

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 54th Legislature (2014)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 991

By: Stanislawski of the Senate

and

Mulready and Osborn of the
House

10 COMMITTEE SUBSTITUTE

11 An Act relating to insurance; amending 36 O.S. 2011,
12 Section 3636, which relates to uninsured motorist
13 insurance coverage requirements; prohibiting the
14 stacking of certain insurance policies; and providing
15 an effective date.

16
17 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

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

1 garaged in this state unless the policy includes the coverage
2 described in subsection B of this section.

3 B. The policy referred to in subsection A of this section shall
4 provide coverage therein or supplemental thereto for the protection
5 of persons insured thereunder who are legally entitled to recover
6 damages from owners or operators of uninsured motor vehicles and
7 hit-and-run motor vehicles because of bodily injury, sickness or
8 disease, including death resulting therefrom. Coverage shall be not
9 less than the amounts or limits prescribed for bodily injury or
10 death for a policy meeting the requirements of Section 7-204 of
11 Title 47 of the Oklahoma Statutes, as the same may be hereafter
12 amended; provided, however, that increased limits of liability shall
13 be offered and purchased if desired, not to exceed the limits
14 provided in the policy of bodily injury liability of the insured.
15 Policies issued, renewed or reinstated after November 1, 2014, shall
16 not be subject to stacking or aggregation of limits unless expressly
17 provided for by an insurance carrier. The uninsured motorist
18 coverage shall be upon a form approved by the Insurance Commissioner
19 as otherwise provided in the Insurance Code and may provide that the
20 parties to the contract shall, upon demand of either, submit their
21 differences to arbitration; provided, that if agreement by
22 arbitration is not reached within three (3) months from date of
23 demand, the insured may sue the tort-feasor.

1 C. For the purposes of this coverage the term "uninsured motor
2 vehicle" shall include an insured motor vehicle where the liability
3 insurer thereof is unable to make payment with respect to the legal
4 liability of its insured within the limits specified therein because
5 of insolvency. For the purposes of this coverage the term
6 "uninsured motor vehicle" shall also include an insured motor
7 vehicle, the liability limits of which are less than the amount of
8 the claim of the person or persons making such claim, regardless of
9 the amount of coverage of either of the parties in relation to each
10 other.

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

18 E. For purposes of this section, there is no coverage for any
19 insured while occupying a motor vehicle owned by, or furnished or
20 available for the regular use of the named insured, a resident
21 spouse of the named insured, or a resident relative of the named
22 insured, if such motor vehicle is not insured by a motor vehicle
23 insurance policy.

24

1 F. In the event of payment to any person under the coverage
2 required by this section and subject to the terms and conditions of
3 such coverage, the insurer making such payment shall, to the extent
4 thereof, be entitled to the proceeds of any settlement or judgment
5 resulting from the exercise of any rights of recovery of such person
6 against any person or organization legally responsible for the
7 bodily injury for which such payment is made, including the proceeds
8 recoverable from the assets of the insolvent insurer. Provided,
9 however, with respect to payments made by reason of the coverage
10 described in subsection C of this section, the insurer making such
11 payment shall not be entitled to any right of recovery against such
12 tort-feasor in excess of the proceeds recovered from the assets of
13 the insolvent insurer of said tort-feasor. Provided further, that
14 any payment made by the insured tort-feasor shall not reduce or be a
15 credit against the total liability limits as provided in the
16 insured's own uninsured motorist coverage. Provided further, that
17 if a tentative agreement to settle for liability limits has been
18 reached with an insured tort-feasor, written notice shall be given
19 by certified mail to the uninsured motorist coverage insurer by its
20 insured. Such written notice shall include:

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

23 2. Written authorization or a court order to obtain reports
24 from all employers and medical providers. Within sixty (60) days of

1 receipt of this written notice, the uninsured motorist coverage
2 insurer may substitute its payment to the insured for the tentative
3 settlement amount. The uninsured motorist coverage insurer shall
4 then be entitled to the insured's right of recovery to the extent of
5 such payment and any settlement under the uninsured motorist
6 coverage. If the uninsured motorist coverage insurer fails to pay
7 the insured the amount of the tentative tort settlement within sixty
8 (60) days, the uninsured motorist coverage insurer has no right to
9 the proceeds of any settlement or judgment, as provided herein, for
10 any amount paid under the uninsured motorist coverage.

11 G. A named insured or applicant shall have the right to reject
12 uninsured motorist coverage in writing. The form signed by the
13 insured or applicant which initially rejects coverage or selects
14 lower limits shall remain valid for the life of the policy and the
15 completion of a new selection form shall not be required when a
16 renewal, reinstatement, substitute, replacement, or amended policy
17 is issued to the same-named insured by the same insurer or any of
18 its affiliates. Any changes to an existing policy, regardless of
19 whether these changes create new coverage, do not create a new
20 policy and do not require the completion of a new form.

21 After selection of limits, rejection, or exercise of the option
22 not to purchase uninsured motorist coverage by a named insured or
23 applicant for insurance, the insurer shall not be required to notify
24 any insured in any renewal, reinstatement, substitute, amended or

1 replacement policy as to the availability of such uninsured motorist
2 coverage or such optional limits. Such selection, rejection, or
3 exercise of the option not to purchase uninsured motorist coverage
4 by a named insured or an applicant shall be valid for all insureds
5 under the policy and shall continue until a named insured requests
6 in writing that the uninsured motorist coverage be added to an
7 existing or future policy of insurance.

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

14 OKLAHOMA UNINSURED MOTORIST COVERAGE LAW

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

22 Uninsured Motorist coverage, unless otherwise provided in your
23 policy, pays for bodily injury damages to you, members of your
24 family who live with you, and other people riding in your car who

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

8 You may make one of four choices about Uninsured Motorist
9 Coverage by indicating below what Uninsured Motorist coverage you
10 want:

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

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

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

17 _____ I want to reject Uninsured Motorist coverage.

18 _____
19 Proposed Insured

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

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

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

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

1 insurer before April 1, 2005, and such policy renews on or after
2 April 1, 2005.

3 SECTION 2. This act shall become effective November 1, 2014.
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5 COMMITTEE REPORT BY: COMMITTEE ON INSURANCE, dated 04/08/2014 - DO
6 PASS, As Amended and Coauthored.
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