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**SUBSTITUTE HOUSE BILL 1233**

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**State of Washington**

**53rd Legislature**

**1993 Regular Session**

**By** House Committee on Financial Institutions & Insurance (originally sponsored by Representatives R. Meyers, Zellinsky, Dellwo, R. Johnson, Scott, Riley, Kessler, Dunshee, Dorn, Foreman, Grant, Kremen and Johanson)

Read first time 02/10/93.

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 passenger car as defined in RCW 46.04.382  
9 registered or principally garaged in this state other than:

10       (a) A farm-type tractor or other self-propelled equipment designed  
11 for use principally off public roads, while not upon public roads;

12       (b) A vehicle operated on rails or crawler-treads;

13       (c) A vehicle located for use as a residence;

14       (d) A vehicle primarily used in the occupation, profession, or  
15 business of the insured;

16       (e) A motor home as defined in RCW 46.04.305; or

17       (f) A moped as defined in RCW 46.04.304.

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:

9 (a) The date on which the insured person is reasonably able to  
10 perform the duties of his or her usual occupation;

11 (b) The expiration of not more than fifty-two weeks from the  
12 fourteenth day; or

13 (c) The date of the insured person's death.

14 (4) "Insured automobile" means an automobile of which the named  
15 insured is the owner, to which the automobile liability insurance  
16 policy applies.

17 (5) "Insured person" means:

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

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

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

32 (a) The date on which the insured person is reasonably able to  
33 perform the duties of his or her usual occupation;

34 (b) The expiration of not more than fifty-two weeks; or

35 (c) The date of the insured person's death.

36 (7) "Medical and hospital benefits" means payments for all  
37 reasonable and necessary expenses incurred by or on behalf of the  
38 insured person for injuries sustained as a result of an accident for  
39 health care services provided by persons licensed under Title 18 RCW,

1 including pharmaceuticals, prosthetic devices and eye glasses, and  
2 necessary ambulance, hospital, and professional nursing service.

3 (8) "Automobile liability insurance policy" means a policy insuring  
4 against loss resulting from liability imposed by law for bodily injury,  
5 death, or property damage suffered by any person and arising out of the  
6 ownership, maintenance, or use of an insured automobile.

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

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

12 (11) "Pedestrian" means a natural person not occupying a motor  
13 vehicle as defined in RCW 46.04.320.

14 (12) "Personal injury protection" means the benefits described in  
15 sections 1 through 8 of this act.

16 NEW SECTION. **Sec. 2.** (1) No new automobile liability insurance  
17 policy or renewal of an existing policy may be issued unless personal  
18 injury protection coverage benefits for the reasonable and necessary  
19 medical and hospital expenses, funeral expenses, income continuation,  
20 and loss of services sustained by an insured because of bodily injury  
21 caused by a motor vehicle accident are provided therein.

22 (2) A named insured may reject, in writing, personal injury  
23 protection coverage and the requirements of subsection (1) of this  
24 section shall not apply. If a named insured has rejected personal  
25 injury protection coverage, such coverage shall not be included in any  
26 supplemental or renewal policy unless a named insured or spouse  
27 subsequently requests such coverage in writing.

28 NEW SECTION. **Sec. 3.** (1) Personal injury protection coverage need  
29 not be provided for vendor's single interest policies, general  
30 liability policies, or other policies, commonly known as umbrella  
31 policies, that apply only as excess to the automobile liability policy  
32 directly applicable to the insured motor vehicle.

33 (2) Personal injury protection coverage need not be provided to or  
34 on behalf of:

35 (a) A person who intentionally causes injury to himself or herself;

1 (b) A person who is injured while participating in a prearranged or  
2 organized racing or speed contest or in practice or preparation for  
3 such a contest;

4 (c) A person whose bodily injury is due to war, whether or not  
5 declared, civil war, insurrection, rebellion, or revolution, or to an  
6 act or condition incident to such circumstances;

7 (d) A person whose bodily injury results from the radioactive,  
8 toxic, explosive, or other hazardous properties of nuclear material;

9 (e) The named insured or a relative while occupying an automobile  
10 owned by the named insured or furnished for the named insured's regular  
11 use and not insured for personal injury protection;

12 (f) A relative while occupying an automobile owned by the relative  
13 or furnished for the relative's regular use; or

14 (g) An insured whose bodily injury results or arises from the  
15 insured's use of an automobile in the commission of a felony.

