

CHAPTER 168 — H.F.No. 345

An act relating to insurance; no-fault automobile; providing mandatory underinsured motorist coverage; clarifying legislative intent concerning stacking of insurance policies; coordinating the priority of applicability of security for the payment of certain benefits; removing bonding requirements for self-insuring political subdivisions; providing for mandatory arbitration of certain insurance claims; amending Minnesota Statutes 1984, sections 65B.43, by adding subdivisions; 65B.44, subdivisions 1 and 3; 65B.47, by adding a subdivision; 65B.48, subdivision 3a; 65B.49, subdivisions 3, 4, and by adding a subdivision; and 65B.525, subdivision 1.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1984, section 65B.43, is amended by adding a subdivision to read:

Subd. 16. "Uninsured motor vehicle" means a motor vehicle or motorcycle for which a plan of reparation security meeting the requirements of sections 65B.41 to 65B.71 is not in effect.

Sec. 2. Minnesota Statutes 1984, section 65B.43, is amended by adding a subdivision to read:

Subd. 17. "Underinsured motor vehicle" means a motor vehicle or motorcycle to which a bodily injury liability policy applies at the time of the accident but its limit for bodily injury liability is less than the amount needed to compensate the insured for his or her actual damages.

Sec. 3. Minnesota Statutes 1984, section 65B.43, is amended by adding a subdivision to read:

Subd. 18. "Uninsured motorist coverage" means coverage for the protection of persons insured under that coverage who are legally entitled to recover damages for bodily injury from owners or operators of uninsured motor vehicles.

Sec. 4. Minnesota Statutes 1984, section 65B.43, is amended by adding a subdivision to read:

Subd. 19. "Underinsured motorist coverage" means coverage for the protection of persons insured under that coverage who are legally entitled to recover damages for bodily injury from owners or operators of underinsured motor vehicles.

Sec. 5. Minnesota Statutes 1984, section 65B.43, is amended by adding a subdivision to read:

Subd. 20. "Political subdivision" means any statutory or home rule charter city; county; town; school district; or metropolitan council, board or commission operating under chapter 473.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Sec. 6. Minnesota Statutes 1984, section 65B.44, subdivision 1, is amended to read:

Subdivision 1. **INCLUSIONS.** Basic economic loss benefits shall provide reimbursement for all loss suffered through injury arising out of the maintenance or use of a motor vehicle, subject to any applicable deductibles, exclusions, disqualifications, and other conditions, and shall provide a maximum of ~~\$30,000~~ \$40,000 for loss arising out of the injury of any one person, consisting of:

(a) \$20,000 for medical expense loss arising out of injury to any one person; and

(b) A total of ~~\$10,000~~ \$20,000 for income loss, replacement services loss, funeral expense loss, survivor's economic loss, and survivor's replacement services loss arising out of the injury to any one person.

Sec. 7. Minnesota Statutes 1984, section 65B.44, subdivision 3, is amended to read:

Subd. 3. **DISABILITY AND INCOME LOSS BENEFITS.** Disability and income loss benefits shall provide compensation for 85 percent of the injured person's loss of present and future gross income from inability to work proximately caused by the nonfatal injury subject to a maximum of ~~\$200~~ \$250 per week. Loss of income includes the costs incurred by a self-employed person to hire substitute employees to perform tasks which are necessary to maintain his income, which he normally performs himself, and which he cannot perform because of his injury.

If the injured person is unemployed at the time of injury and is receiving or is eligible to receive unemployment benefits under chapter 268, but the injured person loses his eligibility for those benefits because of inability to work caused by the injury, disability and income loss benefits shall provide compensation for the lost benefits in an amount equal to the unemployment benefits which otherwise would have been payable, subject to a maximum of ~~\$200~~ \$250 per week.

Compensation under this subdivision shall be reduced by any income from substitute work actually performed by the injured person or by income the injured person would have earned in available appropriate substitute work which he was capable of performing but unreasonably failed to undertake.

For the purposes of this section "inability to work" means disability which prevents the injured person from engaging in any substantial gainful occupation or employment on a regular basis, for wage or profit, for which he is or may by training become reasonably qualified. If the injured person returns to his employment and is unable by reason of his injury to work continuously, compensation for lost income shall be reduced by the income received while he is actually able to work. The weekly maximums may not be prorated to arrive at a

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

daily maximum, even if the injured person does not incur loss of income for a full week.

