

SENATE BILL NO. 499

BY SENATOR REESE

1 AN ACT

2 To amend and reenact the introductory paragraph of R.S. 22:1295 and R.S. 22:1295(1)(a)  
3 and (e), (4), and (5) and the introductory paragraph of 1296(B) and to enact R.S.  
4 22:1295(7), relative to uninsured motorist coverage; to provide for uninsured  
5 motorist coverage; to provide an exception to uninsured motorist coverage; to make  
6 technical changes; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. The introductory paragraph of R.S. 22:1295, and R.S. 22:1295(1)(a) and  
9 (e), (4), and (5) and the introductory paragraph of 1296(B) are hereby amended and  
10 reenacted and R.S. 22:1295(7) is hereby enacted to read as follows:

11 §1295. Uninsured motorist coverage

12 The following provisions shall govern the issuance of uninsured motorist  
13 coverage in this state:

14 (1)(a)(i) No automobile liability insurance covering liability arising out of the  
15 ownership, maintenance, or use of any motor vehicle shall be delivered or issued for  
16 delivery in this state with respect to any motor vehicle designed for use on public  
17 highways and required to be registered in this state or as provided in this Section  
18 unless coverage is provided therein or supplemental thereto, in not less than the  
19 limits of bodily injury liability provided by the policy, under provisions filed with  
20 and approved by the commissioner of insurance, for the protection of persons insured  
21 thereunder who are legally entitled to recover nonpunitive damages from owners or

1 operators of uninsured or underinsured motor vehicles because of bodily injury,  
2 sickness, or disease, including death resulting therefrom; however, the coverage  
3 required under this Section is not applicable when any insured named in the policy  
4 either rejects coverage, selects lower limits, or selects economic-only coverage, in  
5 the manner provided in Item (1)(a)(ii) of this Section. In no event shall the policy  
6 limits of an uninsured motorist policy be less than the minimum liability limits  
7 required under R.S. 32:900, unless economic-only coverage is selected as authorized  
8 in this Section. Such coverage need not be provided in or supplemental to a renewal,  
9 reinstatement, or substitute policy when the named insured has rejected the coverage  
10 or selected lower limits in connection with a policy previously issued to him by the  
11 same insurer or any of its affiliates. The coverage provided ~~under~~ pursuant to this  
12 Section may exclude coverage for punitive or exemplary damages by the terms of  
13 the policy or contract. Insurers may also make available, at a reduced premium, the  
14 coverage provided ~~under~~ pursuant to this Section with an exclusion for all  
15 noneconomic loss. This coverage shall be known as "economic-only" uninsured  
16 motorist coverage. Noneconomic loss means any loss other than economic loss and  
17 includes but is not limited to pain, suffering, inconvenience, mental anguish, and  
18 other noneconomic damages otherwise recoverable under the laws of this state.

19 (ii) Such rejection, selection of lower limits, or selection of economic-only  
20 coverage shall be made only on a form prescribed by the commissioner ~~of insurance~~.  
21 The prescribed form shall be provided by the insurer and signed by the named  
22 insured or his legal representative. The form signed by the named insured or his legal  
23 representative which initially rejects ~~such~~ the coverage, selects lower limits, or  
24 selects economic-only coverage shall be conclusively presumed to become a part of  
25 the policy or contract when issued and delivered, irrespective of whether physically  
26 attached thereto. A properly completed and signed form creates a rebuttable  
27 presumption that the insured knowingly rejected coverage, selected a lower limit, or  
28 selected economic-only coverage. If the form is signed but not properly  
29 completed, such that the rebuttable presumption does not apply, there shall be  
30 no uninsured motorist coverage or modified uninsured motorist coverage, as

