

HOUSE BILL 528

Introduced by Boharski

2/01	Introduced
2/02	Referred to Judiciary
2/14	Hearing
2/17	Tabled in Committee

1 HOUSE BILL NO. 528
 2 INTRODUCED BY Wm E Boharshi
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE LIMITS
 5 OF COVERAGE REQUIRED UNDER A MOTOR VEHICLE LIABILITY
 6 INSURANCE POLICY; REQUIRING UNDERINSURED MOTORIST COVERAGE;
 7 REQUIRING PROOF OF LIABILITY INSURANCE TO BE SHOWN TO
 8 REGISTER A MOTOR VEHICLE; AMENDING SECTIONS 33-23-201,
 9 61-6-103, AND 61-6-302, MCA; AND PROVIDING EFFECTIVE DATES
 10 AND AN APPLICABILITY DATE."
 11

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

13 **Section 1.** Section 33-23-201, MCA, is amended to read:

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

1 commissioner, for the protection of persons insured
 2 thereunder under the policy who are legally entitled to
 3 recover damages from owners or operators of uninsured motor
 4 vehicles or of underinsured motor vehicles because of bodily
 5 injury, sickness, or disease, including death, resulting
 6 therefrom, caused by an accident arising out of the
 7 operation or use of such the vehicle.

8 (2) As used in this section:

9 (a) An an uninsured motor vehicle is a land motor
 10 vehicle, neither the ownership, nor the maintenance, nor or
 11 the use of which is not insured or bonded for bodily injury
 12 liability at the time of the accident; and

13 (b) an underinsured motor vehicle is a land motor
 14 vehicle that meets the liability requirements of 61-6-103
 15 and the use of which results in a judgment in excess of the
 16 limits set forth in 61-6-103.

17 (2)(3) The named insured shall have has the right to
 18 reject such--coverage the coverages. Unless the named
 19 insured requests such coverage in writing, such-coverage the
 20 coverages need not be provided in or supplemental to a
 21 renewal policy where the named insured had rejected the
 22 coverage coverages in connection with the policy previously
 23 issued to him by the same insurer."

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

25 "61-6-103. Motor vehicle liability policy defined. (1)

A "motor vehicle liability policy" as ~~said~~ the term is used in this part ~~shall--mean~~ 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 in the policy as insured.

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

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

(b) insure the person named therein in the policy and any other person, as insured, using ~~any-such~~ the motor vehicle or motor vehicles with the express or implied permission of ~~such~~ the named insured, against loss from the liability imposed by law for damages arising out of the ownership, maintenance, or use of ~~such~~ the motor vehicle or motor vehicles within the United States ~~of--America~~ or the ~~Domintion--of~~ Canada, subject to limits exclusive of interest and costs, with respect to each ~~such~~ 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~~ the 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) ~~\$5,000~~ \$25,000 because of injury to or destruction of property of others in any one accident.

(3) Such ~~An~~ operator's policy of liability insurance ~~shall must~~ insure the person named as insured therein in the policy 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, within the same territorial limits and subject to the same limits of liability as are set forth above in subsection (2) with respect to an owner's policy of liability insurance.

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

(5) Such ~~A~~ motor vehicle liability policy need not

1 insure any liability under any workers' compensation law or
 2 any liability on account of bodily injury to or death of an
 3 employee of the insured while engaged in the employment,
 4 other than domestic, of the insured or while engaged in the
 5 operation, maintenance, or repair of any ~~such~~ motor vehicle
 6 or any liability for damage to property owned by, rented to,
 7 in charge of, or transported by the insured.

8 (6) Every motor vehicle liability policy ~~shall-be~~ is
 9 subject to the following provisions which need not be
 10 contained ~~therein in the policy~~:

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

21 (b) The satisfaction by the insured of a judgment for
 22 ~~such an~~ injury or damage ~~shall may~~ not be a condition
 23 precedent to the right or duty of the insurance carrier to
 24 make payment on account of ~~such the~~ injury or damage.

25 (c) The insurance carrier ~~shall-have~~ has the right to

1 settle any claim covered by the policy, and if ~~such the~~
 2 settlement is made in good faith, the amount ~~thereof-shall~~
 3 be of the settlement is deductible from the limits of
 4 liability specified in subsection (2)(b) ~~of-this-section~~.