Sec. 8. Minnesota Statutes 1984, section 65B.47, is amended by adding a subdivision to read:

Subd. 7. Unless a policyholder makes a specific election to have two or more policies added together the limit of liability for basic economic loss benefits for two or more motor vehicles may not be added together to determine the limit of insurance coverage available to an injured person for any one accident. An insurer shall notify policyholders that they may elect to have two or more policies added together.

Sec. 9. Minnesota Statutes 1984, section 65B.48, subdivision 3a, is amended to read:

Subd. 3a. To carry out the purposes of subdivision 3, the commissioner may adopt rules pursuant to chapter 14, including emergency rules. These rules may:

- (a) establish reporting requirements;
- (b) establish standards or guidelines to assure the adequacy of the financing and administration of self-insurance plans;
- (c) establish bonding requirements or other provisions assuring the financial integrity of entities that self-insure other than bonding requirements for self-insuring political subdivisions; and
- (d) establish other reasonable requirements to further the purposes of this section.

Sec. 10. Minnesota Statutes 1984, section 65B.49, subdivision 3, is amended to read:

Subd. 3. **RESIDUAL LIABILITY INSURANCE.** (1) Each plan of reparation security shall also contain stated limits of liability, exclusive of interest and costs, with respect to each vehicle for which coverage is thereby granted, of not less than ~~\$25,000~~ \$30,000 because of bodily injury to one person in any one accident and, subject to said limit for one person, of not less than ~~\$50,000~~ \$60,000 because of injury to two or more persons in any one accident, and, if the accident has resulted in injury to or destruction of property, of not less than \$10,000 because of such injury to or destruction of property of others in any one accident.

(2) Under residual liability insurance the reparation obligor shall be liable to pay, on behalf of the insured, sums which the insured is legally obligated to pay as damages because of bodily injury and property damage arising out of the ownership, maintenance or use of a motor vehicle if the injury or damage occurs within this state, the United States of America, its territories or possessions, or

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Canada. A reparation obligor shall also be liable to pay sums which another reparation obligor is entitled to recover under the indemnity provisions of section 65B.53, subdivision 1.

(3) Every plan of reparation security shall be subject to the following provisions which need not be contained therein:

(a) The liability of the reparation obligor with respect to the residual liability coverage required by this clause shall become absolute whenever injury or damage occurs; such liability may not be cancelled or annulled by any agreement between the reparation obligor and the insured after the occurrence of the injury or damage; no statement made by the insured or on his behalf and no violation of said policy shall defeat or void said policy.

(b) The satisfaction by the insured of a judgment for such injury or damage shall not be a condition precedent to the right or duty of the reparation obligor to make payment on account of such injury or damage.

(c) The reparation obligor shall have the right to settle any claim covered by the residual liability insurance policy, and if such settlement is made in good faith, the amount thereof shall be deductible from the limits of liability for the accident out of which such claim arose.

Sec. 11. Minnesota Statutes 1984, section 65B.49, subdivision 4, is amended to read:

Subd. 4. **UNINSURED OR HIT-AND-RUN MOTOR VEHICLE COVERAGE AND UNDERINSURED MOTORIST COVERAGES.** (1) No plan of reparation security may be renewed, delivered or issued for delivery, or executed in this state with respect to any motor vehicle registered or principally garaged in this state unless coverage is uninsured and underinsured motorist coverages are provided therein or supplemental thereto, in the amounts. The coverages combined, at a minimum, must provide limits of \$25,000 because of injury to or the death of one person in any accident, and subject to the said limit for one person, \$50,000 because of bodily injury to or the death of two or more persons in any one accident, for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of uninsured motor vehicles and hit-and-run motor vehicles because of injury. In the case of injury to, or the death of, two or more persons in any accident, the amount available to any one person must not exceed the coverage limit provided for injury to, or the death of, one person in any accident. For purposes of this subdivision, uninsured motorist coverage and underinsured motorist coverage shall be a single coverage.

(2) Every owner of a motor vehicle registered or principally garaged in this state shall maintain uninsured motor vehicle coverage and underinsured motorist coverages as provided in this subdivision.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(3) "Uninsured motor vehicle" means any motor vehicle or motorcycle for which a plan of reparation security meeting the requirements of sections 65B.41 to 65B.71 is not in effect. No reparation obligor is required to provide limits of uninsured and underinsured motorist coverages in excess of the bodily injury limit provided by the applicable plan of reparation security.

