance has been highly variable over the past decade for a multitude of reasons, including inflation and torts.
  - Dr. Hartwig presented data showing that while commercial lines, life/annuity, and health insurance have shown consistent operating gains, home and auto insurers have seen their operating performance deteriorate materially in recent years. Dr. Hartwig asserted that the deterioration in home and auto insurance results from "worsening economic and social inflation, as well as rising operating and loss costs."
  - Dr. Hartwig explained the role of policyholder surplus as the insurance industry's financial cushion against large insured events, periods of economic stress, and financial market volatility.
  - Dr. Hartwig presented information on South Carolina's homeowner's insurance market, noting that inflation and high catastrophe losses are challenges for insurers and policyholders in South Carolina and across the county.
  - Dr. Hartwig explained that every year since 2012, South Carolina's homeowners' combined ratio has been lower than the national ratio.
  - Dr. Hartwig explained the impact COVID had on premiums and the financial state of South Carolina. He stated that the COVID recession lasted just 2 months, ending in April 2020, but the short recession abruptly ended the longest economic expansion in United States history, which had spanned nearly 11 years.
  - Dr. Hartwig stated that homeowners' insurance premiums are currently only 1.5% higher than the national average, which is much better than compared to 2010-2015, when South Carolina homeowners' insurance premiums were 10%-12% higher than the national average.
  - Dr. Hartwig presented a catastrophe loss overview, noting that this decade is off to an "ominous beginning", with Hurricane Helene and Hurricane Milton serving as just the latest in a long series of mega disasters.

- According to Dr. Hartwig, a record $381 billion in natural catastrophe losses nationally over the last four years (2020-2023), along with inflation surges beginning in 2021, contributed to rising home insurance premiums. This drives up the cost of home repairs.
- Dr. Hartwig predicted that Hurricane Helene will be one of the costliest disasters in South Carolina History and around the 20th most expensive insurance event in Untied States history. Unfortunately, Dr. Hartwig suggested that few South Carolina homeowners in Hurricane Helene's path had flood insurance.
- Dr. Hartwig addressed the relationship between inflation and homeowners' insurance. Inflation is a major driver of higher homeowners' insurance premiums. Dr. Hartwig presented data showing that inflation accelerated sharply in 2021, before peaking at 9.1% in June 2022. Inflation was nearly cut in half in 2023, and he predicted it should continue to moderate through 2025.
- Dr. Hartwig presented several insurer concerns about inflation, including rate inadequacy, reserve inadequacy, and insurance-to-value.
- Dr. Hartwig explained that the rapid increase in the cost of building materials, and that the cost is still-elevated, has immediate and longer-term implications for property insurers and reinsurers. Interestingly, the cost of construction materials and labor has increased at a pace roughly double that of the overall consumer price index changes.
- Dr. Hartwig brought up other considerations relating to the cost of insurance, such as excessive litigation, fraud, population growth and density, and the increased frequency and severity of catastrophic weather events.
- In summary, Dr. Hartwig asserted the Property/Casualty insurance industry remains strong, stable, sound, and secure; although, challenges remain, including rising catastrophic losses, inflation, and inadequately insured property owners.

Summary from the December 12, 2024, meeting regarding liquor liability insurance:

Perry Mathis, ABL Administrator Department of Revenue (DOR). Mr. Mathis testified to the following:

- Must be licensed to sell any beverage form of alcohol served to drink on-premises or then taken off-premises.
- May need multiple licenses: one for beer/wine, one for liquor.
- Since Jan 1, the DOR has issued:
  - 396 new retail licenses for beer/wine/liquor to be sold off-premises, which includes convenience stores, grocery stores, and liquors stores.
  - 888 on-premises licenses, 534 locations, restaurants, wine bars.
- There has been a steady number of license applications over the past two years, no drop in applications.
  - 8,124 businesses have renewed licenses in 2024 at the time of this meeting.
  - On-premises numbers are 2,684 licenses at 1,772 locations (within norm for this fiscal year).
  - Off-premises numbers are over 3,000.
- Types of licenses:
  - Wholesale distributors: 59
  - Manufacturers: 350
  - This is in line with what would normally take place in an even-calendar, fiscal year, because of the statutory renewal schedule.
- Number of revocations:
  - 22 licenses revoked at 13 locations
    - All due to violations such as public nuisance or selling to underage.
- If a licensee doesn't maintain liquor liability insurance, their license is suspended, not revoked.
  - As of Nov 25th - 1,923 indefinite orders of suspension, all of them were on-premises licenses.
- Liquor liability only required for on-premise retailers who sell after 5:00 pm. It is not required for breakfast/brunch restaurants.
- Suspensions are served in person and are updated on the DOR website.
  - Wholesalers watch the website closely; because, if they deliver to a suspended business, the wholesaler is subject to ticket from SLED.
    - Of the 1923 licenses issued, 350 licenses, which was about 207 locations (~18%), were suspended.
- South Carolina has over 14,000 locations that sell alcohol. About 1.5% of on-premises license holders are actually suspended because of failing to maintain liquor liability insurance.
- The insurance industry is required to notify DOR if an insurance policy has been canceled or has expired.
- There are about 8,500 to 9,000 on-premises licensees.
- There are about 534 new licenses (about the same as it has been for the past two fiscal years).
- Q. Does everyone have to renew annually?