5 (d) The policy, the written application ~~therefor for~~
 6 the policy, if any, and any rider or endorsement ~~which that~~
 7 does not conflict with the provisions of ~~the this~~ part ~~shall~~
 8 constitute the entire contract between the parties.

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

20 (8) Any A policy ~~which that~~ grants the coverage
 21 required for a motor vehicle liability policy may also grant
 22 any lawful coverage in excess of or in addition to the
 23 coverage specified for a motor vehicle liability policy, and
 24 such the excess or additional coverage ~~shall is~~ not be
 25 subject to the provisions of this part. With respect to a

1 policy ~~which that~~ grants such excess or additional coverage,
 2 the term "motor vehicle liability policy" ~~shall--apply~~
 3 applies only to that part of the coverage ~~which that~~ is
 4 required by this section.

5 (9) Any A motor vehicle liability policy may provide
 6 that the insured shall reimburse the insurance carrier for
 7 any payment the insurance carrier ~~would~~ is not ~~have--been~~
 8 obligated to make under the terms of the policy except for
 9 the provisions of this part.

10 (10) Any A motor vehicle liability policy may provide
 11 for the prorating of the insurance ~~thereunder~~ under the
 12 policy with other valid and collectable insurance.

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

17 (12) Any binder issued pending the issuance of a motor
 18 vehicle liability policy ~~shall-be-deemed~~ is considered to
 19 fulfill the requirements for such a policy.

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

23 **Section 3.** Section 61-6-302, MCA, is amended to read:

24 "61-6-302. Proof of compliance. (1) Except as provided
 25 in subsection (2), before any applicant required to register

1 his motor vehicle may do so, the applicant must certify and
 2 show proof to the county treasurer that he possesses an
 3 automobile liability insurance policy, a certificate of
 4 self-insurance, or a posted indemnity bond or that he is
 5 eligible for an exemption under 61-6-303 covering the motor
 6 vehicle. The certification ~~shall~~ and proof must be on a form
 7 prescribed by the department, must contain an acknowledgment
 8 that the owner of the motor vehicle understands the
 9 provisions of 61-6-135 and 61-6-304, and must state in
 10 language prescribed by the department the limits of
 11 liability insurance provided in the policy applicable to the
 12 motor vehicle. The department may immediately cancel the
 13 registration and license plates of the vehicle upon
 14 notification that the insurance certification or proof was
 15 not correctly represented. Any person who intentionally
 16 provides false information on an insurance certification or
 17 proof is guilty of unsworn falsification to authorities,
 18 punishable as provided in 45-7-203.

19 (2) An applicant for registration of a motor vehicle
 20 who wishes to register the vehicle by mail must sign a
 21 statement on the application stating that the applicant is
 22 in compliance with the financial liability requirements of
 23 61-6-301 and must include with the application a copy of
 24 the proof of compliance required in subsection (1).

25 (3) An owner of a motor vehicle who ceases to maintain

the insurance or bond required or whose certificate of self-insurance is canceled or whose vehicle ceases to be exempt shall immediately surrender the registration and license plates for the vehicle to the county treasurer for delivery to the department and may not operate or permit operation of the vehicle in Montana until insurance has again been furnished as required and the vehicle is again registered and licensed.

(4) Every person shall carry in a motor vehicle being operated by him an insurance card approved by the department but issued by the insurance carrier to the motor vehicle owner as proof of compliance with 61-6-301. The card must contain notification of the provisions of 61-6-135 and 61-6-304 and must state in language prescribed by the department the limits of liability insurance provided in the policy applicable to the motor vehicle. A motor vehicle operator shall exhibit the insurance card upon demand of a justice of the peace, a city or municipal judge, a peace officer, a highway patrolman, or a field deputy or inspector of the department. However, no person charged with violating this subsection may be convicted if he produces in court or the office of the arresting officer proof of insurance valid at the time of his arrest."

NEW SECTION. Section 4. Extension of authority. Any existing authority to make rules on the subject of the

provisions of [this act] is extended to the provisions of [this act].

NEW SECTION. Section 5. Effective dates -- applicability. (1) [Section 4 and this section] are effective on passage and approval.

(2) [Sections 1 through 3] are effective January 1, 1990.

(3) [Section 2] applies to registrations of motor vehicles under 61-3-314 beginning after December 31, 1989.

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