16 NEW SECTION. **Sec. 4.** At a minimum, personal injury protection  
17 coverage must provide:

18 (1) Medical and hospital benefits for expenses incurred within  
19 three years after the date of the insured's injury up to ten thousand  
20 dollars;

21 (2) Benefits for funeral expenses in an amount up to two thousand  
22 dollars;

23 (3) Income continuation benefits covering income losses incurred  
24 within one year after the date of the insured's injury in an amount up  
25 to ten thousand dollars, subject to a limit of the lesser of two  
26 hundred dollars per week or eighty-five percent of the weekly income,  
27 but the combined weekly payment receivable by the insured person under  
28 any other disability or loss of income benefit, and this insurance may  
29 not exceed eighty-five percent of the insured person's weekly income;  
30 and

31 (4) Loss of services benefits in an amount of up to five thousand  
32 dollars, subject to a limit of forty dollars per day not to exceed two  
33 hundred dollars per week.

34 NEW SECTION. **Sec. 5.** Insurers shall provide, upon request,  
35 maximum personal injury protection coverage limits of at least:

36 (1) Thirty-five thousand dollars for medical and hospital benefits  
37 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 notice of claim, under  
20 oath if required, and such other information as may assist the company  
21 in 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 relating to  
26 bodily injury or loss of income arising out of the accident giving rise  
27 to the personal injury protection coverage claim. The company may  
28 require that the insured person, as a condition for receiving income  
29 continuation benefits, cooperate in furnishing the company reasonable  
30 medical proof of his or her inability to work. The insured person  
31 shall submit to physical examinations by physicians selected by the  
32 company at the expense of the insurer when and as often as the company  
33 may reasonably require.

34 (4) If any person making a claim and the first party insurer  
35 disagree as to the benefit amount owed under the personal injury  
36 protection coverage limits provided in the policy, then arbitration  
37 shall begin upon the written demand by either party. Upon such  
38 disagreement and if the parties agree in writing, the matter shall be

1 decided by a single arbitrator selected by the parties. If the parties  
2 fail to agree on the selection of a single arbitrator, then each party  
3 shall, upon written demand of either, select a competent and  
4 disinterested arbitrator. The two arbitrators so named shall select a  
5 third arbitrator. The decision of any two arbitrators shall be binding  
6 on the person and the company. Such person and the company each agree  
7 to consider itself bound and to be bound by any award by the arbitrator  
8 or arbitrators.

9 (5) Except to the extent that the insured's total damages exceed  
10 the amount of underinsured benefits available to pay those damages, all  
11 payments made under income continuation benefits or loss of services  
12 benefits shall be credited toward settlement of a claim or the  
13 satisfaction of an award entered for the insured under the underinsured  
14 motorists coverage in this or any other policy of the company.

15 (6) The limit of liability under the policy for personal injury  
16 protection coverage may be defined as the maximum limit of liability  
17 for all injuries resulting from any one accident regardless of the  
18 number of persons covered, claims made, or vehicles or premiums shown  
19 on the policy, or premiums paid, or vehicles involved in the accident.

20 NEW SECTION. **Sec. 7.** An insurer may not proceed to intercompany  
21 arbitration for the purpose of settling any claim to a right of  
22 reimbursement or subrogation of personal injury protection benefits  
23 paid until the payment or resolution of the underlying third-party  
24 claim of its insured.

25 NEW SECTION. **Sec. 8.** An insurer may not incorporate an exclusion,  
26 condition, or other provision in an insurance policy that has the  
27 effect of limiting benefits provided under sections 1 through 8 of this  
28 act without the approval of the commissioner.

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

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

1        NEW SECTION.   **Sec. 11.**   Sections 1 through 8 of this act shall take  
2 effect July 1, 1994.

3        NEW SECTION.   **Sec. 12.**   The commissioner may adopt such rules as  
4 are necessary to implement sections 1 through 8 of this act by July 1,  
5 1994.   Nothing in this act restricts the existing rule-making authority  
6 of the commissioner.

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