

## HOUSE RESEARCH

## Information Brief

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AUTOMOBILE INSURANCE:  
CHANGES IN NO-FAULT LAWS IN 1985

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Significant changes in the No-Fault Automobile Insurance Law were made in 1985.

- The principal change from current law was a trade-off which increased coverage requirements in exchange for cost containment measures.
- Four different laws were passed, two each during the regular and special sessions. The main battleground was uninsured/underinsured motorist coverage: four different versions were enacted and a court will have to decide which is "the law."
- Most of the new provisions go into effect on October 1, 1985. However, there are five different effective dates for various parts of the new laws.

INCREASED COVERAGES

Coverage requirements were increased for all three coverages that the no-fault law mandates. [For a description of the coverages included in an auto insurance policy, see Stan Jacobson, Automobile Insurance: Types of Coverage, October 1985.] The required amounts of coverage were increased for both basic no-fault and liability coverages. The required scope of coverage, but not the amount, was increased for uninsured motorist coverage.

● **Basic No-Fault ("Personal Injury Protection")**

	<u>1975-1984</u>	<u>1985-</u>
Maximum non-medical coverage per person	\$10,000	\$20,000
Maximum weekly income loss	\$ 200	\$ 250
Maximum funeral expenses	\$ 1,250	\$ 2,000

(The maximum medical coverage per person remains at \$20,000.)

● **Liability Coverage for Bodily Injury**

	<u>1975-1984</u>	<u>1985-</u>
Maximum per person	\$25,000	\$30,000
Maximum per accident	\$50,000	\$60,000

● **Uninsured Motorist Coverage**

The scope of this coverage was expanded to include underinsured, as well as uninsured, motorist coverage.

- Uninsured motorist coverage applies when the at-fault driver has no liability insurance.
- Underinsured motorist coverage applies when the at-fault driver has some liability insurance, but the amount of that insurance is less than the amount provided by the underinsured motorist coverage.

The amount of the combined uninsured/underinsured motorist coverage remains unchanged:

\$25,000 per person, up to  
\$50,000 per accident.

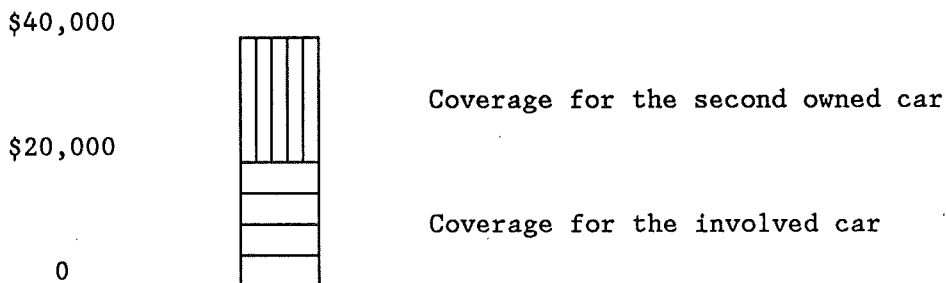
COST-CONTAINMENT MEASURES

The principal cost-containment measure was the elimination of stacking; however, two other cost-containment measures were also enacted relating to underinsured motorist coverage and mandatory arbitration.

• Eliminating Stacking

"Stacking" refers to a judicial doctrine that permits a person who owns two insured cars to add the coverages together from each car, thereby doubling the amount of insurance available for a single accident, even though only one car was involved.

For example, if insurance providing \$20,000 of basic no-fault coverage for medical expenses applied for each of a family's two cars, an injured person could collect \$40,000 for medical expenses for one accident.



The 1985 legislation reversed the general rule created by the courts that stacking applied automatically to basic no-fault coverage and uninsured motorist coverage. Under the new law the policyholder may choose whether or not he wants to "stack" or add together the coverages for more than one insured car. An extra premium will be charged for the extra coverage.

Whether or not the policyholder may choose stacking for uninsured/underinsured motorist coverage is uncertain. The first law passed by the legislature said "no." The second said "yes." The first law on no-fault passed during the special session repealed the two versions previously passed and again said "no choice." The fourth law purports to provide policyholders this choice, but its legal effect is in doubt. A legal challenge is likely, so the courts will decide which version is really "the law."

