

## CHAPTER 65B

### AUTOMOBILE INSURANCE

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#### 65B.001 DEFINITIONS.

*[For text of subs 1 and 2, see M.S.1988]*

Subd. 3. "Private passenger vehicle" means a passenger automobile defined in section 168.011, or a jeep type automobile, that is not rented to others or used as a public or livery conveyance for passengers.

*[For text of subs 4 and 5, see M.S.1988]*

**History:** 1989 c 140 s 1

#### 65B.135 LIMOUSINE INSURANCE.

An insurer who provides insurance for limousines, defined in section 168.011, subdivision 35, shall provide insurance in a minimum aggregate amount of \$300,000 per accident for each limousine covered.

**History:** 1989 c 318 s 3

#### 65B.15 CANCELLATION OR REDUCTION IN LIMITS DURING POLICY PERIOD; GROUNDS; NOTICE.

Subdivision 1. No cancellation or reduction in the limits of liability of coverage during the policy period of any policy shall be effective unless notice thereof is given and unless based on one or more reasons stated in the policy which shall be limited to the following:

1. Nonpayment of premium; or
2. The policy was obtained through a material misrepresentation; or
3. Any insured made a false or fraudulent claim or knowingly aided or abetted another in the presentation of such a claim; or
4. The named insured failed to disclose fully motor vehicle accidents and moving traffic violations of the named insured for the preceding 36 months if called for in the written application; or
5. The named insured failed to disclose in the written application any requested information necessary for the acceptance or proper rating of the risk; or
6. The named insured knowingly failed to give any required written notice of loss or notice of lawsuit commenced against the named insured, or, when requested, refused to cooperate in the investigation of a claim or defense of a lawsuit; or
7. The named insured or any other operator who either resides in the same household, or customarily operates an automobile insured under such policy, unless the other operator is identified as a named insured in another policy as an insured:

(a) has, within the 36 months prior to the notice of cancellation, had that person's driver's license under suspension or revocation; or

(b) is or becomes subject to epilepsy or heart attacks, and such individual does not produce a written opinion from a physician testifying to that person's medical ability

to operate a motor vehicle safely, such opinion to be based upon a reasonable medical probability; or

(c) has an accident record, conviction record (criminal or traffic), physical condition or mental condition, any one or all of which are such that the person's operation of an automobile might endanger the public safety; or

(d) has been convicted, or forfeited bail, during the 24 months immediately preceding the notice of cancellation for criminal negligence in the use or operation of an automobile, or assault arising out of the operation of a motor vehicle, or operating a motor vehicle while in an intoxicated condition or while under the influence of drugs; or leaving the scene of an accident without stopping to report; or making false statements in an application for a driver's license, or theft or unlawful taking of a motor vehicle; or

(e) has been convicted of, or forfeited bail for, one or more violations within the 18 months immediately preceding the notice of cancellation, of any law, ordinance, or rule which justify a revocation of a driver's license.

8. The insured automobile is:

(1) so mechanically defective that its operation might endanger public safety; or

(2) used in carrying passengers for hire or compensation, provided however that the use of an automobile for a car pool shall not be considered use of an automobile for hire or compensation; or

(3) used in the business of transportation of flammables or explosives; or

(4) an authorized emergency vehicle; or

(5) subject to an inspection law and has not been inspected or, if inspected, has failed to qualify within the period specified under such inspection law; or

(6) substantially changed in type or condition during the policy period, increasing the risk substantially, such as conversion to a commercial type vehicle, a dragster, sports car or so as to give clear evidence of a use other than the original use.

*[For text of subd 2, see M.S.1988]*

**History:** 1989 c 260 s 13

## **65B.43 DEFINITIONS.**

*[For text of subds 1 to 11, see M.S.1988]*

Subd. 12. "Commercial vehicle" means:

(a) any motor vehicle used as a common carrier,

(b) any motor vehicle, other than a passenger vehicle defined in section 168.011, subdivision 7, which has a curb weight in excess of 5,500 pounds apart from cargo capacity, or

(c) any motor vehicle while used in the for-hire transportation of property.

Commercial vehicle does not include a "commuter van," which for purposes of this chapter shall mean a motor vehicle having a capacity of seven to 16 persons which is used principally to provide prearranged transportation of persons to or from their place of employment or to or from a transit stop authorized by a local transit authority which vehicle is to be operated by a person who does not drive the vehicle as a principal occupation but is driving it only to or from the principal place of employment, to or from a transit stop authorized by a local transit authority or for personal use as permitted by the owner of the vehicle.

