

ENGROSSED HOUSE  
BILL NO. 2847

By: Ramsey of the House

and

Robinson of the Senate

( insurance - information to be kept confidential -  
amending 4 sections in Title 36 - amending 12 O.S.,  
Section 1651 - legal relationships - repealing 36 O.S.,  
Sections 942 and 943 - codification - effective date )

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 306.1 of Title 36, unless there  
is created a duplication in numbering, reads as follows:

The Insurance Commissioner shall maintain as confidential any  
documents or information received from the National Association of  
Insurance Commissioners or insurance departments of other states  
when such documents or information is confidential in other  
jurisdictions. The Insurance Commissioner may release information,  
including confidential information, with the National Association of  
Insurance Commissioners or insurance departments of other states so  
long as those entities agree to maintain the same level of  
confidentiality as is required under the laws of this state.

SECTION 2. AMENDATORY 36 O.S. 1991, Section 901.3, is  
amended to read as follows:

Section 901.3 A. The Insurance Commissioner shall certify as  
complete, a filing which contains the following:

1. A memorandum briefly summarizing the gist of the filing;  
2. An index to the filing;  
3. A clear and concise statement of the action desired to be taken by the Board;

4. References to the sections of law and to rules and regulations which authorize the action desired to be taken by the Board or which support the information contained in the filing;

~~5. An explanation of the application of the filing factors, which are contained in subsection A of Section 18 of this act, together with assumptions and conclusions concerning such factors;~~

~~6.~~ References to exhibits and other documents contained in the filing which are relied upon to support the action requested by the filing; and

~~7.~~ 6. Any other information required by the Commissioner or the Board.

B. If the filer is a rating organization, it is sufficient for such information to be provided in summary form for all the filer's members and subscribers.

C. If a filing is incomplete, the Commissioner shall notify the filer, in writing, of the necessary materials required by this article, by rules and regulations of the Board or by orders adopted by the Board to complete the filing for certification. The time for certification of the filing shall be tolled pending receipt of such information from the filer. Upon receipt of the required information the time for completion of certification shall again begin to run.

D. Upon certification of the completion of a filing by the Commissioner, the filing shall be placed on the agenda of the next regularly scheduled meeting of the Board. Following certification, no meeting regarding a filing shall be held unless the requirements of subsection A of Section ~~16~~ 901.4 of this ~~act~~ title are met.

E. If the Commissioner fails or refuses to certify completion of a filing which meets or exceeds the requirements of this act, the company or organization making the filing may request, in writing, that the Board certify the filing. Certification by the Board shall have the same effect as if the Commissioner had certified the filing.

F. Certification of the completion of the filing shall be accomplished within thirty (30) calendar days. If the filing is not certified to be complete or if a dispute occurs regarding the certification of completion of the filing, then the dispute or failure or refusal to certify completion shall be presented to the Board at the next scheduled meeting for the Board's review and decision on certification.

SECTION 3. AMENDATORY 36 O.S. 1991, Section 941, is amended to read as follows:

Section 941. A. No insurance carrier who issues motor vehicle insurance policies in this state shall assign driving record points, cancel, refuse to renew or increase the premium rate for any motor vehicle liability or collision insurance policy for the reason that the insured has been involved in a motor vehicle collision and was not at fault.

B. This section shall not apply to an insured who has been convicted of:

1. Homicide or assault arising out of the operation of any motor vehicle; or

2. A violation of ~~Sections~~ Section 11-902 or 761 of this title as being impaired by or under the influence of alcohol or intoxicating liquor or who was under the influence of any substance included in the Uniform Controlled Dangerous Substances Act.

C. Any insurance carrier that issues motor vehicle liability or collision insurance policies in this state shall not establish or apply premium rates, increase premium rates, cancel a policy or

refuse to issue or renew a policy, based on any traffic record maintained by the Department of Public Safety which covers a period of time more than three (3) years prior to the date the insurance carrier makes a determination to take any action.

D. No insurance carrier who issues motor vehicle policies in this state shall use traffic complaints, traffic citations or other legal forms of traffic charges as a basis for cancellation of a motor vehicle insurance policy, increasing premium rates for a motor vehicle insurance policy or refusing to issue or renew a motor vehicle insurance policy, where:

1. The insured was acquitted of the charge;
2. The insured was arrested and no charges were filed; or
3. The insured was arrested and the charges were dismissed.

E. The Insurance Commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact insurance business in this state of any insurance carrier violating the provisions of this section or may censure the insurer or impose a fine.

