



LEGISLATIVE POSITION

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Auto insurance surcharges

PIANY supports increasing the statutory threshold for auto insurance surcharge

Memorandum in support of: S.1700-B—by Sen. Breslin
A.1952-B—by M. of A. Morelle

This legislation amends Section 2335 of the Insurance Law to raise from \$1,000 to \$2,000 the amount of property damage which, if exceeded in a motor vehicle accident, would allow an insurer to impose a policy premium surcharge. (Unlike prior versions, amendments contained in this bill preserve the \$1,000 accident-reporting threshold in Section 605 Vehicle & Traffic Law, so data on such incidents will still be collected and available for analysis.)

Justification: This legislation would help contain premium costs by preventing the imposition of auto insurance surcharges for minor accidents. The amendments to the proposal reflect changes incorporated to address the concerns of insurance companies.

The amount of property damage for which insurers may impose a premium surcharge is currently based on the amount (\$1,000) set in Vehicle & Traffic Law Section 605, which requires accident reporting to the Department of Motor Vehicles (See 11 NYCRR 169.1(a)). Changes in accident costs since 1991, when the current reporting threshold was enacted, mean that the most minor accidents now result in an insurance surcharge.

At today's prices, even a minor accident can easily cause damage of more than \$1,000. To name just two examples, uni-body construction and new automotive paint technology mean that minor "fender-bender" damage usually exceeds the \$1,000 reporting threshold and results in surcharges for policyholders.

Our members frequently bring to our attention instances in which the amount paid by policyholders in surcharges over three years equal or even exceed the amount of the original insurance benefit paid on a claim. This is unfair to consumers and leads many to pay out-of-pocket for claims which they could legitimately collect from insurers.

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This bill would prohibit insurer surcharges for accidents with aggregate property damage less than \$2,000. (All accidents causing any type of injury would remain surchargeable.) This threshold was last raised effective Aug. 1, 1991, to \$1,000 from \$600.

This bill, as amended, would still require minor accidents to be reported so DMV statistics can be kept, but would adjust the insurance premium surcharge threshold to a fairer and more reasonable amount.

It is time to de-couple the insurance surcharge threshold from the DMV-reporting requirement. Inflation alone, during more than 18 years since the amount was last adjusted, would justify raising the surcharge figure again. The situation is made more urgent by the escalating cost of auto repairs.

For all of these reasons, PIANY supports this legislation and urges its adoption.

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Addendum:

Q. Insurance companies oppose this bill and say it would result in an increase in the base rate charged to “other drivers.” Is this a valid argument against approving the bill?

A. No. The bill is needed now. A car that can pass inspection and be driven to work is an absolute necessity for many working families—never more so than in this fragile economy. Drivers who sustain minor accidents would NOT be immune from their share in any base rate change. And, everyone would gain an urgently-needed increase in their protection.

Insurance is a financial product that helps people protect themselves, by spreading risk of financial loss among large groups of people who have similar exposure to such loss. One year, you may have a minor accident; the next year, your neighbor may. But, in no year will everyone in your town or city have such accidents. Spread-of-risk means that everyone pays a tiny fraction of each loss, so that no one is financially crippled by an accident.

This bill would assure that your auto insurance policy is not rendered practically worthless for protection against the cost of minor accidents. New York for years has recognized this danger, by saying that a minimum amount of damage (currently \$1,000) should not cause surcharges. Remember, surcharges over the succeeding three years can add enough to the driver’s premium costs to equal or even surpass the amount the driver’s insurance company paid to repair the vehicle.

People maintain insurance to ensure their vehicle can be repaired and remain operable in the event of an accident. Spreading out the cost of minor accidents among all drivers who maintain physical damage coverage fulfills the essential premise of the insurance system: That people can protect themselves from sustaining a loss or expense that could wreck their financial security.

The current system, whereby insurers may totally recoup (or even exceed) amounts they lay out for minor property-only damage, by surcharging the very person who buys the policy for financial protection, has become unfair due to the inflation in repair costs. It’s time to extend additional individual protection, as well as a minute share of the costs, over the larger universe of drivers. In doing so, New York assures that policyholders truly realize some value from the coverage they purchase in these cases.