

# Senate File 321 - Introduced

SENATE FILE \_\_\_\_\_  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1137)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to automobile or motor vehicle insurance coverage  
2 of liability arising from uninsured, underinsured, or  
3 hit-and-run motorists.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
5 TLSB 1752SV 83  
6 av/nh/5

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1 1 Section 1. Section 516A.1, Code 2009, is amended to read  
1 2 as follows:  
1 3 516A.1 COVERAGE INCLUDED IN EVERY LIABILITY POLICY ==  
1 4 REJECTION BY INSURED.  
1 5 1. No An automobile liability or motor vehicle liability  
1 6 insurance policy insuring against liability for bodily injury  
1 7 or death arising out of the ownership, maintenance, or use of  
1 8 a motor vehicle shall not be delivered or issued for delivery  
1 9 in this state with respect to any motor vehicle registered or  
1 10 principally garaged in this state, unless coverage is provided  
1 11 in such policy or supplemental thereto, for the protection of  
1 12 persons insured under such policy who are legally entitled to  
1 13 recover damages from the owner or operator of an uninsured  
1 14 motor vehicle or a hit-and-run motor vehicle or an  
1 15 underinsured motor vehicle because of bodily injury, sickness,  
1 16 or disease, including death resulting therefrom, caused by  
1 17 accident and arising out of the ownership, maintenance, or use  
1 18 of such uninsured or underinsured motor vehicle, or arising  
1 19 out of physical contact of such hit-and-run motor vehicle with  
1 20 the person insured or with a motor vehicle which the person  
1 21 insured is occupying at the time of the accident. Both the  
1 22 uninsured motor vehicle or hit-and-run motor vehicle coverage,  
1 23 and the underinsured motor vehicle coverage shall include  
1 24 limits for bodily injury or death at least equal to ~~those~~  
~~1 25 stated in section 321A.1, subsection 11 the limits of~~  
~~1 26 liability for the bodily injury portion of the insurance~~  
~~1 27 policy.~~ The form and provisions of such coverage shall be  
1 28 examined and approved by the commissioner of insurance.  
1 29 2. However, the The named insured may reject all or a  
~~1 30 portion of such the~~ coverage required in subsection 1, or  
1 31 reject the uninsured motor vehicle (hit-and-run motor vehicle)  
1 32 coverage, or reject the underinsured motor vehicle coverage,  
1 33 by written rejections signed by the named insured. If  
1 34 rejection is made on a form or document furnished by an  
1 35 insurance company or insurance producer, it the rejection  
2 1 shall be on a separate sheet of paper which contains only the  
2 2 rejection and information directly related to it the  
~~2 3 rejection, including an explanation of the coverage being~~  
~~2 4 rejected and the amount of the premium associated with the~~  
~~2 5 coverage being rejected.~~ Such coverage need not be provided  
2 6 in or supplemental to a renewal policy if the named insured  
2 7 has rejected the coverage in connection with a policy  
2 8 previously issued to the named insured by the same insurer.  
2 9 Sec. 2. Section 516A.2, Code 2009, is amended to read as  
2 10 follows:  
2 11 516A.2 CONSTRUCTION == MINIMUM COVERAGE == ~~STACKING~~  
2 12 ~~STEP=DOWN PROVISIONS.~~  
2 13 ~~1. Except with respect to a policy containing both~~  
~~2 14 underinsured motor vehicle coverage and uninsured or~~  
~~2 15 hit-and-run motor vehicle coverage, nothing Nothing~~ contained

2 16 in this chapter shall be construed as requiring forms of  
2 17 coverage provided pursuant hereto, whether alone or in  
2 18 combination with similar coverage afforded under other  
2 19 automobile liability or motor vehicle liability policies, to  
2 20 afford limits in excess of those that would be afforded had  
2 21 the insured thereunder been involved in an accident with a  
2 22 motorist who was insured under a policy of liability insurance  
2 23 with the minimum limits for bodily injury or death prescribed  
2 24 in subsection 11 of section 321A.1. Such forms of coverage  
2 25 may include terms, exclusions, limitations, conditions, and  
2 26 offsets which are designed to avoid duplication of insurance  
2 27 or other benefits duplicate payment of damages.

~~2 28 To the extent that Hernandez v. Farmers Insurance Company,  
2 29 460 N.W.2d 842 (Iowa 1990), provided for interpolicy stacking  
2 30 of uninsured or underinsured coverages in contravention of  
2 31 specific contract or policy language, the general assembly  
2 32 declares such decision abrogated and declares that the  
2 33 enforcement of the antistacking provisions contained in a  
2 34 motor vehicle insurance policy does not frustrate the  
2 35 protection given to an insured under section 516A.1.~~

3 1 2. Pursuant to chapter 17A, the commissioner of insurance  
3 2 shall, by January 1, 1992, adopt rules to assure the  
3 3 availability, within the state, of motor vehicle insurance  
3 4 policies, riders, endorsements, or other similar forms of  
3 5 coverage, the terms of which shall provide for the stacking of  
3 6 uninsured and underinsured coverages with any similar coverage  
3 7 which may be available to an insured.

3 8 3. It is the intent of the general assembly that when more  
3 9 than one motor vehicle insurance policy is purchased by or on  
3 10 behalf of an injured insured and which provides uninsured,  
3 11 underinsured, or hit-and-run motor vehicle coverage to an  
3 12 insured injured in an accident, the injured insured is  
3 13 entitled to recover up to an amount equal to the highest  
3 14 single limit for uninsured, underinsured, or hit-and-run motor  
3 15 vehicle coverage under any one of the above described motor  
3 16 vehicle insurance policies insuring the injured person which  
3 17 amount shall be paid by the insurers according to any priority  
3 18 of coverage provisions contained in the policies insuring the  
3 19 injured person.

