

SENATE BILL NO. 87
INTRODUCED BY RASMUSSEN

IN THE SENATE

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| JANUARY 9, 1989 | INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY. |
| | FIRST READING. |
| JANUARY 19, 1989 | COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED. |
| | STATEMENT OF INTENT ADOPTED. |
| JANUARY 20, 1989 | PRINTING REPORT. |
| JANUARY 21, 1989 | SECOND READING, DO PASS. |
| JANUARY 23, 1989 | ENGROSSING REPORT. |
| JANUARY 24, 1989 | THIRD READING, PASSED. AYES, 48; NOES, 0. |
| | TRANSMITTED TO HOUSE. |

IN THE HOUSE

| | |
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| FEBRUARY 20, 1989 | INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT. |
| | FIRST READING. |
| MARCH 7, 1989 | COMMITTEE RECOMMEND BILL BE NOT CONCURRED IN AS AMENDED. REPORT ADOPTED. |
| MARCH 8, 1989 | ON MOTION, TAKEN FROM ADVERSE COMMITTEE REPORT AND REREFERRED TO COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT. |
| MARCH 20, 1989 | COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED. |
| MARCH 27, 1989 | SECOND READING, CONCURRED IN. |

MARCH 29, 1989

THIRD READING, CONCURRED IN.
AYES, 84; NOES, 7.

RETURNED TO SENATE.

IN THE SENATE

MARCH 29, 1989

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 Senate BILL NO. 82
2 INTRODUCED BY Rasmussen
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING EXCLUSION
5 UNDER CERTAIN CONDITIONS OF A FAMILY MEMBER FROM COVERAGE
6 UNDER A MOTOR VEHICLE LIABILITY INSURANCE POLICY; INCREASING
7 MANDATORY PROPERTY DAMAGE COVERAGE; AMENDING SECTIONS
8 33-23-203, 61-6-103, AND 61-6-301, MCA; AND PROVIDING A
9 DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

12 **Section 1.** 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, must be determined as follows, regardless of the
19 number of motor vehicles insured under the policy:

20 (a) the limit of insurance coverage available for any
21 one accident is the limit specified for the motor vehicle
22 involved in the accident;

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

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

3 (c) the limits of coverage specified for each motor
4 vehicle insured under the policy may 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:

9 (a) the exclusion from coverage of a member of the
10 family of the owner of the policy; and

11 (b) other reasonable limitations, exclusions, or
12 reductions of coverage which are designed to prevent
13 duplicate payments for the same element of loss."

14 **Section 2.** 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 ~~said~~ the term is used
17 in this part, ~~shall mean~~ means an owner's or operator's
18 policy of liability insurance, certified as provided in
19 61-6-133 or 61-6-134 as proof of financial responsibility
20 and issued, except as otherwise provided in 61-6-134, by an
21 insurance carrier duly authorized to transact business in
22 this state, to or for the benefit of the person named
23 therein as insured.

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

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

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

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

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

18 (iii) ~~\$5,000~~ \$10,000 because of injury to or
19 destruction of property of others in any one accident.

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

1 above with respect to ~~an-owner's~~ the operator's policy of
2 liability insurance.

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

12 (5) Such A motor vehicle liability policy need not
13 insure any liability under any workers' compensation law or
14 any 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 ~~any--such a~~ motor
18 vehicle or any liability for damage to property owned by,
19 rented to, in charge of, or transported by the insured.