1           applicable, if it is determined that the insured or his representative intended to  
 2           reject or modify the uninsured motorist coverage. The form signed by the insured  
 3           or his legal representative which initially rejects coverage, selects lower limits, or  
 4           selects economic-only coverage shall remain valid for the life of the policy and shall  
 5           not require the completion of a new selection form when a renewal, reinstatement,  
 6           substitute, or amended policy is issued to the same named insured by the same  
 7           insurer or any of its affiliates. An insured may change the original uninsured motorist  
 8           selection or rejection on a policy at any time during the life of the policy by  
 9           submitting a new uninsured motorist selection form to the insurer on the form  
 10          prescribed by the commissioner ~~of insurance~~. Any changes to an existing policy,  
 11          regardless of whether these changes create new coverage, except changes in the  
 12          limits of liability, do not create a new policy and do not require the completion of  
 13          new uninsured motorist selection forms. For the purpose of this Section, a "new  
 14          policy" ~~shall mean~~ means an original contract of insurance which an insured enters  
 15          into through the completion of an application on the form required by the insurer.

16                   (iii) This Subparagraph and its requirement for uninsured motorist coverage  
 17                   shall apply to any liability insurance covering any accident which occurs in this state  
 18                   and involves a resident of this state.

19                   (iv) Notwithstanding any contrary provision of this Section ~~and R.S. 22:1406~~  
 20                   ~~[Repealed]~~, an automobile liability policy written to provide coverage for a school  
 21                   bus may limit the scope of uninsured motorist liability to only provide liability  
 22                   coverage for damages incurred by reason of an accident or incident involving the  
 23                   school bus, or a temporary substitute vehicle, and such limitation shall limit the  
 24                   uninsured motorist coverage of a named insured in the policy to only damages  
 25                   incurred by reason of such accident or incident.

26   \*       \*       \*

27                   (e) The uninsured motorist coverage does not apply to bodily injury, sickness,  
 28                   or disease, including the resulting death of an insured, while occupying a motor  
 29                   vehicle owned by the insured if ~~such~~ the motor vehicle is not described in the policy  
 30                   under which a claim is made, or is not a newly acquired or replacement motor

1 vehicle covered under the terms of the policy. This provision shall not apply to  
2 uninsured motorist coverage provided in a policy that does not describe specific  
3 motor vehicles.

4 \* \* \*

5 (4) In the event of payment to any person under the coverage required by this  
6 Section and subject to the terms and conditions of ~~such~~ **the** coverage, the insurer  
7 making ~~such~~ **the** payment shall, to the extent thereof, be entitled to the proceeds of  
8 any settlement or judgment resulting from the exercise of any rights of recovery of  
9 ~~such~~ **the** person against any person or organization legally responsible for the bodily  
10 injury for which ~~such~~ **the** payment is made, including the proceeds recoverable from  
11 the assets of the insolvent insurer.

12 (5) The coverage required ~~under~~ **by** this Section may include provisions for  
13 the submission of claims by the assured ~~insured~~ **insured** to ~~arbitration;~~ **arbitration.**  
14 ~~however, the~~ **The** submission to arbitration shall be optional with the ~~insured;~~  
15 **insured and** shall not deprive the insured of his right to bring action against the  
16 insurer to recover any sums due ~~to~~ him under the terms of the policy, and shall not  
17 purport to deprive the courts of this state of jurisdiction of actions against the insurer  
18 **pursuant to R.S. 22:868.**

19 \* \* \*

20 **(7) Notwithstanding the provisions of Paragraph (1) of this Section, for**  
21 **commercial automobile insurance policies, the insured shall have the option of**  
22 **selecting uninsured motorist coverage on a form promulgated by the**  
23 **commissioner. If there is no selection of uninsured motorist coverage on the**  
24 **form provided to the insured and no payment of premium that includes this**  
25 **coverage, then it shall be presumed that no uninsured motorist coverage was**  
26 **selected for that policy or contract, and the provisions of this Section shall not**  
27 **apply.**

28 \* \* \*

29 §1296. Coverage of temporary, substitute, and rental vehicles

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