

**BUYING CAR INSURANCE
IN
MASSACHUSETTS**

BUYING CAR INSURANCE

A guide to buying car insurance and protecting your personal assets

F. Robert Allison, Attorney at Law
159 Derby Street
Salem, MA 01970
Tel. 978-740-9433
Fax 978-740-1882
www.frobertallison.com

(Publication info)

TABLE OF CONTENTS

I.	Introduction	1
II.	Overview of Car Insurance	2
III.	<u>Insurance Policy:</u>	3
	Part 1: Compulsory Bodily Injury	
	Part 2: Personal Injury Protection	
	Part 3: Compulsory Uninsured	
	Part 4: Compulsory Property Damage	
	Part 5: Optional Bodily Injury	
	Part 6: Medical Payments	
	Part 7: Collision	
	Part 8: Limited Collision	
	Part 9: Comprehensive	
	Part 10: Substitute Transportation	
	Part 11: Towing and Labor	
	Part 12: Underinsurance Coverage	
IV.	<u>Risk of Insufficient Insurance/Information:</u>	8
	Bodily Injury/Optional Bodily Injury	
	Underinsured/Uninsured Coverage	
	Collision	
	Household Residents/Garaging	

V.	<u>How to Reduce the Risk:</u>	11
	Drive Carefully/Other Drivers	
	Buy More Insurance	
	Declaration of Homestead	
VI.	Benefits of Med Pay	13
VII.	Buying Auto Insurance	14
	Managed Competition	
	Safe Driver Insurance Plan	
	Standards and Appeals of Surcharges	
	Shopping for Insurance	
VIII.	Consumer Rights	16

I. INTRODUCTION

Most of us pay car insurance premiums without knowing how much insurance coverage we have, how much we should have, the cost to have more, and the risks of not having enough.

My name is Bob Allison and I have been representing people in personal injury claims against insurance companies since 1988. I do not sell insurance or benefit if you increase the limits of your car insurance.

Unfortunately, many people are involved in serious car accidents only to later learn that there is not sufficient insurance to cover their loss.

The purpose of this report is to provide you with information that will help you decide the types and amount of insurance you should have, and, by doing so, protect you and your family (household members) from the risks of not having enough car insurance.

II. OVERVIEW OF CAR INSURANCE

When you buy car insurance, the insurance company sends to you a coverage selections page which includes your name and address, the name of the insurance company, the effective date of the policy, your agent, the vehicles covered under the policy, and twelve types of coverages, four of which are compulsory.

Here is a list of the types of car insurance coverage:

Compulsory

1. Bodily Injury to Others
2. Personal Injury Protection
3. Bodily Injury Caused by an Uninsured Auto
4. Damage to Someone Else's Property

Optional

5. Optional Bodily Injury to Others
6. Medical Payments
7. Collision
8. Limited Collision
9. Comprehensive
10. Substitute Transportation
11. Towing and Labor
12. Bodily Injury to Others Caused by an Uninsured Auto

III. INSURANCE POLICY

Part 1: Compulsory Bodily Injury (B.I.)

BI provides coverage for people who are injured in an accident in Massachusetts caused by someone driving your car. The compulsory limits for this coverage are 20/40. This means that the most an insurer will pay for injuries, as a result of the accident, claimed by one person per accident is **\$20,000.00** and the most the insurer will pay for injuries claimed by more than one person per accident is \$40,000.00.

Part 2: Personal Injury Protection (PIP)

PIP provides compensation for up to **\$8,000.00** for people injured in a motor vehicle accident for three types of out-of-pocket expenses, regardless of who caused the car accident. This is otherwise known as “no fault insurance.”

Medical bills: PIP covers reasonable and necessary medical expenses incurred within two years of the car accident.

Lost wages: PIP covers 75 percent of lost wages caused by injuries you sustain in the automobile accident. However, if you are eligible for a disability plan at work, you will receive only 75 percent of the difference, if any, between the disability plan and the amount you would otherwise be entitled to under PIP.

Replacement services: PIP pays for reasonable expenses to pay non-family members to perform services that the injured person would otherwise have performed for the benefit of himself and/or family members of his household.

Conditions and Restrictions: If you have health insurance, PIP will pay up to \$2,000.00 towards your medical bills. Any remaining medical bills must be submitted to your health insurer in a timely fashion (if not, some health insurance companies may deny payment of your bill). However, PIP may be available to pay medical bills not covered under your health insurance including co-payments.

You must also coordinate payment of your medical treatment between the health care provider (doctor, physical therapist, chiropractor, etc.) and health insurer.

