Date of Hearing: June 22, 2022

ASSEMBLY COMMITTEE ON INSURANCE
Tom Daly, Chair
SB 1107 (Dodd) – As Amended June 9, 2022

SENATE VOTE: 29-8

SUBJECT: Vehicles: insurance

SUMMARY: Effective January 1, 2025, increases the minimum allowable motor vehicle financial responsibility limits (FRLs) from $15,000 to $30,000 to cover costs related to the bodily injury or death of one person in any one accident, from $30,000 to $60,000 to cover costs related to the bodily injury or death of two or more persons in any one accident, and from $5,000 to $15,000 cover costs related to the destruction of property in any one accident, and increases these limits to $50,000/$100,000/$25,000, effective January 1, 2035. Specifically, **this bill**:

1) Beginning on January 1, 2025, increases the minimum allowable motor vehicle FRLs from $15,000 to $30,000 to cover costs related to the bodily injury or death of one person in any one accident, from $30,000 to $60,000 to cover costs related to the bodily injury or death of two or more persons in any one accident, and from $5,000 to $15,000 cover costs related to the destruction of property in any one accident, and makes conforming changes.

2) Requires the Insurance Commissioner (Commissioner), by February 1, 2023, to solicit rate applications from insurers to account for the change in the financial responsibility law described above.

3) Increases the minimum allowable motor vehicle FRLs from $30,000/$60,000/$15,000 to $50,000/$100,000/$25,000 on January 1, 2035 and requires the Commissioner to solicit rate applications from insurers to account for these changes, as specified.

4) Increases the required size of a deposit placed with the Department of Motor Vehicles (DMV), in lieu of an insurance policy with required minimum FRLs, from $35,000 to $75,000 on January 1, 2025, and to $125,000 on January 1, 2035.

5) Provides that its provisions are operative, only if SB 1155 (Caballero) is enacted and takes effect on or before January 1, 2023.

EXISTING LAW:

1) Requires all drivers and owners of a motor vehicle to be able to establish financial responsibility at all times, as specified, and to carry evidence of financial responsibility at all times in their vehicles. (Vehicle Code Section 16020)

2) Defines proof of financial responsibility, for purposes of the aforementioned requirement, as holding an insurance policy that provides coverage of not less than $15,000 to cover costs resulting from the bodily injury or death of one person in any one accident, not less than $30,000 to cover costs resulting from the bodily injury or death of two or more persons in any one accident, and not less than $5,000 to cover costs related to damages to property in excess of $1,000 in any one accident. (Vehicle Code Sections 16430 and 16500)

3) In lieu of an insurance policy with FRLs described immediately above, allows the driver or owner of a motor vehicle to establish financial responsibility through a deposit of $35,000 with DMV. (Vehicle Code Sections 16054.2 and 16435)

4) Authorizes the low-cost automobile (LCA) insurance program, to help income-eligible persons obtain liability insurance protection that is deemed compliant with California's FRL laws (Insurance Code Section 11629.89 et seq.). Allows persons who meet the eligibility criteria for the LCA program to carry liability coverage in the amounts of $10,000/$20,000/$3,000, to cover the costs resulting from the bodily injury or death of one person in any one accident/bodily injury or death of two or more persons in any one accident/damages to property in excess of $1,000 in any one accident.

5) Pursuant to Proposition 103, added by the voters on November 8, 1988, requires the Commissioner to approve the insurance rates charged by insurers licensed to write policies in this state, and provides that no rate shall be approved or shall remain in effect, which is excessive, inadequate, or unfairly discriminatory (Insurance Code Sections 1861.01 et seq.). Requires every insurer wishing to change its rate to file a complete rate application with the Commissioner, as specified, and prescribes the time periods within which that rate application must be acted upon by the Commissioner. (Insurance Code Section 1861.05)

FISCAL EFFECT: The California Department of Insurance (CDI) anticipates costs of approximately $15,000 in Fiscal Year (FY) 2022-23; $252,000 in FY 2023-24; $23,000 in FY 2024-25; and $227,000 in FY 2034-35 (Insurance Fund).

These costs include staff time to review and approve insurer rate filings resulting from the increase in financial responsibility limits on January 1, 2025 and January 1, 2035 update insurer reporting requirements to reflect the increase in financial responsibility limits, and review corresponding regulations.

COMMENTS:

1) **Author's statement.** According to this bill's author:

> SB 1107, the Protect California Drivers Act of 2022, will help protect California drivers and anyone who is injured in a car crash, particularly low-income drivers, by modernizing California's outdated minimum auto limits for the first time in 55 years.
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> Fifty-five years ago, California set our mandatory auto insurance liability minimums at $15,000 for a single injury/death; $30,000 for injury/death to more than one person; and $5,000 for property damage, referred to as $15,000/$30,000/$5,000. Today, California ranks in the bottom three states with the lowest levels of protection in the nation. SB 1107 would modernize these limits to $30,000/$60,000/$15,000 respectively. This modest increase would bring California in line with national averages.
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> Keeping our limits at their current level disproportionately impacts low-income consumers who may either purchase a minimum limits policy or be hit by someone with the minimum limits. Many of these individuals cannot afford

> to be without their vehicle or miss work after a crash. The innocent party often faces going into debt just to pay for mounting medical bills, car repairs or replacement costs. No family should have to worry about being bankrupted because their insurance did not protect them.

