

A-Engrossed
Senate Bill 949

Ordered by the Senate April 13
Including Senate Amendments dated April 13

Sponsored by COMMITTEE ON JUDICIARY

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Establishes requirements, **unless parties agree otherwise**, for motor vehicle liability arbitration proceedings.

A BILL FOR AN ACT

1
2 Relating to arbitration of motor vehicle liability disputes; creating new provisions; and amending
3 ORS 742.504 and 742.520.

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

5 **SECTION 1. Section 2 of this 2005 Act is added to and made a part of ORS chapter 742.**

6 **SECTION 2. (1) Unless the parties agree otherwise, arbitration proceedings under ORS**
7 **742.504 or 742.520 shall be conducted as follows:**

8 (a) **Parties to an arbitration proceeding shall submit the dispute to arbitration by a panel**
9 **of three arbitrators. The panel shall consist of one arbitrator chosen by each party and one**
10 **arbitrator chosen by the two arbitrators previously chosen to sit on the panel.**

11 (b) **An arbitration proceeding shall be conducted under local court rules in the county**
12 **where the arbitration is held.**

13 (2) **Findings and awards made in an arbitration proceeding under subsection (1) of this**
14 **section are not binding on the insured or the insurer and are not admissible in any action**
15 **at law or suit in equity.**

16 **SECTION 3. ORS 742.504 is amended to read:**

17 742.504. Every policy required to provide the coverage specified in ORS 742.502 shall provide
18 uninsured motorist coverage [*which*] **that** in each instance is no less favorable in any respect to the
19 insured or the beneficiary than if the following provisions were set forth in the policy. However,
20 nothing contained in this section [*shall require*] **requires** the insurer to reproduce in [*such*] **the**
21 policy the particular language of any of the following provisions:

22 (1)(a) The insurer will pay all sums [*which*] **that** the insured, the heirs or the legal represen-
23 tative of the insured [*shall be*] **is** legally entitled to recover as general and special damages from the
24 owner or operator of an uninsured vehicle because of bodily injury sustained by the insured caused
25 by accident and arising out of the ownership, maintenance or use of [*such*] **the** uninsured vehicle.
26 Determination as to whether the insured, the insured's heirs or the insured's legal representative is
27 legally entitled to recover such damages, and if so, the amount thereof, shall be made by agreement
28 between the insured and the insurer, or, in the event of disagreement, may be determined by arbi-

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 tration as provided in subsection (10) of this section.

2 (b) No judgment against any person or organization alleged to be legally responsible for bodily
3 injury, except for proceedings instituted against the insurer as provided in this policy, shall be
4 conclusive, as between the insured and the insurer, on the issues of liability of *[such]* **the** person
5 or organization or of the amount of damages to which the insured is legally entitled.

6 (2) As used in this policy:

7 (a) **“Bodily injury” means bodily injury, sickness or disease, including death resulting**
8 **therefrom.**

9 (b) **“Hit-and-run vehicle” means a vehicle that causes bodily injury to an insured arising**
10 **out of physical contact of the vehicle with the insured or with a vehicle the insured is oc-**
11 **cupying at the time of the accident, provided:**

12 (A) **The identity of either the operator or the owner of the hit-and-run vehicle cannot**
13 **be ascertained;**

14 (B) **The insured or someone on behalf of the insured reported the accident within 72**
15 **hours to a police, peace or judicial officer, to the Department of Transportation or to the**
16 **equivalent department in the state where the accident occurred, and filed with the insurer**
17 **within 30 days thereafter a statement under oath that the insured or the legal representative**
18 **of the insured has a cause or causes of action arising out of the accident for damages against**
19 **a person or persons whose identities are unascertainable, and setting forth the facts in**
20 **support thereof; and**

21 (C) **At the insurer’s request, the insured or the legal representative of the insured makes**
22 **available for inspection the vehicle the insured was occupying at the time of the accident.**

23 [(a)] (c) **“Insured,” when unqualified, means and when applied to uninsured motorist**
24 **coverage, means:**

25 (A) The named insured as stated in the policy and any person designated as named insured in
26 the schedule and, while residents of the same household, the spouse of any *[such]* named insured and
27 relatives of either[;], provided[,] **that** neither *[such]* **the** relative nor **the** spouse is the owner of a
28 vehicle not described in the policy[:] and [*provided further*] **that**, if the named insured as stated in
29 the policy is other than an individual or husband and wife who are residents of the same household,
30 the named insured shall be only a person so designated in the schedule;

31 (B) Any child residing in the household of the named insured if the insured has performed the
32 duties of a parent to the child by rearing the child as the insured’s own although the child is not
33 related to the insured by blood, marriage or adoption; and

34 (C) Any other person while occupying an insured vehicle, provided the actual use thereof is with
35 the permission of the named insured.

