

Legislative Analysis



NO-FAULT MINI-TORT

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House Bill 5838 without amendment

Sponsor: Rep. Tim Melton

Committee: Insurance

First Analysis (5-5-08)

BRIEF SUMMARY: The bill would increase the cap on the mini-tort provision in the no-fault auto insurance system from \$500 to \$1,500.

FISCAL IMPACT: The bill would appear to have no significant fiscal impact on state or local government.

THE APPARENT PROBLEM:

Under Michigan's No-Fault automobile insurance system, motorists typically look to their own insurance policies for benefits in cases of accidents and injuries and can only sue another motorist in extraordinary circumstances. The Insurance Code describes when lawsuits are permitted. However, the Insurance Code does provide for a so-called mini-tort, which allows a driver to seek to recover the amount of the deductible in his or auto insurance policy from an at-fault driver in an accident. It also allows a driver without collision coverage to collect from an at-fault driver. (Specifically, the code allows a driver to seek "damages [that] are not covered by insurance.") This would apply, for example, if a driver is rear-ended at a stop sign or red light.

The current cap on this mini-tort is \$500. The cap was last raised, from \$400, in 1996. Many drivers now carry much higher deductibles on the auto policies than in the past; carrying a higher deductible reduces the cost of an insurance policy. Legislation has been introduced to raise the mini-tort cap to reflect these higher deductibles.

THE CONTENT OF THE BILL:

The bill would amend the Insurance Code to increase the limit on the mini-tort from \$500 to \$1,500. This provision allows a driver to seek to recover "damages [that] are not covered by insurance" up to that amount from an at-fault driver in an accident.

MCL 500.3135

ARGUMENTS:

For:

It is appropriate to raise the mini-tort limit given how long it has been since the limit has been raised; how high the deductibles are that some drivers carry; the increasing cost of repairing or replacing vehicles damaged in collisions, including older cars on which it

makes little economic sense to carry collision coverage; and the cost of obtaining a rental vehicle while a damaged vehicle is repaired.

Against:

An increase to \$1,500 is too high. If it is set at too high a level, the mini-tort begins to contravene the whole notion of no-fault insurance, where a driver looks to his or her own policy to cover losses. A cap of this size could encourage more drivers to go without collision coverage. The mini-tort is not intended to replace collision coverage or to cover the cost of a replacement vehicle. It also would increase the resistance to mini-tort claims by drivers and their insurance companies.

POSITIONS:

The Office of Financial and Insurance Regulation (OFIR) supports the bill. (3-21-08)

The Negligence Law Section of the State Bar of Michigan indicated opposition to the bill. (5-1-08)

The Insurance Institute of Michigan is opposed to the bill. (5-1-08)

The Michigan Insurance Coalition indicated opposition to the bill. (5-1-08)

The Property Casualty Insurers Association of America indicated opposition to the bill. (5-1-08)

AAA Michigan indicated opposition to the bill. (5-1-08)

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