
SUBSTITUTE HOUSE BILL 2860

State of Washington 52nd Legislature 1992 Regular Session

By House Committee on Financial Institutions & Insurance (originally sponsored by Representative R. Meyers)

Read first time 02/07/92.

1 AN ACT Relating to mandatory offering of personal injury protection
2 insurance; adding new sections to chapter 48.22 RCW; creating a new
3 section; and providing an effective date.

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

5 NEW SECTION. **Sec. 1.** Unless the context clearly requires
6 otherwise, the definitions in this section apply throughout this
7 chapter.

8 (1) "Automobile" means a self-propelled land motor vehicle or
9 trailer other than: (a) A farm-type tractor or other self-propelled
10 equipment designed for use principally off public roads, while not upon
11 public roads; (b) a vehicle operated on rails or crawler-treads; or (c)
12 a vehicle located for use as a residence.

1 (2) "Bodily injury" means bodily injury, sickness, or disease,
2 including death at any time resulting from the injury, sickness, or
3 disease.

4 (3) "Income continuation benefits" means payments of at least
5 eighty-five percent of the insured persons' loss of income from work,
6 because of bodily injury sustained by him or her in the accident,
7 during the period commencing fourteen days after the date of the
8 accident and ending at the earliest of the following: (a) The date on
9 which the insured person is reasonably able to perform the duties of
10 his or her usual occupation; (b) the expiration of not more than fifty-
11 two weeks from the fourteenth day; or (c) the date of the insured
12 person's death.

13 (4) "Insured automobile" means a private passenger automobile of
14 which the named insured is the owner, to which the motor vehicle
15 liability insurance policy applies.

16 (5) "Insured person" means:

17 (a) The named insured or a person who is a resident of the named
18 insured's household and is either related to the named insured by
19 blood, marriage, or adoption, or is the named insured's ward, foster
20 child, or stepchild; or

21 (b) A person, other than the named insured or a relative, who
22 sustains bodily injury caused by accident while: (i) Occupying the
23 insured automobile as a guest passenger; (ii) using the insured
24 automobile with the permission of the named insured; or (iii) a
25 pedestrian struck by the insured automobile.

26 (6) "Loss of services benefits" means reimbursement for payment to
27 others, not members of the insured person's household, for expenses
28 reasonably incurred for essential services in lieu of those the insured
29 person would have performed without income, provided the services are
30 actually rendered, and ending the earliest of the following: (a) The

1 date on which the insured person is reasonably able to perform the
2 duties of his or her usual occupation; (b) the expiration of not more
3 than fifty-two weeks; or (c) the date of the insured person's death.

4 (7) "Medical and hospital benefits" means payments for all
5 reasonable and necessary expenses incurred by or on behalf of the
6 insured person as a result of an accident for medical, surgical, x-ray,
7 and dental services, including pharmaceuticals, prosthetic devices and
8 eye glasses, and necessary ambulance, hospital, and professional
9 nursing service.

10 (8) "Motor vehicle liability insurance policy" means a policy
11 insuring against loss resulting from liability imposed by law for
12 bodily injury, death, or property damage suffered by a person and
13 arising out of the ownership, maintenance, or use of an insured
14 automobile.

15 (9) "Named insured" means the individual named in the declarations
16 of the policy and includes his or her spouse if a resident of the same
17 household.

18 (10) "Occupying" means in or upon or entering into or alighting
19 from.

20 (11) "Pedestrian" means a natural person not occupying an
21 automobile.

22 NEW SECTION. **Sec. 2.** A motor vehicle liability insurance
23 policy issued or renewed with respect to a private passenger
24 automobile, as defined in RCW 48.18.297, that is not primarily used in
25 the occupation, profession, or business of the insured, is not a motor
26 home, as defined in RCW 46.04.305, and is not a motorcycle or motor-
27 driven cycle, as defined in RCW 46.04.330 and 46.04.332, respectively,
28 registered or principally garaged in this state must provide personal
29 injury protection benefits for the reasonable and necessary medical and

1 hospital expenses, funeral expenses, income continuation, and loss of
2 services sustained by an insured because of bodily injury caused by a
3 motor vehicle accident unless the named insured or spouse has rejected
4 the coverage in writing.

5 NEW SECTION. **Sec. 3.** (1) Personal injury protection benefits
6 need not be provided for vendor's single interest policies, or general
7 liability policies, commonly known as umbrella policies, or other
8 policies that apply only as excess to the motor vehicle liability
9 policy directly applicable to the insured motor vehicle.

10 (2) Personal injury protection benefits need not be provided to or
11 on behalf of a person who: (a) Intentionally causes injury to himself
12 or herself; or (b) is injured while participating in a prearranged or
13 organized racing or speed contest or in practice or preparation for
14 such a contest.

15 (3) Personal injury protection benefits need not be provided for
16 income continuation benefits to or on behalf of a person who sustains
17 bodily injury in an accident that occurs outside this state, but this
18 exclusion does not apply to an insured person while occupying an
19 insured automobile.

20 (4) Personal injury protection benefits need not be provided for:

21 (a) Bodily injury due to war, whether or not declared, civil war,
22 insurrection, rebellion, or revolution, or to an act or condition
23 incident to the circumstances under this subsection (4)(a);

24 (b) Bodily injury resulting from the radioactive, toxic, explosive,
25 or other hazardous properties of nuclear material;

26 (c) The named insured or a relative while occupying an automobile
27 owned by the named insured or furnished for the named insured's regular
28 use and not insured for personal injury protection;

1 (d) A relative while occupying an automobile owned by the relative
2 or furnished for the relative's regular use; or

3 (e) Income continuation benefits to any person injured while
4 occupying or as a pedestrian struck by a nonowned or temporary
5 substitute automobile.

