

SENATE BILL REPORT

SHB 2415

As Reported By Senate Committee On:
Financial Institutions, Housing & Consumer Protection, February 22, 2006

Title: An act relating to compensating the victims of uninsured and underinsured motorists.

Brief Description: Compensating the victims of uninsured and underinsured motorists.

Sponsors: House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Ericks, Roach, Kirby, Morrell, Green, Nixon, McDonald, Hasegawa, Conway, Simpson, Ormsby and Schual-Berke; by request of Insurance Commissioner).

Brief History: Passed House: 1/18/06, 96-0.

Committee Activity: Financial Institutions, Housing & Consumer Protection: 2/15/06, 2/22/06 [DPA].

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & CONSUMER PROTECTION

Majority Report: Do pass as amended.

Signed by Senators Fairley, Chair; Berkey, Vice Chair; Benson, Brandland, Finkbeiner, Franklin, Keiser, Schmidt and Spanel.

Staff: Jennifer Arnold (786-7471)

Background: Automobile insurance must include coverage for damages resulting from underinsured motor vehicles. An "underinsured motor vehicle" is defined as a vehicle in which the party legally responsible (by virtue of ownership, maintenance, or use) for the bodily injury or property damage has either no insurance or insufficient coverage to cover the full amount of the damage costs to which the injured party is legally entitled.

Existing statutes require underinsured motorist coverage to apply to "accidents." Under Washington State case law, an accident has been held to not be viewed through the eyes of the insured. It is not an accident for the purpose of coverage merely because the insured victim did not expect, nor intend, the event that caused the harm.

There are concerns that the current statutes regarding underinsured motorist insurance need to be amended to protect innocent victims. In order to clarify that insured persons, who are victims of the intentional acts of others, will be covered by their policy, it is believed that the term "accident" needs to be defined to provide coverage irregardless of the uninsured or underinsured person's intentions.

Summary of Amended Bill: For the purposes of underinsured motorist insurance, the term "accident" is defined. An "accident" is an occurrence that the person covered by the insurance did not expect or intend. Whether or not the underinsured person acted intentionally is

irrelevant in determining coverage. However, persons who intentionally cause the event themselves can be denied coverage.

A person covered by underinsured motorist insurance, who is the intended victim of a tortfeasor, must report the incident to the appropriate law enforcement agency and must cooperate with that agency's investigation.

Amended Bill Compared to Original Bill: It is clarified that a person is not entitled to underinsured motorist coverage when that person had the intent to cause an "event," rather than the intent to cause the "damage," for which coverage is sought. Technical corrections are made.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: There are grave concerns regarding underinsured motorist coverage, as it exists today. This bill makes necessary changes to protect innocent victims, such as Ethel Adams, from the acts of underinsured motorists. The Office of the Insurance Commissioner supports this bill. As a matter of public policy, an exception to the law enforcement reporting requirement should be made for persons that are in a coma as a result of the accident.

Testimony Against: None.

Who Testified: PRO: Mary Clogston, Office of the Insurance Commissioner; Carol Sureau, Office of the Insurance Commissioner; Jullie Fulle, citizen; Larry Shannon, Washington State Trial Lawyers Association.