

Cartwright bill: An ambulance-chasing attorney's dream?

By Jami Jones, managing editor

You can start with a glaring conflict of interest and end with an assault on small-business truckers.

That's the short version describing recent legislation introduced by a freshman lawmaker seeking to raise minimum liability insurance requirements for trucking companies.

Rep. Matthew Cartwright, D-Pa., took office in January. On July 18, he introduced a bill that proposes to raise the minimum liability insurance requirements for trucks operating in interstate commerce set by the Federal Motor Carrier Safety Administration more than 500 percent from \$750,000 to \$4.2 million per truck.

An increase that begs the question: What's prompting all of this?

The lawmaker

One need only be armed with a good search engine and a few choice government websites to learn more than you need to about Rep. Matthew Cartwright.

Cartwright is a licensed attorney in the state of Pennsylvania. Before being elected to Congress and taking office in January he was part owner in a law firm with his in-laws.

His bio on justice.org, the homepage of the trial lawyers lobbying group, explains Cartwright's career like this:

"Matthew A. Cartwright concentrates his practice in interstate trucking, professional negligence, and business litigation. ... As a lawyer representing plaintiffs, Mr. Cartwright has more reported cases than any other practicing lawyer in northeastern Pennsylvania. Mr. Cartwright is a partner at Munley, Munley & Cartwright, P.C. in Plains, Pennsylvania, and is married to, and practices with, Marion Munley."

The firm previously had a "family" of eight websites that targeted clients who sought to sue trucking companies. Just look at the names of some of the websites: Pennsylvania Tractor Trailer Accident Lawyers, Pennsylvania Truck Accident Lawyers, Tractor Trailer Attorneys, Philadelphia Accident Lawyers and Pittsburgh Accident Attorneys.

Since the introduction of Cartwright's bill, they have



"Owner-operators who cannot afford to perform maintenance on their trucks have a defective vehicle on the highway and they are a singular cause of death and mayhem."

— Robert Munley, Munley Law's founder and Rep. Matthew Cartwright's father-in-law



"One of the largest parts of our practice is representing victims of tractor-trailer accidents. Every year there is a rise in the number of cases, the number of deaths on our highways, caused by tractor-trailer drivers."

— Marion Munley, Rep. Matthew Cartwright's wife and member of the Munley Law Firm



“I would urge that before you leave our site, have a look at the page that lists our record of success. You’re going to see verdicts on there that range from the mid-five figures, to the six figures, to the seven figures and, yes, even to the eight figures.”

– Matthew Cartwright on a now-deleted video promoting his family’s law firm



“My team and I at Munley, Munley and Cartwright handle truck accident cases every single day. Evidence is crucial and it must be found quickly – before it disappears.”

– Dan Munley, Rep. Matthew Cartwright’s brother-in-law, in a Munley Law video on YouTube

been consolidated and just a revamped munley.com remains.

The old sites have numerous press releases and slick videos detailing big settlements and judgments against trucking companies. One of the biggest, and the first you come to, is an \$8 million settlement with Schneider National Carriers. As you flip on through, there are plenty more million-dollar plus judgments and settlements.

The new website lists a number of multimillion dollar

“What the lawyer group circulated around D.C. **isn’t even close to the facts. It’s an X-rated fairy tale.** Something you would expect to see on late night television interspersed between all the other claims for miracle products and personal injury lawyers.”

– **OOIDA Executive Vice President Todd Spencer**

settlements, too. Keep in mind personal injury lawyers usually receive a 30 to 40 percent cut of the final judgment or settlement, and sometimes more.

“We do these better than anybody,” Cartwright stated on a promotional video on the Pennsylvania Truck Accident Lawyers website. “It is simply not because we are smarter, but simply because we’re more experienced than anybody at this.”

He brags about the firm’s “record of success” in another video that apparently did not make the cut for the new website.

“I would urge that before you leave our site, have a look at the page that lists our record of success. You’re going to see verdicts on there that range from the mid-five figures, to the six figures, to the seven figures and, yes, even to the eight figures.”

So, needless to say, the law firm makes loads of money off truck wrecks.