2) **Background.** The FRLs that are the subject of this bill serve to protect the driver of the other vehicle in a car crash caused by an insured driver. For example, if an insured motorist purchases a minimum limit FRL policy and is at fault in a vehicular accident, the insured motorist's policy covers up to $15,000 in bodily injury costs incurred by the driver of the other vehicle, if that driver was the only person in the vehicle at the time of the accident; up to $30,000 in bodily injury costs incurred by the driver and his or her passengers, if there was more than one person in the vehicle at the time of the accident; and up to $5,000 in property damage to the other vehicle.

   This bill is sponsored by the Consumer Attorneys of California to increase California's minimum FRLs for the first time in 55 years. According to this bill's author, the current FRLs of $15K/$30K/$5K have been in effect since 1967. Yet, while the minimum limits have remained unchanged since the late 1960s, medical costs and vehicle repair costs have increased substantially. Thus, over time, a greater percentage of vehicle accidents have caused bodily injury and property damage in excess of the minimum limits. According to CDI data provided by this bill's author, approximately 32% of bodily injury claims in 2022 will exceed the $15K/$30K threshold, and 30% of property damage claims will exceed the minimum $5K threshold. If a motorist is injured or sustains property damage caused by a motorist with only the minimum required FRLs, the injured motorist/motorist with damaged property will either be unable to fully recover their losses or will have to rely on other sources to do so. By requiring an increase in the minimum FRLs, this bill's author and sponsor are attempting to decrease the number of instances in which an automobile accident causes losses that are not covered by the at-fault driver's automobile insurance policy. In background material provided to this committee, the author and sponsor cite numerous examples of persons who have been injured in car accidents caused by others, who were unable to receive necessary medical treatment, leading to long-term medical consequences, or who were unable to get their vehicles repaired correctly.

   This bill's author and sponsor also point to California as one of only five states and the District of Columbia with minimum bodily injury FRLs below $20K/$40K and to California as one of only four states with a minimum property damage FRLs as low as $5K. The vast majority of states have bodily injury FRLs of $25K/$50K. There is less uniformity on minimum properly damage FRLs, though, as stated above, nearly all are above California's current limit of $5K. A plurality of states have minimum limits of $25K, while several other states have limits ranging from $10K to $20K.

3) **Discussion.** The current version of this bill is the result of a negotiated compromise reached between this bill's sponsor and most (though not all) representatives of the insurance industry. Because of the delicate nature of this compromise, this bill analysis does not suggest or recommend any amendments. Instead, the remainder of this analysis summarizes the possible and likely impacts of this bill and identifies outstanding issues that may warrant further legislative attention in future years.

Which Motorists Will This Bill Affect? SB 1107 is unlikely to affect all motorists equally; some motorists are likely to be unaffected, while others may be affected very significantly. Beginning January 1, 2025, those motorists who hold minimum-limit policies of $15K/$30K/$5K (reportedly 26% of all policyholders) will be required to purchase more coverage to comply with the new minimum FRL requirements. The cost to purchase this additional coverage is not yet known and will not be known until CDI approves rate filings submitted by insurers to reflect the new limits (see discussion below). However, it is highly likely that this group of motorists will see rate increases of some amount.

Some motorists who currently have policies with FRLs of $30K/$60K/$15K may also experience rate increases. Insurance industry representatives have suggested this possible outcome, based on their observation that motorists who currently hold minimum-limit policies tend to have higher loss rates than those who hold policies with higher policy limits. When those individuals with higher loss rates are added to the $30K/$60K/$15K pool of policyholders, the entire group will have a higher overall loss rate, which could result in higher policy costs for all members of that group. Whether and to what extent this group experiences rate increases will depend on whether and to what extent CDI approves rate filings that propose premium increases for this group (see discussion below).

Members of the insurance industry also observe that different insurers have different customer bases, which may also impact the extent to which this bill's changes affect policyholders. Some insurers have customer bases dominated by drivers with low loss rates and high policy limits. Those insurers may not need to propose significant rate increases to reflect the changes required by this bill. Other insurers, particularly those who promote themselves as low-cost carriers and those in the non-standard market, have a much higher percentage of customers with high loss rates and low policy limits. This latter group of insurers and its customers are likely to be more significantly impacted by this bill, which helps explain why some insurers remain opposed to this bill, while others are neutral on its current language.

The one group of motorists this bill will not affect are those with the lowest incomes, who are currently eligible for California's low-cost auto program, described briefly below.

