

HOUSE BILL 912

Introduced by Toole

2/16	Introduced
2/16	Referred to Highways & Transportation
2/18	First Reading
2/19	Rereferred to Judiciary
2/21	Hearing
2/23	Committee Report--Bill Passed as Amended
2/26	2nd Reading Do Pass Motion Failed

1 HOUSE BILL NO. 912
2 INTRODUCED BY Loel

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE MINIMUM
5 LIABILITY COVERAGE REQUIRED FOR A MOTOR VEHICLE; INCREASING
6 THE AMOUNTS NECESSARY FOR SATISFACTION OF JUDGMENTS UNDER
7 THE MOTOR VEHICLE SAFETY-RESPONSIBILITY ACT; INCREASING THE
8 AMOUNT NECESSARY TO DEPOSIT WHEN MONEY OR SECURITIES ARE
9 USED AS PROOF OF FINANCIAL RESPONSIBILITY; AMENDING SECTIONS
10 61-6-103, 61-6-124, AND 61-6-138, MCA; AND PROVIDING AN
11 APPLICABILITY DATE."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 **Section 1.** Section 61-6-103, MCA, is amended to read:

15 "61-6-103. Motor vehicle liability policy defined. (1)
16 A "motor vehicle liability policy", as the term is used in
17 this part, means an owner's or operator's policy of
18 liability insurance, certified as provided in 61-6-133 or
19 61-6-134 as proof of financial responsibility and issued,
20 except as otherwise provided in 61-6-134, by an insurance
21 carrier duly authorized to transact business in this state,
22 to or for the benefit of the person named therein as
23 insured.

- 24 (2) The owner's policy of liability insurance must:
25 (a) designate by explicit description or by appropriate

1 reference all motor vehicles with respect to which coverage
2 is thereby to be granted; and

3 (b) insure the person named therein and any other
4 person, as insured, using any motor vehicle or motor
5 vehicles with the express or implied permission of the named
6 insured, against loss from the liability imposed by law for
7 damages arising out of the ownership, maintenance, or use of
8 the motor vehicle or motor vehicles within the United States
9 of America or the Dominion of Canada, subject to limits
10 exclusive of interest and costs, with respect to each motor
11 vehicle, as follows:

12 (i) ~~\$25,000~~ \$50,000 because of bodily injury to or
13 death of one person in any one accident and subject to said
14 limit for one person;

15 (ii) ~~\$50,000~~ \$100,000 because of bodily injury to or
16 death of two or more persons in any one accident; and

17 (iii) ~~\$10,000~~ \$15,000 because of injury to or
18 destruction of property of others in any one accident.

19 (3) An operator's policy of liability insurance must
20 insure the person named as insured therein against loss from
21 the liability imposed upon him by law for damages arising
22 out of the use by him of any motor vehicle not owned by him,
23 within the same territorial limits and subject to the same
24 limits of liability as are set forth above with respect to
25 the operator's policy of liability insurance.



-2- INTRODUCED BILL
HB 912

1 (4) A motor vehicle liability policy must state the
 2 name and address of the named insured, the coverage afforded
 3 by the policy, the premium charged therefor, the policy
 4 period, and the limits of liability and contain an agreement
 5 or be endorsed that insurance is provided thereunder in
 6 accordance with the coverage defined in this part as
 7 respects bodily injury and death or property damage, or
 8 both, and is subject to all the provisions of this part.

9 (5) A motor vehicle liability policy need not insure
 10 any liability under any workers' compensation law or any
 11 liability on account of bodily injury to or death of an
 12 employee of the insured while engaged in the employment,
 13 other than domestic, of the insured or while engaged in the
 14 operation, maintenance, or repair of a motor vehicle or any
 15 liability for damage to property owned by, rented to, in
 16 charge of, or transported by the insured.

17 (6) A motor vehicle liability policy is subject to the
 18 following provisions, which need not be contained therein:

19 (a) The liability of the insurance carrier with respect
 20 to the insurance required by this part becomes absolute
 21 whenever injury or damage covered by the motor vehicle
 22 liability policy occurs. The policy may not be canceled or
 23 annulled as to the liability by any agreement between the
 24 insurance carrier and the insured after the occurrence of
 25 the injury or damage. No statement made by the insured or on

1 his behalf and no violation of the policy may defeat or void
 2 the policy.

