

Accident Response Fees: Say “No” to double taxation and higher insurance premiums

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PCI is comprised of more than 1,000 member companies, representing the broadest cross-section of insurers of any national trade association. PCI members write over \$180 billion in annual premium and 37.4 percent of the nation's property casualty insurance. Member companies write 44.0 percent of the U.S. automobile insurance market, 30.7 percent of the homeowners market, 35.1 percent of the commercial property and liability market, and 41.7 percent of the private workers compensation market.

Introduction

In municipalities throughout the United States, police and fire protection and emergency medical response services are provided by local governments or volunteer organizations. Through a wide variety of programs, these services are dedicated to assisting communities and safeguarding the quality of people’s lives. Jurisdictions vary with respect to the funding of these services – general property taxes, local income taxes and general sales taxes are typically used to fund most local services, but transient taxes and other taxes earmarked specifically for services may also be levied. Other existing funding mechanisms include borrowing, leasing, benefit assessment charges, sales of assets and services, and cost sharing and consolidation.¹

On average from 2002 to 2006, there have been more than 12.4 million traffic accidents on America’s streets each year.² When motor vehicle accidents occur, police are almost always called to the crash scene in order to investigate the situation, gather the necessary information and issue any citations. For most crashes, only very routine traffic control and the filing of an accident report are necessary. Some traffic accidents can also require the use of firefighters and emergency medical services (e.g., paramedics and ambulance transit) to tend to the medical needs of injured victims and prevent further injuries and damage. In addition to property and local income taxes that help pay for these first-responder services, fees are currently attached to motor vehicle registrations, traffic citations and other vehicle-related programs.

Over the last few years, “accident response fees” have been introduced as another means to help finance routine police and fire runs to auto accident scenes, whether someone is injured or not. In light of the struggling economy, these fees have developed as a result of mounting pressures placed on local governments to keep their budgets balanced without having to formally increase taxes. Part of their impetus stems from certain third-party collection agencies that have encouraged jurisdictions to implement charge-back programs whenever police or fire departments are called to duty. These fees – also known as “rescue fees” or “cost recovery programs” or by critics as “crash taxes” – are expected to be paid by those who cause auto accidents, either directly or through their insurance companies.

¹ Federal Emergency Management Agency and United States Fire Administration, Funding Alternatives for Fire and Emergency Medical Services, www.usfa.dhs.gov/downloads/pdf/publications/fa-141.pdf

² U.S. Census Bureau, The 2009 Statistical Abstract, “Motor Vehicle Accidents – Number and Deaths: 1980 to 2006”

Accident Response Fees

The introduction of accident response fees has caused much debate and controversy in many local communities. Some groups believe they are legitimate user fees that are a necessary and reasonable approach to help maintain vital public services. Other groups feel they are turning local police and fire departments into profit centers at an additional cost to the citizens whom they are already expected to serve and protect. The following provides an overview of key issues in the debate regarding accident response fees.

At Issue: Aren't Accident Response Fees a form of double taxation?

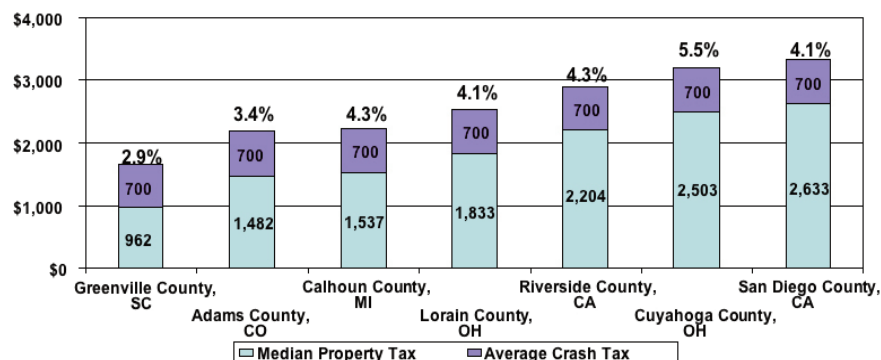
In some local communities, accident response fees are being implemented to offset declining governmental budgets and build new revenue streams. These additional funds are used to recover the costs of responding to auto crashes, which can reach into hundreds of thousands of dollars each year in some areas. However, public safety is a basic role of government paid for by property and other local taxes. Even those who work for volunteer fire departments are compensated as employees during the time they are responding to or attending an emergency scene. Like “career” police and firefighters, volunteer organizations receive financial support from taxes raised in local areas as well as corporate and other private donations, federal grants, and other assistance from auxiliary members, or firefighters’ associations.

