



Rep. Robert S. Molaro

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1 AMENDMENT TO SENATE BILL 2238

2 AMENDMENT NO. _____. Amend Senate Bill 2238 by replacing
3 the title with the following:

4 "AN ACT concerning transportation."; and

5 by replacing everything after the enacting clause with the
6 following:

7 "Section 5. The Illinois Insurance Code is amended by
8 changing Section 143a-2 as follows:

9 (215 ILCS 5/143a-2) (from Ch. 73, par. 755a-2)

10 Sec. 143a-2. (1) Additional uninsured motor vehicle
11 coverage. No policy insuring against loss resulting from
12 liability imposed by law for bodily injury or death suffered by
13 any person arising out of the ownership, maintenance or use of
14 a motor vehicle shall be renewed or delivered or issued for
15 delivery in this State with respect to any motor vehicle
16 designed for use on public highways and required to be
17 registered in this State unless uninsured motorist coverage as
18 required in Section 143a of this Code is included in an amount
19 equal to the insured's bodily injury liability limits unless
20 specifically rejected by the insured as provided in paragraph
21 (2) of this Section. Each insurance company providing the
22 coverage must provide applicants with a brief description of
23 the coverage and advise them of their right to reject the

1 coverage in excess of the limits set forth in Section 7-203 of
2 The Illinois Vehicle Code. The provisions of this amendatory
3 Act of 1990 apply to policies of insurance applied for after
4 June 30, 1991.

5 (2) Right of rejection of additional uninsured motorist
6 coverage. ~~Any named insured or applicant After June 30, 1991,~~
7 ~~every application for motor vehicle coverage must contain a~~
8 ~~space for indicating the rejection of additional uninsured~~
9 ~~motorist coverage. No rejection of that coverage may be~~
10 ~~effective unless the applicant signs or initials the indication~~
11 ~~of rejection. The applicant may reject additional uninsured~~
12 motorist coverage in excess of the limits set forth in Section
13 7-203 of the Illinois Vehicle Code by making a written request
14 for limits of uninsured motorist coverage which are less than
15 bodily injury liability limits or a written rejection of limits
16 in excess of those required by law. This election or rejection
17 shall be binding on all persons insured under the policy. In
18 those cases, ~~including policies first issued before July 1,~~
19 ~~1991,~~ where the insured has elected to purchase limits of
20 uninsured motorist coverage which are less than bodily injury
21 liability limits or to reject limits in excess of those
22 required by law, the insurer need not provide in any renewal,
23 reinstatement, reissuance, substitute, amended, replacement or
24 supplementary policy, coverage in excess of that elected by the
25 insured in connection with a policy previously issued to such
26 insured by the same insurer unless the insured subsequently
27 makes a written request for such coverage.

28 (3) The original document ~~application~~ indicating the
29 applicant's selection of uninsured motorist coverage limits
30 shall constitute sufficient evidence of the applicant's
31 selection of uninsured motorist coverage limits ~~and shall be~~
32 ~~binding on all persons insured under the policy.~~ For purposes
33 of this Section any reproduction of the document ~~application~~ by
34 means of photograph, photostat, microfiche, computerized

1 optical imaging process, or other similar process or means of
2 reproduction shall be deemed the equivalent of the original
3 document application.

4 (4) For the purpose of this Code the term "underinsured
5 motor vehicle" means a motor vehicle whose ownership,
6 maintenance or use has resulted in bodily injury or death of
7 the insured, as defined in the policy, and for which the sum of
8 the limits of liability under all bodily injury liability
9 insurance policies or under bonds or other security required to
10 be maintained under Illinois law applicable to the driver or to
11 the person or organization legally responsible for such vehicle
12 and applicable to the vehicle, is less than the limits for
13 underinsured coverage provided the insured as defined in the
14 policy at the time of the accident. The limits of liability for
15 an insurer providing underinsured motorist coverage shall be
16 the limits of such coverage, less those amounts actually
17 recovered under the applicable bodily injury insurance
18 policies, bonds or other security maintained on the
19 underinsured motor vehicle. ~~However, the maximum amount~~
20 ~~payable by the underinsured motorist coverage carrier shall not~~
21 ~~exceed the amount by which the limits of the underinsured~~
22 ~~motorist coverage exceeds the limits of the bodily injury~~
23 ~~liability insurance of the owner or operator of the~~
24 ~~underinsured motor vehicle.~~

25 On or after July 1, 1983, no policy insuring against loss
26 resulting from liability imposed by law for bodily injury or
27 death suffered by any person arising out of the ownership,
28 maintenance or use of a motor vehicle shall be renewed or
29 delivered or issued for delivery in this State with respect to
30 any motor vehicle designed for use on public highways and
31 required to be registered in this State unless underinsured
32 motorist coverage is included in such policy in an amount equal
33 to the total amount of uninsured motorist coverage provided in
34 that policy where such uninsured motorist coverage exceeds the

1 limits set forth in Section 7-203 of the Illinois Vehicle Code.