36 [(b)] (d) **“Insured vehicle,” except as provided in paragraph [(c)] (e) of this provision, means:**

37 (A) The vehicle described in the policy or a newly acquired or substitute vehicle, as each of
38 those terms is defined in the public liability coverage of the policy, insured under the public liability
39 provisions of the policy; or

40 (B) A nonowned vehicle operated by the named insured or spouse if a resident of the same
41 household[;], provided **that** the actual use thereof is with the permission of the owner of *[such]* **the**
42 vehicle and *[such]* **the** vehicle is not owned by nor furnished for the regular or frequent use of the
43 insured or any member of the same household.

44 [(c)] (e) **“Insured vehicle” does not include a trailer of any type unless *[such]* **the** trailer is a**
45 **described vehicle in the policy.**

1 (f) **“Occupying” means in or upon or entering into or alighting from.**

2 (g) **“Phantom vehicle” means a vehicle that causes bodily injury to an insured arising out**
3 **of a motor vehicle accident that is caused by a vehicle that has no physical contact with the**
4 **insured or the vehicle the insured is occupying at the time of the accident, provided:**

5 (A) **The identity of either the operator or the owner of the phantom vehicle cannot be**
6 **ascertained;**

7 (B) **The facts of the accident can be corroborated by competent evidence other than the**
8 **testimony of the insured or any person having an uninsured motorist claim resulting from**
9 **the accident; and**

10 (C) **The insured or someone on behalf of the insured reported the accident within 72**
11 **hours to a police, peace or judicial officer, to the Department of Transportation or to the**
12 **equivalent department in the state where the accident occurred, and filed with the insurer**
13 **within 30 days thereafter a statement under oath that the insured or the legal representative**
14 **of the insured has a cause or causes of action arising out of the accident for damages against**
15 **a person or persons whose identities are unascertainable, and setting forth the facts in**
16 **support thereof.**

17 (h) **“State” includes the District of Columbia, a territory or possession of the United**
18 **States and a province of Canada.**

19 [(d)] (i) **“Uninsured vehicle,” except as provided in paragraph [(e)] (j) of this provision, means:**

20 (A) A vehicle with respect to the ownership, maintenance or use of which there is no collectible
21 [automobile] **motor vehicle** bodily injury liability insurance, in at least the amounts or limits pre-
22 scribed for bodily injury or death under ORS 806.070 applicable at the time of the accident with
23 respect to any person or organization legally responsible for the use of [such] **the** vehicle, or with
24 respect to which there is [such] collectible bodily injury liability insurance applicable at the time
25 of the accident but the insurance company writing the [same] **insurance** denies coverage
26 [thereunder] or, within two years of the date of the accident, [such] **the** company writing the
27 [same] **insurance** becomes voluntarily or involuntarily declared bankrupt or for which a receiver is
28 appointed or becomes insolvent. It shall be a disputable presumption that a vehicle is uninsured in
29 the event the insured and the insurer, after reasonable efforts, fail to discover within 90 days from
30 the date of the accident, the existence of a valid and collectible [automobile] **motor vehicle** bodily
31 injury liability insurance applicable at the time of the accident.

32 (B) A hit-and-run vehicle [as defined in paragraph (f) of this provision].

33 (C) A phantom vehicle [as defined in paragraph (g) of this provision].