In those communities where accident response fees are charged, it is unwise public policy to require additional funding for first-responders when the public is already paying for these services. Since local municipalities calculate their tax structure based on the services provided, adding charge backs as a source of revenue is a form of double taxation. In other words, the accident response fees levied by local governments on their constituents amount to nothing more than redundant “back door” taxes.

A CLOSER LOOK...

Recovery fees generally range anywhere between \$100 and \$4,000 per incident,³ depending on the severity of the accident and the services rendered. Based on data reflecting 1,817 counties in the United States,⁴ property taxes paid on homes as a group represent 2.5 percent of the median homeowner’s income. Assuming that average accident response fees are \$700 per incident, residents in certain areas that charge these fees (or are considering charging them) are paying property taxes and “crash taxes” that exceed the 2.5 percent norm (shown as the percentage above each bar).

**Accident Response Fees are a Form of Double Taxation:
Fees Add More Costs to the Public**



³ Competitive Enterprise Institute, “CEI Florida Insurance Director Urges Approval of ‘Crash Tax’ Ban,” June 15, 2009

⁴ Tax Foundation, “Property Tax on Owner-Occupied Housing by County,” reflecting all 1,817 counties in the United States with populations greater than 20,000 (as of July 1, 2007). There are 3,077 total counties in the nation. Also included are some incorporated cities that belong to no county, but have populations greater than 20,000.

At Issue: Who benefits from Accident Response Fees?

Accident response fees are recouped to pay for a broad gamut of items, including the amount of time spent by police and firefighters at the accident scene administering care, controlling traffic and setting up a safety zone, compiling information for the accident report, extricating injured victims, and dousing engine fires; ambulance transportation; clean-up and related expenses; and even the gasoline needed to reach the site. In general, the money collected is placed into a special fund earmarked for public safety personnel and their supplies, equipment and programs.

Although most of the money regained covers the above items, hundreds of third-party collection agencies that bill insurance companies and motorists are keeping a portion of the amount collected – generally 10 percent and perhaps as high as 15 percent in some places. These agencies, which could earn up to \$400-\$600 per incident, are essentially profiting from people’s misfortunes. Yet in many instances, the local communities have found that the amount collected has fallen short of expectations, while receiving significant public criticism.

A CLOSER LOOK...*Erlanger, KY*

In January 2008, the city of Erlanger, Kentucky decided to bill out-of-town motorists for accident responses. The city expected to collect \$250,000 per year from visitors based on an average bill of \$250 per accident. Erlanger officials planned to use the money for police and fire salaries. However, by August 2009, the city dropped the policy. According to the Kentucky Post, officials said the billing policy has become "a public relations nightmare" and is not bringing in as much as originally projected.

Radnor, PA

After harsh criticism, Radnor Township in Pennsylvania not only ended its program of charging accident response fees, but it refunded the more than \$46,000 collected from out-of-town motorists. According to the Philadelphia Inquirer, in 2006 the township hired Cost Recovery Corporation (in Dayton, Ohio) on commission to collect the fee from motorists or their insurance company. Township Commissioner William Spingler was reported to say that the company was too aggressive in its collection practices, sending dunning letters and threatening people's credit. For township officials, the public relations black eye was not worth the fees collected.

Wyoming, MI

The Wyoming City Council in Michigan on a close vote approved an ordinance to institute an accident response fee, but after being in effect for slightly more than a year it scrapped the policy. The city anticipated that Cost Recovery Corporation, with its 10 percent commission, would help bring in \$200,000 to bolster its budget. Revenues fell far short of expectations and the town was subject to months of bad publicity, while Cost Recovery collected its commission.

At Issue: Who pays for Accident Response Fees?

