

SB1189

Measure Title: RELATING TO REQUIRED MOTOR VEHICLE POLICY COVERAGE.
Report Title: Motor Vehicle Insurance
Description: Amends amounts for motor vehicle insurance liability coverage.
Companion:
Package: None
Current Referral: CPN



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TO THE SENATE COMMITTEE ON
COMMERCE AND CONSUMER PROTECTION

TWENTY-SIXTH LEGISLATURE
Regular Session of 2011

Thursday, February 24, 2011
9 a.m.

**TESTIMONY ON SENATE BILL NO. 1189 – RELATING TO REQUIRED MOTOR
VEHICLE POLICY COVERAGE.**

TO THE HONORABLE ROSALYN BAKER, CHAIR, AND MEMBERS OF THE
COMMITTEE:

My name is Gordon Ito, State Insurance Commissioner ("Commissioner"),
testifying on behalf of the Department of Commerce and Consumer Affairs
("Department"). The Department takes no position on this bill and offers the following
comments.

The purpose of this bill is to amend Hawaii Revised Statutes ("HRS") § 431:10C-
301 by: (1) prohibiting stacking of uninsured motorist ("UM") or underinsured motorist
("UIM") coverage in multi-car motor vehicle insurance policies, unless policyholders
exercise the option of purchasing UM or UIM coverage; and (2) deleting language in
subsections (d) and (e) relating to offers to purchase or reject UM and UIM coverage.

As drafted, subsection (d) requires consumers to purchase UM and UIM
coverage, whereas UM and UIM coverage is currently optional. Mandating the
purchase of UM and UIM coverage for multi-car policyholders will increase the cost of
motor vehicle insurance for consumers.

We thank this Committee for the opportunity to present testimony on this matter.

**TESTIMONY OF ROBERT TOYOFUKU ON BEHALF OF THE HAWAII
ASSOCIATION FOR JUSTICE (HAJ) IN SUPPORT OF S.B. NO. 1189**

February 24, 2011

To: Chair Rosalyn Baker and Members of the Senate Committee on Commerce and Consumer Protection:

My name is Bob Toyofuku and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) in support of the intent of S.B. No. 1189, relating to Required Motor Vehicle Insurance Policy Coverage.

I spoke with the drafter of this measure (who does not regularly participate in the legislative process) to ascertain his intent and offer assistance in drafting an amendment to more clearly reflect the intent and implement the purpose of this measure. This measure is intended to make uninsured and underinsured motorist benefits mandatory to eliminate the difficulty and confusion that currently exists with all of the mandatory options required to be offered. A revised draft that more clearly effectuates this change is attached for your consideration.

Insurance companies, agents and consumers have struggled to intelligibly offer and purchase the many uninsured and underinsured motorist benefits options for years. Current options include the purchase or rejection of one or both coverages, the stacking of one or both coverages, the limits for each up to the bodily injury liability limits (which can be the same or different for each), and the numerous permutations involving combinations those options. An insured with \$300,000 in bodily injury liability limits can be faced with more than a dozen different option combinations. Attorneys and insurers spend significant resources to examine whether insurers and agents adequately advised consumers of the available options.

Several sessions ago, several major insurers approached HAJ with the suggestion that uninsured and underinsured motorist benefits be included as mandatory coverages instead of options. While HAJ did not object to the concept, it was not a priority for that session and not actively pursued. Most policies already contain these coverages so there will be no premium impact for most consumers. Insurers should realize administrative savings and will no longer have to provide free coverage for failure to adequately offer or explain the options to consumers. Insurers will no longer be responsible for the failure of agents to properly communicate and document sales transactions involving these options. Insurers should see a reduction in JUP assigned claims, which are free policies given to those injured by uninsured motorists where the injured party does not have uninsured motorist benefits, because the coverage will become a mandatory one for which a premium will be collected. These savings should offset some of the additional cost which may result from including these coverages in the basic policy.

The drafter of this measure was apparently involved in a dispute with an insurer regarding the proper offer of these options and obvious confusion by both the agent and consumer. The insurer reiterated that these disputes could easily be solved by eliminating the options and including the coverages in the basic policy. We agree.

Thank you for this opportunity to testify.

