

# SENATE, No. 781

## STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**

**Senator NICHOLAS P. SCUTARI**

**District 22 (Middlesex, Somerset and Union)**

**Senator NELLIE POU**

**District 35 (Bergen and Passaic)**

**SYNOPSIS**

Requires motor vehicle insurance policies to include certain underinsured and uninsured motorist coverage.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



S781 SCUTARI, POU

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1 AN ACT concerning motor vehicle insurance and amending  
2 P.L.1968, c.385 and P.L.1972, c.70.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. Section 2 of P.L.1968, c.385 (C.17:28-1.1) is amended to  
8 read as follows:

9 2. a. Except for a basic automobile insurance policy, no motor  
10 vehicle liability policy or renewal of such policy of insurance,  
11 including a standard liability policy for an automobile as defined in  
12 section 2 of P.L.1972, c.70 (C.39:6A-2), insuring against loss  
13 resulting from liability imposed by law for bodily injury or death,  
14 sustained by any person arising out of the ownership, maintenance  
15 or use of a motor vehicle, shall be issued in this State with respect  
16 to any motor vehicle registered or principally garaged in this State  
17 unless it includes coverage in limits for bodily injury or death as  
18 follows:

19 (1) an amount or limit of \$15,000.00, exclusive of interest and  
20 costs, on account of injury to, or death of, one person, in any one  
21 accident, and

22 (2) an amount or limit, subject to such limit for any one person  
23 so injured or killed, of \$30,000.00, exclusive of interest and costs,  
24 on account of injury to or death of more than one person, in any one  
25 accident, under provisions approved by the Commissioner of  
26 Banking and Insurance, for payment of all or part of the sums which  
27 the insured or his legal representative shall be legally entitled to  
28 recover as damages from the operator or owner of an uninsured or  
29 underinsured motor vehicle, or hit and run motor vehicle, as defined  
30 in section 18 of P.L.1952, c.174 (C.39:6-78), because of bodily  
31 injury, sickness or disease, including death resulting therefrom,  
32 sustained by the insured, caused by accident and arising out of the  
33 ownership, maintenance, operation or use of such uninsured or hit  
34 and run motor vehicle anywhere within the United States or  
35 Canada; except that uninsured and underinsured motorist coverage  
36 shall provide that in order to recover for non-economic loss, as  
37 defined in section 2 of P.L.1972, c.70 (C.39:6A-2), for accidents to  
38 which the benefits of section 4 (C.39:6A-4) of that act apply, the  
39 tort option elected pursuant to section 8 (C.39:6A-8) of that act  
40 shall apply to that injured person.

41 All motor vehicle liability policies, except basic automobile  
42 insurance policies, shall also include coverage for the payment of  
43 all or part of the sums which persons insured thereunder shall be  
44 legally entitled to recover as damages from owners or operators of  
45 uninsured or underinsured motor vehicles, other than hit and run

**EXPLANATION** – Matter enclosed in bold-faced brackets **[ thus ]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 motor vehicles, because of injury to or destruction to the personal  
2 property of such insured, with a limit in the aggregate for all  
3 insurers involved in any one accident of \$5,000.00, and subject, for  
4 each insured, to an exclusion of the first \$500.00 of such damages.

5 b. Uninsured and underinsured motorist coverage shall be  
6 provided **【as an option】** by an insurer to the named insured electing  
7 a standard automobile insurance policy up to at least the following  
8 limits: \$250,000.00 each person and \$500,000.00 each accident for  
9 bodily injury; \$100,000.00 each accident for property damage or  
10 \$500,000.00 single limit, subject to an exclusion of the first \$500.00  
11 of such damage to property for each accident **【, except that the】**.  
12 The limits for uninsured and underinsured motorist coverage, as  
13 provided by the insurer and purchased by the insured, shall **【not**  
14 **exceed】** be identical to the insured's motor vehicle liability policy  
15 limits for bodily injury and property damage, respectively.

16 Rates for uninsured and underinsured motorist coverage for the  
17 same limits shall, for each filer, be uniform on a Statewide basis  
18 without regard to classification or territory.

19 c. Uninsured and underinsured motorist coverage provided for  
20 in this section shall not be increased by stacking the limits of  
21 coverage of multiple motor vehicles covered under the same policy  
22 of insurance nor shall these coverages be increased by stacking the  
23 limits of coverage of multiple policies available to the insured. If  
24 the insured had uninsured motorist coverage available under more  
25 than one policy, any recovery shall not exceed the higher of the  
26 applicable limits of the respective coverages and the recovery shall  
27 be prorated between the applicable coverages as the limits of each  
28 coverage bear to the total of the limits.

29 d. Uninsured and underinsured motorist coverage shall be  
30 subject to the policy terms, conditions and exclusions approved by  
31 the Commissioner of Banking and Insurance, including, but not  
32 limited to, unauthorized settlements, non-duplication of coverage,  
33 subrogation and arbitration.