Cartwright is currently listed as inactive by the Pennsylvania Supreme Court, and the firm has dropped his name from the firm name. But he’s still a part owner in the firm and benefits financially from his connection with the law firm.

While running for office in 2011, Cartwright’s income from the firm totaled \$352,281. In 2012 he made \$158,381. However, an amendment to the financial disclosure filed in December 2012 also noted that Cartwright remains on the firm’s Merrill Lynch employee profit sharing plan while he is “on leave of absence.” As long as Munley Law rakes in the dough from settlements with trucking companies, Cartwright will get a cut – even while he’s in Congress.

The family and the firm

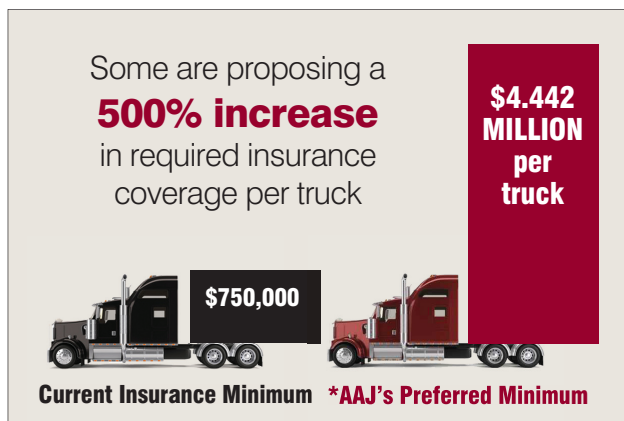
Cartwright is married to Marion K. Munley – of the Munley Law Firm. Her faculty bio on the Advance Trial Advocacy College states she concentrates her practice in truck and auto accidents, along with a few other areas.

The National Trial Lawyers website says Marion Munley has “successfully represented clients in both the State and Federal courts obtaining multimillion dollar recoveries.”

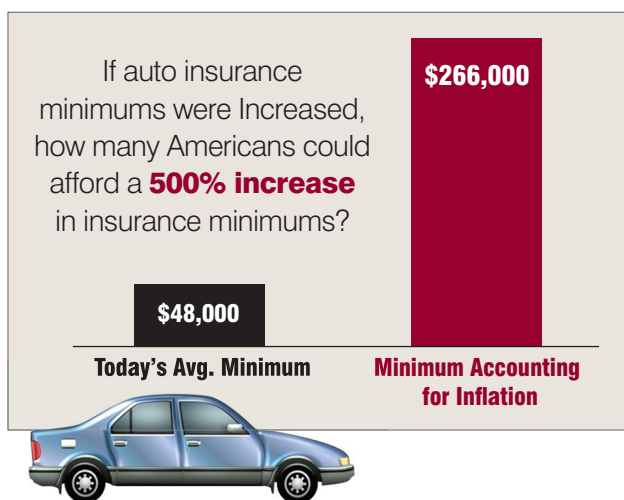
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ANALYSIS

There is no actual need to increase the current minimum liability requirements. According to industry data, **99 percent of all settlements involving trucks do not exceed the current \$750,000 minimum** liability insurance requirement.



*American Association for Justice



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According to Cartwright's financial disclosures for 2011 and 2012, Marion Munley receives an income from the firm. All we know about how much she makes is that it is more than \$1,000. Ethics rules dictate that if a spouse's income is more than \$1,000, only the source must be disclosed – not the full amount.

There are seven other members of the firm listed on its website – six of whom have the last name Munley.

The promotion of the firm makes no bones about their rather lucrative success in suing trucking companies.

"The Pennsylvania truck accident lawyers of Munley, Munley, and Cartwright have successfully handled cases involving large trucking companies," the firm's former website Pennsylvania-truck-accident-lawyers.com stated.

The firm is also quick to paint the trucking industry, and truckers, as dangers.

A video still on YouTube as of press time features firm founder Robert Munley, who happens to be Cartwright's father-in-law. In that video he claims "owner-operators who cannot afford to perform maintenance on their trucks have a defective vehicle on the highway and they are a singular cause of death and mayhem."

