



115th MAINE LEGISLATURE

SECOND REGULAR SESSION-1992

Legislative Document

No. 2088

H.P. 1476

House of Representatives, January 7, 1992

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26. Reference to the Committee on Banking and Insurance suggested and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative STEVENS of Bangor.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND NINETY-TWO

An Act to Clarify the Rights of Persons to Recover Insurance Proceeds When They Are Injured by an Underinsured Motorist.

Be it enacted by the People of the State of Maine as follows:

24-A MRSA §2902, sub-§1, as amended by PL 1975, c. 437, §1, is further amended to read:

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1. No A policy insuring against liability arising out of the ownership, maintenance or use of any motor vehicle shall may 8 not be delivered or issued for delivery in this State with respect to any such vehicle registered or principally garaged in 10 this State, unless coverage is provided therein in the policy or supplemental therete to the policy for the protection of persons insured thereunder under the policy who are legally entitled to 12 damages from owners or operators recover of uninsured, underinsured or hit-and-run motor vehicles, for bodily injury, 14 disease, including death, resulting from sickness or the ownership, maintenance or use of such uninsured, underinsured or 16 hit-and-run motor vehicle. The coverage herein required in this subsection may be referred to as "uninsured vehicle coverage." 18 For the purposes of this section, "underinsured motor vehicle" 20 means <u>either</u> a motor vehicle for which coverage is provided,-but in amounts less than the minimum limits for bodily injury 22 liability insurance provided for under the motorist's financial responsibility laws of this State or a motor vehicle for which 24 the insurance proceeds actually recovered by an injured party are less than the limits of the injured party's uninsured vehicle 26 coverage.

STATEMENT OF FACT

In April 1991, the Maine Supreme Judicial Court interpreted 32 the language of the Maine Revised Statutes, Title 24-A, section 2902, subsection 1 to mean that as long as a negligent driver's 34 liability insurance limits are higher than the uninsured or underinsured motorist limits of a person injured by the driver, 36 the negligent driver is not considered underinsured no matter how many persons the driver injures or how little insurance is left 38 to pay each individual. The court stated that it is for the Legislature, and not the court, to amend section 2902 to provide 40 underinsured motor vehicle benefits to an injured party whose recovery on a liability claim is less than the aggregate limits 42 of the injured party's underinsured motor vehicle coverage. Mullen v. Liberty Mutual Insurance Company, et al., 589 A.2nd 44 1275, 1277 (Me. 1991).

46 This bill alters the definition of the term "underinsured motor vehicle" to provide that the proper comparison is between 48 the amount of the negligent driver's liability insurance proceeds that an injured person actually receives and the limits of that 50 injured person's uninsured or underinsured coverage, rather than between the negligent driver's liability insurance policy limits and the injured person's uninsured or underinsured policy limits.

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