The Sacramento Bee

Sunday, June 9, 1991

FORUM

▶ OPINION

Death on the diamond

Little League's avoidable tragedy

At one level, it's city law that protects Gates. The Los Angeles City Charter insulates department

for withdrawal of their endorsements. And the council is engaged

See GATESGATE, Forum 3

Pay-at-the-pump auto insurance?

By Stephen D. Sugarman
Special to The Bee

Stephen Sugarman is professor of law at UC Berkeley's Boalt Hall School of Law.

IMAGINE THAT instead of regularly sending large checks to your auto insurance company, you paid for most of your auto insurance protection a little bit at a time every time you bought gasoline.

A fuel surcharge of 50 cents a gallon, for example, would cost the average California motorist about $300 a year. But if your insurance bill were cut by more than that, you might find very attractive the idea of paying for auto insurance at the pump. You might even be more enthusiastic if you learned that this approach would also make headway on the problems of air pollution, international oil dependency and congested urban roads.

Under the "pay as you drive" proposal recently put to the California Energy Commission by energy expert Dr. Mohamed El-Gasseir, the new fuel surcharge collected by gas stations would be turned over to a new fund created within the Franchise Tax Board.

This fund would take a small amount off the top to cover its costs of operation and pay the rest, on the basis of a fixed amount per insured vehicle, over to everyone's individual auto insurer. There would be no individual matching. What you pay into the fund would depend upon how much gasoline you used. But all the insurers would get the same payment from the fund for each of their insureds, and that payment would cover the cost of most people's basic auto insurance needs. The insurers would charge extra for additional insurance coverage.

If you didn't sign up with a private insurer, the state fund would keep your share on behalf of a new division within the Department of Insurance which would become your insurer.

See THE CASE, Forum 3

Music: Goin' out of my mind ...

So who'll stop the brain?

"I'd call it a 'normal obsession,'" says Dennis Munjack, a professor

church choir director, while some professional musicians hear no

Bears and Other Unwanted Thoughts, describes the normal

The case for pay-at-the

Continued from Forum 1

One reason auto insurance costs so much today is that there are too many uninsured motorists, about a quarter of California drivers. Their accidents are paid for by responsibly insured drivers who fork over ever larger premiums for uninsured motorist protection. El-Gasseir's plan would solve this problem, since all drivers would be paying in. As a result, insurance would cost less.

Even more importantly from El-Gasseir's perspective, by having the driving public pay for auto insurance as they drive, people would modify their behavior. Some would drive less. Studies show that every 1-percent increase in the price of gasoline leads to a 2-percent reduction in gas consumption in the short run, and as much as 7 percent in the long run. So, an increase between 40 and 50 percent in price (what a 50-cents-per-gallon insurance charge means today) should yield a prompt 8- to 10-percent cut in driving.

More commuters would car pool or take public transportation. More people would walk or bike to shop, or would plan their outings more carefully. Roads would be less crowded, reducing travel time for those who continued to drive. As driving decreased less auto pollution would be generated. With fewer people on the roads, there would be fewer accidents.

Moreover, faced with the prospect of significantly higher per-gallon costs for gas, some motorists would switch to more fuel-efficient vehicles. This would be very sensible, because, according to UC Berkeley Physics Professor Art Rosenfeld, for $500 or $600 per car we could increase the average fuel efficiency of many models by 25 to 35 miles per gallon with no loss in performance or amenities. That would slow the rate at which we use up nonrenewable petroleum supplies, and reduce our dependence on imported oil. Rosenfeld has shown than an average annual

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Because of these potential benefits, auto insurance reform is now of interest to environmentalists, energy efficiency experts, those responsible for improved air quality and those favoring more support for public transportation. Reformers who favor payment at the pump now see the possibility of bringing those groups into a broad coalition of interests that would, of course, also include many consumers of auto insurance.

SPECIAL INTEREST opposition will undoubtedly surface – from the oil industry, gasoline retailers, the highway lobby (including contractors and concrete manufacturers), parking lot owners and others whose interests coincide with more, rather than less, driving. Although there is probably nothing that can be done to placate most of those groups, the special concerns of gas station operators about extra paperwork and money handling burdens could be met by offering them a small share of the take for their trouble. Actually, it wouldn't really be much bother for the gas stations. They would not have to know who is buying the gas and who their customers' insurers are. Rather, they would simply pass the new gasoline surcharge on to a new fund in the Franchise Tax Board, just as they pass on the gasoline taxes they already collect.

