

HOUSE BILL NO. 1295

Introduced by

Representative Keiser

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

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

4 **SECTION 1. AMENDMENT.** Section 26.1-40-15.1 of the 1999 Supplement to the
5 North Dakota Century Code is amended and reenacted as follows:

6 **26.1-40-15.1. Definitions - Applicable to sections 26.1-40-15.1 through**
7 **26.1-40-15.7.** As used in sections 26.1-40-15.1 through 26.1-40-15.7 and unless the context
8 otherwise requires:

- 9 1. "Motor vehicle" means a vehicle, excluding motor vehicles weighing more than
10 twenty thousand pounds, having two or more load-bearing wheels, of a kind
11 required to be registered under the laws of this state relating to motor vehicles,
12 designed primarily for operation upon the public streets, roads, and highways, and
13 driven by power other than muscular power, and includes a trailer drawn by or
14 attached to such a vehicle.
- 15 2. "Underinsured motor vehicle" means a motor vehicle for which there is a one or
16 more insurance policies providing bodily injury liability insurance policy coverage to
17 the operator or vehicle, or for which there is a bond providing equivalent liability
18 protection, in effect at the time of the accident, but the applicable limit of bodily
19 injury liability of such policy sum of the applicable limits of liability coverage under
20 all insurance policies providing bodily injury liability coverage to the operator or
21 vehicle at the time of the accident or bond:
- 22 a. Is less than the applicable limit for underinsured motorist coverage under the
23 insured's policy; or

b. Has been reduced by payments to other persons injured in the accident to an amount less than the limit for underinsured motorist coverage under the insured's policy.

3. "Uninsured motor vehicle" means a motor vehicle for which:

- a. ~~There is~~ are no insurance policies providing bodily injury liability ~~insurance policy, or bond~~ coverage to the operator or vehicle, or for which there is no such bond providing equivalent liability protection, in effect at the time of the accident.
- b. There is an applicable bond or one or more applicable ~~policy or bond~~ policies, but the insurer, insurers, or issuer thereof refuses to provide coverage, denies coverage, or is or becomes insolvent as defined in section 26.1-42.1-02.
- c. The identity of the owner or operator cannot be ascertained and the bodily injury, sickness, disease, or death of the insured is either caused by actual physical contact of such motor vehicle with the insured, or with a motor vehicle occupied by the insured, or is independently verified by a disinterested witness.

4. The terms "uninsured motor vehicle" and "underinsured motor vehicle" do not mean a motor vehicle:

- a. Insured under the liability coverage of the same policy of which the uninsured motorist or underinsured motorist coverage is a part.
- b. Owned by any governmental unit, political subdivision, or agency thereof.
- c. Located for use as a residence or premises.
- d. With respect to uninsured motorist coverage, a self-insured motor vehicle within the meaning of the financial or safety responsibility law of the state in which the motor vehicle is registered, or any similar state or federal law.
- e. Operated by any person who is specifically excluded from coverage in the policy.

The term "underinsured motor vehicle" may not be construed to include an "uninsured motor vehicle".