    - A. No. That's why numbers don't help—the renewal schedule is statutorily set out.
    - Now, quarterly licenses are renewed bi-annually—if the business applied in an odd year, they would renew in an odd year.
- The licensing process averages about 6-8 weeks; sometimes 4, if there are no troubles, sometimes longer, if there are construction issues, protests, etc.
- Q. If we were in a crisis, would we see some sort of dip? It appears that the system is steady.
    - A. Yes
- Q. Are there data points that could demonstrate if closures are more prone to happen in smaller, more rural, or poorer areas that don't have the benefit of having a high number of customers in a day, but are having higher premiums related to the amount of business they have historically done? Is there data of a concentration of closures in population data?
    - A. I can check, I can separate and drill down into who we have suspended, and identify those by location.
    - Would also assist in identifying non-profits, like VFW, to get a clear understanding of impact that these increased rates have had.
- Q. Do you receive the entire policy or an accord form?
    - A. They send the accord 25 form to us - some send entire policy but 9/10 get accord 25, which is a summary of the entire policy
- Q. So, you check to make sure dates are okay and make sure the $1 mill aggregates are there. Do you look at the occurrence cap? Technically, could there be any occurrence cap and you would accept it?
    - Q. Yes, if aggregate was $1 million
- Q. Two-year licensing period, with the policy expiring after 1 year, do you go back and check in the 2nd year?
    - A. Yes, because policy expiration dates are tracked in the system, so policy holders have to update their information or their policies get suspended.
- Q. Do you spot check accord forms or check in to ensure existing companies?
    - A. When we receive accord 25 or other types of documentation to show proof of insurance, for any that appear suspicious we directly contact the insurer to validate policy, but that is when we notice something out of sorts.
- Q. When you suspend a bar's license for lack of insurance do you send people to check that they aren't selling, or do you rely on distributors?
    - A. Distributors are a handy tool. We don't rely on them, but they are handy because they keep some compliant. However, we send out revenue officers to deliver suspension notices. SLED, during their inspections of locations, will ask the business for proof of insurance. There is then a procedure for SLED to go through, and if they find issues, then they notify us.
- Q. Are accord policy certificates public information?
    - A. Could be subject to FOIA.
- Q. How many resulted in closure or suspension?
    - A. Would be a manual search to see if the status was open, suspended, or closed.
        - The status of closed is based on reports by licensee that they are closing.

