

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

House BILL NO. 133

INTRODUCED BY Menachon Rubin, Jeffrey
Kochas

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT MOTOR VEHICLE LIABILITY INSURANCE FOR NONCOMMERCIAL MOTOR VEHICLES COVERS DRIVERS RATHER THAN VEHICLES; PROVIDING THAT THE TYPE AND NUMBER OF VEHICLES OWNED BY A PERSON OR PERSONS INSURED BY THE POLICY MAY NOT BE USED AS A BASIS FOR DETERMINING THE PREMIUM TO BE PAID FOR ANY PERSON INSURED BY THE POLICY OR USED AS A BASIS FOR AN INSURANCE COVERAGE LIMITATION, EXCLUSION, OR REDUCTION AS TO ANY PERSON INSURED BY THE POLICY; AMENDING SECTIONS 33-23-203, 33-23-211, 33-23-214, 33-23-217, 61-6-103, 61-6-132, 61-6-134, 61-6-135, AND 61-6-139, MCA; AND PROVIDING 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~~ the policy, including the limits of liability under uninsured motorist coverage, must be determined as follows, regardless of the number of ~~motor vehicles~~ persons insured under the policy:

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

(b) if ~~no~~ a motor vehicle owned by a person insured under the policy is not 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~~ the insured under the policy involved in the accident; and

(c) the limits of coverage specified for each ~~motor vehicle~~ person 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 other reasonable limitations, exclusions, or reductions of coverage ~~which~~ that are designed to prevent duplicate payments for the same element of loss.

1 (3) The type and number of motor vehicles owned by a person or persons insured by the policy
 2 may not be used as a basis for an insurance coverage limitation or for an exclusion or reduction as to any
 3 person insured under the policy."

4
 5 **Section 2.** Section 33-23-211, MCA, is amended to read:

6 **"33-23-211. Limitations on basis for cancellation.** (1) A notice of cancellation of a motor vehicle
 7 liability policy is effective only if it is based on one or more of the following reasons:

8 (a) nonpayment of premium; or

9 (b) the driver's license or motor vehicle registration of ~~the a~~ named insured or of any other operator
 10 who either resides in the same household or customarily operates a motor vehicle owned by a person
 11 insured under the policy has been under suspension or revocation during the policy period or, if the policy
 12 is a renewal, during its policy period or the 180 days immediately preceding its effective date.

13 (2) This section does not apply to any policy or coverage ~~which that~~ has been in effect less than
 14 60 days at the time notice of cancellation is mailed or delivered by the insurer unless it is a renewal policy.

15 (3) Modification of motor vehicle physical damage coverage by the inclusion of a deductible not
 16 exceeding \$100 may not be ~~deemed~~ considered a cancellation of the coverage or of the policy.

17 (4) This section does not apply to nonrenewal of a motor vehicle liability policy."
 18

19 **Section 3.** Section 33-23-214, MCA, is amended to read:

20 **"33-23-214. Advance notice required for nonrenewal -- exceptions.** (1) ~~No~~ An insurer may not
 21 fail to renew a motor vehicle liability policy unless it mails or delivers to the named insured, at the address
 22 shown in the policy, at least 30 days' advance notice of its intention not to renew. ~~Such~~ The notice must
 23 contain or be accompanied by a statement that upon written request made by the insured and mailed or
 24 delivered to the insurer not later than 1 month following the termination date of the policy of the named
 25 insured ~~mailed or delivered to the insurer~~, the insurer will notify the insured in writing, within 15 days of
 26 ~~his~~ the insured's request, of the reason or reasons for ~~such~~ nonrenewal.

27 (2) Notwithstanding the failure of an insurer to comply with this section, the motor vehicle liability
 28 policy must terminate on the effective date of any other replacement or succeeding motor vehicle liability
 29 policy procured by the insured with respect to any ~~motor vehicle~~ person designated as an insured in both
 30 policies.

1 (3) This section does not apply ~~where~~ if the named insured ~~has~~ or insureds have failed to discharge
 2 when due any ~~of his obligations~~ obligation in connection with the payment of premiums for the policy or
 3 the renewal ~~thereof~~ of the policy or any installment payments ~~therefor~~ for the policy, whether payable
 4 directly to the insurer or its insurance producer or indirectly under any premium finance plan or extension
 5 of credit.

6 (4) This section does not apply in any of the following cases:

7 (a) if the insurer has manifested its willingness to renew;

8 (b) in case of nonpayment of premium; provided that, notwithstanding the failure of an insurer to
 9 comply with this section, the policy must terminate on the effective date of any other insurance policy with
 10 respect to any ~~motor vehicle~~ person designated as an insured in both policies;

11 (c) if the insured's insurance producer or broker has secured other coverage acceptable to the
 12 insured at least 20 days prior to the anniversary date of the policy or termination of the policy period.

