AN ACT concerning insurance; relating to motor vehicles, uninsured
motorist coverage; right to reject coverage; amending K.S.A. 40-284
and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 40-284 is hereby amended to read as follows: 40-
284. (a) No automobile liability insurance policy covering liability arising
out of the ownership, maintenance, or use of any motor vehicle shall be
delivered, or issued for delivery, in this state with respect to any motor
vehicle registered or principally garaged in this state, unless the policy
contains, or has endorsed thereon, a provision with coverage limits equal
to the limits of liability coverage for bodily injury or death in such
automobile liability insurance policy sold to the named insured for
payment of part or all sums which that the insured or the insured's legal
representative shall be legally entitled to recover as damages from the
uninsured owner or operator of a motor vehicle because of bodily injury,
sickness or disease, including death, resulting therefrom, sustained by the
insured, caused by accident and arising out of ownership, maintenance or
use of such motor vehicle, or providing for such payment irrespective
of legal liability of the insured or any other person or organization. No insurer shall be required to offer, provide or make
available coverage conforming to this section in connection with any
excess policy, umbrella policy or any other policy which that does not
provide primary motor vehicle insurance for liabilities arising out of the
ownership, maintenance, operation or use of a specifically insured motor
vehicle.

(b) Any uninsured motorist coverage shall include an underinsured
motorist provision which that enables the insured or the insured's legal
representative to recover from the insurer the amount of damages for
bodily injury or death to which the insured is legally entitled from the
owner or operator of another motor vehicle with coverage limits equal to
the limits of liability provided by such uninsured motorist coverage to the
extent such coverage exceeds the limits of the bodily injury coverage
carried by the owner or operator of the other motor vehicle.

(c) (1) The insured named in the policy shall have the right to reject,
in writing, the uninsured motorist coverage required by subsections (a) and
(b) which is in excess of the limits for bodily injury or death set forth
in K.S.A. 40-3107, and amendments thereto. A rejection by an insured
named in the policy of the uninsured motorist coverage shall be a rejection
on behalf of all parties insured by the policy. Unless the insured named in
the policy requests such coverage in writing, such coverage need not be
provided in any subsequent policy issued by the same insurer for motor
vehicles owned by the named insured, including, but not limited to,
supplemental, renewal, reinstated, transferred or substitute policies where
the named insured had rejected the coverage in connection with a policy
previously issued to the insured by the same insurer.

(2) Notwithstanding the provisions of paragraph (1), any
governmental entity as defined in K.S.A. 75-6102, and amendments
thereto, or self-insurer shall have the right to reject, in writing, all
uninsured motorist coverage.

(d) Coverage under the policy shall be limited to the extent that the
total limits available cannot exceed the highest limits of any single
applicable policy, regardless of the number of policies involved, persons
covered, claims made, vehicles or premiums shown on the policy or
premiums paid or vehicles involved in an accident.

(e) Any insurer may provide for the exclusion or limitation of
coverage:

(1) When the insured is occupying or struck by an uninsured
automobile or trailer owned or provided for the insured's regular use;

(2) when the uninsured automobile is owned by a self-insurer or any
governmental entity;

(3) when there is no evidence of physical contact with the uninsured
motor vehicle and when there is no reliable competent evidence to prove
the facts of the accident from a disinterested witness not making claim
under the policy;

(4) to the extent that workers' compensation benefits apply;

(5) when suit is filed against the uninsured motorist without notice to
the insurance carrier; and

(6) to the extent that personal injury protection benefits apply.

(f) An underinsured motorist coverage insurer shall have subrogation
rights under the provisions of K.S.A. 40-287, and amendments thereto. If a
tentative agreement to settle for liability limits has been reached with an
underinsured tortfeasor, written notice must be given by certified
mail to the underinsured motorist coverage insurer by its insured. Such
written notice shall include written documentation of pecuniary losses
incurred, including copies of all medical bills and written authorization or
a court order to obtain reports from all employers and medical providers.
Within 60 days of receipt of this written notice, the underinsured motorist
coverage insurer may substitute its payment to the insured for the tentative
settlement amount. The underinsured motorist coverage insurer is *shall* then be subrogated to the insured's right of recovery to the extent of such payment and any settlement under the underinsured motorist coverage. If the underinsured motorist coverage insurer fails to pay the insured the amount of the tentative tort settlement within 60 days, the underinsured motorist coverage insurer has *shall have* no right of subrogation for any amount paid under the underinsured motorist coverage.

Sec. 2. K.S.A. 40-284 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.