

STATE OF KANSAS

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HOUSE OF REPRESENTATIVES

MR. CHAIRMAN:

I move to amend **SB 17**, on page 1, following line 4, by inserting:

"WHEREAS, The amendments to K.S.A. 40-284 and K.S.A. 2016 Supp. 40-3107 by this act shall be known and may be cited as the injured motorist fair compensation act.

Now, therefore:";

Also on page 1, following line 31, by inserting:

"Sec. 2. On and after January 1, 2018, K.S.A. 40-284 is hereby amended to read as follows:  
40-284. (a) No automobile liability insurance policy covering liability arising out of the ownership, maintenance, or use of any motor vehicle shall be renewed, delivered or issued for delivery in this state on or after January 1, 2018, with respect to any motor vehicle registered or principally garaged 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.

(b) Any uninsured motorist coverage shall include an underinsured motorist provision with coverage limits equal to the limits of liability provided by such uninsured motorist coverage which enables the insured or the insured's legal representative to recover from the insurer the amount of damages for bodily injury or death to which the insured is legally entitled from the owner or operator of another motor vehicle ~~with coverage limits equal to the limits of liability provided by such uninsured motorist coverage~~ to the extent such ~~coverage exceeds~~ damages exceed the limits of the bodily injury coverage carried by the owner or operator of the other motor vehicle. In no event shall the amount of available underinsured motorist coverage be reduced because of any payment by or on behalf of the owner or operator of the other motor vehicle or any third party.

(c) The insured named in the policy shall have the right to reject, in writing, the uninsured motorist coverage required by subsections (a) and (b) which is in excess of the limits for bodily injury or death set forth in K.S.A. 40-3107, and amendments thereto. A rejection by an insured named in the policy of the uninsured motorist coverage shall be a rejection on behalf of all parties insured by the policy. Unless the insured named in the policy requests such coverage in writing, such coverage need not be provided in any subsequent policy issued by the same insurer for motor vehicles owned by the named insured, including, but not limited to, supplemental, renewal, reinstated, transferred or substitute policies where the named insured had rejected the coverage in connection with a policy previously issued to the insured by the same insurer.

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

(e) Any insurer may provide for the exclusion or limitation of coverage:

(1) When the insured is occupying or struck by an uninsured automobile or trailer owned or

provided for the insured's regular use;

(2) when the uninsured automobile is owned by a self-insurer or any governmental entity;

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

(4) to the extent that workers' compensation benefits apply;

(5) when suit is filed against the uninsured motorist without notice to the insurance carrier;

and

(6) to the extent that personal injury protection benefits apply.

(f) An underinsured motorist coverage insurer shall have subrogation rights under the provisions of K.S.A. 40-287, and amendments thereto. If a tentative agreement to settle for liability limits has been reached with an underinsured tortfeasor, written notice must be given by certified mail to the underinsured motorist coverage insurer by its insured. Such written notice shall include written documentation of pecuniary losses incurred, including copies of all medical bills and written authorization or a court order to obtain reports from all employers and medical providers. Within 60 days of receipt of this written notice, the underinsured motorist coverage insurer may substitute its payment to the insured for the tentative settlement amount. The underinsured motorist coverage insurer is then subrogated to the insured's right of recovery to the extent of such payment and any settlement under the underinsured motorist coverage. If the underinsured motorist coverage insurer fails to pay the insured the amount of the tentative tort settlement within 60 days, the underinsured motorist coverage insurer has no right of subrogation for any amount paid under the underinsured motorist coverage.";

On page 2, following line 4, by inserting:

"Sec. 4. On and after January 1, 2018, K.S.A. 2016 Supp. 40-3107 is hereby amended to read as follows: 40-3107. Every policy of motor vehicle liability insurance issued or renewed on or after

January 1, ~~2017~~ 2018, by an insurer to an owner residing in this state shall:

(a) Designate by explicit description or by appropriate reference of all vehicles with respect to which coverage is to be granted;

(b) insure the person named and any other person, as insured, using any such vehicle with the expressed or implied consent of such named insured, against loss from the liability imposed by law for damages arising out of the ownership, maintenance or use of any such vehicle within the United States of America or the Dominion of Canada, subject to the limits stated in such policy;

(c) state the name and address of the named insured, the coverage afforded by the policy, the premium charged and the policy period;

(d) contain an agreement or be endorsed that insurance is provided in accordance with the coverage required by this act;

