

Admitted to Practice  
in Maryland and D.C.

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Re: SB 0373

Dear Senator Reilly,

I am writing today to express my support for SB 0373, which is before the Judicial Proceedings Committee.

I have been licensed attorney since 1986 and have been practicing for almost 35 years. My firm practices primarily in insurance subrogation and defense, and I deal regularly with the enforcement of civil judgments against uninsured motorists who have caused the death, bodily injury and property damage to Maryland citizens who have maintained insurance, including the suspension of driving privileges.

A 2020 report from The National Association of Insurance Commissioners Auto Insurance Database, noted in 2016 in Maryland there were 11,682 uninsured or underinsured motorist (UM/UIM) bodily injury incurred claims which resulted in payments of \$160,127,370.00. During the same time period there were 49,227 UM/UM property damage claims which resulted in the payment of \$77,452,630.00.

With a UM/UIM deductible on these claims of \$250.00/claim insured Maryland motorists' losses in 2016 alone totaled \$15,227,250.00. These insured motorists are entitled to recover their deductibles from the financial irresponsible uninsured motorists. These injured Marylanders and their insurance carriers, by instituting subrogation actions seek to recover these losses for its insureds and the companies to enable the insurance carriers to avoid increasing premiums.

I am writing to support SB 0373 which would repeal and reenact, without amendments, Transportation Article Section 17-201, Ann. Code of Md. 2020 Repl. Vol, repealing and reenacting, with amendments, Transportation Article Sec. 17-202 and 17-209, Ann. Code of Md. 2020 Repl. Vol. and by addition to Article Transportation Section 17-204 through 17-207. These changes would restore the ability for judgment creditors to request the suspension of driving privileges based on failure to pay civil judgments arising from uninsured motorist bodily injury and property damage claims.

HB 280 and SB 0234 which were passed last year and signed into law was applauded by Maryland's Attorney General Brian Frosh, as the law to stop driver's license suspension for unpaid fines which had resulted in tens of thousands of people having lost the privilege to drive due to fee-based driver's license suspensions. The purpose of the changes was noble. AG Frosh

recognized Maryland's were being penalized for being poor, limiting their ability to get to work, doctor's appointments, and pick-up children from school.

I had the pleasure of speaking with Delegate Brooke Lierman, a sponsor of HB 0280 recently. We both recognized the importance of individuals to have the ability to drive and the difficulties faced by individuals in attempting to reach the Central Collections Unit of Maryland to resolve disputed fines and penalties and work out payment arrangements. Del. Lierman and I spoke about the **unintended consequences** of the change in the law as it relates to civil judgments arising from uninsured motorist bodily injury and property damage claims. As a result of the passage of SB 0280 and SB 0234 last year, the civil judgments entered against these individuals who have caused death, injury and property damage can no longer be enforced with the threat or suspension of driving privileges. Judgments will now need to be enforced through wage and bank garnishments as well as attachments on personal and real property. The enforcement of judgments in these manners result in increased use of judicial resources, additional costs to the judgment creditor which are passed on to the judgment debtor and much harsher economic consequences for the judgment debtor than a threat or suspension of driving privileges.

The prior law which was repealed by HB 0280 and SB 0234 provided the judgment creditors the decision-making power in conjunction with the consultation with the judgment debtor as to what constitutes a fair plan for repayment. Every judgment debtor has the right, under the former statutes, to apply to the courts for a payment plan in order to reinstate their license. The courts maintain the ultimate authority to decide what arrangements to repay the debt are satisfactory.

In my personal experience, these judgment debtors are much more willing to reach a mutually agreeable payment plan when confronted with the potential loss of their driving privileges in order to maintain their privileges than to face attachment of their bank accounts or wages. Wage garnishments are automatic, every pay period and unless the debtor files for relief, typically results in a 25% attachment of each paycheck. Bank garnishments result in the attachment of the balance in their accounts up to the amount of the judgment. Under the previous law, prior to suspension every debtor was notified by the Department of Motor Vehicles' Order of Suspension as to their legal rights and remedies.

The insurance companies my firm represents are very flexible, willing to negotiate and work with any debtor who is legitimately interested in satisfying a judgment. It is my experience that any uninsured motorist involved in an accident causing property damage or bodily injury, if they have a sincere desire to satisfy the judgment, will come forward after a judgment is obtained and act responsibly.

Under the former statute, suspension of a debtor's license for failure to pay a judgment is not permanent. It is limited to the enforceability of the underlying judgment, which in most cases is 12 years unless additional steps are taken.

In 2016 alone, almost \$253 million dollars in losses were incurred by insurance providers and Maryland citizens due to the damages caused by uninsured/underinsured motorists. The passage last year of HB 0280 and SB 0234 removed the subrogation industries strongest and most effective collection tool. Over 15 million dollars in insurance deductibles in 2016 were incurred

by Maryland citizens and the restoration of this tool for collecting these judgments by passage of SB 0373 will assist in the return of these funds to responsible Marylanders. The failure to pass SB 0373 and restore these provisions will result in decreased collections, increased cost of collections which, the insurance industry will be forced to pass on to its consumers and judgment debtors. Passage of HB 0280 and SB 0234 last year has resulted in uninsured motorists who are involved in serious accidents which have caused significant property damage and personal injuries to have almost no consequences, while passing the cost of their destructiveness onto those drivers who are responsible enough to be insured.

I have significant experience working with insurance companies and the operation of these provisions of the law. I plan to appear before the Senate Judicial Proceedings Committee tomorrow to address these issues and will be available to answer any of the Committee Members' questions.

Thank you very much for your time.

Sincerely,

A handwritten signature in blue ink that reads "Roberta A. Smith". The signature is written in a cursive style with a long, sweeping horizontal line extending to the right.