

HOUSE BILL NO. 389

Introduced: 01/19/83

Referred to committee on Judiciary: 01/19/83

Hearing: 2/2/83

Died in Committee

1 *House* BILL NO. *389*
 2 INTRODUCED BY *Menahan* *Carlson* *Daily* *Julien*
 3 *J. Jaxson* *Brand*

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR MOTOR
 5 VEHICLE LIABILITY COVERAGE OF PERSONS WITHOUT REGARD TO THE
 6 MOTOR VEHICLES OWNED OR OPERATED BY THE INSURED; AMENDING
 7 SECTIONS 33-23-201, 33-23-203, AND 61-6-103, MCA."

8
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 NEW SECTION. Section 1. Motor vehicle liability
 11 policy to cover person without regard to vehicles. (1) An
 12 insurance carrier transacting business in this state shall
 13 issue motor vehicle liability policies to or for the benefit
 14 of the person or persons named therein as insured without
 15 regard to the motor vehicles owned or operated by the
 16 insured.

17 (2) A policy of motor vehicle liability insurance must
 18 insure the person or persons named therein who operate any
 19 motor vehicle with the express or implied permission of the
 20 owner against loss from the liability imposed by law upon
 21 such operator for damages arising out of the use by him of
 22 any motor vehicle.

23 Section 2. Section 61-6-103, MCA, is amended to read:
 24 "61-6-103. Motor vehicle liability policy defined. (1)
 25 A "motor vehicle liability policy" as said term is used in

1 this part shall mean an owner's or operator's policy of
 2 liability insurance, certified as provided in 61-6-133 or
 3 61-6-134 as proof of financial responsibility and issued,
 4 except as otherwise provided in 61-6-134, by an insurance
 5 carrier duly authorized to transact business in this state,
 6 to or for the benefit of the person named therein as
 7 insured.

8 (2) Such owner's policy of liability insurance shall
 9 ~~(a) designate by explicit description or by~~
 10 ~~appropriate reference all motor vehicles with respect to~~
 11 ~~which coverage is thereby to be granted; and~~

12 ~~(b) insure the person named therein and any other~~
 13 ~~person, as insured, using any such motor vehicle or motor~~
 14 ~~vehicles with the express or implied permission of such~~
 15 ~~named insured the owner, against loss from the liability~~
 16 ~~imposed by law for damages arising out of the ownership,~~
 17 ~~maintenance, or use of such motor vehicle or motor vehicles~~
 18 ~~within the United States of America or the Dominion of~~
 19 ~~Canada, subject to limits exclusive of interest and costs,~~
 20 ~~with respect to each such motor vehicle, as follows:~~

21 ~~(i)(a)~~ \$25,000 because of bodily injury to or death of
 22 one person in any one accident and subject to said limit for
 23 one person;

24 ~~(ii)(b)~~ \$50,000 because of bodily injury to or death
 25 of two or more persons in any one accident; and

1 ~~+++~~(c) \$5,000 because of injury to or destruction of
2 property of others in any one accident.

3 ~~(3) Such operator's policy of liability insurance~~
4 ~~shall insure the person named as insured therein against~~
5 ~~loss from the liability imposed upon him by law for damages~~
6 ~~arising out of the use by him of any motor vehicle not owned~~
7 ~~by him, within the same territorial limits and subject to~~
8 ~~the same limits of liability as are set forth above with~~
9 ~~respect to an owner's policy of liability insurance.~~

10 (4)(3) Such motor vehicle liability policy shall state
11 the name and address of the named insured, the coverage
12 afforded by the policy, the premium charged therefor, the
13 policy period, and the limits of liability and shall contain
14 an agreement or be endorsed that insurance is provided
15 thereunder in accordance with the coverage defined in this
16 part as respects bodily injury and death or property damage,
17 or both, and is subject to all the provisions of this part.

18 (5)(4) Such motor vehicle liability policy need not
19 insure any liability under any workers' compensation law or
20 any liability on account of bodily injury to or death of an
21 employee of the insured while engaged in the employment,
22 other than domestic, of the insured or while engaged in the
23 operation, maintenance, or repair of any such motor vehicle
24 or any liability for damage to property owned by, rented to,
25 in charge of, or transported by the insured.

1 (6)(5) Every motor vehicle liability policy shall be
2 subject to the following provisions which need not be
3 contained therein:

4 (a) The liability of the insurance carrier with
5 respect to the insurance required by this part shall become
6 absolute whenever injury or damage covered by said motor
7 vehicle liability policy occurs. Said policy may not be
8 canceled or annulled as to such liability by any agreement
9 between the insurance carrier and the insured after the
10 occurrence of the injury or damage. No statement made by
11 the insured or on his behalf and no violation of said policy
12 shall defeat or void said policy.

13 (b) The satisfaction by the insured of a judgment for
14 such injury or damage shall not be a condition precedent to
15 the right or duty of the insurance carrier to make payment
16 on account of such injury or damage.

