

SB 131 – COMPENSATORY DAMAGES FOR DAMAGED VEHICLES
SENATE JUDICIARY COMMITTEE
APRIL 30, 2025

PROPONENT TESTIMONY

Chairman Manning, Vice Chair Reynolds, Ranking Member Hicks-Hudson, and members of the Senate Judiciary Committee, I am Sharon Montgomery, a victim of a fatal crash in 2000 caused by a driver using his phone. I was then victimized by the system and then learned that other people harmed by sober drivers had fallen through the same cracks I had. I have now spent 24 years learning how those cracks allow harmed people to fall through, and trying to seal those cracks.

My testimony will be partly proponent and partly interested party because I will be out of state for a while in May and can't be sure I'll be available for the IP hearing.

I strongly support any reasonable measure that levels the playing field between an auto insurance company and its policy holder who has to make a claim for a vehicle damaged by an at-fault driver. I want to thank Sen. Cutrona for making these clarifications.

The loss of use provision is important because while public transit is expanding, it is still not the answer for all our transportation needs. We are, sadly, still very car-dependent in much of Ohio.

I especially support the subrogation provision in which the insurance company must give the policy holder anything the company is awarded over and above what it actually paid out. Subrogation regulations were made much more fair a number of years ago thanks to Rep. Oelslager's efforts but apparently this still needs to be done. At the time of my crash, if my lawsuit had proceeded all the way to an award, my auto insurer would have gotten completely reimbursed first, whether or not there was anything left for me—even though I was suing on my behalf AND the insurance company's behalf and I was paying all the filing and other fees, which would not have been reimbursed by the award!

But, let's get to the heart of the matter. Casualties of a crashes caused by a sober driver should not have to go through the prolonged, stressful, expensive tort process to have their losses paid for. That makes compensation their problem and it should be the offender's problem.

You'll notice I am awkwardly avoiding the word "victim." That's because we're not victims if the offender was sober. Due to HB 343 in 2023, commonly known as Marsy's Law, the definition of "criminal offense" narrowed it to acts that cannot be disposed of by a traffic violations bureau. Traffic Rule 13 lists only eight specific traffic offenses that have to go to court plus any "indictable" offense, which a prosecutor has told me is basically any felony.

Even when prosecutors choose to charge a driver who has caused a death with vehicular manslaughter instead of just the underlying Title 45 law that was broken, it still is not a felony and killing with a vehicle isn't always a felony under other circumstances. The prosecutor in my case would not charge vehicular manslaughter even though another prosecutor and several law enforcement officers said it clearly was. The casualties have no recourse when the prosecutor does this and I've learned this happens too often.

Only actual victims, by ORC definition, are eligible for the various kinds of rights, support, and assistance (financial as well as emotional and logistical) that victims are provided by law, even though we have all the same kinds of needs for them. When the criminal justice system excludes us, we are pushed to the civil justice system. And as I said, this is not the way it should be. We've suffered enough from a driver's bad driving decision.

More specific to insurance compensation after a crash, this bill refers to fair market value, which is what we commonly call the "Blue Book value." You need to understand how that can work against a policy holder in real life, too. In our 2000 crash, our car was damaged far beyond repair. It was 12 years old at the time because when we bought it about five years before, we needed a large and sturdy car. Our 6'4" son was a new driver and he needed leg room. We often took my widowed mother-in-law with us and she was in her 80s and had osteoporosis. She needed sturdiness around her. We lucked out and found a 1988 Lincoln Town car in great condition at a very affordable price. We weren't looking for a luxury car, we were looking for the right size and safety for our family.

Because of its age, though, its Blue Book value was low. What I got for it wasn't nearly enough to replace it with anything I could feel safe in. I had just experienced a severe emotional trauma and was having panic attacks. I needed to feel safe when I was healed enough physically to return to work and had to drive again. The other car we owned barely ran. My husband was one of those people who intuitively knew how to tinker with car engines and keep them going so he used it for his short work commute. He was the fatality in our crash. I couldn't rely on that car; I had to replace the destroyed Lincoln, out of my dwindling funds along with enormous medical co-pays because I got nothing from the offender.

If a covered vehicle has to be replaced because of the actions of someone other than the policy-holder, the company should negotiate a replacement value. Then it can sue the offender for reimbursement if its actuaries didn't predict costs accurately enough for the company to set premiums accordingly. That prediction error also should not be the policy-holder's problem.

This is how insurance, victim's rights, penalties, restitution, and all that great-sounding stuff work in a real-life crash situation. If this is the best we're willing to do for so many of the thousands who are seriously injured or killed on Ohio roads, **shame on us!**

Sen. Cutrona, I would love to meet with you to discuss this further and see if you'd be interested in adding anything to this bill or maybe introducing a follow-up bill. Whether or not you are, you and your fellow committee members need to understand all this for future bills on any of these topics.

Thank you for hearing both my proponent and interested party testimony. I'm happy to answer any questions.

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