


TRANSNEWS

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Trans-News is a newsletter for our customers dedicated to bringing you useful and timely information about safety, loss control, insurance and industry issues.



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Please contact us with any questions, comments and ideas!

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SAFETY TIPS

VOLUME 21

Summertime is Pedestrian Time!

Summertime means that more and more pedestrians will be outside enjoying the warm weather and outdoor activities that may not be possible or are shunned during the cooler seasons.

This poses a particular challenge for professional drivers—one that can only be met by increased awareness.

While pedestrians are always present, the increased numbers of them in the warm months of the year mean that drivers must take greater care in looking for them to avoid any serious incidents.

Like it or not, pedestrians march to their own tune, and, in many instances, display behavior around vehicles which is not in their own best interest. I like to think of it as the “I Have The Right of Way” complex!

Now, whether they have the right of way or not is certainly an entirely different matter—even if they do not, the professional driver must do everything to avoid incidents with pedestrians.

That being said, it’s important to keep in mind that pedestrians will undoubtedly be present in areas other than walkways or crosswalks designated for them.

Be on the lookout for pedestrians in these areas:

- Crosswalks and intersections. Keep a lookout for not only those standing on intersections corners, but also for any kids or pedestrians approaching the intersection on sidewalks—especially those running or riding bicycles.
- Mid-blocks in urban areas and neighborhoods. Be especially careful where parked cars or other objects obstruct the side of the road and your view of pedestrians who may walk into the roadway.
- Heavy foliage areas in parks which may hide pedestrians walking along the roadway.
- Anywhere you see signs of children. For example—a bicycle lying in the street or on the sidewalk, or a ball in the roadway. Remember, areas where kids are at play can be especially dangerous—vehicles are often the last thing on the mind of a child at play.

A couple other things to remember when driving around pedestrian hotspots -

- Be sure to maintain the big picture when making turns at intersections—keep an eye out for pedestrian activity and movement on all four corners of the intersection—not just the ones closest to you.
- Pedestrians often have a hard time judging the speed of oncoming vehicles. In fact, the larger the object, the more they underestimate its speed. So, be careful—just because they see you, doesn’t mean they’ll act appropriately.
- Bright sunshine and sun glare may make seeing difficult for some pedestrians in some instances, which may prevent them from easily seeing your vehicle or understanding the status of the crosswalk indicator.

The bottom line—summertime is pedestrian time—so take extra care when operating your vehicle to keep the pedestrians safe and you from a big headache and a bad situation.



Garage Fire Safety

An unplanned fire anywhere is dangerous --- sometimes even deadly --- but garage fires can often wreak a great deal more havoc. Garage fires can start quickly and spread violently—a simple spark in the garage can lead to an explosion if you are not careful as to what materials are kept in this volatile area and what kind of work is going on around the dangerous materials.

Garages are prime places for fires to start. This is because both combustible materials and fire starters are typically stored in garages, and additionally fire starters can be introduced by human error. While dangerous materials are better kept in garage areas, it is vital that you store them properly and in an organized fashion.

Flammable Liquids

Substances like gasoline, oil, and paints are very flammable and are commonly found in garages. If you need to store these materials, make sure that you do so only in very small amounts. Keep each flammable substance in a small, sealed container that is clearly labeled with its contents. Store these containers away from appliances, heaters, pilot lights and other sources of flame or heat.

Never store propane cylinders indoors. They are sturdy enough to stay outside, and the risk of them catching fire indoors is just too great. Propane is highly combustible, and a tank full of it would

promptly cause a deadly explosion.

Always clean up any spill that occurs in the garage. If you find an unidentified liquid, look for the source, and make sure to remove it all. Don't just leave it there --- it is fuel for any potential fire.

Fire Starters

It's inevitable that you will store some flammable items or substances in your garage. But you can control the risk of these combustibles catching fire. Educate yourself on the things you should avoid.

For one, never smoke in a garage. Forgotten matches and cigarettes butts start thousands of fires each year.

You'll also need to be aware of the electrical situation in your garage. A spark from a careless wiring job could mean a huge fire. Be careful to use light bulbs with the proper wattage in your garage. The light fixture should indicate how many watts it can support. Do not exceed this limit, or you will risk starting an electrical fire. Also, do not overload outlets. Keep all cords and wires taped down so they are not yanked or twisted.

Commercial garages also have other common ignition sources present, such as welding apparatus/carts and battery chargers. Equipment such as this should only be used by those who are trained in its safe operation, and only in areas free of flammable and combustible materials.

Mess

One of the easiest things you can do to prevent a garage fire is to keep the area clean. Do not allow piles of junk to build up. Install shelving units and simply throw things away. Make sure that you dispose of trash at every opportunity. Trash is full of flammables, and easy to get rid of. Periodic facility inspections should be performed to insure that housekeeping is maintained, flammables and combustibles are stored properly, and dirt and debris does not build up, increasing the fuel for a possible fire.

Lastly, make sure that your garage is equipped for a fire. Install fire detectors and check its functioning at least once a month. The proper amount of fire extinguishers should be maintained in clearly marked and accessible locations. Fire extinguishers should be checked periodically to insure that they are properly charged and still functional and should be certified annually by a professional fire department or license extinguisher servicing company.

