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By Barry P. Goldberg

California Car Culture:
Auto Liability and Driving Responsibly

In days past, even without many paved roads, California was concerned about the automobile taking over the state and causing injury and damage. That takeover has come to pass, and legislation is finally taking shape that would protect the state's responsible drivers.

EVERY DRIVER IN CALIFORNIA KNOWS THAT one must maintain the mandated minimum auto liability limit of at least $15,000 per person, $30,000 per accident, and $5,000 property damage limit or risk suspension of driving privileges.

Every person who has been in a significant accident—and every personal injury lawyer in the state—knows that California's '15/30/5' mandate is hopelessly too low and outdated.

With good reason, daily, we see accident victims going without adequate compensation for injuries, medical bills, and property damage losses.

In fact, the state's minimums were established in 1974 and have not increased in nearly half a century.

However, help is on the way as the legislature has finally raised the minimum limits and Governor Newsom has signed it into law. This was accomplished during a tidal wave of new laws being signed and without adequate fanfare and public education.

Effective January 1, 2025, California will once again become a leader with the passage of SB 1107—$30,000 per person, $60,000 per accident, and $15,000 for property damage. These revised amounts are expected to be adequate for most "standard" automobile accident claims.

The delay gives the insurers sufficient time to calculate rates and apply for the premium increases.

Inserted into the law is a built-in increase on January 1, 2035, to $20,000 and $40,000 for bodily injury or death of one person and all persons, respectively, and by $10,000 for property damage.

Although the increases seem only logical and natural, the new minimums will have wide ranging impact on all California drivers, including higher rates and more uninsured drivers.

Addressing "Irresponsible Drivers"

In days past, even without many paved roads, California was concerned about the automobile taking over the state and causing injury and damage.

There is a true story about a small town that had just two automobiles, which crashed into each other causing serious injuries.

California first enacted a financial responsibility law in 1929, which, like those that followed, required all drivers to be "*financially responsible*"—usually by means of insurance—for any injury they caused while driving.

However, enforcement of the requirement was triggered only when the driver was at fault in an accident causing either bodily injury, or property damage more than $100. This was later amended to $200.

Even then, there was no sanction for failing to have insurance if the driver was able to post a bond in an amount determined by the Department of Motor Vehicles (DMV) to be sufficient to meet the likely liability.

Failure to either post a bond or provide proof of financial responsibility resulted in the suspension of driving privileges.

The law was largely ineffective, with Californians running a significant risk of death, injury, and substantial property damage without the ability to receive any compensation. In fact, the law—not being a compulsory insurance program—allowed every motorist one accident before having to prove the ability to pay for any damages they may have caused.

With the explosive increase in motor vehicle ownership and traffic in California after World War II—especially so in the San Fernando Valley, the nation's first true suburb—the risk of traffic collisions resulting in death or serious injuries to innocent victims became a serious social problem.

In 1959, the situation was basically declared an emergency because about 4 percent of the state's drivers were uninsured with the financial losses that ensued deemed unacceptable.

New Era, New Law

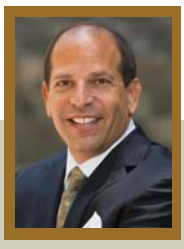
Rather than mandate liability insurance, California enacted one of the nation's first "*Uninsured Motorist Laws.*"[1]

The basic purpose of the uninsured motorist statute was to minimize losses to those who are involved in accidents with uninsured or financially irresponsible motorists.

Under the statute, at least some coverage is afforded an insured person with injuries caused by an uninsured or underinsured motorist.

The effect of the statute was to guarantee to insured motorists the minimum financial responsibility under their own policy for injuries resulting from a collision with another party who either has no automobile liability insurance or has insurance with insufficient limits.

Fast forward through the 1960's into the 1970's, California car culture had taken over and California smog and traffic had become legendary. With the increased dependence on motor vehicles, both the number of "*financially irresponsible*" drivers and drivers that chose to



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delete uninsured motorist coverage grew to a once again emergency level where Californians were at huge risk of death, injury, and substantial property damage without the ability to receive fair compensation.

