



July 8, 2010

**PROFESSIONAL  
INSURANCE  
AGENTS**

Mr. Gaurav Vasisht, Esq.  
Assistant Counsel to the Governor  
Governor's Office  
Executive Chamber, State Capitol  
Albany, NY 12224

**RE: S.1700-B/A.1952-B—INCREASING THE STATUTORY THRESHOLD FOR  
ASSESSING AUTO INSURANCE SURCHARGES**

Dear Mr. Vasisht:

I write to both convey PIANY's support for the above-referenced proposal (passed by both houses) to increase the statutory threshold for auto insurance surcharges and to urge the governor to sign the measure into law.

This bill is consistent with the governor's proposal (contained in his 2010/11 Executive Budget—Transportation, Economic Development and Environmental Conservation Article VII: Part J) to increase the law enforcement motor vehicle accident report threshold, since that threshold is tied to the ability of carriers to assess policies under 11 NYCRR 169.1(a).

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. All accidents causing any type of injury would remain eligible to be assessed a surcharge. Moreover, amendments contained in this bill reflect changes incorporated to address the concerns of insurance companies and the New York State Insurance Department.

This legislation would help contain premium costs by preventing the imposition of auto insurance surcharges for minor accidents. 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)). This threshold was last raised effective Aug. 1, 1991, to \$1,000 from \$600. Inflation alone, during more than 18 years since the amount was last adjusted, would justify raising the surcharge figure again. 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

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25 CHAMBERLAIN ST.  
P. O. BOX 997  
GLENMONT, NY 12077-0997  
(800) 424-4244  
FAX: (888) 225-6935  
WEB: [www.pia.org](http://www.pia.org)  
E-MAIL: [pia@pia.org](mailto:pia@pia.org)

prices, even a minor accident can easily cause damage of more than \$1,000 and result in substantial 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.

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. For all of these reasons, PIANY supports this legislation and urges the governor to sign this much-needed proposal into law.

Sincerely,

A handwritten signature in black ink, appearing to read 'Matthew F. Guilbault', with a stylized flourish at the end.

MATTHEW F. GUILBAULT, ESQ.  
Director of Government and Industry Affairs