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**SUBSTITUTE SENATE BILL 6182**

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**State of Washington**

**59th Legislature**

**2006 Regular Session**

**By** Senate Committee on Financial Institutions, Housing & Consumer Protection (originally sponsored by Senators Berkey, Fairley and Shin; by request of Insurance Commissioner)

READ FIRST TIME 01/27/06.

1       AN ACT Relating to compensating the victims of uninsured and  
2 underinsured motorists; and amending RCW 48.22.030.

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

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

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

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

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

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

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

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

37 (6) The policy may provide that if an injured person has other

1 similar insurance available to him under other policies, the total  
2 limits of liability of all coverages shall not exceed the higher of the  
3 applicable limits of the respective coverages.

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

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

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

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

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

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

23 (10) If the covered person seeking underinsured motorist coverage  
24 under this section was the intended victim of the tort feason, the  
25 incident must be reported to the appropriate law enforcement agency and  
26 the covered person must cooperate with any related law enforcement  
27 investigation.

28 (11) The purpose of this section is to protect innocent victims of  
29 uninsured and underinsured motorists. Covered persons are entitled to  
30 coverage without regard to whether an event was intentionally caused  
31 unless the insurer can demonstrate that the covered person intended to  
32 cause the damage for which uninsured and/or underinsured motorists'  
33 coverage is sought. As used in this section, and in the section of  
34 policies providing the underinsured motorist coverage described in this  
35 section, "accident" means an occurrence that is unexpected and  
36 unintended from the standpoint of the covered person.

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