

3 Senate Bill No. 533

4 SENATE BILL NO. 533 - By: Aldridge of the Senate and Sullivan of the
5 House.

6 An Act relating to motor vehicle insurance; amending 36 O.S.
7 2001, Section 3636, as amended by Section 25, Chapter 519,
8 O.S.L. 2004 (36 O.S. Supp. 2008, Section 3636), which
9 relates to uninsured motorist coverage; specifying that
10 certain form shall remain valid for the life of the policy;
11 providing that certain changes to an existing policy do not
12 create a new policy; modifying prescribed form; repealing 47
13 O.S. 2001, Section 7-608, as amended by Section 7 Chapter
14 322, O.S.L. 2006 (47 O.S. Supp. 2008, Section 7-608), which
15 relates to insurance verification; and providing an
16 effective date.

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

18 SECTION 1. AMENDATORY 36 O.S. 2001, Section 3636, as
19 amended by Section 25, Chapter 519, O.S.L. 2004 (36 O.S. Supp. 2008,
20 Section 3636), is amended to read as follows:

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

28 B. The policy referred to in subsection A of this section shall
29 provide coverage therein or supplemental thereto for the protection

1 of persons insured thereunder who are legally entitled to recover
2 damages from owners or operators of uninsured motor vehicles and
3 hit-and-run motor vehicles because of bodily injury, sickness or
4 disease, including death resulting therefrom. Coverage shall be not
5 less than the amounts or limits prescribed for bodily injury or
6 death for a policy meeting the requirements of Section 7-204 of
7 Title 47 of the Oklahoma Statutes, as the same may be hereafter
8 amended; provided, however, that increased limits of liability shall
9 be offered and purchased if desired, not to exceed the limits
10 provided in the policy of bodily injury liability of the insured.
11 The uninsured motorist coverage shall be upon a form approved by the
12 Insurance Commissioner as otherwise provided in the Insurance Code
13 and may provide that the parties to the contract shall, upon demand
14 of either, submit their differences to arbitration; provided, that
15 if agreement by arbitration is not reached within three (3) months
16 from date of demand, the insured may sue the tort-feasor.

17 C. For the purposes of this coverage the term "uninsured motor
18 vehicle" shall include an insured motor vehicle where the liability
19 insurer thereof is unable to make payment with respect to the legal
20 liability of its insured within the limits specified therein because
21 of insolvency. For the purposes of this coverage the term
22 "uninsured motor vehicle" shall also include an insured motor
23 vehicle, the liability limits of which are less than the amount of

1 the claim of the person or persons making such claim, regardless of
2 the amount of coverage of either of the parties in relation to each
3 other.

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

11 E. For purposes of this section, there is no coverage for any
12 insured while occupying a motor vehicle owned by, or furnished or
13 available for the regular use of the named insured, a resident
14 spouse of the named insured, or a resident relative of the named
15 insured, if such motor vehicle is not insured by a motor vehicle
16 insurance policy.

17 F. In the event of payment to any person under the coverage
18 required by this section and subject to the terms and conditions of
19 such coverage, the insurer making such payment shall, to the extent
20 thereof, be entitled to the proceeds of any settlement or judgment
21 resulting from the exercise of any rights of recovery of such person
22 against any person or organization legally responsible for the
23 bodily injury for which such payment is made, including the proceeds

1 recoverable from the assets of the insolvent insurer. Provided,
2 however, with respect to payments made by reason of the coverage
3 described in subsection C of this section, the insurer making such
4 payment shall not be entitled to any right of recovery against such
5 tort-feasor in excess of the proceeds recovered from the assets of
6 the insolvent insurer of said tort-feasor. Provided further, that
7 any payment made by the insured tort-feasor shall not reduce or be a
8 credit against the total liability limits as provided in the
9 insured's own uninsured motorist coverage. Provided further, that
10 if a tentative agreement to settle for liability limits has been
11 reached with an insured tort-feasor, written notice shall be given
12 by certified mail to the uninsured motorist coverage insurer by its
13 insured. Such written notice shall include:

- 14 1. Written documentation of pecuniary losses incurred,
15 including copies of all medical bills; and
- 16 2. Written authorization or a court order to obtain reports
17 from all employers and medical providers. Within sixty (60) days of
18 receipt of this written notice, the uninsured motorist coverage
19 insurer may substitute its payment to the insured for the tentative
20 settlement amount. The uninsured motorist coverage insurer shall
21 then be entitled to the insured's right of recovery to the extent of
22 such payment and any settlement under the uninsured motorist
23 coverage. If the uninsured motorist coverage insurer fails to pay

1 the insured the amount of the tentative tort settlement within sixty
2 (60) days, the uninsured motorist coverage insurer has no right to
3 the proceeds of any settlement or judgment, as provided herein, for
4 any amount paid under the uninsured motorist coverage.