34 [(e)] (j) **“Uninsured vehicle” does not include:**

35 (A) An insured vehicle;

36 (B) A vehicle [which] **that** is owned or operated by a self-insurer within the meaning of any
37 motor vehicle financial responsibility law, motor carrier law or any similar law;

38 (C) A vehicle [which] **that** is owned by the United States of America, Canada[,] **or** a state, **or**
39 **a political subdivision or agency of any [such government or an agency of any of the foregoing] of**
40 **those governments;**

41 (D) A land motor vehicle or trailer, if operated on rails or crawler-treads or while located for
42 use as a residence or premises and not as a vehicle;

43 (E) A farm-type tractor or equipment designed for use principally off public roads, except while
44 actually upon public roads; or

45 (F) A vehicle owned by or furnished for the regular or frequent use of the insured or any

1 member of the household of the insured.

2 [(f) "Hit-and-run vehicle" means a vehicle which causes bodily injury to an insured arising out of
3 physical contact of such vehicle with the insured or with a vehicle which the insured is occupying at
4 the time of the accident, provided:]

5 [(A) There cannot be ascertained the identity of either the operator or the owner of such hit-and-run
6 vehicle;]

7 [(B) The insured or someone on behalf of the insured shall have reported the accident within 72
8 hours to a police, peace or judicial officer, to the Department of Transportation of the State of Oregon
9 or to the equivalent department in the state where the accident occurred, and shall have filed with the
10 insurer within 30 days thereafter a statement under oath that the insured or the legal representative
11 of the insured has a cause or causes of action arising out of such accident for damages against a per-
12 son or persons whose identity is unascertainable, and setting forth the facts in support thereof; and]

13 [(C) At the insurer's request, the insured or the legal representative of the insured makes available
14 for inspection the vehicle which the insured was occupying at the time of the accident.]

15 [(g) "Phantom vehicle" means a vehicle which causes bodily injury to an insured arising out of a
16 motor vehicle accident which is caused by an automobile which has no physical contact with the in-
17 sured or the vehicle which the insured is occupying at the time of the accident, provided:]

18 [(A) There cannot be ascertained the identity of either the operator or the owner of such phantom
19 vehicle;]

20 [(B) The facts of such accident can be corroborated by competent evidence other than the testimony
21 of the insured or any person having an uninsured motorist claim resulting from the accident; and]

22 [(C) The insured or someone on behalf of the insured shall have reported the accident within 72
23 hours to a police, peace or judicial officer, to the Department of Transportation of the State of Oregon
24 or to the equivalent department in the state where the accident occurred, and shall have filed with the
25 insurer within 30 days thereafter a statement under oath that the insured or the legal representative
26 of the insured has a cause or causes of action arising out of such accident for damages against a per-
27 son or persons whose identity is unascertainable, and setting forth the facts in support thereof.]

28 [(h) "Bodily injury" means bodily injury, sickness or disease, including death resulting
29 therefrom.]

30 [(i) "Occupying" means in or upon or entering into or alighting from.]

31 [(j) "State" includes the District of Columbia, a territory or possession of the United States and a
32 province of Canada.]

33 (k) "Vehicle" means every device in, upon or by which any person or property is or may be
34 transported or drawn upon a public highway, but does not include devices moved by human power
35 or used exclusively upon stationary rails or tracks.

36 (3) This coverage applies only to accidents [which] **that** occur on and after the effective date
37 of the policy, during the policy period and within the United States of America, its territories or
38 possessions, or Canada.

39 (4)(a) This coverage does not apply to bodily injury of an insured with respect to which [such]
40 **the** insured or the legal representative of the insured shall, without the written consent of the
41 insurer, make any settlement with or prosecute to judgment any action against any person or or-
42 ganization who may be legally liable therefor.

43 (b) This coverage does not apply to bodily injury to an insured while occupying a vehicle,
44 [(other than an insured vehicle)], owned by, or furnished for the regular use of, the named insured
45 or any relative resident in the same household, or through being struck by [such a] **the** vehicle.

1 (c) This coverage does not apply so as to inure directly or indirectly to the benefit of any
2 workers' compensation carrier, any person or organization qualifying as a self-insurer under any
3 workers' compensation or disability benefits law or any similar law or the State Accident Insurance
4 Fund Corporation.