2 The changes made to this subsection (4) by this amendatory
3 Act of the 93rd General Assembly apply to policies issued or
4 renewed on or after January 1, 2005.

5 (5) Scope. Nothing herein shall prohibit an insurer from
6 setting forth policy terms and conditions which provide that if
7 the insured has coverage available under this Section under
8 more than one policy or provision of coverage, any recovery or
9 benefits may be equal to, but may not exceed, the higher of the
10 applicable limits of the respective coverage, and the limits of
11 liability under this Section shall not be increased because of
12 multiple motor vehicles covered under the same policy of
13 insurance. Insurers providing liability coverage on an excess
14 or umbrella basis are neither required to provide, nor are they
15 prohibited from offering or making available coverages
16 conforming to this Section on a supplemental basis.
17 Notwithstanding the provisions of this Section, an insurer
18 shall not be prohibited from solely providing a combination of
19 uninsured and underinsured motorist coverages where the limits
20 of liability under each coverage is in the same amount.

21 (6) Subrogation against underinsured motorists. No insurer
22 shall exercise any right of subrogation under a policy
23 providing additional uninsured motorist coverage against an
24 underinsured motorist where the insurer has been provided with
25 written notice in advance of a settlement between its insured
26 and the underinsured motorist and the insurer fails to advance
27 a payment to the insured, in an amount equal to the tentative
28 settlement, within 30 days following receipt of such notice.

29 (7) A policy which provides underinsured motor vehicle
30 coverage may include a clause which denies payment until the
31 limits of liability or portion thereof under all bodily injury
32 liability insurance policies applicable to the underinsured
33 motor vehicle and its operators have been partially or fully
34 exhausted by payment of judgment or settlement. A judgment or

1 settlement of the bodily injury claim in an amount less than
2 the limits of liability of the bodily injury coverages
3 applicable to the claim shall not preclude the claimant from
4 making an underinsured motorist claim against the underinsured
5 motorist coverage. Any such provision in a policy of insurance
6 shall be inapplicable if the insured, or the legal
7 representative of the insured, and the insurer providing
8 underinsured motor vehicle coverage agree that the insured has
9 suffered bodily injury or death as the result of the negligent
10 operation, maintenance, or use of an underinsured motor vehicle
11 and, without arbitration, agree also on the amount of damages
12 that the insured is legally entitled to collect. The maximum
13 amount payable pursuant to such an underinsured motor vehicle
14 insurance settlement agreement shall not exceed the amount by
15 which the limits of the underinsured motorist coverage exceed
16 the limits of the bodily injury liability insurance of the
17 owner or operator of the underinsured motor vehicle. Any such
18 agreement shall be final as to the amount due and shall be
19 binding upon both the insured and the underinsured motorist
20 insurer regardless of the amount of any judgment, or any
21 settlement reached between any insured and the person or
22 persons responsible for the accident. No such settlement
23 agreement shall be concluded unless: (i) the insured has
24 complied with all other applicable policy terms and conditions;
25 and (ii) before the conclusion of the settlement agreement, the
26 insured has filed suit against the underinsured motor vehicle
27 owner or operator and has not abandoned the suit, or settled
28 the suit without preserving the rights of the insurer providing
29 underinsured motor vehicle coverage in the manner described in
30 paragraph (6) of this Section.

31 (Source: P.A. 89-658, eff. 1-1-97.)

32 Section 10. The Illinois Vehicle Code is amended by
33 changing Sections 1-164.5, 7-203, 7-311, and 7-317 as follows:

1 (625 ILCS 5/1-164.5)

2 Sec. 1-164.5. Proof of financial responsibility.

3 (a) Except as otherwise provided in subsection (b), proof
4 ~~Proof~~ of ability to respond in damages for any liability
5 thereafter incurred resulting from the ownership, maintenance,
6 use or operation of a motor vehicle for bodily injury to or
7 death of any person in the amount of \$20,000, and subject to
8 this limit for any one person injured or killed, in the amount
9 of \$40,000 for bodily injury to or death of 2 or more persons
10 in any one accident, and for damage to property in the amount
11 of \$15,000 resulting from any one accident.