SECTION 4. AMENDATORY 36 O.S. 1991, Section 3636, as amended by Section 5, Chapter 294, O.S.L. 1994 (36 O.S. Supp. 1995, Section 3636), is amended to read as follows:

Section 3636. A. No 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 issued, delivered, renewed, or extended in this state with respect to a motor vehicle registered or principally garaged in this state unless the policy includes the coverage described in subsection B of this section.

B. The policy referred to in subsection A of this section shall provide coverage therein or supplemental thereto for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of uninsured motor vehicles and

hit-and-run motor vehicles because of bodily injury, sickness or disease, including death resulting therefrom. Coverage shall be not less than the amounts or limits prescribed for bodily injury or death for a policy meeting the requirements of Section 7-204 of Title 47 of the Oklahoma Statutes, as the same may be hereafter amended; provided, however, that increased limits of liability shall be offered and purchased if desired, not to exceed the limits provided in the policy of bodily injury liability of the insured. The uninsured motorist coverage shall be upon a form approved by the Insurance Commissioner as otherwise provided in the Insurance Code and may provide that the parties to the contract shall, upon demand of either, submit their differences to arbitration; provided, that if agreement by arbitration is not reached within three (3) months from date of demand, the insured may sue the tort-feasor.

C. For the purposes of this coverage the term "uninsured motor vehicle" shall 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. For the purposes of this coverage the term "uninsured motor vehicle" shall also include an insured motor vehicle, the liability limits of which are less than the amount of the claim of the person or persons making such claim, regardless of the amount of coverage of either of the parties in relation to each other.

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

E. In the event of payment to any person under the coverage required by this section 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 person 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. Provided, however, with respect to payments made by reason of the coverage described in subsection C of this section, the insurer making such payment shall not be entitled to any right of recovery against such tort-feasor in excess of the proceeds recovered from the assets of the insolvent insurer of said tort-feasor. Provided further, that any payment made by the insured tort-feasor shall not reduce or be a credit against the total liability limits as provided in the insured's own uninsured motorist coverage. Provided further, that if a tentative agreement to settle for liability limits has been reached with an insured tort-feasor, written notice shall be given by certified mail to the uninsured motorist coverage insurer by its insured. Such written notice shall include:

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

2. Written authorization or a court order to obtain reports from all employers and medical providers. Within sixty (60) days of receipt of this written notice, the uninsured motorist coverage insurer may substitute its payment to the insured for the tentative settlement amount. The uninsured motorist coverage insurer shall then be entitled to the insured's right of recovery to the extent of such payment and any settlement under the uninsured motorist coverage. If the uninsured motorist coverage insurer fails to pay the insured the amount of the tentative tort settlement within sixty (60) days, the uninsured motorist coverage insurer has no right to

the proceeds of any settlement or judgment, as provided herein, for any amount paid under the uninsured motorist coverage.

F. A named insured or applicant shall have the right to reject uninsured motorist coverage in writing, and except that unless a named insured or applicant requests such coverage in writing, such coverage need not be provided in or supplemental to any renewal, reinstatement, substitute, amended or replacement policy where a named insured or applicant had rejected the coverage in connection with a policy previously issued to him by the same insurer.

G. Notwithstanding the provisions of this section, the following are the only instances in which a new form affecting uninsured motorist coverage shall be required:

1. When an insurer is notified of a change in or an additional named insured;

2. When there is an additional vehicle that is not a replacement vehicle; provided, a new form shall not be required for the addition, substitution or deletion of a vehicle from a commercial automobile liability policy covering a fleet of five (5) or more vehicles; or

3. When the amount of bodily injury liability coverage is amended. Provided, any change in premium alone shall not require the issuance of a new form.

After selection of limits, rejection, or exercise of the option not to purchase uninsured motorist coverage by a named insured or applicant for insurance, the insurer shall not be required to notify any insured in any renewal, reinstatement, substitute, amended or replacement policy as to the availability of such uninsured motorist coverage or such optional limits. Such selection, rejection, or exercise of the option not to purchase uninsured motorist coverage by a named insured or an applicant shall be valid for all insureds under the policy and shall continue until a named insured requests

in writing that the uninsured motorist coverage be added to an existing or future policy of insurance.

H. The offer of the coverage required by subsection B of this section shall be in the following form which shall be filed with and approved by the Insurance Commissioner. The form shall be provided to the proposed insured in writing separately from the application. It may be included as a part of the application if separated in the application by spacing of at least one (1) inch from the preceding and following paragraphs, and shall read as follows:

OKLAHOMA UNINSURED MOTORIST COVERAGE LAW

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

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

You may make one of four choices about Uninsured Motorist Coverage:

1. You may buy Uninsured Motorist coverage equal to your bodily injury liability coverage for \$\_\_\_\_\_ for \_\_\_\_\_ months.