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

23 (a) The liability of the insurance carrier with
24 respect to the insurance required by this part ~~shall--become~~
25 becomes absolute whenever injury or damage covered by ~~said~~

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

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

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

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

20 (7) ~~No~~ A motor vehicle policy ~~shall-be~~ is not subject
 21 to cancellation, termination, nonrenewal, or premium
 22 increase, due to injury or damage incurred by the insured or
 23 operator unless the insured or operator be is found to have
 24 violated a traffic law or ordinance of the state or a city,
 25 be is found negligent or contributorily negligent in a court

1 of law, or by the arbitration proceedings contained in
 2 chapter 5 of Title 27, or pays damages to another party,
 3 whether by settlement or otherwise. In no event may a
 4 premium be increased during the term of the policy unless
 5 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 the
 10 excess or additional coverage ~~shall is~~ not be subject to
 11 the provisions of this part. With respect to a policy which
 12 grants such the excess or additional coverage, the term
 13 "motor vehicle liability policy" ~~shall-apply~~ applies only to
 14 that part of 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 collectable insurance.

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

1 requirements.

2 (12) Any binder issued pending the issuance of a motor
3 vehicle liability policy ~~shall be deemed to fulfill~~ fulfills
4 the requirements for such a policy.

5 (13) A reduced limits endorsement ~~shall~~ may not be
6 issued by any company to be attached to any policy issued in
7 compliance with this section.

8 (14) An insurer is not required to insure liability
9 incurred by a member of the family of the owner of the motor
10 vehicle liability policy if the driver's license of that
11 family member has been revoked, suspended, or canceled
12 according to the provisions of Title 61, chapter 5, part 2."

13 **Section 3.** Section 61-6-301, MCA, is amended to read:

14 "61-6-301. Required motor vehicle insurance. (1) Every
15 Except as provided in 61-6-103(14), an owner of a motor
16 vehicle which is registered and operated in Montana by the
17 owner or with his permission shall continuously provide
18 insurance against loss resulting from liability imposed by
19 law for bodily injury or death or damage to property
20 suffered by any person caused by maintenance or use of a
21 motor vehicle, as defined in 61-1-102, in an amount not less
22 than that required by 61-6-103, or a certificate of
23 self-insurance issued in accordance with 61-6-143.

24 (2) A motor vehicle owner who prefers to post an
25 indemnity bond with the department in lieu of obtaining a

1 policy of liability insurance may do so. The bond ~~shall~~ must
2 guarantee that any loss resulting from liability imposed by
3 law for bodily injury, death, or damage to property suffered
4 by any person caused by accident and arising out of the
5 operation, maintenance, and use of the motor vehicle sought
6 to be registered ~~shall~~ must be paid within 30 days after
7 final judgment is entered establishing ~~such~~ the liability.
8 The indemnity bond ~~shall~~ must guarantee payment in the
9 amount provided for insurance under subsection (1).

10 (3) Any bond given in connection with this section is
11 a continuing instrument and ~~shall~~ must cover the period for
12 which the motor vehicle is to be registered and operated.
13 Such The bond ~~shall~~ must be on a form approved by the
14 commissioner of insurance and must be with a surety company
15 authorized to do business in the state."

16 **Section 4. Saving clause.** [This act] does not affect
17 rights and duties that matured, penalties that were
18 incurred, or proceedings that were begun before [the
19 effective date of this act].

20 **Section 5. Extension of authority.** Any existing
21 authority to make rules on the subject of the provisions of
22 [this act] is extended to the provisions of [this act].

23 **Section 6. Effective date -- applicability.** [This act]
24 is effective July 1, 1990, and applies to motor vehicle
25 liability insurance policies issued, renewed, extended, or

LC 0036/01

1 reinstated after June 30, 1990.

-End-

APPROVED BY COMM. ON
BUSINESS & INDUSTRY

STATEMENT OF INTENT

SENATE BILL 87

Senate Business and Industry Committee

By amending section 61-6-301, MCA, it is the intent of the legislature to expressly permit named driver exclusions in mandatory motor vehicle insurance policies for family members of the policy holder. It is the finding of the legislature that the prohibition against named driver exclusions in the context of the family has the result, in effect, of denying coverage to families who have found their insurance premiums to double or triple due to the Montana supreme court's decision in Iowa Mutual Insurance Company v. Davis, 752 P.2d 166 (1988). In that case, the court held that mandatory liability coverage requirements, as a matter of public policy, prohibited exclusion of a named driver or named drivers from coverage under motor vehicle liability policies.