Health insurance only impacts the payment of medical bills in PIP claims. PIP remains available for the payment of lost wages and replacement services until the \$8,000.00 in PIP coverage is exhausted.

PIP also covers pedestrians who are injured in a car accident, but does not cover people injured while riding a motorcycle.

Part 3: Compulsory Uninsured (UM)

UM is for the benefit of people who are injured as a result of the negligence of the driver of an uninsured car.

This can happen when a car is stolen, the insurance was cancelled for non-payment, there is a hit and run and no one can identify the vehicle, and when an auto is registered outside Massachusetts in a state that does not require insurance (such as New Hampshire).

This part covers anyone in your vehicle at the time of the accident or if you or a household member are injured as a pedestrian or on a bicycle. The household member does not have to be listed on the policy.

The compulsory limits are the **same as Part I**, however, you can elect higher limits.

Part 4: Compulsory Property Damage (PD)

PD provides coverage for physical damage to someone else's property. This coverage applies when the damage was caused by someone who was operating your vehicle with your consent or when you or a household member are driving any other vehicle.

The amount of the damages is determined by the fair market value of the damaged property plus towing, storage, and rental of a substitute vehicle. You must have limits of at least **\$5,000.00**, however, you can buy more protection.

Part 5: Optional Bodily Injury (OBI)

OBI covers people who are injured in car accidents as a result of the negligence of anyone driving your car with your consent and when you or any household member causes an accident while driving someone else's car with their consent.

OBI coverage is not added to BI coverage. Instead, BI is subsumed by it. For example, if you have 20/40 in BI coverage and 50/100 in OBI coverage, the total amount of coverage available to those injured in an accident would be 50/100.

Part 6: Optional Medical Payments (Med Pay)

Med Pay covers the reasonable medical expenses related to injuries sustained in an auto accident. PIP pays until the PIP benefits are exhausted then Med Pay pays any remaining bills until the Med Pay coverage is exhausted. Med Pay is not contingent on health insurance. Med Pay coverage starts at **\$5,000.00** and you can elect higher limits.

Part 7: Collision

If you have collision insurance, the insurance company will pay the cost to repair the auto up to the actual cash value (ACV) of the car. It doesn't matter who was at fault. Your insurer will subtract the deductible. However, you can be reimbursed for the deductible if the other driver caused the accident. Any secured lenders will be paid first.

If the repairs exceed the ACV, the insurance company may purchase it for ACV minus the salvage value. You can negotiate with your insurer to purchase your car for the salvage value. However, your insurer will suspend coverage until the car passes a Motor Vehicle Inspection Test.

Collision also covers storage and rental costs. However, the insurance company is only obligated to pay for a reasonable time. So, call the insurance company as soon as possible and find out how much and for how long the insurance company will pay these costs.

Parts 8: Limited Collision

This coverage is a limited form of Collision insurance that only pays for multiple car accidents in which the driver of the insured vehicle was no more than 50% at fault and does not pay at all if the owner of the other auto cannot be identified.

Part 9: Comprehensive

Comprehensive coverage pays for damage or loss of your auto other than damage caused by collision, including loss through theft, fire, earthquake, vandalism, water, flood, hail and contact with an animal. It pays the cost of repair up to the ACV of the auto. Your insurer will subtract the deductible, although the deductible does not apply to glass breakage or substitute transportation after a theft.

If your auto is stolen or damaged by fire, you must report the theft to the insurer and the police or fire department, respectively.

Part 10: Substitute Transportation

This coverage pays for a replacement vehicle following a collision while your auto is being repaired or if it's stolen. However, you will not be entitled to duplicate payments if you are reimbursed for substitute transportation under Part 9: Comprehensive.

Part 11: Towing and Labor

This part pays, up to a designated limit, for towing costs each time your auto is disabled and for any labor, but not parts, to get your auto going.

Part 12: Optional Underinsurance Coverage (UIM)

UIM provides coverage when you or a household member are injured in a car accident, the accident was caused by someone else, and the other person's insurance coverage is insufficient to cover the value of the claim. The household member does not need to be listed on the policy.

IV. RISK OF INSUFFICIENT INSURANCE

When you are at fault - BI/OBI/PD

If you don't have sufficient BI or OBI coverage, your **personal assets may be at risk**.

When you cause a car accident and someone is injured, they will probably file a claim with your insurer. The insurer is obligated to investigate the claim, determine the value, if the facts warrant, attempt to settle the case, and, if a lawsuit is filed, retain and pay an attorney to represent you. However, the insurer is only obligated to pay up to your policy limits (excluding attorney's fees and costs). Therefore, if the case goes to trial and the plaintiff is awarded an amount that exceeds the policy limits, you are responsible for the excess amount. For example, if you have a 20/40 BI policy and no OBI coverage and a jury awards \$50,000.00, the insurer will pay \$20,000.00, and, you are responsible for the remaining \$30,000.00.