12 (b) In any case in which the proof of financial
13 responsibility consists of (i) a motor vehicle liability
14 policy, as defined in Section 7-317 of this Code, issued or
15 renewed on or after December 1, 2004 or (ii) a bond issued or
16 renewed on or after December 1, 2004, proof of ability to
17 respond in damages for any liability thereafter incurred
18 resulting from the ownership, maintenance, use or operation of
19 a motor vehicle for bodily injury to or death of any person in
20 the amount of \$30,000, and subject to this limit for any one
21 person injured or killed, in the amount of \$60,000 for bodily
22 injury to or death of 2 or more persons in any one accident,
23 and for damage to property in the amount of \$25,000 resulting
24 from any one accident.

25 (c) This proof in these amounts shall be furnished for each
26 motor vehicle registered by every person required to furnish
27 this proof.

28 (Source: P.A. 90-89, eff. 1-1-98.)

29 (625 ILCS 5/7-203) (from Ch. 95 1/2, par. 7-203)

30 Sec. 7-203. Requirements as to policy or bond.

31 (a) No such policy or bond referred to in Section 7-202
32 shall be effective under this Section unless issued by an

1 insurance company or surety company authorized to do business
2 in this State, except that if such motor vehicle was not
3 registered in this State, or was a motor vehicle which was
4 registered elsewhere than in this State at the effective date
5 of the policy or bond, or the most recent renewal thereof, such
6 policy or bond shall not be effective under this Section unless
7 the insurance company or surety company, if not authorized to
8 do business in this State, shall execute a power of attorney
9 authorizing the Secretary of State to accept service on its
10 behalf of notice or process in any action upon such policy or
11 bond arising out of such motor vehicle accident.

12 (b) Except as provided in subsection (c) ~~However~~, every
13 such policy or bond is subject, if the motor vehicle accident
14 has resulted in bodily injury or death, to a limit, exclusive
15 of interest and costs, of not less than \$20,000 because of
16 bodily injury to or death of any one person in any one motor
17 vehicle accident and, subject to said limit for one person, to
18 a limit of not less than \$40,000 because of bodily injury to or
19 death of 2 or more persons in any one motor vehicle accident,
20 and, if the motor vehicle accident has resulted in injury to or
21 destruction of property, to a limit of not less than \$15,000
22 because of injury to or destruction of property of others in
23 any one motor vehicle accident.

24 (c) Any policy or bond issued or renewed on or after
25 December 1, 2004 is subject, if the motor vehicle accident has
26 resulted in bodily injury or death, to a limit, exclusive of
27 interest and costs, of not less than \$30,000 because of bodily
28 injury to or death of any one person in any one motor vehicle
29 accident and, subject to the limit for one person, to a limit
30 of not less than \$60,000 because of bodily injury to or death
31 of 2 or more persons in any one motor vehicle accident, and, if
32 the motor vehicle accident has resulted in injury to or
33 destruction of property, to a limit of not less than \$25,000
34 because of injury to or destruction of property of others in

1 any one motor vehicle accident.

2 (d) Upon receipt of a written motor vehicle accident report
3 from the Administrator the insurance company or surety company
4 named in such notice shall notify the Administrator within such
5 time and in such manner as the Administrator may require, in
6 case such policy or bond was not in effect at the time of such
7 motor vehicle accident.

8 (Source: P.A. 85-730.)

9 (625 ILCS 5/7-311) (from Ch. 95 1/2, par. 7-311)

10 Sec. 7-311. Payments sufficient to satisfy requirements.

11 (a) Except as otherwise provided in subsection (a-1), judgments
12 ~~Judgments~~ herein referred to arising out of motor vehicle
13 accidents occurring on or after January 1, 1956, shall for the
14 purpose of this Chapter be deemed satisfied:

15 1. When \$20,000 has been credited upon any judgment or
16 judgments rendered in excess of that amount for bodily injury
17 to or the death of one person as the result of any one motor
18 vehicle accident; or

19 2. When, subject to said limit of \$20,000 as to any one
20 person, the sum of \$40,000 has been credited upon any judgment
21 or judgments rendered in excess of that amount for bodily
22 injury to or the death of more than one person as the result of
23 any one motor vehicle accident; or

24 3. When \$15,000 has been credited upon any judgment or
25 judgments, rendered in excess of that amount for damages to
26 property of others as a result of any one motor vehicle
27 accident.

