



# Personal Insurance Federation of California

California's Personal Lines Trade Association

REPRESENTING THE LEADING AUTOMOBILE AND HOMEOWNERS INSURERS  
State Farm • Farmers • 21st Century Insurance Group • SAFECO • Progressive

## FLOOR ALERT

### STAFF

Dan Dunmoyer  
President

Diane Colborn  
Vice President of Legislative  
& Regulatory Affairs

Michael Gunning  
Senior Legislative Advocate

Dan Chick  
Senior Legislative Advocate

Jerry Davies  
Director of Communications

Date: September 8, 2003

To: Members of the California State Assembly

From: Dan C. Dunmoyer, President  
G. Diane Colborn, Vice-President of Legislative and Regulatory Affairs  
Michael A. Gunning, Senior Legislative Advocate  
Dan Chick, Senior Legislative Advocate

Re: SB 122 (Escutia): Private Enforcement Actions  
Assembly Floor Third Reading  
PIFC Position: Oppose

---

The Personal Insurance Federation of California, representing insurers who sell over 35% of all private passenger auto insurance sold in California, including State Farm, Farmers, SAFECO, 21st Century Insurance Group, and Progressive Insurance Company continues to **oppose SB 122 (Escutia), as amended on September 5, 2003**. While we appreciate the fact that the language allowing for “disgorgement” under Section 17200 has been removed, PIFC continues to have concerns with other provisions of the bill. Our fundamental objection with SB 122 as amended is that it does not provide the meaningful reform that it is purported to provide by the sponsors. In fact, some of the provisions of the bill we believe will actually make it easier for the statute to be abused.

The changes in SB 122 are clearly designed to look like real reform but are not. For example, the section that purports to “prevent double recovery” does nothing to prevent a defendant from being exposed to multiple lawsuits and double or triple jeopardy for the same alleged conduct. The provision only applies in those few cases that actually go to trial, leaves any set off even in those limited cases up to the judge’s discretion, and does not provide for res judicata or true finality of judgments.

Similarly, the amendments to the section on court review of attorneys’ fees and settlement agreements have weakened these provisions substantially in the trial lawyers’ favor. This section now essentially requires a court to approve the award unless it is determined, based on a subjective test with no specific standards, to be unfair. More to the point, court review of settlements and agreements regarding payment of attorneys fees will not solve the problem of coercive settlement agreements, since once a settlement agreement has been reached, both sides will want the agreement in order to avoid the expense and risk of trial. The greater problem is that the defendant is subjected to such a Hobson’s choice in the first place in cases where there has been no actual harm to an actual consumer.

Substantive reform of Section 17200 is clearly needed to address the problems with this law, highlighted most recently by the rash of lawsuits filed against businesses throughout the state for minor technical alleged violations of law. True reform would address such issues as standing, actual harm, and res judicata. None of these are provided for in SB 122. For all these reasons, **PIFC continues to oppose SB 122 and urges a no vote**. If you have any questions, please contact Diane Colborn at (916) 442-6646.

cc: Senator Escutia, Author  
Ann Richardson, Office of the Governor  
Richard Figueroa, Office of the Governor  
Saskia Kim, Assembly Judiciary Committee  
Mark Redmond, Assembly Republican Caucus