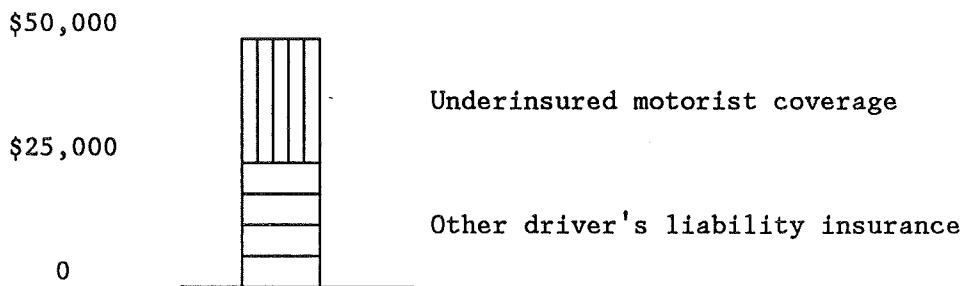
The courts applied the stacking doctrine only to basic no-fault coverage and uninsured motorist coverage. It was never applied to liability coverage.

• Underinsured Motorist Coverage

In exchange for expanding the scope of uninsured motorist coverage to include underinsured motorist coverage (described above under "Increased Coverages"), the method of calculating underinsured motorist coverage was changed in order to keep its cost down.

The 'Add-On' Method.

The former method was to add the underinsured motorist coverage on top of the liability insurance of the at-fault driver. For example, if the underinsured motorist coverage was \$25,000 and the at-fault driver had liability insurance of \$25,000, a total of \$50,000 was available.

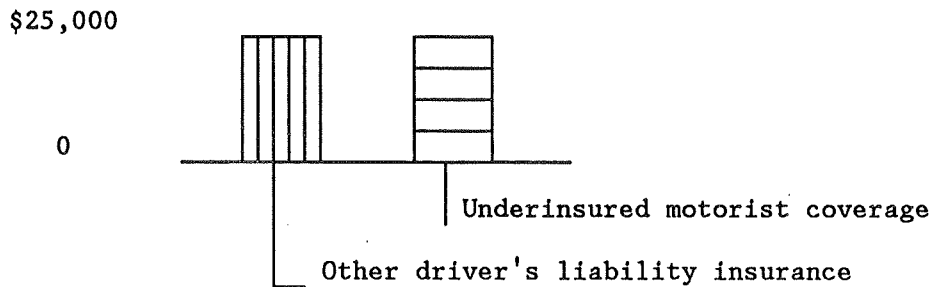


The 'Difference of Limits' Method.

Under the new method, the underinsured motorist coverage only pays for the difference between its maximum coverage and the maximum liability insurance of the at-fault driver. Using the above example with maximum coverages of \$25,000 each, there is no difference in the maximum limits:

$$\begin{array}{r}
 \$25,000 \text{ Underinsured motorist coverage} \\
 -\$25,000 \text{ Liability insurance} \\
 \hline
 0
 \end{array}$$

Displayed graphically, the underinsured motorist coverage appears alongside the liability insurance using the difference of limits method:



The result is that the other driver's liability insurance pays \$25,000, while the underinsured motorist coverage pays nothing.

Cost Savings for Required Coverage.

This redefinition of underinsured motorist coverage results in significant cost savings. In fact, the apparent expansion of required uninsured motorist coverage to include underinsured motorist coverage costs nothing at the level of coverage required by the no-fault law. In a typical accident involving two cars and two drivers, each of whom has only the insurance required by the no-fault law, there will be no underinsured motorist coverage:

\$25,000 Underinsured motorist coverage  
-\$30,000 Liability insurance  
-\$ 5,000

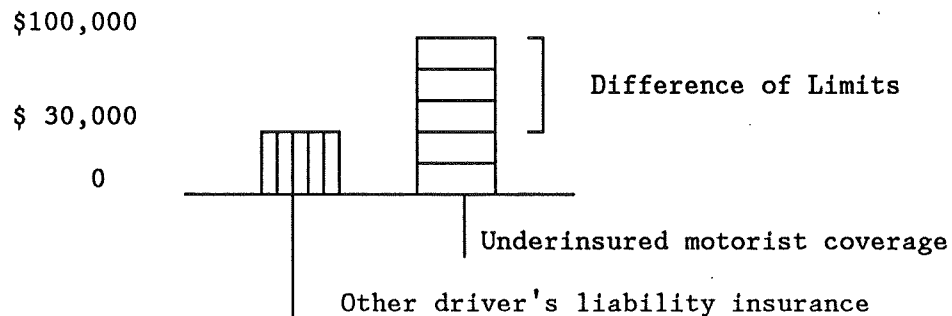
In other words, because the liability insurance exceeds the underinsured motorist coverage, nothing is payable under the underinsured motorist coverage.

