

MINUTES OF THE House COMMITTEE ON InsuranceThe meeting was called to order by Rep. Rex B. Hoy at
Chairperson3:30 ~~xxx~~/p.m. on February 27, 1985 in room 521-S of the Capitol.

All members were present except:

Reps. King, Lowther, and Turnquist - all excused

Committee staff present:

Gordon Self - Revisor's Office
Emalene Correll - Legislative Research
Melinda Hanson - Legislative Research
Helen Carlson - Secretary

Conferees appearing before the committee:

Rep. Peterson
Kathy Sebelius, Travelers Association
Gary McAlister, Trial Lawyers Assn.
Homer Cowen, Western Companies of Fort Scott
Dick Scott, State Farm Insurance Companies
Brian Nelson, Attorney
Davis Hansen, Kansas Life Assn.
Rep. Douville
Jan Pacey, Forest Jones and Co., Brokerage Firm of Kansas City

Rep. Peterson spoke in support of HB 2324, and presented written testimony to members of the Committee explaining the bill. He said the bill deals with the underinsured and uninsured. Under current law both of these are mandatory coverage, unless rejected in writing, and each policy holder pays a premium for this protection. The law provides for protection for damages suffered when there is no coverage or not enough coverage on the part of the negligent party. A copy of his testimony is attached hereto. (Attachment I)

Kathy Sebelius suggested an amendment to HB 2324 and asked Gary McAlister to explain same. He said that a person who has purchased a limited policy is taking the position that they do not have any reason to pay until the other person's personal assets are exhausted. He feels underinsured coverage should be construed as primary coverage and other insurance should come in when primary coverage is exhausted. He is suggesting that all underinsured policies be treated as primary coverage. (Copy of Amendment - Attachment II)

Mr. Homer Cowan said he was very confused with the bill, but that he had no objection to Mr. McAlister's amendment.

Mr. Dick Scott said he felt HB 2324 was very complex, and asked the Committee to study the matter further before making a decision.

Mr. David Hansen said he opposes the bill as written, feels it is very dangerous and will cause a rate impact.

Vice-Chairman Sprague, Acting Chairman for Rep. Hoy who was called to Ways and Means meeting, appointed a Sub-Committee to meet with staff to further study HB 2324 and report back to Committee next week. He asked Reps. Graeber, Blumenthal and Neufeld to serve on the Committee, with Rep. Graeber serving as Chairman.

Rep. Douville explained HB 2399 saying it requires all attorneys in the State of Kansas to carry liability insurance to cover not less than \$100,000 per claim, with a \$300,000 annual aggregate limit for malpractice. They would have to show proof of insurance before they could get their license, and if insurance is cancelled notice must be sent to the Insurance Commissioner and to the insured.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Insurance,
room 521S, Statehouse, at 3:30 ~~xxx~~ p.m. on February 27, 1985

Brian Nelson spoke in support of HB 2399 saying it is important that we have this kind of legislation to protect innocent clients.

Jan Pacey spoke in opposition to HB 2399, saying it could have an adverse effect on what is going on in the state now. He said the rates for malpractice insurance have increased 75% to 195% since August, 1984. He further stated that the majority of the lawyers in Kansas now carry malpractice insurance. He said if an attorney has been in practice 8 years or more it would likely cost him approximately \$1528.00 a year for \$100,000 to \$300,000 for the mandated insurance coverage. For a lawyer just starting it would cost from \$400.00 to \$440.00 a year.

Discussion continued on HB 2399.

Rep. Graeber announced the Sub-Committee on HB 2324 would meet with staff at 8 AM on Friday, March 1, 1985.

The minutes of Tuesday, February 26, 1985 were approved.

The Chairman announced hearings would continue on HB 2399 Thursday, as well as hearings on HB 2421 and HB 2496.

Meeting adjourned at 5 PM.