In 1974, the financial responsibility law was amended to require the posting of a bond or the filing of proof of financial responsibility whenever a driver was involved in an accident resulting in either bodily injury, or property damage exceeding $200, regardless of fault.[2]

Other than commercial fleets, that mandatory law meant that drivers possess liability insurance in order to drive in California.

The minimum limits were $15,000 per person, $30,000 per accident, and $5,000 property damage limit, and it was anticipated that these minimum limits would easily cover most, if not all, accident claims for years to come.

A little perspective. In 1974, the average house cost $10,990, and the median income hovered around $13,900 per year, while the average price of a new car was $3,750.00, a gallon of gas cost 55 cents, and medical costs were a mere fraction of what they are today.

Consequently, jury verdicts and settlements were a small percentage of what we see today. In effect, that year, California motorists were well—protected by the state's required minimum limits.

Ten years later, the Legislature, still concerned that too many motorists still were not "*financially responsible*," enacted the Robbins-McAlister Financial Responsibility Act (1984 Act).

In addition to the requirements of prior enactments, the new Act allowed a peace officer to request proof of financial responsibility "*whenever a notice to appear is issued*" for any alleged moving violation with the failure to provide such proof itself an infraction.

However, if it is established that the driver was actually financially responsible at the time in question—notwithstanding the lack of written evidence—the citation would be dismissed. If such proof was not forthcoming, the driver was subject to a fine ranging from $100 to $240.

Moreover, within 60 days of that conviction, the driver is required to provide proof of financial responsibility—and maintain it for three years—or the individual's driver's license would be suspended.

The law was largely a failure because it was selectively enforced, and the number of uninsured motorists continued to rise.

Many attempts have been made over the past 30+ years to both raise the state minimum liability limits and address uninsured motorists, but all efforts have failed or been blocked with the insurance industry seemingly content with the relatively low minimum limits.

Insurers pay the minimums on large claims and save adjustment costs, while, at the same time, rates have steadily increased.

California's Present "Emergency"

It is estimated that between 16 percent and 20 percent of all California drivers are uninsured. This translates into between 2 and 4 million uninsured drivers on the road.

In some neighborhoods, the number of uninsured drivers are as high as 80 percent. That means that, any given time, there is a 1-in-5 chance that a driver involved in an accident in California is uninsured, while numerous studies have shown that uninsured drivers are more likely to cause accidents, injuries, and death.

Consensus among San Fernando Valley personal injury lawyers is that a whopping 50 percent of all accidents are either uninsured or underinsured.

Although the exact numbers are not known, most California drivers appear to purchase the minimum liability limits 15/30/5, or, in other words, not enough liability coverage in most instances.

California was among only three states with the lowest financial responsibility limits in the country.

Consider that the average new car in the state today is about $40,000, or more than 10 times the average cost in 1974, with a scratch on a bumper that can cost $5,000, and a visit to the emergency room, and reasonable follow-up care, can eat up a $15,000 limit without regard to lost earnings, pain, and suffering.

Had the 1974 minimums been adjusted for cost-of-living increases reflected in the Consumer Price Indexes, the 2022 minimums would be about $50,000 per person, $100,000 per accident and $20,000 property damage, or probably enough to handle 98 percent of all accident claims.

"Underinsured Motorist" On the Rise

There is a basic calculation to determine if a claim is legally "*underinsured*."

It is a simple matter of comparing the insured's Uninsured Motorist Liability limits to the available third-party liability limits.

If the Uninsured Motorist limits are higher than the amount of the available third-party liability limits, the uninsured motorist coverage transforms into "underinsured" motorist coverage for the difference between the two policies.

For example, if the third-party maintains the current state minimum of $15,000 per person and the insured maintains a higher uninsured motorist liability limit of $50,000 per person, then there will be an additional $35,000 of available coverage over and above the $15,000 minimum.

Underinsured Motorist cases have become cumbersome for both the insurers and personal injury practitioners because the rules are fragmented and confusing with many very experienced counsels now handling underinsured motorist claims—and all that comes with them—for the very first time.

California's New Minimums

On September 29, 2022, Governor Newsom signed SB 1107—one of hundreds of new laws signed all at once to avoid time out vetoes—into law without much fanfare.