Cost Savings for Higher Optional Coverage.

The only people affected by the expansion of uninsured motorist coverage to include underinsured motorist coverage are those who choose to increase this new coverage above the \$25,000 per person limit required by the no-fault law. In fact, the uninsured/underinsured motorist coverage must be increased above the new \$30,000 per person liability limit in order for the underinsured coverage to come into play. For example, if the policyholder has chosen \$100,000 of uninsured/underinsured motorist coverage, then the underinsured motorist coverage will provide \$70,000 of coverage when the other driver is at fault and the other driver has the standard liability coverage required by the law:

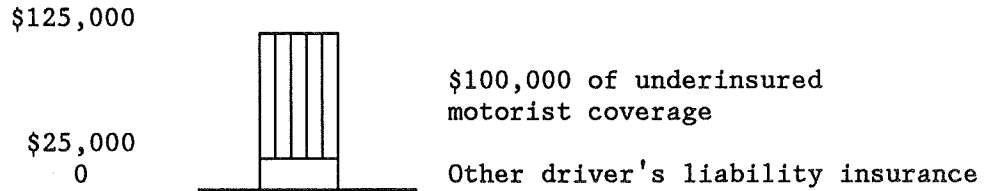
\$100,000 Underinsured motorist coverage  
-\$ 30,000 Liability coverage  
\$ 70,000

Displayed graphically:

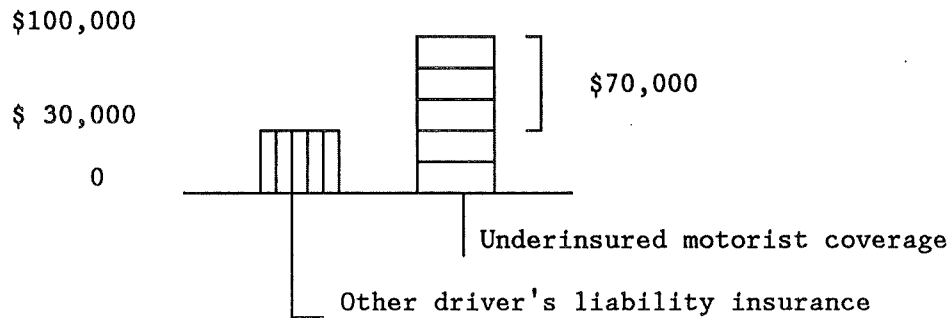


The first \$30,000 of damages is paid by the other driver's liability insurance, while the remaining \$70,000 is paid by the policyholder's underinsured motorist coverage.

The redefinition of underinsured motorist coverage should provide a cost savings even for those who select a higher-than-required limit for the uninsured/underinsured motorist coverage. Under the old law, \$100,000 of underinsured motorist coverage would have provided coverage beginning at \$25,001 and going up to \$125,000, as follows:



Under the new law, \$100,000 of underinsured motorist coverage will ordinarily provide coverage beginning at \$30,001 and going up to \$100,000 as follows:



Not only is the amount of coverage less, but it also starts at a higher dollar figure. Both of these factors should provide cost savings for this coverage.

● **Mandatory Arbitration**

All claims for personal injuries under \$5,000 are now subject to mandatory arbitration. Previously, submission of these claims to arbitration required the consent of each person involved in the litigation. This has the effect of diverting small claims from the more expensive court system into the less expensive arbitration system.

EFFECTIVE DATES

Most provisions of the new law take effect on October 1, 1985. However, apparently because of the confusion created by four different laws on no-fault, some provisions were effective on other dates. For example, the increased coverage for funeral expenses was effective August 1, 1985. Unfortunately, the uninsured motorist coverage was repealed on June 28, 1985 and was not replaced by the new combined uninsured/underinsured motorist coverage until October 1, 1985. Other minor provisions were effective on May 22, 1985, July 1, 1985 and August 1, 1985.