California's Low Cost Auto (LCA) Program. California's LCA program (https://www.mylowcostauto.com/) was designed to help California's lowest-income automobile owners afford automobile insurance. In effect since 2000, the program has provided insurance coverage to over 185,000 Californians to date. At the end of 2021, there were 17,908 active policies, the vast majority of which were held by motorists who had been uninsured before purchasing their LCA policy. At present, in order to be eligible for the LCA program, consumers must hold a valid California driver's license, own a vehicle valued at $25,000 or less, meet income eligibility guidelines[1], be at least 16 years of age, and have a good driving record.

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[1] Current income eligibility requirements, per household, based on the number of persons listed on one's federal or state income tax return, are as follows: $32,200 (household of one), $43,550 (household of two), $$54,900 (household of three), $66,250 (household of four), and $77,600 (household of five). Source: 2022 Report to the Legislature & Consumer Education and Outreach Plan (http://www.insurance.ca.gov/01-consumers/105-type/95-guides/01-auto/lca/legrpts.cfm).

California's Insurance Code requires agents and brokers to inform every prospective automobile insurance policyholder who inquires about a policy with minimum FRLs regarding the existence of the CLA program. For that reason, one can reasonably assume that an individual who purchases a minimum limit policy does not meet the criteria to purchase a CLA policy.

Will Rate Filings Proposing Higher Automobile Insurance Rates Be Approved? One of the biggest outstanding questions about the impact of this bill hinges on the extent to which CDI approves rate filings submitted by insurers in response to this bill's provisions. As noted above, Proposition 103 requires insurers to submit proposed changes to their automobile insurance rates to CDI for approval, before the insurers may charge those rates. Both statutory and case law require the department to process rate filings in a timely manner, to ensure that no rate remains in effect, which is excessive, inadequate, or unfairly discriminatory. Yet, despite the department's longstanding practice of processing rate filings in a reasonably timely and predictable manner, there has been a de-facto halt in the department's approval of personal automobile insurance rate filings proposing rate increases since the spring of 2020. The reasons for this halt in approval have not been formally announced and are beyond the scope of this analysis. They are relevant to this bill only because the bill anticipates the submission of new rate filings by insurers to reflect the impact of the bill's required increase in minimum FRLs. If CDI continues refusing to approve new personal automobile insurance rate filings proposing rate increases once insurers submit rate applications to comply with this bill, the personal automobile insurance market could experience significantly disruptions.

Without the department's approval of new rates, insurers will be unable to charge policyholders premiums to reflect the insurers' increased risk. If this happens, some insurers may be forced to choose between selling compliant policies at a significant monetary loss or exiting the automobile insurance market altogether, while other insurers may be unable to sell liability coverage at the new minimum levels, until the department approves their rates.

4) **Remaining outstanding opposition.** The American Property Casualty Insurance Association (APCIA) remains opposed to this bill, unless it is amended to reduce the minimum FRLs to $25/$50K/$10K on January 1, 2025 (relative to the bill's current proposed increase to $30K/$60K/$15K).

The trade group notes that most states have bodily injury limits of $25K/$50K and that an increase to these levels would result in a less shocking premium increase for minimum limit drivers. APCIA observes that most customers who carry minimum limit policies do so because they cannot afford more coverage and encourages the Legislature to consider the impact on this group before approving the increase proposed in this bill. Finally, citing data from Fast Track (a data source that reflects a segment of California insurers but does not represent the entire market), APCIA asserts that limits of $25K/$50K/$10K will fully cover the current average claim; thus, higher limits are unnecessary to ensure full recovery by the average claimant.

5) Prior and related legislation.

a) AB 3311 (Grayson), from 2020, would have increased minimum FRLs to $30,000/$60,000/$25,000 on January 1, 2021 and would have indexed these limits for inflation every five years, beginning January 1, 2026, as specified. Never taken up by its author in the Assembly Insurance Committee.

b) SB 1155 (Caballero), which is double-joined to SB 1107 via contingent enactment, provides a framework for a liability insurer and a claimant to settle a liability claim using a time-limited demand. The bill imposes specified requirements on time-limited demands and on the claimants who submit them to liability insurers and provides that a time-limited demand is not considered a reasonable offer for purposes of a lawsuit alleging extra-contractual damages against a liability insurer, if the time-limited demand does not substantially comply with the bill's provisions. Currently pending in the Assembly Judiciary Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Consumer Attorneys of California (sponsor)
Bienestar Human Services
California Alliance for Retired Americans
California Association of Joint Powers Authorities (CAJPA)
California Autobody Association
California Bicycle Coalition
California Conference of Machinists
California Department of Insurance
California Teamsters Public Affairs Council
Coalition for Humane Immigrant Rights (CHIRLA)
Consumer Federation of California
Consumers for Auto Reliability & Safety
East Side Riders Bike Club
Fund Her
Inner City Struggle
Latino Equality Alliance
Latino Heritage LA
Mothers Against Drunk Driving
Mundo Maya
Personal Insurance Federation of California
Public Risk Innovation, Solutions, and Management (PRISM)
T.r.u.s.t. South LA
United Policyholders
We Save Lives
Women in Non Traditional Employment Roles

Oppose

Government Employees Insurance Company

Oppose Unless Amended

American Property Casualty Insurance Association

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