Auto insurance usually covers reasonable expenses incurred for necessary medical and funeral services⁵ sustained by individuals in an accident, but may not cover public safety responses. This fact runs counter to what some collection agencies tell local governments. These vendors encourage municipalities to use their services to recoup the money from insurance companies whose policyholders are responsible for traffic accidents. Local officials are told that consumers do not need to worry, since their insurers will take care of the payments especially since they benefit from the accident information gathered by the police.

But assessing insurers for services that are not typically part of the insurance contract is an inappropriate governmental interference. More importantly to policyholders, if insurance companies do pay accident response fees, these costs will accumulate over time and could ultimately be passed on to them in the form of higher premiums with no added benefits.

If insurance companies do not pay the accident response fees, it is possible for collection agencies to bill the responsible motorists directly, sometimes using aggressive scare tactics. Being asked to pay a surcharge creates confusion and ill feelings among policyholders towards their insurance companies as well as the local governments. Because the costs related to police and fire responses can be quite expensive (ranging from \$100 to \$4,000 per crash⁶), many people may not be able to pay these fees and are in danger of having their credit standing lowered.

Furthermore, police officers who investigate traffic accidents are usually required by law to submit motor vehicle accident reports so they are not prepared solely for the benefit of insurance companies. In fact, the primary purpose of these reports is to assist those involved in accidents in case lawsuits are filed. Personal injury lawyers, hospitals and chiropractors also use accident reports, as do state and local law enforcement officials for statistical reporting requirements and local media for news reports.

Regardless of whether or not insurance companies should pay for emergency response services, if they feel continued pressure to do so in the future, these additional surcharges most likely will be built into their ratemaking formulas. Higher costs typically mean higher auto insurance rates for all.

At Issue: Should Accident Response Fees apply only to non-resident at-fault motorists?

According to Regina Moore, president of Cost Recovery Corporation, collection agencies are billing for motorists' negligence and not for the accidents themselves. Proponents believe that imposing fees on negligent drivers is a fair system because those responsible for traffic accidents should pay for these services.

However, it is not always clear who is at fault. Deciding liability based on what is usually a very limited investigation by a law enforcement official raises troubling due process questions; such decisions may be inappropriate as they usurp the role of the judicial process. In addition, if more than one person is responsible for the accident, determining the appropriate allocation of liability and how much to charge each person may be difficult.

In many localities the majority of auto accidents involve non-residents. These non-residents who cause accidents may nevertheless work in the area. As such, they too could be double-taxed by having to pay a percentage of their wages to the municipality as well as having to pay for public safety services. And as this issue is examined further, it is important to understand that some local governments also expect at-fault motorists who reside in their community to be surcharged for emergency responses.

Another inconsistency regarding accident response fees is that uninsured motorists who are at fault do not get billed at all. This constitutes illogical and inequitable treatment, whereby law-abiding citizens who purchase insurance and are in an accident are required to pay while uninsured drivers are exempt from this special assessment. Responsible drivers who have insurance end up subsidizing those without insurance.

⁵ Ambulance transportation is usually covered in the Medical Payment portion of auto insurance policies.

⁶ Competitive Enterprise Institute, “CEI Florida Insurance Director Urges Approval of ‘Crash Tax’ Ban,” June 15, 2009

Angry consumers are calling for a ban on Accident Response Fees

In most states, accident response fees are still legal and are gaining momentum. Since their inception, they have been adopted by municipalities in 26 states as an alternative way to earn revenues.⁷ Despite the growing popularity of recovery fees, especially in areas that are employment centers or have major highways running through them, the public has been leading the charge in contacting their local officials and state legislators to object to these programs. As such, some communities have rescinded their ordinances on the use of accident response fees. Some states are even starting to put pressure on local governments to end this activity; so far, nine states have passed legislation or a resolution to ban auto accident cost recovery programs and others have initiated similar activities.