Effective in 2025, California will once again become a national leader with the passage of SB 1107, which sets new auto insurance minimums of $30,000 per person, $60,000 per accident, and $15,000 for property damage—revised amounts that are expected to be adequate for most "standard" automobile accident claims.

However, one can see that the increased amounts do not keep up with the cost-of-living increases of the original 1974 minimums.

Inserted into the law is a built-in increase that takes effect on January 1, 2035, of $20,000 and $40,000 for bodily injury or death of one person and all persons, respectively, and $10,000 for property damage, $50,000 per person, $100,000 per accident, and $25,000 for property damage.

The future increase was made part of the bill to avoid the 50-year deadlock that created our current auto liability insurance "*emergency*."

The effect of the new minimums will be widespread. First and most obvious, is that auto insurance rates will rise rather dramatically. Initial estimates speculated that the cost of a minimum policies would rise by about $400.

However, those estimates are probably low for several reasons as insurers will be paying out more on claims, and will no longer be able to quickly cap their losses at $15,000 for many claims. Second, the cost of adjusting claims will rise significantly with insurers loading more work on to adjusters for claims in excess of $15,000.

Such costs will include costs of investigators, defense attorneys, and defense medical exams. Third, more cases will be filed in order to obtain in excess of $15,000 which, under the current minimums, is avoided by the insurer simply paying the low limits.

An undesired by-product of higher insurance rates is that the number of uninsured motorist cases will rise dramatically.

California drivers are currently struggling to pay for liability insurance, and, with higher costs for insurance, it is axiomatic that as fewer people will be able to afford insurance, the number of uninsured motorists will rise.

In addition, these higher rates will appear as Californians are experiencing the impacts of significant inflation.

Many will choose to pay rent or feed their families, rather than pay for insurance.

Several consumer groups opposed SB 1107 contending that it would disproportionately affect the poor and create more uninsured, while, in fact, those same groups have, for decades, successfully blocked all legislation to raise minimum limits.

By 2022, even insurers had come to realize that having the same limits as in 1974 was unsustainable in the long run, and was simply not good for business with the backlash becoming palpable from injured consumers being routinely shortchanged after their accidents.

A Dangerous Gamble

Although there will undoubtedly be an increase in the number of uninsured claims, in all likelihood there will be fewer "underinsured" claims because the third-party minimum limits will be higher and be able to cover most claims.

To anticipate the coming changes, it is recommended that all California drivers make certain that they have uninsured motorist coverage.

Deleting such coverage is a dangerous gamble that, over time, will significantly increase the risk of being involved in an accident where there is no insurance coverage whatsoever.

It is also recommended that California drivers start now to shop their auto insurance, especially at renewal time.

It is important to take advantage of all discounts offered by insurers, like bundling home and auto with the same company, and it is anticipated that auto insurance may actually prove to be cheaper for existing customers insured before 2025.

[1] Insurance Code § 11580.2.
[2] Vehicle Code § 16020, et seq.

California Car Culture: Auto Liability and Driving Responsibly

Test No. 171

This self-study activity has been approved for Minimum Continuing Legal Education (MCLE) credit by the San Fernando Valley Bar Association (SFVBA) in the amount of 1 hour. SFVBA certifies that this activity conforms to the standards for approved education activities prescribed by the rules and regulations of the State Bar of California governing minimum continuing legal education.

1. The current minimum automobile liability limits in California are $10,000 per person, $20,000 per accident, $5,000 property damage.
   ❑ True ❑ False

2. In addition to the requirements of prior enactments, the 1984 Robbins-McAlister Financial Responsibility Act added the following to encourage drivers to be financially responsible: Allowing a peace officer to request proof of financial responsibility "*whenever a notice to appear is issued*" for any alleged moving violation.
   ❑ True ❑ False

3. Prior to 1974, a California driver was required to show proof of financial responsibility or risk suspension of the driver's license only after the driver had at least one accident previously.
   ❑ True ❑ False

