

## As Passed by the House

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### A B I L L

To amend sections 3937.18, 3937.181, and 3937.182 of  
the Revised Code to revise the Uninsured and  
Underinsured Motorist Coverages Law.

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#### BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

**Section 1.** That sections 3937.18, 3937.181, and 3937.182 of  
the Revised Code be amended to read as follows:

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**Sec. 3937.18.** (A) ~~No automobile liability or motor vehicle~~  
~~liability~~ Any policy of insurance insuring delivered or issued for  
delivery in this state with respect to any motor vehicle  
registered or principally garaged in this state that insures  
against loss resulting from liability imposed by law for bodily

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injury or death suffered by any person arising out of the  
ownership, maintenance, or use of a motor vehicle shall be  
~~delivered or issued for delivery in this state with respect to any~~  
~~motor vehicle registered or principally garaged in this state~~  
~~unless both of the following coverages are offered to persons~~  
~~insured under the policy due to bodily injury or death suffered by~~  
~~such insureds:~~

~~(1) Uninsured motorist coverage, which shall be in an amount~~  
~~of coverage equivalent to the automobile liability or motor~~  
~~vehicle liability coverage and shall provide protection for bodily~~  
~~injury, sickness, or disease, including death under provisions~~  
~~approved by the superintendent of insurance, for the protection of~~  
~~insureds thereunder who are legally entitled to recover from~~  
~~owners or operators of uninsured motor vehicles because of bodily~~  
~~injury, sickness, or disease, including death, suffered by any~~  
~~person insured under the policy.~~

~~For purposes of division (A)(1) of this section, an insured~~  
~~is legally entitled to recover if the insured is able to prove the~~  
~~elements of the insured's claim that are necessary to recover from~~  
~~the owner or operator of the uninsured motor vehicle. The fact~~  
~~that the owner or operator of the uninsured motor vehicle has an~~  
~~immunity under Chapter 2744. of the Revised Code or a diplomatic~~  
~~immunity that could be raised as a defense in an action brought~~  
~~against the owner or operator by the insured does not affect the~~  
~~insured's right to recover under uninsured motorist coverage.~~  
~~However, any other type of statutory or common law immunity that~~  
~~may be a defense for the owner or operator of an uninsured motor~~  
~~vehicle shall also be a defense to an action brought by the~~  
~~insured to recover under, may, but is not required to, include~~  
~~uninsured motorist coverage, underinsured motorist coverage, or~~  
~~both uninsured and underinsured motorist coverages.~~

Unless otherwise defined in the policy or any endorsement to

the policy, "motor vehicle," for purposes of the uninsured  
motorist coverage, underinsured motorist coverage, or both  
uninsured and underinsured motorist coverages, means a  
self-propelled vehicle designed for use and principally used on  
public roads, including an automobile, truck, semi-tractor,  
motorcycle, and bus. "Motor vehicle" also includes a motor home,  
provided the motor home is not stationary and is not being used as  
a temporary or permanent residence or office. "Motor vehicle" does  
not include a trolley, streetcar, trailer, railroad engine,  
railroad car, motorized bicycle, golf cart, off-road recreational  
vehicle, snowmobile, fork lift, aircraft, watercraft, construction  
equipment, farm tractor or other vehicle designed and principally  
used for agricultural purposes, mobile home, vehicle traveling on  
treads or rails, or any similar vehicle.

(B) For purposes of any uninsured motorist coverage included  
in a policy of insurance, an "uninsured motorist" is the owner or  
operator of a motor vehicle if any of the following conditions  
applies:

(1) There exists no bodily injury liability bond or insurance  
policy covering the owner's or operator's liability to the  
insured.

(2) The liability insurer denies coverage to the owner or  
operator, or is or becomes the subject of insolvency proceedings  
in any state.