After obtaining the verdict, the plaintiff's attorney will obtain an execution and then seek to recover the balance of the award. He or she can do this by recording a lien against your home, garnishing your wages, or proceeding against other assets you may have. The attorney can also ask you about the amount of wages you earn, any real estate you own, your bank accounts, investments, cars and more. Under Massachusetts law, some assets are exempted from collection.

The judgment/execution is good for **twenty years**. So if you don't have any assets now, the plaintiff can wait until you do.

If a person suffers serious injuries in a car accident, their claim can easily be worth more than \$50,000.00 to \$100,000.00. A three-day stay in a hospital alone can amount to \$20,000.00 to \$25,000.00.

In the case of property damage, the fair market value of some vehicles exceeds \$50,000.00. So, if the vehicle is totaled, the loss could easily exceed \$50,000.00.

Although your insurer is required to hire a lawyer to defend you, the **duty ends** if and when they offer the limits of insurance policy. In such a situation, you will then be on your own. You will need to hire an attorney at your own expense or defend the suit yourself.

When you are injured - UM/UIM

You and your family could also suffer financial hardship if you are injured in a car accident caused by someone driving an uninsured or underinsured vehicle.

A serious injury may impact your ability to work and to pay your medical bills and your household expenses. Unfortunately, many people who are driving around in uninsured or underinsured cars don't have personal assets worth pursuing. Even if they do have sufficient assets to cover your damages, they may not be willing to contribute much, if anything, to a settlement offer. In that case, you may have to file a lawsuit and wait a couple of years before you can force them to pay you for the damages you suffered by settlement before trial or a jury verdict.

When your car is damaged- Collision

If your car was involved in a serious accident, you could easily be facing repairs or replacement costs between \$10,000- \$20,000 or more. However, if someone else caused the accident they may only have the mandatory minimum coverage of \$5,000.

If your car is stolen, vandalized or damaged in a natural disaster, you will have no other recourse than to your own insurance under Comprehensive coverage.

Household residents/garaging

In order to make sure you are properly insured, it is also important to make sure all household residents who drive the car are listed and the vehicle garaging is correct. If not, you risk the possibility of having your insurance coverage denied.

V. HOW TO REDUCE THE RISK

Drive Carefully/Other Drivers

The best insurance is to drive carefully and follow the rules of the road at all times. In addition, make sure you know who you allow to drive your vehicle. If you allow someone to drive your car who is impaired or has a poor driving record, you may be held responsible for damages resulting from a car accident caused by the person driving your car.

Buying More Insurance

You can easily reduce the risk of insufficient insurance by simply buying more insurance. You may be surprised at how little it costs.

In determining how much insurance you need, you should consider what the value of your assets are now and are likely to be in the future.

If you own your own home and/or have a decent job, you should consider obtaining at least **\$500,000.00** in OBI, UM, and UIM coverage. If you have \$500,000.00 in automobile insurance and homeowner's coverage, you should consider an umbrella policy in the amount of one million. As to PD coverage, you should consider **\$50,000.00** or \$100,000.00. The cost of increasing PD coverage is very inexpensive.

In addition, you should consider having Collision coverage sufficient to cover the Actual Cash Value of your car. Otherwise, if you don't have collision coverage and if another driver caused the accident but has minimum PD coverage, you could be looking at a significant repair or replacement cost.

In any event, I suggest you call your insurance agent to find out how much it will cost to obtain or increase your insurance coverage for OBI, UM, UIM, PD, and Collision.

Declaration of Homestead

You can protect the equity in our home by obtaining a Declaration of Homestead.

A declaration of homestead protects a person's principal residence from creditors.

Changes to the Massachusetts homestead law (G.L. c. 188, §§ 1-10) effective in March 2011 make it easier than ever to declare a homestead and secure this valuable protection. First, the revised homestead law now gives automatic protection of **\$125,000.00** on a home that does not declare a homestead exemption with the Registry of Deeds. Second, if you own any interest in property and occupy or intend to occupy the home as a principal residence you may file for a homestead exemption. This declaration of homestead will protect against attachment, seizure, execution on judgment, levy or sale for the payment of debts to the extent of **\$500,000.00** per residence, per family. The homestead, however, does not protect against first or second mortgage lenders and/or equity lenders who possess a security interest in a home. The declaration of homestead benefits each owner named on the homestead and each of the owner's family members who reside in the home or later reside in the home. Neither divorce or remarriage will affect the homestead of the spouse who still resides in the home. The new homestead form can be obtained online at www.secstate.ma.us/rod. The form requires basic information and is easy to complete. The filing fee at the Registry of Deeds is \$35.00. If you have any questions or want further information please contact me at 978-740-9433.