- Q. Is that number consistent with prior years? Is 1900 licensees under orders of suspension consistent with where we have been in the past?
    - A. No, our system for handling this was very manual up until early 2024, so I don’t have exact numbers about that. But what I can say is the number of licensees coming to us saying they don’t have a policy anymore has increased. We are getting more saying that their policy is expiring or waiting until the wire. Uptick in that.
- Q. The 1923 indefinite orders of suspension, does that translate into 207 locations?
    - A. Yes, 207 locations that were actually suspended.
- Q. An indefinite order of suspension is a notice, but not a suspension?
    - A. No. It’s an actual suspension. A lot of suspensions are a set number of days. Indefinite is locked down until you cure it.
- Q. Of the 1900 that you issued, 1700 cured them?
    - A. Yes.
- Q. Of the 200 that are left, are they going south or will they cure down the road?
    - A, Indefinite; you can cure it when you want to.
- Q. A lot of these policies, especially for “bars”, are stand alone, excess market policies that may be paid, but are not renewable every year until you complete a renewal application, and a new policy is issued. There is not going to be a non-renewal sent out on all these excess policies, but I am assuming that since we have a computer system, excess policy triggers that renewal date?
    - A. Yes
- Q. How many licenses in 2024 were non-renewed from 2023-2024? Could we get that data point?
    - A. Yes
- Q. If [businesses] non-renewed, could it just be they decided to move on or another reason?
    - A. Yes and we do not track or ask for the reason for the closure.
- Q. Any idea how many carriers sell liquor liability policies?
    - A. I do not have that information with me, but I know we provide a link on our website to it.
- Q. Ballpark?
    - A. Somewhere around 7 or 8.
- Q. What about the constitutional provision that you are only supposed to be licensed for alcohol sales if you primarily sell foods?
    - A. Article 8A is considered through our application process. It is statutorily defined in § 61-6-20 and § 61-6-16(10) that licensees must provide meals and seating for 40 at tables at mealtime hours, and must provide proof of meeting these requirements through the application process. This is information that SLED agents provide to us, as well as get from our sources, and what the agents pull.
- Q. View that they have to sell a certain amount of food?
    - A. We don’t calculate food to alcohol. If you meet these requirements as laid out in statute, that is how we determine you are qualified for a business, liquor-by-the-drink license.
- Q. How do distributors learn a policy has lapsed?

- A. A public online portal for listing of active, suspended, and revoked license holders. Industry has learned to look at that list, which is updated in minutes after one of my analysts has entered the information.

- Q. So, you don't actually send the notice?
  - A. They just look at website.
- Q. Is the permitting or licensing process the same for a non-profits like the VA establishment? Is that the same as an alcohol business doing standard businesses?
  - A. No, there is a separate statute that governs non-profit organizations. They do not have meal requirements and that roots back into Article 8A of the constitution. The other for-profit businesses are either a place of lodging or a place that engages in service of meals.
- Q. They still have a $1 million requirement?
  - A. Yes, that applies to anyone who sells beer, wine, or liquor after 5 pm on any day of the week.
- Q. But the overall licensing process is different?
  - A. Yes
- Q. 2,352 manufacturers? What is that?
  - A. Places like Steel Hands and micro-distilleries or liquor manufacturers which are more industrial. It could also be someone who is registered as a producer or importer. Most of the number is not your craft breweries and distilleries, as that number is roughly about 100 of those.

Major Frank O'Neil from SLED

- Q. What we are focused on is whether, during your enforcement, you all have any jurisdiction as it relates to the insurance policies?
  - A. Yes, [agents] will ask for proof of insurance and if they don't get it, [businesses] will be given a written warning. They are given 10 days. If they don't produce the proof of insurance, we notify the DOR.
- Q. So you all might be doing a routine inspection. but you will check the policy while you are there and if the policy is out of date, you will notify the department?
  - Yes
- Q. Do you have other information from SLED's enforcement perspective that relates to the insurance part of this?
  - A. We have about 41 agents, 11 in licensing and 7-8 regional agents throughout Midlands, Piedmont, and Lowcountry. and towards the beach.
  - Primarily, our violations occur with underaged persons, such as minor in possession, sale of beer to persons under 21, use or possession of fake id, transfer of beer/wine or unlawful storage, and gambling-related offenses, which are criminal and could go against their administrative license.
- Q. This would be more than on-site?
  - A. Yes all of them.
  - For year 2023, over 21,000 inspections at locations licensed to sell alcohol—on- and off-premises—7,755 underage compliance checks, 729 of those checks were found to not be compliant, with a failure rate of 9.5% for 2023. We issued 864 administrative violations and 1,031 criminal citations.

    - For year 2024, as of October, 21, 724 inspections. 7,973 underage compliance checks, 502 not compliant, which is 6.3% failure rate. 732 criminal violations and 723 criminal citations were written.
- Q. SLED will issue citations and that may jeopardize licenses, but that goes back to DOR to determine whether license is revoked or not?
    - A. Yes.

