

1 (a) No policy or contract of bodily injury liability
2 insurance, or of property damage liability insurance, covering
3 liability arising from the ownership, maintenance or use of any
4 motor vehicle, shall be issued or delivered in this state to the
5 owner of such vehicle, or shall be issued or delivered by any
6 insurer licensed in this state upon any motor vehicle for which a
7 certificate of title has been issued by the Division of Motor
8 Vehicles of this state, unless it shall contain a provision
9 insuring the named insured and any other person, except a bailee
10 for hire and any persons specifically excluded by any restrictive
11 endorsement attached to the policy, responsible for the use of or
12 using the motor vehicle with the consent, expressed or implied, of
13 the named insured or his or her spouse against liability for death
14 or bodily injury sustained or loss or damage occasioned within the
15 coverage of the policy or contract as a result of negligence in the
16 operation or use of such vehicle by the named insured or by such
17 person: *Provided*, That in any such automobile liability insurance
18 policy or contract, or endorsement thereto, if coverage resulting
19 from the use of a nonowned automobile is conditioned upon the
20 consent of the owner of such motor vehicle, the word "owner" shall
21 be construed to include the custodian of such nonowned motor
22 vehicles. Notwithstanding any other provision of this code, if the
23 owner of a policy receives a notice of cancellation pursuant to
24 article six-a of this chapter and the reason for the cancellation

1 is a violation of law by a person insured under the policy, said
2 owner may by restrictive endorsement specifically exclude the
3 person who violated the law and the restrictive endorsement shall
4 be effective in regard to the total liability coverage provided
5 under the policy, including coverage provided pursuant to the
6 mandatory liability requirements of section two, article four,
7 chapter seventeen-d of this code, but nothing in such restrictive
8 endorsement shall be construed to abrogate the "family purpose
9 doctrine".

10 (b) Nor shall any such policy or contract be so issued or
11 delivered unless it shall contain an endorsement or provisions
12 undertaking to pay the insured all sums which he or she shall be
13 legally entitled to recover as damages from the owner or operator
14 of an uninsured motor vehicle, within limits which shall be no less
15 than the requirements of section two, article four, chapter
16 seventeen-d of this code, as amended from time to time: *Provided,*
17 That such policy or contract shall provide an option to the insured
18 with appropriately adjusted premiums to pay the insured all sums
19 which he or she shall be legally entitled to recover as damages
20 from the owner or operator of an uninsured motor vehicle up to an
21 amount of \$100,000 because of bodily injury to or death of one
22 person in any one accident and, subject to said limit for one
23 person, in the amount of \$300,000 because of bodily injury to or
24 death of two or more persons in any one accident and in the amount

1 of \$50,000 because of injury to or destruction of property of
2 others in any one accident: *Provided, however,* That such
3 endorsement or provisions may exclude the first \$300 of property
4 damage resulting from the negligence of an uninsured motorist:
5 *Provided further,* That such policy or contract shall provide an
6 option to the insured with appropriately adjusted premiums to pay
7 the insured all sums which he or she shall legally be entitled to
8 recover as damages from the owner or operator of an uninsured or
9 underinsured motor vehicle up to an amount not less than limits of
10 bodily injury liability insurance and property damage liability
11 insurance purchased by the insured without setoff against the
12 insured's policy or any other policy. Regardless of whether motor
13 vehicle coverage is offered and provided to an insured through a
14 multiple vehicle insurance policy or contract, or in separate
15 single vehicle insurance policies or contracts, no insurer or
16 insurance company providing a bargained for discount for multiple
17 motor vehicles with respect to uninsured or underinsured motor
18 vehicle coverage shall be treated differently from any other
19 insurer or insurance company utilizing a single insurance policy or
20 contract for multiple covered vehicles for purposes of determining
21 the total amount of coverage available to an insured.
22 "Underinsured motor vehicle" means a motor vehicle with respect to
23 the ownership, operation or use of which there is liability
24 insurance applicable at the time of the accident, but the limits of

1 that insurance are either: (i) Less than limits the insured
2 carried for underinsured motorists' coverage; or (ii) has been
3 reduced by payments to others injured in the accident to limits
4 less than limits the insured carried for underinsured motorists'
5 coverage. No sums payable as a result of underinsured motorists'
6 coverage shall be reduced by payments made under the insured's
7 policy or any other policy.

