

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 SENATE BILL 1321

By: Quinn

4
5
6 AS INTRODUCED

7 An Act relating to motor vehicle insurance; amending
8 36 O.S. 2011, Section 3636, as amended by Section 1,
9 Chapter 307, O.S.L. 2014 (36 O.S. Supp. 2017, Section
10 3636), which relates to uninsured motorist coverage;
11 expanding definition of uninsured motor vehicle to
include underinsured motor vehicle; specifying time
of payment of certain damages; modifying the rights
of subrogation under specified circumstances; and
providing an effective date.

12
13
14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 1. AMENDATORY 36 O.S. 2011, Section 3636, as
16 amended by Section 1, Chapter 307, O.S.L. 2014 (36 O.S. Supp. 2017,
17 Section 3636), is amended to read as follows:

18 Section 3636. A. No policy insuring against loss resulting
19 from liability imposed by law for bodily injury or death suffered by
20 any person arising out of the ownership, maintenance or use of a
21 motor vehicle shall be issued, delivered, renewed, or extended in
22 this state with respect to a motor vehicle registered or principally
23 garaged in this state unless the policy includes the coverage
24 described in subsection B of this section.

1 B. The policy referred to in subsection A of this section shall
2 provide coverage therein or supplemental thereto for the protection
3 of persons insured thereunder who are legally entitled to recover
4 damages from owners or operators of uninsured motor vehicles and
5 hit-and-run motor vehicles because of bodily injury, sickness or
6 disease, including death resulting therefrom. Coverage shall be not
7 less than the amounts or limits prescribed for bodily injury or
8 death for a policy meeting the requirements of Section 7-204 of
9 Title 47 of the Oklahoma Statutes, as the same may be hereafter
10 amended; provided, however, that increased limits of liability shall
11 be offered and purchased if desired, not to exceed the limits
12 provided in the policy of bodily injury liability of the insured.
13 Policies issued, renewed or reinstated after November 1, 2014, shall
14 not be subject to stacking or aggregation of limits unless expressly
15 provided for by an insurance carrier. The uninsured motorist
16 coverage shall be upon a form approved by the Insurance Commissioner
17 as otherwise provided in the Insurance Code and may provide that the
18 parties to the contract shall, upon demand of either, submit their
19 differences to arbitration; provided, that if agreement by
20 arbitration is not reached within three (3) months from date of
21 demand, the insured may sue the tort-feasor.

22 C. For the purposes of this coverage the term "uninsured motor
23 vehicle" shall include an insured motor vehicle where the liability
24 insurer thereof is unable to make payment with respect to the legal

1 liability of its insured within the limits specified therein because
2 of insolvency. For the purposes of this coverage the term
3 "uninsured motor vehicle" shall also include an ~~insured~~ underinsured
4 motor vehicle. An "underinsured motor vehicle" is one for which
5 the ~~liability~~ aggregate limits of all applicable liability policies
6 ~~which~~ are less than the amount ~~of the claim of~~ to which the person
7 or persons making such claim are legally entitled to recover,
8 regardless of the amount of coverage of either of the ~~parties~~
9 policies in relation to each other. Uninsured motorist coverage
10 must provide for payment to the insured of all amounts the insured
11 is legally entitled to recover as damages from the owner or
12 operators of an underinsured motor vehicle, not to exceed the limit
13 specified in the insurance policy, after recovery of all applicable
14 liability coverage from the insurer or insurers of the underinsured
15 motor vehicle.

16 D. An insurer's insolvency protection shall be applicable only
17 to accidents occurring during a policy period in which its insured's
18 uninsured motorist coverage is in effect where the liability insurer
19 of the tort-feasor becomes insolvent within one (1) year after such
20 an accident. Nothing herein contained shall be construed to prevent
21 any insurer from according insolvency protection under terms and
22 conditions more favorable to its insured than is provided hereunder.

23 E. For purposes of this section, there is no coverage for any
24 insured while occupying a motor vehicle owned by, or furnished or

1 available for the regular use of the named insured, a resident
2 spouse of the named insured, or a resident relative of the named
3 insured, if such motor vehicle is not insured by a motor vehicle
4 insurance policy.

5 F. In the event of payment to any person under the coverage
6 required by this section and subject to the terms and conditions of
7 such coverage, the insurer making such payment shall, to the extent
8 thereof, be entitled to recover the amount paid from the tort-feasor
9 and all applicable liability coverage. In addition, should suit be
10 initiated by the insured, the insurer shall be entitled to the
11 proceeds of any settlement or judgment resulting from the exercise
12 of any rights of recovery of such person against any person or
13 organization legally responsible for the bodily injury for which
14 such payment is made, including the proceeds recoverable from the
15 assets of the insolvent insurer. ~~Provided, however, with respect to~~
16 ~~payments made by reason of the coverage described in subsection C of~~
17 ~~this section,~~ However, when an uninsured motorist insurer must make
18 payment due to the insolvency of the tort-feasor's liability
19 insurer, the uninsured motorist insurer making such payment shall
20 not be entitled to any right of recovery against such tort-feasor
21 for any amount in excess of the proceeds recovered from the assets
22 of the insolvent insurer of said tort-feasor. Provided further,
23 that any payment made by the insured tort-feasor shall not reduce or
24 be a credit against the total liability limits as provided in the