§431:10C-301 Required motor vehicle policy coverage. (a) An insurance policy covering a motor vehicle shall provide:

(1) Coverage specified in section 431:10C-304; and

(2) Insurance to pay on behalf of the owner or any operator of the insured motor vehicle using the motor vehicle with a reasonable belief that the person is entitled to operate the motor vehicle, sums which the owner or operator may legally be obligated to pay for injury, death, or damage to property of others, except property owned by, being transported by, or in the charge of the insured, which arise out of the ownership, operation, maintenance, or use of the motor vehicle; provided that in the case of a U-drive motor vehicle, insurance to pay on behalf of the renter or any operator of the insured motor vehicle using the motor vehicle with the express permission of the renter or lessee, sums which the renter or operator may be legally obligated to pay for damage or destruction of property of others (except property owned by, being transported by, or in the charge of the renter or operator) arising out of the operation or use of the motor vehicle unless the motor vehicle is reported stolen by the owner within three days of notification of the incident; provided that the insurer and owner of a U-drive vehicle shall have the right of subrogation against the renter and operator for breach of the rental contract between owner and renter; and provided further that, in the event that any motor vehicle offered for rental or lease is involved in an accident, the lessor shall provide all information it has or obtains relevant to the accident to all other involved parties upon their request, including but not limited to information about the lessee, and the driver of the vehicle if other than the lessee.

(b) A motor vehicle insurance policy shall include:

(1) Liability coverage of not less than \$20,000 per person, with an aggregate limit of \$40,000 per accident, for all damages arising out of accidental harm sustained as a result of any one accident and arising out of ownership, maintenance, use, loading, or unloading of a motor vehicle;

(2) Liability coverage of not less than \$10,000 for all damages arising out of damage to or destruction of property including motor vehicles and including the loss of use thereof, but not including property owned by, being transported by, or in the charge of the insured, as a result of any one accident arising out of ownership, maintenance, use, loading, or unloading, of the insured vehicle;

(3) With respect to any motor vehicle registered or principally garaged in this State, liability coverage provided therein or supplemental thereto, in limits equal to the ~~for~~ bodily injury liability limits of the policy ~~[or death set forth in paragraph (1)]~~, under provisions filed with and approved by the commissioner, for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of uninsured motor vehicles because of bodily injury, sickness, or disease, including death, resulting therefrom; ~~[provided that the coverage required under this paragraph~~

~~shall not be applicable where any named insured in the policy shall reject the coverage in writing;] and~~

(4) Coverage for loss resulting from bodily injury or death suffered by any person legally entitled to recover damages from owners or operators of underinsured motor vehicles in limits equal to the bodily injury liability limits of the policy. ~~[An insurer may offer the underinsured motorist coverage required by this paragraph in the same manner as uninsured motorist coverage; provided that the offer of both shall:~~

~~— (A) Be conspicuously displayed so as to be readily noticeable by the insured;~~

~~— (B) Set forth the premium for the coverage adjacent to the offer in a manner that the premium is clearly identifiable with the offer and may be easily subtracted from the total premium to determine the premium payment due in the event the insured elects not to purchase the option; and~~

~~— (C) Provide for written rejection of the coverage by requiring the insured to affix the insured's signature in a location adjacent to or directly below the offer.]~~

(c) The stacking or aggregating of uninsured motorist coverage or underinsured motorist coverage for more than one motor vehicle under the same policy is prohibited, except as provided in subsection (d).

(d) An insurer shall offer the insured the opportunity to purchase the option to stack uninsured motorist coverage and underinsured motorist coverage for more than one vehicle under the same policy. An offer of the stacking option shall provide for written rejection of the coverage by requiring the insured to affix the insured's signature in a location adjacent to or directly below the offer. ~~[by offering the following options with each motor vehicle insurance policy:~~

~~— (1) The option to stack uninsured motorist coverage and underinsured motorist coverage; and~~

~~— (2) The option to select uninsured motorist coverage and underinsured motorist coverage, whichever is applicable, up to but not greater than the bodily injury liability coverage limits in the insured's policy.~~

~~— These offers are to be made when a motor vehicle insurance policy is first applied for or issued. For any existing policies, an insurer shall offer such coverage at the first renewal after January 1, 1993. Once an insured has been provided the opportunity to purchase or reject the coverages in writing under the options, no further offer is required to be included with any renewal or replacement policy issued to the insured.~~

~~— (e) If uninsured motorist coverage or underinsured motorist coverage is rejected, pursuant to section 431:10C-301(b):~~

~~—(1) The offers required by section 431:10C-301(d) are not required to be made;~~

~~—(2) No further offers or notice of the availability of uninsured motorist coverage and underinsured motorist coverage are required to be made in connection with any renewal or replacement policy; and~~

~~—(3) The written rejections required by section 431:10C-301(b) shall be presumptive evidence of the insured's decision to reject the options.]~~



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TESTIMONY OF ALISON POWERS

SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
Senator Rosalyn H. Baker, Chair
Senator Brian T. Taniguchi, Vice Chair

Thursday, February 24, 2011
9:00 a.m.