Other objections typically raised about payment at the pump are fairly easily answered. Although accidents per mile driven are lower on freeways than on ordinary streets, freeway drivers would not be overpaying in a pay-at-the-pump arrangement. Cars get much better gas mileage on the freeway, and freeway crashes are more serious.

What about future electric cars? If, as now seems likely, electric car owners will have to recharge their cars at night in their garages with a separate electric line, it would be simple to add a surcharge to that meter for insurance.

Because gasoline is bulky and not so easily hidden, bootleg or black market gasoline is not likely to be a serious problem. Nor, because of geography, is there likely to be much of a problem of people crossing state lines to buy cheaper gas.

Businesses that make heavy use of the roads, such as traveling sales operations and trucking firms, would pay more than now, but that would probably be a good thing if more transactions were done by phone or fax as a result, and the traffic congestion caused by trucks were somewhat reduced by a shift to increased use of rail.

Of possibly greater alarm is the burden that pay-at-the-pump plans could put on rural drivers who tend to go more miles but have fewer accidents. This equity issue could be handled, however, by varying the amount paid at the pump among the state's existing seven automobile insurance rating regions.

Of course, people driving gas guzzlers would pay more than others, but from the energy efficiency perspective that is exactly what is desired. To the extent that there are concerns that this would have a regressive impact on the poor who are stuck driving clunkers that get lousy gas mileage, the plan could provide the poor with public transportation subsidies, or income tax refunds or even gasoline vouchers.

MANY AGREE with the sentiments expressed in Proposition 113 passed by the voters in 1988 – that both drivers with bad records and novice drivers (mostly teenagers) should pay more for auto insurance. But this objective, too, is readily worked into a pay-at-the-pump scheme. The new state fund could be told to collect some of its revenues from additional charges on drivers' licenses based on one's driving experience and recent record of moving violation citations.

The pay-at-the-pump scheme can also be melded with proposals intended to promote the purchase of safer cars. Some of the plan's revenues could be collected with the annual registration of the vehicle – the amount paid based upon the safety record of the model. Or perhaps more simply the new state fund could receive an infusion of money every time a new car is bought, with the fee based on the

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model's safety rating. That safety rating (like a car's mile-per-gallon rating) could be prominently displayed on the new car's sticker. The goal in either case would be to show manufacturers that consumers will base purchasing decisions partly on safety. Eliminating lawsuits against car makers for injuries arising from most car defects might blunt any auto manufacturer opposition to the safety charge and safety sticker proposal.

Exactly how high the payment at the pump should be and other details are matters for more careful economic (and political) calculation. To that end, state Sen. Lucy Killea has recently introduced S.B. 1139 to create an interagency task force to study the idea in greater depth. This task force would, of course, deal with how much it would cost to perform the new state functions required by the plan.

Once operating, the new fund would probably be self-supporting simply from the interest it would earn between the time it collects the fuel surcharges from the gas stations and sends those funds on to the insurers. There would, indeed, be expenses incurred in keeping official records of everyone's insurers. But for the motorist who now buys insurance, the reduced cost of uninsured motorist protection would substantially more than make up for any new costs of public administration.

There would also be some expense incurred in setting up the program, although this would come out of the fuel surcharge and not from the taxpayers generally. These front-end costs could be covered via loans or by starting the fuel surcharge shortly before the plan is underway.

Other factors now contributing to California's auto insurance mess would not be reached by the pay-at-the-pump plan so far described. Currently, more than half of every dollar we pay in premiums for bodily injury coverage goes for overhead – insurance sales commissions, advertising, home office expenses and claims administration (mostly lawyers). About 10 cents of the premium dollar duplicates coverage victims have from health insurance, sick leave, Social Security, etc. Only about 15 cents of every dollar reimburses personal injury victims for their out-of-pocket economic losses for things like medical expenses and lost wages.

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Flack for the damned

The New Republic

THE LATEST grim news from the lobbying industry is that the democratic government of Nicaragua has just hired a certain Edward J. van Kloberg III as its Washington lobbyist.