(3) The identity of the owner or operator cannot be  
determined, but independent corroborative evidence exists to prove  
that the bodily injury, sickness, disease, or death of the insured  
was proximately caused by the negligence or intentional actions of  
the unidentified operator of the motor vehicle. For purposes of  
division (B)(3) of this section, the testimony of any insured  
seeking recovery from the insurer shall not constitute independent  
corroborative evidence, unless the testimony is supported by

additional evidence.

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(4) The owner or operator has diplomatic immunity.

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(5) The owner or operator has immunity under Chapter 2744. of  
the Revised Code.

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An "uninsured motorist" does not include the owner or  
operator of a motor vehicle that is self-insured within the  
meaning of the financial responsibility law of the state in which  
the motor vehicle is registered.

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~~(2) Underinsured (C) If underinsured motorist coverage, which  
shall be in an amount of coverage equivalent to is included in a  
policy of insurance, the automobile liability or motor vehicle  
liability underinsured motorist coverage and shall provide  
protection for insureds thereunder for bodily injury, sickness, or  
disease, including death, suffered by any person insured under the  
policy, where the limits of coverage available for payment to the  
insured under all bodily injury liability bonds and insurance  
policies covering persons liable to the insured are less than the  
limits for the insured's uninsured underinsured motorist coverage.  
Underinsured motorist coverage in this state is not and shall not  
be excess insurance coverage to other applicable liability  
coverages, and shall be provided only to afford provide the  
insured an amount of protection not greater than that which would  
be available under the insured's uninsured motorist coverage if  
the person or persons liable to the insured were uninsured at the  
time of the accident. The policy limits of the underinsured  
motorist coverage shall be reduced by those amounts available for  
payment under all applicable bodily injury liability bonds and  
insurance policies covering persons liable to the insured.~~

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~~(B) Coverages offered under division (A) of this section  
shall be written for the same limits of liability. No change shall  
be made in the limits of one of these coverages without an~~

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~~equivalent change in the limits of the other coverage.~~

~~(C) A named insured or applicant may reject or accept both coverages as offered under division (A) of this section, or may alternatively select both such coverages in accordance with a schedule of limits approved by the superintendent. The schedule of limits approved by the superintendent may permit a named insured or applicant to select uninsured and underinsured motorists coverages with limits on such coverages that are less than the limit of liability coverage provided by the automobile liability or motor vehicle liability policy of insurance under which the coverages are provided, but the limits shall be no less than the limits set forth in section 4509.20 of the Revised Code for bodily injury or death. A named insured's or applicant's rejection of both coverages as offered under division (A) of this section, or a named insured's or applicant's selection of such coverages in accordance with the schedule of limits approved by the superintendent, shall be in writing and shall be signed by the named insured or applicant. A named insured's or applicant's written, signed rejection of both coverages as offered under division (A) of this section, or a named insured's or applicant's written, signed selection of such coverages in accordance with the schedule of limits approved by the superintendent, shall be effective on the day signed, shall create a presumption of an offer of coverages consistent with division (A) of this section, and shall be binding on all other named insureds, insureds, or applicants.~~

~~Unless a named insured or applicant requests such coverages in writing, such coverages need not be provided in or made supplemental to a policy renewal or a new or replacement policy that provides continuing coverage to the named insured or applicant where a named insured or applicant has rejected such coverages in connection with a policy previously issued to the~~

named insured or applicant by the same insurer or affiliate of  
that insurer. If a named insured or applicant has selected such  
coverages in connection with a policy previously issued to the  
named insured or applicant by the same insurer or affiliate of  
that insurer, with limits in accordance with the schedule of  
limits approved by the superintendent, such coverages need not be  
provided with limits in excess of the limits of liability  
previously issued for such coverages, unless a named insured or  
applicant requests in writing higher limits of liability for such  
coverages For purposes of underinsured motorist coverage, an  
"underinsured motorist" does not include the owner or operator of  
a motor vehicle that has applicable liability coverage in the  
policy under which the underinsured motorist coverage is provided.