13 (5) Renewal of a motor vehicle liability policy does not constitute a waiver or estoppel with respect
 14 to grounds for cancellation ~~which~~ that existed before the effective date of ~~such~~ the renewal.

15 (6) ~~A~~ If a policy has a term of less than 6 months, a notice of nonrenewal of a motor vehicle
 16 liability policy under this section, ~~which policy has a term of less than 6 months,~~ is effective only when
 17 based on one or more of the reasons listed in 33-23-211."

18

19 **Section 4.** Section 33-23-217, MCA, is amended to read:

20 **"33-23-217. Return of unearned premiums.** If an insurer cancels a motor vehicle policy covering
 21 a commercial motor vehicle or the owner of a private motor vehicle for nonpayment of a premium, the
 22 insurer shall process the cancellation on a pro rata basis. The insurer shall return whatever gross unearned
 23 premium is due under the motor vehicle policy to the insured. For purposes of this section, the term
 24 "unearned premium" means that part of the original premium, including deposits, not yet earned by the
 25 insurer and ~~therefore~~ due to the insured if the policy is canceled."

26

27 **Section 5.** Section 61-6-103, MCA, is amended to read:

28 **"61-6-103. Motor vehicle liability policy defined.** (1) A "motor vehicle liability policy", as the term
 29 is used in this part, means an owner's or operator's policy of liability insurance, certified as provided in
 30 61-6-133 or 61-6-134 as proof of financial responsibility and issued, except as otherwise provided in

1 61-6-134, by an insurance carrier duly authorized to transact business in this state, to or for the benefit
2 of the person or persons named ~~therein~~ as ~~insured~~ insureds.

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

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

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

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

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

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

16 (3) An operator's policy of liability insurance must insure the person or persons named as insured
17 ~~therein~~ against loss from the liability imposed upon ~~him~~ them by law for damages arising out of ~~the~~ their
18 use ~~by him~~ of any motor vehicle not owned by ~~him~~ them, within the same territorial limits and subject to
19 the same limits of liability as are set forth ~~above~~ in subsection (2) with respect to the operator's policy of
20 liability insurance.

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

26 (5) A motor vehicle liability policy need not insure any liability under any workers' compensation
27 law or any liability on account of bodily injury to or death of an employee of ~~the~~ an insured while engaged
28 in the employment, other than domestic, of the insured or while engaged in the operation, maintenance,
29 or repair of a motor vehicle or any liability for damage to property owned by, rented to, in charge of, or
30 transported by ~~the~~ an insured.

1 (6) A motor vehicle liability policy is subject to the following provisions, which need not be
2 contained ~~therein~~ in the policy:

3 (a) The liability of the insurance carrier with respect to the insurance required by this part becomes
4 absolute whenever injury or damage covered by the motor vehicle liability policy occurs. The policy may
5 not be canceled or annulled as to the liability by any agreement between the insurance carrier and ~~the~~ an
6 insured after the occurrence of the injury or damage. ~~No~~ A statement made by ~~the~~ an insured or on ~~his~~ an
7 insured's behalf and ~~no~~ a violation of the policy may not defeat or void the policy.

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

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

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

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

22 (8) ~~Any~~ A policy ~~which~~ that grants the coverage required for a motor vehicle liability policy may
23 also grant any lawful coverage in excess of or in addition to the coverage specified for a motor vehicle
24 liability policy, and the excess or additional coverage is not subject to the provisions of this part. With
25 respect to a policy ~~which~~ that grants the excess or additional coverage, the term "motor vehicle liability
26 policy" applies only to that part of the coverage ~~which~~ that is required by this section.

27 (9) ~~Any~~ A motor vehicle liability policy may provide that ~~the~~ an insured shall reimburse the
28 insurance carrier for any payment the insurance carrier would not have been obligated to make under the
29 terms of the policy except for the provisions of this part.

30 (10) ~~Any~~ A motor vehicle liability policy may provide for the prorating of the insurance ~~thereunder~~

1 with other valid and collectible insurance.

2 (11) The requirements for a motor vehicle liability policy may be fulfilled by the policies of one or
3 more insurance carriers, ~~which if the~~ policies together meet ~~such the~~ requirements.

4 (12) Any binder issued pending the issuance of a motor vehicle liability policy fulfills the
5 requirements for ~~such~~ a policy.

