

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

FLOOR SUBSTITUTE

FOR

SENATE BILL NO. 613

By: Wilcoxson of the Senate

and

Kerr of the House

FLOOR SUBSTITUTE

[motor vehicles - creating the Uninsured Motorist
Victims Compensation Act- creating certain revolving
fund - codification - effective dates -
emergency]

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 10-118 of Title 47, unless there
is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Uninsured
Motorist Victims Compensation Act".

SECTION 2. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 10-118.1 of Title 47, unless
there is created a duplication in numbering, reads as follows:

A. There is hereby created an Uninsured Motorist Victims
Compensation Board, consisting of three (3) members appointed by the
Governor with the advice and consent of the Senate to serve
four-year terms and until the successor is appointed and qualified.
At least one member of the Board shall be a person admitted to
practice law in this state. Of the first members appointed, one
shall be appointed for a term of two (2) years, one shall be
appointed for a term of three (3) years, and one shall be appointed
for a term of four (4) years. Vacancies shall be filled in the same
manner as regular appointments.

B. Each year the Board shall elect a chairperson from its membership. Members of the Board shall receive no compensation, but shall be reimbursed according to the State Travel Reimbursement Act.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-118.2 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. The Uninsured Motorist Victims Compensation Board shall award compensation of allowable expenses arising from an eligible accident if satisfied by a preponderance of the evidence that the requirements for compensation have been met. The claimant shall have a right of appeal to the Board for any claim in dispute.

B. The Board shall hear and determine all matters relating to claims for compensation. The Board shall be able to reinvestigate or reopen claims without regard to statutes of limitation. However, claims that have been inactive for a period of more than two (2) years from the date of the last action by the Board shall be deemed closed and any further action forever barred. Claim files may be destroyed after a claim is closed. Claims which have been declined may be destroyed after nine (9) months, following the last Board action, provided the claimant has not notified the Board of any intentions to request reconsideration of the claim.

C. The Board shall have the power to subpoena witnesses, compel their attendance, require the production of records and other evidence, administer oaths or affirmations, conduct hearings and receive relevant evidence.

D. The Board shall be provided such office, support, staff and secretarial services as determined by the Department of Public Safety.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-118.3 of Title 47, unless there is created a duplication in numbering, reads as follows:

In addition to any other powers and duties specified in this act, the Uninsured Motorist Victims Compensation Board may:

1. Develop procedures;
2. Promulgate any rules necessary to implement the provisions of this act;
3. Define any term not defined in this act;
4. Prescribe forms necessary to carry out the purposes of this act;
5. Have access to any reports of investigations from all law enforcement agencies, or other data necessary to assist the Board in making a determination of eligibility for compensation under the provisions of this act; and
6. Publicize the availability of compensation and information regarding the filing of claims therefor.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-118.4 of Title 47, unless there is created a duplication in numbering, reads as follows:

The Uninsured Motorist Victims Compensation Board:

1. May require any claimant to seek or accept any collateral source contribution;
2. Shall have the authority to set limits of compensation; and
3. Shall not award any compensation to a claimant who is a person at fault in the accident wherein a claim is sought, or a person who failed to be in compliance with the required liability indemnification in this state wherein a claim is sought.

Multiple claims are prohibited under this act when arising out of the same accident and no claim or award shall be allowed pursuant to both this act and the Oklahoma Crime Victims Compensation Act. If compensation is awarded, the state shall be subrogated to all the rights of a claimant to receive or recover from any collateral source to the extent that compensation was awarded.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-118.5 of Title 47, unless there is created a duplication in numbering, reads as follows:

The Uninsured Motorist Victims Compensation Board shall prepare and transmit annually to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate a report of its activities, including the amount of compensation awarded and a statistical summary of claims and awards made and denied.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-118.6 of Title 47, unless there is created a duplication in numbering, reads as follows:

The filing of a false claim for compensation pursuant to this act shall constitute a misdemeanor, and shall be punishable by a fine not to exceed Three Thousand Dollars (\$3,000.00) or by imprisonment in the county jail for a term not to exceed one (1) year, or by both such fine and imprisonment. In addition, the person shall be ordered to reimburse the total amount paid by the Uninsured Motorist Victims Compensation Board with interest accruing thereon at the rate of twelve percent (12%) per annum until paid.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-118.7 of Title 47, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the Uninsured Motorist Victims Compensation Board to be designated the "Uninsured Motorist Victims Compensation Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Uninsured Motorist Victims Compensation Board from any source excluding appropriated funds. All monies accruing to the credit of said fund are hereby appropriated and, except for those monies specifically authorized by the Legislature to be expended by the Department of Public Safety for administration of the Uninsured

Motorist Victims Compensation Board, may be budgeted and expended by the Board for the purpose of paying claims pursuant to the provisions of this act. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment. The fund shall be invested in whatever instruments are authorized by law for investments by the State Treasurer. The interest earned by any investment of monies from the fund shall be credited to the fund for expenditure as provided by law for the fund.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-118.8 of Title 47, unless there is created a duplication in numbering, reads as follows:

In addition to any traffic fine or criminal penalty allowed by law, any person found guilty of failure to have at least the minimal liability indemnification required to operate a vehicle on the streets, roads and highways of this state shall be assessed an uninsured motorist victims compensation assessment in an amount not less than Fifty Dollars (\$50.00) nor more than Five Thousand Dollars (\$5,000.00). The assessment shall be collected by the court clerk and deposited in the Uninsured Motorist Victims Compensation Revolving Fund, created pursuant to Section 8 of this act.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-118.9 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. An assessment of Ten Dollars (\$10.00) shall be required to be paid to the Department of Public Safety or a licensed tag agent before any vehicle shall be released from impound by any licensed wrecker or towing service; provided, however, when a vehicle is sold as required by law for unpaid towing and storage fees or when a salvage title issues, the assessment shall not be required.

B. The Department of Public Safety shall inform all wrecker and towing services licensed in this state of the requirement in subsection A of this section. The Department shall promulgate any rules or procedures necessary to implement the provisions of this section.

C. When the Department of Public Safety sends a notice of impound to the record title owner of an impounded vehicle as required by law, the Department shall include a notice on such form using the following or similar language: "An assessment of Ten Dollars (\$10.00) must be paid to the Department of Public Safety or a licensed tag agent and proof of payment must be shown before any vehicle will be released from impound."

D. The Department of Public Safety shall direct every motor license agent in this state to collect the assessment provided in subsection A of this section and provide a receipt to the person making such payment. Any funds collected by any motor license agent or received by the Uninsured Motorist Victims Compensation Board from any source shall be deposited in the Uninsured Motorist Victims Compensation Revolving Fund, created pursuant to this act.

SECTION 11. Sections 1 through 7 of this act shall become effective January 1, 2006.

SECTION 12. Sections 8 through 10 of this act shall become effective July 1, 2005.

SECTION 13. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.