

3601 Vincennes Road, Indianapolis, Indiana 46268
Phone: 317.875.5250 | Fax: 317.879.8408

www.namic.org

122 C Street N.W., Suite 540, Washington, D.C. 20001
Phone: 202.628.1558 | Fax: 202.628.1601

Nevada State Legislature
Assembly Committee on Judiciary
401 S. Carson Street
Carson City, NV 89701-4747

February 13, 2015

Sent via electronic transmission to committee at:

AsmJUD@asm.state.nv.us

RE: AB 7, Limitation on Recovery of Certain Damages - NAMIC's Letter in Support of Proposed Legislation

Dear Representative Hansen, Chair; Representative Nelson, Vice-Chair; and members of the Assembly Committee on Judiciary:

Thank you for providing the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written testimony to your committee for the February 16, 2015, public hearing. Unfortunately, I will not be able to attend the public hearing, because of a previously scheduled professional obligation.

NAMIC is the largest property/casualty insurance trade association in the country, serving regional and local mutual insurance companies on main streets across America as well as many of the country's largest national insurers.

The 1,400 NAMIC member companies serve more than 135 million auto, home and business policyholders and write more than \$196 billion in annual premiums, accounting for 50 percent of the automobile/homeowners market and 31 percent of the business insurance market. NAMIC has 139 members who write property/casualty and workers' compensation insurance in the State of Nevada, which represents 40% of the insurance marketplace.

Through our advocacy programs we promote public policy solutions that benefit NAMIC companies and the consumers we serve. Our educational programs enable us to become better leaders in our companies and the insurance industry for the benefit of our policyholders.

NAMIC supports AB 7, as being a reasonable and appropriate societal response to the growing uninsured motorist problem in the state and as a fair and practical way to try and reduce Nevada's unacceptably high rate of uninsured driving. The proposed legislation focuses necessary public policy attention upon individuals who violate the financial responsibility law and disrespect the rights and needs of law-abiding motorists. The proposed legislation simply prohibits an uninsured driver from collecting *non-economic* damages in a civil action against an

insured motorist. In essence, it is a public policy statement to motorists that one must *fully comply* with auto insurance requirements in order to *fully benefit* from the auto insurance requirements of those who did comply with the law.

A fairly recent study by the Insurance Research Council concluded that laws such as AB 7 moderately reduce uninsured motorist rates and may also trim auto insurance costs. This result is both intuitive and fair – when there are fewer uninsured motorists, law-abiding drivers will have less need to call upon their uninsured motorist coverage. As the frequency of uninsured motorist coverage payments increase to pay for claims arising out of uninsured motor vehicle accidents, so too does the cost of providing the insurance coverage, which ultimately has an adverse impact upon auto insurance rates.

Because opponents of this reform often mischaracterize the law as “punishing the innocent”, it is imperative that we remember that society has a solemn duty to protect law-abiding motorists, which means that the legal system has to discourage and punish culpable uninsured motorists.

It is important to note that AB 7 is a measured, balanced, and equitable approach to dealing with the uninsured motorist problem in the state, because it expressly excludes 9 categories of “innocent” plaintiffs who are excluded from the proposed prohibition against collecting non-economic damages.

AB 7 specifically excludes the following individuals from the proposed damages restrictions:

- The bill does not apply to persons who are temporarily uninsured as a result of briefly forgetting to pay their insurance bill. AB 7 specifically excludes from the scope of the bill uninsured motorist, if his/her auto insurance was “cancelled or terminated for failure to pay the premium unless, at least 30 days before the accident, a notice of cancellation or termination was mailed to the last known address of the policyholder”. In other words, if the person had a legitimate reason to believe that he/she had complying auto insurance at the time of the accident, because he/she wasn’t sent a notice of cancellation or termination by the auto insurer, the uninsured driver may still collect non-economic damages.
- The proposed legislation does not apply to passengers in a vehicle operated by the uninsured driver, if the vehicle is not owned by the passenger. AB 7 also expressly excludes motorists and pedestrians not in the vehicle driven by the uninsured driver from the scope of the bill. Therefore, a friend or professional colleague in the vehicle driven by the uninsured driver is entitled to her or his non-economic damages from the at-fault insured driver.
- AB 7 also expressly excludes Federal Income Tax Return Dependents from the scope of the bill, so the minor daughter or son of the uninsured driver may collect non-economic damages.

- The bill does not interfere with the financial security of the uninsured driver's family. Lost wages, medical bills, and other economic damages are recoverable. Additionally, whether the driver was insured or not is irrelevant in wrongful death claims.
- Intoxicated drivers do not benefit from this bill. The bill specifically states that if an intoxicated driver causes the accident, the uninsured motorist may still collect non-economic damages along with his economic damages.
- Insured motorists, who are engaged in a felonious activity, flee the accident, or intentionally cause the accident do not benefit from this bill. The uninsured driver may still recover non-economic damages from these at-fault drivers.

When one considers the extensive list of individuals expressly excluded from this non-economic damages limitation bill, it is clear that the bill is FAIR TO ALL and is not intended to apply to or "punish" people who are innocently uninsured.

AB 7 is all about promoting legal fairness for responsible drivers and discouraging motorists from knowingly or recklessly disregarding a mandated auto insurance coverage requirement, which we *all* have to comply with as lawful motorists.

For the aforementioned reasons, NAMIC respectfully requests that this committee VOTE YES on AB 7, because "it's time to do what needs to be done" and acknowledge that minor criminal sanctions imposed on uninsured motorist, by themselves, have *not* solved the uninsured motorist problem that is a significant insurance rate cost-driver for auto insurance consumers. "It's time" to add a new disincentive (loss of the right to collect non-economic damages) to the equation for those who think the mandatory auto insurance requirement doesn't apply to them.

Thank you for your time and consideration. Please feel free to contact me at 303.907.0587 or at crataj@namic.org, if you would like to discuss NAMIC's written testimony.

Respectfully,



Christian John Rataj, Esq.
NAMIC Senior Director – State Affairs, Western Region