4. California first enacted a financial responsibility law in 1929.
   ❑ True ❑ False

5. California's new automobile liability limits will go into effect January 1, 2024.
   ❑ True ❑ False

6. California first mandated automobile liability insurance in 1974.
   ❑ True ❑ False

7. California's Uninsured Motorist Law come into effect At the same time that automobile liability insurance became mandatory.
   ❑ True ❑ False

8. In 1959, 10 percent of the state's drivers were uninsured.
   ❑ True ❑ False

9. The purpose of the California Uninsured Motorist Law was to provide at least some coverage is afforded an insured person with injuries caused by an uninsured or underinsured motorist; minimize losses to the people of California who are involved in accidents with uninsured or financially irresponsible motorists; and guarantee to an insured motorist the minimum financial responsibility under his or her own policy for injuries resulting from a collision with another party who either has no automobile liability insurance or has insurance with insufficient limits.
   ❑ True ❑ False

10. After 1959, the number of uninsured drivers in California increased dramatically.
    ❑ True ❑ False

11. The new minimum automobile liability limits in California are $30,000 per person, $60,000 per accident, and $15,000 property damage.
    ❑ True ❑ False

12. In 1974, the average cost for a new car was $3,750.
    ❑ True ❑ False

13. Today, the number of uninsured drivers in California are estimated to be between 20 percent and and 30 percent.
    ❑ True ❑ False

14. Had the 1974 California minimum liability limits increased with the cost of living reflected in the Consumer Price Indexes, the limits today would be about $100,000 per person, $200,000 per accident, and $50,000 for property.
    ❑ True ❑ False

15. When the new minimum limits go into effect on January 1, 2025, insurance rates are expected to increase.
    ❑ True ❑ False

16. Available "*Underinsured*" Motorist coverage is determined by By comparing the insured's Uninsured Motorist liability limits to the available third-party liability limits.
    ❑ True ❑ False

17. With the new California minimum liability limits, Underinsured motorist claims are expected to be eliminated by the new higher limits.
    ❑ True ❑ False

18. Under the new California minimum liability limits the cost of insurance is expected to rise because insurers will be paying out more on claims; insurers will no longer be able to quickly cap their losses at $15,000 for many claims; and the cost of adjusting claims will rise significantly.
    ❑ True ❑ False

19. California's first financial responsibility law was triggered whenever the driver was in an accident regardless of fault or damages.
    ❑ True ❑ False

20. The penalty for failure to prove financial responsibility in California is Suspension of driving privileges.
    ❑ True ❑ False

California Car Culture: Auto Liability and Driving Responsibly

MCLE Answer Sheet No. 171

INSTRUCTIONS:

1. **Accurately complete this form.**
2. **Study the MCLE article in this issue.**
3. **Answer the test questions by marking the appropriate boxes below.**
4. **Mail this form and the $20 testing fee for SFVBA members (or $30 for non-SFVBA members) to:**

   San Fernando Valley Bar Association
   20750 Ventura Blvd., Suite 104
   Woodland Hills, CA 91364

METHOD OF PAYMENT:

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5. **Make a copy of this completed form for your records.**
6. **Correct answers and a CLE certificate will be mailed to you within 2 weeks. If you have any questions, please contact our office at (818) 227-0495.**

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ANSWERS:

Mark your answers by checking the appropriate box. Each question only has one answer.

1.	❑ **True**	❑ **False**
2.	❑ **True**	❑ **False**
3.	❑ **True**	❑ **False**
4.	❑ **True**	❑ **False**
5.	❑ **True**	❑ **False**
6.	❑ **True**	❑ **False**
7.	❑ **True**	❑ **False**
8.	❑ **True**	❑ **False**
9.	❑ **True**	❑ **False**
10.	❑ **True**	❑ **False**
11.	❑ **True**	❑ **False**
12.	❑ **True**	❑ **False**
13.	❑ **True**	❑ **False**
14.	❑ **True**	❑ **False**
15.	❑ **True**	❑ **False**
16.	❑ **True**	❑ **False**
17.	❑ **True**	❑ **False**
18.	❑ **True**	❑ **False**
19.	❑ **True**	❑ **False**
20.	❑ **True**	❑ **False**