28 (a-1) A Judgment arising out of a motor vehicle accident
29 occurring on or after December 1, 2004, if the judgment debtor
30 is covered by (i) a motor vehicle liability policy, as defined
31 in Section 7-317 of this Code, issued or renewed on or after
32 December 1, 2004 or (ii) a bond issued or renewed on or after
33 December 1, 2004, is satisfied for the purpose of this Chapter:

1 1. When \$30,000 has been credited upon any judgment or
2 judgments rendered in excess of that amount for bodily injury
3 to or the death of one person as the result of any one motor
4 vehicle accident; or

5 2. When, subject to the limit of \$30,000 as to any one
6 person, the sum of \$60,000 has been credited upon any judgment
7 or judgments rendered in excess of that amount for bodily
8 injury to or the death of more than one person as the result of
9 any one motor vehicle accident; or

10 3. When \$25,000 has been credited upon any judgment or
11 judgments, rendered in excess of that amount for damages to
12 property of others as a result of any one motor vehicle
13 accident.

14 (b) Credit for such amounts shall be deemed a satisfaction
15 of any such judgment or judgments in excess of said amounts
16 only for the purposes of this Chapter.

17 (c) Whenever payment has been made in settlement of any
18 claim for bodily injury, death or property damage arising from
19 a motor vehicle accident resulting in injury, death or property
20 damage to two or more persons in such accident, any such
21 payment shall be credited in reduction of the amounts provided
22 for in this Section.

23 (Source: P.A. 85-730.)

24 (625 ILCS 5/7-317) (from Ch. 95 1/2, par. 7-317)

25 Sec. 7-317. "Motor vehicle liability policy" defined. (a)
26 Certification. -A "motor vehicle liability policy", as that
27 term is used in this Act, means an "owner's policy" or an
28 "operator's policy" of liability insurance, certified as
29 provided in Section 7-315 or Section 7-316 as proof of
30 financial responsibility for the future, and issued, except as
31 otherwise provided in Section 7-316, by an insurance carrier
32 duly authorized to transact business in this State, to or for
33 the benefit of the person named therein as insured.

1 (b) Owner's Policy. --Such owner's policy of liability
2 insurance:

3 1. Shall designate by explicit description or by
4 appropriate reference, all motor vehicles with respect to which
5 coverage is thereby intended to be granted;

6 2. Shall insure the person named therein and any other
7 person using or responsible for the use of such motor vehicle
8 or vehicles with the express or implied permission of the
9 insured;

10 3. Shall, except as otherwise provided in paragraph 4 of
11 this subsection (b), insure every named insured and any other
12 person using or responsible for the use of any motor vehicle
13 owned by the named insured and used by such other person with
14 the express or implied permission of the named insured on
15 account of the maintenance, use or operation of any motor
16 vehicle owned by the named insured, within the continental
17 limits of the United States or the Dominion of Canada against
18 loss from liability imposed by law arising from such
19 maintenance, use or operation, to the extent and aggregate
20 amount, exclusive of interest and cost, with respect to each
21 motor vehicle, of \$20,000 for bodily injury to or death of one
22 person as a result of any one accident and, subject to such
23 limit as to one person, the amount of \$40,000 for bodily injury
24 to or death of all persons as a result of any one accident and
25 the amount of \$15,000 for damage to property of others as a
26 result of any one accident.

27 4. Shall, with regard to policies issued or renewed on or
28 after December 1, 2004, insure every named insured and any
29 other person using or responsible for the use of any motor
30 vehicle owned by the named insured and used by any other person
31 with the express or implied permission of the named insured on
32 account of the maintenance, use, or operation of any motor
33 vehicle owned by the named insured, within the continental
34 limits of the United States or the Dominion of Canada against

1 loss from liability imposed by law arising from that
2 maintenance, use, or operation, to the extent and aggregate
3 amount, exclusive of interest and cost, with respect to each
4 motor vehicle, of \$30,000 for bodily injury to or death of one
5 person as a result of any one accident and, subject to that
6 limit as to one person, the amount of \$60,000 for bodily injury
7 to or death of all persons as a result of any one accident, and
8 the amount of \$25,000 for damage to property of others as a
9 result of any one accident.

10 (c) Operator's Policy. --When an operator's policy is
11 required, it shall insure the person named therein as insured
12 against the liability imposed by law upon the insured for
13 bodily injury to or death of any person or damage to property
14 to the amounts and limits above set forth and growing out of
15 the use or operation by the insured within the continental
16 limits of the United States or the Dominion of Canada of any
17 motor vehicle not owned by him.