In 2009, the four states that banned crash taxes are:

- Arkansas (HB 1895, now AR Act 973), enacted on April 6, 2009
- Florida (SB 2282), effective July 1, 2009
- Oklahoma (Section 10-118 of Title 47, added to HB 2013), enacted on May 28, 2009 and effective immediately
- Louisiana (House Concurrent Resolution, HCR 147), passed July 2009

In 2008, the five states that banned crash taxes are:

- Georgia (SB 348), signed on May 16, 2008 effective immediately
- Indiana (SB 81, bans police fees), enacted July 1, 2008
- Missouri (SB 66), effective January 1, 2008
- Pennsylvania (HB 131), effective February 18, 2008
- Tennessee (HB 2547 – Public Chapter No. 651), effective March 28, 2009

A CLOSER LOOK...

Case Study: Florida's Fight to Ban Accident Response Fees

By October 2008, at least 24 local governments in Florida were known to charge accident response fees. But with growing budget problems throughout the state, the number of local governments considering these fees was quickly expanding. Local residents and insurance groups such as the Property Casualty Insurers Association of America (PCI) attempted to monitor the deliberations of local governments and when a proposed ordinance would surface, they would work to educate local officials. While citizens had spoken out and stopped ordinances in Tampa and the town of Davie, with 412 municipalities in the state, it would be virtually impossible to challenge each ordinance at the local level.

In January 2009, the city of Tallahassee adopted an ordinance that permitted the fire department to begin charging fees. The ordinance was approved despite plenty of opposition. As the 2009 state legislative session drew near, the issue continued to attract controversy in several other municipalities. PCI and local residents continued to press the case in the media and with state and local officials.

With the backdrop of citizen outrage and a sense of unfairness regarding the practice, legislation calling for a statewide ban on charging accident response fees was sponsored by Sen. Mike Bennett (R-Bradenton) and companion legislation was sponsored by Rep. Nick Thompson (R-Ft. Myers).

Additionally, groups such as the Associated Industries of Florida strongly supported SB 2282. Hundreds of motorcyclists also demonstrated their solidarity by holding a “Freedom Rights Rally” at the Florida State Capitol on April 13, 2009, seeking to ban accident response fees. Residents contacted lawmakers and testified before legislative hearings to express support for the ban. On July 16, 2009, Governor Charlie Crist signed SB 2282 and delivered a major victory for Floridians by ending the “accident tax.”

⁷ PCI, as stated in CNNMoney.com, “The Fender Bender Tax,” June 19, 2009. The precise number of state municipalities that have implemented accident response fees is unknown.

Conclusion

In conclusion, there is no doubt that police and fire services are necessary and invaluable to the safety of communities. As part of their duties, for which they are already getting paid, the public is grateful that first-responders can be called on to investigate and assist in auto crashes. However, the motto of these officials should be to “serve and protect,” not “serve and collect.”

Accident response fees are not an equitable distribution of the costs of emergency services related to auto accidents. These fee systems constitute a form of double taxation, are incongruous since they apply to some people but not to others, and are likely to result in insurance rate increases. Although many local governments are struggling to find the money to pay for services which they are expected to perform, these revenues should not come from those involved in auto accidents. Requiring payment from anyone who recently experienced a traumatic crash is unconscionable; it literally and figuratively adds insult to injury. During this time of economic hardship, the public should not be overburdened with having to pay additional charges for emergency responses to traffic accidents when property taxes and local income taxes are already being used to pay for these services.

