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Oregon State Legislature  
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House Committee on Judiciary  
900 Court Street NE  
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4/1/13

Sent via electronic transmission to committee administrator at: [pam.marshall@state.or.us](mailto:pam.marshall@state.or.us);  
[ann.martin@state.or.us](mailto:ann.martin@state.or.us); and [Samantha.briggs@state.or.us](mailto:Samantha.briggs@state.or.us):

**RE: HB 2581, Bodily Injury Non-Economic Damages Cap - NAMIC's Written Testimony in Opposition to the Proposed Legislation**

Dear Representative Barker, Chair; Representative Garrett, Vice-Chair; Representative Krieger, Vice-Chair; and members of the House Committee on Judiciary:

Thank you for providing the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written testimony to the committee for the April 3, 2013, public hearing. Unfortunately, I will be in another state at a previously scheduled legislative meeting at the time of this hearing, so I will be unavailable to attend. Please accept these written comments in lieu of my testimony at the hearing. This letter need not be formally read into the committee hearing record, but please reference the letter as a submission to the committee at the hearing.

NAMIC is the largest and most diverse property/casualty trade association in the country, with 1,400 regional and local mutual insurance member companies serving more than 135 million auto, home, and business policyholders and writing in excess of \$196 billion in annual premiums that account for 50 percent of the automobile/ homeowners market and 31 percent of the business insurance market. More than 200,000 people are employed by NAMIC member companies. NAMIC has 143 members who write P. & C. Insurance in the State of Oregon, which represents 45% of the marketplace.

HB 2581 would increase the amount of noneconomic damages that may be awarded in a bodily injury case from \$500,000 to \$550,000.

On behalf of NAMIC's members, we respectfully *oppose* the proposed legislation for the following reasons:

**1) There is no evidence to support the contention that the current cap on noneconomic damages does not adequately address the legal needs and proven damages of litigants -**

Unlike economic damages, like lost wages, medical expense, property damages, etc., which are influenced by inflationary changes in the economy, noneconomic damages, like pain and suffering, hedonic damages, etc., are not financially impacted by vacillations in the economy. There is not scientific data to support the belief that emotional or physical pain today has a greater economic value than it did last year or the year before. Consequently, there is no clear economic justification for increasing the non-economic damages cap by any amount, let alone by 10% (\$50,000).

**2) The proposed legislation will create an unnecessary insurance rate cost-driver, that could adversely impact the cost of insurance to the consumer –**

When civil damages caps are raised, plaintiff attorneys increase their settlement demands, because lawyers are duty bound to their client to try and recover as much in damages as possible. As the amount of settlement demands increase, so do the legal defense costs associated with litigating disputed claims and the amount of money paid to litigants in nuisance settlements (i.e. payments that are made to plaintiffs because the cost to defend against the demanded amount of money is greater than the amount it would take to actually settle the case). The unavoidable result of inflated settlement demands is increased insurance costs to insurers and their policyholders.

**3) HB 2581 could expose insurance policyholders to greater out of pocket financial liability exposure -**

The proposed legislation would increase the non-economic damages by \$50,000, which means that liability insurance coverage limits are more likely to be exhausted quicker; thereby, exposing policyholders to greater out of pocket financial liability exposure.

**4) The proposed legislation will lead to more frivolous litigation, which will burden trial court dockets with cases that should have been settled –**

Since \$50,000 is a significant sum of money to any individual or business defendant, many defendants will have no choice but to legally contest higher settlement demands that are based solely upon noneconomic damages claims, which by their very nature are subjective, difficult to prove and quantify, and easily manipulated by rapacious litigants. Consequently, there will be more frivolous law suits filed and cases litigated by defendants.

For the aforementioned reasons, NAMIC respectfully requests that the Committee on Judiciary **VOTE NO on HB 2581**, because the foreseeable adverse societal consequences that will likely result from the proposed legislation far exceed the legitimate benefits the bill will provide to litigants, who want to inflate the amount of their bodily injury settlement demands.

Thank you for your time and consideration of NAMIC's written testimony. Please feel free to contact me at 303.907.0587 or at [crataj@namic.org](mailto:crataj@namic.org), if you have any questions pertaining to my written testimony.

Respectfully,

A handwritten signature in black ink, appearing to read "Christian J. Rataj". The signature is fluid and cursive, with a prominent initial "C" and a long, sweeping underline.

Christian J. Rataj, Esq.  
NAMIC's Western State Affairs Manager