

REFERENCE TITLE: **vehicle liability insurance; minimum limits**

State of Arizona
Senate
Fifty-fourth Legislature
First Regular Session
2019

SB 1087

Introduced by
Senators Brophy McGee: Carter

AN ACT

**AMENDING SECTIONS 20-259.01 AND 28-4009, ARIZONA REVISED STATUTES;
RELATING TO MOTOR VEHICLE LIABILITY POLICIES.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 20-259.01, Arizona Revised Statutes, is amended
3 to read:

4 20-259.01. Motor vehicle liability policy; uninsured
5 optional; underinsured optional; subrogation;
6 medical payments liens; definitions

7 A. Every insurer writing automobile liability or motor vehicle
8 liability policies shall make available to the named insured thereunder
9 and by written notice offer the NAMED insured and at the request of the
10 NAMED insured shall include within the policy uninsured motorist coverage
11 that extends to and covers all persons insured under the policy, in limits
12 not less than the liability limits for bodily injury or death contained
13 within the policy. The ~~selection~~ OFFER of limits ~~or rejection of coverage~~
14 ~~by~~ TO a named insured or applicant SHALL BE MADE AT THE TIME OF THE
15 APPLICATION on a form approved by the director ~~is valid for all insureds~~
16 ~~under the policy~~. An insurance producer that uses such a form in offering
17 uninsured motorist coverage ~~and confirming the selection of limits or~~
18 ~~rejection of coverage by a named insured or applicant~~ satisfies the
19 insurance producer's standard of care in offering and explaining the
20 nature and applicability of uninsured motorist coverage. ~~A named~~
21 ~~insured's selection of limits or rejection of uninsured motorist coverage~~
22 ~~on a form approved by the director~~ THE POLICY DECLARATIONS PAGE MUST BE
23 SENT TO THE NAMED INSURED, constitutes the final expression of the named
24 insured's decision to purchase or reject uninsured motorist coverage AND
25 IS VALID FOR, EXTENDS TO AND COVERS ALL PERSONS INSURED UNDER THE
26 POLICY. ~~The completion of such~~ AN OFFER form is not required where the
27 NAMED insured purchases such coverage in an amount equal to the limits for
28 bodily injury or death contained in the policy. The offer need not be
29 made in the event of the reinstatement of a lapsed policy or the transfer,
30 substitution, modification or renewal of an existing policy OR AS A RESULT
31 OF A CHANGE TO THE MINIMUM LIABILITY LIMITS FOR BODILY INJURY OR DEATH
32 PRESCRIBED IN SECTION 28-4009. At the request of the NAMED insured, the
33 NAMED insured may purchase and the insurer shall then include within the
34 policy uninsured motorist coverage that extends to and covers all persons
35 insured under the policy in any amount up to the liability limits for
36 bodily injury or death contained within the policy but not less than the
37 limits prescribed in section 28-4009.

38 B. Every insurer writing automobile liability or motor vehicle
39 liability policies shall also make available to the named insured
40 thereunder and shall by written notice offer the NAMED insured and at the
41 request of the NAMED insured shall include within the policy underinsured
42 motorist coverage that extends to and covers all persons insured under the
43 policy, in limits not less than the liability limits for bodily injury or
44 death contained within the policy. The ~~selection~~ OFFER of limits ~~or~~
45 ~~rejection of coverage by~~ TO a named insured or applicant SHALL BE MADE AT

1 THE TIME OF THE APPLICATION on a form approved by the director ~~shall be~~
2 ~~valid for all insureds under the policy.~~ An insurance producer that uses
3 such a form in offering underinsured motorist coverage ~~and confirming the~~
4 ~~selection of limits or rejection of coverage by a named insured or~~
5 ~~applicant~~ satisfies the insurance producer's standard of care in offering
6 and explaining the nature and applicability of underinsured motorist
7 coverage. ~~A named insured's selection of limits or rejection of~~
8 ~~underinsured motorist coverage on a form approved by the director~~ THE
9 POLICY DECLARATIONS PAGE MUST BE SENT TO THE NAMED INSURED, constitutes
10 the final expression of the named insured's decision to purchase or reject
11 underinsured motorist coverage AND IS VALID FOR, EXTENDS TO AND COVERS ALL
12 PERSONS INSURED UNDER THE POLICY. ~~The completion of such AN OFFER~~ form is
13 not required where the NAMED insured purchases such coverage in an amount
14 equal to the limits for bodily injury or death contained in the
15 policy. The offer need not be made in the event of the reinstatement of a
16 lapsed policy or the transfer, substitution, modification or renewal of an
17 existing policy OR AS A RESULT OF A CHANGE TO THE MINIMUM LIABILITY LIMITS
18 FOR BODILY INJURY OR DEATH PRESCRIBED IN SECTION 28-4009. At the request
19 of the NAMED insured, the NAMED insured may purchase and the insurer shall
20 then include within the policy underinsured motorist coverage that extends
21 to and covers all persons insured under the policy in any amount
22 authorized by the insured up to the liability limits for bodily injury or
23 death contained within the policy.