6 NEW SECTION. **Sec. 4.** (1) Benefit coverage for reasonable and
7 necessary medical and hospital expenses, at a minimum, must pay the
8 expenses incurred within three years after the date of the insured's
9 injury up to ten thousand dollars.

10 (2) At a minimum, benefits for funeral expenses must be provided in
11 an amount up to two thousand dollars.

12 (3) At a minimum, income continuation benefits shall be provided in
13 an amount up to ten thousand dollars, subject to a limit of the lesser
14 of two hundred dollars per week or eighty-five percent of the weekly
15 income, but the combined weekly payment receivable by the insured
16 person under sick leave, any other disability or loss of income
17 benefit, and this insurance may not exceed eighty-five percent of the
18 insured person's weekly income.

19 (4) At a minimum, loss of services benefits must be provided in an
20 amount of up to five thousand dollars, subject to a limit of forty
21 dollars per day.

22 NEW SECTION. **Sec. 5.** Insurers shall make available to any
23 insured, upon the insured's request, maximum personal injury protection
24 benefit limits of at least:

25 (1) Thirty-five thousand dollars for medical and hospital benefits
26 incurred within three years of the accident;

1 (2) Thirty-five thousand dollars for one year's income continuation
2 benefits, subject to a limit of the lesser of seven hundred dollars per
3 week or eighty-five percent of the weekly income; and

4 (3) Forty dollars per day for loss of services benefits, for at
5 least a year.

6 NEW SECTION. **Sec. 6.** (1) In the event of an accident, written
7 notice containing particulars sufficient to identify the insured
8 person, and also reasonable obtainable information respecting the time,
9 place, and circumstances of the accident must be given by or on behalf
10 of each insured person to the insurer or its authorized agent as soon
11 as practicable. If an insured person or his or her legal
12 representative initiates legal action to recover damages for bodily
13 injury against a person or organization who is or may be liable in
14 tort, a copy of the summons and complaint or other process served in
15 connection with the legal action must be forwarded as soon as
16 practicable to the insurer by the insured person or his or her legal
17 representative.

18 (2) As soon as practicable, the insured person or someone on his or
19 her behalf shall give to the company written proof of claim, under oath
20 if required, and such other information as may assist the company in
21 determining the amount due and payable.

22 (3) The insured person, or in the event of his or her incapacity or
23 death, his or her legal representative, shall, upon each request from
24 the company, execute authorization to enable the company to obtain
25 medical reports, copies of records, and written information with
26 respect to loss of income. The company may require that the insured
27 person, as a condition for receiving income continuation benefits,
28 cooperate in furnishing the company reasonable medical proof of his or
29 her inability to work. The insured person shall submit to physical

1 examinations by physicians selected by the company at the expense of
2 the insurer when and as often as the company may reasonably require.

3 (4) If any person making a claim and the first party insurer
4 disagree as to the benefit amount then by mutual written agreement the
5 matter shall be decided by arbitration. Arbitration shall begin upon
6 the written demand by either party. If the parties agree in writing
7 the matter shall be decided by a single arbitrator selected by the
8 parties. If the parties fail to agree on the selection of a single
9 arbitrator, then each party shall, upon written demand of either,
10 select a competent and disinterested arbitrator. The two arbitrators
11 so named shall select a third arbitrator. The decision of any two
12 arbitrators shall be binding on the person and the company. Such
13 person and the company each agree to consider itself bound and to be
14 bound by any award by the arbitrator or arbitrators.

15 (5) Except to the extent that the insured's total damages exceed
16 the amount of underinsured benefits available to pay those damages, all
17 payments made under income continuation benefits or loss of services
18 benefits shall be credited toward settlement of a claim or the
19 satisfaction of an award entered for the insured under the underinsured
20 motorists coverage in this or any other policy of the company. If
21 liability or underinsured motorists coverage limits are exhausted,
22 insurance provided by this coverage shall be applied as excess
23 insurance.

24 NEW SECTION. **Sec. 7.** In the event that the insured person
25 recovers damages for bodily injury against a person or entity who may
26 be liable in tort, and the insurer claims a right to reimbursement or
27 subrogation for amounts paid on behalf of its insured under sections 1
28 through 8 of this act, the insurer shall reimburse the insured person
29 for the insurer's share of the insured person's actual attorneys' fees

1 and actual expenses incurred in obtaining such damages for bodily
2 injury. There is no subrogation where the insured is not fully
3 compensated for his or her injury.

4 NEW SECTION. **Sec. 8.** An insurer may not incorporate an
5 exclusion, condition, or other provision in an insurance policy that
6 has the effect of limiting benefits provided under sections 1 through
7 6 of this act.

8 NEW SECTION. **Sec. 9.** Sections 1 through 8 of this act are
9 each added to chapter 48.22 RCW.

10 NEW SECTION. **Sec. 10.** If any provision of this act or its
11 application to any person or circumstance is held invalid, the
12 remainder of the act or the application of the provision to other
13 persons or circumstances is not affected.

14 NEW SECTION. **Sec. 11.** Sections 1 through 8 of this act shall
15 take effect January 1, 1993.

16 NEW SECTION. **Sec. 12.** The commissioner may adopt such rules as
17 are necessary to implement sections 1 through 8 of this act by January
18 1, 1993. Nothing in this act restricts the existing rule-making
19 authority of the commissioner.