

SENATE FLOOR VERSION

February 14, 2013

SENATE BILL NO. 991

By: Stanislawski of the Senate

and

Osborn of the House

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

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

SECTION 1. AMENDATORY 36 O.S. 2011, 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

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 However, insurers shall not increase the limits of liability by the
12 stacking of policies, wherein coverage of multiple motor vehicles is
13 combined to increase the payment limits for owners of multiple
14 vehicles involved in an accident with an uninsured or underinsured
15 motorist. The uninsured motorist coverage shall be upon a form
16 approved by the Insurance Commissioner as otherwise provided in the
17 Insurance Code and may provide that the parties to the contract
18 shall, upon demand of either, submit their differences to
19 arbitration; provided, that if agreement by arbitration is not
20 reached within three (3) months from date of demand, the insured may
21 sue the tort-feasor.

22 C. For the purposes of this coverage the term "uninsured motor
23 vehicle" shall include an insured motor vehicle where the liability
24 insurer thereof is unable to make payment with respect to the legal

1 liability of its insured within the limits specified therein because
2 of insolvency. For the purposes of this coverage the term
3 "uninsured motor vehicle" shall also include an insured motor
4 vehicle, the liability limits of which are less than the amount of
5 the claim of the person or persons making such claim, regardless of
6 the amount of coverage of either of the parties in relation to each
7 other.

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

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

21 F. In the event of payment to any person under the coverage
22 required by this section and subject to the terms and conditions of
23 such coverage, the insurer making such payment shall, to the extent
24 thereof, be entitled to the proceeds of any settlement or judgment

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

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

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

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

17 After selection of limits, rejection, or exercise of the option
18 not to purchase uninsured motorist coverage by a named insured or
19 applicant for insurance, the insurer shall not be required to notify
20 any insured in any renewal, reinstatement, substitute, amended or
21 replacement policy as to the availability of such uninsured motorist
22 coverage or such optional limits. Such selection, rejection, or
23 exercise of the option not to purchase uninsured motorist coverage
24 by a named insured or an applicant shall be valid for all insureds

1 under the policy and shall continue until a named insured requests
2 in writing that the uninsured motorist coverage be added to an
3 existing or future policy of insurance.

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

10 OKLAHOMA UNINSURED MOTORIST COVERAGE LAW

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

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

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

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

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

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

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

13 _____ I want to reject Uninsured Motorist coverage.

14 _____

15 Proposed Insured

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

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

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

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 COMMITTEE REPORT BY: COMMITTEE ON INSURANCE
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