

**First Regular Session  
Sixty-sixth General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 07-0991.01 Kristen Forrestal

**SENATE BILL 07-256**

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**SENATE SPONSORSHIP**

**Shaffer,**

**HOUSE SPONSORSHIP**

**Madden,**

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**Senate Committees**  
Judiciary

**House Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING THE PAYMENT OF UNINSURED MOTOR VEHICLE**  
102 **INSURANCE AS EXCESS TO OTHER INSURANCE.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

If a consumer opts to purchase uninsured and underinsured motor vehicle insurance, requires the insurance be provided as excess to, any motor vehicle liability coverage. Requires the uninsured and underinsured coverage to pay the difference between the amount of any legal liability coverage and the amount of the damages sustained. Prohibits the reduction of the uninsured and underinsured insurance coverage from a setoff from any other insurance.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2           **SECTION 1.** 10-4-609 (1), Colorado Revised Statutes, is  
3 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

4           **10-4-609. Insurance protection against uninsured -**  
5 **applicability.** (1) (c) THE COVERAGE DESCRIBED IN PARAGRAPH (a) OF  
6 THIS SUBSECTION (1) SHALL BE IN ADDITION TO ANY LEGAL LIABILITY  
7 COVERAGE AND SHALL COVER THE DIFFERENCE, IF ANY, BETWEEN THE  
8 AMOUNT OF THE LIMITS OF ANY LEGAL LIABILITY COVERAGE AND THE  
9 AMOUNT OF THE DAMAGES SUSTAINED, EXCLUDING EXEMPLARY  
10 DAMAGES, UP TO THE MAXIMUM AMOUNT OF THE COVERAGE OBTAINED  
11 PURSUANT TO THIS SECTION. THE AMOUNT OF THE COVERAGE AVAILABLE  
12 PURSUANT TO THIS SECTION SHALL NOT BE REDUCED BY A SETOFF FROM  
13 ANY OTHER COVERAGE, INCLUDING, BUT NOT LIMITED TO, LEGAL LIABILITY  
14 INSURANCE, MEDICAL PAYMENTS COVERAGE, HEALTH INSURANCE, OR  
15 OTHER UNINSURED OR UNDERINSURED MOTOR VEHICLE INSURANCE. ==

16           **SECTION 2.** 10-4-609 (2), (4), and (5), Colorado Revised  
17 Statutes, are amended to read:

18           **10-4-609. Insurance protection against uninsured -**  
19 **applicability.** (2) ~~Prior to the time~~ BEFORE the policy is issued or  
20 renewed, the insurer shall offer the named insured the right to obtain  
21 ~~higher limits of uninsured motorist coverage in accordance with its rating~~  
22 ~~plan and rules~~ AN AMOUNT EQUAL TO THE INSURED'S BODILY INJURY  
23 LIABILITY LIMITS, but in no event shall the insurer be required to ~~provide~~  
24 OFFER limits higher than the insured's bodily injury liability limits. ~~or one~~  
25 ~~hundred thousand dollars per person and three hundred thousand dollars~~  
26 ~~per accident, whichever is less. A policy may contain provisions which~~

1 prohibit stacking the limits of more than one uninsured motorist coverage  
2 policy as provided in this section, if such provisions are included in a  
3 single policy covering multiple vehicles or in multiple policies issued by  
4 one insurer or an affiliated insurer, under common ownership or  
5 management, to an insured or to a resident relative of such insured. Such  
6 provisions shall not prohibit stacking of the uninsured or underinsured  
7 portions of a policy issued to an insured and a separate policy covering  
8 the insured which was not issued to the insured or a resident relative. For  
9 purposes of this subsection (2), underinsured motorist coverage is  
10 included in the term "uninsured motorist coverage" pursuant to subsection  
11 (4) of this section.

12 (4) Uninsured motorist coverage shall include coverage for  
13 damage for bodily injury or death ~~which~~ THAT an insured is legally  
14 entitled to collect from the owner or driver of an underinsured motor  
15 vehicle. An underinsured motor vehicle is a land motor vehicle, the  
16 ownership, maintenance, or use of which is insured or bonded for bodily  
17 injury or death at the time of the accident. ~~but the limits of liability for~~  
18 ~~bodily injury or death under such insurance or bonds are:~~

19 (a) ~~Less than the limits for uninsured motorist coverage under the~~  
20 ~~insured's policy; or~~

21 (b) ~~Reduced by payments to persons other than an insured in the~~  
22 ~~accident to less than the limits of uninsured motorist coverage under the~~  
23 ~~insured's policy.~~

24 (5) ~~The maximum liability of the insurer under the uninsured~~  
25 ~~motorist coverage provided shall be the lesser of:~~

26 (a) ~~The difference between the limit of uninsured motorist~~  
27 ~~coverage and the amount paid to the insured by or for any person or~~

1 organization who may be held legally liable for the bodily injury; or

2 (b) ~~The amount of damages sustained, but not recovered.~~

3 **SECTION 3. Repeal.** 10-4-418 (2) (c), Colorado Revised  
4 Statutes, is repealed as follows:

5 **10-4-418. Enforcement procedures - penalties.** (2) (c) The  
6 commissioner shall not find that a policy form, certificate, or contract of  
7 insurance or rider does not comply with the applicable requirements and  
8 standards of this title on the ground that it prohibits stacking the limits of  
9 more than one uninsured motorist coverage policy as provided in section  
10 10-4-609. Such provisions to prevent stacking are in conformity with the  
11 public policy of this state, if such provisions are included in a single  
12 policy covering multiple vehicles or in multiple policies issued by one  
13 insurer or an affiliated insurer, under common ownership or management,  
14 to an insured or to a resident relative of such insured. Such provision  
15 shall not prohibit stacking of the uninsured or underinsured portions of a  
16 policy issued to an insured and a separate policy covering the insured  
17 which was not issued to the insured or a resident relative. For purposes  
18 of this paragraph (c), underinsured motorist coverage is included in the  
19 term "uninsured motorist coverage" pursuant to section 10-4-609 (4).

20 **SECTION 4. Effective date - applicability.** This act shall take  
21 effect January 1, 2008, and shall apply to policies issued or renewed on  
22 or after the applicable effective date of this act.

23 **SECTION 5. Safety clause.** The general assembly hereby finds,  
24 determines, and declares that this act is necessary for the immediate  
25 preservation of the public peace, health, and safety.