

HOUSE BILL 1287

By Farmer

AN ACT to amend Tennessee Code Annotated, Title 24, Chapter 5; Title 55, Chapter 12 and Title 56, Chapter 7, relative to insurance coverage requirements and information.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 56-7-1201, is amended by deleting the section and substituting instead the following:

(a)

(1) Every automobile liability insurance policy delivered, issued for delivery, or renewed in this state, covering liability arising out of the ownership, maintenance, or use of any motor vehicle designed for use primarily on public roads and registered or principally garaged in this state, must include uninsured motorist coverage, subject to provisions filed with and approved by the commissioner, for the protection of persons insured under the policy who are legally entitled to recover compensatory damages from owners or operators of uninsured motor vehicles because of bodily injury, sickness, or disease, including death, resulting from injury, sickness, or disease.

(2) The limits of the uninsured motorist coverage must be equal to the bodily injury liability limits stated in the policy.

(3) However, any named insured may reject in writing the uninsured motorist coverage completely or select lower limits of the coverage but not less than the minimum coverage limits in § 55-12-107. Any document signed by the named insured or legal representative that initially rejects the coverage or selects lower limits is binding upon every insured to whom the policy applies, and is

conclusively presumed to become a part of the policy or contract when issued or delivered, regardless of whether physically attached to the policy or contract. Unless the named insured subsequently requests the coverage in writing, the rejected coverage need not be included in or supplemental to any continuation, renewal, reinstatement, or replacement of the policy, or the transfer of vehicles insured under the policy, where the named insured had rejected the coverage in connection with a policy previously issued by the same insurer; provided, that whenever a new application is submitted in connection with any renewal, reinstatement, or replacement transaction, this section shall apply in the same manner as when a new policy is being issued.

(4) No uninsured or underinsured motorist coverage need be provided in this state by an excess or umbrella policy of insurance.

(b)

(1) A single policy or endorsement for uninsured motorist coverage issued for a single premium covering multiple vehicles shall not be limited to applying once per accident, and the limits of insurance for all covered vehicles may be stacked to provide full coverage for the insured's loss.

(2) Limits of multiple policies or endorsements for uninsured motorist coverage issued by one (1) insurer or an affiliated insurer under common ownership or management to an insured or a resident relative may be stacked and applied to one (1) accident to provide full coverage for an insured's loss.

(3) The amount of the coverage available pursuant to this section shall not be reduced by a setoff from any other coverage.

(c)

(1) Every insured purchasing uninsured motorist bodily injury coverage must be provided an opportunity to include uninsured motorist property damage coverage, subject to provisions filed with and approved by the commissioner,

applicable to losses in excess of two hundred dollars (\$200). However, the deductible of two hundred dollars (\$200) shall not apply if:

(A) The vehicle involved in the accident is insured by the same insurer for both collision and uninsured motorist property damage coverage; and

(B) The operator of the other vehicle has been positively identified and is solely at fault.

(2) No insurer is required to offer limits of property damage coverage greater in amount than the property damage liability limits purchased by the insured. After the uninsured motorist property damage coverage has been made available to an insured one (1) time and has been rejected in writing, it need not again be made available in any continuation, renewal, reinstatement, or replacement of the policy, or the transfer of vehicles insured under the policy, unless the insured makes a written request for the coverage; provided, that whenever a new application is submitted in connection with any renewal, reinstatement, or replacement transaction, this section shall apply in the same manner as when a new policy is being issued. As used in this section, "property damage" means damage to either the insured vehicle or property owned by an insured while in the insured vehicle.

(d) The limit of liability for an insurer providing uninsured motorist coverage under this section is the amount of that coverage as specified in all applicable policies up to the total loss suffered by the insured.

(e) If the owner or operator of any motor vehicle that causes bodily injury or property damage to the insured is unknown, the insured has no right to recover under the uninsured motorist provision unless:

(1)

(A) Actual physical contact has occurred between the motor vehicle owned or operated by the unknown person and the person or property of the insured; or

(B) The existence of the unknown motorist is established by clear and convincing evidence, other than any evidence provided by occupants in the insured vehicle;

(2) The insured or someone on the insured's behalf has reported the accident to the appropriate law enforcement agency within a reasonable time after its occurrence; and

(3) The insured was not negligent in failing to determine the identity of the other vehicle and the owner or operator of the other vehicle at the time of the accident.

(f) No insurer shall increase the automobile insurance rate or premium of an insured with uninsured motorist coverage nor cancel the coverage due solely to the payment of any claim under uninsured motorist coverage.

(g) Failure of the motorist from whom the insured is legally entitled to recover damages to file the appropriate forms required by the department of safety pursuant to the Financial Responsibility Law, compiled in title 55, chapter 12, within ninety (90) days of the accident date creates a rebuttable presumption that the motorist was uninsured at the time of the accident. After the ninety (90) days and upon paying a fee as set by the department, the commissioner shall issue a certified affidavit indicating whether the forms have been filed.

(h) An insurer's proof of compliance with this section may be accomplished by the capture of the named insured's signature or initials, or that of the insured's legal

representative, by means of electronic imaging. However, this subsection (h) shall not be construed to authorize utilization of an electronic image of the signature or initials for any purpose other than demonstrating insurer compliance with the requirements of this section. In accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, the commissioner shall promulgate rules prescribing fines and other disciplinary actions to be imposed for insurer misuse of an electronic image of the signature or initials.

(i) Notwithstanding any other law to the contrary, a party in a civil action to recover for personal injury or death may obtain discovery of the existence and contents of any automobile insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment. Information concerning the insurance agreement is not by reason of disclosure admissible in evidence at trial. For purposes of this subsection (i), an application for insurance shall not be treated as part of an insurance agreement.

SECTION 2. Tennessee Code Annotated, Section 55-12-102(12), is amended by adding the following as a new subdivision (D):

(D)

(i) If proof is required after December 31, 2018, proof means:

(a) A written proof of liability insurance coverage provided by a single limit policy with a limit of not less than one hundred thousand dollars (\$100,000) applicable to one (1) accident;

(b) A split-limit policy with a limit of not less than fifty thousand dollars (\$50,000) for bodily injury to or death of one (1) person, not less than one hundred thousand dollars (\$100,000) for bodily injury to or death

of two (2) or more persons in any one (1) accident, and not less than twenty five thousand dollars (\$25,000) for damage to property in any one (1) accident;

(c) A deposit of cash with the commissioner in the amount of one hundred thousand dollars (\$100,000); or

(d) The execution and filing of a bond with the commissioner in the amount of one hundred thousand dollars (\$100,000).

SECTION 3. Tennessee Code Annotated, Section 55-12-102(12)(C)(i), is amended by inserting the language "but prior to January 1, 2019," immediately after the language "December 31, 2016,".

SECTION 4. Tennessee Code Annotated, Section 24-5-113(b)(2), is amended by deleting "forty-five (45) days" and substituting instead "fifty (50) days."

SECTION 5. This act shall take effect July 1, 2019, the public welfare requiring it.