Van Kloberg's previous clients, Violeta Chamorro might be interested to learn, include Saddam Hussein and Nicolae Ceausescu. His illustrious resume includes a 1984 conviction for fraudulent activity, a criminal record that doubt-

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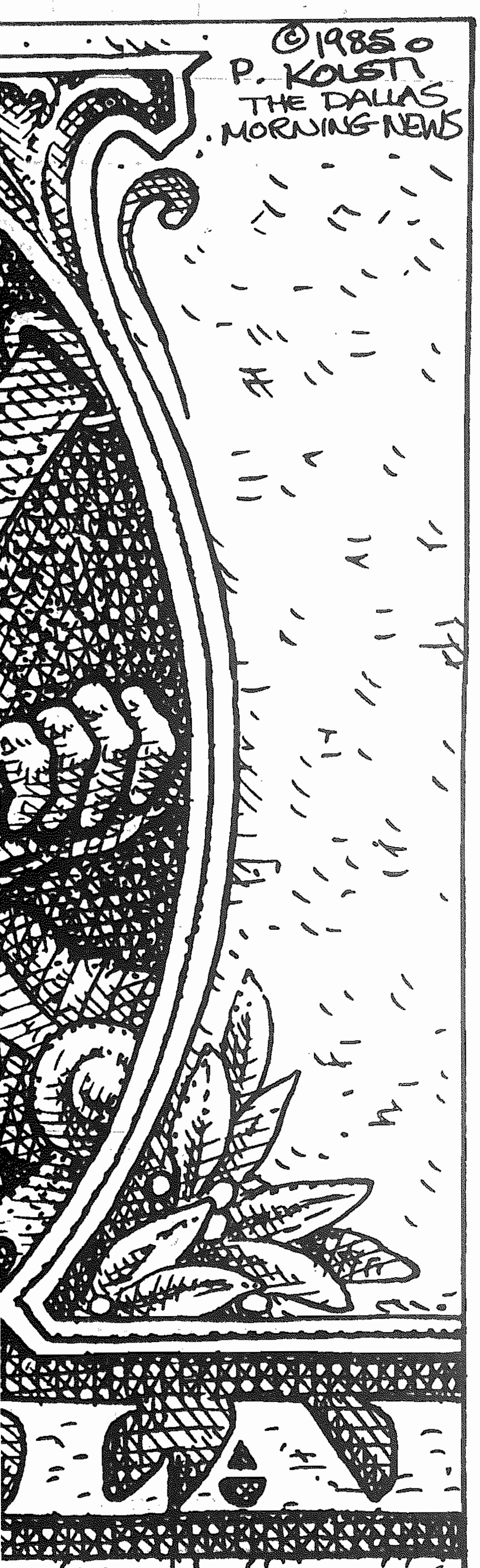

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'What you pay into the fund would depend upon how much gasoline you used. But all the insurers would get the same payment from the fund for each of their insureds.'

like "pain and suffering" than for real economic losses. And the vast majority of those receiving such payments have not been seriously injured – all too many having feigned "whiplash" from a routine fender-bender. While some auto accident victims are horribly injured and most of us wouldn't trade places with them for any amount of money, most of those victims, under the current system, lose the liability lottery and are vastly undercompensated for their losses. This is because so many drivers carry such low levels of liability insurance ($50,000 or less), if they carry any at all. Other seriously injured auto accident victims win the lottery and become millionaires (having been hit, for example, by a transit system bus or a company car).

BUT IF payment at the pump were meshed with a comprehensive no-fault system, Californians could enjoy both substantially lowered insurance costs and an efficient concentration of auto insurance premium dollars on auto victims' real needs. The no-fault plan would essentially eliminate lawsuits against other motorists for bodily injuries. Instead, the funds raised at the pump would provide all people injured in auto accidents with generous compensation for actual, otherwise unreimbursed, economic losses, including heath-care expenses up to $500,000, wage losses up to $5,000 a month, rehabilitation costs and other expenses. In addition, seriously injured people could receive modest payments for "pain and suffering."

Such a sweeping reform is sure to arouse the ire of the trial lawyers, independent insurance agents and brokers, and perhaps most of the insurance industry.

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A substantially more limited proposal would marry payment at the pump with the ideas embodied in S.B. 941, the modest no-fault bill introduced by state Sen. Patrick Johnson. The bill was recently defeated in committee, despite support from Gov. Wilson, consumer and low-income groups and key players in the insurance industry. S.B. 941 would have provided everyone with modest auto accident benefits on a no-fault basis for an initial premium of no more than $220 per year. Lawsuits for pain and suffering would have been restricted to those with serious injuries. But instead of paying insurers directly for S.B. 941's basic no-fault coverage, we would instead have paid at the pump.

In view of S.B. 941's demise, if its advocates decide to try the legislative route again, they could certainly use the support of environmental, energy-efficiency and pro-public transport groups that might lobby for it were it funded at the pump.

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Maybe Chamorro wants some advice on how to squeeze more money out of the U.S. government – van Kloberg's conviction was for faking letters of endorsement from foreign embassies in order to obtain bank loans. But at $5,000 a month, she could probably get Charles Keating cheaper.