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

8

9 **Section 6.** Section 61-6-132, MCA, is amended to read:

10 "**61-6-132. Alternate methods of giving proof.** (1) Proof of financial responsibility when required
11 under this part with respect to the owner of a motor vehicle or with respect to a person who is not the
12 owner of a motor vehicle may be given by filing:

13 (a) a certificate of insurance as provided in 61-6-133 or 61-6-134;

14 (b) a bond as provided in 61-6-137;

15 (c) a certificate or deposit of money or securities as provided in 61-6-138; or

16 (d) a certificate of self-insurance, as provided in 61-6-143, supplemented by an agreement by the
17 self-insurer that, with respect to accidents occurring while the certificate is in force, ~~he~~ the self-insurer will
18 pay the same judgments and in the same amounts that an insurer would have been obligated to pay under
19 an owner's motor vehicle liability policy if it had issued ~~such~~ a policy to ~~said~~ the self-insurer.

20 (2) ~~Ne~~ A motor vehicle ~~shall~~ may not be or continue to be registered in the name of any person
21 required to file proof of financial responsibility unless ~~such the~~ proof ~~shall be~~ is furnished for ~~such the~~ motor
22 vehicle person."

23

24 **Section 7.** Section 61-6-134, MCA, is amended to read:

25 "**61-6-134. Certificate furnished by nonresident as proof.** (1) ~~The~~ A nonresident ~~owner of a motor~~
26 ~~vehicle not registered in this state~~ may give proof of financial responsibility by filing with the department
27 a written certificate or certificates of an insurance carrier authorized to transact business in the state in
28 which the ~~motor vehicle or motor vehicles described in such certificate is registered, or if such~~ nonresident
29 ~~does not own a motor vehicle, then in the state in which the insured resides, provided such that the~~
30 certificate otherwise conforms to the provisions of this part, and the department shall accept the ~~same~~

1 certificate upon condition that ~~said~~ the insurance carrier complies with the following provisions with respect
2 to the policies ~~se~~ certified:

3 (a) ~~Said~~ The insurance carrier shall execute a power of attorney authorizing the department to
4 accept service on its behalf of notice or process in any action arising out of a motor vehicle accident in this
5 state.

6 (b) ~~Said~~ The insurance carrier shall agree in writing that ~~such~~ the policies ~~shall be deemed~~ are
7 considered to conform with the laws of this state relating to the terms of motor vehicle liability policies
8 issued ~~herein~~ in this state.

9 (2) If ~~any~~ an insurance carrier that is not authorized to transact business in this state, ~~which~~ and
10 that has qualified to furnish proof of financial responsibility, defaults in any ~~said~~ undertaking or agreements,
11 the department ~~shall~~ may not ~~thereafter~~ after the default accept as proof any certificate of ~~said~~ the carrier
12 whether ~~therefore~~ previously filed or ~~thereafter~~ tendered as proof after default, ~~se~~ as long as ~~such~~ the
13 default continues."

14

15 **Section 8.** Section 61-6-135, MCA, is amended to read:

16 "**61-6-135. Notice of cancellation or termination of certified policy.** When an insurance carrier has
17 certified a motor vehicle liability policy under 61-6-133 or a policy under 61-6-134, the insurance ~~se~~
18 certified ~~shall~~ may not be canceled or terminated until at least 10 days after a notice of cancellation or
19 termination of the insurance ~~se~~ certified ~~shall be~~ is filed in the office of the department, except that ~~such~~
20 a policy subsequently procured and certified ~~shall~~ must on the effective date of its certification terminate
21 the insurance previously certified with respect to any ~~motor vehicle~~ person designated as an insured in both
22 certificates."

23

24 **Section 9.** Section 61-6-139, MCA, is amended to read:

25 "**61-6-139. Owner permitted to give proof for others.** Whenever ~~any~~ a person required to give
26 proof of financial responsibility ~~hereunder~~ under this part is or later becomes an operator in the employ of
27 any owner, or is or later becomes a member of the immediate family or household of the owner, the
28 department shall accept proof given by ~~such~~ the owner in lieu of proof by ~~such~~ the other person to permit
29 ~~such~~ the other person to operate a motor vehicle ~~for which~~ owned by the owner ~~has given proof as herein~~
30 provided. The department shall designate the restrictions imposed by this section on the face of ~~such~~ the

1 person's license."

2

3 **NEW SECTION. Section 10. Basis for determining premiums.** The type and number of private
4 motor vehicles owned by a person or persons insured by a motor vehicle liability policy may not be used
5 as a basis for determining the premium to be paid for any person insured by the policy against loss resulting
6 from liability imposed by law for bodily injury or death suffered by a person arising out of the ownership,
7 maintenance, or use of a private motor vehicle. Motor vehicle liability insurance covers drivers rather than
8 motor vehicles, and it is the drivers, not the vehicles driven, that are insured.

9

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

13

14 **NEW SECTION. Section 12. Applicability.** [This act] applies to insurance policies issued or
15 renewed on or after October 1, 1995.

16

-END-