

CHAPTER 117

[Substitute House Bill No. 1983]

MOTOR VEHICLE INSURANCE—MINIMUM MANDATORY AMOUNTS—
UNDERINSURED MOTORIST COVERAGE

AN ACT Relating to insurance; amending section 27, chapter 150, Laws of 1967 and RCW 48.22.030; amending section 3, chapter 95, Laws of 1967 ex. sess. and RCW 48.22.040; amending section 9, chapter 169, Laws of 1963 as last amended by section 155, chapter 158, Laws of 1979 and RCW 46.29.090; amending section 26, chapter 169, Laws of 1963 as amended by section 2, chapter 3, Laws of 1967 ex. sess. and RCW 46.29.260; amending section 39, chapter 169, Laws of 1963 as last amended by section 14, chapter 61, Laws of 1979 and RCW 46.29.390; amending section 49, chapter 169, Laws of 1963 as amended by section 4, chapter 3, Laws of 1967 ex. sess. and RCW 46.29.490; amending section 55, chapter 169, Laws of 1963 as amended by section 5, chapter 3, Laws of 1967 ex. sess. and RCW 46.29.550; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 27, chapter 150, Laws of 1967 and RCW 48.22.030 are each amended to read as follows:

(1) "Underinsured motor vehicle" means a motor vehicle with respect to the ownership, maintenance, or use of which either no bodily injury liability bond or insurance policy applies at the time of an accident, or with respect to which the sum of the limits of liability under all bodily injury liability bonds and insurance policies applicable to a covered person after an accident is less than the damages which the covered person is legally entitled to recover.

(2) ~~((On and after January 1, 1968,))~~ No new policy or renewal of an existing policy insuring against loss resulting from liability imposed by law for bodily injury or death suffered by any person arising out of the ownership, maintenance, or use of a motor vehicle shall be ((delivered or)) issued ((for delivery in this state)) with respect to any motor vehicle registered or principally garaged in this state unless coverage is provided therein or supplemental thereto((, in limits for bodily injury or death set forth in RCW 46.29.490,)) for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of ((uninsured)) underinsured motor vehicles and hit-and-run motor vehicles because of bodily injury((, sickness or disease, including)) or death, resulting therefrom, except ((that the named insured may be given the right to reject such coverage, and except that, unless the named insured requests such coverage in writing, such coverage need not be provided in or supplemental to a renewal policy where the named insured had rejected the coverage in connection with a policy previously issued to him by the same insurer)) while operating or occupying a motorcycle or motor-driven cycle, and except while operating or occupying a motor vehicle owned or available for the regular use by the named insured or any family member, and which is not insured under the liability coverage of the policy.

(3) Coverage required under subsection (2) of this section shall be in the same amount as the insured's third party liability coverage unless the insured rejects all or part of the coverage as provided in subsection (4) of this section.

(4) The insured may reject underinsured coverage and the requirements of subsections (2) and (3) of this section shall not apply. If the insured has rejected underinsured coverage, such coverage shall not be included in any supplemental or renewal policy unless the insured subsequently requests such coverage in writing.

(5) The limit of liability under the policy coverage may be defined as the maximum limits of liability for all damages resulting from any one accident regardless of the number of covered persons, claims made, or vehicles or premiums shown on the policy, or premiums paid, or vehicles involved in an accident.

(6) The policy may provide that if an injured person has other similar insurance available to him under other policies, the total limits of liability of all coverages shall not exceed the higher of the applicable limits of the respective coverages.

Sec. 2. Section 3, chapter 95, Laws of 1967 ex. sess. and RCW 48.22-.040 are each amended to read as follows:

(1) The term "~~(uninsured)~~ underinsured motor vehicles" with reference to coverage offered under any insurance policy regulated under this chapter shall, subject to the terms and conditions of such coverage, be deemed to include an insured motor vehicle where the liability insurer thereof is unable to make payment with respect to the legal liability of its insured within the limits specified therein because of insolvency.

(2) An insurer's insolvency protection shall be applicable only to accidents occurring during a policy period in which its insured's (~~(uninsured)~~) underinsured motorist coverage is in effect where the liability insurer of the tort-feasor becomes insolvent within three years after such an accident. Nothing herein contained shall be construed to prevent any insurer from affording insolvency protection under terms and conditions more favorable to its insureds than is provided hereunder.