(e) contain stated limits of liability, exclusive of interest and costs, with respect to each vehicle for which coverage is granted, not less than ~~\$25,000~~ \$50,000 because of bodily injury to, or death of, one person in any one accident and, subject to the limit for one person, to a limit of not less than ~~\$50,000~~ \$100,000 because of bodily injury to, or death of, two or more persons in any one accident, and to a limit of not less than \$25,000 because of harm to or destruction of property of others in any one accident;

(f) include personal injury protection benefits to the named insured, relatives residing in the same household, persons operating the insured motor vehicle, passengers in such motor vehicle and other persons struck by such motor vehicle and suffering bodily injury while not an occupant of a motor vehicle, not exceeding the limits prescribed for each of such benefits, for loss sustained by any such person as a result of injury. The owner of a motorcycle, as defined by K.S.A. 8-1438, and amendments thereto, or motor-driven cycle, defined by K.S.A. 8-1439, and amendments thereto, who is the named insured, shall have the right to reject in writing insurance coverage including such benefits

for injury to a person which occurs while the named insured is operating or is a passenger on such motorcycle or motor-driven cycle; and unless the named insured requests such coverage in writing, such coverage need not be provided in or supplemental to a renewal policy when the named insured has rejected the coverage in connection with a policy previously issued by the same insurer. The fact that the insured has rejected such coverage shall not cause such motorcycle or motor-driven cycle to be an uninsured motor vehicle;

(g) notwithstanding any omitted or inconsistent language, any contract of insurance which an insurer represents as or which purports to be a motor vehicle liability insurance policy meeting the requirements of this act shall be construed to obligate the insurer to meet all the mandatory requirements and obligations of this act;

(h) notwithstanding any other provision contained in this section, any insurer may exclude coverage required by subsections (a), (b), (c) and (d) of this section while any insured vehicles are:

(1) Rented to others or used to carry persons for a charge, however, such exclusion shall not apply to the use of a private passenger car on a share the expense basis; or

(2) being repaired, serviced or used by any person employed or engaged in any way in the automobile business. This does not apply to the named insured, spouse or relative residents; or the agents, employers, employees or partners of the named insured, spouse or resident relative; and

(i) in addition to the provisions of subsection (h) and notwithstanding any other provision contained in subsections (a), (b), (c) and (d) of this section, any insurer may exclude coverage:

(1) For any damages for which the United States government might be liable for the insured's use of the vehicle;

(2) for any damages to property owned by, rented to, or in charge of or transported by an insured, however, this exclusion shall not apply to coverage for a rented residence or rented private garage;

- (3) for any obligation of an insured, or the insured's insurer under any type of workers' compensation or disability or similar law;
- (4) for liability assumed by an insured under any contract or agreement;
- (5) if two or more vehicle liability policies apply to the same accident, the total limits of liability under all such policies shall not exceed that of the policy with the highest limit of liability;
- (6) for any damages arising from an intentional act;
- (7) for any damages to any person who would be covered for such damages under a nuclear energy liability policy;
- (8) for any obligation of the insured to indemnify another for damages resulting from bodily injury to the insured's employee by accident arising out of and in the course of such employee's employment;
- (9) for bodily injury to any fellow employee of the insured arising out of and in the course of such employee's employment;
- (10) for bodily injury or property damage resulting from the handling of property:
  - (A) Before it is moved from the place where it is accepted by the insured for movement into or onto the covered auto; or
  - (B) after it is moved from the covered auto to the place where it is finally delivered by the insured;
- (11) for bodily injury or property damage resulting from the movement of property by a mechanical device, other than a hand truck, not attached to the covered auto; and
- (12) for bodily injury or property damage caused by the dumping, discharge or escape of irritants, pollutants or contaminants; however, this exclusion does not apply if the discharge is sudden and accidental.
- (j) Commencing with the 2026 legislative interim period, and at least every 10 years

thereafter, subject to authorization by the legislative coordinating council, a legislative interim study committee shall study the issue of whether the minimum limits of liability in subsection (e) should be adjusted.";

Also on page 2, following line 5, by inserting:

"Sec. 6. On and after January 1, 2018, K.S.A. 40-284 and K.S.A. 2016 Supp. 40-3107 are hereby repealed.";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, after the semicolon by inserting "relating to motor vehicle liability insurance; uninsured motorist coverage and underinsured motorist coverage; increasing the minimum policy limit for bodily injury;"; also in line 2, after "K.S.A." by inserting "40-284 and"; also in line 2, after "and" by inserting "K.S.A. 2016 Supp. 40-3107 and"; in line 3, by striking "section" and inserting "sections"

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