5 (d) This coverage does not apply with respect to underinsured motorist benefits unless:

6 (A) The limits of liability under any bodily injury liability [*bonds or policies*] **insurance** appli-
7 cable at the time of the accident regarding the injured person have been exhausted by payment of
8 judgments or settlements to the injured person or other injured persons;

9 (B) The described limits have been offered in settlement, the insurer has refused consent under
10 paragraph (a) of this subsection and the insured protects the insurer's right of subrogation to the
11 claim against the tortfeasor;

12 (C) The insured gives credit to the insurer for the unrealized portion of the described liability
13 limits as if the full limits had been received if less than the described limits have been offered in
14 settlement, and the insurer has consented under paragraph (a) of this subsection; or

15 (D) The insured gives credit to the insurer for the unrealized portion of the described liability
16 limits as if the full limits had been received if less than the described limits have been offered in
17 settlement and, if the insurer has refused consent under paragraph (a) of this subsection, the insured
18 protects the insurer's right of subrogation to the claim against the tortfeasor.

19 (e) When seeking consent under paragraph (a) or (d) of this subsection, the insured shall allow
20 the insurer a reasonable time in which to collect and evaluate information related to consent to the
21 proposed offer of settlement. The insured shall provide promptly to the insurer any information that
22 is reasonably requested by the insurer and that is within the custody and control of the insured.
23 Consent will be presumed to be given if the insurer does not respond within a reasonable time. For
24 purposes of this paragraph, a "reasonable time" is no more than 30 days from the insurer's receipt
25 of a written request for consent, unless the insured and the insurer agree otherwise.

26 (5)(a) As soon as practicable, the insured or other person making claim shall give to the insurer
27 written proof of claim, under oath if required, including full particulars of the nature and extent of
28 the injuries, treatment and other details entering into the determination of the amount payable
29 hereunder. The insured and every other person making claim hereunder shall submit to examinations
30 under oath by any person named by the insurer and subscribe the same, as often as may reasonably
31 be required. Proof of claim shall be made upon forms furnished by the insurer unless the insurer
32 [*shall have failed*] **fails** to furnish [*such*] **the** forms within 15 days after receiving notice of claim.

33 (b) Upon reasonable request of and at the expense of the insurer, the injured person shall submit
34 to physical examinations by physicians selected by the insurer and shall, upon each request from the
35 insurer, execute authorization to enable the insurer to obtain medical reports and copies of records.

36 (6) If, before the insurer makes payment of loss hereunder, the insured or the legal represen-
37 tative of the insured [*shall institute*] **institutes** any legal action for bodily injury against any person
38 or organization legally responsible for the use of a vehicle involved in the accident, a copy of the
39 summons and complaint or other process served in connection with [*such*] **the** legal action shall be
40 forwarded immediately to the insurer by the insured or the legal representative of the insured.

41 (7)(a) The limit of liability stated in the declarations as applicable to "each person" is the limit
42 of the insurer's liability for all damages because of bodily injury sustained by one person as the
43 result of any one accident and, subject to the above provision respecting each person, the limit of
44 liability stated in the declarations as applicable to "each accident" is the total limit of the compa-
45 ny's liability for all damages because of bodily injury sustained by two or more persons as the result

1 of any one accident.

2 (b) Any payment made under this coverage to or for an insured shall be applied in reduction
3 of any amount *[which]* **that** the insured may be entitled to recover from any person who is an in-
4 sured under the bodily injury liability coverage of this policy.

5 (c) Any amount payable under the terms of this coverage because of bodily injury sustained in
6 an accident by a person who is an insured under this coverage shall be reduced by:

7 (A) All sums paid on account of *[such]* **the** bodily injury by or on behalf of the owner or operator
8 of the uninsured vehicle and by or on behalf of any other person or organization jointly or severally
9 liable together with *[such]* **the** owner or operator for *[such]* **the** bodily injury, including all sums
10 paid under the bodily injury liability coverage of the policy; and

11 (B) The amount paid and the present value of all amounts payable on account of *[such]* **the**
12 bodily injury under any workers' compensation law, disability benefits law or any similar law.

13 (d) Any amount payable under the terms of this coverage because of bodily injury sustained in
14 an accident by a person who is an insured under this coverage shall be reduced by the credit given
15 to the insurer pursuant to subsection (4)(d)(C) or (D) of this section.

