

FIRST REGULAR SESSION

HOUSE BILL NO. 1151

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES KANDER (Sponsor) AND ATKINS (Co-sponsor).

1015L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 303, RSMo, by adding thereto one new section relating to motor vehicle liability insurance.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 303, RSMo, is amended by adding thereto one new section, to be known as section 303.195, to read as follows:

303.195. 1. No automobile liability insurance policy covering liability arising out of the ownership, maintenance, or use of any motor vehicle shall be delivered or issued for delivery in this state after January 1, 2010, with respect to any motor vehicle registered in this state unless the policy contains or has endorsed thereon a provision with coverage limits equal to the limits of liability coverage for bodily injury or death in such automobile liability insurance policy sold to the named insured for payment of part or all sums which the insured or the insured's legal representative shall be legally entitled to recover as damages from the uninsured owner or operator of a motor vehicle because of bodily injury, sickness or disease, including death, resulting therefrom, sustained by the insured, caused by accident and arising out of ownership, maintenance, or use of such motor vehicle, or providing for such payment irrespective of legal liability of the insured or any other person or organization. No insurer shall be required to offer, provide, or make available coverage conforming to this section in connection with any excess policy, umbrella policy, or any other policy which does not provide primary motor vehicle insurance for liabilities arising out of the ownership, maintenance, operation, or use of a specifically insured motor vehicle.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 **2. Any uninsured motorist coverage shall include an underinsured motorist**
18 **provision which enables the insured or the insured's legal representative to recover from**
19 **the insurer the amount of damages for bodily injury or death to which the insured is legally**
20 **entitled from the owner or operator of another motor vehicle with coverage limits equal**
21 **to the limits of liability provided by such uninsured motorist coverage to the extent such**
22 **coverage exceeds the limits of the bodily injury coverage carried by the owner or operator**
23 **of the motor vehicle.**

24 **3. The insured named in the policy shall have the right to reject, in writing, the**
25 **uninsured motorist coverage required by subsections 1 and 2 of this section which is in**
26 **excess of the limits for bodily injury or death set for in section 303.190. A rejection by an**
27 **insured named in the policy of the uninsured motorist coverage shall be a rejection on**
28 **behalf of all parties insured by the policy. Unless the uninsured named in the policy**
29 **requests such coverage in writing, such coverage need not be provided in any subsequent**
30 **policy issued by the same insurer for motor vehicles owned by the named insured,**
31 **including but not limited to supplemental, renewal, reinstated, transferred, or substitute**
32 **policies where the named insured had rejected coverage in connection with a policy**
33 **previously issued to the insured by the same insurer.**

34 **4. Coverage under the policy shall be limited to the extent that the total limits**
35 **available cannot exceed the highest limits of any single applicable policy, regardless of the**
36 **number of policies involved, persons covered, claims made, vehicles or premiums shown**
37 **on the policy or premiums paid or vehicles involved in an accident.**

38 **5. Any insurer may provide for the exclusion or limitation of coverage:**

39 **(1) When the insured is occupying or struck by an uninsured automobile or trailer**
40 **or provided for the insured's regular use;**

41 **(2) When the uninsured automobile is owned by a self-insurer or any governmental**
42 **entity;**

43 **(3) When there is no evidence of physical contact with the uninsured motor vehicle**
44 **and when there is no reliable competent evidence to prove the facts of the accident from**
45 **a disinterested witness not making claim under the policy;**

46 **(4) To the extent that workers' compensation benefits apply;**

47 **(5) When suit is filed against the uninsured motorist without notice to the insurance**
48 **carrier; and**

49 **(6) To the extent that personal injury protection benefits apply.**

50 **6. An underinsured motorist coverage insurer shall have subrogation rights. If a**
51 **tentative agreement to settle for liability limits has been reached with an underinsured**
52 **tortfeasor, written notice shall be given by certified mail to the underinsured motorist**

53 coverage insurer by its insured. Such written notice shall include authorization or a court
54 order to obtain reports from all employers and medical providers. Within sixty days of
55 receipt of such written notice, the underinsured motorist coverage insurer may substitute
56 its payment to the insured for the tentative settlement amount. The underinsured motorist
57 coverage insurer is then subrogated to the insured's right of recovery to the extent of such
58 payment and any settlement under the underinsured motorist coverage. If the
59 underinsured motorist coverage insurer fails to pay the insured the amount of the tentative
60 tort settlement within sixty days, the underinsured motorist coverage insurer has no right
61 of subrogation for any amount paid under the underinsured motorist coverage.

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