SENATE BILL NO. 87

INTRODUCED BY RASMUSSEN

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING EXCLUSION UNDER CERTAIN CONDITIONS OF A FAMILY MEMBER FROM COVERAGE UNDER A MOTOR VEHICLE LIABILITY INSURANCE POLICY; INCREASING MANDATORY PROPERTY DAMAGE COVERAGE; AMENDING SECTIONS 33-23-203, 61-6-103, AND 61-6-301, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

Section 1. ~~Section 33-23-203, MCA, is amended to read:~~

~~"33-23-203. 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, must be determined as follows, regardless of the number of motor vehicles insured under the policy:~~

~~(a) the limit of insurance coverage available for any one accident is the limit specified for the motor vehicle involved in the accident;~~

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

~~coverage specified for any one motor vehicle insured under the policy; and~~

~~(c) the limits of coverage specified for each motor vehicle insured under the policy may 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:~~

~~(a) the exclusion from coverage of a member of the family of the owner of the policy; and~~

~~(b) other reasonable limitations, exclusions, or reductions of coverage which are designed to prevent duplicate payments for the same element of loss."~~

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 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 as insured.

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

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

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

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

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

18 (iii) ~~\$5,000~~ \$10,000 because of injury to or
19 destruction of property of others in any one accident.

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

1 above with respect to ~~an-owner's~~ the operator's policy of
2 liability insurance.

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

12 (5) Such A motor vehicle liability policy need not
13 insure any liability under any workers' compensation law or
14 any 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 ~~any--such a~~ motor
18 vehicle or any liability for damage to property owned by,
19 rented to, in charge of, or transported by the insured.

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

23 (a) The liability of the insurance carrier with
24 respect to the insurance required by this part ~~shall--become~~
25 becomes absolute whenever injury or damage covered by ~~said~~

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

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

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

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

20 (7) ~~No A~~ motor vehicle policy ~~shall-be~~ is not subject
 21 to cancellation, termination, nonrenewal, or premium
 22 increase, due to injury or damage incurred by the insured or
 23 operator unless the insured or operator be is found to have
 24 violated a traffic law or ordinance of the state or a city,
 25 be is found negligent or contributorily negligent in a court

1 of law, or by the arbitration proceedings contained in
 2 chapter 5 of Title 27, or pays damages to another party,
 3 whether by settlement or otherwise. In no event may a
 4 premium be increased during the term of the policy unless
 5 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 the
 10 excess or additional coverage ~~shall~~ is not be subject to
 11 the provisions of this part. With respect to a policy which
 12 grants such the excess or additional coverage, the term
 13 "motor vehicle liability policy" ~~shall-apply~~ applies only to
 14 that part of 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 collectable insurance.

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

1 requirements.

2 (12) Any binder issued pending the issuance of a motor
3 vehicle liability policy ~~shall be deemed to fulfill~~ fulfills
4 the requirements for such a policy.

5 (13) A reduced limits endorsement ~~shall~~ may not be
6 issued by any company to be attached to any policy issued in
7 compliance with this section.

8 ~~(14) An insurer is not required to insure liability~~
9 ~~incurred by a member of the family of the owner of the motor~~
10 ~~vehicle liability policy if the driver's license of that~~
11 ~~family member has been revoked, suspended, or canceled~~
12 ~~according to the provisions of Title 61, chapter 5, part 2."~~

13 Section 2. Section 61-6-301, MCA, is amended to read:

14 "61-6-301. Required motor vehicle insurance -- FAMILY
15 MEMBER EXCLUSION. (1) (A) Every Except as provided in
16 61-6-103(14) SUBSECTION (1)(B), an owner of a motor vehicle
17 which is registered and operated in Montana by the owner or
18 with his permission shall continuously provide insurance
19 against loss resulting from liability imposed by law for
20 bodily injury or death or damage to property suffered by any
21 person caused by maintenance or use of a motor vehicle, as
22 defined in 61-1-102, in an amount not less than that
23 required by 61-6-103, or a certificate of self-insurance
24 issued in accordance with 61-6-143.

