

**As Introduced**

**129th General Assembly  
Regular Session  
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**H. B. No. 432**

**Representative Boyd**

**Cosponsors: Representatives Murray, Foley, Okey, Weddington, Letson,  
O'Brien**

**—**

**A B I L L**

To amend section 3937.18 of the Revised Code to 1  
prohibit automobile insurance policies that 2  
include uninsured and underinsured coverage from 3  
excluding coverage for family members solely on 4  
the basis of that relationship and from limiting 5  
or contradicting coverage requirements specified 6  
in law. 7

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

**Section 1.** That section 3937.18 of the Revised Code be 8  
amended to read as follows: 9

**Sec. 3937.18.** (A) Any policy of insurance delivered or issued 10  
for delivery in this state with respect to any motor vehicle 11  
registered or principally garaged in this state that insures 12  
against loss resulting from liability imposed by law for bodily 13  
injury or death suffered by any person arising out of the 14  
ownership, maintenance, or use of a motor vehicle, may, but is not 15  
required to, include uninsured motorist coverage, underinsured 16  
motorist coverage, or both uninsured and underinsured motorist 17  
coverages. 18

Unless otherwise defined in the policy or any endorsement to 19  
the policy, "motor vehicle," for purposes of the uninsured 20  
motorist coverage, underinsured motorist coverage, or both 21  
uninsured and underinsured motorist coverages, means a 22  
self-propelled vehicle designed for use and principally used on 23  
public roads, including an automobile, truck, semi-tractor, 24  
motorcycle, and bus. "Motor vehicle" also includes a motor home, 25  
provided the motor home is not stationary and is not being used as 26  
a temporary or permanent residence or office. "Motor vehicle" does 27  
not include a trolley, streetcar, trailer, railroad engine, 28  
railroad car, motorized bicycle, golf cart, off-road recreational 29  
vehicle, snowmobile, fork lift, aircraft, watercraft, construction 30  
equipment, farm tractor or other vehicle designed and principally 31  
used for agricultural purposes, mobile home, vehicle traveling on 32  
treads or rails, or any similar vehicle. 33

(B) For purposes of any uninsured motorist coverage included 34  
in a policy of insurance, an "uninsured motorist" is the owner or 35  
operator of a motor vehicle if any of the following conditions 36  
applies: 37

(1) There exists no bodily injury liability bond or insurance 38  
policy covering the owner's or operator's liability to the 39  
insured. 40

(2) The liability insurer denies coverage to the owner or 41  
operator, or is or becomes the subject of insolvency proceedings 42  
in any state. 43

(3) The identity of the owner or operator cannot be 44  
determined, but independent corroborative evidence exists to prove 45  
that the bodily injury, sickness, disease, or death of the insured 46  
was proximately caused by the negligence or intentional actions of 47  
the unidentified operator of the motor vehicle. For purposes of 48  
division (B)(3) of this section, the testimony of any insured 49  
seeking recovery from the insurer shall not constitute independent 50

corroborative evidence, unless the testimony is supported by 51  
additional evidence. 52

(4) The owner or operator has diplomatic immunity. 53

(5) The owner or operator has immunity under Chapter 2744. of 54  
the Revised Code. 55

An "uninsured motorist" does not include the owner or 56  
operator of a motor vehicle that is self-insured within the 57  
meaning of the financial responsibility law of the state in which 58  
the motor vehicle is registered. 59

(C) If underinsured motorist coverage is included in a policy 60  
of insurance, the underinsured motorist coverage shall provide 61  
protection for insureds thereunder for bodily injury, sickness, or 62  
disease, including death, suffered by any insured under the 63  
policy, where the limits of coverage available for payment to the 64  
insured under all bodily injury liability bonds and insurance 65  
policies covering persons liable to the insured are less than the 66  
limits for the underinsured motorist coverage. Underinsured 67  
motorist coverage in this state is not and shall not be excess 68  
coverage to other applicable liability coverages, and shall only 69  
provide the insured an amount of protection not greater than that 70  
which would be available under the insured's uninsured motorist 71  
coverage if the person or persons liable to the insured were 72  
uninsured at the time of the accident. The policy limits of the 73  
underinsured motorist coverage shall be reduced by those amounts 74  
available for payment under all applicable bodily injury liability 75  
bonds and insurance policies covering persons liable to the 76  
insured. 77

For purposes of underinsured motorist coverage, an 78  
"underinsured motorist" does not include the owner or operator of 79  
a motor vehicle that has applicable liability coverage in the 80  
policy under which the underinsured motorist coverage is provided. 81

(D) With respect to the uninsured motorist coverage, 82  
underinsured motorist coverage, or both uninsured and underinsured 83  
motorist coverages included in a policy of insurance, an insured 84  
shall be required to prove all elements of the insured's claim 85  
that are necessary to recover from the owner or operator of the 86  
uninsured or underinsured motor vehicle. 87

(E) The uninsured motorist coverage, underinsured motorist 88  
coverage, or both uninsured and underinsured motorist coverages 89  
included in a policy of insurance shall not be subject to an 90  
exclusion or reduction in amount because of any workers' 91  
compensation benefits payable as a result of the same injury or 92  
death. 93