(D) ~~For the purpose of this section, a motor vehicle shall be~~  
~~deemed uninsured in either of the following circumstances:~~

(1) ~~The liability insurer denies coverage or is or becomes~~  
~~the subject of insolvency proceedings in any jurisdiction;~~

(2) ~~The identity of the owner and operator of the motor~~  
~~vehicle cannot be determined, but independent corroborative~~  
~~evidence exists to prove that the bodily injury, sickness,~~  
~~disease, or death of the insured was proximately caused by the~~  
~~negligence or intentional actions of the unidentified operator of~~  
~~the motor vehicle. For purposes of this division, the testimony of~~  
~~any insured seeking recovery from the insurer shall not constitute~~  
~~independent corroborative evidence, unless the testimony is~~  
~~supported by additional evidence~~ With respect to the uninsured  
motorist coverage, underinsured motorist coverage, or both  
uninsured and underinsured motorist coverages included in a policy  
of insurance, an insured shall be required to prove all elements  
of the insured's claim that are necessary to recover from the  
owner or operator of the uninsured or underinsured motor vehicle.

(E) ~~In the event of payment to any person under the coverages offered under this section and subject to the terms and conditions of such coverages, the insurer making such payment to the extent thereof is entitled to the proceeds of any settlement or judgment resulting from the exercise of any rights of recovery of such person against any person or organization legally responsible for the bodily injury or death for which such payment is made, including any amount recoverable from an insurer which is or becomes the subject of insolvency proceedings, through such proceedings or in any other lawful manner. No insurer shall attempt to recover any amount against the insured of an insurer which is or becomes the subject of insolvency proceedings, to the extent of those rights against such insurer which such insured assigns to the paying insurer.~~

~~(F)~~ The uninsured motorist coverage, underinsured motorist coverage, or both uninsured and underinsured motorist coverages offered under this section included in a policy of insurance shall not be ~~made~~ subject to an exclusion or reduction in amount because of any workers' compensation benefits payable as a result of the same injury or death.

~~(G)~~(F) Any ~~automobile liability or motor vehicle liability~~ policy of insurance that includes uninsured motorist coverage, underinsured motorist coverage, or both uninsured and underinsured motorist coverages offered under division (A) of this section or selected in accordance with division (C) of this section may, without regard to any premiums involved, include terms and conditions that preclude any and all stacking of such coverages, including but not limited to:

(1) Interfamily stacking, which is the aggregating of the limits of such coverages by the same person or two or more persons, whether family members or not, who are not members of the same household;

(2) Intrafamily stacking, which is the aggregating of the 202  
limits of such coverages purchased by the same person or two or 203  
more family members of the same household. 204

~~(H)(G) Any automobile liability or motor vehicle liability~~ 205  
policy of insurance that includes uninsured motorist coverage, 206  
underinsured motorist coverage, or both uninsured and underinsured 207  
motorist coverages offered under division (A) of this section or 208  
selected in accordance with division (C) of this section and that 209  
provides a limit of coverage for payment ~~for~~ of damages for bodily 210  
injury, including death, sustained by any one person in any one 211  
automobile accident, may, notwithstanding Chapter 2125. of the 212  
Revised Code, include terms and conditions to the effect that all 213  
claims resulting from or arising out of any one person's bodily 214  
injury, including death, shall collectively be subject to the 215  
limit of the policy applicable to bodily injury, including death, 216  
sustained by one person, and, for the purpose of such policy limit 217  
shall constitute a single claim. Any such policy limit shall be 218  
enforceable regardless of the number of insureds, claims made, 219  
vehicles or premiums shown in the declarations or policy, or 220  
vehicles involved in the accident. 221

