

PLEASE READ THIS ENDORSEMENT CAREFULLY AS IT CHANGES YOUR POLICY

PERSONAL INJURY PROTECTION COVERAGE – NORTH DAKOTA

DEFINITIONS

A. The following are replaced with the for purposes of this coverage:

“Family member” means:

1. A spouse;
2. Any other person related to the “named insured” by blood, marriage, or adoption; or
3. A ward or foster child;

who is a resident of the “named insured’s” household or who usually makes his or her home in the same household but temporarily lives elsewhere.

“Occupying” means to be in or upon.

“Your covered auto” means a “motor vehicle” with respect to which:

1. Security is required under the provisions of the North Dakota Auto Accident Reparations Act; and
2. The bodily injury liability coverage of this policy applies and for which a specific premium is charged.

B. The following are added for purposes of this coverage:

“Motor vehicle” means a vehicle which:

1. Has more than three load-bearing wheels;
2. Is required to be registered under North Dakota law;
3. Is designed primarily for operation upon the public streets, roads, and highways; and
4. Is driven by power other than muscular power.

This includes a trailer designed for use with such vehicle.

“Pedestrian” means any person not “occupying”:

1. A “motor vehicle”; or
2. Any other vehicle designed to be driven or drawn by power other than muscular power.

“Ride-sharing arrangement” means the transportation of persons in a “motor vehicle” if the transportation:

1. Is incidental to another purpose of the driver or owner; and
2. Is not provided for a fee.

This includes such arrangements known as carpools and van pools as defined under North Dakota law.

“Survivor” means a dependent survivor of a deceased “insured” and includes only:

1. The surviving spouse if residing in the deceased’s household at the time of death. Such spouse’s dependency shall end upon remarriage.
2. Other persons receiving support from the deceased at the time of death which would qualify them as dependents of the deceased for federal income tax purposes under the Federal Internal Revenue Code.

C. As used in this endorsement:

“Insured” means:

1. The “named insured” or a “family member” who sustains “bodily injury” while:
 - a. “Occupying” any “motor vehicle”; or
 - b. A “pedestrian” struck by any “motor vehicle” or motorcycle.
2. Any other person who sustains “bodily injury” while:

- a. "Occupying" or while a "pedestrian" struck by "your covered auto"; or
- b. "Occupying" a "motor vehicle" not owned by the "named insured" or a "family member", if the "bodily injury" results from the operation of such "motor vehicle" by that "named insured" or a "family member".

"Named insured" means the person named in the Declarations.

INSURING AGREEMENT

A. We will pay, in accordance with the North Dakota Auto Accident Reparations Act, personal injury protection benefits to or for an "insured" who sustains "bodily injury". The "bodily injury" must:

- 1. Be caused by an accident; and
- 2. Arise out of the operation, maintenance, or use of a "motor vehicle" as a vehicle.

B. Subject to the limits shown in the Declarations or Schedule, these benefits consist of the following:

- 1. **Medical expenses.** Usual and customary charges incurred for reasonable and necessary:
 - a. Medical, surgical, diagnostic, x-ray, dental, prosthetic, ambulance, hospital, or professional nursing services; or
 - b. Services for remedial treatment and care.

Usual and customary charges do not include:

