

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 17-0909.01 Jery Payne x2157

SENATE BILL 17-182

SENATE SPONSORSHIP

Gardner,

HOUSE SPONSORSHIP

Neville P. and Willett,

Senate Committees

Judiciary

House Committees

A BILL FOR AN ACT

101 **CONCERNING A LIMITATION ON THE OBLIGATION TO COVER DAMAGES**
102 **ARISING OUT OF A MOTOR VEHICLE ACCIDENT WHEN UNINSURED**
103 **MOTORIST INSURANCE MAY COVER THE SAME DAMAGES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Current law forbids uninsured and underinsured medical coverage to take a setoff when medical insurance pays a part of the damages caused by a crash. The bill clarifies that this does not require the insurers to pay more than the actual damages caused by the crash.

An insurer is authorized to prohibit stacking the limits of more

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

than one uninsured motorist coverage policy if the provisions are included in a single policy covering multiple vehicles or in multiple policies issued by one insurer or by insurers under common ownership or management. But this provision must not prohibit stacking of the uninsured or underinsured policies issued to an insured by different companies or to an unrelated person.

The maximum liability under the uninsured motorist coverage is the lesser of the policy limits and amounts paid by a legally liable person or the amount of damages sustained but not recovered.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 10-4-609, **amend**
3 (1)(c), (2), and (4); and **add** (5.5) and (8) as follows:

4 **10-4-609. Insurance protection against uninsured motorists -**
5 **applicability.** (1) (c) The coverage described in ~~paragraph (a) of this~~
6 ~~subsection (1)~~ SUBSECTION (1)(a) OF THIS SECTION shall be in addition to
7 any legal liability coverage and shall cover the difference, if any, between
8 the amount of the limits of any legal liability coverage and the amount of
9 the damages sustained, excluding exemplary damages, up to the
10 maximum amount of the coverage obtained pursuant to this section. A
11 single policy or endorsement for uninsured or underinsured motor vehicle
12 coverage issued for a single premium covering multiple vehicles may be
13 limited to applying once per accident. The amount of the coverage
14 available pursuant to this section shall not be reduced by a setoff from any
15 other coverage, including ~~but not limited to~~, legal liability insurance,
16 medical payments coverage, health insurance, or other uninsured or
17 underinsured motor vehicle insurance; EXCEPT THAT INSURERS ARE NOT
18 REQUIRED TO PAY DAMAGES OR BENEFITS UNDER COVERAGE AVAILABLE
19 UNDER THIS SECTION AND BENEFITS PAID UNDER ANY TYPE OF MEDICAL
20 COVERAGE THAT TOGETHER EXCEED THE AMOUNT OF THE INSURED'S

1 INJURY OR LOSS FOR ANY ONE ACCIDENT CAUSING DAMAGE.

2 (2) (a) Before the policy is issued or renewed, the insurer shall
3 offer the named insured the right to obtain uninsured motorist coverage
4 in an amount equal to the insured's bodily injury liability limits, but in no
5 event shall the insurer be required to offer limits higher than the insured's
6 bodily injury liability limits. A POLICY MAY CONTAIN PROVISIONS THAT
7 PROHIBIT STACKING THE LIMITS OF MORE THAN ONE UNINSURED MOTORIST
8 COVERAGE POLICY AS PROVIDED IN THIS SECTION IF THE PROVISIONS ARE
9 INCLUDED IN A SINGLE POLICY COVERING MULTIPLE VEHICLES OR IN
10 MULTIPLE POLICIES ISSUED BY ONE INSURER, OR BY AFFILIATED INSURERS
11 THAT ARE UNDER COMMON OWNERSHIP OR MANAGEMENT, TO AN INSURED
12 OR TO A RESIDENT RELATIVE OF THE INSURED. THESE PROVISIONS MUST
13 NOT PROHIBIT STACKING OF THE UNINSURED OR UNDERINSURED PORTIONS
14 OF A POLICY ISSUED TO AN INSURED AND A SEPARATE POLICY COVERING
15 THE INSURED THAT WAS NOT ISSUED TO THE INSURED OR A RESIDENT
16 RELATIVE.

17 (b) FOR PURPOSES OF THIS SUBSECTION (2), UNDERINSURED
18 MOTORIST COVERAGE IS INCLUDED IN THE TERM "UNINSURED MOTORIST
19 COVERAGE" AS USED IN SUBSECTION (4) OF THIS SECTION.

