



LEGISLATIVE POSITION

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An act to amend the Executive Law, in relation to contracts to disseminate certain advertising materials.

PIANY supports legislation that requires state agencies who contract to disseminate advertising material to exclude material which relates to the agency's mission.

**Memorandum in support of: A.10322—by M. of A. Hoyt
S.7256—by Sen. Valesky**

Background: This legislation amends the Executive Law by adding a new Section 33. This bill provides that state agencies which contract with or through a third party to disseminate advertising materials to the public are prohibited from including the advertisements of products or services which relate to the subject matter of the state agency. For example, the bill would prohibit mailings sent on behalf of the Department of Motor Vehicles from including advertisements of auto insurance companies.

Justification: PIANY supports this legislation on behalf of its members and the insurance-buying public. In recent years, the New York Department of Motor Vehicles has entered into contracts with large national automobile insurance companies involving the mailing of DMV's registration renewal notices. Along with official state registration renewal documents, the mailings also contained advertisements of these companies.

The inescapable impression is that the inclusion of an insurance company's advertisement in official state mailings amounts to state endorsement of that company. Although the mailings feature language intended to disclaim such an endorsement, the disclaimer is patently ineffective. The state's role in regulating insurance and the DMV's role in enforcing mandatory financial responsibility requirements provide the incentive to avoid even the slightest perception of impropriety.

Importantly, the passage of this proposal would not prevent agencies such as the DMV from continuing their pay-to-advertise programs or receiving the revenue that companies pay for this privilege. Rather, the bill only would require the agencies to avoid advertising products and services that are directly related to their authority and thus likely to create the perception of an endorsement or favoritism.

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Like the Ohio Bureau of Motor Vehicles, New York has recently announced that this year they have not contracted with an insurance company for these advertisements. PIANY believes, however, that voluntary and incidental compliance is not enough. The law needs to be changed to demonstrate the state's commitment to eliminating the appearance of inappropriate endorsements. We, therefore, encourage the New York State Legislature to enact this statutory change to permanently prevent the use of insurance company advertisements in registration renewal mailings.

New York currently enjoys a healthy automobile insurance market and consumers have numerous companies from which to choose. That choice, however, should be free from the inappropriate influence of any state agency.