VI. BENEFIT OF MED PAY

Med Pay covers medical bills not paid by PIP. Med Pay will pay the insured for bills up to the Med Pay limits, even those also covered by health insurance.

The reason why this is beneficial is that under health insurance policies, the health insurer is entitled to be **reimbursed** from any compensation you receive, through a settlement or verdict from the driver of the other vehicle. The health insurer usually does this by filing a lien with the insurer and your attorney. So any money paid by Med Pay towards your medical bills will reduce or eliminate the amount you may otherwise be obligated to pay to the health insurer from the proceeds of your settlement or verdict.

VII. BUYING AUTO INSURANCE

Managed Competition

Under Managed Competition which came into effect on April 1, 2008, insurance companies can and do charge consumers different rates. In addition, they consider different factors in calculating the rates.

Safe Driver Insurance Plan (SDIP)

If the SDIP is applied, the insurance premium is based on the operator's driving record. Insurance policies that are subject to SDIP policies include insurance companies assigned through the Massachusetts Auto Insurance Plan (insurance for drivers unable to find insurance on their own) and insurers who use the SDIP as their merit rating plan (premium is based on the operator's driving record). You can call your insurance company to see if they use the SDIP. Insurance coverages subject to SDIP include BI, PIP, PD and Collision.

The SDIP is point based on your six year driving history record. To determine your SDIP you should obtain a copy of your driving history record by going to www.mass.gov/mrb and go to the Mass DOT website for information as to how to compute your SDIP.

Standards and Appeals of Surcharges

If you want to know what the standards of fault are for surcharges go to 211 CMR 74. Procedures for appeals of surcharges can be found at 211 CMR 88.

Shopping for Insurance

First you will have to determine the types of insurance you want, how much insurance coverage you need, and how much you can afford. In addition, before you call any insurance companies for a quote, you should know:

1. Year, make, and model of your car;
2. Names and dates of birth of household members and operators;
3. Where your car will be garaged; and
4. What your vehicle usage will be.

Obtain quotes from several insurance companies and make sure the quotes cover the same type, limits and deductibles.

You should also check to see if they have discounts, payment plans and the cost of the plan, their claims handling history (talk to family and friends) and locations.

A list of insurance companies can be found at www.mass.gov/doi.

VIII. CONSUMER RIGHTS

You may not know this, but you have a number of consumer protection rights that apply to car insurance. Here is a list of consumer rights you should have handy when buying car insurance or resolving car insurance issues (Mass. DOT).

You have the right to seek the lowest prices available for automobile insurance

Now that competition has arrived in Massachusetts, you can shop for the best automobile insurance rates available. The Division of Insurance encourages you to shop aggressively for the best rates for the products that fit your needs. Premium calculations vary by company depending on the types of traffic violations, accidents, and other criteria they consider. Even if you have recently been involved in an accident or received a traffic ticket, it still pays to shop because some companies may judge some types of incidents differently.

You cannot be denied automobile insurance for unfairly discriminatory reasons

Massachusetts insurers may not deny you automobile insurance based on your gender, race, creed, national origin, marital status, religion, age, occupation, income, principal, place of garaging your car, education or homeownership.

You cannot be denied automobile insurance based on your credit history

Companies may not deny you automobile insurance based on any credit information in a consumer report that is obtained from a credit reporting agency.

You have the right to know the basis for a company's denial of your application for insurance

Insurance companies can refuse to offer you coverage based on non-discriminatory grounds, but they must identify the reasons for the denial. If you believe an insurer's refusal is unlawful, you should file a written complaint to the Division of Insurance.

You have the right to coverage even if an insurer declines to give you a policy

If you cannot find an insurance company willing to issue a policy, you may obtain coverage through the Massachusetts Automobile Insurance Plan (MAIP). An insurance agent can help you apply for coverage through the MAIP. The MAIP will assign you to an insurance company that will provide insurance to you for up to three years.

You have the right to select certain insurance policy periods

The majority of automobile insurance companies offer policies for one-year periods. Some insurance companies also offer policies for six month periods, or for periods up to two years. You can take advantage of these options if they are offered to you. However, every insurance company that agrees to offer you a policy must provide a policy with a one-year term if you ask for it. When you compare premium quotes from different companies, be sure to compare policy periods that are identical.

