

BLOG

Could rising premiums drive firms out of business?

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Factors are at play that could jeopardize the future of delivery companies across the transportation industry.

So-called nuclear verdicts in which defendants pay upwards of \$10 million dollars have been on the rise for years in commercial transport lawsuits, with no sign of slowing. From 2010 to 2018, jury awards exceeding \$1 million soared by over 50 percent. A typical insurance policy will only cover a fraction of the jury award in these cases, meaning with a plaintiff award of \$20 million, the delivery company is likely left with only one option: bankruptcy.



These massive awards are also causing insurance rates to rapidly climb, most notably in the umbrella, or excess liability, market where rates have increased by over 75% in two years. Umbrella insurance provides an extra layer of insurance coverage above the limits of your existing policies. As a protective fail-safe, it is highly recommended that delivery companies carry an umbrella policy as a hedge against these type of lawsuit verdicts. A general rise in premiums, however, has led many transportation companies to actually purchase less insurance, which is a risk in itself. If a lawsuit is brought against these companies and they are not properly insured, the financial damage could be devastating – no nuclear verdict required.

The impact of the rising umbrella coverage costs is compounded by a proposed amendment to the INSURANCE Act of 2019, increasing commercial motor carriers' mandatory liability minimum from the \$750,000 level first established by Congress in 1980 to \$4,923,154 with a goal of ensuring that motor carrier companies are able to accept all financial responsibility in the case of an accident. The amendment would also require that the insurance minimum be adjusted for inflation every five years. The liability increase and subsequent inflation modifications would have enormous financial implications for all commercial motor carriers.

Victims of trucking accidents and their families naturally feel that increasing the mandatory minimum is a good idea. \$750,000 is rarely enough to cover the costs of a major accident and possible lawsuit costs. However, delivery firms see a steep and immediate climb in coverage cost as possibly putting their business viability at risk.

OOIDA, the association representing owner-operator independent drivers and commercial driving

businesses, estimates that if the INSURANCE Act passes as it is written it could cause insurance premium costs to double. For smaller businesses, this would be ruinous. In addition, OOIDA shared in [written testimony](#) to the Transportation and Infrastructure Committee that the legislation would do nothing to improve highway safety, stating that there is no proven correlation between insurance coverage and highway safety.

A vote on the amendment has not yet been scheduled. Based on previous votes on similar legislation, we expect the House votes to land along party lines: Democrats in favor, Republicans opposed. This imminent decision, combined with the seemingly unstoppable rise in umbrella insurance costs, threatens to push businesses out of the delivery market simply because they can no longer afford the mandated coverage.

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