*[For text of subds 13 to 20, see M.S.1988]*

**History:** 1989 c 140 s 2

**65B.44 BASIC ECONOMIC LOSS BENEFITS.**

*[For text of subds 1 and 2, see M.S.1988]*

**Subd. 3. Disability and income loss benefits.** Disability and income loss benefits shall provide compensation for 85 percent of the injured person's loss of present and future gross income from inability to work proximately caused by the nonfatal injury subject to a maximum of \$250 per week. Loss of income includes the costs incurred by a self-employed person to hire substitute employees to perform tasks which are necessary to maintain the income of the injured person, which are normally performed by the injured person, and which cannot be performed because of the injury.

If the injured person is unemployed at the time of injury and is receiving or is eligible to receive unemployment benefits under chapter 268, but the injured person loses eligibility for those benefits because of inability to work caused by the injury, disability and income loss benefits shall provide compensation for the lost benefits in an amount equal to the unemployment benefits which otherwise would have been payable, subject to a maximum of \$250 per week.

Compensation under this subdivision shall be reduced by any income from substitute work actually performed by the injured person or by income the injured person would have earned in available appropriate substitute work which the injured person was capable of performing but unreasonably failed to undertake.

For the purposes of this section "inability to work" means disability which prevents the injured person from engaging in any substantial gainful occupation or employment on a regular basis, for wage or profit, for which the injured person is or may by training become reasonably qualified. If the injured person returns to employment and is unable by reason of the injury to work continuously, compensation for lost income shall be reduced by the income received while the injured person is actually able to work. The weekly maximums may not be prorated to arrive at a daily maximum, even if the injured person does not incur loss of income for a full week.

For the purposes of this section, an injured person who is "unable by reason of the injury to work continuously" includes, but is not limited to, a person who misses time from work, including reasonable travel time, and loses income, vacation, or sick leave benefits, to obtain medical treatment for an injury arising out of the maintenance or use of a motor vehicle.

*[For text of subds 4 to 8, see M.S.1988]*

**History:** 1989 c 260 s 14

**65B.481** [Repealed, 1989 c 321 s 18]

**65B.482 INSURANCE IDENTIFICATION CARDS.**

**Subdivision 1. Issuance of card.** Every obligor transacting business in this state shall provide an insurance identification card for each vehicle covered at the time of initiating each policy of automobile insurance, as defined in section 65B.14, subdivision 2, and at the time of policy renewal. When an insured has five or more vehicles registered in this state, the obligor may use the designation "all owned vehicles" on each identification card in lieu of a specified description. The card must state:

- (1) the insured's name;
  - (2) the policy number;
  - (3) the policy dates of coverage;
  - (4) the make, model, and year of the vehicle being covered;
  - (5) the vehicle identification number or at least the last three digits of that number;
- and
- (6) the name of the obligor providing coverage.

**Subd. 2. Notice of criminal penalties.** Every obligor transacting business in this

state shall provide to the insured at the time of issuing an insurance identification card under subdivision 1 a plain-language summary of the criminal penalties imposed by sections 65B.67, 169.791, and 169.793.

**History:** 1989 c 321 s 1

## **65B.49 INSURERS.**

*[For text of subds 1 to 3, see M.S.1988]*

**Subd. 3a. Uninsured and underinsured motorist coverages.** (1) No plan of reparation security may be renewed, delivered or issued for delivery, or executed in this state with respect to any motor vehicle registered or principally garaged in this state unless separate uninsured and underinsured motorist coverages are provided therein. Each coverage, at a minimum, must provide limits of \$25,000 because of injury to or the death of one person in any accident and \$50,000 because of injury to or the death of two or more persons in any accident. In the case of injury to, or the death of, two or more persons in any accident, the amount available to any one person must not exceed the coverage limit provided for injury to, or the death of, one person in any accident.

(2) Every owner of a motor vehicle registered or principally garaged in this state shall maintain uninsured and underinsured motorist coverages as provided in this subdivision.

(3) No reparation obligor is required to provide limits of uninsured and underinsured motorist coverages in excess of the bodily injury liability limit provided by the applicable plan of reparation security.

(4) No recovery shall be permitted under the uninsured and underinsured motorist coverages of this section for basic economic loss benefits paid or payable, or which would be payable but for any applicable deductible.

(5) If at the time of the accident the injured person is occupying a motor vehicle, the limit of liability for uninsured and underinsured motorist coverages available to the injured person is the limit specified for that motor vehicle. However, if the injured person is occupying a motor vehicle of which the injured person is not an insured, the injured person may be entitled to excess insurance protection afforded by a policy in which the injured party is otherwise insured. The excess insurance protection is limited to the extent of covered damages sustained, and further is available only to the extent by which the limit of liability for like coverage applicable to any one motor vehicle listed on the automobile insurance policy of which the injured person is an insured exceeds the limit of liability of the coverage available to the injured person from the occupied motor vehicle.

If at the time of the accident the injured person is not occupying a motor vehicle, the injured person is entitled to select any one limit of liability for any one vehicle afforded by a policy under which the injured person is insured.