(H) Any policy of insurance that includes uninsured motorist 222  
coverage, underinsured motorist coverage, or both uninsured and 223  
underinsured motorist coverages may include terms and conditions 224  
requiring that, so long as the insured has not prejudiced the 225  
insurer's subrogation rights, each claim or suit for uninsured 226  
motorist coverage, underinsured motorist coverage, or both 227  
uninsured and underinsured motorist coverages be made or brought 228  
within three years after the date of the accident causing the 229  
bodily injury, sickness, disease, or death, or within one year 230  
after the liability insurer for the owner or operator of the motor 231  
vehicle liable to the insured has become the subject of insolvency 232  
proceedings in any state, whichever is later. 233



(I) ~~Nothing in this section shall prohibit the inclusion~~ Any 234  
~~policy of insurance that includes uninsured motorist coverage,~~ 235  
~~underinsured motorist coverage in any, or both uninsured and~~ 236  
~~underinsured motorist coverage provided in compliance with this~~ 237  
~~section.~~ 238

~~(J) The coverages offered under division (A) of this section~~ 239  
~~or selected in accordance with division (C) of this section~~ may 240  
include terms and conditions that preclude coverage for bodily 241  
injury or death suffered by an insured under specified 242  
circumstances, including but not limited to any of the following 243  
circumstances: 244

(1) While the insured is operating or occupying a motor 245  
vehicle owned by, furnished to, or available for the regular use 246  
of a named insured, a spouse, or a resident relative of a named 247  
insured, if the motor vehicle is not specifically identified in 248  
the policy under which a claim is made, or is not a newly acquired 249  
or replacement motor vehicle covered under the terms of the policy 250  
under which the uninsured motorist coverage, underinsured motorist 251  
coverage, or both uninsured and underinsured motorist coverages 252  
are provided; 253

(2) While the insured is operating or occupying a motor 254  
vehicle without a reasonable belief that the insured is entitled 255  
to do so, provided that under no circumstances will an insured 256  
whose license has been suspended, revoked, or never issued, be 257  
held to have a reasonable belief that the insured is entitled to 258  
operate a motor vehicle; 259

(3) When the bodily injury or death is caused by a motor 260  
vehicle operated by any person who is specifically excluded from 261  
coverage for bodily injury liability in the policy under which the 262  
uninsured motorist coverage, underinsured motorist coverage, or 263  
both uninsured and underinsured motorist coverages are provided; 264

(4) While any employee, officer, director, partner, trustee, 265  
member, executor, administrator, or beneficiary of the named 266  
insured, or any relative of any such person, is operating or 267  
occupying a motor vehicle, unless the employee, officer, director, 268  
partner, trustee, member, executor, administrator, beneficiary, or 269  
relative is operating or occupying a motor vehicle for which 270  
uninsured motorist coverage, underinsured motorist coverage, or 271  
both uninsured and underinsured motorist coverages are provided in 272  
the policy; 273

(5) When the person actually suffering the bodily injury, 274  
sickness, disease, or death is not an insured under the policy. 275

(J) In the event of payment to any person under the uninsured 276  
motorist coverage, underinsured motorist coverage, or both 277  
uninsured and underinsured motorist coverages, and subject to the 278  
terms and conditions of that coverage, the insurer making such 279  
payment is entitled, to the extent of the payment, to the proceeds 280  
of any settlement or judgment resulting from the exercise of any 281  
rights of recovery of that person against any person or 282  
organization legally responsible for the bodily injury or death 283  
for which the payment is made, including any amount recoverable 284  
from an insurer that is or becomes the subject of insolvency 285  
proceedings, through such proceedings or in any other lawful 286  
manner. No insurer shall attempt to recover any amount against the 287  
insured of an insurer that is or becomes the subject of insolvency 288  
proceedings, to the extent of those rights against the insurer 289  
that the insured assigns to the paying insurer. 290

(K) ~~As used~~ Nothing in this section, "~~uninsured motor~~ 291  
~~vehicle~~" and "~~underinsured motor vehicle~~" do not include any of 292  
~~the following motor vehicles:~~ 293

