

**Fifty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 7, 2003**

HOUSE BILL NO. 1190
(Representative Wald)

AN ACT to create and enact a new subsection to section 26.1-40-15.2 and a new subsection to section 26.1-40-15.3 of the North Dakota Century Code, relating to uninsured and underinsured motorists; and to amend and reenact sections 26.1-41-20 and 39-05-20.2 of the North Dakota Century Code, relating to motor vehicle accidents and salvage certificates of title.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

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

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

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

26.1-41-20. (~~Effective through July 31, 2003~~) Secured person exemption for no liability insurance. In any action against a secured person to recover damages because of accidental bodily injury arising out of the ownership or operation of a secured motor vehicle in this state, the secured person may not be assessed damages for noneconomic loss for a serious injury in favor of a party who has at least ~~two convictions~~ one prior unrelated conviction under section 39-08-20 and who was operating a motor vehicle owned by that party at the time of injury without a valid policy of liability insurance in order to respond to damages for liability arising out of the ownership, maintenance, or use of that motor vehicle.

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

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

If a vehicle for which a salvage certificate of title has been issued is reconstructed, a regular certificate of title may be obtained by completing an application for the certificate. The applicant shall include with the application a certificate of inspection in the form required by the department, the

salvage certificate of title, and a five dollar fee. The department shall place on the regular certificate of title and on all subsequent certificates of title issued for the vehicle the words "previously salvaged" and a notation that damage disclosure information is available from the department. The department may not issue a new certificate unless the vehicle identification number of the vehicle has been inspected and found to conform to the description given in the application or unless other proof of the identity of the vehicle has been provided to the satisfaction of the department.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-eighth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1190.

House Vote: Yeas 87 Nays 7 Absent 0

Senate Vote: Yeas 25 Nays 20 Absent 2

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2003.

Approved at _____ M. on _____, 2003.

Governor

Filed in this office this _____ day of _____, 2003,

at _____ o'clock _____ M.

Secretary of State