(6) Regardless of the number of policies involved, vehicles involved, persons covered, claims made, vehicles or premiums shown on the policy, or premiums paid, in no event shall the limit of liability for uninsured and underinsured motorist coverages for two or more motor vehicles be added together to determine the limit of insurance coverage available to an injured person for any one accident.

(7) The uninsured and underinsured motorist coverages required by this subdivision do not apply to bodily injury of the insured while occupying a motor vehicle owned by the insured, unless the occupied vehicle is an insured motor vehicle.

**Subd. 4a. Liability on underinsured motor vehicles.** With respect to underinsured motorist coverage, the maximum liability of an insurer is the amount of damages sustained but not recovered from the insurance policy of the driver or owner of any underinsured at fault vehicle. If a person is injured by two or more vehicles, underinsured motorist coverage is payable whenever any one of those vehicles meets the definition of underinsured motor vehicle in section 65B.43, subdivision 17. However, in no event shall the underinsured motorist carrier have to pay more than the amount of its underinsured motorist limits.

Subd. 5a. **Rental vehicles.** (a) Every plan of reparation security insuring a natural person as named insured, covering private passenger vehicles as defined under section 65B.001, subdivision 3, and pickup trucks and vans as defined under section 168.011 must provide that all of the obligation for damage and loss of use to a rented private passenger vehicle, including pickup trucks and vans as defined under section 168.011, and rented trucks with a registered gross vehicle weight of 26,000 pounds or less would be covered by the property damage liability portion of the plan. The obligation of the plan must not be contingent on fault or negligence. In all cases where the plan's property damage liability coverage is less than \$25,000, the coverage available under the subdivision must be \$25,000. Other than as described in this paragraph, nothing in this section amends or alters the provisions of the plan of reparation security as to primacy of the coverages in this section.

(b) A vehicle is rented for purposes of this subdivision if the rate for the use of the vehicle is determined on a weekly or daily basis. A vehicle is not rented for purposes of this subdivision if the rate for the vehicle's use is determined on a monthly or longer period.

(c) The policy or certificate issued by the plan must inform the insured of the application of the plan to private passenger rental vehicles, including pickup trucks and vans as defined under section 168.011, and that the insured may not need to purchase additional coverage from the rental company.

(d) Where an insured has two or more vehicles covered by a plan or plans of reparation security containing the rented motor vehicle coverage required under paragraph (a), the insured may select the plan the insured wishes to collect from and that plan is entitled to a pro rata contribution from the other plan or plans based upon the property damage limits of liability. If the person renting the motor vehicle is also covered by the person's employer's insurance policy or the employer's automobile self-insurance plan, the reparation obligor under the employer's policy or self-insurance plan has primary responsibility to pay claims arising from use of the rented vehicle.

(e) A notice advising the insured of rental vehicle coverage must be given by the reparation obligor to each current insured with the first renewal notice after January 1, 1989. The notice must be approved by the commissioner of commerce. The commissioner may specify the form of the notice.

(f) When a motor vehicle is rented or leased in this state on a weekly or daily basis, there must be attached to the rental contract a separate form containing a written notice in at least 10-point bold type, if printed, or in capital letters, if typewritten, which states:

Under Minnesota law, a personal automobile insurance policy issued in Minnesota must cover the rental of this motor vehicle against damage to the vehicle and against loss of use of the vehicle. Therefore, purchase of any collision damage waiver or similar insurance affected in this rental contract is not necessary if your policy was issued in Minnesota.

No collision damage waiver or other insurance offered as part of or in conjunction with a rental of a motor vehicle may be sold unless the person renting the vehicle provides a written acknowledgment that the above consumer protection notice has been read and understood.

(g) When damage to a rented vehicle is covered by a plan of reparation security as provided under paragraph (a), the rental contract must state that payment by the reparation obligor within the time limits of section 72A.201 is acceptable, and prior payment by the renter is not required.

(h) To be compensated for the loss of use of a damaged rented motor vehicle, the car rental company must prove:

- (1) that had the vehicle been available, it would have been rented; and
- (2) that no other vehicle was available for rental in place of the damaged vehicle.

The standard of proof set forth in this paragraph does not limit the responsibility of a reparation obligor to provide an insured with coverage for any loss of use for which the reparation obligor is otherwise responsible. A car rental company may be compen-

sated for loss of use of a damaged rental motor vehicle only for the period when the damaged car actually would have been rented.