~~(1) A motor vehicle that has applicable liability coverage in~~ 294  
~~the policy under which shall prohibit the uninsured and inclusion~~ 295  
~~of underinsured motorist coverages are provided;~~ 296

~~(2) A motor vehicle owned by a political subdivision, unless the operator of the motor vehicle has an immunity under Chapter 2744. of the Revised Code that could be raised as a defense in an action brought against the operator by the insured;~~

~~(3) A motor vehicle self-insured within the meaning of the financial responsibility law of the state in which the motor vehicle is registered coverage in any uninsured motorist coverage included in a policy of insurance.~~

~~(L) As used in this section, "automobile liability or motor vehicle liability policy of insurance" means either of the following:~~

~~(1) Any policy of insurance that serves as proof of financial responsibility, as proof of financial responsibility is defined by division (K) of section 4509.01 of the Revised Code, for owners or operators of the motor vehicles specifically identified in the policy of insurance;~~

~~(2) Any umbrella liability policy of insurance written as excess over one or more policies described in division (L)(1) of this section The superintendent of insurance shall study the market availability of, and competition for, uninsured and underinsured motorist coverages in this state and shall, from time to time, prepare status reports containing the superintendent's findings and any recommendations. The first status report shall be prepared not later than two years after the effective date of this amendment. To assist in preparing these status reports, the superintendent may require insurers and rating organizations operating in this state to collect pertinent data and to submit that data to the superintendent.~~

~~The superintendent shall submit a copy of each status report to the governor, the speaker of the house of representatives, the president of the senate, and the chairpersons of the committees of~~

the general assembly having primary jurisdiction over issues  
relating to automobile insurance.

**Sec. 3937.181.** (A) No ~~automobile liability or motor vehicle~~  
~~liability~~ policy of insurance ~~offering uninsured and underinsured~~  
~~motorist coverages under~~ described in division (A) of section  
3937.18 of the Revised Code that includes uninsured motorist  
coverage, underinsured motorist coverage, or both uninsured and  
underinsured motorist coverages shall be delivered or issued for  
delivery unless coverage is also made available for damage to, or  
the destruction of, any ~~automobile or~~ motor vehicle specifically  
identified in the policy, for the protection of those persons  
insured under the policy who are legally entitled to recover for  
the damage to or destruction of any ~~automobile or~~ motor vehicle  
specifically identified in the policy from the owner or operator  
of an uninsured motor vehicle.

(B) The coverage made available under this section need not  
exceed the lesser of seventy-five hundred dollars or the amount  
otherwise available from the policy for damages to, or the  
destruction of, the ~~automobile or~~ motor vehicle. The coverage  
shall be subject to a maximum two-hundred-fifty-dollar deductible.  
The losses recoverable under this section shall be limited to  
recovery for that destruction of or damage to the ~~automobile or~~  
motor vehicle specifically identified in the policy directly  
caused by an uninsured ~~automobile or~~ motor vehicle whose owner or  
operator has been identified.

(C) If an insured has a policy containing collision coverage  
covering damages caused by an uninsured ~~automobile or~~ motor  
vehicle, the insured's insurer need not make coverage available  
under this section.

(D) An insurer making payments to an insured under the  
coverage offered under division (A) of this section shall be

entitled, to the extent of those payments and subject to the terms  
and conditions of the coverage, to the proceeds of any settlement  
or judgment resulting from the exercise of any rights of recovery  
by the insured against the person or organization legally  
responsible for the injury or destruction of the property,  
including any amounts recoverable from an insurer that is or  
becomes the subject of insolvency proceedings, through such  
proceedings or in any other lawful manner. No insurer shall  
attempt to recover any amount ~~against~~ from the insured of an  
insurer that is or becomes the subject of insolvency proceedings,  
to the extent of ~~his~~ those rights against ~~such the~~ insurer ~~which~~  
~~such that the~~ insured assigns to the paying insurer.