24 C. Any insurer writing automobile liability or motor vehicle
25 liability policies may make available the coverages required by
26 subsections A and B of this section to owners and operators of motor
27 vehicles that are used as public or livery conveyances or rented to others
28 or that are used in the business primarily to transport property or
29 equipment. Subsections A and B of this section do not preclude an insurer
30 writing automobile liability or motor vehicle liability policies in this
31 state from requiring that all motor vehicles that are owned by or
32 registered to the named insured and that are insured by the same insurer
33 or group of insurers under a common management have the same limits of
34 coverage for uninsured and underinsured motorist coverage in amounts as
35 selected or rejected by the named insured.

36 D. "Uninsured motor vehicles", subject to the terms and conditions
37 of that coverage, includes any insured motor vehicle if the liability
38 insurer of the vehicle is unable to make payment on the liability of its
39 insured, within the limits of the coverage, because of insolvency.

40 E. "Uninsured motorist coverage", subject to the terms and
41 conditions of that coverage, means coverage for damages due to bodily
42 injury or death if the motor vehicle that caused the bodily injury or
43 death is not insured by a motor vehicle liability policy that contains at
44 least the limits prescribed in section 28-4009. For the purposes of
45 uninsured motorist coverage, an uninsured motorist does not include a

1 person who is insured under a motor vehicle liability policy that complies
2 with section 28-4009.

3 F. Any payment made under the bodily injury liability portion of a
4 motor vehicle liability policy insuring the motor vehicle that caused the
5 bodily injury or death in an amount equal to or less than the per person
6 or per occurrence bodily injury limits of that policy, regardless of the
7 number of persons receiving payments, precludes any payment under the
8 uninsured motorist coverage based on the fault of the person who is
9 insured under the motor vehicle liability policy.

10 G. "Underinsured motorist coverage" includes coverage for a person
11 if the sum of the limits of liability under all bodily injury or death
12 liability bonds and liability insurance policies applicable at the time of
13 the accident is less than the total damages for bodily injury or death
14 resulting from the accident. To the extent that the total damages exceed
15 the total applicable liability limits, the underinsured motorist coverage
16 provided in subsection B of this section is applicable to the difference.

17 H. Uninsured and underinsured motorist coverages are separate and
18 distinct and apply to different accident situations. Underinsured
19 motorist coverage shall not provide coverage for a claim against an
20 uninsured motorist in addition to any applicable uninsured motorist
21 coverage. If multiple policies or coverages purchased by one insured on
22 different vehicles apply to an accident or claim, the insurer may limit
23 the coverage so that only one policy or coverage, selected by the insured,
24 shall be applicable to any one accident. If the policy does not contain a
25 statement that informs the insured of the insured's right to select one
26 policy or coverage as required by this subsection, within thirty days
27 after the insurer receives notice of an accident, the insurer shall notify
28 the insured in writing of the insured's right to select one policy or
29 coverage. For the purposes of this subsection, "insurer" includes every
30 insurer within a group of insurers under a common management.

31 I. Insurers that make payments for damages to insureds for
32 uninsured motorist coverage may subrogate and sue for reimbursement of the
33 total amount of the payments in the name of the insured against any
34 uninsured motorist responsible for the damages to the insured.

35 J. Any automobile liability or motor vehicle liability insurer that
36 makes a payment under the medical payments coverage of a motor vehicle
37 insurance policy to or on behalf of any insured for an injury that arises
38 out of an accident that occurs after December 31, 1998 may have a lien
39 against any amount in excess of ~~five thousand dollars~~ \$5,000 that is paid
40 to or on behalf of that insured under the medical payments coverage of the
41 policy for that accident. The insurer shall compromise the lien in a fair
42 and equitable manner. In order to perfect a lien granted pursuant to this
43 subsection, within sixty days after issuing a payment that is more than
44 ~~five thousand dollars~~ \$5,000 to the insured under medical payments
45 coverage, the insurer or the insurer's authorized representative shall