16 (e) The amount payable under the terms of this coverage *[shall]* **may** not be reduced by the
17 amount of liability proceeds offered, described in subsection (4)(d)(B) or (D) of this section, that has
18 not been paid to the injured person. If liability proceeds have been offered and not paid, the amount
19 payable under the terms of the coverage shall include the amount of liability limits offered but not
20 accepted due to the insurer's refusal to consent. The insured shall cooperate so as to permit the
21 insurer to proceed by subrogation or assignment to prosecute the claim against the uninsured mo-
22 torist.

23 (8) No action shall lie against the insurer unless, as a condition precedent thereto, the insured
24 or the legal representative of the insured has fully complied with all the terms of this policy.

25 (9)(a) Except as provided in paragraph (c) of this subsection, with respect to bodily injury to an
26 insured while occupying a vehicle not owned by a named insured under this coverage, the insurance
27 under this coverage shall apply only as excess insurance over any other insurance available to
28 *[such]* **the** occupant *[which]* **that** is similar to this coverage, and this insurance shall then apply only
29 in the amount by which the applicable limit of liability of this coverage exceeds the sum of the ap-
30 plicable limits of liability of all *[such]* other insurance.

31 (b) With respect to bodily injury to an insured while occupying or through being struck by an
32 uninsured vehicle, if *[such]* **the** insured is an insured under other insurance available to the insured
33 *[which]* **that** is similar to this coverage, then the damages shall be deemed not to exceed the higher
34 of the applicable limits of liability of this insurance or *[such]* other insurance, and the insurer *[shall*
35 *not be]* **is not** liable under this coverage for a greater proportion of the damages than the applicable
36 limit of liability of this coverage bears to the sum of the applicable limits of liability of this insur-
37 ance and *[such]* other insurance.

38 (c) With respect to bodily injury to an insured while occupying any motor vehicle used as a
39 public or livery conveyance, the insurance under this coverage shall apply only as excess insurance
40 over any other insurance available to the insured *[which]* **that** is similar to this coverage, and this
41 insurance shall then apply only in the amount by which the applicable limit of liability of this cov-
42 erage exceeds the sum of the applicable limits of liability of all *[such]* other insurance.

43 (10) If any person making claim hereunder and the insurer do not agree that *[such]* **the** person
44 is legally entitled to recover damages from the owner or operator of an uninsured vehicle because
45 of bodily injury to the insured, or do not agree as to the amount of payment *[which]* **that** may be

1 owing under this coverage, then, in the event the insured and the insurer elect by mutual agreement
 2 at the time of the dispute to settle the matter by arbitration, the arbitration shall take place [*under*
 3 *the arbitration laws of the State of Oregon or, if the parties agree, according to any other procedure*]
 4 **as described in section 2 of this 2005 Act.** Any judgment upon the award rendered by the
 5 arbitrators may be entered in any court having jurisdiction thereof, provided, however, **that** the
 6 costs to the insured of the arbitration proceeding [*shall*] **do** not exceed \$100 and that all other costs
 7 of arbitration [*shall be*] **are** borne by the insurer. “Costs” as used in this provision [*shall*] **does** not
 8 include attorney fees or expenses incurred in the production of evidence or witnesses or the making
 9 of transcripts of the arbitration proceedings. [*Such*] **The** person and the insurer each agree to con-
 10 sider themselves bound and to be bound by any award made by the arbitrators pursuant to this
 11 coverage in the event of such election. At the election of the insured, [*such*] **the** arbitration shall
 12 be held:

13 (a) In the county and state of residence of the insured;

14 (b) In the county and state where the insured’s cause of action against the uninsured motorist
 15 arose; or

16 (c) At any other place mutually agreed upon by the insured and the insurer.

17 (11) In the event of payment to any person under this coverage:

18 (a) The insurer shall be entitled to the extent of [*such*] **the** payment to the proceeds of any
 19 settlement or judgment that may result from the exercise of any rights of recovery of [*such*] **the**
 20 person against any uninsured motorist legally responsible for the bodily injury because of which
 21 [*such*] payment is made;

22 (b) [*Such*] **The** person shall hold in trust for the benefit of the insurer all rights of recovery
 23 [*which*] **that** the person shall have against such other uninsured person or organization because of
 24 the damages [*which*] **that** are the subject of claim made under this coverage, but only to the extent
 25 that [*such*] **the** claim is made or paid herein;