**Sec. 3937.182.** (A) As used in this section, "policy" includes  
an endorsement.

(B) No policy of automobile or motor vehicle insurance that  
is covered by sections 3937.01 to 3937.17 of the Revised Code,  
including, but not limited to, the uninsured motorist coverage,  
underinsured motorist coverage, or both uninsured and underinsured  
~~motorists~~ motorist coverages included in such a policy as ~~required~~  
authorized by section 3937.18 of the Revised Code, and that is  
issued by an insurance company licensed to do business in this  
state, and no other policy of casualty or liability insurance that  
is covered by sections 3937.01 to 3937.17 of the Revised Code and  
that is so issued, shall provide coverage for judgments or claims  
against an insured for punitive or exemplary damages.

(C) This section applies only to policies of automobile,  
motor vehicle, or other casualty or liability insurance as  
described in division (B) of this section that are issued or  
renewed on or after the effective date of this section.

**Section 2.** That existing sections 3937.18, 3937.181, and

3937.182 of the Revised Code are hereby repealed. 389

**Section 3.** In enacting this act, it is the intent of the 390  
General Assembly to do all of the following: 391

(A) Protect and preserve stable markets and reasonable rates 392  
for automobile insurance for Ohio consumers; 393

(B) Express the public policy of the state to: 394

(1) Eliminate any requirement of the mandatory offer of 395  
uninsured motorist coverage, underinsured motorist coverage, or 396  
both uninsured and underinsured motorist coverages; 397

(2) Eliminate the possibility of uninsured motorist coverage, 398  
underinsured motorist coverage, or both uninsured and underinsured 399  
motorist coverages being implied as a matter of law in any 400  
insurance policy; 401

(3) Provide statutory authority for the inclusion of 402  
exclusionary or limiting provisions in uninsured motorist 403  
coverage, underinsured motorist coverage, or both uninsured and 404  
underinsured motorist coverages; 405

(4) Eliminate any requirement of a written offer, selection, 406  
or rejection form for uninsured motorist coverage, underinsured 407  
motorist coverage, or both uninsured and underinsured motorist 408  
coverages from any transaction for an insurance policy; 409

(5) Ensure that a mandatory offer of uninsured motorist 410  
coverage, underinsured motorist coverage, or both uninsured and 411  
underinsured motorist coverages not be construed to be required by 412  
the provisions of section 3937.181 of the Revised Code, as amended 413  
by this act, that make uninsured motorist property damage coverage 414  
available under limited conditions. 415

(C) Provide statutory authority for provisions limiting the 416  
time period within which an insured may make a claim under 417  
uninsured motorist coverage, underinsured motorist coverage, or 418

both uninsured and underinsured motorist coverages to three years 419  
after the date of the accident causing the injury; 420

(D) To supersede the holdings of the Ohio Supreme Court in 421  
those cases previously superseded by Am. Sub. S.B. 20 of the 120th 422  
General Assembly, Am. Sub. H.B. 261 of the 122nd General Assembly, 423  
S.B. 57 of the 123rd General Assembly, and Sub. S.B. 267 of the 424  
123rd General Assembly; 425

(E) To supersede the holdings of the Ohio Supreme Court in 426  
*Linko v. Indemnity Ins. Co. of N. America* (2000), 90 Ohio St. 3d 427  
445, *Scott-Pontzer v. Liberty Mut. Fire Ins. Co.* (1999), 85 Ohio 428  
St. 3d 660, *Schumacher v. Kreiner* (2000), 88 Ohio St. 3d 358, 429  
*Sexton v. State Farm Mut. Auto. Ins. Co.* (1982), 69 Ohio St. 2d 430  
431, *Gyori v. Johnston Coca-Cola Bottling Group, Inc.* (1996), 76 431  
Ohio St. 3d 565, and their progeny. 432