

1 person's cause of action against the third party.

2

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

4 **"33-23-203. Limitation of liability under motor vehicle liability policy.** (1) Unless a motor vehicle
5 liability policy specifically provides otherwise, the limits of insurance coverage available under ~~any such a~~
6 policy, including the limits of liability under uninsured motorist coverage, must be determined as follows,
7 regardless of the number of motor vehicles insured under the policy:

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

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

13 (c) the limits of coverage specified for each motor vehicle insured under the policy may not be
14 added together to determine the limit of insurance coverage available under the policy for any one accident.

15 (2) A motor vehicle liability policy may also provide for other reasonable limitations, exclusions,
16 ~~or~~ reductions of coverage ~~which~~, or subrogation clauses that are designed to prevent duplicate payments
17 for the same element of loss under the motor vehicle liability policy or under another casualty or disability
18 policy or a health service corporation contract that provides coverage for an injury that necessitates
19 damages or benefit payments."

20

21 **NEW SECTION. Section 5. Codification instructions.** (1) [Sections 1 and 2] are intended to be
22 codified as an integral part of Title 33, chapter 23, part 1, and the provisions of Title 33, chapter 23, part
23 1, apply to [sections 1 and 2].

24 (2) [Section 3] is intended to be codified as an integral part of Title 33, chapter 22, part 16, and
25 the provisions of Title 33, chapter 22, part 16, apply to [section 3].

26

-END-

1 SENATE BILL NO. 266

2 INTRODUCED BY DEVLIN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING SUBROGATION RIGHTS FOR AN INSURER
5 AGAINST A JUDGMENT OR RECOVERY RECEIVED BY AN INSURED PERSON FROM A LIABLE THIRD
6 PARTY; PROVIDING A PROCEDURE FOR NOTICE OF AN INTENT TO BRING A CLAIM AGAINST A THIRD
7 PARTY; AUTHORIZING AN INSURER'S RIGHT OF ACTION AGAINST A THIRD PARTY IN MOTOR VEHICLE
8 LIABILITY POLICIES; AND AMENDING SECTION 33-23-203, MCA."

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

11
12 ~~NEW SECTION. Section 1. Subrogation rights.~~ An insurance policy that is subject to Title 33,
13 chapter 22, 23, or 30, may, to the extent necessary for the reimbursement of damages or benefits paid to
14 or on behalf of the insured person and pursuant to [section 2], provide that the insurer is entitled to
15 subrogation against a judgment or recovered sum received by the insured person from a third party whose
16 wrongful act or omission caused the injury that necessitated the payment of damages or benefits by the
17 insurer to or on behalf of its insured.

18
19 ~~NEW SECTION. Section 2. Notice shared cost of third party action limitation.~~ (1) If an insured
20 person intends to institute a claim for damages against a third party, the insured person shall give the
21 insurer reasonable notice of that intention.

22 (2) The insured person may request that the insurer pay a proportionate share of the reasonable
23 costs of the third party action, including attorney fees.

24 (3) An insurer may elect not to participate in the cost of the action, but in doing so the insurer
25 waives 50% of any amount resulting from the subrogation rights granted to the insurer in [section 1].

26
27 ~~NEW SECTION. Section 3. Insurer's right of action.~~ If an insured person does not initiate an action
28 for damages against a third party within the time period prescribed for the commencement of the cause of
29 action, the insurer may initiate an action against the third party to enforce the insurer's subrogation rights
30 within 12 months after the expiration of the period prescribed for the commencement of the insured

1 ~~person's cause of action against the third party.~~

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

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5 liability policy specifically provides otherwise, the limits of insurance coverage available under ~~any such a~~
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15 (2) A motor vehicle liability policy may also provide for other reasonable limitations, exclusions,
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17 for the same element of loss under the motor vehicle liability policy or under another casualty or disability
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19 damages or benefit payments."

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21 ~~**NEW SECTION. Section 5. Codification instructions.** (1) [Sections 1 and 2] are intended to be~~
22 ~~codified as an integral part of Title 33, chapter 23, part 1, and the provisions of Title 33, chapter 23, part~~
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24 ~~(2) [Section 3] is intended to be codified as an integral part of Title 33, chapter 22, part 16, and~~
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~~NEW SECTION. Section 2. Notice - shared cost of third party action - limitation. (1) If an insured person intends to institute a claim for damages against a third party, the insured person shall give the insurer reasonable notice of that intention.~~

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