
HOUSE BILL 1579

State of Washington

64th Legislature

2015 Regular Session

By Representatives Sawyer, G. Hunt, and Shea

Read first time 01/23/15. Referred to Committee on Business & Financial Services.

1 AN ACT Relating to motor vehicle underinsured coverage; amending
2 RCW 48.22.030; and creating a new section.

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

4 NEW SECTION. **Sec. 1.** The legislature finds that according to
5 recent national data based upon the ratio of claims made by motorists
6 injured by uninsured drivers to claims made by motorists injured by
7 insured drivers, at least one in six motorists in Washington state is
8 estimated to be uninsured. In addition, many drivers may be
9 underinsured. Though these drivers have obtained the mandatory
10 minimum amount of insurance, they may cause bodily injury and
11 property damage that exceeds the mandatory minimums. The Washington
12 state insurance commissioner does not collect data regarding the
13 number of motorists in Washington who either have no insurance or who
14 have insufficient insurance to cover claims for bodily injury or
15 property damage. While consumers may exercise the option not to
16 purchase coverage for bodily injury or property damage caused by
17 uninsured or underinsured motorists, it is the intent of the
18 legislature that information be made available to consumers regarding
19 the risk of opting out of such insurance so that a decision to opt
20 out may be an informed one. The legislature further finds that the
21 development of a standardized form regarding a choice to opt out of

1 coverage for uninsured and underinsured motorists, written in plain
2 language and including a plain statement of the risk, and the
3 collection and reporting of data by the Washington state insurance
4 commissioner regarding the prevalence of uninsured and underinsured
5 motorists involved in accidents in Washington state would be a useful
6 method for providing such important information to consumers.

7 **Sec. 2.** RCW 48.22.030 and 2009 c 549 s 7106 are each amended to
8 read as follows:

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

17 (2) No new policy or renewal of an existing policy insuring
18 against loss resulting from liability imposed by law for bodily
19 injury, death, or property damage, suffered by any person arising out
20 of the ownership, maintenance, or use of a motor vehicle shall be
21 issued with respect to any motor vehicle registered or principally
22 garaged in this state unless coverage is provided therein or
23 supplemental thereto for the protection of persons insured thereunder
24 who are legally entitled to recover damages from owners or operators
25 of underinsured motor vehicles, hit-and-run motor vehicles, and
26 phantom vehicles because of bodily injury, death, or property damage,
27 resulting therefrom, except while operating or occupying a motorcycle
28 or motor-driven cycle, and except while operating or occupying a
29 motor vehicle owned or available for the regular use by the named
30 insured or any family member, and which is not insured under the
31 liability coverage of the policy. The coverage required to be offered
32 under this chapter is not applicable to general liability policies,
33 commonly known as umbrella policies, or other policies which apply
34 only as excess to the insurance directly applicable to the vehicle
35 insured.

36 (3) Except as to property damage, coverage required under
37 subsection (2) of this section shall be in the same amount as the
38 insured's third party liability coverage unless the insured rejects
39 all or part of the coverage as provided in subsection (4) of this

1 section. Coverage for property damage need only be issued in
2 conjunction with coverage for bodily injury or death. Property damage
3 coverage required under subsection (2) of this section shall mean
4 physical damage to the insured motor vehicle unless the policy
5 specifically provides coverage for the contents thereof or other
6 forms of property damage.

7 (4)(a) A named insured or spouse may reject, in writing,
8 underinsured coverage for bodily injury or death, or property damage,
9 and the requirements of subsections (2) and (3) of this section shall
10 not apply. If a named insured or spouse has rejected underinsured
11 coverage, such coverage shall not be included in any supplemental or
12 renewal policy unless a named insured or spouse subsequently requests
13 such coverage in writing. The requirement of a written rejection
14 under this subsection shall apply only to the original issuance of
15 policies issued after July 24, 1983, and not to any renewal or
16 replacement policy. When a named insured or spouse chooses a property
17 damage coverage that is less than the insured's third party liability
18 coverage for property damage, a written rejection is not required.

19 (b) The commissioner must adopt rules requiring the development
20 and use of a standard form that must be signed by an insured who
21 chooses to opt out of underinsured coverage. The form must be written
22 in plain language and must inform the insured of the risk of opting
23 out of underinsured coverage.

24 (c) The commissioner must collect data regarding the number of
25 motorists who are involved in accidents in Washington state and who
26 are underinsured or uninsured, and the commissioner must use this
27 data to periodically update the standard form developed pursuant to
28 (b) of this subsection regarding the risk of opting out of
29 underinsured coverage.

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

35 (6) The policy may provide that if an injured person has other
36 similar insurance available to him or her under other policies, the
37 total limits of liability of all coverages shall not exceed the
38 higher of the applicable limits of the respective coverages.

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

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

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

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

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

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

20 (10) An insurer who elects to write motorcycle or motor-driven
21 cycle insurance in this state must provide an opportunity for named
22 insureds, who have purchased liability coverage for a motorcycle or
23 motor-driven cycle, to reject underinsured coverage for that
24 motorcycle or motor-driven cycle in writing.

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

30 (12) The purpose of this section is to protect innocent victims
31 of motorists of underinsured motor vehicles. Covered persons are
32 entitled to coverage without regard to whether an incident was
33 intentionally caused. However, a person is not entitled to coverage
34 if the insurer can demonstrate that the covered person intended to
35 cause the event for which a claim is made under the coverage
36 described in this section. As used in this section, and in the
37 section of policies providing the underinsured motorist coverage
38 described in this section, "accident" means an occurrence that is
39 unexpected and unintended from the standpoint of the covered person.

1 (13) "Underinsured coverage," for the purposes of this section,
2 means coverage for "underinsured motor vehicles," as defined in
3 subsection (1) of this section.

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