

SENATE BILL No. 114

By Committee on Insurance

2-1

1 AN ACT concerning insurance; relating to motor vehicles, uninsured
2 motorist and personal injury coverage; right to reject insurance
3 coverage, certain entities; amending K.S.A. 40-284 and K.S.A. 2020
4 Supp. 40-3107 and repealing the existing sections.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

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

28 (b) Any uninsured motorist coverage shall include an underinsured
29 motorist provision ~~which~~ *that* enables the insured or the insured's legal
30 representative to recover from the insurer the amount of damages for
31 bodily injury or death to which the insured is legally entitled from the
32 owner or operator of another motor vehicle with coverage limits equal to
33 the limits of liability provided by such uninsured motorist coverage to the
34 extent such coverage exceeds the limits of the bodily injury coverage
35 carried by the owner or operator of the other motor vehicle.

36 (c) (1) The insured named in the policy shall have the right to reject,

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

12 *(2) Notwithstanding the provisions of paragraph (1), any*
13 *governmental entity as defined in K.S.A. 75-6102, and amendments*
14 *thereto, or self-insurer shall have the right to reject, in writing, all*
15 *uninsured motorist coverage.*

16 (d) Coverage under the policy shall be limited to the extent that the
17 total limits available cannot exceed the highest limits of any single
18 applicable policy, regardless of the number of policies involved, persons
19 covered, claims made, vehicles or premiums shown on the policy or
20 premiums paid or vehicles involved in an accident.

21 (e) Any insurer may provide for the exclusion or limitation of
22 coverage:

23 (1) When the insured is occupying or struck by an uninsured
24 automobile or trailer owned or provided for the insured's regular use;

25 (2) when the ~~uninsured~~ automobile is owned by a self-insurer or any
26 governmental entity;

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

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

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

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

35 (f) An underinsured motorist coverage insurer shall have subrogation
36 rights under the provisions of K.S.A. 40-287, and amendments thereto. If a
37 tentative agreement to settle for liability limits has been reached with an
38 underinsured tortfeasor, written notice ~~must~~ *shall* be given by certified
39 mail to the underinsured motorist coverage insurer by its insured. Such
40 written notice shall include written documentation of pecuniary losses
41 incurred, including copies of all medical bills and written authorization or
42 a court order to obtain reports from all employers and medical providers.
43 Within 60 days of receipt of this written notice, the underinsured motorist

1 coverage insurer may substitute its payment to the insured for the tentative
2 settlement amount. The underinsured motorist coverage insurer ~~is~~ shall
3 then *be* subrogated to the insured's right of recovery to the extent of such
4 payment and any settlement under the underinsured motorist coverage. If
5 the underinsured motorist coverage insurer fails to pay the insured the
6 amount of the tentative tort settlement within 60 days, the underinsured
7 motorist coverage insurer ~~has~~ shall have no right of subrogation for any
8 amount paid under the underinsured motorist coverage.

9 Sec. 2. K.S.A. 2020 Supp. 40-3107 is hereby amended to read as
10 follows: 40-3107. Every policy of motor vehicle liability insurance issued
11 or renewed on or after January 1, 2017, by an insurer to an owner residing
12 in this state shall:

13 (a) Designate by explicit description or by appropriate reference of all
14 vehicles with respect to ~~which~~ the coverage *that* is to be granted;

15 (b) insure the person named and any other person, as insured, using
16 any such vehicle with the expressed or implied consent of such named
17 insured, against loss from the liability imposed by law for damages arising
18 out of the ownership, maintenance or use of any such vehicle within the
19 United States of America or the Dominion of Canada, subject to the limits
20 stated in such policy;

21 (c) state the name and address of the named insured, the coverage
22 afforded by the policy, the premium charged and the policy period;

23 (d) contain an agreement or be endorsed that insurance is provided in
24 accordance with the coverage required by this act;

25 (e) contain stated limits of liability, exclusive of interest and costs,
26 with respect to each vehicle for ~~which~~ the coverage *that* is granted, not less
27 than \$25,000 because of bodily injury to, or death of, one person in any
28 one accident and, subject to the limit for one person, to a limit of not less
29 than \$50,000 because of bodily injury to, or death of, two or more persons
30 in any one accident, and to a limit of not less than \$25,000 because of
31 harm to or destruction of property of others in any one accident;

