

Dear House Commerce Members,

I appreciate that you are looking at S.7.

This bill, S.7 is narrow – and it’s important. The bill will help address a hole in the safety net that is creating greater cost and burden to us all.

This bill focuses on what happens to our neighbors, friends and families here in Vermont after suffering serious injury in a motor vehicle crash.

When someone gets badly hurt in a car wreck, they face medical bills, lost wages and cost of living expenses. If the insurance for the driver that hit them is not enough to cover these costs, in Vermont, we turn to our own Underinsured Motorist Policy and any Med Pay coverage within our own auto insurance policy for help.

Right now, however, Vermont law has a loophole in it. This loophole permits underinsured motorist policies – our own auto coverage that we pay for -- to get a discount in what they will cover by deducting the amount they’ll pay from the at-fault driver.

That means that you may have paid for \$100,000 in your own auto coverage. But, if the person that hits you has less coverage, you won’t get the full amount of your own policy, even where your losses and medical bills are much higher.

To add insult to injury, often, your own auto policy will *also* ask to be reimbursed for any med pay coverage that they extended. This further reduces how much coverage you will receive from your own coverage.

I represent injured Vermonters at my law firm in Franklin County, Vanessa Branon Kittell, Attorney at Law, PLLC. I write because I’ve seen a number of Vermonters suffer real harm because of the present law. I write because there’s a way to help them – and help all Vermonters.

In the last several years, I’ve had a number of clients that do all the right stuff: they make sure that they have a good, safe car on the road. They purchase ample auto insurance coverage. And they’re prudent drivers.

Every driver on the road -- even good ones – risk getting hit by someone with the bare minimum insurance. The problem is that when the person with bare minimum insurance causes the wreck, these Vermonters, the ones that did the right thing and purchased the bigger policy, they are the ones that end up paying twice because of this loophole in our law.

This is Coleen B. She lives in Fairfield. At the time of the collision in 2023, she was 91. Lives alone on her farm and heats her house with wood. Here she is putting in her wood for the winter three months before the collision.

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On Nov. 24, 2023, she was driving home in her Subaru Outback at 1:30 in the afternoon. Distracted driver came across the centerline at 50 mph and hit her -- head on.

She suffered life changing injuries: a shattered left knee, fracture of her right ankle, lacerated lung and fracture to her C-Spine. She spent nearly a month in the hospital and in-patient rehab. Her providers discharged her just before Christmas

Her medical charges were \$206,279.17.

From the time she returned home, with the care of her family, home health aides, and her in-home physical therapy team, Colleen intensely treated for more than five months. She required five months of care to return to state that she could undertake her own activities of daily living, resume driving and going back to living independently. Her pain and injuries are permanent. Colleen will never return to the free and active life she lived prior to the collision. Even to this day she tells me that she's, "lucky."

The person that hit her carried \$25,000 in auto coverage. Colleen had a policy of \$100,000 in coverage.

The responsible party's insurance carrier immediately paid the \$25,000 policy. Colleen's own Carrier, despite us begging and pleading with them, discounted her coverage and paid her only \$75,000. Worse, they even asked to be reimbursed for the \$5,000 med pay coverage.

As a result of the staggering medical bills and health insurance liens in this case, Colleen got only a fraction of this insurance coverage. She got hit first by the distracted driver, then she got hit when her own insurance company denied her the full value of her policy.

In Colleen's case, some of the medical charges were absorbed by our local hospital and the public payor health carriers — they had to take a loss on these bills.

What that means is that the buck got passed onto all Vermonters while Colleen's auto insurer got a windfall.

The truth is that had Colleen's auto insurer done the right thing and paid Colleen the full value of her own policy, the public payors and our local hospital would have had to absorb less.

The auto insurer had nothing to lose – it should have paid Colleen the coverage she paid for: the full \$100,000 and waived any reimbursement for med pay.

This bill tightens a loophole that benefits those who need it the least, the auto insurers. It's not a one-size-fits-all blanket approach. This bill permits a tailored approach. It says that when a Vermonter is seriously injured by the fault of a person that doesn't have enough insurance to pay for the losses, that a Vermonter can turn to their own auto insurance for Underinsured Motorist coverage and get what they paid for. This bill says that the auto insurer won't discount its Underinsured Motorist coverage by the amount of the at-fault driver.

This bill continues to encourage Vermonters to be prudent and contribute to the safety net by purchasing ample auto coverage. What it doesn't do is allow auto insurers to take

advantage of seriously injured Vermonters by discounting their Underinsured Motorist Coverage and clawing back med pay.

This bill helps repair the hole in the safety net. It removes a loophole so that the law can do what it's supposed to do: protect innocently injured victims can get the value they paid for out of *their own* auto insurance policies. It stops auto insurers from capitalizing on injured Vermonters and passing the buck onto taxpayers.

I appreciate your time. Please reach out if you have any questions or would like more information.

Thanks,

Vanessa

Vanessa Kittell

[vkittell@ybklawvt.com](mailto:vkittell@ybklawvt.com)

84 Fairfield Street

P.O. Box 307

St. Albans, VT 05478

(802) 524-6568 phone

(802) 524-6569 fax