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

12 H. ~~Notwithstanding the provisions of this section, the~~
13 ~~following are the only instances in which a new form affecting~~
14 ~~uninsured motorist coverage shall be required.~~

15 1. ~~When an insurer is notified of a change in or an additional~~
16 ~~named insured,~~

17 2. ~~When there is an additional vehicle that is not a~~
18 ~~replacement vehicle, provided, a new form shall not be required for~~
19 ~~the addition, substitution or deletion of a vehicle from a~~
20 ~~commercial automobile liability policy; or~~

21 3. ~~When the amount of bodily injury liability coverage is~~
22 ~~amended. Provided, any change in premium alone shall not require~~
23 ~~the issuance~~ The form signed by the insured or applicant which

1 initially rejects coverage or selects lower limits shall remain
2 valid for the life of the policy and the completion of a new
3 selection form shall not be required when a renewal, reinstatement,
4 substitute, replacement, or amended policy is issued to the same-
5 named insured by the same insurer or any of its affiliates. Any
6 changes to an existing policy, regardless of whether these changes
7 create new coverage, do not create a new policy and do not require
8 the completion of a new form.

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

20 ~~F.~~ H. Effective for forms required before April 1, 2005, the
21 offer of the coverage required by subsection B of this section shall
22 be in the following form which shall be filed with and approved by
23 the Insurance Commissioner. The form shall be provided to the

1 proposed insured in writing separately from the application and
2 shall read substantially as follows:

3 OKLAHOMA UNINSURED MOTORIST COVERAGE LAW

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

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

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

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

3 ~~2. You may buy Uninsured Motorist coverage in the amount of~~
4 ~~\$10,000.00 for each person injured, not to exceed \$20,000.00 for two~~
5 ~~or more persons injured in one occurrence (the smallest coverage~~
6 ~~which Oklahoma law allows) for \$_____ for _____ months.~~

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

10 ~~4. You may reject Uninsured Motorist coverage.~~

11 Please indicate by indicating below what Uninsured Motorist
12 coverage you want:

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

15 _____ I want minimum Uninsured Motorist coverage (~~\$10,000.00~~
16 \$25,000 per person/~~\$20,000.00~~ \$50,000 per occurrence).

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

19 _____ I want to reject Uninsured Motorist coverage.

20 _____
21 Proposed Insured

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

1 person. Uninsured Motorist coverage, unless otherwise provided in
2 your policy, protects you and family members who live with you while
3 riding in any vehicle or while a pedestrian. THE COST OF THIS
4 COVERAGE IS SMALL COMPARED WITH THE BENEFITS!

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

7 ~~1. You may buy Uninsured Motorist coverage equal to your bodily~~
8 ~~injury liability coverage for \$_____ for _____ months.~~

9 ~~2. You may buy Uninsured Motorist coverage in the amount of~~
10 ~~\$25,000.00 for each person injured, not to exceed \$50,000.00 for two~~
11 ~~or more persons injured in one occurrence (the smallest coverage~~
12 ~~which Oklahoma allows) for \$_____ for _____ months.~~

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

16 ~~4. You may reject Uninsured Motorist coverage. by indicating~~
17 ~~below what Uninsured Motorist coverage you want:~~

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

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

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

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

12 SECTION 2. REPEALER 47 O.S. 2001, Section 7-608, as
13 amended by Section 7, Chapter 322, O.S.L. 2006 (47 O.S. Supp. 2008,
14 Section 7-608), is hereby repealed.

15 SECTION 3. This act shall become effective November 1, 2009.

16 COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT & INSURANCE, dated
17 2-12-09 - DO PASS, As Coauthored.