25 (B) NOTWITHSTANDING THE MANDATORY MOTOR VEHICLE

1 LIABILITY INSURANCE PROTECTION PROVIDED FOR IN SUBSECTION
2 (1)(A), NOTHING IN THIS PART MAY BE CONSTRUED TO PROHIBIT
3 THE EXCLUSION FROM INSURANCE COVERAGE OF A NAMED FAMILY
4 MEMBER IN A MOTOR VEHICLE LIABILITY INSURANCE POLICY.

5 (2) A motor vehicle owner who prefers to post an
6 indemnity bond with the department in lieu of obtaining a
7 policy of liability insurance may do so. The bond ~~shall~~ must
8 guarantee that any loss resulting from liability imposed by
9 law for bodily injury, death, or damage to property suffered
10 by any person caused by accident and arising out of the
11 operation, maintenance, and use of the motor vehicle sought
12 to be registered ~~shall~~ must be paid within 30 days after
13 final judgment is entered establishing such the liability.
14 The indemnity bond ~~shall~~ must guarantee payment in the
15 amount provided for insurance under subsection (1).

16 (3) Any bond given in connection with this section is
17 a continuing instrument and ~~shall~~ must cover the period for
18 which the motor vehicle is to be registered and operated.
19 Such The bond ~~shall~~ must be on a form approved by the
20 commissioner of insurance and must be with a surety company
21 authorized to do business in the state."

22 NEW SECTION. Section 3. Saving clause. [This act]
23 does not affect rights and duties that matured, penalties
24 that were incurred, or proceedings that were begun before
25 [the effective date of this act].

1 NEW SECTION. **Section 4.** Extension of authority. Any
2 existing authority to make rules on the subject of the
3 provisions of [this act] is extended to the provisions of
4 [this act].

5 NEW SECTION. **Section 5.** Effective date --
6 applicability. [This act] is effective July 1, 1990, and
7 applies to motor vehicle liability insurance policies
8 issued, renewed, extended, or reinstated after June 30,
9 1990.

-End-

1 STATEMENT OF INTENT

2 SENATE BILL 87

3 Senate Business and Industry Committee
4

5 By amending section 61-6-301, MCA, it is the intent of
6 the legislature to expressly permit named driver exclusions
7 in mandatory motor vehicle insurance policies for family
8 members of the policy holder. It is the finding of the
9 legislature that the prohibition against named driver
10 exclusions in the context of the family has the result, in
11 effect, of denying coverage to families who have found their
12 insurance premiums to double or triple due to the Montana
13 supreme court's decision in Iowa Mutual Insurance Company v.
14 Davis, 752 P.2d 166 (1988). In that case, the court held
15 that mandatory liability coverage requirements, as a matter
16 of public policy, prohibited exclusion of a named driver or
17 named drivers from coverage under motor vehicle liability
18 policies.

SENATE BILL NO. 87

INTRODUCED BY RASMUSSEN

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING EXCLUSION UNDER CERTAIN CONDITIONS OF A FAMILY MEMBER FROM COVERAGE UNDER A MOTOR VEHICLE LIABILITY INSURANCE POLICY; INCREASING MANDATORY PROPERTY DAMAGE COVERAGE; AMENDING SECTIONS 33-23-203, 61-6-103, AND 61-6-301, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

~~Section 1. Section 33-23-203, MCA, is amended to read:~~

~~"33-23-203. 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, must be determined as follows, regardless of the number of motor vehicles insured under the policy:~~

~~(a) the limit of insurance coverage available for any one accident is the limit specified for the motor vehicle involved in the accident;~~

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

~~coverage specified for any one motor vehicle insured under the policy; and~~

~~(c) the limits of coverage specified for each motor vehicle insured under the policy may 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:~~

~~(a) the exclusion from coverage of a member of the family of the owner of the policy; and~~

~~(b) other reasonable limitations, exclusions, or reductions of coverage which are designed to prevent duplicate payments for the same element of loss."~~

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 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 as insured.

