

1 ENGROSSED SENATE
2 BILL NO. 991

By: Stanislawski of the Senate

3 and

4 Osborn of the House

5
6 An Act relating to insurance; amending 36 O.S. 2011,
7 Section 3636, which relates to uninsured motorist
8 insurance coverage requirements; prohibiting the
9 stacking of certain insurance policies; and providing
10 an effective date.

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

12 SECTION 1. AMENDATORY 36 O.S. 2011, Section 3636, is
13 amended to read as follows:

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

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

1 hit-and-run motor vehicles because of bodily injury, sickness or
2 disease, including death resulting therefrom. Coverage shall be not
3 less than the amounts or limits prescribed for bodily injury or
4 death for a policy meeting the requirements of Section 7-204 of
5 Title 47 of the Oklahoma Statutes, as the same may be hereafter
6 amended; provided, however, that increased limits of liability shall
7 be offered and purchased if desired, not to exceed the limits
8 provided in the policy of bodily injury liability of the insured.
9 However, for policies issued prior to January 1, 2014, insurers
10 shall not increase the limits of liability by the stacking of
11 policies, wherein coverage of multiple motor vehicles is combined to
12 increase the payment limits for owners of multiple vehicles involved
13 in an accident with an uninsured or underinsured motorist. The
14 uninsured motorist coverage shall be upon a form approved by the
15 Insurance Commissioner as otherwise provided in the Insurance Code
16 and may provide that the parties to the contract shall, upon demand
17 of either, submit their differences to arbitration; provided, that
18 if agreement by arbitration is not reached within three (3) months
19 from date of demand, the insured may sue the tort-feasor.

20 C. For the purposes of this coverage the term "uninsured motor
21 vehicle" shall include an insured motor vehicle where the liability
22 insurer thereof is unable to make payment with respect to the legal
23 liability of its insured within the limits specified therein because
24 of insolvency. For the purposes of this coverage the term

1 "uninsured motor vehicle" shall also include an insured motor
2 vehicle, the liability limits of which are less than the amount of
3 the claim of the person or persons making such claim, regardless of
4 the amount of coverage of either of the parties in relation to each
5 other.

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

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

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

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

- 15 1. Written documentation of pecuniary losses incurred,
16 including copies of all medical bills; and
- 17 2. Written authorization or a court order to obtain reports
18 from all employers and medical providers. Within sixty (60) days of
19 receipt of this written notice, the uninsured motorist coverage
20 insurer may substitute its payment to the insured for the tentative
21 settlement amount. The uninsured motorist coverage insurer shall
22 then be entitled to the insured's right of recovery to the extent of
23 such payment and any settlement under the uninsured motorist
24 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. The form signed by the
7 insured or applicant which initially rejects coverage or selects
8 lower limits shall remain valid for the life of the policy and the
9 completion of a new selection form shall not be required when a
10 renewal, reinstatement, substitute, replacement, or amended policy
11 is issued to the same-named insured by the same insurer or any of
12 its affiliates. Any changes to an existing policy, regardless of
13 whether these changes create new coverage, do not create a new
14 policy and do not require the completion of a new form.

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

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

9 OKLAHOMA UNINSURED MOTORIST COVERAGE LAW

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

17 Uninsured Motorist coverage, unless otherwise provided in your
18 policy, pays for bodily injury damages to you, members of your
19 family who live with you, and other people riding in your car who
20 are injured by: (1) an uninsured motorist, (2) a hit-and-run
21 motorist, or (3) an insured motorist who does not have enough
22 liability insurance to pay for bodily injury damages to any insured
23 person. Uninsured Motorist coverage, unless otherwise provided in
24 your policy, protects you and family members who live with you while

1 riding in any vehicle or while a pedestrian. THE COST OF THIS
2 COVERAGE IS SMALL COMPARED WITH THE BENEFITS!

3 You may make one of four choices about Uninsured Motorist
4 Coverage by indicating below what Uninsured Motorist coverage you
5 want:

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

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

10 _____ I want Uninsured Motorist coverage in the following amount:

11 \$_____ per person/\$_____ per occurrence.

12 _____ I want to reject Uninsured Motorist coverage.

13 _____

14 Proposed Insured

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

17 I. The Insurance Commissioner shall approve a deviation from
18 the form described in subsection H of this section if the form
19 includes substantially the same information.

20 J. A change in the bodily injury liability coverage due to a
21 change in the amount or limits prescribed for bodily injury or death
22 by a policy meeting the requirements of Section 7-204 of Title 47 of
23 the Oklahoma Statutes shall not be considered an amendment of the
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1 bodily injury liability coverage and shall not require the
2 completion of a new form.

3 K. On the first renewal on or after April 1, 2005, the insurer
4 shall change the Uninsured Motorist coverage limits to \$25,000.00
5 per person/\$50,000.00 per occurrence and charge the corresponding
6 premium for existing policyholders who have selected Uninsured
7 Motorist coverage limits less than \$25,000.00 per person/\$50,000.00
8 per occurrence. At the first renewal on or after April 1, 2005, the
9 insurer shall provide existing policyholders who have selected
10 Uninsured Motorist coverage limits less than \$25,000.00 per
11 person/\$50,000.00 per occurrence a notice of the change of their
12 Uninsured Motorist coverage limits and that notice shall state how
13 such policyholders may reject Uninsured Motorist coverage limits or
14 select Uninsured Motorist coverage with limits higher than
15 \$25,000.00 per person/\$50,000.00 per occurrence. No notice shall be
16 required to existing policyholders who have rejected Uninsured
17 Motorist coverage or have selected Uninsured Motorist coverage
18 limits equal to or greater than \$25,000.00 per person/\$50,000.00 per
19 occurrence. For purposes of this subsection an existing
20 policyholder is a policyholder who purchased a policy from the
21 insurer before April 1, 2005, and such policy renews on or after
22 April 1, 2005.

23 SECTION 2. This act shall become effective November 1, 2013.

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1 Passed the Senate the 11th day of March, 2013.

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3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2013.

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8 _____
9 Presiding Officer of the House
10 of Representatives