

1 ENGROSSED SENATE
2 BILL NO. 1321

By: Quinn of the Senate

3 and

4 Moore of the House

5
6 [motor vehicle insurance - uninsured motorist
7 coverage - effective date]
8
9

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

11 SECTION 1. AMENDATORY 36 O.S. 2011, Section 3636, as
12 amended by Section 1, Chapter 307, O.S.L. 2014 (36 O.S. Supp. 2017,
13 Section 3636), is 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 Policies issued, renewed or reinstated after November 1, 2014, shall
10 not be subject to stacking or aggregation of limits unless expressly
11 provided for by an insurance carrier. The uninsured motorist
12 coverage shall be upon a form approved by the Insurance Commissioner
13 as otherwise provided in the Insurance Code and may provide that the
14 parties to the contract shall, upon demand of either, submit their
15 differences to arbitration; provided, that if agreement by
16 arbitration is not reached within three (3) months from date of
17 demand, the insured may sue the tort-feasor.

18 C. For the purposes of this coverage the term "uninsured motor
19 vehicle" shall include an insured motor vehicle where the liability
20 insurer thereof is unable to make payment with respect to the legal
21 liability of its insured within the limits specified therein because
22 of insolvency. For the purposes of this coverage the term
23 "uninsured motor vehicle" shall also include an ~~insured~~ underinsured
24 motor vehicle⁷. An "underinsured motor vehicle" is one for which

1 the ~~liability~~ aggregate limits of all applicable liability policies
2 ~~which~~ are less than the amount ~~of the claim of~~ to which the person
3 or persons making such claim are legally entitled to recover,
4 regardless of the amount of coverage of either of the ~~parties~~
5 policies in relation to each other. Uninsured motorist coverage
6 must provide for payment to the insured of all amounts the insured
7 is legally entitled to recover as damages from the owner or
8 operators of an underinsured motor vehicle, not to exceed the limit
9 specified in the insurance policy, after recovery of all applicable
10 bodily injury liability coverage.

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.

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 recover the amount paid from the tort-feasor
5 and all applicable liability coverage. In addition, should suit be
6 initiated by the insured, the insurer shall be entitled to the
7 proceeds of any settlement or judgment resulting from the exercise
8 of any rights of recovery of such person against any person or
9 organization legally responsible for the bodily injury for which
10 such payment is made, including the proceeds recoverable from the
11 assets of the insolvent insurer. ~~Provided, however, with respect to~~
12 ~~payments made by reason of the coverage described in subsection C of~~
13 ~~this section,~~ However, when an uninsured motorist insurer must make
14 payment due to the insolvency of the tort-feasor's liability
15 insurer, the uninsured motorist insurer making such payment shall
16 not be entitled to any right of recovery against such tort-feasor
17 for any amount in excess of the proceeds recovered from the assets
18 of the insolvent insurer of said tort-feasor. Provided further,
19 that any payment made by the insured tort-feasor shall not reduce or
20 be a credit against the total liability limits as provided in the
21 insured's own uninsured motorist coverage. Provided further, that
22 if a tentative agreement to settle for liability limits has been
23 reached with an insured tort-feasor, written notice shall be given
24

1 by certified mail to the uninsured motorist coverage insurer by its
2 insured. Such written notice shall include:

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

5 2. Written authorization or a court order to obtain reports
6 from all employers and medical providers. Within sixty (60) days of
7 receipt of this written notice, the uninsured motorist coverage
8 insurer may substitute its payment to the insured for the tentative
9 settlement amount. The uninsured motorist coverage insurer shall
10 then be entitled to the insured's right of recovery to the extent of
11 such payment and any settlement under the uninsured motorist
12 coverage. If the uninsured motorist coverage insurer fails to pay
13 the insured the amount of the tentative tort settlement within sixty
14 (60) days, the uninsured motorist coverage insurer has no right to
15 the proceeds of any settlement or judgment, as provided herein, for
16 any amount paid under the uninsured motorist coverage.

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

1 whether these changes create new coverage, do not create a new
2 policy and do not require the completion of a new form.

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

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

20 OKLAHOMA UNINSURED MOTORIST COVERAGE LAW

21 Oklahoma law gives you the right to buy Uninsured Motorist
22 coverage in the same amount as your bodily injury liability
23 coverage. THE LAW REQUIRES US TO ADVISE YOU OF THIS VALUABLE RIGHT
24 FOR THE PROTECTION OF YOU, MEMBERS OF YOUR FAMILY, AND OTHER PEOPLE

1 WHO MAY BE HURT WHILE RIDING IN YOUR INSURED VEHICLE. YOU SHOULD
2 SERIOUSLY CONSIDER BUYING THIS COVERAGE IN THE SAME AMOUNT AS YOUR
3 LIABILITY INSURANCE COVERAGE LIMIT.

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

14 You may make one of four choices about Uninsured Motorist
15 Coverage by indicating below what Uninsured Motorist coverage you
16 want:

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

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

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

23 ____ I want to reject Uninsured Motorist coverage.

24 _____

1 Proposed Insured

2 THIS FORM IS NOT A PART OF YOUR POLICY AND DOES NOT PROVIDE
3 COVERAGE.

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

7 J. A change in the bodily injury liability coverage due to a
8 change in the amount or limits prescribed for bodily injury or death
9 by a policy meeting the requirements of Section 7-204 of Title 47 of
10 the Oklahoma Statutes shall not be considered an amendment of the
11 bodily injury liability coverage and shall not require the
12 completion of a new form.

13 K. On the first renewal on or after April 1, 2005, the insurer
14 shall change the Uninsured Motorist coverage limits to \$25,000.00
15 per person/\$50,000.00 per occurrence and charge the corresponding
16 premium for existing policyholders who have selected Uninsured
17 Motorist coverage limits less than \$25,000.00 per person/\$50,000.00
18 per occurrence. At the first renewal on or after April 1, 2005, the
19 insurer shall provide existing policyholders who have selected
20 Uninsured Motorist coverage limits less than \$25,000.00 per
21 person/\$50,000.00 per occurrence a notice of the change of their
22 Uninsured Motorist coverage limits and that notice shall state how
23 such policyholders may reject Uninsured Motorist coverage limits or
24 select Uninsured Motorist coverage with limits higher than

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

9 SECTION 2. This act shall become effective November 1, 2018.

10 Passed the Senate the 15th day of March, 2018.

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12 _____
13 Presiding Officer of the Senate

14 Passed the House of Representatives the ____ day of _____,
15 2018.

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18 Presiding Officer of the House
19 of Representatives
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