

Fifty-sixth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2377

Introduced by

Senators Urlacher, Thompson, Watne

Representatives Boehm, Delmore, Kerzman

1 A BILL for an Act to amend and reenact subsection 2 of section 26.1-40-15.1 and section
2 26.1-40-15.6 of the North Dakota Century Code, relating to the payment of uninsured and
3 underinsured motor vehicle coverages.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Subsection 2 of section 26.1-40-15.1 of the North Dakota
6 Century Code is amended and reenacted as follows:

7 2. "Underinsured motor vehicle" means a motor vehicle for which there is a bodily
8 injury liability insurance policy, or bond providing equivalent liability protection, in
9 effect at the time of the accident, but the applicable limit of bodily injury liability of
10 ~~such the~~ the policy or bond:
11 a. ~~Is less than the applicable limit for underinsured motorist coverage under the~~
12 ~~insured's policy; or~~
13 b. ~~Has been reduced by payments to other persons injured in the accident to an~~
14 ~~amount less than the limit for underinsured motorist coverage under the~~
15 ~~insured's policy~~ is less than the amount needed to compensate the insured for
16 actual damages.

17 **SECTION 2. AMENDMENT.** Section 26.1-40-15.6 of the North Dakota Century Code
18 is amended and reenacted as follows:

19 **26.1-40-15.6. Limitations.** The uninsured and underinsured coverages provided for in
20 sections 26.1-40-15.1 through 26.1-40-15.7 do not apply to bodily injury, sickness, disease, or
21 death resulting therefrom of an insured:

22 1. While occupying a motor vehicle owned by, furnished or available for the regular
23 use of the insured, a resident spouse, or resident relative, if such motor vehicle is

- 1 not described in the policy under which a claim is made, or is not a newly acquired
- 2 or replacement motor vehicle covered under the terms of the policy;
- 3 2. While operating or occupying a motor vehicle without the specific permission of the
- 4 owner thereof, or without a reasonable belief that the insured is entitled to do so;
- 5 3. For damages for pain, suffering, mental anguish, inconvenience, or other
- 6 noneconomic loss which could not have been recovered had the owner or operator
- 7 of the motor vehicle responsible for such loss maintained the security required
- 8 under any applicable state no-fault law;
- 9 4. For punitive, exemplary, or other noncompensatory damages;
- 10 5. With respect to which the applicable statute of limitations has expired on the
- 11 insured's claim against the uninsured or underinsured motorist;
- 12 6. ~~Until the limits of all bodily injury liability policies and bonds that apply have been~~
- 13 ~~exhausted by payment of settlements or judgments, or such limits or the remaining~~
- 14 ~~part of them have been offered to the insured in writing;~~
- 15 7. Where the insured, without the written consent of the insurer, shall make any
- 16 agreement or settlement with any person who may be legally liable therefor, if such
- 17 agreement adversely affects the rights of the insurer. The insurer is not bound by
- 18 any agreement or settlement without its prior knowledge and consent. This
- 19 limitation does not apply to underinsured motorist coverage where the insured has
- 20 advised the insurer, in compliance with subsection 2 of section 26.1-40-15.5, and
- 21 the insurer has failed to advance the required payment to protect its right of
- 22 reimbursement and subrogation; and
- 23 8. 7. If the insured has failed to report the accident to the proper law enforcement
- 24 authorities as soon as practicable.