



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 prohibits endorsements of products or services by state agencies because such endorsements, whether or not intentional, compromise the neutrality that should be expected of the state and its agencies.

Memorandum in support of: S.2871 – by Senator Volker
A.5266 – by M. of A. Hoyt,
M. of A. Morelle and M. of A. Weprin.

Background: This legislation amends the Executive Law by adding a new section 33. This new statute provides that state agencies that 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. The New York Department of Motor Vehicles entered into a contract with a private company in 2003. Pursuant to the contract, the third party company handles the mailing of the DMV's registration renewal notices and includes with the mailings advertisements of various companies, including automobile insurance companies.

The inescapable impression is that the inclusion of an insurance company's advertisement in the mailings amounts to a 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 remotest chance of impropriety.

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Memorandum in support of: S.2871/A.5266

Page 2

Importantly, the passage of S.2871/A.5266 would not prevent agencies such as the DMV from continuing programs such as the one described above. 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.

PIANY encourages New York to follow the lead of the Ohio Bureau of Motor Vehicles, which recently announced an agreement to cease the use of insurance company advertisements in its registration renewal mailings. The decision was made based arguments that are nearly identical to those made in this memorandum. Ohio had previously contracted with the same third party company that handles the New York DMV's 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 influence of any one company that can afford to place its advertisements where others cannot, and the state should not facilitate that influence in any way.

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