Tim Ward, SC Medical Malpractice

- Q. Medical malpractice went through a challenge several years ago, where the number of people in the marketplace offering insurance was in a challenging situation, and so we have asked you to speak to any correlation as to how a down market or limited number of insurers can be fixed and any other thing that is relevant.
    - A. In 1975, there was a mass exodus of writers for medical malpractice insurance, and the General Assembly passed the statutes governing the SC Joint Underwriting Association which created an alternative market. It works best when there are availability issues. The next year they created the Patient's Compensation Fund which was in excess of the JUA. The JUA filled void of carriers. Now that the market is thriving, with plenty of writers, the JUA now serves more as a backstop benchmark. We have all the data that helps drive pricing and premiums, so the data is now serving more as a stabilizing force. But the JUA is comprised of the property casualty that writes liability insurance.
    - In 2020, there were changes in legislation, so now backstop companies that are members are just medical malpractice carriers, because there are enough of those now. In 1975, we didn't have any medical malpractice carriers to serve as backstop so it broadened to the P&C industry. That process has worked well, and continues to function in a healthy market, and is basically an alternative when there is scarcity in the market.
- Q. Are there other JUAs outside of the arena of malpractice coverage?
    - A. The Massachusetts GA created a liquor liability JUA in 1985. It was the same issue with availability. It also has a backstop of all liability writers in the P&C market, not limited to liquor liability writers. If you did that, I think you would see fewer liquor liability writers in the state, so the Massachusetts's JUA was broadened to apply to the entire market. In 2008, this JUA was privatized and became a mutual carrier. The wind and hail pool here is not a traditional JUA, but other than that, there are other JUAs in states primarily in the medical malpractice world.
- Q. In the insurance world, how do you determine there is a crisis? At what point does the number of insurers writing or number of policies available make something a crisis?
    - A. Per data that we got through the Department, there were 47 licenses, but that doesn't mean [carriers] are activity writing. You have carriers that are very restrictive in how much exposure they are willing to take in a market that has loss ratios over 200%, so while they are licensing, they are not necessarily writing—they will pull back and have exposure limitations they won't go over. There is not a steadfast rule of determining when there is a crisis, but when you look across the board and see only 4 or 5 carriers that are willing to write coverage, you have an availability issue.

- Q. If we decided to help this industry, like wind and hail, by creating a JUA, how long would it take to set something like that up?
    - A. That is driven by details of legislation, like what kind of body is going to govern it. Traditionally, governing bodies have BODs. Then they have the opportunity to hire administrators, they have to create a plan of operations, underwriting guidelines, claim guidelines, and a distribution network. Once a board is put in place, maybe 6 months could get that down. Having a JUA is going to address availability. It may not be a silver bullet for the pricing standpoint, but could be helpful from an availability standpoint.
- Q. It would address the issue of someone saying I can't find coverage.
    - A. Yes.
- Q. In the letter you wrote Director Wise at the end of last year, talking about size reduction in the JUA, I'm assuming it says 74% of members have dropped out, found coverage, retired?
    - A. When we were brought on board in 2001, the JUA was too big, the market was not here because pricing was inadequate, and it has been a process for over 20 years to get it the right size. Now, hospitals employing physicians have more than they had in the past and a lot of carriers are writing, which is a sign of a healthy market.
- Q. Was the JUA or PCF accessible to physicians?
    - A. Both were technically accessible. PCF was directly to physicians, and JUA could assess member carriers then recoup that through rate increases or assessments to policyholders.
- Q. What things did we pass that also helped bring markets back?
    - A. The 2005 tort reform was helpful with limitations and caps, but primarily, it was us changing philosophy in managing the JUA like an insurance company and charging adequate premiums. There was a 300% increase over first 6 or 7 years, and that was what data suggested, and the market responded to that.
    - The federal flood program didn't want risk, and for years the federal flood program was below market, but now the federal flood program is getting more actuarially sound. Now, we have markets coming in to write.

Stephen Clark, Government Relations for Insurance Services Office

- ISO's role in industry: Licensed in all 50 states as an advisory rating service organization under the insurance code of each state's statute, regulated by an insurance commissioner.
- Role is to provide insured customers with advisory insurance policy forms and endorsements, policy writing and rating manuals, and advisory prospective loss costs, which is the portion of the insurance rate that covers estimated future losses but includes no provision for expense or profit.
- ISO offers advisory programs for roughly 30 insurance lines of business in P&C, including general liability which encompasses liquor liability
- Advisory nature of ISO underscored: no insurer is required to participate with ISO; customers are free to use material as is, modify it, or not use it at all; and decisions are made independently of each customer based on customer's own decision-making process in accord with customer's own independent business needs.