1 record in the office of the recorder of the county in which the accident
2 occurred a written statement that sets forth the name and address of the
3 insured as they appear in the records of the insurer, the name and address
4 of the insurer at the insurer's principal office in this state, the amount
5 claimed pursuant to this subsection and, to the best of the insurer's
6 knowledge, the names and addresses of all persons, firms and corporations
7 and their insurance carriers that the insured or the insured's legal
8 representative alleges are liable for damages arising from the accident.
9 Within five days after recording the lien, the insurer shall also mail a
10 copy of the lien, postage prepaid, to the insured and to each person, firm
11 and corporation and their insurance carriers alleged to be liable for
12 damages at the address given in the statement. The recording of the lien
13 is notice of the lien to all persons, firms and corporations that are
14 liable for damages regardless of whether they are named in the lien. The
15 recorder shall endorse on the lien recorded pursuant to this subsection
16 the date and hour of receipt and all facts that are necessary to indicate
17 that the lien has been recorded. The lien may be amended to reflect
18 payments to the insured made after the lien is recorded. Within thirty
19 days after the lien is satisfied, the lienholder shall issue and record a
20 release of the lien.

21 K. Any common law prohibition against assignments of causes of
22 action for personal injuries is abrogated to the extent provided in
23 subsection I of this section.

24 L. An insurer is not required to offer, provide or make available
25 coverage conforming to this section in connection with any general
26 commercial liability policy, excess policy, umbrella policy or other
27 policy that does not provide primary motor vehicle insurance for
28 liabilities arising out of the ownership, maintenance, operation or use of
29 a specifically insured motor vehicle.

30 M. If an insured makes a bodily injury or death claim under
31 uninsured or underinsured motorist coverage based on an accident that
32 involved an unidentified motor vehicle and no physical contact with the
33 motor vehicle occurred, the insured shall provide corroboration that the
34 unidentified motor vehicle caused the accident. For the purposes of this
35 subsection, "corroboration" means any additional and confirming testimony,
36 fact or evidence that strengthens and adds weight or credibility to the
37 insured's representation of the accident.

38 Sec. 2. Section 28-4009, Arizona Revised Statutes, is amended to
39 read:

40 28-4009. Motor vehicle liability policy requirements

41 A. An owner's motor vehicle liability policy shall comply with the
42 following:

43 1. The policy shall designate by explicit description or by
44 appropriate reference all motor vehicles for which coverage is granted.
45 If coverage is provided for a fleet of seven or more motor vehicles, the

1 maximum payable for any one accident is the limit of liability stated in
2 the policy. There is no accumulation of coverage for each separate vehicle
3 covered.

4 2. The policy shall insure the person named in the policy as the
5 insured and any other person, as insured, using the motor vehicle or motor
6 vehicles with the express or implied permission of the named insured
7 against loss from the liability imposed by law for damages arising out of
8 the ownership, maintenance or use of the motor vehicle or motor vehicles
9 within the United States or the Dominion of Canada, subject to limits
10 exclusive of interest and costs, for each motor vehicle as follows:

11 (a) FOR A POLICY THAT IS ISSUED OR RENEWED ON OR BEFORE JUNE 30,
12 2020 OR FOR A POLICY THAT IS ISSUED TO A PERSON THAT HAS A VALID
13 CERTIFICATE OF SELF-INSURANCE OR PARTIAL SELF-INSURANCE PURSUANT TO
14 SECTION 28-4007:

15 ~~(a)~~ (i) ~~Fifteen thousand dollars~~ \$15,000 because of bodily injury
16 to or death of one person in any one accident.

17 ~~(b)~~ (ii) Subject to the limit for one person, ~~thirty thousand~~
18 ~~dollars~~ \$30,000 because of bodily injury to or death of two or more
19 persons in any one accident.

20 ~~(c)~~ (iii) ~~Ten thousand dollars~~ \$10,000 because of injury to or
21 destruction of property of others in any one accident.

22 (b) FOR A POLICY THAT IS ISSUED OR RENEWED BEGINNING ON JULY 1,
23 2020, EXCEPT FOR A POLICY THAT IS ISSUED TO A PERSON THAT HAS A VALID
24 CERTIFICATE OF SELF-INSURANCE OR PARTIAL SELF-INSURANCE PURSUANT TO
25 SECTION 28-4007:

26 (i) \$25,000 BECAUSE OF BODILY INJURY TO OR DEATH OF ONE PERSON IN
27 ANY ONE ACCIDENT.

28 (ii) SUBJECT TO THE LIMIT FOR ONE PERSON, \$50,000 BECAUSE OF BODILY
29 INJURY TO OR DEATH OF TWO OR MORE PERSONS IN ANY ONE ACCIDENT.

