SENATE BILL NO. 313–SENATOR SHAFFER

MARCH 4, 1999

Referred to Committee on Commerce and Labor

SUMMARY—Requires insurer to obtain express written acceptance of coverage from insured if coverage for medical expenses is included in policy of motor vehicle insurance. (BDR 57-989)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets [~~omitted material~~] is material to be omitted.

AN ACT relating to insurance; requiring an insurer to obtain express written acceptance of the coverage from the insured if coverage for medical expenses is included in a policy of motor vehicle insurance; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 687B.145 is hereby amended to read as follows:

687B.145 1. Any policy of insurance or endorsement providing coverage under the provisions of NRS 690B.020 or other policy of casualty insurance may provide that if the insured has coverage available to him under more than one policy or provision of coverage, any recovery or benefits may equal but not exceed the higher of the applicable limits of the respective coverages, and the recovery or benefits must be prorated between the applicable coverages in the proportion that their respective limits bear to the aggregate of their limits. Any provision which limits benefits pursuant to this section must be in clear language and be prominently displayed in the policy, binder or endorsement. Any limiting provision is void if the named insured has purchased separate coverage on the same risk and has paid a premium calculated for full reimbursement under that coverage.

2. Except as otherwise provided in subsection 5, insurance companies transacting motor vehicle insurance in this state must offer, on a form approved by the commissioner, uninsured and underinsured vehicle

coverage in an amount equal to the limits of coverage for bodily injury sold to an insured under a policy of insurance covering the use of a passenger car. The insurer is not required to reoffer the coverage to the insured in any replacement, reinstatement, substitute or amended policy, but the insured may purchase the coverage by requesting it in writing from the insurer. Each renewal must include a copy of the form offering such coverage. Uninsured and underinsured vehicle coverage must include a provision which enables the insured to recover up to the limits of his own coverage any amount of damages for bodily injury from his insurer which he is legally entitled to recover from the owner or operator of the other vehicle to the extent that those damages exceed the limits of the coverage for bodily injury carried by that owner or operator.

3. An insurance company transacting motor vehicle insurance in this state must offer an insured **,** under a policy covering the use of a passenger car, the option of purchasing coverage in an amount of at least $1,000 for the payment of reasonable and necessary medical expenses resulting from an accident. The offer must be made on a form ***that:***

(a) Is separate from the policy;

(b) Contains a space for the insured to indicate whether he accepts the coverage; and

(c) Is approved by the commissioner. ***The insurer must obtain the express written acceptance of the coverage from the insured before it may charge the insured for the coverage.***

The insurer is not required to reoffer the coverage to the insured in any replacement, reinstatement, substitute or amended policy, but the insured may purchase the coverage by requesting it in writing from the insurer. Each renewal must include a copy of the form offering such coverage.

4. An insurer who makes a payment to an injured person on account of underinsured vehicle coverage as described in subsection 2 is not entitled to subrogation against the underinsured motorist who is liable for damages to the injured payee. This subsection does not affect the right or remedy of an insurer under subsection 5 of NRS 690B.020 with respect to uninsured vehicle coverage. As used in this subsection, "damages" means the amount for which the underinsured motorist is alleged to be liable to the claimant in excess of the limits of bodily injury coverage set by the underinsured motorist's policy of casualty insurance.

5. An insurer need not offer, provide or make available uninsured or underinsured vehicle coverage in connection with a general commercial liability policy, an excess policy, an umbrella policy or other policy that does not provide primary motor vehicle insurance for liabilities arising out of the ownership, maintenance, operation or use of a specifically insured motor vehicle.

6. As used in this section:

(a) "Excess policy" means a policy that protects a person against loss in excess of a stated amount or in excess of coverage provided pursuant to another insurance contract.

(b) "Passenger car" has the meaning ascribed to it in NRS 482.087.

(c) "Umbrella policy" means a policy that protects a person against losses in excess of the underlying amount required to be covered by other policies.

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