

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 SENATE BILL 540

By: Quinn

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5  
6 AS INTRODUCED

7 An Act relating to motor vehicle insurance; amending  
8 36 O.S. 2011, Section 3636, as amended by Section 1,  
9 Chapter 307, O.S.L. 2014 (36 O.S. Supp. 2020, Section  
10 3636), which relates to uninsured motorist coverage;  
11 providing that uninsured motorist coverage shall be  
12 transferrable to certain motor vehicles; eliminating  
13 uninsured motorist insurance under certain  
14 circumstances; specifying applicability of act;  
15 updating statutory language; and providing an  
16 effective date.

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

18 SECTION 1. AMENDATORY 36 O.S. 2011, Section 3636, as  
19 amended by Section 1, Chapter 307, O.S.L. 2014 (36 O.S. Supp. 2020,  
20 Section 3636), is amended to read as follows:

21 Section 3636. A. No policy insuring against loss resulting  
22 from liability imposed by law for bodily injury or death suffered by  
23 any person arising out of the ownership, maintenance or use of a  
24 motor vehicle shall be issued, delivered, renewed, or extended in  
25 this state with respect to a motor vehicle registered or principally  
26 garaged in this state unless the policy includes the coverage  
27 described in subsection B of this section.

1 B. The policy referred to in subsection A of this section shall  
2 provide coverage therein or supplemental thereto for the protection  
3 of persons insured thereunder who are legally entitled to recover  
4 damages from owners or operators of uninsured motor vehicles and  
5 hit-and-run motor vehicles because of bodily injury, sickness or  
6 disease, including death resulting therefrom. Coverage shall be not  
7 less than the amounts or limits prescribed for bodily injury or  
8 death for a policy meeting the requirements of Section 7-204 of  
9 Title 47 of the Oklahoma Statutes, as the same may be hereafter  
10 amended; provided, however, that increased limits of liability shall  
11 be offered and purchased if desired, not to exceed the limits  
12 provided in the policy of bodily injury liability of the insured.  
13 Policies issued, renewed or reinstated after November 1, 2014, shall  
14 not be subject to stacking or aggregation of limits unless expressly  
15 provided for by an insurance carrier. The uninsured motorist  
16 coverage shall be upon a form approved by the Insurance Commissioner  
17 as otherwise provided in the Insurance Code and may provide that the  
18 parties to the contract shall, upon demand of either, submit their  
19 differences to arbitration; provided, that if agreement by  
20 arbitration is not reached within three (3) months from date of  
21 demand, the insured may sue the tort-feasor.

22 C. For the purposes of this coverage the term "uninsured motor  
23 vehicle" shall include an insured motor vehicle where the liability  
24 insurer thereof is unable to make payment with respect to the legal

1 liability of its insured within the limits specified therein because  
2 of insolvency. For the purposes of this coverage the term  
3 "uninsured motor vehicle" shall also include an insured motor  
4 vehicle, the liability limits of which are less than the amount of  
5 the claim of the person or persons making such claim, regardless of  
6 the amount of coverage of either of the parties in relation to each  
7 other.

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

15 E. For purposes of this section, there is no coverage for any  
16 insured while occupying a motor vehicle owned by, or furnished or  
17 available for the regular use of the named insured, a resident  
18 spouse of the named insured, or a resident relative of the named  
19 insured, if such motor vehicle is not insured by a motor vehicle  
20 insurance policy.

21 F. In the event of payment to any person under the coverage  
22 required by this section and subject to the terms and conditions of  
23 such coverage, the insurer making such payment shall, to the extent  
24 thereof, be entitled to the proceeds of any settlement or judgment

1 resulting from the exercise of any rights of recovery of such person  
2 against any person or organization legally responsible for the  
3 bodily injury for which such payment is made, including the proceeds  
4 recoverable from the assets of the insolvent insurer. Provided,  
5 however, with respect to payments made by reason of the coverage  
6 described in subsection C of this section, the insurer making such  
7 payment shall not be entitled to any right of recovery against such  
8 tort-feasor in excess of the proceeds recovered from the assets of  
9 the insolvent insurer of ~~said~~ the tort-feasor. Provided further,  
10 that any payment made by the insured tort-feasor shall not reduce or  
11 be a credit against the total liability limits as provided in the  
12 insured's own uninsured motorist coverage. Provided further, that  
13 if a tentative agreement to settle for liability limits has been  
14 reached with an insured tort-feasor, written notice shall be given  
15 by certified mail to the uninsured motorist coverage insurer by its  
16 insured. Such written notice shall include:

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

19 2. Written authorization or a court order to obtain reports  
20 from all employers and medical providers. Within sixty (60) days of  
21 receipt of this written notice, the uninsured motorist coverage  
22 insurer may substitute its payment to the insured for the tentative  
23 settlement amount. The uninsured motorist coverage insurer shall  
24 then be entitled to the insured's right of recovery to the extent of

1 such payment and any settlement under the uninsured motorist  
2 coverage. If the uninsured motorist coverage insurer fails to pay  
3 the insured the amount of the tentative tort settlement within sixty  
4 (60) days, the uninsured motorist coverage insurer has no right to  
5 the proceeds of any settlement or judgment, as provided herein, for  
6 any amount paid under the uninsured motorist coverage.

