

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 HOUSE BILL 1379

By: Kerbs

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5
6 AS INTRODUCED

7 An Act relating to insurance; amending 36 O.S. 2011,
8 Section 3636, as amended by Section 1, Chapter 307,
9 O.S.L. 2014 (36 O.S. Supp. 2016, Section 3636), which
10 relates to uninsured motorist coverage; specifying
11 policies that shall include certain coverage;
12 requiring uninsured motorist policies to provide
13 coverage for injury to or destruction of property;
14 authorizing insurer to recover certain settlements or
15 judgments; authorizing an insured to reject only
16 certain type of uninsured motorist coverage;
17 modifying certain form contents; providing that
18 certain changes in coverages shall not be considered
19 an amendment to the coverage; requiring insurer to
20 change certain coverage limits; requiring insurer to
21 provide certain notice; and providing an effective
22 date.

23 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

24 SECTION 1. AMENDATORY 36 O.S. 2011, Section 3636, as
amended by Section 1, Chapter 307, O.S.L. 2014 (36 O.S. Supp. 2016,
Section 3636), is amended to read as follows:

Section 3636. A. No policy insuring against loss resulting
from liability imposed by law for bodily injury or death suffered by
any person and injury to or destruction of property arising out of
the ownership, maintenance or use of a motor vehicle shall be

1 issued, delivered, renewed, or extended in this state with respect
2 to a motor vehicle registered or principally garaged in this state
3 unless the policy includes the coverage described in subsection B of
4 this section.

5 B. ~~The~~ Except as otherwise provided in this section, the policy
6 referred to in subsection A of this section shall provide coverage
7 therein or supplemental thereto for the protection of persons
8 insured thereunder who are legally entitled to recover damages from
9 owners or operators of uninsured motor vehicles and hit-and-run
10 motor vehicles because of bodily injury, sickness or disease,
11 ~~including~~ death and injury to or destruction of property resulting
12 therefrom. Coverage shall be not less than the amounts or limits
13 prescribed for bodily injury ~~or~~, death and injury to or destruction
14 of property for a policy meeting the requirements of Section 7-204
15 of Title 47 of the Oklahoma Statutes, as the same may be hereafter
16 amended; provided, however, that increased limits of liability shall
17 be offered and purchased if desired, not to exceed the limits
18 provided in the liability policy ~~of bodily injury liability~~ of the
19 insured. Policies issued, renewed or reinstated after November 1,
20 2014, shall not be subject to stacking or aggregation of limits
21 unless expressly provided for by an insurance carrier. The
22 uninsured motorist coverage shall be upon a form approved by the
23 Insurance Commissioner as otherwise provided in the Oklahoma
24 Insurance Code and may provide that the parties to the contract

1 shall, upon demand of either, submit their differences to
2 arbitration; provided, that if agreement by arbitration is not
3 reached within three (3) months from date of demand, the insured may
4 sue the tort-feasor.

5 C. For the purposes of this coverage the term "uninsured motor
6 vehicle" shall include an insured motor vehicle where the liability
7 insurer thereof is unable to make payment with respect to the legal
8 liability of its insured within the limits specified therein because
9 of insolvency. For the purposes of this coverage the term
10 "uninsured motor vehicle" shall also include an insured motor
11 vehicle, the liability limits of which are less than the amount of
12 the claim of the person or persons making such claim, regardless of
13 the amount of coverage of either of the parties in relation to each
14 other.

15 D. An insurer's insolvency protection shall be applicable only
16 to accidents occurring during a policy period in which its insured's
17 uninsured motorist coverage is in effect where the liability insurer
18 of the tort-feasor becomes insolvent within one (1) year after such
19 an accident. Nothing herein contained shall be construed to prevent
20 any insurer from according insolvency protection under terms and
21 conditions more favorable to its insured than is provided hereunder.

22 E. For purposes of this section, there is no coverage for any
23 insured while occupying a motor vehicle owned by, or furnished or
24 available for the regular use of the named insured, a resident

1 spouse of the named insured, or a resident relative of the named
2 insured, if such motor vehicle is not insured by a motor vehicle
3 insurance policy.

4 F. In the event of payment to any person under the coverage
5 required by this section and subject to the terms and conditions of
6 such coverage, the insurer making such payment shall, to the extent
7 thereof, be entitled to the proceeds of any settlement or judgment
8 resulting from the exercise of any rights of recovery of such person
9 against any person or organization legally responsible for the
10 bodily injury or injury to or destruction of property for which such
11 payment is made, including the proceeds recoverable from the assets
12 of the insolvent insurer. Provided, however, with respect to
13 payments made by reason of the coverage described in subsection C of
14 this section, the insurer making such payment shall not be entitled
15 to any right of recovery against such tort-feasor in excess of the
16 proceeds recovered from the assets of the insolvent insurer of said
17 tort-feasor. Provided further, that any payment made by the insured
18 tort-feasor shall not reduce or be a credit against the total
19 liability limits as provided in the insured's own uninsured motorist
20 coverage. Provided further, that if a tentative agreement to settle
21 for liability limits has been reached with an insured tort-feasor,
22 written notice shall be given by certified mail to the uninsured
23 motorist coverage insurer by its insured. Such written notice shall
24 include:

1 1. Written documentation of pecuniary losses incurred,
2 including copies of all medical bills; and

3 2. Written authorization or a court order to obtain reports
4 from all employers and medical providers. Within sixty (60) days of
5 receipt of this written notice, the uninsured motorist coverage
6 insurer may substitute its payment to the insured for the tentative
7 settlement amount. The uninsured motorist coverage insurer shall
8 then be entitled to the insured's right of recovery to the extent of
9 such payment and any settlement under the uninsured motorist
10 coverage. If the uninsured motorist coverage insurer fails to pay
11 the insured the amount of the tentative tort settlement within sixty
12 (60) days, the uninsured motorist coverage insurer has no right to
13 the proceeds of any settlement or judgment, as provided herein, for
14 any amount paid under the uninsured motorist coverage.

