

HOUSE BILL NO. 284

INTRODUCED BY FABREGA, HAGER

IN THE HOUSE

January 16, 1981	Introduced and referred to Committee on Judiciary.
February 20, 1981	Committee recommend bill do pass as amended. Report adopted.
February 21, 1981	Bill printed and placed on members' desks. Second reading, do pass.
February 23, 1981	Correctly engrossed.
February 24, 1981	Third reading, passed. Ayes, 99; Noes, 0. Transmitted to Senate.

IN THE SENATE

March 2, 1981	Introduced and referred to Committee on Judiciary.
March 16, 1981	Committee recommend bill be concurred in. Report adopted.
March 18, 1981	Second reading, pass consideration.
March 19, 1981	Second reading, concurred in.
March 21, 1981	Third reading, concurred in. Ayes, 44; Noes, 4.

IN THE HOUSE

March 23, 1981	Returned from Senate. Concurred in. Sent to enrolling. Reported correctly enrolled.
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1 HOUSE BILL NO. 284  
2 INTRODUCED BY Falvey Hager

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4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE MOTOR  
5 VEHICLE INSURANCE LIABILITY LAWS TO ALLOW LIMITATION OF THE  
6 INSURER'S LIABILITY IN CASES WHERE THERE IS MORE THAN ONE  
7 INSURANCE POLICY; AMENDING SECTION 61-6-103, MCA."

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

10 NEW SECTION. Section 1. Proration of recovery or  
11 benefits -- uninsured motorist coverage. Any policy of  
12 insurance providing uninsured motor vehicle coverage or any  
13 other coverage on motor vehicle liability may provide for  
14 proration of any recovery or benefit under more than one  
15 policy or provision of coverage not to exceed the higher of  
16 the applicable limits of the respective coverages as  
17 provided in 61-6-103.

18 Section 2. Section 61-6-103, MCA, is amended to read:

19 "61-6-103. Motor vehicle liability policy defined. (1)  
20 A "motor vehicle liability policy" as said term is used in  
21 this part shall mean an owner's or operator's policy of  
22 liability insurance, certified as provided in 61-6-133 or  
23 61-6-134 as proof of financial responsibility and issued,  
24 except as otherwise provided in 61-6-134, by an insurance  
25 carrier duly authorized to transact business in this state,

1 to or for the benefit of the person named therein as  
2 insured.

3 (2) Such owner's policy of liability insurance shall:  
4 (a) designate by explicit description or by  
5 appropriate reference all motor vehicles with respect to  
6 which coverage is thereby to be granted; and

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

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

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

21 (iii) \$5,000 because of injury to or destruction of  
22 property of others in any one accident.

23 (3) Such operator's policy of liability insurance  
24 shall insure the person named as insured therein against  
25 loss from the liability imposed upon him by law for damages

1 arising out of the use by him of any motor vehicle not owned  
2 by him, within the same territorial limits and subject to  
3 the same limits of liability as are set forth above with  
4 respect to an owner's policy of liability insurance.

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

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

21 (6) Every motor vehicle liability policy shall be  
22 subject to the following provisions which need not be  
23 contained therein:

24 (a) The liability of the insurance carrier with  
25 respect to the insurance required by this part shall become

1 absolute whenever injury or damage covered by said motor  
2 vehicle liability policy occurs. Said policy may not be  
3 canceled or annulled as to such liability by any agreement  
4 between the insurance carrier and the insured after the  
5 occurrence of the injury or damage. No statement made by  
6 the insured or on his behalf and no violation of said policy  
7 shall defeat or void said policy.

8 (b) The satisfaction by the insured of a judgment for  
9 such injury or damage shall not be a condition precedent to  
10 the right or duty of the insurance carrier to make payment  
11 on account of such injury or damage.

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

17 (d) The policy, the written application therefor, if  
18 any, and any rider or endorsement which does not conflict  
19 with the provisions of the part shall constitute the entire  
20 contract between the parties.

21 (7) No motor vehicle policy shall be subject to  
22 cancellation, termination, or premium increase, due to  
23 injury or damage incurred by the insured or operator unless  
24 the insured or operator be found to have violated a traffic  
25 law or ordinance of the state or a city, be found negligent

1 or contributorily negligent in a court of law, or by the  
2 arbitration proceedings contained in chapter 5 of Title 27,  
3 or pays damages to another party whether by settlement or  
4 otherwise. In no event may a premium be increased during the  
5 term of the policy unless there is a change in exposure.

