

SENATE BILL No. 463

By Committee on Financial Institutions and Insurance

1-24

9 AN ACT concerning insurance; requiring self-insurers of motor vehicles
10 to provide both uninsured and underinsured motorist coverage;
11 amending K.S.A. 40-284 and repealing the existing section.
12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 40-284 is hereby amended to read as follows: 40-
15 284. (a) No automobile liability insurance policy covering liability arising
16 out of the ownership, maintenance, or use of any motor vehicle shall be
17 delivered or issued for delivery in this state with respect to any motor
18 vehicle registered or principally garaged in this state, unless the policy
19 contains or has endorsed thereon, a provision with coverage limits equal
20 to the limits of liability coverage for bodily injury or death in such auto-
21 mobile liability insurance policy sold to the named insured for payment
22 of part or all sums which the insured or the insured's legal representative
23 shall be legally entitled to recover as damages from the uninsured owner
24 or operator of a motor vehicle because of bodily injury, sickness or dis-
25 ease, including death, resulting therefrom, sustained by the insured,
26 caused by accident and arising out of ownership, maintenance or use of
27 such motor vehicle, or providing for such payment irrespective of legal
28 liability of the insured or any other person or organization. No insurer
29 shall be required to offer, provide or make available coverage conforming
30 to this section in connection with any excess policy, umbrella policy or
31 any other policy which does not provide primary motor vehicle insurance
32 for liabilities arising out of the ownership, maintenance, operation or use
33 of a specifically insured motor vehicle.

34 (b) Any uninsured motorist coverage shall include an underinsured
35 motorist provision which enables the insured or the insured's legal rep-
36 resentative to recover from the insurer the amount of damages for bodily
37 injury or death to which the insured is legally entitled from the owner or
38 operator of another motor vehicle with coverage limits equal to the limits
39 of liability provided by such uninsured motorist coverage to the extent
40 such coverage exceeds the limits of the bodily injury coverage carried by
41 the owner or operator of the other motor vehicle.

42 (c) The insured named in the policy shall have the right to reject, in
43 writing, the uninsured motorist coverage required by subsections (a) and

1 (b) which is in excess of the limits for bodily injury or death set forth in
2 K.S.A. 40-3107 and amendments thereto. A rejection by an insured
3 named in the policy of the uninsured motorist coverage shall be a rejection
4 on behalf of all parties insured by the policy. Unless the insured
5 named in the policy requests such coverage in writing, such coverage need
6 not be provided in any subsequent policy issued by the same insurer for
7 motor vehicles owned by the named insured, including, but not limited
8 to, supplemental, renewal, reinstated, transferred or substitute policies
9 where the named insured had rejected the coverage in connection with
10 a policy previously issued to the insured by the same insurer.

11 (d) Coverage under the policy shall be limited to the extent that the
12 total limits available cannot exceed the highest limits of any single appli-
13 cable policy, regardless of the number of policies involved, persons cov-
14 ered, claims made, vehicles or premiums shown on the policy or premi-
15 ums paid or vehicles involved in an accident.

16 (e) Any insurer may provide for the exclusion or limitation of
17 coverage:

18 (1) When the insured is occupying or struck by an uninsured auto-
19 mobile or trailer owned or provided for the insured's regular use;

20 (2) when the uninsured automobile is owned by a self-insurer or any
21 governmental entity;

22 (3) when there is no evidence of physical contact with the uninsured
23 motor vehicle and when there is no reliable competent evidence to prove
24 the facts of the accident from a disinterested witness not making claim
25 under the policy;

26 (4) to the extent that workers' compensation benefits apply;

27 (5) when suit is filed against the uninsured motorist without notice
28 to the insurance carrier; and

29 (6) to the extent that personal injury protection benefits apply.

30 (f) An underinsured motorist coverage insurer shall have subrogation
31 rights under the provisions of K.S.A. 40-287 and amendments thereto. If
32 a tentative agreement to settle for liability limits has been reached with
33 an underinsured tortfeasor, written notice must be given by certified mail
34 to the underinsured motorist coverage insurer by its insured. Such written
35 notice shall include written documentation of pecuniary losses incurred,
36 including copies of all medical bills and written authorization or a court
37 order to obtain reports from all employers and medical providers. Within
38 60 days of receipt of this written notice, the underinsured motorist cov-
39 erage insurer may substitute its payment to the insured for the tentative
40 settlement amount. The underinsured motorist coverage insurer is then
41 subrogated to the insured's right of recovery to the extent of such payment
42 and any settlement under the underinsured motorist coverage. If the
43 underinsured motorist coverage insurer fails to pay the insured the

1 amount of the tentative tort settlement within 60 days, the underinsured
2 motorist coverage insurer has no right of subrogation for any amount paid
3 under the underinsured motorist coverage.

4 (g) *Each person who qualifies as a self-insurer pursuant to K.S.A. 40-*
5 *3104 or 66-1,128, and amendments thereto, shall provide for each motor*
6 *vehicle both uninsured and underinsured motorist coverage for bodily*
7 *injury or death. The amount of each such coverage shall be equal to the*
8 *limit of self-insurance. Each self-insurer shall have the opportunity to*
9 *reject any amount of uninsured or underinsured motorist coverage which*
10 *exceeds the limits for bodily injury or death prescribed in K.S.A. 40-3107*
11 *and amendments thereto. A self-insurer's rejection of excess coverage shall*
12 *be made in writing on a form provided by the commissioner. A copy of*
13 *the completed form shall be filed with the commissioner.*

14 Sec. 2. K.S.A. 40-284 is hereby repealed.

15 Sec. 3. This act shall take effect and be in force from and after its
16 publication in the statute book.