3 (b) The satisfaction by the insured of a judgment for
 4 the injury or damage may not be a condition precedent to the
 5 right or duty of the insurance carrier to make payment on
 6 account of the injury or damage.

7 (c) The insurance carrier has the right to settle any
 8 claim covered by the policy, and if the settlement is made
 9 in good faith, the amount is deductible from the limits of
 10 liability specified in subsection (2)(b).

11 (d) The policy, the written application therefor, if
 12 any, and any rider or endorsement which does not conflict
 13 with the provisions of this part constitute the entire
 14 contract between the parties.

15 (7) A motor vehicle policy is not subject to
 16 cancellation, termination, nonrenewal, or premium increase
 17 due to injury or damage incurred by the insured or operator
 18 unless the insured or operator is found to have violated a
 19 traffic law or ordinance of the state or a city, is found
 20 negligent or contributorily negligent in a court of law or
 21 by the arbitration proceedings contained in chapter 5 of
 22 Title 27, or pays damages to another party, whether by
 23 settlement or otherwise. In no event may a premium be
 24 increased during the term of the policy unless there is a
 25 change in exposure.

1 (8) Any policy which grants the coverage required for a
 2 motor vehicle liability policy may also grant any lawful
 3 coverage in excess of or in addition to the coverage
 4 specified for a motor vehicle liability policy, and the
 5 excess or additional coverage is not subject to the
 6 provisions of this part. With respect to a policy which
 7 grants the excess or additional coverage, the term "motor
 8 vehicle liability policy" applies only to that part of the
 9 coverage which is required by this section.

10 (9) Any motor vehicle liability policy may provide that
 11 the insured shall reimburse the insurance carrier for any
 12 payment the insurance carrier would not have been obligated
 13 to make under the terms of the policy except for the
 14 provisions of this part.

15 (10) Any motor vehicle liability policy may provide for
 16 the prorating of the insurance thereunder with other valid
 17 and collectable insurance.

18 (11) The requirements for a motor vehicle liability
 19 policy may be fulfilled by the policies of one or more
 20 insurance carriers, which policies together meet such
 21 requirements.

22 (12) Any binder issued pending the issuance of a motor
 23 vehicle liability policy fulfills the requirements for such
 24 a policy.

25 (13) A reduced limits endorsement may not be issued by

1 any company to be attached to any policy issued in
 2 compliance with this section."

3 **Section 2.** Section 61-6-124, MCA, is amended to read:

4 "61-6-124. Satisfaction of judgments. (1) Judgments
 5 herein referred to shall, for the purposes of this part
 6 only, be considered satisfied:

7 (a) when ~~\$25,000~~ \$50,000 has been credited upon any
 8 judgment or judgments rendered in excess of that amount
 9 because of bodily injury to or death of one person as the
 10 result of any one accident;

11 (b) when, subject to the limit of ~~\$25,000~~ \$50,000
 12 because of bodily injury to or death of one person, the sum
 13 of ~~\$50,000~~ \$100,000 has been credited upon any judgment or
 14 judgments rendered in excess of that amount because of
 15 bodily injury to or death of two or more persons as the
 16 result of any one accident; or

17 (c) when ~~\$5,000~~ \$15,000 has been credited upon any
 18 judgment or judgments rendered in excess of that amount
 19 because of injury to or destruction of property of others as
 20 a result of any one accident.

21 (2) Payments made in settlement of any claims because
 22 of bodily injury, death, or property damage arising from a
 23 motor vehicle accident shall be credited in reduction of the
 24 amounts provided for in this section."

25 **Section 3.** Section 61-6-138, MCA, is amended to read:

1 "61-6-138. Money or securities as proof of
 2 responsibility. (1) Proof of financial responsibility may be
 3 evidenced by the certificate of the state treasurer that the
 4 person named therein has deposited with him ~~\$55,000~~ \$115,000
 5 in cash, or securities such as may legally be purchased by
 6 savings banks or for trust funds of a market value of
 7 ~~\$55,000~~ \$115,000. The state treasurer shall not accept any
 8 such deposit and issue a certificate therefor and the
 9 department shall not accept such certificate unless
 10 accompanied by evidence that there are no unsatisfied
 11 judgments of any character against the depositor in the
 12 county where the depositor resides.

