

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

SENATE BILL 1569

By: Williamson

AS INTRODUCED

An Act relating to insurance; amending 36 O.S. 2001, Section 3636, which relates to uninsured motorist coverage; expanding options for certain coverage; modifying required form; and providing an effective date.

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

SECTION 1. AMENDATORY 36 O.S. 2001, 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, or injury to or destruction of property. Coverage shall be not less than the amounts or limits prescribed for bodily injury, ~~or~~ death or injury to or destruction of property 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 or property damage 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 property damage repair estimates or bills; and
2. Written authorization or a court order to obtain reports from all employers and medical providers, and property damage repair estimates or bills. 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; or

3. When the amount of bodily injury or property damage 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 and shall read substantially 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 and destruction of property 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. Uninsured Motorist coverage, unless otherwise provided in your policy, pays for injury to or destruction of your property. THE COST OF THIS COVERAGE IS SMALL COMPARED WITH THE BENEFITS!

You may make one of four choices about Uninsured Motorist Coverage relating to bodily injury:

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 relating to bodily injury.

Please indicate below what Uninsured Motorist coverage relating to bodily injury 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 relating to bodily injury.

You may make one of four choices about Uninsured Motorist Coverage relating to injury to or destruction of property:

1. You may buy Uninsured Motorist coverage equal to your injury to or destruction of property liability coverage for \$ \_\_\_\_\_ for \_\_\_\_\_ months.

2. You may buy Uninsured Motorist coverage in the amount of \$10,000.00 for injury to or destruction of property (the smallest coverage which Oklahoma law allows) for \$ \_\_\_\_\_ for \_\_\_\_\_ months.

3. You may buy Uninsured Motorist coverage in an amount less than your injury to or destruction of property liability coverage but more than the minimum levels.

4. You may reject Uninsured Motorist coverage relating to injury to or destruction of property.

Please indicate below what Uninsured Motorist coverage relating to injury to or destruction of property you want:

\_\_\_ I want the same amount of Uninsured Motorist coverage as my injury to or destruction of property liability coverage.

I want minimum Uninsured Motorist coverage (\$10,000.00  
property damage).

I want Uninsured Motorist coverage in the following amount:  
\$ \_\_\_\_\_ property damage.

I want to reject Uninsured Motorist coverage relating to  
injury to or destruction of property.

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

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

I. The Insurance Commissioner shall approve a deviation to this  
form if the form includes substantially the same information.

SECTION 2. This act shall become effective November 1, 2002.

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