(3) In the event of payment to an insured under the coverage required by this chapter and subject to the terms and conditions of such coverage, the insurer making such payment shall, to the extent thereof, be entitled to the proceeds of any settlement or judgment resulting from the exercise of any rights of recovery of such insured against any person or organization legally responsible for the bodily injury for which such payment is made, including the proceeds recoverable from the assets of the insolvent insurer. Whenever an insurer shall make payment under the coverage required by this section and which payment is occasioned by an insolvency, such insurer's right of recovery or reimbursement shall not include any rights against the insured of said insolvent insurer, but such paying insurer shall have the

right to proceed directly against the insolvent insurer or its receiver, and in pursuance of such right such paying insurer shall possess any rights which the insured of the insolvent company might otherwise have had, if the insured of the insolvent insurer had personally made the payment.

Sec. 3. Section 9, chapter 169, Laws of 1963 as last amended by section 155, chapter 158, Laws of 1979 and RCW 46.29.090 are each amended to read as follows:

(1) No policy or bond (~~shall be~~) is effective under RCW 46.29.080 unless issued by an insurance company or surety company authorized to do business in this state, except as provided in subsection (2) of this section, nor unless such policy or bond is subject, if the accident has resulted in bodily injury or death, to a limit, exclusive of interest and costs, of not less than (~~fifteen~~) twenty-five thousand dollars because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, to a limit of not less than (~~thirty~~) fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and if the accident has resulted in injury to, or destruction of, property to a limit of not less than (~~five~~) ten thousand dollars because of injury to or destruction of property of others in any one accident.

(2) No policy or bond (~~shall be~~) is effective under RCW 46.29.080 with respect to any vehicle which was not registered in this state or was a vehicle which was registered elsewhere than in this state at the effective date of the policy or bond or the most recent renewal thereof, unless the insurance company or surety company issuing such policy or bond is authorized to do business in this state, or if said company is not authorized to do business in this state, unless it (~~shall~~) executes a power of attorney authorizing the director of licensing to accept service on its behalf of notice or process in any action upon such policy or bond arising out of such accident.

(3) The department may rely upon the accuracy of the information in a required report of an accident as to the existence of insurance or a bond unless and until the department has reason to believe that the information is erroneous.

Sec. 4. Section 26, chapter 169, Laws of 1963 as amended by section 2, chapter 3, Laws of 1967 ex. sess. and RCW 46.29.260 are each amended to read as follows:

The term "proof of financial responsibility for the future" as used in this chapter (~~shall~~) means: Proof of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of said proof, arising out of the ownership, maintenance, or use of a vehicle of a type subject to registration under the laws of this state, in the amount of (~~fifteen~~) twenty-five thousand dollars because of bodily injury to or death of one person in any one accident, and, subject to said limit for one person, in the amount of (~~thirty~~) fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and in the amount of

~~((five))~~ ten thousand dollars because of injury to or destruction of property of others in any one accident. Wherever used in this chapter the terms "proof of financial responsibility" or "proof" shall be synonymous with the term "proof of financial responsibility for the future(~~(-)~~)."

Sec. 5. Section 39, chapter 169, Laws of 1963 as last amended by section 14, chapter 61, Laws of 1979 and RCW 46.29.390 are each amended to read as follows:

(1) Judgments herein referred to (~~(shall))~~ are, for the purpose of this chapter only, (~~(be))~~ deemed satisfied:

(a) When (~~(fifteen))~~ twenty-five thousand dollars has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of one person as the result of any one accident; or

(b) When, subject to such limit of (~~(fifteen))~~ twenty-five thousand dollars because of bodily injury to or death of one person, the sum of (~~(thirty))~~ fifty thousand dollars has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of two or more persons as the result of any one accident; or

(c) When (~~(five))~~ ten thousand dollars has been credited upon any judgment or judgments rendered in excess of that amount because of injury to or destruction of property of others as a result of any one accident(~~(:))~~;

(2) (~~(Provided, however,))~~ Payments made in settlements of any claims because of bodily injury, death, or property damage arising from such accident shall be credited in reduction of the amounts provided for in this section.

Sec. 6. Section 49, chapter 169, Laws of 1963 as amended by section 4, chapter 3, Laws of 1967 ex. sess. and RCW 46.29.490 are each amended to read as follows:

(1) Certification. A "motor vehicle liability policy" as said term is used in this chapter (~~(shall))~~ means an "owner's policy" or an "operator's policy" of liability insurance, certified as provided in RCW 46.29.460 or 46.29.470 as proof of financial responsibility for the future, and issued, except as otherwise provided in RCW 46.29.470, by an insurance carrier duly authorized to transact business in this state, to or for the benefit of the person named (~~(therein))~~ in the policy as insured.