- Liquor Liability Program: make available to participating insurer a portfolio of policy forms and endorsements and associated manual rules and supplementary rating information, so that coverage can be written by carriers for those establishments in the business of manufacturing, selling, or serving alcohol; this can include traditional establishments like taverns, bars, restaurants, distilleries, distributors, and also include those businesses that operate on a bring-your-own basis, as consumption of alcohol on those premises may impart some level of liability.
- In evaluating liquor exposure from underwriting and pricing perspective, liquor liability grades based on a scale from 0 to 10, that reflects the state's liability environment with respect to establishments in the business of manufacturing, selling, or serving alcohol. 0 reflects no to minimum liability exposure, and 10 reflects strict liability or highest liability exposure.
- Grades are generally based on applicable state statutes and relevant case law concerning vendor and risk liability exposure, as well as related limitations if any, on damage awards.
    - State's grade may change when there is a material change to an applicable state law and/or court decision.
- Once the grade is determined, ISO develops a manual that contains grades and includes references to state statutes and case law and pertinent, relevant information related to law, such as specific statutory language and citations.
- Rules are submitted to the insurance department in accordance with the state's regulatory filing requirements before being sent to customers.
- Grades are not new, and have been in place across the country with the current numeric scale for nearly 30 years. Grades were preceded by a different scale.
- Grades do not turn on historical losses, number of establishments, or size of related lawsuits or awards or claims, nor liquor related incidents. Grades are based on potential exposure assessment related to applicable state law at any given point in time.
- For most ISO programs, the procedure is to file and make available advisory prospective loss costs, which costs generally consist of the portion of rate, often the largest portion, based on historical aggregate losses and loss adjustment expenses used by our actuaries to project average future claims costs and loss adjustment expenses.
- Participating insurers can adopt our loss cost as filed, with modification, and can also add their expense and profit in order to determine the applicable rates they are charging. However, for some insurance programs or portions of programs, we do not file or make available loss costs; instead, we provide a related rating on a referred accompanied basis, generally meaning that the insurer must develop related rates in absence of our loss costs as a starting point. We do develop estimated loss potentials which provide a benchmark with respect to that starting point, but those are not formally filed.
- A certain degree of underwriting flexibility is typically needed, as is addressing risks to help ensure the premiums charge is commensurate with the exposure being assumed. The current ISO liquor liability program, including the program currently available in South Carolina, does have this referred accompanying rating. This is in part due to potential hazards present, the varying degree of risk management employed, and the amount of data available to project potential future losses.
- Underwriting is very important within liquor liability risk management process. Typically, an insurer will evaluate such things as the type of training provided to servers

and managers of an establishment, the type of security, whether or not there is entertainment, the type of off-premise exposure, on-premises exposure, loss history, things of that matter.

- Looking at data collected through our statistical plan, we show that for years 2018-2022, total losses within liquor liability classification (all types of establishments) amount to $25.7 million. This is contrasted by only $12.6 million in collected premiums during that time. This means the loss ratio for liquor liability classes under the ISO program runs in excess of 200%. Data collected by ISO is typically from the admitted market, as opposed to the non-admitted or ENS market, but it does show that the loss ratio is significant for those classes. These are numbers specific to South Carolina. South Carolina is currently rated a 6. In comparison, neighboring states have lower liquor liability grades, as laws in those states have different applications of joint and several liability against the liquor vendor and generally set limitations on liability at varying degrees.
- Liquor liability is one component of a liability policy, but there is also premises liability exposure that must be covered and that is part of overall general liability (slip and fall, non-liquor liability). There is significant upward pressure on that portion of the general liability policy over the last several years. In 2021, there was 9.2% increase in South Carolina; in 2022, there was only 1.2% increase. It is possible that some of the effect of the pandemic is being reflected in those numbers, but in 2023, the increase went back up to 10.9% for on-premises exposure and on January 1, 2025, there is going to be another 16.7% increase.
- South Carolina's liquor grade was last changed from a 3 to a 6 in 2010, based on relevant state law and case law in Hartfield vs. Getaway Lounge. Due to the absence of any significant development in relevant statutes or case law, and as the insurance rating is on a referred accompanying basis, any recent issues or developments arising in the marketplace are not likely attributed to the grade itself, nor the program. The ISO current and historical process includes monitoring all legal developments. If relevant laws change, whether from legislation, regulation, or case law, ISO reviews those changes and determines whether a revision to the liquor liability grade is appropriate. In the last couple of years, several states have taken such actions; namely: Alabama, DC, Oklahoma, and Vermont.
    - Alabama and Vermont were the only states with a liquor liability grade of 9. They both changed their dram shop statutes and both had their rating lowered to a 5.
- The ISO monitors all states, all the time, and looks at thousands of cases a year, touching on all aspects of liability. Legislation is also monitored and changes in legislation could result in a revised rating.
- Premium costs tend to lag in the states whose ratings go down. The ISO looks at losses and make sure things hold. They look to see if more people are interested in entering the marketplace.
- Study committee members inquired about any recommendations for best practices that a state like South Carolina could entertain to get a more favorable rating.
    - Mr. Clark stated that it comes down to the liability an establishment would potentially be subject to. States have looked at issues such as caps on liability or have tied caps to training. The issues such as training may provide protections under state law.

