
HOUSE BILL 2319

State of Washington

55th Legislature

1998 Regular Session

By Representatives L. Thomas and Chandler

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1 AN ACT Relating to underinsured motor vehicle insurance coverage;
2 and amending RCW 48.22.030.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 48.22.030 and 1985 c 328 s 1 are each amended to read
5 as follows:

6 (1) "Underinsured motor vehicle" means a motor vehicle with respect
7 to the ownership, maintenance, or use of which either no bodily injury
8 or property damage liability bond or insurance policy applies at the
9 time of an accident, or with respect to which the sum of the limits of
10 liability under all bodily injury or property damage liability bonds
11 and insurance policies applicable to a covered person after an accident
12 is less than the applicable damages which the covered person is legally
13 entitled to recover.

14 (2) No new policy or renewal of an existing policy insuring against
15 loss resulting from liability imposed by law for bodily injury, death,
16 or property damage, suffered by any person arising out of the
17 ownership, maintenance, or use of a motor vehicle shall be issued with
18 respect to any motor vehicle registered or principally garaged in this
19 state unless coverage is provided therein or supplemental thereto for

1 the protection of persons insured thereunder who are legally entitled
2 to recover damages from owners or operators of underinsured motor
3 vehicles, hit-and-run motor vehicles, and phantom vehicles because of
4 bodily injury, death, or property damage, resulting therefrom, except
5 while operating or occupying a motorcycle or motor-driven cycle, and
6 except while operating or occupying a motor vehicle owned or available
7 for the regular use by the named insured or any family member, and
8 which is not insured under the liability coverage of the policy. The
9 coverage required to be offered under this chapter is not applicable to
10 general liability policies, commonly known as umbrella policies, or
11 other policies which apply only as excess to the insurance directly
12 applicable to the vehicle insured.

13 (3) Except as to property damage, coverage required under
14 subsection (2) of this section shall be in the same amount as the
15 insured's third party liability coverage unless the insured rejects all
16 or part of the coverage as provided in subsection (4) of this section.
17 Coverage for property damage need only be issued in conjunction with
18 coverage for bodily injury or death. Property damage coverage required
19 under subsection (2) of this section shall mean physical damage to the
20 insured motor vehicle unless the policy specifically provides coverage
21 for the contents thereof or other forms of property damage.

22 (4) A named insured or spouse may reject, in writing, underinsured
23 coverage for bodily injury or death, or property damage, and the
24 requirements of subsections (2) and (3) of this section shall not
25 apply. If a named insured or spouse has rejected underinsured
26 coverage, such coverage shall not be included in any supplemental or
27 renewal policy unless a named insured or spouse subsequently requests
28 such coverage in writing. The requirement of a written rejection under
29 this subsection shall apply only to the original issuance of policies
30 issued after July 24, 1983, and not to any renewal or replacement
31 policy.

32 (5) The limit of liability under the policy coverage may be defined
33 as the maximum limits of liability for all damages resulting from any
34 one accident regardless of the number of covered persons, claims made,
35 or vehicles or premiums shown on the policy, or premiums paid, or
36 vehicles involved in an accident.

37 (6)(a) The policy may provide that if an injured person has other
38 similar insurance available to him under other policies, the total

1 limits of liability of all coverages shall not exceed the higher of the
2 applicable limits of the respective coverages.

3 (b) The policy may include options under the policy coverage
4 described in this section to provide that:

5 (i) The covered person may accept benefits under the policy without
6 exhausting the available liability insurance; or

7 (ii) The covered person must first exhaust the available liability
8 insurance of the owners and operators whose fault is the basis for the
9 covered person's claim to the extent that:

10 (A) The owners or operators have applicable liability insurance;
11 and

12 (B) The covered person is legally entitled to recover from the
13 owners or operators whose fault is the basis for the covered person's
14 claim.

15 (7)(a) The policy may provide for a deductible of not more than
16 three hundred dollars for payment for property damage when the damage
17 is caused by a hit-and-run driver or a phantom vehicle.

18 (b) In all other cases of underinsured property damage coverage,
19 the policy may provide for a deductible of not more than one hundred
20 dollars.

21 (8) For the purposes of this chapter, a "phantom vehicle" shall
22 mean a motor vehicle which causes bodily injury, death, or property
23 damage to an insured and has no physical contact with the insured or
24 the vehicle which the insured is occupying at the time of the accident
25 if:

26 (a) The facts of the accident can be corroborated by competent
27 evidence other than the testimony of the insured or any person having
28 an underinsured motorist claim resulting from the accident; and

29 (b) The accident has been reported to the appropriate law
30 enforcement agency within seventy-two hours of the accident.

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