

SENATE BILL No. 489

By Committee on Federal and State Affairs

3-10

1 AN ACT concerning insurance; relating to motor vehicles, uninsured
2 motorist coverage; right to reject coverage; amending K.S.A. 40-284
3 and repealing the existing section.
4

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

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

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

35 (c) (1) The insured named in the policy shall have the right to reject,
36 in writing, the uninsured motorist coverage required by subsections (a) and

1 (b) ~~which~~ *that* is in excess of the limits for bodily injury or death set forth
2 in 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 named in
5 the policy requests such coverage in writing, such coverage need not be
6 provided in any subsequent policy issued by the same insurer for motor
7 vehicles owned by the named insured, including, but not limited to,
8 supplemental, renewal, reinstated, transferred or substitute policies where
9 the named insured had rejected the coverage in connection with a policy
10 previously issued to the insured by the same insurer.

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

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

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

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

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

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

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

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

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

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

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

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

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