The new munley.com website takes a bit more subdued approach when talking about litigating truck wrecks. But "truck accidents" remain at the top of the list of practice areas.

It only tracks that the Munley family, including Cartwright, would benefit directly from an increase in the minimum liability insurance. The lawmaker himself would see financial gains through his continued profit sharing in the firm.

Another member of the firm who will inevitably benefit from bigger settlements if the bill passes increasing the minimum liability insurance requirement is Dan Munley, Cartwright's brother-in-law.

He is a charter member and current executive board member of American Trial Lawyers' Association Interstate Trucking Litigation Group. He has been a featured national speaker for the association in venues that include Las Vegas, Seattle and Tennessee. He has presented lectures to other trial lawyers titled "Spoliation of the log books – how trucking companies try to hide the truth," and "The big truck case." He is also a contributing author to what amounts to the American Bar Association's "textbook" on litigating truck wrecks.

This increase is apparently important enough to Dan Munley that he actively lobbied Congress on the bill.

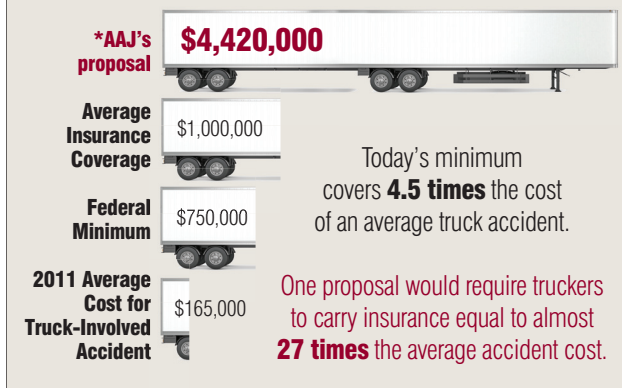
Dan Munley made a trip in June to Washington, D.C., as part of a lobbying effort for the American Association for Justice. The group was advocating increasing the minimum insurance requirements for interstate trucks.

The bill, HR2730, seeking a more than 500 percent increase in the minimum liability insurance requirement was introduced by his brother-in-law, Cartwright, just about a month later.

The spin

The American Association for Justice, formerly the Association of Trial Lawyers of America, has used some very inaccurate and misleading "statistics" to try to

Accident Cost v. Minimums



*American Association for Justice

Forecasting Annual Per-Truck Premiums Under Proposed Coverage Increases

Truckers would see **premiums for each truck double or even quadruple** depending upon how high the minimum is increased.



bolster their position that the minimum insurance requirements be raised.

The OOIDA Foundation reviewed materials provided by the attorney group and found numerous misleading and false statistics.

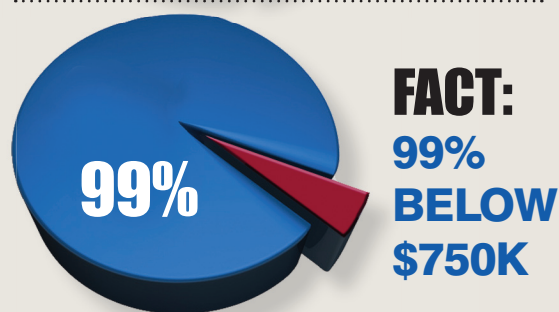
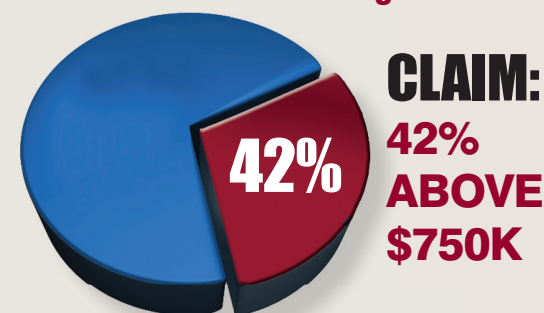
For example, in an effort to paint the trucking industry in a negative light, AAJ claims that 3,757 people died in truck-involved collisions in 2011. What the group fails to point out is that studies show that the vast majority of fault in these accidents is attributed to the four-wheeler instead of the trucker. And a portion of those fatalities were truck drivers who died.

