



## ***California Bill Would Allow a Supplement to Underinsured Motorist Coverage***

**Los Angeles Uninsured Motorist Attorney Barry P. Goldberg advocates passage of California Assembly Bill AB 862. That Bill is a logical first step in empowering responsible California motorists to be able to adequately insure themselves against the epidemic of uninsured and underinsured drivers in the State of California.** In short, the Bill will allow California motorists to purchase “enhanced” Underinsured Motorist Coverage which will actually and predictably protect them and their family when involved in an accident wherein the adverse driver did not have sufficient liability insurance.

California consumers buy uninsured motorist coverage with the mistaken belief that they are fully protected by the amount of insurance they buy if they are hit by another driver who is either uninsured or has inadequate liability insurance coverage. Under current law, the value of the insurance purchased is often eliminated or substantially reduced at no fault of the policy holder.

Currently, the California Uninsured/Underinsured Motorist Statute, Insurance Code §11580.2, allows an insurer to deduct the amount of the liability insurance available to the at fault driver from the amount of uninsured motorist coverage in order to establish the amount of "underinsurance" available to the injured policy holder. This "credit" or “set off” often has the undesirable effect of eliminating the underinsured insurance benefit all together, even if the value of the



policy holder's injuries substantially exceeds the extent of the at fault driver's liability limits. Moreover, the statute as written and interpreted by the case law may create an unfair anomaly eliminating the uninsured insurance benefit based upon the happenstance of multiple non- at fault claimants.

California's statutory minimum liability coverage (\$15,000/\$30,000/\$5,000) as required by the Financial Responsibility Laws is the lowest in the nation and has not been raised or supplemented since established in 1974. It is estimated that about 50% of all accidents in California are "underinsured"---meaning that there is not enough liability coverage to compensate California motorists for accidents that were not their fault. So, something has to be done.

The new Bill AB 862 follows on the heels of AB 1063, introduced in 2011, which would have simply eliminated the "credit" or "set off" and with it, all of the undesirable consequences. That Bill was effectively "killed" in Committee by the insurance industry.

Perhaps the economic climate is right to change the law in order to ensure that a responsible consumer gets all the insurance benefits that has been bought and paid for. The prior attempt through AB 1063 would have allowed policy holders to access the full benefit of their policies regardless of whether the "at fault" driver had equal or lesser coverage or whether there are multiple claimants.

The new Bill AB 862 eliminates some of the opposition to the prior attempt by allowing insurers to sell "enhanced" underinsured motorist coverage as an option for an additional premium. In other words, a consumer could buy the cheaper coverage (as it exists today) or could buy the "non set off" version of the coverage. Currently, insurers



cannot even offer that “enhanced” coverage due to an oversight in the way the statute was originally drafted. Basically, a consumer could buy the coverage desired and have some predictability about how much coverage they are entitled to in the event of an “underinsured” accident. There is a certain fundamental fairness in allowing a consumer to get the coverage paid for rather than have it eliminated or reduced depending on who happened to cause an accident.

This Bill is not a cure all for California’s broken Financial Responsibility Laws. It is simply a logical and practical first step which begins to acknowledge that the minimum liability limits are outdated and out of step with the costs of modern driving. At least a responsible California motorist should be able to insure against the “underinsured” epidemic caused by the Legislature’s complete failure to address the grossly inadequate minimum limits in the state.

Remarkably, the insurance industry opposes the new Bill. This should raise some red flags for even the most casual observer. Why would insurers not want to sell additional insurance coverage for additional premiums? That’s what they do----sell insurance. Now, they don’t want to even sell the stuff!

The answer should be obvious----insurers like the current inadequate coverage scheme and are raking in record profits by having Californians “underinsured.” Insurers like the current “credit” or “set off” and enjoy the profit of selling an Uninsured Motorist Policy for a certain amount, and then possibly walking away or reducing that amount based on the happenstance of who caused the accident. As an advocate for California Motorists injured by uninsured or underinsured drivers, I cannot think of a decent understandable reason why AB 862 should not become the law.



For more information about blog author and attorney Barry P. Goldberg's uninsured and underinsured motorist expertise, please visit his web page, [Los Angeles Uninsured Motorist Attorney](http://www.barrypgoldberg.com/Practice-Areas/Los-Angeles-Uninsured-Motorist-Attorney.aspx)  
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