You have the right to have coverage under your automobile insurance policy regardless of who is driving your car provided you gave your consent to the driver

In most cases, your policy covers any accident involving your car even when it is driven by someone else with your permission, your policy will not cover bodily injuries or property damage resulting from an accident when someone drives your car without your consent. If your car is stolen, comprehensive coverage will pay to repair any damage to your car if recovered, or its actual cash value at the time it was stolen. If someone else regularly uses your car, they must be listed on your policy.

You have the right to travel and have your coverage follow you

Your policy's bodily injury protection (Part1) only applies to accidents that occur in Massachusetts. In order to have bodily injury coverage outside of Massachusetts, you must purchase the optional part 5. Part 5 coverage- including bodily injury coverage- follows you everywhere in the U.S. and Canada.

You have the right to an explanation of how your driving history record affects your premium

All companies use driving history when calculating premiums. The Division of Insurance's regulation does not permit companies to calculate a premium based on an accident or traffic violation that is more than six years old.

You have the right to cancel your policy at any time

You can shop for cheaper or different automobile insurance policy at any time-not just when your policy is up for renewal. If you find a better price or a company that offers additional coverages that you wish to purchase, you can cancel your old policy and seek a refund of your unused premium. Be aware that if you cancel a policy before it expires, your prior company may charge you a penalty.

You have the right to change your coverages and policy limits at any time

You have the right to change your coverages and policy limits at any time, even if your policy is not up for renewal. If you select lower policy limits or cancel non-mandatory coverages, you have a right to a refund of your unused premium.

You have the right to the prompt and fair handling claims

You may ask about any payments made to others by your company and charged to your policy. If you file a claim with your company, it must be handled promptly and fairly. If your claim is denied, the company must provide you with a written explanation for the denial

Your insurance company must notify you that it has made a decision that you were more than 50% “at fault” in an automobile accident. If you believe that you were not more than 50% responsible for causing the accident, follow the instructions on the Surcharge Notice to appeal the surcharge to the Board of Appeals. There is a \$50 fee to file this appeal. You must file your appeal within 30 days from receiving your Surcharge Notice, otherwise, you may lose your right to appeal.

You have the right to a notice of cancellation

An insurance company may cancel your policy before its expired date under very limited circumstances. The company must give you at least 20 days written notice before cancelling your policy. The notice must specify the reason for the cancellation if you receive a cancellation notice for non-payment of premium, you have until the date that cancellation is to take effect in which to pay the premium and avoid cancellation.

You have the right to appeal a cancellation of insurance

If an automobile insurance company cancels your insurance, you can file an appeal with the Board of Appeals. You should start shopping for insurance coverage from another insurance company immediately, even if you have not had your appeal hearing, so that you are not left without insurance coverage. You should never drive your car without insurance.

You have the right to a notice of non-renewal

An insurance company can decline to renew your coverage for several different reasons. The company must issue a non-renewal notice directly to you or your agent at least 45 days prior to the expiration of your policy. The notice must specify the insurance company's reason for non-renewing your policy.

You have the right to keep private the personal information you give to your agent and insurance company

Insurance companies and agents are required by law to have procedures in place that protect the privacy of your information. Your insurance company must provide you with a notice of these procedures. Also, insurance companies and agents are required by law to protect your personal information from identity theft, and provide you with specific instructions should a security breach occur.

You have the right to file a complaint with the Division of Insurance

The Division of Insurance is always available to help you with questions or complaints about all types of insurance policies, insurance companies and agents. You can talk to a consumer service representative by calling the Division's consumer hotline at 617-521-7794

DISCLAIMER

This report is for informational purposes only and is not intended to be legal advice.

FREE NEWSLETTER FROM BOB ALLISON

We send out free monthly newsletters to our clients, past clients, and others who request them.

The newsletters contain information on the law and other matters which are of interest to our subscribers.

If you wish to receive a monthly newsletter, you can photocopy this form, fill it out and fax it to us at (978) 740-1882 or mail it to F. Robert Allison, Attorney at Law, 159 Derby Street, Salem, MA 01970. You can also sign up through our website, www.frobertallison.com.

Please start my subscription to your free newsletter.

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

ABOUT BOB ALLISON

Bob Allison began his legal career as an Assistant District Attorney in Essex County. He then worked as an associate in private practice for approximately four years and, in 1992, he opened his own practice in Salem, Massachusetts.



He has been representing clients with personal injury claims against insurance companies since 1988.

If you or a loved one were injured in an accident, you can get a lot of valuable information about personal injury claims by visiting Bob's website at www.frobertallison.com, getting a copy of his free book on personal injury claims, and by calling him for a free consultation at 978-740-9433. Our goal is to provide accident victims with useful information before they hire an attorney or speak to an insurance company.