
HOUSE BILL 1233

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By Representatives R. Meyers, Zellinsky, Dellwo, R. Johnson, Scott, Riley, Kessler, Dunshee, Dorn, Foreman, Grant, Kremen and Johanson

Read first time 01/20/93. Referred to Committee on Financial Institutions & Insurance.

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.

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

16 (3) "Income continuation benefits" means payments of at least
17 eighty-five percent of the insured persons' loss of income from work,
18 because of bodily injury sustained by him or her in the accident,
19 during the period commencing fourteen days after the date of the

1 accident and ending at the earliest of the following: (a) The date on
2 which the insured person is reasonably able to perform the duties of
3 his or her usual occupation; (b) the expiration of not more than fifty-
4 two weeks from the fourteenth day; or (c) the date of the insured
5 person's death.

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

9 (5) "Insured person" means:

10 (a) The named insured or a person who is a resident of the named
11 insured's household and is either related to the named insured by
12 blood, marriage, or adoption, or is the named insured's ward, foster
13 child, or stepchild; or

14 (b) A person, other than the named insured or a relative, who
15 sustains bodily injury caused by accident while: (i) Occupying the
16 insured automobile as a guest passenger; (ii) using the insured
17 automobile with the permission of the named insured; or (iii) a
18 pedestrian struck by the insured automobile.

19 (6) "Loss of services benefits" means reimbursement for payment to
20 others, not members of the insured person's household, for expenses
21 reasonably incurred for essential services in lieu of those the insured
22 person would have performed without income, provided the services are
23 actually rendered, and ending the earliest of the following: (a) The
24 date on which the insured person is reasonably able to perform the
25 duties of his or her usual occupation; (b) the expiration of not more
26 than fifty-two weeks; or (c) the date of the insured person's death.

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

33 (8) "Motor vehicle liability insurance policy" means a policy
34 insuring against loss resulting from liability imposed by law for
35 bodily injury, death, or property damage suffered by any person and
36 arising out of the ownership, maintenance, or use of an insured
37 automobile.

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

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

6 (11) "Pedestrian" means a natural person not occupying an
7 automobile.

8 NEW SECTION. **Sec. 2.** (1) No new motor vehicle liability insurance
9 policy or renewal of an existing policy with respect to a private
10 passenger automobile, as defined in RCW 48.18.297, that is not
11 primarily used in the occupation, profession, or business of the
12 insured, is not a motor home, as defined in RCW 46.04.305, and is not
13 a motorcycle or motor-driven cycle, as defined in RCW 46.04.330 and
14 46.04.332, respectively, registered or principally garaged in this
15 state may be issued unless personal injury protection benefits for the
16 reasonable and necessary medical and hospital expenses, funeral
17 expenses, income continuation, and loss of services sustained by an
18 insured because of bodily injury caused by a motor vehicle accident are
19 provided therein.

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

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

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

36 (3) Personal injury protection benefits need not be provided for:

1 (a) Bodily injury due to war, whether or not declared, civil war,
2 insurrection, rebellion, or revolution, or to an act or condition
3 incident to the circumstances under this subsection (3)(a);

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

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

9 (d) A relative while occupying an automobile owned by the relative
10 or furnished for the relative's regular use.

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

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

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

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

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

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

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

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

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

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

17 (3) The insured person, or in the event of his or her incapacity or
18 death, his or her legal representative, shall, upon each request from
19 the company, execute authorization to enable the company to obtain
20 medical reports, copies of records, and written information with
21 respect to loss of income. The company may require that the insured
22 person, as a condition for receiving income continuation benefits,
23 cooperate in furnishing the company reasonable medical proof of his or
24 her inability to work. The insured person shall submit to physical
25 examinations by physicians selected by the company at the expense of
26 the insurer when and as often as the company may reasonably require.

27 (4) If any person making a claim and the first party insurer
28 disagree as to the benefit amount, then arbitration shall begin upon
29 the written demand by either party. If the parties agree in writing
30 the matter shall be decided by a single arbitrator selected by the
31 parties. If the parties fail to agree on the selection of a single
32 arbitrator, then each party shall, upon written demand of either,
33 select a competent and disinterested arbitrator. The two arbitrators
34 so named shall select a third arbitrator. The decision of any two
35 arbitrators shall be binding on the person and the company. Such
36 person and the company each agree to consider itself bound and to be
37 bound by any award by the arbitrator or arbitrators.

38 (5) Except to the extent that the insured's total damages exceed
39 the amount of underinsured benefits available to pay those damages, all

1 payments made under income continuation benefits or loss of services
2 benefits shall be credited toward settlement of a claim or the
3 satisfaction of an award entered for the insured under the underinsured
4 motorists coverage in this or any other policy of the company. If
5 liability or underinsured motorists coverage limits are exhausted,
6 insurance provided by this coverage shall be applied as excess
7 insurance.

8 NEW SECTION. **Sec. 7.** In the event that the insured person
9 recovers damages for bodily injury against a person or entity who may
10 be liable in tort, and the insurer claims a right to reimbursement or
11 subrogation for amounts paid on behalf of its insured under sections 1
12 through 8 of this act, the insurer shall reimburse the insured person
13 for the insurer's share of the insured person's actual attorneys' fees
14 and actual expenses incurred in obtaining such damages for bodily
15 injury. There is no subrogation where the insured is not fully
16 compensated for his or her injury.

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

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

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

27 NEW SECTION. **Sec. 11.** Sections 1 through 8 of this act shall take
28 effect January 1, 1994.

29 NEW SECTION. **Sec. 12.** The commissioner may adopt such rules as
30 are necessary to implement sections 1 through 8 of this act by January

1 1, 1994. Nothing in this act restricts the existing rule-making
2 authority of the commissioner.

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