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**HOUSE BILL 2782**

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**State of Washington 66th Legislature 2020 Regular Session**

**By** Representative Kirby

AN ACT Relating to automobile insurance policies; amending RCW 48.22.030; and adding a new section to chapter 48.22 RCW.

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

**Sec.**  RCW 48.22.030 and 2015 c 236 s 7 are each amended to read as follows:

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

(2) No new policy or renewal of an existing policy insuring against loss resulting from liability imposed by law for bodily injury, death, or property damage, suffered by any person arising out of the ownership, maintenance, or use of a motor vehicle shall be issued with respect to any motor vehicle registered or principally garaged in this state unless coverage is provided therein or supplemental thereto for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of underinsured motor vehicles, hit-and-run motor vehicles, and phantom vehicles because of bodily injury, death, or ((~~property~~)) physical damage to the insured motor vehicle, resulting therefrom, except while operating or occupying a motorcycle or motor-driven cycle, and except while operating or occupying a motor vehicle owned or available for the regular use by the named insured or any family member, and which is not insured under the liability coverage of the policy. The coverage required to be offered under this chapter is not applicable to general liability policies, commonly known as umbrella policies, or other policies which apply only as excess to the insurance directly applicable to the vehicle insured.

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

(4) A named insured or spouse may reject, in writing, underinsured coverage for bodily injury or death, or property damage, and the requirements of subsections (2) and (3) of this section shall not apply. If a named insured or spouse has rejected underinsured coverage, such coverage shall not be included in any supplemental or renewal policy unless a named insured or spouse subsequently requests such coverage in writing. The requirement of a written rejection under this subsection shall apply only to the original issuance of policies issued after July 24, 1983, and not to any renewal or replacement policy. ((~~When a named insured or spouse chooses a property damage coverage that is less than the insured's third party liability coverage for property damage, a written rejection is not required.~~))

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

(6) The policy may provide that if an injured person has other similar insurance available to him or her under other policies, the total limits of liability of all coverages shall not exceed the higher of the applicable limits of the respective coverages.

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

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

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

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

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

(9) An insurer who elects to write motorcycle or motor-driven cycle insurance in this state must provide information to prospective insureds about the coverage.

(10) An insurer who elects to write motorcycle or motor-driven cycle insurance in this state must provide an opportunity for named insureds, who have purchased liability coverage for a motorcycle or motor-driven cycle, to reject underinsured coverage for that motorcycle or motor-driven cycle in writing.

(11) If the covered person seeking underinsured motorist coverage under this section was the intended victim of the tort feasor, the incident must be reported to the appropriate law enforcement agency and the covered person must cooperate with any related law enforcement investigation.

(12) The purpose of this section is to protect innocent victims of motorists of underinsured motor vehicles. Covered persons are entitled to coverage without regard to whether an incident was intentionally caused. However, a person is not entitled to coverage if the insurer can demonstrate that the covered person intended to cause the event for which a claim is made under the coverage described in this section. As used in this section, and in the section of policies providing the underinsured motorist coverage described in this section, "accident" means an occurrence that is unexpected and unintended from the standpoint of the covered person.

(13) The coverage under this section may be excluded as provided for under RCW 48.177.010(6).

(14) "Underinsured coverage," for the purposes of this section, means coverage for "underinsured motor vehicles," as defined in subsection (1) of this section.

NEW SECTION. **Sec.**  A new section is added to chapter 48.22 RCW to read as follows:

(1) For the purposes of this section, "basic contract of automobile insurance" means any automobile insurance policy that includes first-party coverage for automobile physical damage.

(2) Every basic contract of automobile insurance must contain the following language: "When an automobile is deemed repairable, [the insurance carrier] will pay to restore the vehicle to its condition prior to the loss, including paying for repairs that follow the original equipment vehicle manufacturer's instructions and/or guidelines."

(3) Payment of a claim under a basic contract of automobile insurance for automobile physical damage must be based upon the reasonable and necessary costs at the claimant's chosen repair facility. The insurance company has the burden to prove unreasonableness of vehicle repair procedures and/or charges.

(4) Nothing in this section mandates, per se, that an insurance company pay for parts supplied by the original equipment manufacturer, except to the extent that the use of alternate parts would fail to restore the vehicle to its condition prior to the loss.

(5) Every basic contract of automobile insurance must include a provision for the right to an appraisal to resolve disputes between the insurer and the insured regarding the actual cash value and all losses. The policy's appraisal clause must read as follows:

"(a) If we [the insurance carrier] and you [the policyholder] are unable to agree as to the amount of loss, either party may make a written demand for an appraisal, and within ten days each party must select a competent appraiser and notify the other party of its selection;

(b) The selected appraisers must appoint a competent and disinterested umpire. If the appraisers do not appoint a competent and disinterested umpire within fifteen days, either party may request that a judge of a court of competent jurisdiction in the venue identified in the policy select an umpire;

(c) The appraisers must then appraise the loss, making separate findings regarding the amount of loss for each element of loss, and submit their differences to the umpire only if they are unable to agree on the losses;

(d) The amount of loss must be determined by agreement of the appraisers, or by agreement of one appraiser and the umpire; and

(e) Each party is responsible for expenses of the appraisal, and each party is equally responsible for the cost of the umpire. However, we [the insurance carrier] will reimburse you [the policyholder] for the costs of the appraisal process when the amount of loss determined through the appraisal process is greater than the amount of loss we adjusted before the appraisal process was invoked. Appraisal process costs include reasonable appraiser professional charges, reasonable attorneys' fees, and other necessary actual costs."

(6) A violation of this section constitutes a violation of RCW 48.30.015 and 19.86.020.

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