- a. The portion of the charge for a room in any:
 - 1) Hospital, clinic, convalescent, or nursing home; or
 - 2) Extended care facility or any other similar facility;
 in excess of the reasonable and customary charge for semiprivate accommodations unless intensive care is medically needed;
 - b. Charges for drugs sold without a prescription;
 - c. Charges for experimental treatments; or
 - d. Charges for medically unproven treatments.
- 2. **Rehabilitation expenses.** The cost of a procedure or treatment for rehabilitation or a course of rehabilitative occupational training if:
 - a. The procedure, treatment, or training is:
 - 1) Reasonable and appropriate for the particular case;
 - 2) Likely to contribute substantially to medical or occupational rehabilitation; and
 - b. The cost is reasonable in relation to its probable rehabilitative effects.
 - 3. **Work loss.** 85% of loss of income from work an "insured", who would normally be employed in gainful activity during the disability period, would have performed had such "insured" not been injured. Work loss shall be reduced by income:
 - a. From substitute work actually performed by the "insured"; or
 - b. The "insured" would have earned from available, appropriate substitute work which such "insured" was capable of performing but unreasonably failed to undertake.
 - 4. **Replacement services loss.** Expenses incurred in obtaining ordinary and necessary services instead of those that an "insured" would have performed for the benefit of the "insured" or the "insured's" household had such "insured" not been injured. Replacement services loss does not include:
 - a. Expenses for services the "insured" would have performed for income;
 - b. Expenses for services obtained from a "family member"; or
 - c. Any loss after the death of the "insured".
 - 5. **Survivors' income loss.** Loss sustained after an "insured's" death by the "insured's" "survivors" during

their dependency. Such loss consists of the loss of contributions the “survivors” would have received for their support from such “insured”, out of income from work the “insured” would normally have performed, had such “insured” not died.

6. **Survivors’ replacement loss.** Expenses incurred after an “insured’s” death by the “insured’s” “survivors” in obtaining ordinary and necessary services instead of those such “insured” would have performed for the benefit of the “insured’s” household. Survivors’ replacement services loss does not include expenses for services:
 - a. The “insured” would have performed for income; or
 - b. Obtained from a “family member”.
7. **Funeral expenses.** Reasonable expenses incurred for a professional funeral, cremation, and burial.

EXCLUSIONS

- A. We do not provide coverage under this endorsement for “bodily injury” sustained by any “insured”:
 1. If such injury arises out of conduct within the course of a business of:
 - a. Repairing;
 - b. Servicing; or
 - c. Otherwise maintaining;
 a “motor vehicle”. This exclusion does not apply to such conduct which:
 - a. Involves the actual operation of a “motor vehicle” as a vehicle on the business premises; or
 - b. Occurs off the business premises.
 2. Arising out of conduct in the course of loading or unloading any “motor vehicle” unless such injury occurs while “occupying” such “motor vehicle”.
 3. While “occupying” any “motor vehicle” without the express or implied consent of the owner or while not in lawful possession of any “motor vehicle”.
 4. If such injury was intentionally caused by that “insured” or resulted from that “insured” intentionally attempting to cause “bodily injury” to himself or herself or another person. If any “insured” dies as a result of intentionally causing or attempting to cause “bodily injury” to oneself, we will not provide coverage for survivors’ income loss or survivors’ replacement services loss.
 5. Arising out of the operation, maintenance, or use of any “motor vehicle” while located for use as a residence or premises.
 6. If such injury arises out of the “insured’s” entering or alighting from a stopped “motor vehicle” and such injury was not caused by another “motor vehicle”.
 7. During any period of time “your covered auto” is being used by an “insured” who is logged into a transportation network company (TNC) platform as a driver whether or not a passenger is “occupying” the vehicle.
 8. Who is involved in any prearranged, organized, or spontaneous race or who is involved in:
 - a. Preparation for a race of this type, but only while in any pit area, on the track or racecourse, or its entrance or exit lanes; or
 - b. Practicing or qualifying for a race of this type.
 A race includes any contest for speed or endurance, whether against another competitor or against a time measuring device.
 9. Using “your covered auto” at a:
 - a. Racing facility; or
 - b. Facility or roadway temporarily designated for speed, time, racing, or performance driving events. This includes, but is not limited to, the use of “your covered auto” at a performance or racing driving school, a rally in excess of the legal speed limit, or a closed road rally.