8 (c) As used in this section, the term "bodily injury" shall
9 include death resulting therefrom and the term "named insured"
10 shall mean the person named as such in the declarations of the
11 policy or contract and shall also include such person's spouse if
12 a resident of the same household and the term "insured" shall mean
13 the named insured and, while resident of the same household, the
14 spouse of any such named insured and relatives of either, while in
15 a motor vehicle or otherwise, and any person, except a bailee for
16 hire, who uses, with the consent, expressed or implied, of the
17 named insured, the motor vehicle to which the policy applies or the
18 personal representative of any of the above; and the term
19 "uninsured motor vehicle" shall mean a motor vehicle as to which
20 there is no: (i) Bodily injury liability insurance and property
21 damage liability insurance both in the amounts specified by section
22 two, article four, chapter seventeen-d of this code, as amended
23 from time to time; or (ii) there is such insurance, but the
24 insurance company writing the same denies coverage thereunder; or

1 (iii) there is no certificate of self-insurance issued in
2 accordance with the provisions of said section. A motor vehicle
3 shall be deemed to be uninsured if the owner or operator thereof be
4 unknown: *Provided*, That recovery under the endorsement or
5 provisions shall be subject to the conditions hereinafter set
6 forth.

7 (d) Any insured intending to rely on the coverage required by
8 subsection (b) of this section shall, if any action be instituted
9 against the owner or operator of an uninsured or underinsured motor
10 vehicle, cause a copy of the summons and a copy of the complaint to
11 be served upon the insurance company issuing the policy, in the
12 manner prescribed by law, as though such insurance company were a
13 named party defendant; such company shall thereafter have the right
14 to file pleadings and to take other action allowable by law in the
15 name of the owner, or operator, or both, of the uninsured or
16 underinsured motor vehicle or in its own name.

17 Nothing in this subsection shall prevent such owner or
18 operator from employing counsel of his or her own choice and taking
19 any action in his or her own interest in connection with such
20 proceeding.

21 (e) If the owner or operator of any motor vehicle which causes
22 bodily injury or property damage to the insured be unknown, the
23 insured, or someone in his or her behalf, in order for the insured
24 to recover under the uninsured motorist endorsement or provision,

1 shall:

2 (i) Within twenty-four hours after the insured discover, and
3 being physically able to report the occurrence of such accident,
4 the insured, or someone in his or her behalf, shall report the
5 accident to a police, peace or to a judicial officer, unless the
6 accident shall already have been investigated by a police officer;

7 (ii) Notify the insurance company, within sixty days after
8 such accident, that the insured or his or her legal representative
9 has a cause or causes of action arising out of such accident for
10 damages against a person or persons whose identity is unknown and
11 setting forth the facts in support thereof; and, upon written
12 request of the insurance company communicated to the insured not
13 later than five days after receipt of such statement, shall make
14 available for inspection the motor vehicle which the insured was
15 occupying at the time of the accident; and

16 (iii) Upon trial establish that the motor vehicle, which
17 caused the bodily injury or property damage, whose operator is
18 unknown, was a "hit and run" motor vehicle, meaning a motor vehicle
19 which causes damage to the property of the insured arising out of
20 physical contact of such motor vehicle therewith, or which causes
21 bodily injury to the insured arising out of physical contact of
22 such motor vehicle with the insured or with a motor vehicle which
23 the insured was occupying at the time of the accident. If the
24 owner or operator of any motor vehicle causing bodily injury or