SB 1189

Chair Baker, Vice Chair Taniguchi, and members of the Committee, my name is Alison Powers, Executive Director of Hawaii Insurers Council. Hawaii Insurers Council is a non-profit trade association of property and casualty insurance companies licensed to do business in Hawaii. Member companies underwrite approximately 40% of all property and casualty insurance premiums in the state.

Hawaii Insurers Council **opposes** SB 1189. A similar bill, HB 1610, was heard in House Transportation on February 14, 2011 and deferred. Neither bill is clearly drafted; however, the testimony of Robert Toyofuku of the Hawaii Association for Justice on HB 1610 specifically outlined how the bill should have been drafted. Included in his testimony were the following provisions:

- 1) Mandatory uninsured motorist (UM) coverage up to the vehicle's bodily injury liability limit;
- 2) Mandatory underinsured motorist (UIM) coverage up to the vehicle's bodily injury liability limit;
- 3) Prohibition of stacking if there is only one car on the policy;
- 4) Mandatory offer of stacking if there is more than one vehicle on the policy; and
- 5) Written rejection required by the insured to refuse stacking of each UM and UIM coverage.

**SENATE COMMITTEE ON
COMMERCE AND CONSUMER PROTECTION**

February 24, 2011

Senate Bill 1189 Relating to Required Motor Vehicle Policy Coverage

Chair Baker and members of the Senate Committee on Commerce and Consumer Protection, I am Rick Tsujimura, representing State Farm Insurance Companies, a mutual company owned by its policyholders.

State Farm OPPOSES Senate Bill 1189 Relating to Required Motor Vehicle Policy Coverage. Senate Bill 1189 amends §431-10C-301, Hawaii Revised Statutes. We are not quite sure what the drafter of the amendments had in mind. It appears that the deletion on pages 5 and 6 of the offers of stacking is intended to require the insured to make an election at every renewal. However, the bill deletes the word "insurer" on page 5, line 7 which now requires the "insured" to offer himself/herself the option, making the amendments nonsensical.

We are aware that before the deleted language on pages 5-6 was inserted, insureds would contend that they had not rejected the offer, and therefore to remedy this situation the language was inserted when the law was overhauled some 12 years ago. We are unaware of any issues with regards to this rejection language.

For these reasons we oppose this bill and request it be held. Thank you for the opportunity to present this testimony.



- Government Employees Insurance Company
- GEICO General Insurance Company
- GEICO Indemnity Company
- GEICO Casualty Company

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Senate Committee on Commerce & Consumer Protection
Conference Room 229 State
Thursday, February 24, 2011, 9:00 a.m.
SB 1189 Related to Motor Vehicle Insurance

Chair Baker, Vice Chair Taniguchi and Members of the Committee

My name is Timothy Dayton, General Manager for GEICO. GEICO is Hawaii's largest motor vehicle insurer. **GEICO opposes Senate Bill Number 1189 as drafted.** The intent of the Bill seems to be to make Uninsured Motorist and Underinsured Motorist Coverages mandatory. However, as written, the language is confusing, contradictory and ambiguous.

One example of a contradiction is the language in 431:10C-301 (b) (3) that states the insured may reject the coverage in writing is left intact; however the language in 431:10C- 301 (d) that describes the requirements for the written offer from insurers is deleted.

The current statutory system where Uninsured Motorist and Under Insured Motorist Coverages are mandatory with the right of rejection is not a good system for consumers or insurers. The requirements of the written offer are confusing to consumers and often seem intimidating. Insurers are required to send these options out, often multiple times when the form comes back without proper completion. Insurers then must save any rejection forms for the life of the policy. GEICO is open to alternatives to the current system but the proposed legislation misses the mark and we respectfully ask the Committee to hold or substantially modify it.

Thank you for the opportunity to submit this testimony.


Timothy M. Dayton, CPCU

While we agree that these coverages and options are confusing and that obtaining and maintaining written rejections are problematic, the above provisions would increase the cost of mandatory minimum insurance as required by the State and would not eliminate the issues with obtaining and maintaining rejection forms. The proposal is regressive and would take away a consumer's and a business' choice in coverage. An example of cost for a non-business single vehicle policy, UM and UIM coverage would cost an additional \$100 per year if they purchase minimum coverage at \$20,000 per person and \$40,000 per occurrence which is the current BI minimum. At the higher limits of \$50,000/\$100,000, it would be \$120 more per year. This example is using a 2009 Honda Accord LX sedan.

Finally, because the Hawaii statute does not differentiate between personal and business motor vehicle insurance policies, a business that has a fleet of vehicles could face extremely high premiums if the concepts in this bill become law.

For these reasons, we ask that SB 1189 be held.

Thank you for the opportunity to testify.