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

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

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

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

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

18 (iii) ~~\$57,000~~ \$10,000 because of injury to or
19 destruction of property of others in any one accident.

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

1 above with respect to an-owner's the operator's policy of
2 liability insurance.

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

12 (5) ~~Such A~~ motor vehicle liability policy need not
13 insure any liability under any workers' compensation law or
14 any 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 any--such a motor
18 vehicle or any liability for damage to property owned by,
19 rented to, in charge of, or transported by the insured.

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

23 (a) The liability of the insurance carrier with
24 respect to the insurance required by this part ~~shall--become~~
25 becomes absolute whenever injury or damage covered by said

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

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

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

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

20 (7) ~~No~~ A motor vehicle policy ~~shall-be~~ is not subject
 21 to cancellation, termination, nonrenewal, or premium
 22 increase, due to injury or damage incurred by the insured or
 23 operator unless the insured or operator be is found to have
 24 violated a traffic law or ordinance of the state or a city,
 25 be is found negligent or contributorily negligent in a court

1 of law, or by the arbitration proceedings contained in
 2 chapter 5 of Title 27, or pays damages to another party,
 3 whether by settlement or otherwise. In no event may a
 4 premium be increased during the term of the policy unless
 5 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 the
 10 excess or additional coverage ~~shall is~~ not be subject to
 11 the provisions of this part. With respect to a policy which
 12 grants such the excess or additional coverage, the term
 13 "motor vehicle liability policy" ~~shall-apply~~ applies only to
 14 that part of 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 collectable insurance.

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

1 requirements.

2 (12) Any binder issued pending the issuance of a motor
3 vehicle liability policy ~~shall be deemed to fulfill~~ fulfills
4 the requirements for such a policy.

5 (13) A reduced limits endorsement ~~shall~~ may not be
6 issued by any company to be attached to any policy issued in
7 compliance with this section.

8 ~~{14} An insurer is not required to insure liability~~
9 ~~incurred by a member of the family of the owner of the motor~~
10 ~~vehicle liability policy if the driver's license of that~~
11 ~~family member has been revoked, suspended, or canceled~~
12 ~~according to the provisions of Title 61, chapter 5, part 2.~~

13 **Section 2.** Section 61-6-301, MCA, is amended to read:

14 "61-6-301. Required motor vehicle insurance -- FAMILY
15 MEMBER EXCLUSION. (1) (A) Every Except as provided in
16 ~~61-6-103{14}~~ SUBSECTION (1)(B), an owner of a motor vehicle
17 which is registered and operated in Montana by the owner or
18 with his permission shall continuously provide insurance
19 against loss resulting from liability imposed by law for
20 bodily injury or death or damage to property suffered by any
21 person caused by maintenance or use of a motor vehicle, as
22 defined in 61-1-102, in an amount not less than that
23 required by 61-6-103, or a certificate of self-insurance
24 issued in accordance with 61-6-143.

25 (B) NOTWITHSTANDING THE MANDATORY MOTOR VEHICLE

1 LIABILITY INSURANCE PROTECTION PROVIDED FOR IN SUBSECTION
2 (1)(A), NOTHING IN THIS PART MAY BE CONSTRUED TO PROHIBIT
3 THE EXCLUSION FROM INSURANCE COVERAGE OF A NAMED FAMILY
4 MEMBER IN A MOTOR VEHICLE LIABILITY INSURANCE POLICY.

