

HOUSE No. 915

By Mr. Brownsberger of Belmont, petition of William N. Brownsberger and others for legislation to discourage uninsured motorists by limiting their bodily injury liability compensation. Financial Services.

The Commonwealth of Massachusetts

PETITION OF:

William N. Brownsberger Anne M. Paulsen
John Hayes

In the Year Two Thousand and Seven.

AN ACT TO DISCOURAGE UNINSURED MOTORISTS BY LIMITING THEIR
BODILY INJURY LIABILITY COMPENSATION.

*Be it enacted by the Senate and House of Representatives in General
Court assembled, and by the authority of the same, as follows:*

- 1 SECTION 1. Purpose of this act.
- 2 The purpose of this act is to limit the damages recoverable by an
- 3 uninsured motorist to actual economic losses only, in an effort to
- 4 provide greater inducement for motorists to meet the statutory
- 5 requirements for compulsory insurance coverage.
- 6 It is estimated that approximately seven percent of Massachusetts
- 7 motorists operate without obtaining such insurance coverage, with
- 8 the percentage exceeding 20 percent in the higher-rated urban terri-
- 9 tories such as Boston. These uninsured motorists contribute to the
- 10 costs of the insurance system without accepting their fair share of its
- 11 costs, and at the expense of law-abiding motorists.
- 12 For example, in the event of an accident between an insured
- 13 motorist and an uninsured motorist for which the uninsured motorist
- 14 is found to be at fault, the bodily injury costs of the insured motorist
- 15 are borne by the insured motorist's company through the insured
- 16 motorist's Uninsured Motorist Coverage. In the event of such an
- 17 accident in which the insured motorist is found to be at fault, the
- 18 bodily injury costs of the uninsured motorist are borne by the
- 19 insured motorist's company through the insured motorist's liability

20 coverage. In either circumstance, the insured motorist's company
21 bears the cost of the accident regardless of the determination of fault.
22 Thus the actions of uninsured motorists contribute to higher costs for
23 insured motorists.

24 This bill seeks therefore to at least partially redress this situation
25 by prohibiting the uninsured motorist from collecting for any more
26 than his/her actual economic damages, in order to encourage unin-
27 sured motorists to meet the requirements and responsibilities of dri-
28 ving.

29 However, it is understood that a major reason for the lack of com-
30 pliance with the requirements for compulsory insurance is the high
31 cost of such insurance, especially for motorists in high-rated territo-
32 ries. A just society has every right to ask that its citizens abide by
33 certain requirements in order to promote the public good; a truly just
34 society will also seek to provide means for its citizens to meet those
35 requirements. Consequently, the provisions of this act are to be
36 effective only if measures are taken to significantly reduce the cost
37 of such motor vehicle insurance, especially in the high-rated territo-
38 ries.

1 SECTION 2. Section 6D of Chapter 231 of the General Laws of
2 Massachusetts, as appearing in the 2004 Official Edition, is hereby
3 amended by adding at the end of the current section the following
4 sentences:—

5 In any action of tort brought as a result of bodily injury, sickness
6 or disease, arising out of the ownership, operation, maintenance or
7 use of a motor vehicle within this Commonwealth by the defendant,
8 any plaintiff who is under obligation to meet the requirements of
9 Sections thirty-four A and thirty-four M of Chapter ninety and who,
10 at the time of the incident giving rise to such injury, sickness or dis-
11 ease, was not satisfying those requirements, may recover damages
12 only for the reasonable and necessary expenses incurred in treating
13 such injury, sickness or disease for necessary medical, surgical, x-
14 ray and dental services, including prosthetic devices and necessary
15 ambulance, hospital, professional nursing and funeral expenses, and
16 may not recover damages for pain and suffering, including mental
17 suffering associated with such injury, sickness or disease. Reason-
18 able attorney fees are to be determined by a court of appropriate

19 jurisdiction, not to exceed fifty (50) percent of the amount of the
20 recovered damages.

1 SECTION 3. This act shall take effect six (6) months from the
2 date of its enactment, or on January first of the year two thousand
3 and eight, whichever date is later, but only if measures are taken,
4 such as the passage of strong choice/no-fault legislation, that in the
5 judgment of the Commissioner of Insurance have, or will have by
6 the effective date of this act, the effect of allowing motorists to
7 reduce the costs of the minimum compulsory bodily injury insurance
8 in the highest-rated territories by a minimum of twenty (20) percent.