34 e. For the purpose of this section, (1) "underinsured motorist  
35 coverage" means insurance for damages because of bodily injury  
36 and property damage resulting from an accident arising out of the  
37 ownership, maintenance, operation or use of an underinsured motor  
38 vehicle. Underinsured motorist coverage shall not apply to an  
39 uninsured motor vehicle. A motor vehicle is underinsured when the  
40 sum of the limits of liability under all bodily injury and property  
41 damage liability bonds and insurance policies available to a person  
42 against whom recovery is sought for bodily injury or property  
43 damage is, at the time of the accident, less than the applicable limits  
44 for underinsured motorist coverage afforded under the motor  
45 vehicle insurance policy held by the person seeking that recovery.  
46 A motor vehicle shall not be considered an underinsured motor  
47 vehicle under this section unless the limits of all bodily injury  
48 liability insurance or bonds applicable at the time of the accident

1 have been exhausted by payment of settlements or judgments. The  
2 limits of underinsured motorist coverage available to an injured  
3 person shall be reduced by the amount he has recovered under all  
4 bodily injury liability insurance or bonds;

5 (2) "uninsured motor vehicle" means:

6 (a) a motor vehicle with respect to the ownership, operation,  
7 maintenance, or use of which there is no bodily injury liability  
8 insurance or bond applicable at the time of the accident;

9 (b) a motor vehicle with respect to the ownership, operation,  
10 maintenance, or use of which there is bodily injury liability  
11 insurance in existence but the liability insurer denies coverage or is  
12 unable to make payment with respect to the legal liability of its  
13 insured because the insurer has become insolvent or bankrupt, or  
14 the Commissioner of Banking and Insurance has undertaken control  
15 of the insurer for the purpose of liquidation;

16 (c) a hit and run motor vehicle as described in section 18 of  
17 P.L.1952, c.174 (C.39:6-78); or

18 (d) an automobile covered by a special automobile insurance  
19 policy pursuant to section 45 of P.L.2003, c.89 (C.39:6A-3.3).

20 "Uninsured motor vehicle" shall not include an automobile  
21 covered by a basic automobile insurance policy; an underinsured  
22 motor vehicle; a motor vehicle owned by or furnished for the  
23 regular use of the named insured or any resident of the same  
24 household; a self-insurer within the meaning of any financial  
25 responsibility or similar law of the state in which the motor vehicle  
26 is registered or principally garaged; a motor vehicle which is owned  
27 by the United States or Canada, or a state, political subdivision or  
28 agency of those governments or any of the foregoing; a land motor  
29 vehicle or trailer operated on rails or crawler treads; a motor vehicle  
30 used as a residence or stationary structure and not as a vehicle; or  
31 equipment or vehicles designed for use principally off public roads,  
32 except while actually upon public roads.

33 f. Notwithstanding the provisions of this section or any other  
34 law to the contrary, a motor vehicle liability policy or renewal of  
35 such policy of insurance, insuring against loss resulting from  
36 liability imposed by law for bodily injury or death, sustained by any  
37 person arising out of the ownership, maintenance or use of a motor  
38 vehicle, issued in this State to a corporate or business entity with  
39 respect to any motor vehicle registered or principally garaged in this  
40 State, shall not provide less uninsured or underinsured motorist  
41 coverage for an individual employed by the corporate or business  
42 entity than the coverage provided to the named insured under the  
43 policy. A policy that names a corporate or business entity as a  
44 named insured shall be deemed to provide the maximum uninsured  
45 or underinsured motorist coverage available under the policy to an  
46 individual employed by the corporate or business entity, regardless  
47 of whether the individual is an additional named insured under that

1 policy or is a named insured or is covered under any other policy  
2 providing uninsured or underinsured motorist coverage.  
3 (cf: P.L.2007, c.163, s.1)

4  
5 2. Section 14 of P.L.1972, c.70 (C.39:6A-14) is amended to  
6 read as follows:

7 14. Every owner or registrant of an automobile or autocyce  
8 registered or principally garaged in this State shall maintain  
9 uninsured and underinsured motorist coverage as provided in  
10 P.L.1968, c. 385 (C.17:28-1.1).

11 (cf: P.L.2016, c.35, s.6)

12  
13 3. This act shall take effect on the first day of the fourth month  
14 after enactment and shall apply to policies entered into on or after  
15 that date.

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18 STATEMENT

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20 This bill makes it mandatory that a motor vehicle insurance  
21 policy have underinsured and uninsured motorist coverage identical  
22 to the insured's motor vehicle liability policy limits for bodily injury  
23 and property damage, respectively. Underinsured and uninsured  
24 motorist coverage protects the insured against damages and injuries  
25 caused by drivers who are uninsured or inadequately insured.

26 Current law provides that the minimum amounts of uninsured  
27 motorist coverage required to be maintained by an insured under a  
28 standard policy are \$15,000 per person and \$30,000 per accident,  
29 and \$5,000 for property damage. As a practical matter, the  
30 Department of Banking and Insurance also requires an insured  
31 under a standard policy to maintain these same minimum amounts  
32 for underinsured motorist coverage. The bill clarifies the  
33 department's requirement as to underinsured motorist coverage. The  
34 bill also requires that the policy limits for uninsured and  
35 underinsured motorist coverage, as provided by the insurer and as  
36 purchased by the insured, must be the same as the limits on the  
37 liability insurance coverage purchased by the insured.