

HB 199 INTRODUCED BY MENAHAN, ET AL.
AUTOMOBILE LIABILITY INSURANCE ON THE PERSON RATHER
THAN ON THE VEHICLE

1/14 INTRODUCED

1/14 REFERRED TO BUSINESS & LABOR

1/22 HEARING

1/22 COMMITTEE REPORT--BILL NOT PASSED

1/23 ADVERSE COMMITTEE REPORT ADOPTED

54 43

1 HB BILL NO. 199
2 INTRODUCED BY Merrilee Lynch Council

3
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; AND
8 PROVIDING AN APPLICABILITY DATE."
9

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

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

18 (2) A policy of motor vehicle liability insurance must
19 insure the person or persons named therein when operating
20 any motor vehicle, other than a motor vehicle used to
21 transport persons or property for hire, with the express or
22 implied permission of the owner against loss from the
23 liability imposed by law upon such operator for damages
24 arising out of the use by him of any such motor vehicle.

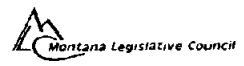
25 Section 2. Section 61-6-103, MCA, is amended to read:

1 "61-6-103. Motor vehicle liability policy defined. (1)
2 A "motor vehicle liability policy" as said term is used in
3 this part shall mean an owner's or operator's policy of
4 liability insurance, certified as provided in 61-6-133 or
5 61-6-134 as proof of financial responsibility and issued,
6 except as otherwise provided in 61-6-134, by an insurance
7 carrier duly authorized to transact business in this state,
8 to or for the benefit of the person named therein as
9 insured.

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

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

25 ~~(i)(a) \$25,000 because of bodily injury to or death of~~



1 one person in any one accident and subject to said limit for
2 one person;

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

5 ~~{iii}~~(c) \$5,000 because of injury to or destruction of
6 property of others in any one accident.

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

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

22 ~~{5}~~(4) Such motor vehicle liability policy need not
23 insure any liability under any workers' compensation law or
24 any liability on account of bodily injury to or death of an
25 employee of the insured while engaged in the employment,

1 other than domestic, of the insured or while engaged in the
2 operation, maintenance, or repair of any such motor vehicle
3 or any liability for damage to property owned by, rented to,
4 in charge of, or transported by the insured.

5 ~~{6}~~(5) Every motor vehicle liability policy shall be
6 subject to the following provisions which need not be
7 contained therein:

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

17 (b) The satisfaction by the insured of a judgment for
18 such injury or damage shall not be a condition precedent to
19 the right or duty of the insurance carrier to make payment
20 on account of such injury or damage.

21 (c) The insurance carrier shall have the right to
22 settle any claim covered by the policy, and if such
23 settlement is made in good faith, the amount thereof shall
24 be deductible from the limits of liability specified in
25 subsection (2)~~{b}~~ of this section.

1 (d) The policy, the written application therefor, if
 2 any, and any rider or endorsement which does not conflict
 3 with the provisions of the part shall constitute the entire
 4 contract between the parties.

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

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

24 ~~{9}~~(8) Any motor vehicle liability policy may provide
 25 that the insured shall reimburse the insurance carrier for

1 any payment the insurance carrier would not have been
 2 obligated to make under the terms of the policy except for
 3 the provisions of this part.

4 ~~{10}~~(9) Any motor vehicle liability policy may provide
 5 for the prorating of the insurance thereunder with other
 6 valid and collectable insurance.

7 ~~{11}~~(10) The requirements for a motor vehicle liability
 8 policy may be fulfilled by the policies of one or more
 9 insurance carriers which policies together meet such
 10 requirements.

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

14 ~~{13}~~(12) A reduced limits endorsement shall not be
 15 issued by any company to be attached to any policy issued in
 16 compliance with this section."

17 Section 3. Section 33-23-201, MCA, is amended to read:

18 "33-23-201. Motor vehicle liability policies to
 19 include uninsured motorist coverage -- rejection by insured.

20 (1) No automobile liability or motor vehicle liability
 21 policy insuring against loss resulting from liability
 22 imposed by law for bodily injury or death suffered by any
 23 person arising out of the ownership, maintenance, or use of
 24 a motor vehicle shall be delivered or issued for delivery in
 25 this state, ~~with respect to any motor vehicle registered or~~

1 ~~principally--garaged--in--this--state,~~ unless coverage is
 2 provided therein or supplemental thereto, in limits for
 3 bodily injury or death set forth in 61-6-103, under
 4 provisions filed with and approved by the commissioner, for
 5 the protection of persons insured thereunder who are legally
 6 entitled to recover damages from uninsured owners or
 7 operators of uninsured motor vehicles because of bodily
 8 injury, sickness, or disease, including death, resulting
 9 therefrom.

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

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

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

24 (a) the limit of insurance coverage available for any
 25 one accident shall be the limit specified for the vehicle

1 person involved in the accident;

2 (b) if no vehicle person insured under the policy is
 3 involved in the accident, the limit of insurance coverage
 4 available for any one accident shall be the highest limit of
 5 coverage specified for any one vehicle person insured under
 6 the policy; and

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

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

15 NEW SECTION. Section 5. Extension of authority. Any
 16 existing authority of the commissioner of insurance to make
 17 rules on the subject of the provisions of this act is
 18 extended to the provisions of this act.

19 NEW SECTION. Section 6. Codification instruction.
 20 Section 1 is intended to be codified as an integral part of
 21 Title 33, chapter 23, part 2, and the provisions of Title 33
 22 apply to section 1.

23 NEW SECTION. Section 7. Applicability. This act
 24 applies to insurance policies issued on or after October 1,
 25 1987.

-End-

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