(F) No policy of insurance that includes uninsured motorist 94  
coverage, underinsured motorist coverage, or both uninsured and 95  
underinsured motorist coverages shall exclude coverage for any 96  
individual solely on the basis that the individual is a family 97  
member of the owner or operator of the motor vehicle. 98

(G) Any policy of insurance that includes uninsured motorist 99  
coverage, underinsured motorist coverage, or both uninsured and 100  
underinsured motorist coverages may, without regard to any 101  
premiums involved, include terms and conditions that preclude any 102  
and all stacking of such coverages, including but not limited to: 103

(1) Interfamily stacking, which is the aggregating of the 104  
limits of such coverages by the same person or two or more 105  
persons, whether family members or not, who are not members of the 106  
same household; 107

(2) Intrafamily stacking, which is the aggregating of the 108  
limits of such coverages purchased by the same person or two or 109  
more family members of the same household. 110

~~(G)~~(H) Any policy of insurance that includes uninsured 111  
motorist coverage, underinsured motorist coverage, or both 112

uninsured and underinsured motorist coverages and that provides a 113  
limit of coverage for payment of damages for bodily injury, 114  
including death, sustained by any one person in any one automobile 115  
accident, may, notwithstanding Chapter 2125. of the Revised Code, 116  
include terms and conditions to the effect that all claims 117  
resulting from or arising out of any one person's bodily injury, 118  
including death, shall collectively be subject to the limit of the 119  
policy applicable to bodily injury, including death, sustained by 120  
one person, and, for the purpose of such policy limit shall 121  
constitute a single claim. Any such policy limit shall be 122  
enforceable regardless of the number of insureds, claims made, 123  
vehicles or premiums shown in the declarations or policy, or 124  
vehicles involved in the accident. 125

~~(H)~~(I) Any policy of insurance that includes uninsured 126  
motorist coverage, underinsured motorist coverage, or both 127  
uninsured and underinsured motorist coverages may include terms 128  
and conditions requiring that, so long as the insured has not 129  
prejudiced the insurer's subrogation rights, each claim or suit 130  
for uninsured motorist coverage, underinsured motorist coverage, 131  
or both uninsured and underinsured motorist coverages be made or 132  
brought within three years after the date of the accident causing 133  
the bodily injury, sickness, disease, or death, or within one year 134  
after the liability insurer for the owner or operator of the motor 135  
vehicle liable to the insured has become the subject of insolvency 136  
proceedings in any state, whichever is later. 137

~~(I)~~ Any (J) Except as otherwise provided in this section, any 138  
policy of insurance that includes uninsured motorist coverage, 139  
underinsured motorist coverage, or both uninsured and underinsured 140  
motorist coverages may include terms and conditions that preclude 141  
coverage for bodily injury or death suffered by an insured under 142  
specified circumstances, including but not limited to any of the 143  
following circumstances: 144

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

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

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

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

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

~~(J)~~ (K) No policy of insurance that includes uninsured motorist coverage, underinsured motorist coverage, or both uninsured and underinsured motorist coverages shall include terms and conditions that contradict or limit the provisions of this section.

(L) In the event of payment to any person under the uninsured motorist coverage, underinsured motorist coverage, or both uninsured and underinsured motorist coverages, and subject to the terms and conditions of that coverage, the insurer making such payment is entitled, to the extent of the payment, to the proceeds of any settlement or judgment resulting from the exercise of any rights of recovery of that person against any person or organization legally responsible for the bodily injury or death for which the payment is made, including any amount 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 the insured of an insurer that is or becomes the subject of insolvency proceedings, to the extent of those rights against the insurer that the insured assigns to the paying insurer.

~~(K)~~ (M) Nothing in this section shall prohibit the inclusion of underinsured motorist coverage in any uninsured motorist coverage included in a policy of insurance.

~~(L)~~ (N) 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~~ October 31, 2001. 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. 208

The superintendent shall submit a copy of each status report 209  
to the governor, the speaker of the house of representatives, the 210  
president of the senate, and the chairpersons of the committees of 211  
the general assembly having primary jurisdiction over issues 212  
relating to automobile insurance. 213

**Section 2.** That existing section 3937.18 of the Revised Code 214  
is hereby repealed. 215

**Section 3.** It is the intent of the General Assembly in 216  
amending divisions (J) and (K) of section 3937.18 of the Revised 217  
Code as those divisions appear in this act to supersede the effect 218  
of the holding of the Ohio Supreme Court in *Snyder v. American* 219  
*Family Insurance Company* (2007), 114 Ohio St. 3d 239, 2007 Ohio 220  
4004. The General Assembly further declares its intent that 221  
division (I) of section 3937.18 of the Revised Code, relettered 222  
division (J) in this act, does not make the other provisions of 223  
section 3937.18 of the Revised Code merely advisory, but rather 224  
that division permits terms and conditions that do not limit or 225  
contradict the other provisions of the section. 226