

HOUSE BILL REPORT

HB 1871

As Reported By House Committee On:
Financial Institutions & Insurance

Title: An act relating to underinsured motor vehicle insurance coverage.

Brief Description: Allowing auto policies to require exhaustion of the at-fault party's coverage.

Sponsors: Representatives Zellinsky, L. Thomas and Benson.

Brief History:

Committee Activity:

Financial Institutions & Insurance: 2/20/97, 2/27/97 [DPA].

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: Do pass as amended. Signed by 6 members: Representatives L. Thomas, Chairman; Smith, Vice Chairman; Zellinsky, Vice Chairman; Benson; DeBolt and Wensman.

Minority Report: Do not pass. Signed by 4 members: Representatives Wolfe, Ranking Minority Member; Grant, Assistant Ranking Minority Member; Keiser and Sullivan.

Staff: Charlie Gavigan (786-7340).

Background: The typical automobile insurance policy provides coverage for damages to the policyholder's vehicle and covers the policyholder's liability if he or she causes an accident, up to limits specified in the policy. Underinsured motorist insurance (UIM) is additional coverage that protects the policyholder from being hit by someone who has no insurance or insufficient insurance to cover the damages. Insurance companies must offer UIM coverage on all automobile insurance policies; the policyholder must reject UIM in writing if he or she does not want this coverage.

The UIM policy must provide coverage to insured persons for damages the insured persons legally are entitled to recover from an underinsured motorist. UIM covers bodily injury, death, or property damage, and applies to incidents arising out of the ownership, maintenance, or use of the vehicle. The amount of UIM coverage is equal to the amount of the insured's own liability coverage, unless the insured rejects

this amount and agrees to another amount in writing. UIM covers phantom vehicles, provided minimum evidentiary requirements are met, and hit-and-run drivers. A UIM policy generally covers the policyholder and family, and others who sustain injuries while occupying or using the insured vehicle.

Under current law, if a person injured in an accident is not at fault, liability of the person or persons who caused the accident is joint and several (all are totally responsible); if the injured person is at fault, the person or persons that caused the accident are liable only to the degree they were at fault, and the injured person's recovered damages are reduced by the extent he or she was at fault.

Summary of Amended Bill: An underinsured motorist (UIM) automobile insurance policy may: (1) require that, prior to making a claim, the insured person exhaust the available liability insurance coverage of the person or persons who caused the accident to the extent that the at-fault persons have liability insurance and are legally liable to the insured person; or (2) allow the insured person to receive UIM benefits without first exhausting available liability insurance coverage of at-fault persons.

Amended Bill Compared to Original Bill: The amended bill allows insurers to either provide UIM policies that require exhaustion of available liability coverage of at-fault persons, as the underlying bill provides, or to not require exhaustion of liability coverages prior to initiating a UIM claim.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: The existing UIM insurance system is inefficient and duplicative. An insured person should have to go to trial and have damages established by a jury before making a UIM insurance claim. UIM originally was intended to provide benefits only after the liability insurance of those at fault was exhausted and the insured person still had uncompensated damages. Arbitration and court decisions have usurped this original intent.

Testimony Against: The existing UIM insurance system is stable and works. This bill will lead to unnecessary trials and hinder settlements. It will result in consumers having to wait two or three years to get benefits, rather than six months. Consumers are paying a premium for UIM coverage; this bill means consumers won't get what they are paying for.

Testified: Craig McGee, PEMCO (supports); Tim Parker (supports); Mike Kapphahn, Farmers Insurance (supports); Larry Shannon and Bob Dawson, Washington State Trial Lawyers Association (oppose).