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

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

20 (10) Any motor vehicle liability policy may provide for  
21 the prorating of the insurance thereunder with other valid  
22 and collectible insurance.

23 ~~(11) Any policy of insurance providing coverage under~~  
24 ~~the provisions of this chapter may provide that if the~~  
25 ~~insured has coverage available to him under more than one~~

1 ~~policy or provision of coverage, including uninsured~~  
2 ~~motorist coverage, any recovery or benefits may equal but~~  
3 ~~not exceed the higher of the applicable limits of the~~  
4 ~~respective coverages, and the recovery or benefits must be~~  
5 ~~prorated between the applicable coverages in the proportion~~  
6 ~~that their respective limits bear to the aggregate of their~~  
7 ~~limits. Any provision that limits benefits pursuant to this~~  
8 ~~subsection must be in clear language and be prominently~~  
9 ~~displayed in the policy, binder, or endorsement. Any~~  
10 ~~limiting provision is void if the named insured has~~  
11 ~~purchased separate coverage on the same risk and has paid a~~  
12 ~~premium calculated for full reimbursement under that~~  
13 ~~coverage.~~

14 ~~(12) The requirements for a motor vehicle liability~~  
15 ~~policy may be fulfilled by the policies of one or more~~  
16 ~~insurance carriers which policies together meet such~~  
17 ~~requirements.~~

18 ~~(13) Any binder issued pending the issuance of a~~  
19 ~~motor vehicle liability policy shall be deemed to fulfill~~  
20 ~~the requirements for such a policy.~~

21 ~~(14) A reduced limits endorsement shall not be~~  
22 ~~issued by any company to be attached to any policy issued in~~  
23 ~~compliance with this section."~~

24 Section 3. Codification instruction. Section 1 is  
25 intended to be codified as an integral part of Title 33,

LC 0943/01

1 chapter 23, part 2, and the provisions of Title 33 apply to  
2 section 1.

-End-

Approved by Committee  
on Judiciary

HOUSE BILL NO. 284

INTRODUCED BY FABREGA, HAGER

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE MOTOR  
VEHICLE INSURANCE LIABILITY LAWS TO ALLOW LIMITATION OF THE  
INSURER'S LIABILITY IN CASES WHERE THERE IS MORE THAN ONE  
VEHICLE COVERED UNDER A SINGLE INSURANCE POLICY+-AMENDING  
~~SECTION 61-6-103, MCA."~~

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

Refer to Introduced Bill

(Strike everything after the enacting clause and insert:)

Section 1. Limitation of liability under motor vehicle  
liability policy. (1) Unless a motor vehicle liability  
policy specifically provides otherwise, the limits of  
insurance coverage available under any such policy,  
including the limits of liability under uninsured motorist  
coverage, shall be determined as follows, regardless of the  
number of vehicles insured under the policy:

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

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

specified for any one vehicle insured under the policy; and  
(c) the limits of coverage specified for each vehicle  
insured under the policy shall not be added together to  
determine the limit of insurance coverage available under  
the policy for any one accident.

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

Section 2. Codification instruction. Section 1 is  
intended to be codified as an integral part of Title 33,  
chapter 23, part 2, and the provisions of Title 33 apply to  
section 1.

-End-

SECOND READING

HOUSE BILL NO. 284

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A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE MOTOR VEHICLE INSURANCE LIABILITY LAWS TO ALLOW LIMITATION OF THE INSURER'S LIABILITY IN CASES WHERE THERE IS MORE THAN ONE VEHICLE COVERED UNDER A SINGLE INSURANCE POLICY; AMENDING SECTION 61-6-103, MCA."

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

Refer to Introduced Bill

(Strike everything after the enacting clause and insert:)

Section 1. Limitation of liability under motor vehicle liability policy. (1) Unless a motor vehicle liability policy specifically provides otherwise, the limits of insurance coverage available under any such policy, including the limits of liability under uninsured motorist coverage, shall be determined as follows, regardless of the number of vehicles insured under the policy:

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

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

specified for any one vehicle insured under the policy; and (c) the limits of coverage specified for each vehicle insured under the policy shall not be added together to determine the limit of insurance coverage available under the policy for any one accident.

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

Section 2. Codification instruction. Section 1 is intended to be codified as an integral part of Title 33, chapter 23, part 2, and the provisions of Title 33 apply to section 1.

-End-

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 7 VEHICLE COVERED UNDER A SINGLE INSURANCE POLICY~~+-AMENDING~~  
 8 ~~SECTION 61-6-103+-MEA."~~  
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 16 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 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 involved in the accident;

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

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

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

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

-End-