2. You may buy Uninsured Motorist coverage in the amount of \$10,000.00 for each person injured, not to exceed \$20,000.00 for two or more persons injured in one occurrence (the smallest coverage which Oklahoma law allows) for \$\_\_\_\_\_ for \_\_\_\_ months.

3. You may buy Uninsured Motorist coverage in an amount less than your bodily injury liability coverage but more than the minimum levels.

4. You may reject Uninsured Motorist coverage.

Please indicate below what Uninsured Motorist coverage you want:

\_\_\_\_ I want the same amount of Uninsured Motorist coverage as my bodily injury liability coverage.

\_\_\_\_ I want minimum Uninsured Motorist coverage (\$10,000.00 per person/\$20,000.00 per occurrence).

\_\_\_\_ I want Uninsured Motorist coverage in the following amount:  
\$\_\_\_\_\_ per person/\$\_\_\_\_\_ per occurrence.

\_\_\_\_ I want to reject Uninsured Motorist coverage.

\_\_\_\_\_  
Proposed Insured

THIS FORM IS NOT A PART OF YOUR POLICY AND DOES NOT PROVIDE COVERAGE.

I. To account for individual insurance company operational differences, for a one-year phase-in period beginning September 1, 1990, insurers may file for a deviation from the form described in subsection H of this section, to be used only for the insurer's policyholders as of September 1, 1990. The Insurance Commissioner shall approve the deviation only if the form includes substantially the same information as is included in subsection H of this section. In the deviated form, insurers may provide existing policyholders the option to maintain their current level of Uninsured Motorist coverage. Each existing policyholder shall receive the notice provided in subsection H of this section no later than the next policy renewal following the phase-in period.

SECTION 5. AMENDATORY 36 O.S. 1991, Section 6121, as amended by Section 1, Chapter 267, O.S.L. 1993 (36 O.S. Supp. 1995, Section 6121), is amended to read as follows:

Section 6121. Any individual, firm, partnership, corporation, or association acting in an individual physical location (hereinafter called "organization") which shall accept money or anything of value for prearranged, or prepaid funeral services, or funeral service merchandise as defined in the Funeral Services Licensing Act or for any contract providing future funeral services or funeral merchandise at a fixed price or at a cost plus a percentage, or at retail price less a percentage discount, or providing for any special consideration of any kind to be granted or made available to the purchaser or holder of such contract, in this state, under any sales contract, bond, certificate or other form of written document providing for prepaid, discounted or otherwise specially priced funeral or burial benefits or services or funeral merchandise to be delivered at an undetermined future date dependent upon the death of a contracting party or other person designated by a contracting party (hereinafter called "prepaid funeral benefits") shall first obtain a permit from the Insurance Commissioner authorizing the transaction of this type of business before entering into any such contract. It shall be unlawful to sell prepaid funeral benefits unless the seller holds a valid, current permit at the time such contract is made. The seller shall not be entitled to enforce a contract made in violation of the act, but the purchaser or his heirs, or legal representative, shall be entitled to recover triple the amounts paid to the seller with interest thereon at the rate of six percent (6%) per annum under any contract made in violation hereof.

SECTION 6. AMENDATORY 12 O.S. 1991, Section 1651, is amended to read as follows:

Section 1651. District courts may, in cases of actual controversy, determine rights, status, or other legal relations, including but not limited to a determination of the construction or validity of any foreign judgment or decree, deed, contract, trust, or other instrument or agreement or of any statute, municipal ordinance, or other governmental regulation, whether or not other relief is or could be claimed, except that no such declaration shall be made concerning liability or nonliability for damages on account of alleged tortious injuries to persons or to property either before or after judgment or for compensation alleged to be due under workers' compensation laws for injuries to persons ~~or concerning obligations alleged to arise under policies of insurance covering liability or indemnity against liability for such injuries.~~ The determination may be made either before or after there has been a breach of any legal duty or obligation, and it may be either affirmative or negative in form and effect; provided however, that a court may refuse to make such determination where the judgment, if rendered, would not terminate the controversy, or some part thereof, giving rise to the proceeding.

SECTION 7. REPEALER 36 O.S. 1991, Sections 942 and 943 are hereby repealed.

SECTION 8. This act shall become effective November 1, 1996.

Passed the House of Representatives the 5th day of March, 1996.

Speaker of the House of  
Representatives

Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 1996.

President of the Senate