26 (c) If the insured is injured by the joint or concurrent act or acts of two or more persons, one
 27 or more of whom is uninsured, the insured shall have the election to receive from the insurer any
 28 payment to which the insured would be entitled under this coverage by reason of the act or acts
 29 of the uninsured motorist, or the insured may, with the written consent of the insurer, proceed with
 30 legal action against any or all persons claimed to be liable to the insured for [*such*] **the** injuries. If
 31 the insured elects to receive payment from the insurer under this coverage, then the insured shall
 32 hold in trust for the benefit of the insurer all rights of recovery the insured shall have against any
 33 other person, firm or organization because of the damages [*which*] **that** are the subject of claim
 34 made under this coverage, but only to the extent of the actual payment made by the insurer;

35 (d) [*Such*] **The** person shall do whatever is proper to secure and shall do nothing after loss to
 36 prejudice such rights;

37 (e) If requested in writing by the insurer, [*such*] **the** person shall take, through any represen-
 38 tative not in conflict in interest with [*such*] **the** person, designated by the insurer, such action as
 39 may be necessary or appropriate to recover [*such*] payment as damages from such other uninsured
 40 person or organization, such action to be taken in the name of [*such*] **the** person, but only to the
 41 extent of the payment made hereunder. In the event of a recovery, the insurer shall be reimbursed
 42 out of [*such*] **the** recovery for expenses, costs and attorney fees incurred by [*it*] **the insurer** in
 43 connection therewith; and

44 (f) [*Such*] **The** person shall execute and deliver to the insurer [*such*] **any** instruments and papers
 45 as may be appropriate to secure the rights and obligations of [*such*] **the** person and the insurer es-

1 established by this provision.

2 (12)(a) The parties to this coverage agree that no cause of action shall accrue to the insured
3 under this coverage unless within two years from the date of the accident:

4 (A) Agreement as to the amount due under the policy has been concluded;

5 (B) The insured or the insurer has formally instituted arbitration proceedings;

6 (C) The insured has filed an action against the insurer [*in a court of competent jurisdiction*]; or

7 (D) Suit for bodily injury has been filed against the uninsured motorist [*in a court of competent*
8 *jurisdiction*] and, within two years from the date of settlement or final judgment against the
9 uninsured motorist, the insured has formally instituted arbitration proceedings or filed an action
10 against the insurer [*in a court of competent jurisdiction*].

11 (b) For purposes of this subsection:

12 (A) "Date of settlement" means the date on which a written settlement agreement or release is
13 signed by an insured or, in the absence of [*such*] **these** documents, the date on which the insured
14 or the attorney for the insured receives payment of any sum required by the settlement agreement.
15 An advance payment as defined in ORS 31.550 shall not be deemed a payment of a settlement for
16 purposes of the time limitation in this subsection.

17 (B) "Final judgment" means a judgment that has become final by lapse of time for appeal or by
18 entry in an appellate court of an appellate judgment.

19 **SECTION 4. Section 5 of this 2005 Act is added to and made a part of ORS 742.520 to**
20 **742.542.**

21 **SECTION 5. As used in ORS 742.520 to 742.542:**

22 (1) "Motor vehicle" means a self-propelled land motor vehicle or trailer, other than:

23 (a) A farm type tractor or other self-propelled equipment designed for use principally off
24 public roads, while not upon public roads;

25 (b) A vehicle operated on rails or crawler-treads; or

26 (c) A vehicle located for use as a residence or premises.

27 (2) "Motorcycle" and "moped" have the meanings given those terms in ORS 801.345 and
28 801.365.

29 (3) "Occupying" means in, or upon, or entering into or alighting from.

30 (4) "Pedestrian" means a person while not occupying a self-propelled vehicle other than
31 a wheelchair or a similar low-powered motorized or mechanically propelled vehicle that is
32 designed specifically for use by a physically disabled person and that is determined to be
33 medically necessary for the occupant of the wheelchair or other low-powered vehicle.

34 (5) "Personal injury protection benefits" means the benefits described in ORS 742.520,
35 742.524 and 742.530.

