

## **Driver Protection or Loss of Choice? NY SUM Debate Awaits Approval**

When the New York Legislature passed amendment S. 7787/ A. 10784 in June, there were both cheers and jeers. It's now the center of a debate between those who believe it's protection for drivers and others who think it's a loss of choice for consumers.

The amendment specifically targets the Supplemental Uninsured Motorists (SUM) coverage on NY auto policies, which is an additional coverage to protect drivers from the financial cost of injuries related to a crash in which the at-fault driver was uninsured.

New York state requires drivers carry 25/50/10 in bodily injury (BI) and property damage (PD) liability for injuries and damages to another party and \$50K in no-fault Personal Injury Protection (PIP). Uninsured Motorists coverage (UM) of at least 25/50 is required but it can be as high as the limits chosen for property damage and bodily injury liability.

SUM is an additional coverage. The law prior to this amendment is that unless a policyholder requests more than \$250K in bodily injury liability, the insurance company doesn't have to offer more than the state minimum of \$25K, meaning policyholders are often unaware they can increase more and automatically end up with only \$25K in coverage unless opting for SUM coverage.

If passed, insurers will be required to offer increased SUM coverage matching policyholders' chosen liability limits. It's not completely new concept—26 states have guidelines requiring insurers to offer SUM insurance at an amount based on consumers' other insurance choices. It appears the law simply changes the "default" amount on the SUM coverage, which matches the liability limits consumers choose. Additionally, consumers can elect to decline additional coverage by signing a waiver or statement, so it's not mandatory.

The SUM amendment is now waiting approval from Governor Andrew Cuomo or waiting to be sent back

to the legislative branch for revisions. Like any other political issue though, there are those who love it and hate it.

### The Lovers

The New York State Trial Lawyers Association (NYSTLA) say the amendment protects the taxpayers of NY since victims of hit-and-run or uninsured injuries won't have to rely on public benefits like Medicaid when the medical bills exceed their coverage, personal insurance or personal savings. This is in addition to the fact that \$25K is barely enough to cover extensive medical bills—the National Safety Council reported the average cost of accidents in 2010 with disabling injuries was a little over \$70K.

The New York Public Interest Research Group (NYPIRG) praised it as a plus for policyholders, providing more rights and protection since they'd have as much protection for themselves as the coverage purchased for other parties in the event of their own negligence. They also believe it would reduce auto insurance fraud because the law would also disallow payments to medical equipment companies with histories of excessively billing auto insurers.

United Policyholders (UP), a non-profit insurance consumer advocate and information group, praise the legislation since it aligns with their mission for people to be financially literate and for consumers to have a thorough understanding of how insurance and all of its options work. UP has created a program, 'Roadmap to Preparedness' which provides outreach and education to help consumers do so, and think the SUM amendment is complimentary to that, providing policyholders the ability to purchase with a clearer understanding of insurance.

Amy Bach, the founder and a consumer advocate with UP, encourages Governor Cuomo to pass the law.

"This is a pro-consumer bill that will help protect New Yorkers by promoting a low-cost but substantial enhancement to auto insurance: supplementary uninsured/underinsured motorist coverage," explained Bach.

UP believes the bill encourages consumers to select an appropriate amount of coverage while still allowing them choice in the matter. Bach describes it as a 'common sense' bill filling gaps often existing in insurance policies while still promoting consumer choice.

“While many drivers act responsibly by purchasing more liability insurance than the legally required minimum, they do not realize that to protect themselves they must also increase the SUM limits on their policy,” says Bach. “This bill will help strengthen New Yorker drivers’ financial safety nets.”

## The Haters

The group New Yorkers Stand Against Auto Insurance Fraud (NYSAIF) believes passing the law would increase insurance rates again for NY drivers who already pay more than the national average. The NYSAIF describes themselves as a grassroots coalition of citizens for auto insurance reform and fight against the abuse of lawsuits which costs everyone in higher insurance rates.

Additionally, the NYSAIF believes it will pad the pockets of NY trial lawyers who “already make millions of dollars each year exploiting loopholes in the NY no-fault auto insurance laws,” as expressed in an email to members.

The ones required to make changes, insurance companies themselves, are fervently opposed to it. In an official statement, President of New York Insurance Association Ellen Melchionni expressed her belief that rates will go “because there’s going to be litigation involved with it.” Melchionni described her opinion of the law as an ‘early Christmas present for NY lawyers.’

## By the People, For the People?

Fortunately, New York has a very low percentage of uninsured drivers thanks to the strict laws already in place, about 5%, while the national average is a little over 13%. Although SUM coverage would greatly benefit states like Mississippi, where the uninsured rate is 28%, it’s still important for all states.

But how do consumers feel about it? It seems the debate is only between consumer advocates, insurers, and lawmakers.

The reason for a lack of debate? Few New Yorkers know about increasing their SUM insurance—some have never even heard of it. Matt Titone, a New York Assemblyman representing the 61st Assembly District in the NY State Assembly, affirms that few know about it.

Many are unaware of what the state minimum UM limit is and that by failing to increase SUM coverage,

they're only covered for \$25K.

Bach says SUM insurance is not well understood by policyholders, and that “for complicated reasons, insurers undersell it.” However, she believes if consumers better understood it and if insurers simply offered it, they’d see the benefits and opt for it.

There may be some argument over whether the amendment should be passed, but numbers don’t lie—there’s no question that medical expenses are astronomical. Coupled with the fact that personal health insurance usually won’t cover medical expenses from car accidents, many are out of luck if they don’t opt for higher SUM limits.

Unfortunately, those who know about it often fear that increasing it causes higher premiums—actually not true and still cheaper than if medical expenses exceed the \$25K limit. Bach clarifies this too.

“For a very low premium, SUM insurance covers drivers and their loved ones in the event of an accident with an underinsured, uninsured, or hit and run driver.”

Sounds exactly like what New Yorkers may be in need of when Lindsay Lohan is driving around New York—of course, that depends on how long she stays in jail, and if history is any indicator, that won’t be for long.