

**As Reported by the Senate Insurance, Commerce and Labor  
Committee**

**124th General Assembly  
Regular Session  
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**Sub. S. B. No. 97**

**SENATORS Nein, Wachtmann, Mumper, White, DiDonato, Austria, Amstutz,  
Coughlin, Finan, Harris, Hottinger, Spada, Armbruster, Randy Gardner,  
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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  
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:~~

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## As Reported by the Senate Insurance, Commerce and Labor Committee

~~(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 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

## As Reported by the Senate Insurance, Commerce and Labor Committee

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.

(4) The owner or operator has diplomatic immunity.

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

An "uninsured motorist" does not include the owner or  
operator of a motor vehicle that is self-insured within the

## As Reported by the Senate Insurance, Commerce and Labor Committee

meaning of the financial responsibility law of the state in which  
the motor vehicle is registered.

~~(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.

~~(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~~  
~~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~~

## As Reported by the Senate Insurance, Commerce and Labor Committee

~~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~~

## As Reported by the Senate Insurance, Commerce and Labor Committee

~~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 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~~

## As Reported by the Senate Insurance, Commerce and Labor Committee

~~becomes the subject of insolvency proceedings, through such~~ 177  
~~proceedings or in any other lawful manner. No insurer shall~~ 178  
~~attempt to recover any amount against the insured of an insurer~~ 179  
~~which is or becomes the subject of insolvency proceedings, to the~~ 180  
~~extent of those rights against such insurer which such insured~~ 181  
~~assigns to the paying insurer.~~ 182

~~(F)~~ The uninsured motorist coverage, underinsured motorist 183  
coverage, or uninsured and underinsured motorist coverages offered 184  
under this section included in a policy of insurance shall not be 185  
made subject to an exclusion or reduction in amount because of any 186  
workers' compensation benefits payable as a result of the same 187  
injury or death. 188

~~(G)(F)~~ Any ~~automobile liability or motor vehicle liability~~ 189  
policy of insurance that includes uninsured motorist coverage, 190  
underinsured motorist coverage, or both uninsured and underinsured 191  
motorist coverages offered under division (A) of this section or 192  
selected in accordance with division (C) of this section may, 193  
without regard to any premiums involved, include terms and 194  
conditions that preclude any and all stacking of such coverages, 195  
including but not limited to: 196

(1) Interfamily stacking, which is the aggregating of the 197  
limits of such coverages by the same person or two or more 198  
persons, whether family members or not, who are not members of the 199  
same household; 200

(2) Intrafamily stacking, which is the aggregating of the 201  
limits of such coverages purchased by the same person or two or 202  
more family members of the same household. 203

~~(H)(G)~~ Any ~~automobile liability or motor vehicle liability~~ 204  
policy of insurance that includes uninsured motorist coverage, 205  
underinsured motorist coverage, or both uninsured and underinsured 206  
motorist coverages offered under division (A) of this section or 207  
selected in accordance with division (C) of this section and that 208

## As Reported by the Senate Insurance, Commerce and Labor Committee

provides a limit of coverage for payment ~~for~~ of damages for bodily 209  
injury, including death, sustained by any one person in any one 210  
automobile accident, may, notwithstanding Chapter 2125. of the 211  
Revised Code, include terms and conditions to the effect that all 212  
claims resulting from or arising out of any one person's bodily 213  
injury, including death, shall collectively be subject to the 214  
limit of the policy applicable to bodily injury, including death, 215  
sustained by one person, and, for the purpose of such policy limit 216  
shall constitute a single claim. Any such policy limit shall be 217  
enforceable regardless of the number of insureds, claims made, 218  
vehicles or premiums shown in the declarations or policy, or 219  
vehicles involved in the accident. 220

(H) Any policy of insurance that includes uninsured motorist 221  
coverage, underinsured motorist coverage, or both uninsured and 222  
underinsured motorist coverages may include terms and conditions 223  
requiring that, so long as the insured has not prejudiced the 224  
insurer's subrogation rights, each claim or suit for uninsured 225  
motorist coverage, underinsured motorist coverage, or both 226  
uninsured and underinsured motorist coverages be made or brought 227  
within three years after the date of the accident causing the 228  
bodily injury, sickness, disease, or death, or within one year 229  
after the liability insurer for the owner or operator of the motor 230  
vehicle liable to the insured has become the subject of insolvency 231  
proceedings in any state, whichever is later. 232

~~(I) Nothing in this section shall prohibit the inclusion~~ Any 233  
policy of insurance that includes uninsured motorist coverage, 234  
underinsured motorist coverage in any, or both uninsured and 235  
underinsured motorist coverage provided in compliance with this 236  
section. 237

~~(J) The coverages offered under division (A) of this section 238~~  
~~or selected in accordance with division (C) of this section may 239~~  
include terms and conditions that preclude coverage for bodily 240