5 (2) A motor vehicle owner who prefers to post an
6 indemnity bond with the department in lieu of obtaining a
7 policy of liability insurance may do so. The bond ~~shall~~ must
8 guarantee that any loss resulting from liability imposed by
9 law for bodily injury, death, or damage to property suffered
10 by any person caused by accident and arising out of the
11 operation, maintenance, and use of the motor vehicle sought
12 to be registered ~~shall~~ must be paid within 30 days after
13 final judgment is entered establishing ~~such~~ the liability.
14 The indemnity bond ~~shall~~ must guarantee payment in the
15 amount provided for insurance under subsection (1).

16 (3) Any bond given in connection with this section is
17 a continuing instrument and ~~shall~~ must cover the period for
18 which the motor vehicle is to be registered and operated.
19 Such The bond ~~shall~~ must be on a form approved by the
20 commissioner of insurance and must be with a surety company
21 authorized to do business in the state."

22 NEW SECTION. Section 3. Saving clause. [This act]
23 does not affect rights and duties that matured, penalties
24 that were incurred, or proceedings that were begun before
25 [the effective date of this act].

1 NEW SECTION. **Section 4.** Extension of authority. Any
2 existing authority to make rules on the subject of the
3 provisions of [this act] is extended to the provisions of
4 [this act].

5 NEW SECTION. **Section 5.** Effective date --
6 applicability. [This act] is effective July 1, 1990, and
7 applies to motor vehicle liability insurance policies
8 issued, renewed, extended, or reinstated after June 30,
9 1990.

-End-

SENATE BILL NO. 87

INTRODUCED BY RASMUSSEN

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING EXCLUSION UNDER CERTAIN CONDITIONS OF A FAMILY MEMBER FROM COVERAGE UNDER A MOTOR VEHICLE LIABILITY INSURANCE POLICY; INCREASING MANDATORY PROPERTY DAMAGE COVERAGE; AMENDING SECTIONS 33-23-203, 61-6-103, AND 61-6-301, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."

STATEMENT OF INTENT

By amending section 61-6-301, MCA, it is the intent of the legislature to expressly permit named driver exclusions in mandatory motor vehicle insurance policies for family members of the policyholder. It is the finding of the legislature that the prohibition against named driver exclusions in the context of the family has the result, in effect, of denying coverage to families who have found their insurance premiums to double or triple due to the Montana supreme court's decision in Iowa Mutual Insurance Company v. Davis, 752 P.2d 166 (1988). In that case, the court held that mandatory liability coverage requirements, as a matter of public policy, prohibited exclusion of a named driver or named drivers from coverage under motor vehicle liability policies.

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

~~Section 1. Section 33-23-203, MCA, is amended to read:~~

~~"33-23-203. 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, must be determined as follows, regardless of the number of motor vehicles insured under the policy:~~

~~(a) the limit of insurance coverage available for any one accident is the limit specified for the motor vehicle involved in the accident;~~

~~(b) if no motor vehicle insured under the policy is involved in the accident, the limit of insurance coverage available for any one accident is the highest limit of coverage specified for any one motor vehicle insured under the policy; and~~

~~(c) the limits of coverage specified for each motor vehicle insured under the policy may 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:~~

~~(a) the exclusion from coverage of a member of the~~

~~family-of-the-owner-of-the-policy;-and~~

~~{b}--other--reasonable--limitations;---exclusions;---or
reductions---of--coverage--which--are--designed--to--prevent
duplicate-payments-for-the-same-element-of-loss."~~

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 ~~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 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; and

(b) insure the person named therein and any other person, as insured, using any such 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 Dominion of Canada, subject to limits exclusive of interest and costs, with respect to each such motor vehicle, as follows:

(i) \$25,000 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 because of bodily injury to or death of two or more persons in any one accident; and

(iii) ~~\$5,000~~ \$10,000 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 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 with respect to ~~an-owner's~~ the operator'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, the policy period, and the limits of liability and ~~shall~~ contain an agreement or be endorsed that insurance is provided thereunder in accordance with the coverage defined in this part as respects bodily injury and death or property

1 damage, or both, and is subject to all the provisions of
2 this part.