However, Exclusions 8.a. and 9. do not apply while “your covered auto” is:

- a. In a race facility’s “paddock” area or a specified show display area;
 - b. Being trailered from one location to another;
 - c. Used by you to attend a racing event as a spectator;
 - d. Being operated for purposes of display in any pre- or post-race parade laps; or
 - e. Involved in an organized event on public roads while operated within legal speed.
10. Using “your covered auto” to prepare, practice, qualify for, or participate in, any of the following activities, regardless of where they take place:
- a. Forced hydraulic bouncing competitions or exhibitions;
 - b. Pulling against another vehicle, or pulling of a weighted object during competitions or exhibitions, but not including trailer pulling;
 - c. Stereo thumping competitions or exhibitions; or
 - d. Any other similar competitive or exhibition activity that a reasonable person could foresee may cause injury or damage.

However, this Exclusion 10. does not apply while “your covered auto” is:

- a. In a facility or a specified show display area and is not involved in any competitive or exhibition activity described in this exclusion;
- b. Being trailered from one location to another; or
- c. Used by you to attend an event as a spectator.

B. We do not provide coverage under this endorsement for “bodily injury” sustained by:

- 1. The “named insured” while “occupying” any “motor vehicle”, other than “your covered auto”, which is owned by the “named insured”.
- 2. A “family member” while “occupying” any “motor vehicle” which is owned by that “family member” and for which the security required by the North Dakota Auto Accident Reparations Act is not in effect.
- 3. The “named insured” or a “family member” while “occupying”, or while a “pedestrian” struck by, any “motor vehicle” other than:
 - a. “Your covered auto”; or
 - b. A “motor vehicle” being used in a “ride-sharing arrangement”;
 for which the security required by the North Dakota Auto Accident Reparations Act is in effect.
- 4. Any “pedestrian”, other than the “named insured” or a “family member”, if the accident occurs outside of North Dakota.

C. We do not provide coverage under this endorsement for “bodily injury”:

- 1. Due to:
 - a. War (declared or undeclared);
 - b. Civil war;
 - c. Insurrection;
 - d. Rebellion or revolution; or
 - e. Any act or condition incident to any of the above.
- 2. Resulting from the radioactive, toxic, explosive, or other hazardous properties of nuclear material.

COORDINATION OF MEDICAL EXPENSES

If the Declarations or Schedule indicates that **Coordination of Medical Expenses** applies, we will not provide

coverage under this endorsement for medical expenses exceeding \$10,000, to the extent that such expenses are paid or payable under any other insurance, service, benefit, or reimbursement plan.

This provision does not apply to medical expenses which are paid or payable under:

- A. Medicare benefits provided by the federal government; or
- B. Other personal injury protection benefits.

LIMIT OF LIABILITY

- A. Our limits of liability are shown in the Declarations or Schedule for **Personal Injury Protection Coverage**. This is the most we will pay to or for an "insured" as the result of any one "motor vehicle" accident, regardless of the number of:
 - 1. "Insureds";
 - 2. Policies or approved plans of self-insurance applicable;
 - 3. "Your covered autos"; or
 - 4. Claims made.
- B. Any amount payable for coverage under this endorsement shall be reduced by all sums paid or payable to an "insured" for the same elements of loss under any workers' compensation law.

OTHER INSURANCE

- A. If there is other applicable personal injury protection coverage, any coverage we provide under this endorsement with respect to "bodily injury" sustained by an "insured":
 - 1. Will apply on a primary basis, if the accident arises out of the use or operation of "your covered auto" except as provided in A.2. and A.3. below.
 - 2. Will apply on an excess basis, if:
 - a. The accident involves the operation of "your covered auto" in a "ride-sharing arrangement"; and
 - b. The "insured" is a "named insured" or a "family member" under another policy affording personal injury protection coverage required by the North Dakota Auto Accident Reparations Act.
 - 3. Will apply on an excess basis if the accident involves the use or operation of "your covered auto" during any period of time such vehicle is being used by any "insured" who is logged into a transportation network company (TNC) platform as a driver, whether or not a passenger is "occupying" the vehicle.
 - 4. As defined in paragraph 2.b. of the definition of "insured", will apply on a primary basis, if the accident arises out of the use or operation of a "motor vehicle" which is insured under a policy affording coverage to someone engaged in the business of:
 - a. Selling;
 - b. Repairing;
 - c. Servicing;
 - d. Storing;
 - e. Leasing;
 - f. Renting; or
 - g. Parking;

"motor vehicles". This provision applies only if the "named insured" or a "family member" is neither the person engaged in such business nor that person's employee or agent.
- B. If there is other applicable personal injury protection coverage, including approved plans of self-insurance:
 - 1. The maximum recovery for the total of all personal injury protection benefits under all such insurance shall not exceed the amount which would have been payable under the coverage providing the highest limit of liability.