## As Reported by the Senate Insurance, Commerce and Labor Committee

injury or death suffered by an insured under specified 241  
circumstances, including but not limited to any of the following 242  
circumstances: 243

(1) While the insured is operating or occupying a motor 244  
vehicle owned by, furnished to, or available for the regular use 245  
of a named insured, a spouse, or a resident relative of a named 246  
insured, if the motor vehicle is not specifically identified in 247  
the policy under which a claim is made, or is not a newly acquired 248  
or replacement motor vehicle covered under the terms of the policy 249  
under which the uninsured motorist coverage, underinsured motorist 250  
coverage, or uninsured and underinsured motorist coverages are 251  
provided; 252

(2) While the insured is operating or occupying a motor 253  
vehicle without a reasonable belief that the insured is entitled 254  
to do so, provided that under no circumstances will an insured 255  
whose license has been suspended, revoked, or never issued, be 256  
held to have a reasonable belief that the insured is entitled to 257  
operate a motor vehicle; 258

(3) When the bodily injury or death is caused by a motor 259  
vehicle operated by any person who is specifically excluded from 260  
coverage for bodily injury liability in the policy under which the 261  
uninsured motorist coverage, underinsured motorist coverage, or 262  
uninsured and underinsured motorist coverages are provided; 263

(4) While any employee, officer, director, partner, trustee, 264  
member, executor, administrator, or beneficiary of the named 265  
insured, or any relative of any such person, is operating or 266  
occupying a motor vehicle, unless the employee, officer, director, 267  
partner, trustee, member, executor, administrator, beneficiary, or 268  
relative is operating or occupying a motor vehicle for which 269  
uninsured motorist coverage, underinsured motorist coverage, or 270  
both uninsured and underinsured motorist coverages are provided in 271  
the policy; 272

## As Reported by the Senate Insurance, Commerce and Labor Committee

(5) When the person actually suffering the bodily injury, 273  
sickness, disease, or death is not an insured under the policy. 274

(J) In the event of payment to any person under the uninsured 275  
motorist coverage, underinsured motorist coverage, or uninsured 276  
and underinsured motorist coverages, and subject to the terms and 277  
conditions of that coverage, the insurer making such payment is 278  
entitled, to the extent of the payment, to the proceeds of any 279  
settlement or judgment resulting from the exercise of any rights 280  
of recovery of that person against any person or organization 281  
legally responsible for the bodily injury or death for which the 282  
payment is made, including any amount recoverable from an insurer 283  
that is or becomes the subject of insolvency proceedings, through 284  
such proceedings or in any other lawful manner. No insurer shall 285  
attempt to recover any amount against the insured of an insurer 286  
that is or becomes the subject of insolvency proceedings, to the 287  
extent of those rights against the insurer that the insured 288  
assigns to the paying insurer. 289

(K) ~~As used~~ Nothing in this section, ~~"uninsured motor~~ 290  
~~vehicle" and "underinsured motor vehicle" do not include any of~~ 291  
~~the following motor vehicles:~~ 292

~~(1) A motor vehicle that has applicable liability coverage in~~ 293  
~~the policy under which shall prohibit the uninsured and inclusion~~ 294  
~~of underinsured motorist coverages are provided;~~ 295

~~(2) A motor vehicle owned by a political subdivision, unless~~ 296  
~~the operator of the motor vehicle has an immunity under Chapter~~ 297  
~~2744. of the Revised Code that could be raised as a defense in an~~ 298  
~~action brought against the operator by the insured;~~ 299

~~(3) A motor vehicle self-insured within the meaning of the~~ 300  
~~financial responsibility law of the state in which the motor~~ 301  
~~vehicle is registered~~ coverage in any uninsured motorist coverage 302  
included in a policy of insurance. 303

## As Reported by the Senate Insurance, Commerce and Labor Committee

(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

## As Reported by the Senate Insurance, Commerce and Labor Committee

delivery unless coverage is also made available for damage to, or 335  
the destruction of, any ~~automobile or~~ motor vehicle specifically 336  
identified in the policy, for the protection of those persons 337  
insured under the policy who are legally entitled to recover for 338  
the damage to or destruction of any ~~automobile or~~ motor vehicle 339  
specifically identified in the policy from the owner or operator 340  
of an uninsured motor vehicle. 341

(B) The coverage made available under this section need not 342  
exceed the lesser of seventy-five hundred dollars or the amount 343  
otherwise available from the policy for damages to, or the 344  
destruction of, the ~~automobile or~~ motor vehicle. The coverage 345  
shall be subject to a maximum two-hundred-fifty-dollar deductible. 346  
The losses recoverable under this section shall be limited to 347  
recovery for that destruction of or damage to the ~~automobile or~~ 348  
motor vehicle specifically identified in the policy directly 349  
caused by an uninsured ~~automobile or~~ motor vehicle whose owner or 350  
operator has been identified. 351