15 G. A named insured or applicant shall have the right to reject
16 all types of uninsured motorist coverage in writing; provided that a
17 named insured shall also have the right to reject coverage for
18 damages arising from injury to or destruction of property and select
19 only coverage for damages arising from personal bodily injury,
20 sickness, disease or death. The form signed by the insured or
21 applicant which initially rejects coverage or selects lower limits
22 shall remain valid for the life of the policy and the completion of
23 a new selection form shall not be required when a renewal,
24 reinstatement, substitute, replacement, or amended policy is issued

1 to the same-named insured by the same insurer or any of its
2 affiliates. Any changes to an existing policy, regardless of
3 whether these changes create new coverage, do not create a new
4 policy and do not require the completion of a new form.

5 After selection of limits, rejection, or exercise of the option
6 not to purchase uninsured motorist coverage by a named insured or
7 applicant for insurance, the insurer shall not be required to notify
8 any insured in any renewal, reinstatement, substitute, amended or
9 replacement policy as to the availability of such uninsured motorist
10 coverage or such optional limits. Such selection, rejection, or
11 exercise of the option not to purchase uninsured motorist coverage
12 by a named insured or an applicant shall be valid for all insureds
13 under the policy and shall continue until a named insured requests
14 in writing that the uninsured motorist coverage be added to an
15 existing or future policy of insurance.

16 H. The following are effective on forms required on or after
17 April 1, 2005. The offer of the coverage required by subsection B
18 of this section shall be in the following form which shall be filed
19 with and approved by the Insurance Commissioner. The form shall be
20 provided to the proposed insured in writing separately from the
21 application and shall read substantially as follows:

22 OKLAHOMA UNINSURED MOTORIST COVERAGE LAW

23 Oklahoma law gives you the right to buy Uninsured Motorist
24 coverage in the same amount as your ~~bodily injury~~ liability

1 insurance coverage. THE LAW REQUIRES US TO ADVISE YOU OF THIS
2 VALUABLE RIGHT FOR THE PROTECTION OF YOU, MEMBERS OF YOUR FAMILY,
3 AND OTHER PEOPLE WHO MAY BE HURT WHILE RIDING IN YOUR INSURED
4 VEHICLE AND FOR THE PROTECTION OF ANY DAMAGE TO YOUR VEHICLE OR
5 PROPERTY. YOU SHOULD SERIOUSLY CONSIDER BUYING THIS COVERAGE IN THE
6 SAME AMOUNT AS YOUR LIABILITY INSURANCE COVERAGE LIMIT.

7 Uninsured Motorist coverage, unless otherwise provided in your
8 policy, pays for bodily injury damages to you, members of your
9 family who live with you, and other people riding in your car ~~who~~
10 ~~are injured by~~ and damage to your vehicle caused by: (1) an
11 uninsured motorist, (2) a hit-and-run motorist, or (3) an insured
12 motorist who does not have enough liability insurance to pay for
13 bodily injury and property damages to any insured person. Uninsured
14 Motorist coverage, unless otherwise provided in your policy,
15 protects you and family members who live with you while riding in
16 any vehicle or while a pedestrian. THE COST OF THIS COVERAGE IS
17 SMALL COMPARED WITH THE BENEFITS!

18 You may make one of four choices about Uninsured Motorist
19 Coverage by indicating below what Uninsured Motorist coverage you
20 want:

21 ~~I want the same amount of Uninsured Motorist coverage as my~~
22 ~~bodily injury liability coverage.~~

23 I want ~~minimum~~ full Uninsured Motorist coverage in the
24 minimum amount of \$25,000.00 per person/\$50,000.00 per

1 damages by a policy meeting the requirements of Section 7-204 of
2 Title 47 of the Oklahoma Statutes shall not be considered an
3 amendment of the ~~bodily injury~~ liability coverage and shall not
4 require the completion of a new form.

5 K. On the first renewal on or after April 1, 2005, the insurer
6 shall change the Uninsured Motorist coverage limits to \$25,000.00
7 per person/\$50,000.00 per occurrence for bodily injury and
8 \$25,000.00 for injury to or destruction of property and charge the
9 corresponding premium for existing policyholders who have selected
10 Uninsured Motorist coverage limits less than \$25,000.00 per
11 person/\$50,000.00 per occurrence for bodily injury or \$25,000.00 for
12 injury to or destruction of property. At the first renewal on or
13 after April 1, 2005, the insurer shall provide existing
14 policyholders who have selected Uninsured Motorist coverage limits
15 less than \$25,000.00 per person/\$50,000.00 per occurrence for bodily
16 injury or \$25,000.00 for injury to or destruction of property a
17 notice of the change of their Uninsured Motorist coverage limits and
18 that notice shall state how such policyholders may reject Uninsured
19 Motorist coverage limits or select Uninsured Motorist coverage with
20 limits higher than \$25,000.00 per person/\$50,000.00 per occurrence
21 for bodily injury and \$25,000.00 for injury to or destruction of
22 property. No notice shall be required to existing policyholders who
23 have rejected Uninsured Motorist coverage or have selected Uninsured
24 Motorist coverage limits equal to or greater than \$25,000.00 per

1 person/\$50,000.00 per occurrence for bodily injury or \$25,000.00 for
2 injury to or destruction of property. For purposes of this
3 subsection an existing policyholder is a policyholder who purchased
4 a policy from the insurer before April 1, 2005, and such policy
5 renews on or after April 1, 2005.

6 SECTION 2. This act shall become effective November 1, 2017.

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