32 (f) include personal injury protection benefits to the named insured,
33 relatives residing in the same household, persons operating the insured
34 motor vehicle, passengers in such motor vehicle and other persons struck
35 by such motor vehicle and suffering bodily injury while not an occupant of
36 a motor vehicle, not exceeding the limits prescribed for each of such
37 benefits, for loss sustained by any such person as a result of injury. The
38 owner of a motorcycle, as defined by K.S.A. 8-1438, and amendments
39 thereto or motor-driven cycle, defined by K.S.A. 8-1439, and amendments
40 thereto, who is the named insured, shall have the right to reject in writing
41 insurance coverage including such benefits for injury to a person ~~which~~
42 *that* occurs while the named insured is operating or is a passenger on such
43 motorcycle or motor-driven cycle; ~~and~~. Unless the named insured requests

1 such coverage in writing, such coverage ~~need~~ *shall* not be *required to be*
2 provided in, or supplemental to, a renewal policy when the named insured
3 has rejected the coverage in connection with a policy previously issued by
4 the same insurer. The fact that the insured has rejected such coverage shall
5 not cause such motorcycle or motor-driven cycle to be an uninsured motor
6 vehicle;

7 (g) notwithstanding any omitted or inconsistent language, any
8 contract of insurance ~~which that~~ an insurer represents as, or ~~which that~~
9 purports to be, a motor vehicle liability insurance policy meeting the
10 requirements of this act shall be construed to obligate the insurer to meet
11 all the mandatory requirements and obligations of this act;

12 (h) notwithstanding any other provision contained in this section, any
13 insurer may exclude coverage required by subsections (a), (b), (c) and (d)
14 of this section while any insured vehicles are:

15 (1) Rented to others or used to carry persons for a charge, ~~however,~~
16 *but* such exclusion shall not apply to the use of a private passenger car on a
17 share the expense basis; or

18 (2) being repaired, serviced or used by any person employed or
19 engaged in any way in the automobile business. ~~This does,~~ *but such*
20 *exclusion shall* not apply to the named insured, spouse or relative
21 residents; or the agents, employers, employees or partners of the named
22 insured, spouse or resident relative; and

23 (i) in addition to the provisions of subsection (h) and notwithstanding
24 any other provision contained in subsections (a), (b), (c) and (d) of this
25 section, any insurer may exclude coverage:

26 (1) For any damages ~~for which that~~ the United States government
27 might be liable for the insured's use of the vehicle;

28 (2) for any damages to property owned by, rented to, ~~or~~ in charge of
29 or transported by an insured, ~~however,~~ *but* this exclusion shall not apply to
30 coverage for a rented residence or rented private garage;

31 (3) for any obligation of an insured, or the insured's insurer, under
32 any type of workers' compensation or disability or similar law;

33 (4) for liability assumed by an insured under any contract or
34 agreement;

35 (5) if two or more vehicle liability policies apply to the same
36 accident, the total limits of liability under all such policies shall not exceed
37 that of the policy with the highest limit of liability;

38 (6) for any damages arising from an intentional act;

39 (7) for any damages to any person who would be covered for such
40 damages under a nuclear energy liability policy;

41 (8) for any obligation of the insured to indemnify another for
42 damages resulting from bodily injury to the insured's employee by
43 accident arising out of and in the course of such employee's employment;

1 (9) for bodily injury to any fellow employee of the insured arising out
2 of and in the course of such employee's employment;

3 (10) for bodily injury or property damage resulting from the handling
4 of property:

5 (A) Before it is moved from the place where it is accepted by the
6 insured for movement into or onto the covered auto; or

7 (B) after it is moved from the covered auto to the place where it is
8 finally delivered by the insured;

9 (11) for bodily injury or property damage resulting from the
10 movement of property by a mechanical device, other than a hand truck, not
11 attached to the covered auto; ~~and~~

12 (12) for bodily injury or property damage caused by the dumping,
13 discharge or escape of irritants, pollutants or contaminants; ~~however, but~~
14 this exclusion does not apply if the discharge is sudden and accidental;
15 *and*

16 *(13) for personal injury coverage for any governmental entity as*
17 *defined in K.S.A. 75-6102, and amendments thereto, or self-insurer if such*
18 *entity has rejected such coverage in writing.*

19 (j) Commencing with the 2026 legislative interim period, and at least
20 every 10 years thereafter, subject to authorization by the legislative
21 coordinating council, a legislative interim study committee shall study the
22 issue of whether the minimum limits of liability in subsection (e) should
23 be adjusted.

24 Sec. 3. K.S.A. 40-284 and K.S.A. 2020 Supp. 40-3107 are hereby
25 repealed.

26 Sec. 4. This act shall take effect and be in force from and after its
27 publication in the statute book.