

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 912

Introduced by Pahls, 31.

Read first time January 12, 2010

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to uninsured and underinsured motorist
2 coverage; to amend section 44-7501, Reissue Revised
3 Statutes of Nebraska, and section 44-6413, Revised
4 Statutes Supplement, 2009; to prohibit certain limits
5 on an occupant's recovery as prescribed; to harmonize
6 provisions; to repeal the original sections; and to
7 declare an emergency.

8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 44-6413, Revised Statutes Supplement,
2 2009, is amended to read:

3 44-6413 (1) The uninsured and underinsured motorist
4 coverages provided in the Uninsured and Underinsured Motorist
5 Insurance Coverage Act shall not apply to:

6 (a) Bodily injury, sickness, disease, or death of
7 the insured with respect to which the insured or his or her
8 representative makes, without the written consent of the insurer,
9 any settlement with or obtains any judgment against any person who
10 may be legally liable for any injuries if such settlement adversely
11 affects the rights of the insurer, except that this subdivision
12 shall not apply to underinsured motorist coverage when the insured
13 has given notice to the insurer, in compliance with subsection (2)
14 of section 44-6412, and the insurer has failed to make the required
15 payment to protect its right of subrogation;

16 (b) Bodily injury, sickness, disease, or death of an
17 insured while occupying a vehicle owned by, but not insured by,
18 the named insured or a spouse or relative residing with the named
19 insured;

20 (c) Bodily injury, sickness, disease, or death of an
21 insured while occupying an owned vehicle which is used as a public
22 or livery conveyance and which is not insured as such;

23 (d) Bodily injury, sickness, disease, or death of an
24 insured through being struck by a vehicle owned by the named
25 insured or a spouse or relative residing with the named insured;

1 and

2 (e) Bodily injury, sickness, disease, or death of the
3 insured with respect to which the applicable statute of limitations
4 has expired on the insured's claim against the uninsured or
5 underinsured motorist.

6 (2) Insurers providing motor vehicle liability insurance
7 coverage on an excess or umbrella basis or incidental to some other
8 basic coverage shall not be required to offer, provide, or make
9 available coverage conforming to the Uninsured and Underinsured
10 Motorist Insurance Coverage Act.

11 (3) An insurer may make underinsured motorist coverage a
12 part of uninsured motorist coverage.

13 (4) Nothing in the Uninsured and Underinsured Motorist
14 Insurance Coverage Act shall be construed to prevent an insurer
15 from offering, making available, or providing coverage under terms
16 and conditions more favorable to its insured or in limits higher
17 than are required by the act.

18 ~~(5)~~ (5)(a) No policy subject to the Uninsured and
19 Underinsured Motorist Insurance Coverage Act shall define insured,
20 for purposes of the uninsured and underinsured coverages provided
21 in the act, so as to exclude any person occupying the insured motor
22 vehicle with the express or implied permission of an insured.

23 (b) The uninsured and underinsured motorist coverage
24 limits of a motor vehicle liability insurance policy subject to the
25 Uninsured and Underinsured Motorist Insurance Coverage Act shall be

1 provided on the same basis for all persons occupying the insured
2 motor vehicle with the express or implied permission of an insured.
3 Nothing in this subdivision shall limit application of a per person
4 or per accident limitation in such policy to a covered occupant.

5 (6) The Director of Insurance shall adopt and promulgate
6 rules and regulations as are necessary to provide that the language
7 relating to coverages described in the Uninsured and Underinsured
8 Motorist Insurance Coverage Act is not unfair, inequitable,
9 misleading, or deceptive and does not encourage misrepresentation
10 of the coverage.

11 Sec. 2. Section 44-7501, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 44-7501 Sections 44-7501 to 44-7535 and section 3 of this
14 act shall be known and may be cited as the Property and Casualty
15 Insurance Rate and Form Act.

16 Sec. 3. The liability limits of a motor vehicle liability
17 insurance policy shall provide liability insurance protection on
18 the same basis for all persons insured under such coverage. Nothing
19 in this section shall limit application of a per person or per
20 accident limitation in such policy to a covered occupant.

21 Sec. 4. Original section 44-7501, Reissue Revised
22 Statutes of Nebraska, and section 44-6413, Revised Statutes
23 Supplement, 2009, are repealed.

24 Sec. 5. Since an emergency exists, this act takes effect
25 when passed and approved according to law.