- Study committee members asked Mr. Clark to speak to the premium rate structure in South Carolina and how that compares to neighboring southern states relative to cost of insurance.
  - Mr. Clark said that there is so much flexibility in pricing that it is difficult to make a 1:1 comparison, but that some surrounding states have lower grades of 3,4, and 5. Mr. Clark also stated that a grade of 6 is in the middle. The normal distribution is between grades 0 and 8.
- Mr. Clark stated that the 0 to 10 rating is specific to liquor liability. When moving into premise operation exposure or commercial auto exposure, the ISO looks primarily at losses for various classifications within classification structure, and then within territories, established within the state.

Steve Cook from Saluda's restaurant, representing the South Carolina Restaurant Lodging Association:

- Mr. Cook said he was testifying because he believes the situation is deteriorating. He stated that the numbers DOR presented are not reflective of the people who had a dream of opening restaurant or bar.
- Mr. Cook stated that his business fell into the category of 25% to 30% of alcohol sales, and it is his understanding that insurance companies classify his restaurant under the threshold of fine dining, and that white tablecloth is one of the most desirable policies to write.

Steve Burritt, MADD, SC Director

- Mr. Burritt stated that MADD had become part of the conversation for a couple of reasons:
  - They do not have any issue with the fact that people want to address the issue of rising alcohol liability insurance rates.
  - They care about the impact on public safety and the impact on victims of impaired driving crashes.
- Mr. Burritt stated that South Carolina is the worst state in the nation for drunk driving. In 2022 (most recent year for data across all states), 474 lives were lost, which was the 5th highest in the nation, and South Carolina is 23rd in population. To compare, North Carolina has double the population; logic is that they would have twice as many drunk driving fatalities, but [South Carolina has] more.
  - South Carolina's numbers have gone up 72% from just three years ago. The number presented is just fatalities. It does not reflect traumatic injuries like brain injuries, lost limbs, paraplegia, broken bones, PTSD, and more.
- Mr. Burritt stated that the joint and several liability legislation that was debated in 2024 would directly harm victims; i.e. whatever victims are set to receive in a fair court process would be dramatically limited by those changes in an effort to be fair to parties that actually contributed to the tragedy. Mr. Burritt stated that the victims are the only innocent party, and morally, the right thing to do is to put the innocent party and innocent victim first.
- Mr. Burritt recommended strengthening DUI laws, and stated that South Carolina has some of the nation's worst DUI laws, which one can directly connect to the nation's worse fatality rankings and rising insurance rates.

- Regarding data collection, Mr. Burritt stated that the federal government has stringent standards regarding how data is collected and reported, and that South Carolina is following that protocol.
- Mr. Burritt stated that 43% of traffic fatalities in 2022 were attributed to drunk driving, and the national average during that time was 32%. He also stated that around 55% of traffic fatalities are the drunk driver.