Further breaking down of the statistic actually shows that trucks were responsible for only 751 fatalities in 2011 – or 2 percent of all traffic fatalities that year.

The group also wrongly claims that “According to the

The Truth About Truck Insurance Claims Above \$750,000

The Alliance's Misleading Inference



Only about 1% of all truck insurance settlements exceed the minimum requirement of \$750,000.

FMCSA, 38 percent of carriers are responsible for 90 percent of all fatal crashes.”

This statement was misquoted and was taken from testimony given by Anne Ferro to the House Committee on Transportation and Infrastructure Subcommittee on Highways and Transit on Sept. 13, 2012. Ferro stated during her testimony that “analysis reveals that those same 200,000 motor carriers are involved in approximately 93 percent of crashes reported to FMCSA by our state partners.” It is important to note that Ferro made no mention of fault or whether the crashes resulted in injury or fatality. She only referenced those crashes that were reported to FMCSA.

In addition, large trucks were involved in only 3.1 percent of the total crashes in 2011. Therefore, the AAJ's claim that added in one word (fatal) completely changed the statement.

The AAJ would also like to lead lawmakers to believe that truckers are drugged and drunk. The group incorrectly claims that “(I)legal and illegal drug and alcohol use is a factor in an estimated 65,000 truck crashes a year.”

AAJ referenced the statement from a publication from the Transportation Research Board, titled Trucking 101. However, this statement cannot be found in the referenced source. In fact, the study by TRB states that illegal drug and alcohol use is rare for truck drivers. “Illegal drug use on the part of the automobile driver was involved in 17 times more

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cases as for truck drivers and alcohol use was involved in 30 times more cases for automobile drivers as for truck drivers.”

In fact, according to the National Highway Transportation Safety Administration’s “Large Truck Data,” only 1 percent of truck drivers involved in fatal crashes had a blood alcohol level of .08 grams g/dL or higher, compared with 24 percent for passenger vehicles.

A second group lurking in the wings is the Trucking Alliance, a small group of motor carriers – some of which are at least in part self-insured – including Knight Transportation and J.B. Hunt.

The Trucking Alliance published a press release titled “Trucking Alliance commends Rep. Cartwright for raising minimum financial requirement levels issue in Congress.”

While silent on an amount the minimum liability insurance should be set at, the group has circulated an “analysis” purporting to show that the current level is not sufficient. However, the analysis states right off the bat that it is not a full actuarial opinion – which means true risk cannot be discerned from the report. Limited in scope and disclosure and used outside of its intended purpose, the report and distorted findings outlined in the analysis are suspect at best.

“What these groups are circulating in D.C. isn’t even close to the facts. They are X-rated fairy tales. Something you would expect to see on late night television interspersed between all the other claims for miracle products and personal injury lawyers,” said OOIDA Executive Vice President Todd Spencer. “No one should take their information seriously.”

The reality

One must first start with the motivations of a licensed attorney whose personal and family income benefits greatly from litigation against trucking companies.

While ethics rules may not land squarely on the shoulders of Cartwright’s introduction of this bill, they don’t miss by much. The U.S. House of Representatives Committee on Ethics sent a memo to members of the House late in 2012 addressing lawmakers using their position for “personal gain.”

“It is fundamental that House members, officers and employees may not use their official position for personal gain,” the memo states.

It later goes on to include that it’s not just the member who cannot benefit from their position, but also their families.

It stands to reason that if Cartwright’s efforts to

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Because they're spending that money on their mass transit system, not roads and bridges.

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New York City trucker accused of owing \$28,000 in unpaid tolls

Tolls should be outlawed. What do our taxes pay for if not to drive on the roads? NYHUT, FHUT, IFTA, etc., etc.

@robocline (Robert Cline)

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Changing attitudes – OOIDA rolls out new safety agenda

Seems "safety" is only a six-letter word used by the government to screw us out of all our liberties. And not only in trucking. It kills me when both OSHA and DOT claim the biggest component to safety is documentation. Oh really?

Martin Jones

Hours-of-service changes went into effect July 1

What would happen if drivers en masse refused to comply with these stupid and poorly thought out HOS rules?

