



Testimony of

American Property Casualty Insurance Association (APCIA)

House Economic Matters

HB 128 Private Passenger Motor Vehicle Liability Insurance – Enhanced Underinsured Motorist Coverage – Opt-Out Option

February 9, 2023

Letter of Opposition

The American Property Casualty Insurance Association (APCIA) is a national trade organization representing nearly 60 percent of the U.S. property casualty insurance market. Our members write approximately 55.7 percent of all private passenger auto insurance sold in Maryland. APCIA appreciates the opportunity to provide written comments in opposition to HB 128. APCIA strongly opposes this bill which would change the current system which defaults to “offset” underinsured motorist coverage with “enhanced” underinsured motorist coverage which would increase the costs of insurance for all consumers across the state without a showing of demonstrative need by the consumer. **It automatically converts current auto policies to Enhanced UIM coverage without the consumer’s agreement. Their premiums will automatically go up October 1, 2023, even though they didn’t request this coverage.**

Underinsured Motorist Coverage (UIM)

Maryland law requires for private passenger vehicles registered in the state to provide certain minimum coverages which includes uninsured motorist coverage in a limit that is equal to limits provided for bodily injury and property damage under the policy. (Section § 19-509 (e)(2))

Underinsured motorist coverage for bodily injury (UIM-BI) provides reimbursement to the non-at-fault party who is hurt in an accident. If the negligent driver’s liability insurance limits are too low to adequately compensate the victim, the UIM-BI coverage pays for the additional excess. This bill changes Maryland UIM law from a default “offset” definition to an “enhanced” provision. The difference between the two provisions is essentially how an “underinsured” motorist is defined. **However, this change could increase auto insurance costs by two thirds.**

Current law provides that the default coverage provided for UIM is an offset coverage.

- The **Offset** provision works as a **comparison** between the two parties’ insurance coverage: The injured party’s UIM-BI coverage is triggered when the UIM-BI limit exceeds the at-fault driver’s policy liability limit. The maximum amount paid is the difference (offset) between the victim’s UIM-BI limit and the at-fault driver’s liability limit. For example, if the injured party’s UIM-BI limit is \$100,000 and the negligent driver’s liability limit is \$25,000, the victim could collect the difference between \$25,000 from the at-fault driver and injured parties UIM limit of \$100,000, up to \$75,000 more.
- The **Enhanced** provision defines an underinsured motorist in terms of the injured party’s damages. Again, the injured party’s damages must be greater than the at-fault driver’s liability limit. Using the same example, the maximum compensation may equal the injured party’s UIM-BI coverage limit added to the amount of liability coverage from the at-fault driver. The injured

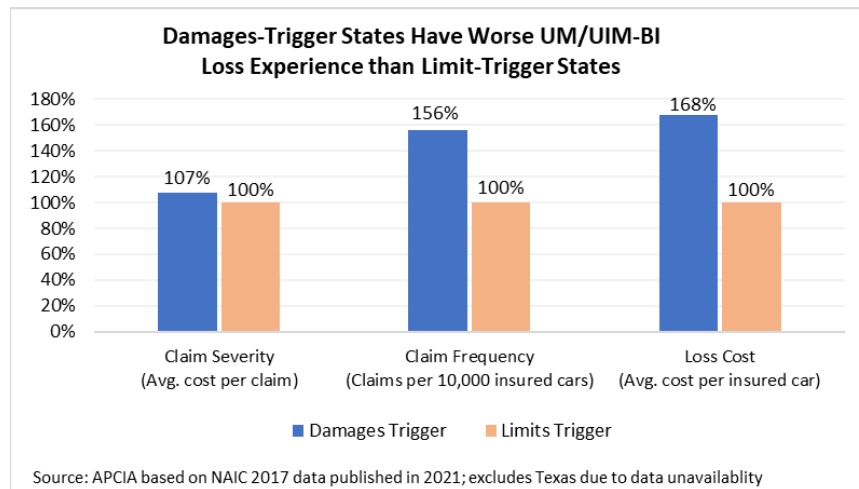
party could collect \$25,000 from the at-fault driver plus an additional \$100,000 under his or her own UIM-BI coverage, or a total of \$125,000.

APCIA’s analysis, using data for uninsured/underinsured motorist coverage for bodily injury (UIM-BI), found that the average loss per insured car in states with an enhanced UIM provision is **two thirds more as much as the average loss per insured car in states with an offset UIM provision.**

Insured loss comparison of states with offset versus excess UIM provisions.

Using UM/UIM-BI experience compiled by the National Association of Insurance Commissioners (NAIC),¹ a comparison between the enhanced and offset states shows the following:

- On average, enhanced-trigger states compensate over **56 percent more UM/UIM-BI claimants than offset-trigger states.** For every 10,000 insured cars, there are about 24 UM/UIM-BI claims in excess-trigger states compared to approximately 15 UM/UIM-BI claims in offset-trigger states.
- **The average cost of a UM/UIM-BI claim is 7 percent higher in excess-trigger states than in offset-trigger states (\$30,474 – damages vs. \$28,411 – limits).**
- Combining the above claim frequency and average claim cost (i.e., claim severity) together results in a **UM/UIM-BI loss cost² that is two thirds larger (68% higher) in excess- trigger states than in offset-trigger states.**



¹ The 26 offset trigger states are: CA, CO, CT, HI, IL, IN, KS, ME, MD, MA, MS, MO, NE, NH, NJ, NM, NY, NC, ND, OH, OR, TN, TX, VT, WV, and WI. The 20 enhanced trigger states are: AL, AK, AZ, AR, DE, DC, FL, ID, IA, KY, LA, MN, MT, NV, OK, PA, SC, SD, UT and WA. The 5 remaining states have the following provisions: GA has a excess trigger default, but policyholders can select a offset trigger default or reject it. VA has similar excess trigger default but policyholders can select offset; RI allows for either a offset or excess trigger. MI & WY have no statutory provisions pertaining to a UIM-BI coverage trigger. APCIA calculations using 2016 NAIC data, the most recent available from the NAIC *Auto Insurance Database Report*, 2020 Ed. Since UIM data alone are not available, UM/UIM data are examined. TX is excluded from calculations due to data limitations from the NAIC source report. NAIC does not endorse any analysis or conclusions based upon the use of its data.

² iii Loss Cost is the average claim cost per insured vehicle.

Conclusion

Higher insurance costs are found in enhanced states than in states with offset trigger provisions. While states with an enhanced trigger provide more coverage, **costs two thirds more for insurers and their customers.** Offset triggers and offsets for the at-fault driver's liability limit benefit all policyholders and, as such, should continue to be allowed.

During this time of continued inflationary pressure and economic recovery, keeping costs down for consumers should be the most significant consideration. APCI respectfully urges lawmakers to defeat any legislative bill that proposes to alter the UIM trigger from an offset provision to an enhanced provision in order to protect Maryland consumers from a likely significant increase in auto insurance costs.

For all these reasons, the APCI urges the Committee to provide an unfavorable report on HB 128.

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