2. We will pay only our share. Our share is the proportion that our limit of liability bears to the total of all applicable limits of liability.
- C. No one will be entitled to duplicate payments for the same elements of loss under this or any other similar insurance, including approved plans of self-insurance.
- D. In consideration of coverage provided by this endorsement and the adjustment of applicable premiums:
 1. Any amount payable under **PART C** shall be reduced by any amount paid or payable for personal injury protection benefits under this or any other automobile insurance policy.
 2. Any **PART B** afforded under this policy shall be excess over any personal injury protection benefits paid or payable under this or any other automobile insurance policy.

For purposes of this coverage only, the following changes are made to **PART E** and **PART F**:

PART E – DUTIES AFTER AN ACCIDENT OR LOSS

Duties A. and B.6. are replaced by the following:

- A. An “insured” or someone on the “insured’s” behalf must promptly give us written proof of claim, under oath if required. Notice should also include the names and addresses of any injured persons and any witnesses. Such proof of claim shall include:
 1. Full details of the nature and extent of the “bodily injury”;
 2. Treatment and rehabilitation received and contemplated; and
 3. Any other information which may assist us in determining the amount due and payable.
- B. An “insured” seeking **Personal Injury Protection Coverage** must:
 6. Submit, as often as we reasonably require:
 - a. To mental or physical exams by physicians we select. We will pay for these exams.
 - b. To examination under oath and subscribe the same.
 - c. To recorded statements.

The following duty is added:

If an “insured”, the “insured’s” legal representative or the “insured’s” “survivors” take legal action, against a person or organization who may be legally responsible, to recover damages for “bodily injury”, that person must promptly forward to us a copy of the summons and complaint or other process served in connection with such action.

PART F – GENERAL PROVISIONS

The **Our Right to Recover Payment** provision is replaced by the following:

SUBROGATION

Subject to any applicable limitation set forth in the North Dakota Auto Accident Reparations Act, if we make a payment under this coverage we shall be subrogated, to the extent of such payment, to the rights of the person to or for whom the payment was made. That person shall:

- A. Execute and deliver the instruments and papers and do whatever else is necessary to secure such rights; and
- B. Do nothing after loss to prejudice such rights.

REIMBURSEMENT AND TRUST

If we make a payment under this coverage to any person:

- A. And the person to or for whom payment is made recovers damages from any person or organization legally responsible for the “bodily injury”, we shall be entitled to the proceeds of the recovery, to the extent of our payment.
- B. We shall have a lien to the extent of our payment. Notice of the lien may be given to:

1. The person or organization causing such "bodily injury";
2. The person or organization's agent or insurer; or
3. A court having jurisdiction.

C. That person shall:

1. Hold in trust for us, all rights of recovery that person has against another person or organization because of the "bodily injury";
2. Do whatever is proper to secure such rights;
3. Do nothing after loss to prejudice them; and
4. Execute and deliver to us, instruments and papers as may be appropriate to secure that person's and our rights and obligations.

The following provision is added:

CONSTITUTIONALITY CLAUSE

The premium for and coverages of the policy have been established in reliance upon the North Dakota Auto Accident Reparations Act. If a court of competent jurisdiction:

- A. Declares; or
- B. Enters a judgment which renders;

the provisions of the North Dakota Auto Accident Reparations Act invalid or unenforceable in whole or in part, we shall have the right to:

- A. Recompute the premium payable for the policy; and
- B. At our option, void or amend the provisions of this endorsement.

All other policy provisions apply.