30 (iii) \$15,000 BECAUSE OF INJURY TO OR DESTRUCTION OF PROPERTY OF
31 OTHERS IN ANY ONE ACCIDENT.

32 3. By agreement in writing between a named insured and the insurer
33 the policy may exclude as insured a person or persons designated by name
34 when operating a motor vehicle. The written agreement between the named
35 insured and insurer is effective for each renewal of the policy by the
36 insurer and remains in effect until the insurer agrees in writing to
37 provide coverage for the person or persons who were previously excluded
38 from coverage.

39 B. An operator's motor vehicle liability policy shall insure the
40 person named as insured in the policy against loss from the liability
41 imposed on the person by law for damages arising out of the use by the
42 person of a motor vehicle not owned by the person, within the same
43 territorial limits and subject to the same limits of liability provided in
44 subsection A of this section for an owner's motor vehicle liability
45 policy.

- 1 C. A motor vehicle liability policy:
- 2 1. Shall state the name and address of the named insured, the
- 3 coverage afforded by the policy, the premium charged for the policy, the
- 4 complete vehicle identification number of all vehicles covered by the
- 5 policy, the policy period and the limits of liability.
- 6 2. Shall contain an agreement or be endorsed that insurance is
- 7 provided under the policy in accordance with the coverage defined in this
- 8 chapter for bodily injury and death or property damage, or both.
- 9 3. Is subject to all of the provisions of this chapter.
- 10 4. Is not required to insure liability either:
- 11 (a) Under any workers' compensation law.
- 12 (b) On account of bodily injury to or death of an employee of the
- 13 insured while engaged in the employment, other than domestic, of the
- 14 insured or while engaged in the operation, maintenance or repair of the
- 15 motor vehicle.
- 16 (c) For damage to property owned by, rented to, in charge of or
- 17 transported by the insured.
- 18 (d) For damage to property or bodily injury caused intentionally by
- 19 or at the direction of the insured.
- 20 (e) ~~From and after February 29, 2016,~~ For a private passenger motor
- 21 vehicle used while a transportation network company driver is logged in to
- 22 a transportation network company's digital network or software application
- 23 to be a driver or is providing transportation network services unless
- 24 expressly authorized by the terms of the motor vehicle liability insurance
- 25 policy or an endorsement or amendment to the policy.
- 26 5. Is subject to the following provisions that are not required to
- 27 be in the policy:
- 28 (a) The liability of the insurance carrier with respect to the
- 29 insurance required by this chapter becomes absolute when injury or damage
- 30 covered by the motor vehicle liability policy occurs. The policy may not
- 31 be cancelled or annulled as to that liability by an agreement between the
- 32 insurance carrier and the insured after the occurrence of the injury or
- 33 damage, and a statement made by the insured or someone on the insured's
- 34 behalf or a violation of the policy shall not defeat or void the policy.
- 35 (b) The satisfaction by the insured of a judgment for the injury or
- 36 damage is not a condition precedent to the right or duty of the insurance
- 37 carrier to make payment on account of the injury or damage.
- 38 (c) The insurance carrier may settle any claim covered by the
- 39 policy, and if the settlement is made in good faith, the amount of the
- 40 claim is deductible from the limits of liability specified in subsection
- 41 A, paragraph 2 of this section.
- 42 (d) The policy, the written application for the policy, if any, and
- 43 any rider or endorsement that does not conflict with this chapter
- 44 constitute the entire contract between the parties.

1 6. May provide that the insured shall reimburse the insurance
2 carrier for any payment the insurance carrier would not have been
3 obligated to make under the terms of the policy except for this chapter.

4 7. May provide for the prorating of the insurance under the policy
5 with other valid and collectible insurance.

6 D. A policy that grants the coverage required for a motor vehicle
7 liability policy may also grant lawful coverage in excess of or in
8 addition to the coverage specified for a motor vehicle liability policy,
9 and the excess or additional coverage is not subject to this chapter.
10 With respect to a policy that grants the excess or additional coverage,
11 the term "motor vehicle liability policy" applies only to that part of the
12 coverage that is required by this section.

13 E. The requirements for a motor vehicle liability policy may be
14 fulfilled by the policies of one or more insurance carriers that together
15 meet the requirements.

16 F. A binder issued pending the issuance of a motor vehicle
17 liability policy fulfills the requirements for the policy.

18 Sec. 3. Applicability

19 This act applies to automobile liability or motor vehicle liability
20 policies issued, reinstated or renewed on or after July 1, 2020.