

SENATE BILL REPORT

SB 6182

As Reported By Senate Committee On:
Financial Institutions, Housing & Consumer Protection, January 25, 2006

Title: An act relating to compensating the victims of uninsured and underinsured motorists.

Brief Description: Compensating the victims of uninsured and underinsured motorists.

Sponsors: Senators Berkey, Fairley, and Shin; by request of Insurance Commissioner.

Brief History:

Committee Activity: Financial Institutions, Housing & Consumer Protection: 1/11/06, 1/25/06 [DPS].

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & CONSUMER PROTECTION

Majority Report: That Substitute Senate Bill No. 6182 be substituted therefor, and the substitute bill do pass.

Signed by Senators Fairley, Chair; Berkey, Vice Chair; Benton, Ranking Minority Member; Benson, Brandland, Franklin, Keiser, Schmidt and Spanel.

Staff: Jennifer Arnold (786-7471)

Background: Automobile insurance must include coverage for damages resulting from underinsured motor vehicles. An "underinsured motor vehicle" is defined as a vehicle in which the party legally responsible (by virtue of ownership, maintenance, or use) for the bodily injury or property damage has either no insurance or insufficient coverage to cover the full amount of the damage costs to which the injured party is legally entitled.

Existing statutes require underinsured motorist coverage to apply to "accidents." Under Washington State case law, an accident has been held to not be viewed through the eyes of the insured. It is not an accident for the purpose of coverage merely because the insured victim did not expect, nor intend, the event that caused the harm.

There are concerns that the current statutes regarding underinsured motorist insurance need to be amended to protect innocent victims. In order to clarify that insured persons, who are victims of the intentional acts of others, will be covered by their policy, it is believed that the term "accident" needs to be defined to provide coverage irregardless of the uninsured or underinsured person's intentions.

Summary of Substitute Bill: For the purposes of uninsured and underinsured motorist insurance, the term "accident" is defined. An "accident" is an occurrence that the person covered by the insurance did not expect or intend. Whether or not the uninsured or underinsured person acted intentionally is irrelevant in determining coverage. However, covered persons, who intentionally cause the damage themselves, can be denied coverage.

A person covered by underinsured motorist insurance, who is the intended victim of a tortfeasor, must report the incident to the appropriate law enforcement agency and must cooperate with that agency's investigation.

Substitute Bill Compared to Original Bill: The requirement for intended victims of tortfeasors to report and cooperate with law enforcement is added.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: The Office of the Insurance Commissioner has received more calls about this issue than any other since Mike Kreidler has been the Commissioner. The case of Ethel Adams is an egregious example of why this law needs to be changed. Current law is illogical; people expect their insurance to cover deliberate acts, otherwise, why would anyone pay premiums if they are not going to be covered in this type of situation? The existing statute is over 40 years old and there has been intervening case law, resulting in a current law that makes no sense. This bill will correct the problem to make sure that what happened to Ms. Adams doesn't occur again.

Testimony Against: None.

Testimony Other: It is agreed that the existing statutes need clarification in order to right a wrong; however, the bill language needs to be amended to provide cooperation with law enforcement in the case of intended victims. Such an amendment would help to discourage illegal activities, such as accidents staged for the purpose of fraudulently collecting insurance benefits.

Who Testified: PRO: Mike Kreidler, Office of Insurance Commissioner; Larry Shannon, Washington State Trial Lawyers Association.

OTHER: Gary Strannigan, Safeco; Mel Sorensen, Property Casualty Insurance, Allstate; Jean Leonard, State Farm Insurance.