13 (2) Such deposit shall be held by the state treasurer
 14 to satisfy, in accordance with the provisions of this part,
 15 any execution on a judgment issued against such person
 16 making the deposit, for damages, including damages for care
 17 and loss of services, because of bodily injury to or death
 18 of any person, or for damages because of injury to or
 19 destruction of property, including the loss of use thereof,
 20 resulting from the ownership, maintenance, use, or operation
 21 of a motor vehicle after such deposit was made. Money or
 22 securities so deposited shall not be subject to attachment
 23 or execution unless such attachment or execution shall arise
 24 out of a suit for damages as aforesaid."

25 NEW SECTION. **Section 4. Applicability.** (This act)

1 applies to insurance policies and contracts entered into or
 2 renewed on or after October 1, 1991.

-End-

APPROVED BY COMMITTEE
ON JUDICIARY

HOUSE BILL NO. 912

INTRODUCED BY TOOLE

A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE MINIMUM LIABILITY COVERAGE REQUIRED FOR A MOTOR VEHICLE, INCREASING THE AMOUNTS NECESSARY FOR SATISFACTION OF JUDGMENTS UNDER THE MOTOR VEHICLE SAFETY RESPONSIBILITY ACT, INCREASING THE AMOUNT NECESSARY TO DEPOSIT WHEN MONEY OR SECURITIES ARE USED AS PROOF OF FINANCIAL RESPONSIBILITY, AMENDING SECTIONS 61-6-103, 61-6-124, AND 61-6-130 REQUIRING MOTOR VEHICLE LIABILITY INSURANCE POLICIES TO INSURE AGAINST UNDERINSURED DRIVERS; ALLOWING AN INSURED TO REJECT SUCH INSURANCE; AND AMENDING SECTION 33-23-201, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

Section 1, Section 61-6-103, MCA, is amended to read:

"61-6-103. Motor vehicle liability policy defined. (1) A "motor vehicle liability policy" as the term is used in this part, means an owner's or operator's policy of liability insurance, certified as provided in 61-6-133 or 61-6-134 as proof of financial responsibility and issued, except as otherwise provided in 61-6-134, by an insurance carrier duly authorized to transact business in this state, to or for the benefit of the person named therein as

insured:

(2) The owner's policy of liability insurance must:

(a) designate by explicit description or by appropriate reference all motor vehicles with respect to which coverage is thereby to be granted; and

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

(i) \$25,000 ~~\$50,000~~ because of bodily injury to or death of one person in any one accident and subject to said limit for one person;

(ii) \$50,000 ~~\$100,000~~ because of bodily injury to or death of two or more persons in any one accident; and

(iii) \$10,000 ~~\$15,000~~ because of injury to or destruction of property of others in any one accident.

(3) An operator's policy of liability insurance must insure the person named as insured therein against loss from the liability imposed upon him by law for damages arising out of the use by him of any motor vehicle not owned by him,

1 within the same territorial limits and subject to the same
2 limits of liability as are set forth above with respect to
3 the operator's policy of liability insurance:

4 (4) A motor vehicle liability policy must state the
5 name and address of the named insured, the coverage afforded
6 by the policy, the premium charged therefor, the policy
7 period, and the limits of liability and contain an agreement
8 or be endorsed that insurance is provided thereunder in
9 accordance with the coverage defined in this part as
10 respects bodily injury and death or property damage, or
11 both, and is subject to all the provisions of this part:

12 (5) A motor vehicle liability policy need not insure
13 any liability under any workers' compensation law or any
14 liability on account of bodily injury to or death of an
15 employee of the insured while engaged in the employment,
16 other than domestic, of the insured or while engaged in the
17 operation, maintenance, or repair of a motor vehicle or any
18 liability for damage to property owned by, rented to, or in
19 charge of, or transported by the insured:

20 (6) A motor vehicle liability policy is subject to the
21 following provisions, which need not be contained therein:

22 (a) The liability of the insurance carrier with respect
23 to the insurance required by this part becomes absolute
24 whenever injury or damage covered by the motor vehicle
25 liability policy occurs. The policy may not be canceled or

1 annulled as to the liability by any agreement between the
2 insurance carrier and the insured after the occurrence of
3 the injury or damage. No statement made by the insured or on
4 his behalf and no violation of the policy may defeat or void
5 the policy:

6 (b) The satisfaction by the insured of a judgment for
7 the injury or damage may not be a condition precedent to the
8 right or duty of the insurance carrier to make payment on
9 account of the injury or damage:

10 (c) The insurance carrier has the right to settle any
11 claim covered by the policy, and if the settlement is made
12 in good faith, the amount is deductible from the limits of
13 liability specified in subsection (2)(b):

14 (d) The policy, the written application therefor, if
15 any, and any rider or endorsement which does not conflict
16 with the provisions of this part constitute the entire
17 contract between the parties:

18 (7) A motor vehicle policy is not subject to
19 cancellation, termination, nonrenewal, or premium increase
20 due to injury or damage incurred by the insured or operator
21 unless the insured or operator is found to have violated a
22 traffic law or ordinance of the state or a city, is found
23 negligent or contributorily negligent in a court of law or
24 by the arbitration proceedings contained in chapter 5 of
25 Title 27, or pays damages to another party, whether by

1 settlement--or--otherwise;--in--no--event--may--a--premium--be
 2 increased--during--the--term--of--the--policy--unless--there--is--a
 3 change--in--exposure;

4 (8)--Any--policy--which--grants--the--coverage--required--for--a
 5 motor--vehicle--liability--policy--may--also--grant--any--lawful
 6 coverage--in--excess--of--or--in--addition--to--the--coverage
 7 specified--for--a--motor--vehicle--liability--policy;--and--the
 8 excess--or--additional--coverage--is--not--subject--to--the
 9 provisions--of--this--part;--With--respect--to--a--policy--which
 10 grants--the--excess--or--additional--coverage;--the--term--"motor
 11 vehicle--liability--policy"--applies--only--to--that--part--of--the
 12 coverage--which--is--required--by--this--section;

13 (9)--Any--motor--vehicle--liability--policy--may--provide--that
 14 the--insured--shall--reimburse--the--insurance--carrier--for--any
 15 payment--the--insurance--carrier--would--not--have--been--obligated
 16 to--make--under--the--terms--of--the--policy--except--for--the
 17 provisions--of--this--part;

18 (10)--Any--motor--vehicle--liability--policy--may--provide--for
 19 the--prorating--of--the--insurance--thereunder--with--other--valid
 20 and--collectable--insurance;

21 (11)--The--requirements--for--a--motor--vehicle--liability
 22 policy--may--be--fulfilled--by--the--policies--of--one--or--more
 23 insurance--carriers;--which--policies--together--meet--such
 24 requirements;

25 (12)--Any--binder--issued--pending--the--issuance--of--a--motor

1 vehicle--liability--policy--fulfills--the--requirements--for--such
 2 a--policy;

3 (13)--A--reduced--limits--endorsement--may--not--be--issued--by
 4 any--company--to--be--attached--to--any--policy--issued--in
 5 compliance--with--this--section;*

6 Section--2;--Section--61-6-124;--MEA;--is--amended--to--read:

7 "61-6-124;--Satisfaction--of--judgments;--(1)--Judgments
 8 herein--referred--to--shall;--for--the--purposes--of--this--part
 9 only;--be--considered--satisfied;

10 (a)--when--\$25,000 \$50,000 has--been--credited--upon--any
 11 judgment--or--judgments--rendered--in--excess--of--that--amount
 12 because--of--bodily--injury--to--or--death--of--one--person--as--the
 13 result--of--any--one--accident;

14 (b)--when;--subject--to--the--limit--of--\$25,000 \$50,000
 15 because--of--bodily--injury--to--or--death--of--one--person;--the--sum
 16 of--\$50,000 \$100,000 has--been--credited--upon--any--judgment--or
 17 judgments--rendered--in--excess--of--that--amount--because--of
 18 bodily--injury--to--or--death--of--two--or--more--persons--as--the
 19 result--of--any--one--accident;--or

