
HOUSE BILL 2782

State of Washington

66th Legislature

2020 Regular Session

By Representative Kirby

Read first time 01/21/20. Referred to Committee on Consumer Protection & Business.

1 AN ACT Relating to automobile insurance policies; amending RCW
2 48.22.030; and adding a new section to chapter 48.22 RCW.

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

4 **Sec. 1.** RCW 48.22.030 and 2015 c 236 s 7 are each amended to
5 read as follows:

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

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

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

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

22 (4) A named insured or spouse may reject, in writing,
23 underinsured coverage for bodily injury or death, or property damage,
24 and the requirements of subsections (2) and (3) of this section shall
25 not 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
29 under this subsection shall apply only to the original issuance of
30 policies issued after July 24, 1983, and not to any renewal or
31 replacement policy. ~~((When a named insured or spouse chooses a
32 property damage coverage that is less than the insured's third party
33 liability coverage for property damage, a written rejection is not
34 required.))~~

35 (5) The limit of liability under the policy coverage may be
36 defined as the maximum limits of liability for all damages resulting
37 from any one accident regardless of the number of covered persons,
38 claims made, or vehicles or premiums shown on the policy, or premiums
39 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 or her under other policies, the
3 total limits of liability of all coverages shall not exceed the
4 higher of the applicable limits of the respective coverages.

5 (7) (a) The policy may provide for a deductible of not more than
6 three hundred dollars for payment for property damage when the damage
7 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) For the purposes of this chapter, a "phantom vehicle" shall
12 mean a motor vehicle which causes bodily injury, death, or property
13 damage to an insured and has no physical contact with the insured or
14 the vehicle which the insured is occupying at the time of the
15 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) An insurer who elects to write motorcycle or motor-driven
22 cycle insurance in this state must provide information to prospective
23 insureds about the coverage.

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

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

34 (12) The purpose of this section is to protect innocent victims
35 of motorists of underinsured motor vehicles. Covered persons are
36 entitled to coverage without regard to whether an incident was
37 intentionally caused. However, a person is not entitled to coverage
38 if the insurer can demonstrate that the covered person intended to
39 cause the event for which a claim is made under the coverage
40 described in this section. As used in this section, and in the

1 section of policies providing the underinsured motorist coverage
2 described in this section, "accident" means an occurrence that is
3 unexpected and unintended from the standpoint of the covered person.

4 (13) The coverage under this section may be excluded as provided
5 for under RCW 48.177.010(6).

6 (14) "Underinsured coverage," for the purposes of this section,
7 means coverage for "underinsured motor vehicles," as defined in
8 subsection (1) of this section.

9 NEW SECTION. **Sec. 2.** A new section is added to chapter 48.22
10 RCW to read as follows:

11 (1) For the purposes of this section, "basic contract of
12 automobile insurance" means any automobile insurance policy that
13 includes first-party coverage for automobile physical damage.

14 (2) Every basic contract of automobile insurance must contain the
15 following language: "When an automobile is deemed repairable, [the
16 insurance carrier] will pay to restore the vehicle to its condition
17 prior to the loss, including paying for repairs that follow the
18 original equipment vehicle manufacturer's instructions and/or
19 guidelines."

20 (3) Payment of a claim under a basic contract of automobile
21 insurance for automobile physical damage must be based upon the
22 reasonable and necessary costs at the claimant's chosen repair
23 facility. The insurance company has the burden to prove
24 unreasonableness of vehicle repair procedures and/or charges.

25 (4) Nothing in this section mandates, per se, that an insurance
26 company pay for parts supplied by the original equipment
27 manufacturer, except to the extent that the use of alternate parts
28 would fail to restore the vehicle to its condition prior to the loss.

29 (5) Every basic contract of automobile insurance must include a
30 provision for the right to an appraisal to resolve disputes between
31 the insurer and the insured regarding the actual cash value and all
32 losses. The policy's appraisal clause must read as follows:

33 "(a) If we [the insurance carrier] and you [the policyholder] are
34 unable to agree as to the amount of loss, either party may make a
35 written demand for an appraisal, and within ten days each party must
36 select a competent appraiser and notify the other party of its
37 selection;

38 (b) The selected appraisers must appoint a competent and
39 disinterested umpire. If the appraisers do not appoint a competent

1 and disinterested umpire within fifteen days, either party may
2 request that a judge of a court of competent jurisdiction in the
3 venue identified in the policy select an umpire;

4 (c) The appraisers must then appraise the loss, making separate
5 findings regarding the amount of loss for each element of loss, and
6 submit their differences to the umpire only if they are unable to
7 agree on the losses;

8 (d) The amount of loss must be determined by agreement of the
9 appraisers, or by agreement of one appraiser and the umpire; and

10 (e) Each party is responsible for expenses of the appraisal, and
11 each party is equally responsible for the cost of the umpire.
12 However, we [the insurance carrier] will reimburse you [the
13 policyholder] for the costs of the appraisal process when the amount
14 of loss determined through the appraisal process is greater than the
15 amount of loss we adjusted before the appraisal process was invoked.
16 Appraisal process costs include reasonable appraiser professional
17 charges, reasonable attorneys' fees, and other necessary actual
18 costs."

19 (6) A violation of this section constitutes a violation of RCW
20 48.30.015 and 19.86.020.

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