

**TESTIMONY BEFORE PENNSYLVANIA
HOUSE INSURANCE COMMITTEE
RELATING TO EXPERIMENTAL
SERVICES FOR TRANSPORTATION
JUNE 23, 2014**

**OFFERED BY SCOTT B. COOPER, ESQUIRE
SCHMIDT KRAMER P.C.
209 State Street
Harrisburg, PA 17101
717-232-6300
scooper@schmidtkramer.com**

**ON BEHALF OF THE PENNSYLVANIA ASSOCIATION
FOR JUSTICE**

Chair Lady Pickett, members of the Committee and staff. Thank you for inviting the Pennsylvania Association for Justice to speak today. My name is Scott Cooper, and I am an attorney and partner at the law firm of Schmidt Kramer P.C. in Harrisburg. I am also a member of the Pennsylvania Association for Justice (PaJ) and mainly I represent victims injured or killed, and their families, in motor vehicle accidents. I serve as Chair of PaJ's Legislative Policy Committee and am currently its Immediate-past President. I am a contributing editor to a leading treatise on the Pennsylvania Motor Vehicle Financial Responsibility Law, authored and argued several important and leading motor vehicle accident cases in the federal and state Appellate Courts. I also have litigated and tried to verdict many jury trials in this Commonwealth and testified before various legislative committees on insurance and other judicial subjects.

We welcome the opportunity to speak to the Committee today to elaborate why it is so important to review and proceed slowly on any legislation and licensing of any company offering experimental transportation. There are many good reasons that PaJ has for asking for this slow movement and thorough review, but I will elaborate on three (3) and then be happy to answer any questions.

Three (3) of the most important reasons to pass the legislation in its current form are:

1. The experimental companies are seeking to be placed under the jurisdiction of the PUC and not the Insurance Department. This is a very

dangerous issue because of past abuses we have seen by other transportation companies under the jurisdiction of the PUC.

2. The committee, PUC and insurance department need to review and evaluate the insurance policies and forms that are ultimately submitted for review and acknowledgement or approval for use in Pennsylvania, otherwise the coverage that is represented may not be available due to an exclusion or other limitation in the policy.

3. As part of implementing any new experimental transportation program the committee needs to evaluate increasing the current minimum liability limits which have been in place since 1974.

I will now briefly elaborate a little more on each.

First, the Insurance Department and not the PUC should really have jurisdiction over any experimental company. In fact, any current transportation company, especially a cab service, should really be under the jurisdiction of the Insurance Department and not the PUC.

Many trial lawyers, not only in Philadelphia and Pittsburgh, but all over Pennsylvania see a lot of abuse with the coverage and response from the insurance companies for cab drivers and services. Whether it be simply not responding or denying coverage altogether the companies are not responsive and many times it is because the PUC does not enforce the insurance coverages and responsibility with the same zeal as the insurance department. This abuse should be examined and then possibly all the services placed under the umbrella of the insurance department.

Second, many insurance policies provide that a ridesharing service is “excess” and not “primary” coverage. This means a drivers personal carrier must pay the liability limits primarily and the entire policy exhausted BEFORE the excess policy pays. In these cases, the driver would still have to seek personal auto coverage. In many auto coverages there are exclusions for liability when the injury occurs in a ridesharing arrangement. Thus, no primary level and the excess level will not apply if there is not primary level. The experimental services are in the process of preparing these policies and language and it should all be evaluated and reviewed BEFORE they are authorized to be in service in Pennsylvania.

Last, as part of any legislation and approval the Committee should evaluate and bring Pennsylvania into line with other states in liability insurance as its minimum amount. Right now, Pennsylvania is one of the lowest. Maryland recently enacted an increase. The current level of minimum insurance in Pennsylvania is antiquated and not adequate.

Motor vehicle liability insurance was mandated in 1974. The mandatory minimum was \$15,000/\$30,000, which is exactly how it still stands today 36 years later. There was an effort in 1984 to increase the minimums to \$20,000/\$40,000, but then Governor Thornburgh promised a veto so it remained as it currently stands, almost 36 years after it was enacted. Thus, at present the Commonwealth still has the same minimal liability coverage as in 1974 when Kellogg’s Corn Flakes was 43 cents for an 18 ounce box, Pepsi Cola was 88 cents for 6 12 ounce cans, and a 1.4 ounce Hershey Bar was 15 cents.

People who are the victims of another's wrongdoing have to deal with the injuries and losses to begin with. Being injured but having been injured by a person with only \$15,000/\$30,000 in coverage will leave unpaid losses and being under-compensated only makes matters worse. Please bring Pennsylvania in line with many other states and allow for this modest increase.

I want to thank the Committee for giving us a chance to voice our concerns here today.

Due to the time constraints, I have tried to briefly state PaJ's position at the present time. Thank you for inviting us to share our recommendations with you today. I would be more than happy to answer any questions the Committee members may have.