7 G. A named insured or applicant shall have the right to reject  
8 uninsured motorist coverage in writing. The form signed by the  
9 insured or applicant which initially rejects coverage or selects  
10 lower limits shall remain valid for the life of the policy ~~and the~~  
11 ~~completion of a new selection form shall not be required when a~~  
12 ~~renewal, reinstatement, substitute, replacement, or amended policy~~  
13 ~~is issued to the same named insured by the same insurer or any of~~  
14 ~~its affiliates.~~ Any changes to an existing policy, regardless of  
15 whether these changes create new coverage, do not create a new  
16 policy and do not require the completion of a new form.

17 After selection of limits, rejection, or exercise of the option  
18 not to purchase uninsured motorist coverage by a named insured or  
19 applicant for insurance, the insurer shall not be required to notify  
20 any insured in any renewal, reinstatement, substitute, amended or  
21 replacement policy as to the availability of such uninsured motorist  
22 coverage or such optional limits. Such selection, rejection, or  
23 exercise of the option not to purchase uninsured motorist coverage  
24 by a named insured or an applicant shall be valid for all insureds

1 under the policy and shall continue until a named insured requests  
2 in writing that the uninsured motorist coverage be added to an  
3 existing or future policy of insurance.

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

10 OKLAHOMA UNINSURED MOTORIST COVERAGE LAW

11 Oklahoma law gives you the right to buy Uninsured Motorist  
12 coverage in the same amount as your bodily injury liability  
13 coverage. THE LAW REQUIRES US TO ADVISE YOU OF THIS VALUABLE RIGHT  
14 FOR THE PROTECTION OF YOU, MEMBERS OF YOUR FAMILY, AND OTHER PEOPLE  
15 WHO MAY BE HURT WHILE RIDING IN YOUR INSURED VEHICLE. YOU SHOULD  
16 SERIOUSLY CONSIDER BUYING THIS COVERAGE IN THE SAME AMOUNT AS YOUR  
17 LIABILITY INSURANCE COVERAGE LIMIT.

18 Uninsured Motorist coverage, unless otherwise provided in your  
19 policy, pays for bodily injury damages to you, members of your  
20 family who live with you, and other people riding in your car who  
21 are injured by: (1) an uninsured motorist, (2) a hit-and-run  
22 motorist, or (3) an insured motorist who does not have enough  
23 liability insurance to pay for bodily injury damages to any insured  
24 person. Uninsured Motorist coverage, unless otherwise provided in

1 your policy, protects you and family members who live with you while  
2 riding in any vehicle or while a pedestrian. THE COST OF THIS  
3 COVERAGE IS SMALL COMPARED WITH THE BENEFITS!

4 You may make one of four choices about Uninsured Motorist  
5 Coverage by indicating below what Uninsured Motorist coverage you  
6 want:

7 \_\_\_\_\_ I want the same amount of Uninsured Motorist coverage as my  
8 bodily injury liability coverage.

9 \_\_\_\_\_ I want minimum Uninsured Motorist coverage \$25,000.00 per  
10 person/\$50,000.00 per occurrence.

11 \_\_\_\_\_ I want Uninsured Motorist coverage in the following amount:  
12 \$\_\_\_\_\_ per person/\$\_\_\_\_\_ per occurrence.

13 \_\_\_\_\_ I want to reject Uninsured Motorist coverage.

14 \_\_\_\_\_  
15 Proposed Insured

16 THIS FORM IS NOT A PART OF YOUR POLICY AND DOES NOT PROVIDE  
17 COVERAGE.

18 I. The Insurance Commissioner shall approve a deviation from  
19 the form described in subsection H of this section if the form  
20 includes substantially the same information.

21 J. A change in the bodily injury liability coverage due to a  
22 change in the amount or limits prescribed for bodily injury or death  
23 by a policy meeting the requirements of Section 7-204 of Title 47 of  
24 the Oklahoma Statutes shall not be considered an amendment of the

1 bodily injury liability coverage and shall not require the  
2 completion of a new form.

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

23 L. In the event a policyholder purchases uninsured motorist  
24 coverage pursuant to subsection B of this section, the coverage

1 shall be transferrable without notice among the vehicles insured  
2 under a motor vehicle policy. If the policyholder fails to renew or  
3 cancel the uninsured motorist coverage, no vehicle insured under  
4 the motor vehicle policy shall have uninsured motorist coverage.  
5 The provisions of this section shall apply to any motor vehicle  
6 policy issued or renewed on or after the effective date of this act.

7 SECTION 2. This act shall become effective November 1, 2021.  
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