

Enrolled
Senate Bill 923

Sponsored by COMMITTEE ON JUDICIARY (at the request of Oregon Law Commission)

CHAPTER

AN ACT

Relating to recovery under uninsured motorist coverage when recovery under liability policy of person at fault provides less recovery; creating new provisions; and amending ORS 742.502.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 742.502 is amended to read:

742.502. (1) Every motor vehicle liability policy insuring against loss suffered by any natural person resulting from liability imposed by law for bodily injury or death arising out of the ownership, maintenance or use of a motor vehicle shall provide *[therein]* **in the policy** or by indorsement *[thereon]* **on the policy** uninsured motorist coverage when *[such]* **the** policy is either:

(a) Issued for delivery in this state; or

(b) Issued or delivered by an insurer doing business in this state with respect to any motor vehicle then principally used or principally garaged in this state.

(2)(a) A motor vehicle bodily injury liability policy shall have the same limits for uninsured motorist coverage as for bodily injury liability coverage unless a named insured in writing elects lower limits. The insured may not elect limits lower than the amounts prescribed to meet the requirements of ORS 806.070 for bodily injury or death. Uninsured motorist coverage *[larger than the amounts required by ORS 806.070]* shall include underinsurance coverage for *[damages]* **bodily injury** or death caused by accident and arising out of the ownership, maintenance or use of a motor vehicle *[that is insured for]* **with motor vehicle liability insurance that provides recovery in** an amount that is less than the insured's uninsured motorist coverage. Underinsurance benefits shall be equal to uninsured motorist coverage benefits less the amount recovered from other *[automobile]* **motor vehicle** liability insurance policies.

(b) **If a named insured elects lower limits, the named insured shall sign** a statement electing lower limits *[shall be signed and dated by a named insured]* within 60 days of the time *[a]* **the** named insured *[elects lower limits]* **makes the election.** The statement shall acknowledge that a named insured was offered uninsured motorist coverage with the limits equal to those for bodily injury liability. The statement shall contain a brief summary, which *[shall]* **may** not be construed as part of the insurance contract, of what uninsured and underinsured motorist coverages provide and shall state the price for coverage with limits equal to the named insured's bodily injury liability limits and the price for coverage with the lower limits requested by the named insured. The statement shall remain in force until rescinded in writing by a named insured or until *[such time as]* **the** motor vehicle bodily injury liability limits are changed. The form of statement used to comply with this paragraph shall be approved by the Department **of Consumer and Business Services.**

(c) A statement electing lower limits need not be signed when vehicles are either added to or subtracted from a policy or when the policy is amended, renewed, modified or replaced by the same

company or group of companies under common ownership or control unless the liability limits of the policy are changed.

(3) The insurer issuing such policy may offer one or more options of uninsured motorist coverage larger than the amounts prescribed to meet the requirements of ORS 806.070 and in excess of the limits provided under the policy for motor vehicle bodily injury liability insurance. Offers of uninsured motorist coverage [*larger than the amounts required by ORS 806.070*] shall include underinsurance coverage for [*damages*] **bodily injury** or death caused by accident and arising out of the ownership, maintenance or use of a motor vehicle with **motor vehicle** liability insurance that provides recovery in an amount that is less than the insured's uninsured motorist coverage. Underinsurance benefits shall be equal to uninsured motorist coverage benefits less the amount recovered from other [*automobile*] **motor vehicle** liability insurance policies.

(4) Underinsurance coverage [*shall be*] is subject to ORS 742.504 and 742.542.

(5) Uninsured motorist coverage and underinsurance coverage shall provide coverage for bodily injury or death when:

(a) The limits for uninsured motorist coverage of the insured equal the limits of the liability policy of the person whose fault caused the bodily injury or death; and

(b) The amount of liability insurance recovered is less than the limits for uninsured motorist coverage of the insured.

[*5*] **(6) As used in this section and** except as **otherwise** provided in this subsection, [*the*] "amount recovered from other [*automobile*] **motor vehicle** liability insurance policies" means the proceeds of liability insurance recovered by or on behalf of the injured party. Proceeds recovered on behalf of the injured party include proceeds received by the injured party's insurer as reimbursement for personal injury protection benefits provided to the injured person, proceeds received by the medical providers of the injured person and proceeds received as attorney fees on the claim of the injured person. Where applicable liability insurance policy limits are exhausted upon payment, settlement or judgment by division among two or more injured persons, [*the*] "amount recovered from other [*automobile*] **motor vehicle** liability insurance policies" means the proceeds that are recovered by or on behalf of the injured person but does not include any proceeds of that liability policy received by other injured persons.

SECTION 2. The amendments to ORS 742.502 by section 1 of this 2005 Act apply to motor vehicle liability policies issued or renewed on or after the effective date of this 2005 Act.

Passed by Senate April 7, 2005

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Secretary of Senate

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President of Senate

Passed by House May 26, 2005

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Speaker of House

Received by Governor:

.....M,....., 2005

Approved:

.....M,....., 2005

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Governor

Filed in Office of Secretary of State:

.....M,....., 2005

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Secretary of State