17 (c) The insurance carrier shall have the right to
18 settle any claim covered by the policy, and if such
19 settlement is made in good faith, the amount thereof shall
20 be deductible from the limits of liability specified in
21 subsection (2)(b) of this section.

22 (d) The policy, the written application therefor, if
23 any, and any rider or endorsement which does not conflict
24 with the provisions of the part shall constitute the entire
25 contract between the parties.

1 ~~(7)~~(6) No motor vehicle policy shall be subject to
 2 cancellation, termination, or premium increase, due to
 3 injury or damage incurred by the insured or operator unless
 4 the insured or operator be found to have violated a traffic
 5 law or ordinance of the state or a city, be found negligent
 6 or contributorily negligent in a court of law, or by the
 7 arbitration proceedings contained in chapter 5 of Title 27,
 8 or pays damages to another party whether by settlement or
 9 otherwise. In no event may a premium be increased during the
 10 term of the policy unless there is a change in exposure.

11 ~~(8)~~(7) Any policy which grants the coverage required
 12 for a motor vehicle liability policy may also grant any
 13 lawful coverage in excess of or in addition to the coverage
 14 specified for a motor vehicle liability policy and such
 15 excess or additional coverage shall not be subject to the
 16 provisions of this part. With respect to a policy which
 17 grants such excess or additional coverage the term "motor
 18 vehicle liability policy" shall apply only to that part of
 19 the coverage which is required by this section.

20 ~~(9)~~(8) Any motor vehicle liability policy may provide
 21 that the insured shall reimburse the insurance carrier for
 22 any payment the insurance carrier would not have been
 23 obligated to make under the terms of the policy except for
 24 the provisions of this part.

25 ~~(10)~~(9) Any motor vehicle liability policy may provide

1 for the prorating of the insurance thereunder with other
 2 valid and collectable insurance.

3 ~~(11)~~(10) The requirements for a motor vehicle liability
 4 policy may be fulfilled by the policies of one or more
 5 insurance carriers which policies together meet such
 6 requirements.

7 ~~(12)~~(11) Any binder issued pending the issuance of a
 8 motor vehicle liability policy shall be deemed to fulfill
 9 the requirements for such a policy.

10 ~~(13)~~(12) A reduced limits endorsement shall not be
 11 issued by any company to be attached to any policy issued in
 12 compliance with this section."

13 Section 3. Section 33-23-201, MCA, is amended to read:
 14 "33-23-201. Motor vehicle liability policies to
 15 include uninsured motorist coverage -- rejection by insured.
 16 (1) No automobile liability or motor vehicle liability
 17 policy insuring against loss resulting from liability
 18 imposed by law for bodily injury or death suffered by any
 19 person arising out of the ownership, maintenance, or use of
 20 a motor vehicle shall be delivered or issued for delivery in
 21 this state ~~with respect to any motor vehicle registered or~~
 22 ~~principally garaged in this state,~~ unless coverage is
 23 provided therein or supplemental thereto, in limits for
 24 bodily injury or death set forth in 61-6-103, under
 25 provisions filed with and approved by the commissioner, for

1 the protection of persons insured thereunder who are legally
 2 entitled to recover damages from uninsured owners or
 3 operators of uninsured motor vehicles because of bodily
 4 injury, sickness, or disease, including death, resulting
 5 therefrom.

6 (2) The named insured shall have the right to reject
 7 such coverage. Unless the named insured requests such
 8 coverage in writing, such coverage need not be provided in
 9 or supplemental to a renewal policy where the named insured
 10 had rejected the coverage in connection with the policy
 11 previously issued to him by the same insurer."

12 Section 4. Section 33-23-203, MCA, is amended to read:

13 "33-23-203. Limitation of liability under motor
 14 vehicle liability policy. (1) Unless a motor vehicle
 15 liability policy specifically provides otherwise, the limits
 16 of insurance coverage available under any such policy,
 17 including the limits of liability under uninsured motorist
 18 coverage, shall be determined as follows, regardless of the
 19 number of ~~vehicles~~ persons insured under the policy:

20 (a) the limit of insurance coverage available for any
 21 one accident shall be the limit specified for the ~~vehicle~~
 22 person involved in the accident;

23 (b) if no ~~vehicle~~ person insured under the policy is
 24 involved in the accident, the limit of insurance coverage
 25 available for any one accident shall be the highest limit of

1 coverage specified for any one ~~vehicle~~ person insured under
 2 the policy; and

3 (c) the limits of coverage specified for each ~~vehicle~~
 4 person insured under the policy shall not be added together
 5 to determine the limit of insurance coverage available under
 6 the policy for any one accident.

7 (2) A motor vehicle liability policy may also provide
 8 for other reasonable limitations, exclusions, or reductions
 9 of coverage which are designed to prevent duplicate payments
 10 for the same element of loss."

11 NEW SECTION. Section 5. Codification instruction.
 12 Section 1 is intended to be codified as an integral part of
 13 Title 33, chapter 23, part 2, and the provisions of Title 33
 14 apply to section 1.

-End-