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January 11, 1978

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ARIZONA ATTORNEY GENERAL

The Honorable Jim Elliot  
Arizona State Representative  
House Wing, State Capitol  
Phoenix, Arizona 85007

Re: 78- 6 (R77-355)

Dear Representative Elliot:

By your letter of October 27, 1977, you, in effect, have asked whether A.R.S. § 20-259.01 is constitutional.

A.R.S. § 20-259.01.A<sup>1</sup> requires that all automobile liability insurance policies provide coverage against losses suffered as the result of an injury caused by the owner or operator of an uninsured motor vehicle. Your question then, is whether, as a condition to the sale or purchase of automobile liability insurance, the State may, through the police power, require insurance companies to require insureds to purchase uninsured motorist coverage.

We think that the principle purpose of A.R.S. § 20-259.01 is the protection of the public using the highways from financial hardship which may result from the use of automobiles by uninsured motorists who may not be able to satisfy claims arising against them as the result of improper use of their automobiles. This exercise of the State's police power is very similar to that which was approved by the Arizona Supreme Court in Schecter v. Killingsworth, 93 Ariz. 273, 350 P.2d 136 (1963). In Schecter, the court in rejecting a challenge to the State's financial responsibility act (Chapter 7, Title 28, Arizona Revised Statutes), stated:

1. A.R.S. § 20-259.01.A provides:

A. On and after January 1, 1966, no automobile liability or motor vehicle liability policy insuring against loss resulting from liability imposed by law for bodily injury or death suffered by any person arising out of the ownership, maintenance or use of a motor vehicle, shall be delivered or issued for delivery in this state, with respect to any motor vehicle registered or principally garaged in this state, unless coverage is provided therein or supplemental thereto, in limits for bodily injury or death set forth in § 28-1142, under

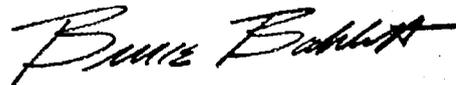
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The Financial Responsibility Act has for its principal purpose the protection of the public using the highways from financial hardship which may result from the use of automobiles by financially irresponsible persons. . . .

It is well recognized that the social objective of preventing financial hardship and possible reliance on the welfare agencies of the state is a permissible goal of police power action. [Citations omitted]. 93 Ariz. at 280-281.

For the reasons stated by the court in Schecter, we think A.R.S. § 20-259.01 is constitutional.

Sincerely yours,



BRUCE E. BABBITT  
Attorney General

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(footnote 1 continued)

provisions filed with and approved by the insurance director, for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of uninsured motor vehicles because of bodily injury, sickness or disease, including death, resulting therefrom. For the purposes of the coverage provided for pursuant to this section, "uninsured motor vehicles", subject to the terms and conditions of such coverage, includes any uninsured motor vehicle where the liability insurer thereof is unable to make payment on the liability of its insured, within the limits of the coverage, because of insolvency.