



Oregon House Committee on Business and Labor
Oregon State Legislature

February 24, 2021

Sent via electronic submission

Re: HB 2393, Uninsured Motorist Coverage - NAMIC's, NWIC's and APCA's Written Testimony in Opposition (as presently drafted)

Dear Representative Holvey, Chair; Representative Bonham, Vice-Chair; Representative Grayber, Vice-Chair and honorable committee members:

The National Association of Mutual Insurance Companies (NAMIC), the Northwest Insurance Council (NWIC) and the American Property Casualty Insurance Association (APCIA) appreciate the opportunity to submit written testimony to the House Committee on Business and Labor for the February 24, 2021 public hearing on the above captioned legislation.

NAMIC, APCA and NWIC (hereinafter "The Trades") respectfully submit the following concerns with the proposed legislation:

- 1) **In regard to the proposed amendments to ORS 742.502:** The trades are concerned that these proposed changes *eliminate consumer choice* in coverage limits and adversely impact the cost of auto insurance at a time when many consumers are struggling financially as a result of the pandemic's impact on jobs, communities and household budgets.

Current law provides consumers with the expressed option to personally select higher UM/UIM coverage limits to meet their own budget and coverage needs. Specifically, state law requires that the consumer *affirmatively reject* UM/UIM coverage limits that are equal to their BI coverage limits. This coverage limits selection is made by the consumer *after disclosure* of the higher coverage limits option, with the consumer then required make the lower limits *selection in writing*. In this way, the consumer is provided with an opportunity to make an informed decision about UM/UIM coverage limits that best suits their needs and budget. We believe limiting choice and adding higher costs for higher limits does not serve Oregon consumers well.

Further, this proposed amendment fails to consider the cost implications of mandating higher UM/UIM coverage limits to the overall cost of insurance. We fear the proposed coverage mandate would be an insurance rate cost-driver, as insurers will ultimately end up paying more in claims adjusting costs, UM/UIM damages settlements, and legal defense costs which all directly impact the price of UM/UIM coverage for the consumer.

As previously noted, consumers currently have the option to consider and buy higher UM/UIM coverage limits and there is no shortage of insurers willing to sell it to willing consumers. We believe the proposed amendment would make Oregon an outlier nationally in regard to mandated UM/UIM insurance coverage limits requirements limits consumer choice and raises costs at a time when consumers need the opposite: more choices at affordable rates.

2) **In regard to the proposed amendments to ORS 742.504 (9), which clarifies the order through which coverage applies – The trades are concerned about this proposed amendment to the law for the following reasons:**

- a) The trades suggest that the proposed amendment is unnecessary, as this provision is consistent with current state case law and standard insurance claims adjusting practices. We are not aware of any pressing case or legal need that would require a change the statute, and we are concerned that putting this language in statute may at some point expose insurers to potential for litigation over the legal meaning and implications of the terminology of the amendment and the legislative intent in codifying the prioritization of UIM coverages. In essence, we are opposed to “fixing what isn’t broken.”
- b) The proposed amendment will create legal ambiguity as to what is meant by the following provision:

(c). Coverage up to the limit of any policy for a vehicle that the insured owns, maintains or uses and that was not involved in the accident; and ... [Emphasis added]

The trades are concerned that the amendments to ORS 742.504(9)(C) could be legally interpreted to allow for intra-policy stacking of UIM (i.e. if insured has multiple cars under one policy), which may currently be prohibited under the terms of some auto insurers’ policies. Specifically, the phrase “any policy” could be legally challenged in an auto accident claim to require stacking of coverage limits for *every vehicle owned and covered by the policyholder’s auto policy* and could even be interpreted to allow for stacking of UIM coverage for other vehicle policies, like the insured’s motorcycle policy. This may not be the result suggested or intended by proponents of the HB 2393, but it is nonetheless a serious concern for the trades and our members.

3) **In regard to the proposed amendments to ORS 742.518(8), which would appear to expand Oregon’s PIP coverage mandate to transportation network company (TNC) drivers and passengers, the trades have the following concerns:**

- a) As proposed, the amendment would require policy language changes that will create administration costs and burdens for auto insurers that are insurance rate cost-drivers for private passenger auto insurance consumers.
- b) The proposed language of this provision suggests that it addresses only “excess” insurance coverage, but the term “excess” pre-supposes the existence of “primary” coverage. But private passenger auto policies specifically exclude coverage for the use of a personal vehicle for livery purposes. Thus, this language could create legal confusion if an insurer currently has a “public or livery conveyance” exclusion (i.e. no primary or excess coverage) within its policy language for various coverage sections, including PIP and UM/UIM coverage.
- c) While insurers do not object to public policy that requires that livery/TNC vehicles have the same insurance coverage requirements as private passenger vehicles, the language of the proposed amendment to ORS 742.518 (8), is concerning to the trades, because it appears to require all private passenger auto insurance policies (not policies written specifically for the livery use of a motor vehicle) to provide PIP coverage to the insured and passengers while

those individuals are in a ride-sharing vehicle. As written, this proposed change to the law is in conflict with most private passenger auto insurance policies and would create a challenging insurance coverage requirement for many policyholders, which is also likely to increase the cost of auto insurance for consumers.

We believe these concerns are significant enough that HB 2393 should not pass this committee in its current form. We are willing to engage in a dialogue with legislators and/or proponents if the measure can focus on genuine needs and can be drafted in a way that does not create unintended or unreasonable outcomes for insurers or our customers.

However, if such an agreement cannot be reached, for the aforementioned reasons, the trades respectfully request that you **VOTE NO on HB 2393**.

Respectfully submitted,

Christian J. Rataj, Sr. Regional Vice President
National Association of Mutual Insurance Companies (NAMIC)
crataj@namic.org

Kenton Brine, President
NW Insurance Council (NWIC)
kenton.brine@nwinsurancance.org

Denneile Ritter, Vice President, State Government Relations
American Property Casualty Insurance Association (APCIA)
denneile.ritter@apci.org