Chris Oxford, Pinckney Carter Company

- Mr. Oxford is an insurance broker with Pinckney Carter out of Charleston, specializing in hospitality insurance
- Mr. Oxford stated that he believes we are in a crisis in South Carolina when it comes to the availability and affordability of liquor liability. He stated that it has become increasingly severe in the last few years. He said it initially affected smaller bars, taverns, VFWs, and fraternal organizations, but it is now affecting all restaurants that serve alcohol, including fine dining and family style restaurants.
- Mr. Oxford stated that most national large carriers have stopped offering liquor liability. They will offer general liability, but not liquor liability, except for some renewals, but at extreme price increases, affecting white tablecloth establishments much more than in the past.
- Mr. Oxford explained that it is difficult for underwriters to assess a risk, because bad risk cannot be separated from good risk, which causes underwriters to pull out entirely.
- Mr. Oxford stated that the loss ratio (of nearly 300%) and claims frequency is significantly higher in South Carolina than in neighboring states. According to Mr. Oxford, claim severity is also more severe in South Carolina than in other states.
- Mr. Oxford stated that carriers are no longer offering umbrella coverage over liquor liability, and the ones that do are extremely expensive, which is causing restaurants/bars to be noncompliant with their leases; the lessors are making the restaurants/bars carry high limits that are unavailable and unaffordable.
- Study committee members pointed out that reducing the amount of insurance required does not reduce the amount of exposure a business has.

Daniel Hinkle, American Association for Justice, National Trial Lawyer Association, SC Association for Justice

- Mr. Hinkle spoke of Property & Casualty (P&C) Insurance industry profits:
    - After costs & taxes, in 2022, insurance industry made $39 billion in profit.
    - 2023 was the most profitable year in the history of the P&C insurance industry.
    - 2024 is set for a record—the first 9 months saw $130 billion in profits.
- Mr. Hinkle stated that profits from premium rates increased.
    - Overall, P&C industry has raised premiums 19% since 2022, which matches the profit increases.
- Mr. Hinkle stated that insurance company stocks are outperforming the market considerably.
- Mr. Hinkle stated that the majority of the premium rate increase is in motor vehicle premium rates.
    - With a cumulative increase of 63%, increases caused overall inflation to rise by 0.6% in past three years for the first time in history.

- Mr. Hinkle stated that other raised rates include homeowners' and commercial lines.
- Mr. Hinkle stated that Nvidia is the largest company in world by market capitalization, yet profits in 2023 were less than half of profits from Berkshire Hathaway's insurance group.
- Mr. Hinkle stated that industry trade journals have downplayed historic profits and that the news focuses on underwriters.
    - Most corporations incur costs before revenue, but insurance companies are the opposite. Insurance companies get money up front in premiums, then costs come on back end, and in the middle, they invest it. Profits come in from premiums that outpace costs, or from investments which have paid off lately.
    - Tracking is hard to do because premiums are captured on a per line, per state basis, with investments lumped together and reported nationally. Mr. Hinkle states that this is important because just because a particular line in a particular state was an underwriting loss, it doesn't mean overall policies were not profitable; the insurer could make enough money on the float to make the policy profitable.
- Mr. Hinkle also stated that a company could have collected premiums for two decades without a single case. and all that time the premium money is building through investments.
- It was pointed out that even if the companies don't cover costs in premiums, they will make it up in investment, because the time between collection of premium and payment of loss is such that they would've made it up in investments.
- Mr. Hinkle stated that changing the rules often comes at the expense of victims. Benefits and reduction in costs don't necessarily go back to the policyholder, they go to the profit line of the insurance company. Mr. Hinkle said that this has been seen in medical malpractice. Insurers don't pass on changes to policyholders, the insurers retain them as profits.
- Mr. Hinkle stated that this gives insurance companies someone to blame for rising insurance premiums. He stated that, objectively, lawsuits have not increased nationwide during the last 5 years, according to the National Center of State Courts. Civil case loads for state trial courts have fallen by 10%, tort claims have remained stable. The percentage is consistent over past 12 years.

David Anderson, Civil Defense Attorney at Richardson Plowden

- Mr. Anderson stated that defense counsel wants to present evidence to the jury of all at-fault parties. Presently, our system allows the at-fault party to go unnamed. Defendants should not have to bear the burden of those parties who bear the majority of fault, simply because they are perceived to have ample financial resources or significant insurance coverage. He explained that in Smith v. Tiffany, the South Carolina Supreme Court interpreted the law modifying joint & several to exclude from consideration in apportioning fault any person who settled or was not named by the plaintiff as a party to the lawsuit, even if that person was the principal cause of harm to the plaintiff.
- Study committee members pointed out that on the issue of liability, defense counsel does get to point to an empty chair. Mr. Anderson stated that the empty chair can be mentioned but cannot be contained on the jury verdict form. There is no place for the empty chair to be apportioned a percentage of fault on the form.

