

# Insurance law faulty, critics tell lawmakers

Lawyers say people find their policy is not as they thought; others protest about cost.

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Iowans may have far less car insurance than they think, trial lawyers told lawmakers Wednesday.

"We come in contact with people on a regular basis who believe they had paid for coverage, only to find out when tragedy strikes that they don't have that," said Tim Semelroth, president of an Iowa trial lawyers' group.

State law requires drivers to carry some coverage in case of accidents involving uninsured or underinsured motorists, but the law is flawed, Semelroth said. Iowans can end up with heavy bills if they're involved in a hit-and-run accident or if the driver at fault has no insurance or not enough insurance, he said.

For example, the law requires coverage if a hit-and-run driver makes actual contact with your car, but not if you are run off the road without any collision.

And your own insurance might not kick in for medical bills, lost income or quality of life damages if you were riding in someone else's vehicle and an uninsured driver causes a crash.

Former Boone resident Stephanie Swainston, 30, suffered severe injuries when she was seven months pregnant when an uninsured driver plowed into her mother-in-law's car in 2004. She carried plenty of her own insurance coverage, she said, but quirks in the law prevented her from tapping into it.

INSURE, PAGE 8B

## INSURE

FROM PAGE 1B

A bill before lawmakers, Senate Study Bill 1137, would correct those flaws, advocates said. It's a priority of the Iowa Association for Justice, which is the former Iowa Trial Lawyers Association.

Numerous representatives of the insurance industry oppose the bill.

"It's going to create a lot of cost," said James Pugh, a lawyer for Farm Bureau Mutual.

But a key lawmaker, Democratic Sen. Rob Hogg of Cedar Rapids, said he thinks the Legislature should pass some version of the bill. "We are going to move something forward," he said. "It would make a big difference."

Iowa is fortunate to have one of the highest percentages of people carrying insurance, and coverage here is relatively cheap, said Bob Skow, a lobbyist for the Independent Insurance Agents of Iowa.

If lawmakers set more requirements, the cost of insurance will go up, and fewer people will carry insurance, Skow argued.

Motorcyclists would feel the worst pinch, he said. Their premiums for uninsured or underinsured motorists' coverage could go up \$200 a year, he estimated.

All of the extra coverage is available in the marketplace for optional purchase now, Skow said.

"You ought to know what your limits are," Skow said. "If you want more, buy it."

Sen. Herman Quirnbach, D-Ames, said he has no idea whether his insurance covers some of these cases.

"Ordinary consumers don't read their policies, and even if they do, unless they are well-schooled in the myriad of circumstances that might arise, they wouldn't know whether they're covered." Quirnbach

## ■ Would you be covered?

Trial lawyers gave state lawmakers several examples Wednesday of cases in which Iowans are probably not covered in an accident caused by an uninsured or underinsured driver, unless they specifically signed up for extra coverage. Here are some scenarios, all of which would be changed by a bill before lawmakers:

- If a hit-and-run driver cuts into your lane and forces you off the road, but you manage to avoid any impact with his vehicle, your insurance by law can deny coverage.
- If a member of your family is riding with a friend and several other people when an uninsured driver causes a crash, the friend's coverage kicks in. If medical damages are high, say \$500,000 for all five people in the car, but the friend's coverage is only \$300,000, you may be stuck paying some of the bills for medical care for your relative even though you have your own insurance. Iowa law allows your insurance to decline to pay the leftover bills if the full limit of the friend's policy is paid.
- You may have liability coverage of, say, \$100,000, so you think you have decent coverage. But some policies routinely cut coverage for accidents involving an uninsured or underinsured motorist to the state minimum, which is \$20,000.
- If one member of your household causes a car crash that injures another member of the household, the law says the insurer can deny coverage under your liability policy. So if you cause a crash that injures your own child, you are considered uninsured. And some policies cover that circumstance only up to \$20,000. So that amount of your child's medical bills would be covered, and no more. But a neighbor child injured in your crash would be fully covered up to your liability limit, say \$100,000.

Source: Iowa Association for Justice

bach said he thinks the state should require the coverage "that the majority of customers would reasonably assume they would cover."

Many policies provide only the minimum coverage required by law, which is \$20,000 in damages for one person with a cap of \$40,000 for two or more people in cases involving uninsured drivers, Semelroth said. If lawmakers require companies to offer more coverage, Iowans could choose to carry less, for a lower cost, he said.

"But make it a conscious choice," he said.

Swainston was in a car with four relatives in Utah when a van driven by an immigrant in the United States illegally crossed the highway's center line and caused a head-on collision. Four immigrants in the van died; a baby was the sole survivor.

All five people in Swainston's family were severely

injured. Swainston had broken bones and third-degree burns and went into pre-term labor with her son, now 4.

Her mother-in-law's policy offered maximum coverage of \$500,000. After the money was divided among the injured, Swainston's share was \$54,000.

She tried to make a claim under her own \$100,000 Iowa plan for uninsured motorists, but state law prevented her from doing so, said her attorney, Steven Lawyer of Des Moines. "She was not entitled to recover damages up to limits of her own insurance."

Swainston said Wednesday in a telephone interview that her reaction was "frustration, and worry, too. The things I have to deal with are never, ever going to go away."

For example, said Swainston, who now lives in Idaho, the accident limited her ability to have another child.