20 (c)--when--\$5,000 \$15,000 has--been--credited--upon--any
 21 judgment--or--judgments--rendered--in--excess--of--that--amount
 22 because--of--injury--to--or--destruction--of--property--of--others--as
 23 a--result--of--any--one--accident;

24 (2)--Payments--made--in--settlement--of--any--claims--because
 25 of--bodily--injury;--death;--or--property--damage--arising--from--a

1 motor-vehicle-accident-shall-be-credited-in-reduction-of-the
2 amounts-provide-for-in-this-section:"

3 Section-3.--Section-61-6-130, MCA, is amended to read:
4 "61-6-130.--Money----or----securities----as---proof---of
5 responsibility--(1)-Proof-of-financial-responsibility-may-be
6 evidenced-by-the-certificate-of-the-state-treasurer-that-the
7 person-named-therein-has-deposited-with-him-\$55,000 \$115,000
8 in-cash-or-securities-such-as-may-legally-be-purchased--by
9 savings--banks--or--for--trust--funds--of--a-market-value-of
10 \$55,000 \$115,000.-The-state-treasurer-shall-not--accept--any
11 such--deposit--and--issue--a--certificate--therefor--and-the
12 department--shall--not--accept--such--certificate--unless
13 accompanied--by--evidence--that--there--are--no--unsatisfied
14 judgments--of--any--character--against--the-depositor-in-the
15 county-where-the-depositor-resides-

16 (2)--Such-deposit-shall-be-held-by-the--state--treasurer
17 to--satisfy--in-accordance-with-the-provisions-of-this-part,
18 any-execution-on--a--judgment--issued--against--such--person
19 making--the-deposit--for-damages--including-damages-for-care
20 and-loss-of-services--because-of-bodily-injury-to--or--death
21 of--any--person--or--for--damages--because--of--injury-to--or
22 destruction-of-property--including-the-loss-of-use--thereof
23 resulting-from-the-ownership--maintenance--use--or--operation
24 of--a--motor--vehicle--after-such-deposit-was-made--Money-or
25 securities-so-deposited-shall-not-be-subject--to--attachment

1 or-execution-unless-such-attachment-or-execution-shall-arise
2 out-of-a-suit-for-damages-as-afore-said;

3 **SECTION 1. SECTION 33-23-201, MCA, IS AMENDED TO READ:**

4 "33-23-201. Motor vehicle liability policies to include
5 uninsured and underinsured motorist coverage -- rejection by
6 insured. (1) No motor vehicle liability policy insuring
7 against loss resulting from liability imposed by law for
8 bodily injury or death suffered by any person arising out of
9 the ownership, maintenance, or use of a motor vehicle may be
10 delivered or issued for delivery in this state, with respect
11 to any motor vehicle registered and principally garaged in
12 this state, unless coverage is provided therein or
13 supplemental thereto, in limits for bodily injury or death
14 set forth in 61-6-103, under provisions filed with and
15 approved by the commissioner, for the protection of persons
16 insured thereunder who are legally entitled to recover
17 damages from owners or operators of uninsured and
18 underinsured motor vehicles because of bodily injury,
19 sickness, or disease, including death, resulting therefrom,
20 caused by an accident arising out of the operation or use of
21 such vehicle. An uninsured or underinsured motor vehicle is
22 a land motor vehicle, the ownership, the maintenance, or the
23 use of which is not insured or bonded or is underinsured and
24 insufficiently bonded for bodily injury liability at the
25 time of the accident.

1 (2) The named insured shall have the right to reject
2 such either uninsured or underinsured coverage, or both.
3 Unless the named insured requests such coverage in writing,
4 such coverage need not be provided in or supplemental to a
5 renewal policy where the named insured had rejected the
6 coverage in connection with the policy previously issued to
7 him by the same insurer."

8 NEW SECTION. Section 2. Applicability. [This act]
9 applies to insurance policies and contracts entered into or
10 renewed on or after October 1, 1991.

-End-