18 (d) Required Statements in Policies. --Every motor vehicle
19 liability policy must specify the name and address of the
20 insured, the coverage afforded by the policy, the premium
21 charged therefor, the policy period, and the limits of
22 liability, and shall contain an agreement that the insurance
23 thereunder is provided in accordance with the coverage defined
24 in this Act, as respects bodily injury and death or property
25 damage or both, and is subject to all the provisions of this
26 Act.

27 (e) Policy Need Not Insure Workers' Compensation. --Any
28 liability policy or policies issued hereunder need not cover
29 any liability of the insured assumed by or imposed upon the
30 insured under any workers' compensation law nor any liability
31 for damage to property in charge of the insured or the
32 insured's employees.

33 (f) Provisions Incorporated in Policy. --Every motor
34 vehicle liability policy is subject to the following provisions

1 which need not be contained therein:

2 1. The liability of the insurance carrier under any such
3 policy shall become absolute whenever loss or damage covered by
4 the policy occurs and the satisfaction by the insured of a
5 final judgment for such loss or damage shall not be a condition
6 precedent to the right or obligation of the carrier to make
7 payment on account of such loss or damage.

8 2. No such policy may be cancelled or annulled as respects
9 any loss or damage, by any agreement between the carrier and
10 the insured after the insured has become responsible for such
11 loss or damage, and any such cancellation or annulment shall be
12 void.

13 3. The insurance carrier shall, however, have the right to
14 settle any claim covered by the policy, and if such settlement
15 is made in good faith, the amount thereof shall be deductible
16 from the limits of liability specified in the policy.

17 4. The policy, the written application therefor, if any,
18 and any rider or endorsement which shall not conflict with the
19 provisions of this Act shall constitute the entire contract
20 between the parties.

21 (g) Excess or Additional Coverage. --Any motor vehicle
22 liability policy may, however, grant any lawful coverage in
23 excess of or in addition to the coverage herein specified or
24 contain any agreements, provisions, or stipulations not in
25 conflict with the provisions of this Act and not otherwise
26 contrary to law.

27 (h) Reimbursement Provision Permitted. --The policy may
28 provide that the insured, or any other person covered by the
29 policy shall reimburse the insurance carrier for payment made
30 on account of any loss or damage claim or suit involving a
31 breach of the terms, provisions or conditions of the policy;
32 and further, if the policy shall provide for limits in excess
33 of the limits specified in this Act, the insurance carrier may
34 plead against any plaintiff, with respect to the amount of such

1 excess limits of liability, any defense which it may be
2 entitled to plead against the insured.

3 (i) Proration of Insurance Permitted. --The policy may
4 provide for the pro-rating of the insurance thereunder with
5 other applicable valid and collectible insurance.

6 (j) Binders. --Any binder pending the issuance of any
7 policy, which binder contains or by reference includes the
8 provisions hereunder shall be sufficient proof of ability to
9 respond in damages.

10 (k) Copy of Policy to Be Filed with Department of
11 Insurance--Approval. --A copy of the form of every motor
12 vehicle liability policy which is to be used to meet the
13 requirements of this Act must be filed, by the company offering
14 such policy, with the Department of Insurance, which shall
15 approve or disapprove the policy within 30 days of its filing.
16 If the Department approves the policy in writing within such 30
17 day period or fails to take action for 30 days, the form of
18 policy shall be deemed approved as filed. If within the 30 days
19 the Department disapproves the form of policy filed upon the
20 ground that it does not comply with the requirements of this
21 Act, the Department shall give written notice of its decision
22 and its reasons therefor to the carrier and the policy shall
23 not be accepted as proof of financial responsibility under this
24 Act.

25 (l) Insurance Carrier Required to File Certificate. --An
26 insurance carrier who has issued a motor vehicle liability
27 policy or policies or an operator's policy meeting the
28 requirements of this Act shall, upon the request of the insured
29 therein, deliver to the insured for filing, or at the request
30 of the insured, shall file direct, with the Secretary of State
31 a certificate, as required by this Act, which shows that such
32 policy or policies have been issued. No insurance carrier may
33 require the payment of any extra fee or surcharge, in addition
34 to the insurance premium, for the execution, delivery or filing

1 of such certificate.

2 (m) Proof When Made By Endorsement. --Any motor vehicle
3 liability policy which by endorsement contains the provisions
4 required hereunder shall be sufficient proof of ability to
5 respond in damages.

6 (Source: P.A. 85-730.)

7 Section 99. Effective date. This Act takes effect upon
8 becoming law.".