3 20 2. A policy to which this chapter applies shall not  
3 21 include exclusions or step-down provisions that eliminate or  
3 22 reduce uninsured or underinsured coverage for a person who  
3 23 would otherwise be covered under the policy, for the reason  
3 24 that the person is injured by, or while occupying a vehicle  
3 25 being operated by, another person insured under the policy.

3 26 Sec. 3. Section 516A.4, Code 2009, is amended to read as  
3 27 follows:

3 28 516A.4 INSURER MAKING PAYMENT == REIMBURSEMENT ==  
3 29 SETTLEMENT == SUBSTITUTE TENDER == GOOD FAITH.

3 30 1. In the event of payment to any person under the  
3 31 coverage required by this chapter and subject to the terms and  
3 32 conditions of such coverage, the insurer making such payment  
3 33 shall, to the extent thereof, be entitled to the proceeds of  
3 34 any settlement or judgment resulting from the exercise of any  
3 35 rights of recovery of such person against any person or  
4 1 organization legally responsible for the bodily injury for  
4 2 which such payment is made, including the proceeds recoverable  
4 3 from the assets of the insolvent insurer, to the extent that  
4 4 the proceeds of the resulting settlement or judgment, when  
4 5 combined with such payment made by the insurer, exceed such  
4 6 person's damages. The person to whom said payment is made  
4 7 under the insolvency protection required by this chapter shall  
4 8 to the extent thereof, be deemed to have waived any right to  
4 9 proceed to enforce such a judgment against the assets of the  
4 10 judgment debtor who was insured by the insolvent insurer whose  
4 11 insolvency resulted in said payment being made, other than  
4 12 assets recovered or recoverable by such judgment debtor from  
4 13 such insolvent insurer.

4 14 2. An insurer providing coverage under this chapter shall,  
4 15 within thirty days after receipt of a written request for  
4 16 permission to settle with any person or organization legally  
4 17 responsible for bodily injury for which coverage is provided  
4 18 under this chapter, either give consent to the settlement or  
4 19 tender substitute payment of the settlement amount. Failure  
4 20 of the insurer to give such consent or to tender substitute  
4 21 payment shall constitute the insurer's consent to the  
4 22 settlement and shall bar the insurer from claiming that the  
4 23 settlement prejudiced the insurer's rights under the policy or  
4 24 this section.

4 25 3. An insurer that pursues, through subrogation or  
4 26 assignment, a claim against any person or organization legally

4 27 responsible for bodily injury for which the insurer has made  
4 28 payments under this chapter, shall include in such claim all  
4 29 damages of the subrogor or assignor of the claim, and shall  
4 30 tender to the subrogor or assignor any amounts to which the  
4 31 subrogor or assignor would have been entitled under subsection  
4 32 1 if the subrogor or assignor had directly pursued the claim.

4 33 EXPLANATION

4 34 This bill relates to automobile or motor vehicle insurance  
4 35 coverage of liability arising from uninsured, underinsured, or  
5 1 hit-and-run motorists.

5 2 Code section 516A.1 is amended to require coverage for  
5 3 uninsured, underinsured, and hit-and-run motor vehicle  
5 4 liability that equals the limits of liability for the bodily  
5 5 injury portion of the insurance policy instead of the  
5 6 statutory amounts required for proof of financial  
5 7 responsibility in Code section 321A.1(11). The named insured  
5 8 may reject all or a portion of the required coverage. A form  
5 9 furnished by the insurance company allowing an insured to  
5 10 reject all or a portion of the required coverage must include  
5 11 an explanation of the coverage being rejected and the amount  
5 12 of the premium associated with the coverage being rejected.

5 13 Code section 516A.2(1) is amended to provide that such  
5 14 coverage may include provisions that are designed to avoid  
5 15 duplicate payment of damages. The remainder of Code sections  
5 16 516A.2(1) and 516A.2(2) relating to stacking of uninsured and  
5 17 underinsured coverages, and Code section 516A.2(3) relating to  
5 18 coverage under multiple motor vehicle insurance policies of  
5 19 one insured, are stricken. Code section 516A.2 is amended to  
5 20 prohibit exclusions or step-down provisions in motor vehicle  
5 21 insurance policies that eliminate or reduce uninsured or  
5 22 underinsured coverage for a person who would otherwise be  
5 23 covered under the policy, because the person is injured by, or  
5 24 while in a vehicle being operated by, another person insured  
5 25 under the policy.

5 26 Code section 516A.4(1) is amended to provide that an  
5 27 insurer who has made payments under a policy to an injured  
5 28 party is entitled to proceeds of a resulting settlement or  
5 29 judgment against the person responsible for those damages only  
5 30 to the extent that the proceeds combined with payment made by  
5 31 the insurer exceed the injured party's damages.

5 32 Code section 516A.4(2) provides that an insurer has 30 days  
5 33 after receipt of a request to settle against the responsible  
5 34 party, to either consent to the settlement or to tender  
5 35 substitute payment of the settlement amount, or such failure  
6 1 will constitute consent and bar the insurer from claiming  
6 2 prejudice as a result of the settlement.

6 3 Code section 516A.4(3) provides that when an insurer  
6 4 pursues a claim, through subrogation or assignment, against  
6 5 the party responsible for bodily injury for which the insurer  
6 6 has made payments, the insurer shall include the damages of  
6 7 the subrogor or assignor and tender the amount to the assignor  
6 8 or subrogor that the person would have been entitled to if  
6 9 that person had pursued the claim directly.

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