

PDI: The Pennsylvania Defense Institute

An Association of Defense Lawyers and Claims Executives

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April 8, 2016

Honorable Tina Pickett
315-A Main Capitol Building
P.O. Box 202110
Harrisburg, PA 17120-2110

Honorable John Taylor
214 Ryan Office Building
P.O. Box 202177
Harrisburg, PA 17120-2177

Re: SB 928 and HB 1258

Dear Representative Pickett and Representative Taylor:

I am writing on behalf of the Pennsylvania Defense Institute (PDI) and its members to express opposition to SB 928 and HB 1258, which under SB 928 would increase automobile insurance financial responsibility limits for Pennsylvania drivers from the current \$15,000 per person and \$30,000 per accident to \$25,000 per person and \$50,000 per accident and under HB 1258 increase the limits to \$30,000 and \$60,000. They would also increase property damage limits. These change are advertised as needed to provide more money for victims injured in automobile accidents. We do not believe the changes will result in greater recoveries. We also believe such changes will have many serious and unintended consequences.

An increase in automobile liability limits is not needed to enable victims to recover more than the current liability limits if their injuries warrant. They already have the ability to recover more than the tortfeasor's liability coverage for their injuries. Drivers can protect themselves from injuries at the hands of underinsured drivers, especially those carrying the statutory minimum limits, by purchasing underinsured motorist benefits from their own automobile insurers. Underinsured motorist coverage is designed to act as excess liability coverage. Insurers are required to offer underinsured motorist coverage up to the limit of the insured's own liability coverage, and for motorists who carry high coverage limits, this protection can be substantial. And, underinsured motorist coverage purchased by an insured to protect himself is markedly cheaper than any comparable amount of liability coverage purchased by a negligent driver to protect others. Thus, Pennsylvania drivers already can recover more than the current statutory mandatory minimum liability

limits simply by purchasing cheap underinsured motorist insurance. As such, SB 928 and HB 1258 are unnecessary.

These bills are also unnecessary because in the current claims and litigation climate, there is not much “real world” difference between claims valued at \$15,000 or \$25,000 or \$30,000 when evaluating and paying liability claims. Increasing the limits of a negligent driver’s liability coverage may make defense and settlement of smaller liability claims more costly and contentious, without substantially reducing the number of underinsured motorist claims.

An increase in the liability limits as proposed will have significant unintended consequences, some obvious and some less so. Obviously, insureds will have to pay higher insurance premiums to pay for the increased liability coverage. To demonstrate the difference increasing the minimum mandatory liability coverage makes on premiums, one can look to sister states Illinois and Ohio.

An Illinois law took effect last year increasing liability minimum limits from \$20,000 per person and \$40,000 per accident to \$25,000/\$50,000. That small increase in coverage cost a reported \$75 per year increase in premiums.

In 2013, Ohio increased their mandatory minimum limits from \$12,500/\$25,000 to \$25,000/\$50,000, similar to what is proposed under SB 928. That change in coverage in Ohio was estimated to result in about \$200 in increased premiums.

According to the National Association of Insurance Commissioners most recent data from 2012, the average premium for liability insurance in Pennsylvania was \$495. Nationwide the average was \$504. If another \$200 is added to the premium for purchasing minimum liability coverage, Pennsylvania would be significantly higher than the national average.

The increased cost to purchase greater liability coverage will most affect the poorest Pennsylvania consumers. Pennsylvania drivers are required by law to maintain “financial responsibility” by maintaining at least the minimum liability coverage. An increase of \$200 in annual premium can mean the difference between purchasing auto insurance and driving uninsured for some consumers. This will result in an increase in the number of uninsured Pennsylvania drivers. The frequency of accidents with uninsured drivers will increase with a corresponding increase in the number of uninsured motorist injury claims by victims with their own insurers, resulting in higher premium for uninsured motorist insurance. For others, it may mean that they will have to reduce the amount of other insurance such as first-party benefits (medical and wage loss protection for themselves) or underinsured and/or uninsured motorist coverages to be able to afford the increased liability insurance premiums. Or, worse yet, they may have to forego these valuable protections in order to pay the increased costs for liability insurance. The current liability mandatory limits were set to encourage consumers to purchase auto insurance. At current levels, most motorists are able to afford some modest level of first-party benefits or uninsured and underinsured motorist benefits. The changes proposed in SB 928 and HB

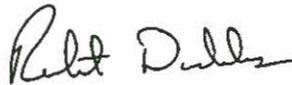
1258 will have the opposite affect and discourage consumer compliance with the law, or it will force these drivers to choose between providing more protection for others and less for themselves.

The change proposed in SB 928 and HB 1258 will not only adversely affect consumers, but also will have consequences for Pennsylvania's auto insurers. There will be increased litigation over less serious auto injuries as the stakes for both claimants and insurers will be higher with the new liability limits. Also, the increased limits will more seriously impact "low limits insurers" that will lose customers who choose to forego auto insurance.

Perhaps the most serious impact of SB 928 and HB 1258 for insurers is in the administration of the new law. These bills give no guidance in administering the new auto limits. How will consumers be notified of the change? When will the increase go into effect for individual consumers: As of the effective date of the new law? Upon receipt of notice of the change from the insurer? At the time of the insured's next policy renewal? And when and how will insurers collect the added premium for the increased coverage? Moreover, will insurers be required to secure completed forms from insureds acknowledging receipt of information about the increased limits, higher premiums, their understanding of it all, and confirmation of their new selection of an appropriate coverage level by every insured? Insurers may be subject to costly and unpredictable litigation over the methodology used to introduce the mandated higher liability limits.

PDI and its members are available to answer your questions about SB 928 and HB 1258.

Sincerely,

A handwritten signature in cursive script, appearing to read "Robert D. Dodds".

Robert D. Dodds, Esquire
President, Pennsylvania Defense Institute