3 (5) ~~Such~~ A motor vehicle liability policy need not
4 insure any liability under any workers' compensation law or
5 any liability on account of bodily injury to or death of an
6 employee of the insured while engaged in the employment,
7 other than domestic, of the insured or while engaged in the
8 operation, maintenance, or repair of ~~any--such a~~ motor
9 vehicle or any liability for damage to property owned by,
10 rented to, in charge of, or transported by the insured.

11 (6) Every A motor vehicle liability policy ~~shall-be~~ is
12 subject to the following provisions, which need not be
13 contained therein:

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

23 (b) The satisfaction by the insured of a judgment for
24 ~~such the~~ injury or damage ~~shall may~~ not be a condition
25 precedent to the right or duty of the insurance carrier to

1 make payment on account of ~~such the~~ injury or damage.

2 (c) The insurance carrier ~~shall-have~~ has the right to
3 settle any claim covered by the policy, and if ~~such the~~
4 settlement is made in good faith, the amount ~~thereof-shall~~
5 be is deductible from the limits of liability specified in
6 subsection (2)(b)~~of-this-section~~.

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

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

22 (8) Any policy which grants the coverage required for
23 a motor vehicle liability policy may also grant any lawful
24 coverage in excess of or in addition to the coverage
25 specified for a motor vehicle liability policy, and ~~such the~~

1 excess or additional coverage ~~shall~~ is not be subject to
2 the provisions of this part. With respect to a policy which
3 grants such the excess or additional coverage, the term
4 "motor vehicle liability policy" ~~shall apply~~ applies only to
5 that part of the coverage which is required by this section.

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

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

14 (11) 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 (12) Any binder issued pending the issuance of a motor
19 vehicle liability policy ~~shall be deemed to fulfill~~ fulfills
20 the requirements for such a policy.

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

24 ~~(14) An insurer is not required to insure liability~~
25 ~~incurred by a member of the family of the owner of the motor~~

1 ~~vehicle liability policy if the driver's license of that~~
2 ~~family member has been revoked, suspended, or canceled~~
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12 person caused by maintenance or use of a motor vehicle, as
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16 (B) NOTWITHSTANDING THE MANDATORY MOTOR VEHICLE
17 LIABILITY INSURANCE PROTECTION PROVIDED FOR IN SUBSECTION
18 (1)(A), NOTHING IN THIS PART MAY BE CONSTRUED TO PROHIBIT
19 THE EXCLUSION FROM INSURANCE COVERAGE OF A NAMED FAMILY
20 MEMBER IN A MOTOR VEHICLE LIABILITY INSURANCE POLICY.

21 (2) A motor vehicle owner who prefers to post an
22 indemnity bond with the department in lieu of obtaining a
23 policy of liability insurance may do so. The bond ~~shall~~ must
24 guarantee that any loss resulting from liability imposed by
25 law for bodily injury, death, or damage to property suffered

-End-

1 by any person caused by accident and arising out of the
2 operation, maintenance, and use of the motor vehicle sought
3 to be registered ~~shall~~ must be paid within 30 days after
4 final judgment is entered establishing ~~such~~ the liability.
5 The indemnity bond ~~shall~~ must guarantee payment in the
6 amount provided for insurance under subsection (1).

7 (3) Any bond given in connection with this section is
8 a continuing instrument and ~~shall~~ must cover the period for
9 which the motor vehicle is to be registered and operated.
10 ~~Such~~ The bond ~~shall~~ must be on a form approved by the
11 commissioner of insurance and must be with a surety company
12 authorized to do business in the state."

13 NEW SECTION. Section 3. Saving clause. [This act]
14 does not affect rights and duties that matured, penalties
15 that were incurred, or proceedings that were begun before
16 [the effective date of this act].

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