SENATE, No. 3899

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JUNE 10, 2021

Sponsored by:
Senator JOSEPH P. CRYAN
District 20 (Union)

SYNOPSIS

Prohibits motor vehicle liability insurance policy from restricting full payment of recovery amounts under covered person's policy.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning automobile insurance policy limits and amending P.L.1968, c.385.

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

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

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

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

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

All motor vehicle liability policies, except basic automobile insurance policies, shall also include coverage for the payment of all or part of the sums which persons insured thereunder shall be legally entitled to recover as damages from owners or operators of uninsured motor vehicles, other than hit and run motor vehicles, because of injury to or destruction to the personal property of such insured, with a limit in the aggregate for all insurers involved in any

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 <u>thus</u> is new matter.

one accident of $5,000.00, and subject, for each insured, to an exclusion of the first $500.00 of such damages.

b. Uninsured and underinsured motorist coverage shall be provided as an option by an insurer to the named insured electing a standard automobile insurance policy up to at least the following limits: $250,000.00 each person and $500,000.00 each accident for bodily injury; $100,000.00 each accident for property damage or $500,000.00 single limit, subject to an exclusion of the first $500.00 of such damage to property for each accident, except that the limits for uninsured and underinsured motorist coverage shall not exceed the insured's motor vehicle liability policy limits for bodily injury and property damage, respectively.

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

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

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

e. For the purpose of this section, (1) "underinsured motorist coverage" means insurance for damages because of bodily injury and property damage resulting from an accident arising out of the ownership, maintenance, operation or use of an underinsured motor vehicle. Underinsured motorist coverage shall not apply to an uninsured motor vehicle. A motor vehicle is underinsured when the sum of the limits of liability under all bodily injury and property damage liability bonds and insurance policies available to a person against whom recovery is sought for bodily injury or property damage is, at the time of the accident, less than the applicable limits for underinsured motorist coverage afforded under the motor vehicle insurance policy held by the person seeking that recovery. A motor vehicle shall not be considered an underinsured motor vehicle under this section unless the limits of all bodily injury liability insurance or bonds applicable at the time of the accident have been exhausted by payment of settlements or judgments. The limits of underinsured motorist coverage available to an injured

person shall be reduced by the amount he has recovered under all bodily injury liability insurance or bonds;

(2) "uninsured motor vehicle" means:

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

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

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

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

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

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

g. Notwithstanding any other law, rule or regulation to the contrary, a motor vehicle liability policy or renewal of such policy of insurance, insuring against loss resulting from liability imposed by law for bodily injury or death, sustained by any person arising out of the ownership, maintenance or use of a motor vehicle, shall not restrict the amount that can be recovered by a person insured under the policy, whether or not the person is a named insured or permissive user under the policy, to an amount less than the maximum recovery limit provided in the policy for bodily injury liability, property damage liability, uninsured and underinsured motorist coverage, and medical payments coverage. If the policy insures more than one private passenger automobile, the limits available to the permissive user shall be the limits associated with the vehicle used by the permissive user when the loss occurs. Nothing in this subsection shall preclude an insurer from enforcing any applicable policy exclusion. Any recovery is limited to damages actually sustained.

h. As used in this section, "permissive user" means a person who has been granted permission by the owner of a motor vehicle, and not named on the vehicle's automobile insurance policy, to temporarily operate the vehicle.

(cf: P.L.2007, c.163)

2. This act shall take effect on the 90th day next following enactment and shall apply to automobile insurance policies initiated or renewed on or after that date.

STATEMENT

This bill prohibits a motor vehicle liability insurance policy from limiting the full payment of recovery amounts under a covered person's policy.

Specifically, the bill prohibits a motor vehicle liability insurance policy from restricting the amount that may be recovered by a person insured under the insurance policy, whether or not an insured person is a named insured or a permissive user under the policy, to an amount less than the maximum recovery limit provided in the policy for bodily injury liability, property damage liability, uninsured and underinsured motorist coverage, and medical payments coverage. If the policy insures more than one private passenger automobile, the limits available to the permissive user shall be the limits associated with the vehicle used by the permissive user when the loss occurs.