

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

DATE: 3/22/2000

(Filing No. S- 572)

BANKING AND INSURANCE

Reported by:

Reproduced and distributed under the direction of the Secretary of the Senate.

**STATE OF MAINE
SENATE
119TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "B" to S.P. 723, L.D. 2043, Bill, "An Act to Clarify Underinsured Motor Vehicle Coverage"

Amend the bill by inserting after the title and before the enacting clause the following:

'Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, this Act amends Public Law 1999, chapter 271, which becomes effective July 1, 2000, by delaying the effective date of chapter 271 until October 1, 2000; and

Whereas, in order for this Act to become effective before July 1, 2000 it must be enacted as an emergency; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, '

Further amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

'Sec. 1. 24-A MRSA §2902, sub-§2, as amended by PL 1999, c. 271, §1 and affected by §3, is further amended to read:

2 2. The With respect to motor vehicle insurance policies
3 subject to the Maine Automobile Insurance Cancellation Control
4 Act and policies in the assigned risk plan established pursuant
5 to section 2325 securing private passenger auto insurance
6 coverage, the amount of coverage to be so provided may not be
7 less than the amount of coverage for liability for bodily injury
8 or death in the policy offered or sold to a purchaser unless the
9 purchaser expressly rejects such an amount, but in any event may
10 not be less than the minimum limits for bodily injury liability
11 insurance provided for under Title 29-A, section 1605, subsection
12 1.

13 A rejection of equal coverage by the purchaser under this
14 subsection must be in writing on a form provided by the insurer.
15 The rejection must be signed by the purchaser, dated and include
16 the following language: "I understand that Maine law requires
17 uninsured motor vehicle coverage limits to equal the limits I
18 have selected for liability coverage for bodily injury or death
19 in this policy unless I expressly reject such an amount of
20 coverage. Pursuant to the Maine Revised Statutes, Title 24-A,
21 section 2902, subsection 2, I have elected to purchase uninsured
22 motor vehicle coverage with lesser limits."

23 For coverage purchased on or after October 1, 2000, the form must
24 be provided to the purchaser prior to the effective date of
25 coverage. For renewal policies in force as of September 30,
26 2000, the form must be provided upon the first offer of renewal
27 to each purchaser who has current coverage limits less than those
28 required under this subsection. To be effective, a form must be
29 signed by any one named insured under the policy. If a signed
30 form rejecting higher coverage is not received by the insurer
31 prior to the effective date of the policy to which it applies,
32 then the higher coverage must be provided consistent with this
33 subsection from the policy issuance date for coverage purchased
34 on or after October 1, 2000 and from the effective date of the
35 first renewal on or after October 1, 2000 for policies in force
36 as of September 30, 2000.

37 This subsection may not be construed to prohibit an insured from
38 prospectively changing coverage to alternative limits of
39 uninsured motor vehicle coverage so long as a signed form, if
40 necessary, is submitted to the insurer prior to the effective
41 date of the change. If an insured has maintained the same
42 uninsured vehicle coverage limits for 2 consecutive years with
43 the same insurer, then the insured will be conclusively presumed
44 to have accepted that amount of uninsured coverage in all future
45 policies, until such time as the insured notifies the insurer in
46 writing of an election to change the amount of uninsured coverage.
47
48

2 Reinstatement or renewal of coverage by the insured with the same
3 insurer within 30 days of expiration of a policy must be
4 considered, for purposes of this section, as continuous coverage
5 and does not require a new rejection to be executed by the
6 insured.

7 With respect to motor vehicle insurance policies not subject to
8 the Maine Automobile Insurance Cancellation Control Act, the
9 amount of coverage so provided may not be less than the minimum
10 limits for bodily injury liability insurance provided for under
11 Title 29-A, section 1605, subsection 1.

12 **Sec. 2. 24-A MRSA §2902, sub-§6 is enacted to read:**

13 6. When 2 or more persons are legally entitled to recover
14 damages from a particular owner or operator of an underinsured
15 motor vehicle, the amount of underinsured vehicle coverage
16 applicable to each injured person is determined by subtracting
17 any payments actually made to the injured person from any bodily
18 injury liability insurance coverage applicable to the particular
19 owner or operator of the underinsured motor vehicle from the
20 injured person's, operator's or owner's underinsured vehicle
21 coverage policy limits if applicable to that person. The amount
22 of underinsured motor vehicle coverage must be further reduced by
23 the amount by which the bodily injury liability insurance
24 coverage applicable to the particular owner or operator of the
25 underinsured motor vehicle exceeds all payments from that
26 coverage to all persons legally entitled to recover damages from
27 that particular owner or operator of the underinsured motor
28 vehicle. This subsection does not prohibit an insurer from
29 providing greater amounts of underinsured vehicle coverage than
30 are required under this section.

31 **Sec. 3. PL 1999, c. 271, §3, as enacted by PL 1999, c. 531, Pt.**
32 **K, §1, is amended to read:**

33 **Sec. 3. Application.** That section of this Act that amends the
34 Maine Revised Statutes, Title 24-A, section 2902, subsection 2
35 applies to all motor vehicle liability insurance policies of
36 personal-automobile-insurance issued or renewed in this State on
37 or after July October 1, 2000.

38 **Sec. 4. Application.** This Act applies to all motor vehicle
39 liability insurance policies issued or renewed in this State on
40 or after October 1, 2000.

41 **Emergency clause.** In view of the emergency cited in the
42 preamble, this Act takes effect when approved.'

SUMMARY

2
4
6
8
10
12
14
16
18
20
22
24
26
28
30
32

This amendment replaces the bill. It requires that, in instances when more than one person is injured in a motor vehicle accident involving an underinsured motor vehicle, the amount of underinsured vehicle coverage available to the injured person is determined by subtracting any payments actually made to the injured person under the motor vehicle liability policy applicable to the particular owner or operator of the underinsured motor vehicle from the injured person's, operator's or owner's underinsured vehicle coverage policy limits if applicable to that person. The amount of recovery must also be reduced by the amount by which the policy limits of the motor vehicle liability policy covering the underinsured motor vehicle exceed the total payments made under that policy to injured persons.

The amendment also clarifies that the requirement that uninsured motor vehicle coverage limits equal the amount of liability coverage under a policy unless lower amounts are expressly rejected applies to personal motor vehicle insurance coverage and not to commercial coverage. It adds a provision governing the manner and time frame in which purchasers of personal motor vehicle insurance coverage may reject equal amounts of coverage. It also specifies the language that must be included in the rejection form provided to purchasers by insurers.

The amendment makes the provision applicable to all motor vehicle liability policies issued or renewed on or after October 1, 2000.

The amendment also adds an emergency preamble and emergency clause to the bill.