STATE OF KANSAS

MICHAEL J. PETERSON
REPRESENTATIVE, THIRTY-THIRD DISTRICT
WYANDOTTE COUNTY
731 ANN AVENUE
KANSAS CITY, KANSAS 66101
KANSAS CITY OFFICE 342-2444



TOPEKA

HOUSE OF
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AFFAIRS
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BENEFITS
CHAIRMAN, WYANDOTTE COUNTY DELEGATION

February 27, 1985

TESTIMONY BEFORE HOUSE INSURANCE COMMITTEE

House Bill 2324 deals with the underinsured and uninsured. Under current law both of these are mandatory coverage and each policy holder pays a premium for this protection. The law provides for protection for damages suffered when there is no coverage or not enough coverage on the part of the negligent party.

Uninsured - Protection for those involved in an accident with an uninsured motorist. You may proceed against your own company for damages recoverable from the negligent party had he been insured.

Underinsured - Available to policy holders as an added protection for compensation for damages when they exceed the limits of the negligent parties.

The underinsured concept is confusing. The intention in 1982 was to allow individuals to buy additional protection for themselves and their family members. The law was passed in the closing hours by conference committee report.

I did not nor did anyone I talked to know at the time that the law was passed that underinsured coverage was mandatory but impossible to collect for those policy holders who have the minimum limits. The law provides for a set-off coverage to the extent your limits exceeds those of the negligent parties. This impacts the individuals greatest who need the protection the most.

EXAMPLE: Both parties have minimum limits (\$25,000)

Rex Hoy is driving east on Johnson Drive to his insurance agency. He must turn left and as he approaches his office he turns on his turn signal and comes to a stop waiting for west bound traffic to clear. As he is waiting, Art Douville who is in the same lane of traffic on his way to his law office and apparently not paying attention, hit Rex in the rear at a speed of 30mph. Rex has his seat belt on but the impact pushes him over in the other lane of traffic and he is broadsided by Fletcher Bell on his way back to Topeka.

The seat belt saves Rex's life but holds the lower part of his body stationary while the upper part slams around inside his car---Rex suffers disc damage to his cervical and lumbar spine. He is in the hospital two weeks prior to

Attachment I
2-27-85

surgery. His doctor tells him he will never be the same but he will learn to live with his pain. In the meantime, his boss tells him his medical leave is up but Rex feels pretty good because he knows he can collect \$650.00 a month for a full year and he feels he will make it because he now has underinsured motorist coverage and will be able to collect \$25,000 over and above what Art carries. Art's company pays their limit immediately in the amount of \$25,000 which after Rex pays his PIP back will just almost cover his medical to date.

He immediately notifies his company that he needs his \$25,000 so he can support his family until he gets back to work. He knows he's covered because his company has charged him a premium. He receives a denial saying that although Underinsured Motorist Coverage is a good idea, and although we do charge you a premium, you cannot collect because Art's company paid you what your limits are.

In other words, Underinsured only applies when you have more coverage than the negligent party. People who carry \$25,000 are out of luck.

House Bill 2324 will correct this problem and allow policy holders to at least seek damages from their own company over and above the limits of the negligent party, if their injury justifies recovery. You pay a premium for this coverage now but under present law cannot get what you are paying for.

It should also be understood that merely having the coverage does not entitle you to recover. You must be in a position to prove that you deserve it.

Passing this bill will allow Kansas drivers to have protection in excess of the negligent party's coverage without raising the minimum limits required under present law.

Suggested Amendment to House Bill No. 2324 Section 1(d)

An insured with uninsured motorist coverage, who has damages which exceed the coverage limits of the owner or operator of another motor vehicle who is legally liable for such damages, shall be able to recover against the ^{insured's} ~~tort~~ feason's uninsured motorist coverage and any other policy providing uninsured motorist coverage benefits for such excess damages. Any policies providing uninsured motorist coverage benefits to the insured shall be considered to be primary coverage to the extent of the limits of the uninsured motorist coverage and not as excess coverage.

Attachment II