

REVENUE: No revenue impact

FISCAL: No fiscal impact

Action:	Without Recommendation as to Passage and Be Referred to the Committee on Rules
Vote:	3 - 0 - 2
Yeas:	Beyer, Prozanski, Burdick
Nays:	0
Exc.:	Kruse, Walker
Prepared By:	Matt Kalmanson, Counsel
Meeting Dates:	5/21, 5/30

WHAT THE MEASURE DOES: Establishes that a motor vehicle liability policy must contain a provision that provides liability coverage for each family member of the insured who resides in the same household as the insured, in an amount equal to that purchased by the insured. Establishes that an insurer must pay uninsured/underinsured coverage to an insured up to the limits of the policy, irrespective of the liability limits in the Tort Claims Act.

ISSUES DISCUSSED:

- The family member exclusion
- Fraud and collusion between family members
- Interaction between Tort Claims Act and underinsured motorist statutes
- Impact on accident victims
- Impact on rates

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: Many insurance policies contain a “family member/household” exclusion, which provides that the insurer will not make any payment to a family member who resides in the same household of an insured beyond the minimum liability coverage required by the Oregon Financial Responsibility Law (FRL). In *Collins v. Farmers Insurance Co. of Oregon*, 312 Or 337 (1991), the Oregon Supreme Court held that such exclusions do not violate Oregon law, so long as the policy provides the minimum coverage required by the FRL. HB 3086 would require insurance companies to insure family members up to the limits of the purchased policy, not the minimum required under the FRL.

In addition, ORS 742.504 requires insurers to provide underinsured motorist coverage to their insureds, and to provide “all sums that the insured . . . is legally entitled to recover as general and special damages from the owner or operator of an uninsured vehicle . . .” The Tort Claims Act, however, limits the liability of public bodies and its employees to \$200,000. The Court of Appeals has interpreted the Tort Claims Act as placing a ceiling on the amount that an insurer must pay an insured who has been in an accident with a public vehicle, irrespective of the policy limit, because that is all the insured “is legally entitled to recover.” See *Surface v. American Spirit Insurance Co.*, 154 Or App 696 (1998). HB 3086 would provide that an insurer must pay an insured who has been in an accident with a public body up to the policy limits, notwithstanding the limits in the Tort Claims Act.

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This summary has not been adopted or officially endorsed by action of the committee.