

## Legislative Help Needed for Volunteer Drivers

Volunteer Driving Programs are critical to the transportation network in Wisconsin. Several programs and counties continue to report issues with volunteer driver's gaining and keeping vehicle insurance coverage. Volunteers are *still* being told that due to their volunteer driving activities, they are being classified the same as the profit-making Transportation Network Companies, or taxicabs and require higher levels of insurance.

In early 2016, a summit was convened with the Office of the Commissioner of Insurance (OCI), legislators, program staff that use volunteer drivers and the Wisconsin Insurance Alliance. One of the outcomes of that meeting was additional education and clarification about TNC exclusionary language to some WI insurers and their local offices. **Despite this clarification and education, there continues to be instances where volunteers are told they need additional commercial or taxi insurance to drive as a volunteer or are being denied when filing a claim.**

The survey of insurers in WI indicating which companies will insure a volunteer driver under their personal policy was updated in 2017. **This OCI survey is used by many programs for their volunteers to take to their agents, however in many instances, it is not enough to clarify the issue for local agents.**

These *continuing* problems illustrate the need for the legislature to intervene to alleviate barriers to volunteering in WI. Several states have adopted legislation to prevent volunteers from being adversely affected by misinterpretation of company policy and policy exclusions developed in response to new types of transportation services. Volunteer driver programs experience low numbers of incidents and accidents and present a low risk overall.

There are two changes to Wisconsin statutes needed to allow volunteers to continue to provide this vital public service without being negatively impacted by uncertainties in coverage and unintended consequences of new transportation services.

First, Wisconsin State Statute 181.0670 provides civil immunity for volunteers, except if damages arise from the operation of a motor vehicle or other malfeasance. This legislation mirrors the Federal Volunteer Protection Act (FED-VPA) which excluded volunteers operating a motor vehicle because it was thought volunteer drivers could easily obtain personal auto insurance coverage. The FED-VPA statute's own preamble explains the intent of the protections and states that "Congress finds ... that ... due to high liability costs and unwarranted litigation costs, volunteer and nonprofit organizations face higher costs in purchasing insurance, through interstate insurance markets, to cover their activities..." 42

U.S.C. s 14501(6). In reality, these insurance-created problems facing charities also confront their volunteers who drive for volunteer driver programs.

Striking this exception from the Wisconsin statute provides volunteers protections more consistent with the intent to remove barriers to volunteering. This change does not exempt volunteer drivers from repercussions if they engage in willful misconduct, unlawful behavior or negligence in their duties.

Second, several states including Maine, Florida, Illinois and Maryland in 2016 passed a law that prohibits insurers from imposing surcharges, increasing rates or refusing to issue a policy solely because someone is a volunteer driver. This law separates the risk of that particular driver from their volunteer status. It does not prevent the insurer from making decisions based on other factors aside from the volunteer status of the driver. Adding this to the Wisconsin statutes will provide guidance to both volunteers and insurers in an area that has often been unclear.

Below is the language of the Maine statute.

<http://janus.state.me.us/legis/statutes/24-A/title24-Asec2902-F.html>

#### **2902-F. Volunteer drivers**

An insurer may not refuse to issue motor vehicle liability insurance to an applicant solely because the applicant is a volunteer driver. An insurer may not impose a surcharge or otherwise increase the rate for a motor vehicle policy solely on the basis that the named insured, a member of the insured's household or a person who customarily operates the insured's vehicle is a volunteer driver. For purposes of this section, "volunteer driver" means a person who provides services, including transporting individuals or goods, without compensation above expenses to a nonprofit agency or charitable organization as defined in Title 14, section 158-A. This section does not prohibit an insurer from refusing to renew, imposing a surcharge or otherwise raising the rate for a motor vehicle liability insurance policy based upon factors other than the volunteer status of the insured driver. [1995, c. 132, §1 (new).]

Section History:

PL 1995, Ch. 132, §1 (NEW).

Without both changes, the volunteer driver could be open to civil liability even if they act in an ordinary and reasonable manner in that circumstance, which is different for volunteers working in any other capacity. Volunteers may also be at risk for losing or paying more for their personal auto insurance or not being covered for their volunteer driving activity. Together,

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these changes provide all charitable volunteers with the same civil liability protections and remove the barrier to obtaining insurance for their volunteer driving activities.

Many of our most vulnerable citizens in the state rely on the goodness of volunteers to access medical services, get food, and remain employed and active in the community. Volunteer driver programs are an economical solution and rely on community member's private resources for the good of the public; their neighbors.

This situation has become dire for many areas of the state that use volunteers as the only feasible and economical option for transportation. Legislative help is needed to ensure these programs can continue to operate in Wisconsin.

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