Appendix

SUMMARY OF STATE BANS ON ACCIDENT RESPONSE FEES

AR	27-53-307	<p>Accident response service fee.</p> <p>(a) As used in this section:</p> <p>(1) “Accident response service fee” means a fee imposed for the response or investigation of a motor vehicle accident by a law enforcement agency; and</p> <p>(2) “Entity” means the state, a political subdivision of the state, other governmental entity or agency, or a department of a governmental entity.</p> <p>(b)(1) Notwithstanding any provision of law to the contrary, a person or entity shall not impose an accident response service fee on or from an insurance company, the driver or owner of a motor vehicle, or any other person.</p> <p>(2) Subdivision (b)(1) of this section shall not limit a county, municipality, or other local government from billing ambulance services provided in response to or in conjunction with the emergency response to a motor vehicle accident to an insurance company, the driver or owner of a motor vehicle, or any other person.</p>
FL	125.01054, 166.0446	<p>A county may not impose a fee or seek reimbursement for any costs or expenses that may be incurred for services provided by a first responder, including costs or expenses related to personnel, supplies, motor vehicles, or equipment in response to a motor vehicle accident, except for costs to contain or clean up hazardous materials in quantities reportable to the Florida State Warning Point at the Division of Emergency Management, and costs for transportation and treatment provided by ambulance services licensed pursuant to ss. 401.23(4) and 401.23(5).</p>
GA	33-8-8.2	<p>(e) It shall be in contravention of public policy for a county or a municipal corporation that levies taxes for county or municipal purposes on foreign, alien, and domestic insurance companies doing business in this state, as provided in subsection (a) of this Code section, to impose additional taxes or any other fees of any kind for services provided by such county or municipal corporation to such insurance companies for accidents involving motor vehicles except for the following:</p> <p>(1) Where the coverage for such services is expressly provided by an insurance company to the insured and the services are lawfully billed to the insured;</p> <p>(2) Where emergency medical services are provided to the insured by the county or municipal corporation, whenever the insured’s medical insurance covers the services provided and the insured assigns the right to collect to the service provider; or</p> <p>(3) Where other services are provided to the insured by the county or municipal corporation which are expressly authorized by state or federal law to be billed directly to an insurance company.</p>
IN	9-29-11.5-3	<p>Imposition or collection of accident response service fee is prohibited.</p> <p>Sec. 3. A political subdivision or a local law enforcement agency of a political subdivision may not impose or collect, or enter into a contract for the collection of, an accident response service fee on or from:</p> <p>(1) the driver of a motor vehicle; or</p> <p>(2) any other person involved in a motor vehicle accident.</p>

continued

LA	HCR 147	Directs local governing authorities and emergency service providers to cease the practice of imposing accident response fees, and states the legislative intent that the shifting of the cost of emergency service to those who use the service undermines the entire scheme established in state law for funding these critical areas of government responsibility. Precludes the following from its application: (1) charging a user of emergency services for medical care, including medical transportation, that would ordinarily be the patient's responsibility, and (2) charging a user of emergency services for such services if his actions created an unusual or extraordinary expense on the part of the responder.
MO	374.055	3. Notwithstanding any other provision of law to the contrary, no person or entity shall impose an accident response service fee on or from an insurance company, the driver or owner of a motor vehicle, or any other person. As used in this section, the term “accident response service fee” means a fee imposed for the response or investigation by a local law enforcement agency of a motor vehicle accident.
OK	Title 47 Sec. 10-118	A. Notwithstanding any other section of law to the contrary, no person or entity shall impose an accident response fee for the response or investigation of a motor vehicle accident by law enforcement. B. For purposes of this section, "accident response fee" means a fee imposed for the response or investigation of a motor vehicle accident and does not mean any fee otherwise specifically authorized by Law.
PA	Title 53, Ch. 13 G1392	(a) Prohibition.--A municipality shall not charge a fee for or seek reimbursement of costs or expenses incurred as a result of municipal police responding to a motor vehicle accident, including, but not limited to, costs incurred for labor, materials, supplies or equipment used or provided in the response. (b) Limitation.--Subsection (a) shall not be construed to authorize the imposition of any fee other than those fees or charges for furnishing copies of reports under 75 Pa.C.S. § 3751 (relating to reports by police) in the form prescribed by the Department of Transportation and for recovery of the actual costs in furnishing copies of any additional information separate from that provided in 75 Pa.C.S. § 3751 and any other fees or charges authorized in State law.
TN	55-10-108	(h)(1) As used in this subsection (h): (A) “Accident response service fee” means a fee imposed for the response or investigation by a law enforcement agency of a motor vehicle accident; and (B) “Entity” includes a governmental entity or agency or a department of a governmental entity. (2) Notwithstanding any other law to the contrary, no person or entity shall impose an accident response service fee on or from an insurance company, the driver or owner of a motor vehicle, or any other person. Nothing in this part prevents any county, municipality or other local government from billing an insurance company, the driver or owner of a motor vehicle, or any other person for ambulance services provided in response to or in conjunction with emergency response to motor vehicle accidents.