Driving Trivia

- 35 MPH is the average speed most cars travel on interstate highways during peak morning and afternoon rush.
- On average a human being spends two weeks of their entire lives waiting for traffic lights to change.
- If you drove at 100mph for four years you would still not cover every stretch of road in the USA.

"STEP DOWN"

NOT AN AEROBIC EXERCISE

For those loyal readers of the Transnews you may recall my ranting about **Uninsured/Underinsured Motorist coverage back in November of 2003**. That article was precipitated by a court decision in the state of Montana that to this day boggles the mind. In that article I railed on our court system and professed my disgust with the fact the judges make laws from the bench when they should only be administering the laws that have been passed by the legislature. Well hold on to your shorts ladies and gentlemen but in the state of the people's republic of New Jersey no less, the Supreme Court has ruled that the **"Step down" provision in a commercial auto policy is valid.**

Whew! What a relief, right?
And your first question is,

"What is a step down provision?"

I knew you would ask so I'm here to tell you.

Let's clear the air right away so none of you fear that I'm going to ask you to do anything physical; like exercise.

We'll begin with a brief tutorial of Uninsured/Underinsured Motorist coverage. Briefly stated, I have often wondered about the genesis of UM/UIM. Of

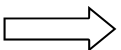
UM/UIM under your insurance policy becomes a first party payment to you if you are involved in an accident with someone that either has no insurance or their liability limits are insufficient to compensate you for your injuries.

course not enough to do any research but I wondered nonetheless. And the reason is because I believe UM/UIM is stupid. For the vast majority of the driving public we maintain health insurance coverage that would afford us medical benefits if we are involved in an accident; and if we are involved in an accident on our employer's time, we are covered by worker's compensation insurance. I would also suggest that as a percentage of overall motor vehicle accidents, very few involve uninsured drivers (conjecture on my part).

So what's all of this about "step down?"

As an employer your business auto policy covers your employees while operating company vehicles. Keep in mind that the business auto policy is not meant to be an employee benefit but a means by which to protect the assets of the company. Typically business auto policy limits will be significantly higher than a personal auto policy.

It had been held for years that an employee, by virtue of the broad definition of "insured" in the business auto policy, had full access to the employer's automobile limits if the employee was on company business. In a recent New Jersey supreme court decision in the case of Pinto v. New Jersey Manufacturer's Insurance Company (2005) the court ruled that in the case of Uninsured/Underinsured Motorist protection, unless the employee is specifically named as an insured, they are not entitled to coverage under the employer's business auto policy. Instead, the employee's personal auto policy prevails.



"STEP DOWN"

In New Jersey, insurance companies are now permitted to "step down" (reduce) the employer's policy limits. If an employee has his own auto policy the limit selected for that policy will be the maximum limit of protection regardless of the limit stated in a business auto policy. If the employee does not have an auto policy but lives in a household where another family member has an auto policy, the limit of that policy will be the maximum limit available to the employee. This then raises the question, as I did in the October 2003 Transnews,

why should employers purchase UM/UIM at all?

If the state law requires a minimum limit, why purchase anything more than the minimum?

Keep in mind that claim payments made under UM/UIM will go against your experience and will affect future premiums.

Why expose yourself when there is no need to do so?

But wait a minute!

Is this "Step down" provision too good to be true?

Are businesses in New Jersey really going to get a break?

Did the court, which merely interpreted

the law in this instance, do the right thing or will the legislature move to counter this decision?

There is pending in the New Jersey senate, bill no. 1666 (three sixes; how curious), introduced by senator Nicholas Sculari (D-Linden) that would ban the use of "Step down" provisions in a commercial automobile policy. This bill would require that commercial automobile policies provide the maximum UM/UIM limits available to ALL employees of the covered business. Senator Sculari is quoted as saying when referring to the courts decision

"This is a classic bait and switch and it is leaving New Jerseyans out in the cold. The pervasive use of step down clauses allows insurers to dodge responsibility for the well being of workers. If you are injured on the job you should be entitled to the maximum protection that your employer's insurance offers."

Karl Marx couldn't have stated it any better (editor's opinion). The bill would further provide, policy contract language notwithstanding, that a policy which names a corporation or business entity as a named insured

"shall be deemed to provide" the maximum UM/UIM coverage available to any individual employed by the company whether that individual is named under that policy or whether or not he is covered under any other policy.

Why doesn't Sculari suggest that businesses should be required to provide automobile coverage for every employee as an entitlement to be being employed?

So we sit here on the sidelines on the one hand elated over a court decision that upholds contract language and then on the other hand, we see the long arm of government trying to reverse what I believe to be a positive court decision. My gut feeling is that the Sculari's of this world will prevail and this bill will pass. And who will bear the brunt of this bill; all employers in New Jersey who have automobile exposures. As I previously stated I don't think there is a rash of claims that fall under UM/UIM. But just one million dollar claim can ruin your experience for years and you will bear the burden, not Mr. Sculari. I will report back on the outcome of bill no. 1666.

