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SENATE BILL 5837

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State of Washington

59th Legislature

2005 Regular Session

By Senators Fairley, Kline and Kohl-Welles

Read first time 02/09/2005. Referred to Committee on Financial Institutions, Housing & Consumer Protection.

1 AN ACT Relating to making uninsured, underinsured, and personal  
2 injury protection motor vehicle insurance mandatory; amending RCW  
3 48.22.030 and 48.22.085; and adding a new section to chapter 48.05 RCW.

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

5 **Sec. 1.** RCW 48.22.030 and 2004 c 90 s 1 are each amended to read  
6 as follows:

7 (1) "Underinsured motor vehicle" means a motor vehicle with respect  
8 to the ownership, maintenance, or use of which either no bodily injury  
9 or property damage liability bond or insurance policy applies at the  
10 time of an accident, or with respect to which the sum of the limits of  
11 liability under all bodily injury or property damage liability bonds  
12 and insurance policies applicable to a covered person after an accident  
13 is less than the applicable damages which the covered person is legally  
14 entitled to recover.

15 (2) No new policy or renewal of an existing policy insuring against  
16 loss resulting from liability imposed by law for bodily injury, death,  
17 or property damage, suffered by any person arising out of the  
18 ownership, maintenance, or use of a motor vehicle shall be issued with  
19 respect to any motor vehicle registered or principally garaged in this

1 state unless coverage is provided therein or supplemental thereto for  
2 the protection of persons insured thereunder who are legally entitled  
3 to recover damages from owners or operators of underinsured motor  
4 vehicles, hit-and-run motor vehicles, and phantom vehicles because of  
5 bodily injury, death, or property damage, resulting therefrom, except  
6 while operating or occupying a motorcycle or motor-driven cycle, and  
7 except while operating or occupying a motor vehicle owned or available  
8 for the regular use by the named insured or any family member, and  
9 which is not insured under the liability coverage of the policy. The  
10 coverage required to be offered under this chapter is not applicable to  
11 general liability policies, commonly known as umbrella policies, or  
12 other policies which apply only as excess to the insurance directly  
13 applicable to the vehicle insured.

14 (3) (~~Except as to property damage,~~) Coverage required under  
15 subsection (2) of this section shall be in the same amount as (~~the~~  
16 ~~insured's third party liability coverage unless the insured rejects all~~  
17 ~~or part of the coverage as provided in subsection (4) of this section.~~  
18 ~~Coverage for property damage need only be issued in conjunction with~~  
19 ~~coverage for bodily injury or death~~) set forth in RCW 46.29.090.  
20 Property damage coverage required under subsection (2) of this section  
21 shall mean physical damage to the insured motor vehicle unless the  
22 policy specifically provides coverage for the contents thereof or other  
23 forms of property damage.

24 (4) (~~A named insured or spouse may reject, in writing,~~  
25 ~~underinsured coverage for bodily injury or death, or property damage,~~  
26 ~~and the requirements of subsections (2) and (3) of this section shall~~  
27 ~~not apply. If a named insured or spouse has rejected underinsured~~  
28 ~~coverage, such coverage shall not be included in any supplemental or~~  
29 ~~renewal policy unless a named insured or spouse subsequently requests~~  
30 ~~such coverage in writing. The requirement of a written rejection under~~  
31 ~~this subsection shall apply only to the original issuance of policies~~  
32 ~~issued after July 24, 1983, and not to any renewal or replacement~~  
33 ~~policy.~~

34 (5)) The limit of liability under the policy coverage may be  
35 defined as the maximum limits of liability for all damages resulting  
36 from any one accident regardless of the number of covered persons,  
37 claims made, or vehicles or premiums shown on the policy, or premiums  
38 paid, or vehicles involved in an accident.

1       ~~((6)) The policy may provide that if an injured person has other~~  
2 ~~similar insurance available to him under other policies, the total~~  
3 ~~limits of liability of all coverages shall not exceed the higher of the~~  
4 ~~applicable limits of the respective coverages.~~

5       ~~(7))~~ (5)(a) The policy may provide for a deductible of not more  
6 than three hundred dollars for payment for property damage when the  
7 damage is caused by a hit-and-run driver or a phantom vehicle.

8       (b) In all other cases of underinsured property damage coverage,  
9 the policy may provide for a deductible of not more than one hundred  
10 dollars.

11       ~~((8))~~ (6) For the purposes of this chapter, a "phantom vehicle"  
12 shall mean a motor vehicle which causes bodily injury, death, or  
13 property damage to an insured and has no physical contact with the  
14 insured or the vehicle which the insured is occupying at the time of  
15 the accident if:

16       (a) The facts of the accident can be corroborated by competent  
17 evidence other than the testimony of the insured or any person having  
18 an underinsured motorist claim resulting from the accident; and

19       (b) The accident has been reported to the appropriate law  
20 enforcement agency within seventy-two hours of the accident.

21       ~~((9))~~ (7) An insurer who elects to write motorcycle or motor-  
22 driven cycle insurance in this state must provide information to  
23 prospective insureds about the coverage.

24       NEW SECTION. **Sec. 2.** A new section is added to chapter 48.05 RCW  
25 to read as follows:

26       Any insurer licensed within the state of Washington that provides  
27 motor vehicle liability policies, as provided under chapter 46.30 RCW  
28 or motor vehicle casualty insurance policies, as provided in RCW  
29 48.22.030, must offer such insurance coverage to all automobiles, as  
30 defined in RCW 48.22.005, including, but not limited to motorcycles,  
31 motor-driven cycles, and mopeds. For the purpose of this section  
32 motorcycle, motor-driven cycle, and moped are defined as provided in  
33 chapter 46.04 RCW.

34       **Sec. 3.** RCW 48.22.085 and 2003 c 115 s 2 are each amended to read  
35 as follows:

1        ~~((1))~~ No new automobile liability insurance policy or renewal of  
2 such an existing policy may be issued unless personal injury protection  
3 coverage is ~~((offered as an optional coverage.~~

4        ~~(2) A named insured may reject, in writing, personal injury~~  
5 ~~protection coverage and the requirements of subsection (1) of this~~  
6 ~~section shall not apply. If a named insured rejects personal injury~~  
7 ~~protection coverage;~~

8        ~~(a) That rejection is valid and binding as to all levels of~~  
9 ~~coverage and on all persons who might have otherwise been insured under~~  
10 ~~such coverage; and~~

11        ~~(b) The insurer is not required to include personal injury~~  
12 ~~protection coverage in any supplemental, renewal, or replacement policy~~  
13 ~~unless a named insured subsequently requests such coverage in writing))~~  
14 included.

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