

SECOND REGULAR SESSION

HOUSE BILL NO. 1074

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SATER.

4218L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 379.203, RSMo, and to enact in lieu thereof one new section relating to uninsured motorist insurance coverage.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 379.203, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 379.203, to read as follows:

379.203. 1. **(1)** No automobile liability insurance covering liability arising out of the ownership, maintenance, or use of any 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 coverage is provided therein or supplemental thereto, or in the case of any commercial motor vehicle, as defined in section 301.010, any employer having a fleet of five or more passenger vehicles, such coverage is offered therein or supplemental thereto, in not less than the limits for bodily injury or death set forth in section 303.030, for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of uninsured motor vehicles because of bodily injury, sickness or disease, including death, resulting therefrom. Such legal entitlement exists although the identity of the owner or operator of the motor vehicle cannot be established because such owner or operator and the motor vehicle departed the scene of the occurrence occasioning such bodily injury, sickness or disease, including death, before identification. It also exists whether or not physical contact was made between the uninsured motor vehicle and the insured or the insured's motor vehicle. Provisions affording such insurance protection against uninsured motorists issued in this state prior to October 13, 1967, shall, when afforded by any authorized insurer, be deemed, subject to the limits prescribed in this section, to satisfy the requirements of this section.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 **(2) The coverage required to be provided under this section shall not be applicable**
19 **when any insured named in the policy has rejected the coverage in writing, and such**
20 **rejection shall continue until withdrawn in writing by the insured.**

21 **(3) (a) If a named insured or applicant purchases third-party liability coverage in**
22 **greater limits than the minimum provided in section 303.030, the insurer shall have**
23 **available and the agent shall offer a named insured or applicant coverage required under**
24 **this section in limits up to his or her third-party liability limits.**

25 **(b) No insurer shall be required to offer, provide, or make available coverage**
26 **conforming to this section in connection with an express policy, umbrella policy, or any**
27 **other policy which does not provide primary motor vehicle insurance for liabilities arising**
28 **out of the ownership, maintenance, or use of a specifically identified motor vehicle.**

29 **(c) An insured or applicant who opts not to purchase higher limits shall reject the**
30 **increased limits in writing on the application for insurance coverage; except that, an agent**
31 **shall offer the increased limits to all new applicants for insurance on and after the effective**
32 **date of this section. The requirement for written rejection shall be applicable to new**
33 **business written on and after January 1, 2013. For an existing business, insurers shall**
34 **provide at the next two renewals after the effective date of this section notice that such**
35 **increased limits are available.**

36 **(d) When an existing-named insured has coverage under this section less than the**
37 **insured's third-party liability limits, such coverage shall not change after the effective date**
38 **of this section unless a named insured requests in writing to purchase the higher limits.**

39 **(4) After a named insured or applicant for insurance rejects such coverage, the**
40 **insurer or any of its affiliates shall not be required to notify any insured in any renewal,**
41 **reinstatement, substitute, amended, or replacement policy as to the availability of such**
42 **coverage.**

43 **2. (1) Every insured purchasing uninsured motorist bodily injury coverage shall**
44 **be provided an opportunity to include uninsured motorist property damage coverage,**
45 **subject to provisions filed with and approved by the director of the department of**
46 **insurance, financial institutions and professional registration, applicable to losses in excess**
47 **of two hundred dollars; except that, the deductible of two hundred dollars shall not apply**
48 **if:**

49 **(a) The vehicle involved in the accident is insured by the same insurer for both**
50 **collision and uninsured motorist property damage coverage; and**

51 **(b) The operator of the other vehicle has been positively identified and is solely at**
52 **fault.**

53 **(2) No insurer shall be required to offer limits of uninsured motorist property**
54 **damage coverage greater in amount than the property damage liability limits purchased**
55 **by the insured.**

56 **(a) After the uninsured motorist property damage coverage has been made**
57 **available to an insured one time and has been rejected in writing, it need not again be made**
58 **available in any continuation, renewal, reinstatement, or replacement of the policy or the**
59 **transfer of vehicles insured under the policy, unless the insured makes a written request**
60 **for the coverage; except that, whenever a new application is submitted in connection with**
61 **any renewal, reinstatement, or replacement transaction, the provisions of this subsection**
62 **shall apply in the same manner as when a new policy is being issued.**

63 **(b) As used in this subsection, "property damage" means damage to the insured**
64 **vehicle, plus a reasonable allowance for loss of use of the vehicle.**

65 **3.** For the purpose of this coverage, the term "uninsured motor vehicle" shall, subject to
66 the terms and conditions of such coverage, be deemed to include an insured motor vehicle where
67 the liability insurer thereof is unable to make payment with respect to the legal liability of its
68 insured within the limits specified herein because of insolvency.

69 **[3.] 4.** An insurer's insolvency protection shall be applicable only to accidents occurring
70 during a policy period in which its insured's uninsured motorist coverage is in effect where the
71 liability insurer of the tort-feasor becomes insolvent within two years after such an accident.
72 Nothing herein contained shall be construed to prevent any insurer from affording insolvency
73 protection under terms and conditions more favorable to its insureds than is provided hereunder.

74 **[4.] 5.** In the event of payment to any person under the coverage required by this section,
75 and subject to the terms and conditions of such coverage, the insurer making such payment shall,
76 to the extent thereof, be entitled to the proceeds of any settlement or judgment resulting from the
77 exercise of any rights of recovery of such person against any person or organization legally
78 responsible for the bodily injury for which such payment is made, including the proceeds
79 recoverable from the assets of the insolvent insurer; provided, however, with respect to payments
80 made by reason of the coverage described in subsections 2 and 3 above, the insurer making such
81 payment shall not be entitled to any right of recovery against such tort-feasor in excess of the
82 proceeds recovered from the assets of the insolvent insurer of said tort-feasor.

83 **[5.] 6.** In any action on a policy of automobile liability insurance coverage providing for
84 the protection of persons insured thereunder who are legally entitled to recover damages from
85 owners or operators of uninsured motor vehicles, the fact that the owner or operator of such
86 uninsured motor vehicle whether known or unknown failed to file the report required by section
87 303.040 shall be prima facie evidence of uninsured status, and such failure to file may be
88 established by a statement of the absence of such a report on file with the office of the director

89 of revenue, certified by the director, which statement shall be received in evidence in any of the
90 courts of this state. In any such action, the report required by section 303.040, when filed by the
91 owner or operator of an uninsured motor vehicle, shall be prima facie evidence of lack of
92 insurance coverage and the report, or a copy thereof, certified by the director of revenue, may be
93 introduced into evidence in accordance with section 303.310.

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