*[For text of subds 7 and 8, see M.S.1988]*

**History:** 1989 c 213 s 1,2; 1989 c 260 s 15; 1989 c 356 s 20,41

#### **65B.51 DEDUCTION OF COLLATERAL BENEFITS FROM TORT RECOVERY; LIMITATION ON RIGHT TO RECOVER DAMAGES.**

*[For text of subd 1, see M.S.1988]*

Subd. 2. **Right to recover economic loss not covered in first party benefits.** A person may bring a negligence action for economic loss not paid or payable by a reparation obligor or through the assigned claims plan because of any lack of insurance coverage for the economic loss described in section 65B.44, daily or weekly dollar limitations of section 65B.44, the seven-day services exclusion of section 65B.44, the limitations of benefits contained in section 65B.44, subdivision 1, or an exclusion from coverage by sections 65B.58 to 65B.60.

*[For text of subds 3 to 5, see M.S.1988]*

**History:** 1989 c 58 s 1

#### **65B.525 ARBITRATION PROCEDURE; RULES OF COURT.**

Subdivision 1. Except as otherwise provided in section 72A.327, the supreme court and the several courts of general trial jurisdiction of this state shall by rules of court or other constitutionally allowable device, provide for the mandatory submission to binding arbitration of all cases at issue where the claim at the commencement of arbitration is in an amount of \$5,000 or less against any insured's reparation obligor for no-fault benefits or comprehensive or collision damage coverage.

*[For text of subd 2, see M.S.1988]*

**History:** 1989 c 260 s 16; 1989 c 330 s 26

#### **65B.64 PERSONS ENTITLED TO PARTICIPATE IN ASSIGNED CLAIMS PLAN.**

*[For text of subd 1, see M.S.1988]*

Subd. 2. If a claim qualifies for assignment under subdivision 1, the assigned claims bureau or any reparation obligor to whom the claim is assigned shall have the right to seek indemnification from an uninsured tortfeasor. Except as otherwise provided in section 340A.801, subdivision 4, the reparation obligor to whom the claim is assigned shall further be subrogated to all of the rights of the claimant against any person for economic loss benefits provided by the obligor to whom the claim was assigned.

Subd. 3. A person shall not be entitled to basic economic loss benefits through the assigned claims plan with respect to injury which was sustained if at the time of such injury the injured person was the owner of a private passenger motor vehicle for which security is required under sections 65B.41 to 65B.71 and that person failed to have such security in effect. Persons, whether or not related by blood or marriage, who dwell and function together with the owner as a family, other than adults who have been adjudicated as incompetent and minor children, shall also be disqualified from benefits through the assigned claims plan.

**History:** 1989 c 58 s 2,3

#### **65B.67 PENALTIES FOR FAILURE TO PROVIDE SECURITY FOR BASIC REPARATION BENEFITS.**

*[For text of subd 1, see M.S.1988]*

**Subd. 2. Violation by owner.** Any owner of a motor vehicle or motorcycle with respect to which security is required under sections 65B.41 to 65B.71 who operates the motor vehicle or motorcycle or permits it to be operated upon a public highway, street or road in this state and who knows or has reason to know that the motor vehicle or motorcycle does not have security complying with the terms of section 65B.48, is guilty of a crime and shall be sentenced as provided in subdivision 4.

**Subd. 3. Violation by driver.** Any other person who operates a motor vehicle or motorcycle upon a public highway, street or road in this state who knows or has reason to know that the owner does not have security complying with the terms of section 65B.48 in full force and effect is guilty of a crime and shall be sentenced as provided in subdivision 4.

**Subd. 3a. False statements.** Any owner of a motor vehicle or motorcycle who falsely claims to have a plan of reparation security in effect at the time of registration of a motor vehicle or motorcycle pursuant to section 65B.48 is guilty of a crime and shall be sentenced as provided in subdivision 4.

**Subd. 4. Penalty.** (a) A person who violates this section is guilty of a misdemeanor. A person who violates this section within ten years of the first of two prior convictions under this section, or a statute or ordinance from another state in conformity with this section, is guilty of a gross misdemeanor. The operator of a motor vehicle or motorcycle who violates subdivision 3 and who causes or contributes to causing a motor vehicle or motorcycle accident that results in the death of any person or in substantial bodily harm to any person, as defined in section 609.02, subdivision 7a, is guilty of a gross misdemeanor. The same prosecuting authority who is responsible for prosecuting misdemeanor violations of this section is responsible for prosecuting gross misdemeanor violations of this section.

(b) In addition to the criminal penalty, the driver's license of an operator convicted under this section shall be revoked for not more than 12 months. If the operator is also an owner of the motor vehicle or motorcycle, the registration of the motor vehicle or motorcycle shall also be revoked for not more than 12 months. Before reinstatement of a driver's license or registration, the operator shall file with the commissioner of public safety the written certificate of an insurance carrier authorized to do business in this state stating that security has been provided by the operator as required by section 65B.48.

(c) The commissioner shall include a notice of the penalties contained in this section on all forms for registration of motor vehicles or motorcycles required to maintain a plan of reparation security.

*[For text of subds 4a to 6, see M.S.1988]*

**History:** 1989 c 321 s 2-5