(C) If an insured has a policy containing collision coverage 352  
covering damages caused by an uninsured ~~automobile or~~ motor 353  
vehicle, the insured's insurer need not make coverage available 354  
under this section. 355

(D) An insurer making payments to an insured under the 356  
coverage offered under division (A) of this section shall be 357  
entitled, to the extent of those payments and subject to the terms 358  
and conditions of the coverage, to the proceeds of any settlement 359  
or judgment resulting from the exercise of any rights of recovery 360  
by the insured against the person or organization legally 361  
responsible for the injury or destruction of the property, 362  
including any amounts recoverable from an insurer that is or 363  
becomes the subject of insolvency proceedings, through such 364  
proceedings or in any other lawful manner. No insurer shall 365  
attempt to recover any amount ~~against~~ from the insured of an 366

## As Reported by the Senate Insurance, Commerce and Labor Committee

insurer that is or becomes the subject of insolvency proceedings, 367  
to the extent of ~~his~~ those rights against ~~such the~~ insurer which 368  
~~such that the~~ insured assigns to the paying insurer. 369

**Sec. 3937.182.** (A) As used in this section, "policy" includes 370  
an endorsement. 371

(B) No policy of automobile or motor vehicle insurance that 372  
is covered by sections 3937.01 to 3937.17 of the Revised Code, 373  
including, but not limited to, the uninsured motorist coverage, 374  
underinsured motorist coverage, or uninsured and underinsured 375  
~~motorists motorist~~ coverages included in such a policy as ~~required~~ 376  
authorized by section 3937.18 of the Revised Code, and that is 377  
issued by an insurance company licensed to do business in this 378  
state, and no other policy of casualty or liability insurance that 379  
is covered by sections 3937.01 to 3937.17 of the Revised Code and 380  
that is so issued, shall provide coverage for judgments or claims 381  
against an insured for punitive or exemplary damages. 382

(C) This section applies only to policies of automobile, 383  
motor vehicle, or other casualty or liability insurance as 384  
described in division (B) of this section that are issued or 385  
renewed on or after the effective date of this section. 386

**Section 2.** That existing sections 3937.18, 3937.181, and 387  
3937.182 of the Revised Code are hereby repealed. 388

**Section 3.** In enacting this act, it is the intent of the 389  
General Assembly to do all of the following: 390

(A) Protect and preserve stable markets and reasonable rates 391  
for automobile insurance for Ohio consumers; 392

(B) Express the public policy of the state to: 393

(1) Eliminate any requirement of the mandatory offer of 394  
uninsured motorist coverage, underinsured motorist coverage, or 395

both uninsured and underinsured motorist coverages;	396
(2) Eliminate the possibility of uninsured motorist coverage,	397
underinsured motorist coverage, or both uninsured and underinsured	398
motorist coverages being implied as a matter of law in any	399
insurance policy;	400
(3) Provide statutory authority for the inclusion of	401
exclusionary or limiting provisions in uninsured motorist	402
coverage, underinsured motorist coverage, or both uninsured and	403
underinsured motorist coverages;	404
(4) Eliminate any requirement of a written offer, selection,	405
or rejection form for uninsured motorist coverage, underinsured	406
motorist coverage, and uninsured and underinsured motorist	407
coverages from any transaction for an insurance policy;	408
(5) Ensure that a mandatory offer of uninsured motorist	409
coverage, underinsured motorist coverage, or both uninsured and	410
underinsured motorist coverages not be construed to be required by	411
the provisions of section 3937.181 of the Revised Code, as amended	412
by this act, that make uninsured motorist property damage coverage	413
available under limited conditions.	414
(C) Provide statutory authority for provisions limiting the	415
time period within which an insured may make a claim under	416
uninsured motorist coverage, underinsured motorist coverage, or	417
both uninsured and underinsured motorist coverages to three years	418
after the date of the accident causing the injury;	419
(D) To supersede the holdings of the Ohio Supreme Court in	420
those cases previously superseded by Am. Sub. S.B. 20 of the 120th	421
General Assembly, Am. Sub. H.B. 261 of the 122nd General Assembly,	422
S.B. 57 of the 123rd General Assembly, and Sub. S.B. 267 of the	423
123rd General Assembly;	424
(E) To supersede the holdings of the Ohio Supreme Court in	425
<i>Linko v. Indemnity Ins. Co. of N. America</i> (2000), 90 Ohio St. 3d	426

## As Reported by the Senate Insurance, Commerce and Labor Committee

445, *Scott-Pontzer v. Liberty Mut. Fire Ins. Co.* (1999), 85 Ohio 427  
St. 3d 660, *Schumacher v. Kreiner* (2000), 88 Ohio St. 3d 358, 428  
*Sexton v. State Farm Mut. Auto. Ins. Co.* (1982), 69 Ohio St. 2d 429  
431, *Gyori v. Johnston Coca-Cola Bottling Group, Inc.* (1996), 76 430  
Ohio St. 3d 565, and their progeny. 431