1 insured's own uninsured motorist coverage. Provided further, that
2 if a tentative agreement to settle for liability limits has been
3 reached with an insured tort-feasor, written notice shall be given
4 by certified mail to the uninsured motorist coverage insurer by its
5 insured. Such written notice shall include:

6 1. Written documentation of pecuniary losses incurred,
7 including copies of all medical bills; and

8 2. Written authorization or a court order to obtain reports
9 from all employers and medical providers. Within sixty (60) days of
10 receipt of this written notice, the uninsured motorist coverage
11 insurer may substitute its payment to the insured for the tentative
12 settlement amount. The uninsured motorist coverage insurer shall
13 then be entitled to the insured's right of recovery to the extent of
14 such payment and any settlement under the uninsured motorist
15 coverage. If the uninsured motorist coverage insurer fails to pay
16 the insured the amount of the tentative tort settlement within sixty
17 (60) days, the uninsured motorist coverage insurer has no right to
18 the proceeds of any settlement or judgment, as provided herein, for
19 any amount paid under the uninsured motorist coverage.

20 G. A named insured or applicant shall have the right to reject
21 uninsured motorist coverage in writing. The form signed by the
22 insured or applicant which initially rejects coverage or selects
23 lower limits shall remain valid for the life of the policy and the
24 completion of a new selection form shall not be required when a

1 renewal, reinstatement, substitute, replacement, or amended policy
2 is issued to the same-named insured by the same insurer or any of
3 its affiliates. Any changes to an existing policy, regardless of
4 whether these changes create new coverage, do not create a new
5 policy and do not require the completion of a new form.

6 After selection of limits, rejection, or exercise of the option
7 not to purchase uninsured motorist coverage by a named insured or
8 applicant for insurance, the insurer shall not be required to notify
9 any insured in any renewal, reinstatement, substitute, amended or
10 replacement policy as to the availability of such uninsured motorist
11 coverage or such optional limits. Such selection, rejection, or
12 exercise of the option not to purchase uninsured motorist coverage
13 by a named insured or an applicant shall be valid for all insureds
14 under the policy and shall continue until a named insured requests
15 in writing that the uninsured motorist coverage be added to an
16 existing or future policy of insurance.

17 H. The following are effective on forms required on or after
18 April 1, 2005. The offer of the coverage required by subsection B
19 of this section shall be in the following form which shall be filed
20 with and approved by the Insurance Commissioner. The form shall be
21 provided to the proposed insured in writing separately from the
22 application and shall read substantially as follows:

23 OKLAHOMA UNINSURED MOTORIST COVERAGE LAW
24

1 Oklahoma law gives you the right to buy Uninsured Motorist
2 coverage in the same amount as your bodily injury liability
3 coverage. THE LAW REQUIRES US TO ADVISE YOU OF THIS VALUABLE RIGHT
4 FOR THE PROTECTION OF YOU, MEMBERS OF YOUR FAMILY, AND OTHER PEOPLE
5 WHO MAY BE HURT WHILE RIDING IN YOUR INSURED VEHICLE. YOU SHOULD
6 SERIOUSLY CONSIDER BUYING THIS COVERAGE IN THE SAME AMOUNT AS YOUR
7 LIABILITY INSURANCE COVERAGE LIMIT.

8 Uninsured Motorist coverage, unless otherwise provided in your
9 policy, pays for bodily injury damages to you, members of your
10 family who live with you, and other people riding in your car who
11 are injured by: (1) an uninsured motorist, (2) a hit-and-run
12 motorist, or (3) an insured motorist who does not have enough
13 liability insurance to pay for bodily injury damages to any insured
14 person. Uninsured Motorist coverage, unless otherwise provided in
15 your policy, protects you and family members who live with you while
16 riding in any vehicle or while a pedestrian. THE COST OF THIS
17 COVERAGE IS SMALL COMPARED WITH THE BENEFITS!

18 You may make one of four choices about Uninsured Motorist
19 Coverage by indicating below what Uninsured Motorist coverage you
20 want:

21 _____ I want the same amount of Uninsured Motorist coverage as my
22 bodily injury liability coverage.

23 _____ I want minimum Uninsured Motorist coverage \$25,000.00 per
24 person/\$50,000.00 per occurrence.

1 person/\$50,000.00 per occurrence a notice of the change of their
2 Uninsured Motorist coverage limits and that notice shall state how
3 such policyholders may reject Uninsured Motorist coverage limits or
4 select Uninsured Motorist coverage with limits higher than
5 \$25,000.00 per person/\$50,000.00 per occurrence. No notice shall be
6 required to existing policyholders who have rejected Uninsured
7 Motorist coverage or have selected Uninsured Motorist coverage
8 limits equal to or greater than \$25,000.00 per person/\$50,000.00 per
9 occurrence. For purposes of this subsection an existing
10 policyholder is a policyholder who purchased a policy from the
11 insurer before April 1, 2005, and such policy renews on or after
12 April 1, 2005.

13 SECTION 2. This act shall become effective November 1, 2018.

14

15 56-2-2240 CB 1/18/2018 1:14:21 PM

16

17

18

19

20

21

22

23

24