



Legislative Position

Memorandum in support of: S-3187—by Sen. Scutari Awaiting Assembly bill number

Protecting New Jersey drivers:

Why the state Legislature must ban personal auto step-down provisions

New Jersey drivers deserve auto insurance policies that are clear, fair, and consistent. Yet, a persistent and harmful loophole continues to undermine those principles: personal-auto step-down provisions—clauses buried deep in insurance contracts that reduce coverage limits for certain insured individuals, often without their knowledge or understanding.

These provisions are more than confusing—they are unjust. They contradict consumer expectations, create judicial inconsistency, and leave injured drivers without the coverage they reasonably believed they had.

What are step-down provisions?

Step-down clauses reduce liability or underinsured motorists coverage for individuals who are not “named insureds” or “resident family members,” even if they are listed as covered drivers and operating a covered vehicle with permission. These clauses often conflict with the coverage limits shown on the declarations page—the part of the policy most consumers rely on when evaluating their protection.

Recent case law: A troubling shift

In *Polizzi v. Liberty Mutual Fire Insurance Co.*, No. 14-cv-02768 (D.N.J. Jan. 26, 2021), the U.S. District Court upheld a step-down clause that reduced a listed driver’s underinsured motorists coverage from \$250,000 to \$15,000, solely because she was not a “named insured” or “resident family member” at the time of the accident.

Despite the plaintiff being listed as an additional insured and driving a covered vehicle with permission, the court found the policy language unambiguous and enforceable. As a result, the plaintiff—seriously injured by an underinsured motorist—was left with no UIM recovery under the policy.

A sharp contrast with consumer-protection rulings

The *Polizzi* decision marks a departure from other subsequent New Jersey cases that have prioritized fairness and the reasonable expectations of policyholders:

- continued -

Industry leading, member focused

Protecting New Jersey drivers:

Why the state Legislature must ban personal auto step-down provisions

Page 2

Dela Vega v. St. Paul Protective Ins. Co., A-2272-19 (N.J. App. Div. May 6, 2022) The court invalidated an intra-family liability step-down clause that reduced coverage for a named insured injured by her spouse while riding in a covered vehicle. The exclusion was not mentioned on the declarations page and was buried in boilerplate language. The court described it as a “hidden trap” that contradicted the insured’s reasonable expectations and undermined public policy goals of compensating innocent victims.

Motil v. Wausau Underwriters Ins. Co., A-0400-23 (N.J. App. Div. April 5, 2024)

The Appellate Division found ambiguity between the declarations page and the step-down clause. The injured party was listed as a covered driver, and the policy showed consistent premiums across all vehicles. Applying the reasonable expectations doctrine, the court upheld the insured’s right to the full \$100,000 in UIM coverage. The ruling emphasized that policyholders should not be penalized by obscure or conflicting language buried in endorsements.

Together, *Motil* and *Dela Vega* reflect a judicial recognition that insurance contracts must be interpreted in a way that protects consumers from unexpected reductions in coverage—especially when those reductions are not clearly disclosed.

By contrast, the Polizzi decision signals a retreat from this consumer-centric approach. It places the burden on policyholders to decipher complex endorsements and cross-referenced definitions, even when they are listed as covered drivers and have paid premiums for higher coverage limits.

This inconsistency in case law creates confusion, undermines consumer confidence, and leaves injured drivers exposed. It is precisely this uncertainty that demands legislative intervention.

Why legislative action is needed

Courts have made clear that step-down clauses can be enforced—even when they contradict consumer expectations—if the policy language is deemed unambiguous. This places an unfair burden on consumers to navigate technical policy language and undermines the protections they believe they’ve purchased.

The Legislature must act to:

- Prohibit personal-auto step-down provisions that reduce coverage for listed drivers or permissive users.
- Ensure transparency in auto insurance contracts by requiring that all coverage limitations be clearly disclosed on the declarations page.
- Protect consumers from unexpected reductions in coverage that leave them financially exposed after serious accidents.

New Jersey already bans step-downs in commercial auto policies under N.J.S.A. 17:28-1.1(f). It’s time to extend that protection to personal auto policies.

Protecting New Jersey drivers:

Why the state Legislature must ban personal auto step-down provisions

Page 3

Judicial inconsistency underscores the urgent need for legislative clarity. Consumers should not be left guessing whether the coverage limits they see on their policy are truly available to them. The state Legislature has the power—and the responsibility—to close this loophole and restore fairness to New Jersey's auto insurance market.

PIANJ respectfully urges legislators to support legislation banning personal auto step-down provisions. Let's ensure that all New Jersey drivers receive the coverage they reasonably expect and deserve.

1/26