(2) Owner's policy. Such owner's policy of liability insurance:

(a) Shall designate by explicit description or by appropriate reference all vehicles with respect to which coverage is (~~(thereby))~~ to be granted by the policy; and

(b) Shall insure the person named therein and any other person, as insured, using any such vehicle or vehicles with the express or implied permission of such named insured, against loss from the liability imposed by law for damages arising out of the ownership, maintenance, or use of such vehicle or vehicles within the United States of America or the Dominion of

Canada, subject to limits exclusive of interest and costs, with respect to each such vehicle as follows: ~~((Fifteen))~~ Twenty-five thousand dollars because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, ~~((thirty))~~ fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and ~~((five))~~ ten thousand dollars because of injury to or destruction of property of others in any one accident.

(3) Operator's policy. Such operator's policy of liability insurance shall insure the person named as insured therein against loss from the liability imposed upon him by law for damages arising out of the use by him of any motor vehicle not owned by him, within the same territorial limits and subject to the same limits of liability as are set forth above with respect to an owner's policy of liability insurance.

(4) Required statements in policies. Such motor vehicle liability policy shall state the name and address of the named insured, the coverage afforded by the policy, the premium charged therefor, the policy period, and the limits of liability, and shall contain an agreement or be endorsed that insurance is provided ~~((thereunder))~~ under the policy in accordance with the coverage defined in this chapter as respects bodily injury and death or property damage, or both, and is subject to all the provisions of this chapter.

(5) Policy need not insure ~~((workmen's))~~ workers' compensation, etc. Such motor vehicle liability policy need not insure any liability under any ~~((workmen's))~~ workers' compensation law nor any liability on account of bodily injury or death of an employee of the insured while engaged in the employment, other than domestic, of the insured, or while engaged in the operation, maintenance, or repair of any such vehicle nor any liability for damage to property owned by, rented to, in charge of, or transported by the insured.

(6) Provisions incorporated in policy. Every motor vehicle liability policy ~~((shall be))~~ is subject to the following provisions which need not be contained therein:

(a) The liability of the insurance carrier with respect to the insurance required by this chapter ~~((shall))~~ becomes absolute whenever injury or damage covered by said motor vehicle liability policy occurs; said policy may not be canceled or annulled as to such liability by any agreement between the insurance carrier and the insured after the occurrence of the injury or damage; no statement made by the insured or on his behalf and no violation of said policy ~~((shall))~~ defeats or voids said policy.

(b) The satisfaction by the insured of a judgment for such injury or damage shall not be a condition precedent to the right or duty of the insurance carrier to make payment on account of such injury or damage.

(c) The insurance carrier ~~((shall have the right to))~~ may settle any claim covered by the policy, and if such settlement is made in good faith,

the amount thereof (~~((shall be))~~) is deductible from the limits of liability specified in subdivision (b) of subsection (2) of this section.

(d) The policy, the written application therefor, if any, and any rider or endorsement which does not conflict with the provisions of this chapter (~~((shall))~~) constitutes the entire contract between the parties.

(7) Excess or additional coverage. Any policy which grants the coverage required for a motor vehicle liability policy may also grant any lawful coverage in excess of or in addition to the coverage specified for a motor vehicle liability policy, and such excess or additional coverage (~~((shall))~~) is not (~~((be))~~) subject to the provisions of this chapter. With respect to a policy which grants such excess or additional coverage the term "motor vehicle liability policy" (~~((shall apply))~~) applies only to that part of the coverage which is required by this section.

(8) Reimbursement provision permitted. Any motor vehicle liability policy may provide that the insured shall reimburse the insurance carrier for any payment the insurance carrier would not have been obligated to make under the terms of the policy except for the provisions of this chapter.

(9) Proration of insurance permitted. Any motor vehicle liability policy may provide for the prorating of the insurance thereunder with other valid and collectible insurance.

(10) Multiple policies. The requirements for a motor vehicle liability policy may be fulfilled by the policies of one or more insurance carrier which policies together meet such requirements.

(11) Binders. Any binder issued pending the issuance of a motor vehicle liability policy (~~((shall be))~~) is deemed to fulfill the requirements for such a policy.

Sec. 7. Section 55, chapter 169, Laws of 1963 as amended by section 5, chapter 3, Laws of 1967 ex. sess. and RCW 46.29.550 are each amended to read as follows:

Proof of financial responsibility may be evidenced by the certificate of the state treasurer that the person named therein has deposited with him (~~((thirty-five))~~) sixty thousand dollars in cash, or securities such as may legally be purchased by savings banks or for trust funds of a market value of (~~((thirty-five))~~) sixty thousand dollars. The state treasurer shall not accept any such deposit and issue a certificate therefor and the department shall not accept such certificate unless accompanied by evidence that there are no unsatisfied judgments of any character against the depositor in the county where the depositor resides.

NEW SECTION. Sec. 8. This act shall take effect on September 1, 1980.

Passed the House February 27, 1980.

Passed the Senate February 18, 1980.

Approved by the Governor March 10, 1980.

Filed in Office of Secretary of State March 10, 1980.