- Mr. Anderson stated that he believes that only through legislation can South Carolina begin to correct the disproportionate share of tort liability (lawsuit liability) shouldered by business owners and individual citizens simply because they are perceived to have ample financial resources, when others not named are responsible for shares of the harmed cost.
- Mr. Anderson recommended:
    - Enacting meaningful fraud-against-retailer defense—if there are intentional attempts to defraud the retailer, there should be some defense.
    - Creating state reinsurance program or a pool to stabilize premiums.
    - Limiting dram shop recovery for passengers 21 years of age and older, who knowingly ride in a vehicle with an intoxicated driver.

Libby Chaney, SC Association for Justice

- Ms. Chaney is a principal commercial underwriter for Forsity Corporation.
- Ms. Chaney stated that population influx and a thriving tourism economy help contribute to a challenging liquor liability insurance landscape. She stated that claim costs for insurers have continued to rise.
- Aspects that are working:
    - An insurance line that has seen a rate decrease for the last 7 years is workers' compensation.
        - Loss costs have remained stable or decreased.
    - Workers' comp. rates have dropped every year since 2017.
    - This is directly attributed to aggressive risk mitigation on the "front end", which is a direct result of loss prevention education, loss control, and claims management.
- Ms. Chaney stated that developing a partnership between the business owner and carrier is key. This should be facilitated by the insurance agent. A partnership helps to educate all parties, foster mutual understanding, and guide the insured with counsel, education, and tools to manage their risk, thus driving down their costs.
- Ms. Chaney stated the key is risk management instead of risk reaction.
- Ms. Chaney stated that the solution is education, training, and accountability.
    - As an underwriter, the first subjective factor considered is "does the owner of this establishment provide documented, annual training for responsible alcohol service?"
        - Goes to what the employer values, and the strength of the establishment they are running.
        - Ms. Chaney stated that it would be highly unlikely to look at a submission of a business that doesn't provide any sort of training. She said it wouldn't make sense to offer to quote that coverage.
        - Ms. Chaney stated that a consultation and education approach to liquor liability education is a "no-lose" scenario, training is available online 24/7 and easily documented—at worst, employers would spend a small time educating employers with no significant change in premium result—and the best case scenario is that SC servers and establishments are better educated with fewer injuries and fatalities, and the liability insurance marketplace becomes more competitive, which is what truly lowers rates.

- Requiring establishments to educate employees will likely help manage liability costs. More importantly, it will lead to a safer environment with stronger and safer communities.

Recommendations from various speakers and those who submitted testimony:

Homeowners Insurance:

Smitty Harrison, Director of the South Carolina Wind and Hail Underwriting Association, recommended that the Study Committee consider the effects of strengthening building codes and associated standards, and consider county delegation earmarks for roof improvement programs.

Maria Cox, State Coordinator of the Flood Mitigation Program in the South Carolina Department of Natural Resources, recommended that the Study Committee consider promoting the funding of the state's Flood Inundation and Mapping for Action system with an additional $4.5 million, which would improve public safety and provide various entities with data regarding special flood hazard areas.

Liquor liability Insurance

The Wholesale and Specialty Insurance Association recommended amending South Carolina's dram shop law to be more in line with Alabama's, which requires businesses to knowingly serve visibly intoxicated individuals and that the intoxication be the proximate cause of any injury or death in order for an establishment to be held liable.

Tim Ward, Program Director of the South Carolina Medical Malpractice Association, recommended the creation of a Joint Underwriting Association to address the scarcity of providers in the liquor liability market.

Steve Clark, Government Relations for the Insurance Services Office, recommended examining liability caps, server training and mitigating factors for assignation of liability as solutions that other states have employed.

Steven Burritt, MADD, recommended that the General Assembly strengthen the current DUI laws.

Ms. Liz Chaney, on behalf of the South Carolina Association for Justice, recommended that the General Assembly focus on requiring certain education and training for alcohol servers to lower liquor liability insurance rates.

Mr. David Anderson, Law Offices of Richardson Plowden, recommended:

- Enacting meaningful fraud against retailer defense;
- Creating a state reinsurance program or a pool to stabilize premiums; and
- Limiting dram shop recovery for passengers 21 years of age and older who knowingly ride in a vehicle with an intoxicated driver.