Robert Couture

We can handle it. I don't think it will make much of a difference.

Brandt Geiger

Fix roads and bridges or expect the worst, senator says

Maybe they should stop using highway funds for bike and walk paths. Let the locals pay for their own leisure fun.

Kerry Mullins

High-tech safety and enforcement topic at next CVSA conference

The safety industry is all about the cash, 100 percent and nothing more. All the way from an orange hard hat in an Intel server room all the way to whatever the CVSA can come up with.

Wilson Hines

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increase the minimum liability insurance levels 500 percent succeed, litigation by the family law firm will just make that much more from settlements.

Politico, a Capitol Hill publication and must-read for lawmakers, examined a possible ethics violation by Cartwright in early September. The publication found congressional ethics rules are "on his side."

"It's one of the problems in the way Congress deals with ethics," Bill Allison, the Sunlight Foundation's editorial director, told *Politico* reporter Adam Snider.

"The rules are written to prohibit members from using their office for personal gain, but that applies only if just one firm or person stands to benefit from the bill, Allison said. Because a number of other firms specializing in truck accidents would also benefit from the Cartwright bill, it wouldn't be considered a violation," *Politico* reported.

The Owner-Operator Independent Drivers Association doesn't see it that way.

"This is a blatant conflict of interest. It doesn't even remotely pass the smell test," Spencer said. "The congressman is clearly using his official position to push legislation from which he and his family will benefit and is obviously not doing this on behalf of the people in Pennsylvania he was elected to

represent."

There is no actual need to increase the current minimum liability requirements. According to industry data, 99 percent of all settlements involving trucks do not exceed the current \$750,000 minimum liability insurance requirement. And many trucking companies voluntarily carry higher levels of insurance if their particular operation and customers require it.

In 2011, the average cost for a truck-involved wreck was \$165,000.

If any group is underinsured, take a look at personal vehicles. In car-truck fatalities, the car driver is principally at fault 70 to 75 percent of the time, according to the American Transportation Research Institute.

Personal vehicle insurance minimums are set state by state. The national average of minimum liability insurance required for personal vehicles is \$48,000 – about 6 percent of what's required by FMCSA for interstate trucking – an amount significantly lower than necessary to cover even the \$165,000 average cost for a truck-involved wreck.

An increase such as the one Cartwright is proposing would cripple small-business truckers. Currently, the national average cost for a small-business trucker insuring one truck is about \$5,000 per year.

It's virtually impossible to project

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22nd Petro Stopping Center
Gaston, In I-69, Exit 45 4-7pm

October
19th VFW Key Largo, FL 6:30-9:30 pm
TBA Travel Centers of America
Franklin, TN I-65, Exit 61
TBA Travel Centers of America
Antioch, Tn I-24, Exit 62

November
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Nashville, TN I-24, Exit 48
16th VFW Key Largo, FL 6:30-9:30pm
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6 Truckin' For Kids Truck Drags and Show and Shine, Toyota Speedway, Irwindale, Calif. For more information, visit truckinforkids.org.

11-13 Bobby Lindamood Memorial Truck Show, Ft. Worth, Texas. For more information, visit nastshowtrucks.org.

18-19 OOIDA Heart of America Trucking Show, Kansas Speedway, Kansas City, Kan. For more information, visit ooida.com or call 800-444-5791.

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what the cost would be if the minimum liability requirement were increased more than 500 percent.

For starters many insurance carriers may quit offering insurance because of the increased amount of financial resources they would have to have in place to even write the policies. Secondly, there is no straight-line increase that can be drawn. But early estimates place annual premiums at \$20,000 or more for a one-truck owner-operator for a \$4.2 million liability policy.

Larger companies that self-insure won't feel that sort of hit to their bottom line. They do not buy policies that would be governed by the FMCSA minimum liability insurance mandate. Enforcement by FMCSA on self-insured companies has not been a priority for the agency.

In the end, if minimum liability insurance is increased to \$4.2 million, the only winners would be the trial lawyers and large motor carriers – with small-business trucking suffering an expensive, wildly burdensome and completely unnecessary mandate. **LL**