

House Bill 2256

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Consumer Protection and Government Efficiency)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires personal injury protection policy to include coverage for injury or death that person who operates or rides upon bicycle or other human-powered vehicle suffers as a result of insured vehicle striking person. Specifies that coverage for person is excess coverage.

Becomes operative January 1, 2016.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to personal injury protections for persons other than the insured in motor vehicle insur-
3 ance policies; creating new provisions; amending ORS 742.520 and 742.526; and declaring an
4 emergency.

5 **Be It Enacted by the People of the State of Oregon:**

6 **SECTION 1.** ORS 742.520 is amended to read:

7 742.520. (1) Every motor vehicle liability policy issued for delivery in this state that covers any
8 private passenger motor vehicle [*shall*] **must** provide personal injury protection benefits to:

9 (a) The person insured [*thereunder,*] **under the policy;**

10 (b) [*members of that person's family residing*] **A member of the insured's family that resides**
11 **in the same household[,];**

12 (c) [*Children*] **A child that is** not related to the insured by blood, marriage or adoption who
13 [*are residing*] **resides** in the same household as the insured and [*being reared*] **that the insured is**
14 **raising** as the insured's own[,];

15 (d) [*Passengers occupying*] **A passenger that occupies** the insured motor vehicle;

16 (e) **A person that operates or rides upon a bicycle, as defined in ORS 801.150, or another**
17 **human-powered vehicle that the insured vehicle strikes;** and

18 (f) [*Pedestrians struck by*] **A pedestrian that** the insured motor vehicle **strikes.**

19 (2) Personal injury protection benefits apply to a person's injury or death [*resulting*] **that re-**
20 **sults from:**

21 (a) **Using, occupying or maintaining a motor vehicle, if** [*In the case of the person*] **the insured**
22 [*under the policy and members of that person's*] **or a member of the insured's family** [*residing*] **that**
23 **resides** in the same household **suffers the injury or death,** [*from the use, occupancy or maintenance*
24 *of any motor vehicle, except the following vehicles*] **unless the injury or death occurs while the**
25 **person uses, occupies or maintains:**

26 (A) A motor vehicle, including a motorcycle or moped, that is **not described in the policy but**
27 **is owned,** [*or*] **furnished or available for the insured or the other person to use regularly** [*regular*
28 *use by any of such persons and that is not described in the policy*];

29 (B) A motorcycle or moped [*which is not owned by any of such persons*] **that the insured or**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 **other person does not own**, *[but]* **except that** this exclusion applies only *[when]* **if** the injury or
 2 death results from *[such]* **the insured's or the other** person's operating or riding upon the motor-
 3 cycle or moped; *[and]* **or**

4 (C) A motor vehicle **that is** not included in subparagraph (A) or (B) of this paragraph and **is**
 5 not a private passenger motor vehicle. *However*, **except that** this exclusion applies only when the
 6 injury or death results from *[such]* **the insured's or the other** person's operating or occupying the
 7 motor vehicle.

8 (b) *[In the case of a passenger occupying or a pedestrian struck by the insured motor vehicle, from*
 9 *the use, occupancy or maintenance of the vehicle.]* **Using, occupying or maintaining the insured**
 10 **vehicle, if a passenger that occupies the insured vehicle suffers the injury or death or if the**
 11 **insured vehicle strikes a pedestrian or a person that operates or rides upon a bicycle, as**
 12 **defined in ORS 801.150, or other human-powered vehicle and the insured vehicle causes the**
 13 **injury or death.**

14 (3) Personal injury protection benefits consist of payments for expenses, loss of income and loss
 15 of essential services as provided in ORS 742.524.

16 (4) An insurer shall pay all personal injury protection benefits promptly after proof of loss has
 17 been submitted to the insurer.

18 (5) The potential existence of a cause of action in tort does not relieve an insurer from the duty
 19 to pay personal injury protection benefits.

20 (6) Disputes between *[insurers and beneficiaries]* **an insurer and a beneficiary** about the
 21 amount of personal injury protection benefits, or about the denial of personal injury protection
 22 benefits, *[shall]* **must** be decided by arbitration if **the insurer and the beneficiary** mutually
 23 *[agreed]* **agree to arbitration** at the time of the dispute. Arbitration under this subsection *[shall take*
 24 *place]* **must occur** as described in ORS 742.521.

25 (7) An insurer:

26 (a) May not enter into or renew any contract that provides, or has the effect of providing,
 27 managed care services to beneficiaries.

28 (b) May enter into or renew any contract that provides evaluation services for beneficiaries.

29 **SECTION 2.** ORS 742.526 is amended to read:

30 742.526. (1)(a) *[The]* Personal injury protection benefits **are primary** with respect to:

31 *[(a)]* (A) The insured and members of the family of the insured *[residing]* **that reside** in the same
 32 household **who are** injured while occupying the insured motor vehicle *[shall be primary]*.

33 *[(b)]* (B) Passengers **who are** injured while occupying the insured motor vehicle *[shall be pri-*
 34 *mary]*.

35 *[(c)]* (C) The insured and members of **the insured's** family *[residing]* **that reside** in the same
 36 household *[injured as pedestrians shall be primary]* **who are injured as pedestrians or while op-**
 37 **erating or riding upon a bicycle, as defined in ORS 801.150, or another human-powered**
 38 **vehicle.**

39 (b) **Personal injury protection benefits are excess with respect to:**

40 *[(d)]* (A) The insured and members of **the insured's** family *[residing]* **that reside** in the same
 41 household **who are** injured while occupying a motor vehicle **that is** not insured under the policy
 42 *[shall be excess]*.

43 *[(e)]* (B) Pedestrians **and persons that are operating or riding upon a bicycle, as defined in**
 44 **ORS 801.150, or another human-powered vehicle who are** injured by the insured motor vehicle,
 45 other than the insured and members of **the insured's** family *[residing]* **that reside** in the same

1 household[,]. [*shall be*] **For purposes of this subparagraph, excess means excess** over any other
 2 collateral benefits to which the injured person is entitled, including but not limited to insurance
 3 benefits, governmental benefits or gratuitous benefits.

4 (2) [*The*] **The policy may provide for reducing or eliminating** personal injury protection
 5 benefits [*may be reduced or eliminated, if it is so provided in the policy, when*] **if** the injured person
 6 is entitled to receive, under the laws of this state or any other state or the United States, workers'
 7 compensation benefits or any other similar medical or disability benefits.

8 **SECTION 3. The amendments to ORS 742.520 and 742.526 by sections 1 and 2 of this 2015**
 9 **Act apply to insurance policies that an insurer issues or renews on or after the operative**
 10 **date specified in section 4 of this 2015 Act.**

11 **SECTION 4. (1) The amendments to ORS 742.520 and 742.526 by sections 1 and 2 of this**
 12 **2015 Act become operative January 1, 2016.**

13 (2) **The Director of the Department of Consumer and Business Services, before the op-**
 14 **erative date specified in subsection (1) of this section, may adopt rules and take any other**
 15 **action that is necessary to enable the director, on and after the operative date specified in**
 16 **subsection (1) of this section, to exercise all of the duties, functions and powers conferred**
 17 **on the director by the amendments to ORS 742.520 and 742.526 by sections 1 and 2 of this 2015**
 18 **Act.**

19 **SECTION 5. This 2015 Act being necessary for the immediate preservation of the public**
 20 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**
 21 **on its passage.**

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