20 (4) (a) Uninsured motorist coverage ~~shall~~ MUST include coverage
21 for damage for bodily injury or death that an insured is legally entitled to
22 collect from the owner or driver of an underinsured motor vehicle. An
23 underinsured motor vehicle is a land motor vehicle, the ownership,
24 maintenance, or use of which is insured or bonded for bodily injury or
25 death at the time of the accident.

26 (b) THE LIMITS OF LIABILITY FOR BODILY INJURY OR DEATH UNDER
27 THE INSURANCE OR BOND REFERENCED IN SUBSECTION (4)(a) OF THIS

1 SECTION ARE EQUAL TO THE LIMITS FOR UNINSURED MOTORIST COVERAGE
2 UNDER THE INSURED'S POLICY AFTER SUBTRACTING ANY PAYMENTS TO
3 PERSONS OTHER THAN AN INSURED THAT ARE MADE IN CONNECTION WITH
4 THE ACCIDENT.

5 (5.5) THE MAXIMUM LIABILITY OF THE INSURER UNDER THE
6 UNINSURED MOTORIST COVERAGE PROVIDED SHALL BE THE LESSER OF:

7 (a) THE DIFFERENCE BETWEEN THE LIMIT OF UNINSURED MOTORIST
8 COVERAGE AND THE AMOUNT PAID TO THE INSURED BY OR FOR ANY
9 PERSON OR ORGANIZATION WHO MAY BE HELD LEGALLY LIABLE FOR THE
10 BODILY INJURY; OR

11 (b) THE AMOUNT OF DAMAGES SUSTAINED BUT NOT RECOVERED.

12 (8) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
13 REQUIRES:

14 (a) "UNDERINSURED MOTOR VEHICLE" MEANS A MOTOR VEHICLE,
15 THE OWNERSHIP, MAINTENANCE, OR USE OF WHICH IS INSURED OR BONDED
16 FOR BODILY INJURY OR DEATH AT THE TIME OF THE ACCIDENT.

17 (b) "UNINSURED MOTOR VEHICLE" MEANS A MOTOR VEHICLE THAT:

18 (I) IS NOT INSURED, SELF-INSURED, OR BONDED FOR BODILY INJURY
19 LIABILITY AT THE TIME OF THE ACCIDENT;

20 (II) IS INSURED, SELF-INSURED, OR BONDED FOR BODILY INJURY
21 LIABILITY AT THE TIME OF THE ACCIDENT; EXCEPT THAT THE LIMITS ARE
22 LESS THAN REQUIRED BY SECTION 10-4-619;

23 (III) HAS A POLICY AND THE CARRIER COVERING THE MOTOR
24 VEHICLE DENIES THAT ITS POLICY PROVIDES LIABILITY COVERAGE FOR
25 COMPENSATORY DAMAGES THAT RESULT FROM THE ACCIDENT; OR

26 (IV) HAS A POLICY AND THE CARRIER COVERING THE MOTOR
27 VEHICLE IS OR BECOMES INSOLVENT.

1 **SECTION 2.** In Colorado Revised Statutes, 10-4-418, **add** (2)(d)
2 as follows:

3 **10-4-418. Enforcement procedures - penalties.** (2) (d) THE
4 COMMISSIONER SHALL NOT FIND THAT A POLICY FORM, CERTIFICATE,
5 CONTRACT OF INSURANCE, OR RIDER DOES NOT COMPLY WITH THIS TITLE
6 10 ON THE GROUND THAT IT PROHIBITS STACKING THE LIMITS OF MORE
7 THAN ONE UNINSURED MOTORIST COVERAGE POLICY AS PROVIDED IN
8 SECTION 10-4-609. THE PROVISIONS TO PREVENT STACKING ARE IN
9 CONFORMITY WITH THE PUBLIC POLICY OF THIS STATE IF THE PROVISIONS
10 COMPLY WITH SECTION 10-4-609 (2).

11 **SECTION 3. Act subject to petition - effective date -**
12 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
13 the expiration of the ninety-day period after final adjournment of the
14 general assembly (August 9, 2017, if adjournment sine die is on May 10,
15 2017); except that, if a referendum petition is filed pursuant to section 1
16 (3) of article V of the state constitution against this act or an item, section,
17 or part of this act within such period, then the act, item, section, or part
18 will not take effect unless approved by the people at the general election
19 to be held in November 2018 and, in such case, will take effect on the
20 date of the official declaration of the vote thereon by the governor.

21 (2) This act applies to events causing liability covered by an
22 uninsured or underinsured motor vehicle insurance policy on or after the
23 applicable effective date of this act.