(4) No recovery shall be permitted under the ~~uninsured motor vehicle provisions~~ and underinsured motorist coverages of this section for basic economic loss benefits paid or payable, or which would be payable but for any applicable deductible.

(5) Unless the language of the policy provides otherwise, if at the time of the accident the injured person is occupying a motor vehicle, the limit of liability for uninsured and underinsured motorist coverages available to the injured person is the limit specified for that motor vehicle. However, if the injured person is occupying a motor vehicle of which the injured person is not a named insured, the injured person may be entitled to excess insurance protection afforded by a policy in which the injured party is a named insured. The excess insurance protection is limited to the extent of covered damages sustained, and further is available only to the extent by which the limit of liability for like coverage applicable to any one motor vehicle listed on the automobile insurance policy of which the injured person is named insured exceeds the limit of liability of the coverage available to the injured person from the occupied motor vehicle.

If at the time of the accident the injured person is not occupying a motor vehicle, the injured person is entitled to select any one limit of liability for any one vehicle afforded by a policy under which the injured person is named insured.

(6) Regardless of the number of policies involved, vehicles involved, persons covered, claims made, vehicles or premiums shown on the policy, or premiums paid, in no event shall the limit of liability for uninsured and underinsured motorist coverages for two or more motor vehicles be added together to determine the limit of insurance coverage available to an injured person for any one accident.

(7) The uninsured and underinsured motorist coverages required by this subdivision do not apply to bodily injury of the insured while occupying a motor vehicle owned by the insured, unless the occupied vehicle is an insured motor vehicle.

(8) The uninsured and underinsured motorist coverages required by this subdivision do not apply to any bodily injury until the limits of bodily injury liability policies applicable to all insured motor vehicles causing the injury have been exhausted by payment of judgments or settlements and proof of such is submitted to the insurer providing the uninsured and underinsured motorist coverages.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Sec. 12. Minnesota Statutes 1984, section 65B.49, is amended by adding a subdivision to read:

Subd. 4a. LIABILITY ON UNDERINSURED MOTOR VEHICLES.
With respect to underinsured motor vehicles, the maximum liability of an insurer is the lesser of the difference between the limit of underinsured motorist coverage and the amount paid to the insured by or for any person or organization who may be held legally liable for the bodily injury; or the amount of damages sustained but not recovered.

Sec. 13. Minnesota Statutes 1984, section 65B.525, subdivision 1, is amended to read:

Subdivision 1. The supreme court and the several courts of general trial jurisdiction of this state ~~may, on or before January 1, 1975,~~ shall by rules of court or other constitutionally allowable device, provide for the mandatory submission to arbitration, ~~upon mutual consent of all parties to the action,~~ of all cases at issue where a claim in an amount of \$5,000 or less is made by a motor vehicle accident victim, whether in an action to recover economic loss or non-economic detriment for the allegedly negligent operation, maintenance, or use of a motor vehicle within this state, or against any reparation obligor for benefits as provided in sections 65B.41 to 65B.71.

Sec. 14. EFFECTIVE DATE.

Sections 1 to 4, 8, 11, and 12 are effective July 1, 1985, and apply to all insurance policies providing benefits for injuries arising out of the maintenance or use of a motor vehicle or motorcycle that are executed, issued, issued for delivery, delivered, continued, or renewed in this state after June 30, 1985. Sections 5 and 9 are effective the day following final enactment.

Approved May 21, 1985

CHAPTER 169 — H.F.No. 889

An act relating to local government; providing for the conduct of the business of towns; providing for certain town debt; authorizing certain towns to provide certain services; revising various other town laws; allowing certain municipalities to set shorter voting hours; amending Minnesota Statutes 1984, sections 160.17, subdivision 1; 160.25, subdivision 3; 163.11, subdivision 5a, and by adding a subdivision; 164.06; 204C.05, subdivision 1; 365.10; 365.37; 365.44; 366.095; 367.03, subdivision 2; 367.10; 367.23; 444.075; and 471.56, subdivisions 1 and 3; proposing coding for new law in Minnesota Statutes, chapter 379; repealing Minnesota Statutes 1984, section 375.18, subdivisions 4, 5, and 6.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.