

**FIRST ENGROSSMENT
with Senate Amendments**

Fifty-eighth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1190

Introduced by

Representative Wald

1 A BILL for an Act to create and enact a new subsection to section 26.1-40-15.2 and a new
2 subsection to section 26.1-40-15.3 of the North Dakota Century Code, relating to uninsured and
3 underinsured motorists; and to amend and reenact sections 26.1-41-20 and 39-05-20.2 of the
4 North Dakota Century Code, relating to motor vehicle accidents and salvage certificates of title.

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

6 **SECTION 1.** A new subsection to section 26.1-40-15.2 of the North Dakota Century
7 Code is created and enacted as follows:

8 In any claim for uninsured motorist benefits, the insured and the insurer each bear
9 responsibility for one's own attorney's fees incurred unless the insurance contract
10 specifically provides otherwise or the insurance company is found to have acted in
11 bad faith. It is neither a conflict of interest nor bad faith for an insurer to contest
12 and press all defenses that the uninsured motorist could press.

13 **SECTION 2.** A new subsection to section 26.1-40-15.3 of the North Dakota Century
14 Code is created and enacted as follows:

15 In any claim for underinsured motorist benefits, the insured and the insurer each
16 bear responsibility for one's own attorney's fees incurred unless the insurance
17 contract specifically provides otherwise or the insurance company is found to have
18 acted in bad faith. It is neither a conflict of interest nor bad faith for an insurer to
19 contest and press all defenses that the underinsured motorist could press.

20 **SECTION 3. AMENDMENT.** Section 26.1-41-20 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **26.1-41-20. (~~Effective through July 31, 2003~~) Secured person exemption for no**
23 **liability insurance.** In any action against a secured person to recover damages because of
24 accidental bodily injury arising out of the ownership or operation of a secured motor vehicle in

1 this state, the secured person may not be assessed damages for noneconomic loss for a
2 serious injury in favor of a party who has at least ~~two convictions~~ one prior unrelated conviction
3 under section 39-08-20 and who was operating a motor vehicle owned by that party at the time
4 of injury without a valid policy of liability insurance in order to respond to damages for liability
5 arising out of the ownership, maintenance, or use of that motor vehicle.

6 **SECTION 4. AMENDMENT.** Section 39-05-20.2 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **39-05-20.2. Issuance of salvage certificate of title.** The owner of a vehicle that is
9 damaged in excess of seventy-five percent of ~~its~~ the vehicle's retail value as determined by the
10 national automobile dealers association official used car guide; shall forward the title for that
11 vehicle to the department within ten days and the department shall issue a salvage certificate of
12 title. Glass damage and hail damage must be excluded in the determination of whether a
13 vehicle has been damaged in excess of seventy-five percent of the vehicle's retail value.

14 If a vehicle for which a salvage certificate of title has been issued is reconstructed, a
15 regular certificate of title may be obtained by completing an application for the certificate. The
16 applicant shall include with the application a certificate of inspection in the form required by the
17 department, the salvage certificate of title, and a five dollar fee. The department shall place on
18 the regular certificate of title and on all subsequent certificates of title issued for the vehicle the
19 words "previously salvaged" and a notation that damage disclosure information is available
20 from the department. The department may not issue a new certificate unless the vehicle
21 identification number of the vehicle has been inspected and found to conform to the description
22 given in the application or unless other proof of the identity of the vehicle has been provided to
23 the satisfaction of the department.