36 (6) "Private passenger motor vehicle" means a four-wheel passenger or station wagon
37 type motor vehicle not used as a public or livery conveyance, and includes any other four-
38 wheel motor vehicle of the utility, pickup body, sedan delivery or panel truck type not used
39 for wholesale or retail delivery other than farming, a self-propelled mobile home, and a farm
40 truck.

41 (7) "Provider" has the meaning given that term in ORS 743.801.

42 **SECTION 6. ORS 742.520 is amended to read:**

43 742.520. (1) Every motor vehicle liability policy issued for delivery in this state that covers any
44 private passenger motor vehicle shall provide personal injury protection benefits to the person in-
45 sured thereunder, members of that person's family residing in the same household, children not re-

1 lated to the insured by blood, marriage or adoption who are residing in the same household as the
2 insured and being reared as the insured's own, passengers occupying the insured motor vehicle and
3 pedestrians struck by the insured motor vehicle. [*“Personal injury protection benefits” means the*
4 *benefits described in this section and ORS 742.524 and 742.530.*]

5 (2) Personal injury protection benefits apply to a person's injury or death resulting:

6 (a) In the case of the person insured under the policy and members of that person's family re-
7 siding in the same household, from the use, occupancy or maintenance of any motor vehicle, except
8 the following vehicles:

9 (A) A motor vehicle, including a motorcycle or moped, that is owned or furnished or available
10 for regular use by any of such persons and that is not described in the policy;

11 (B) A motorcycle or moped which is not owned by any of such persons, but this exclusion applies
12 only when the injury or death results from such person's operating or riding upon the motorcycle
13 or moped; and

14 (C) A motor vehicle not included in subparagraph (A) or (B) of this paragraph and not a private
15 passenger motor vehicle. However, this exclusion applies only when the injury or death results from
16 such person's operating or occupying the motor vehicle.

17 (b) In the case of a passenger occupying or a pedestrian struck by the insured motor vehicle,
18 from the use, occupancy or maintenance of the vehicle.

19 (3) Personal injury protection benefits consist of payments for expenses, loss of income and loss
20 of essential services as provided in ORS 742.524.

21 (4) An insurer shall pay all personal injury protection benefits promptly after proof of loss has
22 been submitted to the insurer.

23 (5) The potential existence of a cause of action in tort does not relieve an insurer from the duty
24 to pay personal injury protection benefits.

25 (6) Disputes between insurers and beneficiaries about the amount of personal injury protection
26 benefits, or about the denial of personal injury protection benefits, shall be decided by arbitration
27 if mutually agreed to at the time of the dispute. **Arbitration under this subsection shall take**
28 **place as described in section 2 of this 2005 Act.**

29 [*(7) As used in ORS 742.520 to 742.542:*]

30 [*(a) “Motor vehicle” means a self-propelled land motor vehicle or trailer, other than:*]

31 [*(A) A farm type tractor or other self-propelled equipment designed for use principally off public*
32 *roads, while not upon public roads;*]

33 [*(B) A vehicle operated on rails or crawler-treads; or*]

34 [*(C) A vehicle located for use as a residence or premises.*]

35 [*(b) “Motorcycle” and “moped” have the meanings given those terms in ORS 801.345 and*
36 *801.365.*]

37 [*(c) “Occupying” means in, or upon, or entering into or alighting from.*]

38 [*(d) “Pedestrian” means a person while not occupying a self-propelled vehicle other than a wheel-*
39 *chair or a similar low-powered motorized or mechanically propelled vehicle that is designed specifically*
40 *for use by a physically disabled person and that is determined to be medically necessary for the occu-*
41 *pant of the wheelchair or other low-powered vehicle.*]

42 [*(e) “Private passenger motor vehicle” means a four-wheel passenger or station wagon type motor*
43 *vehicle not used as a public or livery conveyance, and includes any other four-wheel motor vehicle of*
44 *the utility, pickup body, sedan delivery or panel truck type not used for wholesale or retail delivery*
45 *other than farming, a self-propelled mobile home, and a farm truck.*]

1 *[(f) "Provider" has the meaning given that term in ORS 743.801.]*

2 **SECTION 7. Section 2 of this 2005 Act and the amendments to ORS 742.504 and 742.520**
3 **by sections 3 and 6 of this 2005 Act apply to motor vehicle liability policies issued or renewed**
4 **on or after the effective date of this 2005 Act.**

5