1 property damage be unknown, an action may be instituted against the
2 unknown defendant as "John Doe", in the county in which the
3 accident took place or in any other county in which such action
4 would be proper under the provisions of article one, chapter
5 fifty-six of this code; service of process may be made by delivery
6 of a copy of the complaint and summons or other pleadings to the
7 clerk of the court in which the action is brought, and service upon
8 the insurance company issuing the policy shall be made as
9 prescribed by law as though such insurance company were a party
10 defendant. The insurance company shall have the right to file
11 pleadings and take other action allowable by law in the name of
12 John Doe.

13 (f) An insurer paying a claim under the endorsement or
14 provisions required by subsection (b) of this section shall be
15 subrogated to the rights of the insured to whom such claim was paid
16 against the person causing such injury, death or damage to the
17 extent that payment was made. The bringing of an action against
18 the unknown owner or operator as John Doe or the conclusion of such
19 an action shall not constitute a bar to the insured, if the
20 identity of the owner or operator who caused the injury or damages
21 complained of, becomes known, from bringing an action against the
22 owner or operator theretofore proceeded against as John Doe. Any
23 recovery against such owner or operator shall be paid to the
24 insurance company to the extent that such insurance company shall

1 have paid the insured in the action brought against such owner or
2 operator as John Doe, except that such insurance company shall pay
3 its proportionate part of any reasonable costs and expenses
4 incurred in connection therewith, including reasonable attorney's
5 fees. Nothing in an endorsement or provision made under this
6 subsection, nor any other provision of law, shall operate to
7 prevent the joining, in an action against John Doe, of the owner or
8 operator of the motor vehicle causing injury as a party defendant,
9 and such joinder is hereby specifically authorized.

10 (g) No such endorsement or provisions shall contain any
11 provision requiring arbitration of any claim arising under any such
12 endorsement or provision, nor may anything be required of the
13 insured except the establishment of legal liability, nor shall the
14 insured be restricted or prevented in any manner from employing
15 legal counsel or instituting legal proceedings.

16 (h) The provisions of subsections (a) and (b) of this section
17 shall not apply to any policy of insurance to the extent that it
18 covers the liability of an employer to his or her employees under
19 any workers' compensation law.

20 (i) The commissioner of insurance shall formulate and require
21 the use of standard policy provisions for the insurance required by
22 this section, but use of such standard policy provisions may be
23 waived by the commissioner in the circumstances set forth in
24 section ten of this article.

1 (j) A motor vehicle shall be deemed to be uninsured within the
2 meaning of this section, if there has been a valid bodily injury or
3 property damage liability policy issued upon such vehicle, but
4 which policy is uncollectible, in whole or in part, by reason of
5 the insurance company issuing such policy upon such vehicle being
6 insolvent or having been placed in receivership. The right of
7 subrogation granted insurers under the provisions of subsection (f)
8 of this section shall not apply as against any person or persons
9 who is or becomes an uninsured motorist for the reasons set forth
10 in this subsection.

11 (k) Nothing contained herein shall prevent any insurer from
12 also offering benefits and limits other than those prescribed
13 herein, nor shall this section be construed as preventing any
14 insurer from incorporating in such terms, conditions and exclusions
15 as may be consistent with the premium charged.

16 (l) The Insurance Commissioner shall review on an annual basis
17 the rate structure for uninsured and underinsured motorists'
18 coverage as set forth in subsection (b) of this section and shall
19 report to the Legislature on said rate structure on or before
20 January 15, 1983, and on or before January 15, of each of the next
21 two succeeding years.

NOTE: The purpose of this bill is to require uninsured motor
vehicle coverage to be treated the same as any other coverage

available to an insured. This provides a level playing field among insurers when providing uninsured and underinsured motor vehicle coverage either through the use of a single multivehicle household insurance policy or through the use of a separate insurance policy on each motor vehicle.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.