

By: Representative Janus

To: Insurance

HOUSE BILL NO. 405

1 AN ACT TO PROVIDE THAT THERE SHALL BE NO RECOVERY FOR THE
2 FIRST \$10,000.00 OF BODILY INJURY AND NO RECOVERY FOR THE FIRST
3 \$10,000.00 OF PROPERTY DAMAGE BASED ON ANY CAUSE OR RIGHT OF
4 ACTION ARISING OUT OF A MOTOR VEHICLE ACCIDENT FOR SUCH INJURY OR
5 DAMAGES INCURRED BY AN OWNER OR OPERATOR OF A MOTOR VEHICLE
6 INVOLVED IN SUCH ACCIDENT WHO FAILS TO OWN OR MAINTAIN MOTOR
7 VEHICLE LIABILITY INSURANCE OR WHO IS NOT OTHERWISE FINANCIALLY
8 RESPONSIBLE AS REQUIRED UNDER THE MISSISSIPPI MOTOR VEHICLE SAFETY
9 RESPONSIBILITY LAW; TO PROVIDE EXCEPTIONS; AND FOR RELATED
10 PURPOSES.

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

12 SECTION 1. (1) There shall be no recovery for the first Ten
13 Thousand Dollars (\$10,000.00) of bodily injury and no recovery for
14 the first Ten Thousand Dollars (\$10,000.00) of property damage
15 based on any cause or right of action arising out of a motor
16 vehicle accident for such injury or damage incurred by an owner or
17 operator of a motor vehicle involved in such accident who fails to
18 own or maintain motor vehicle liability insurance or who is not
19 otherwise financially responsible as required under Section
20 63-15-1 et seq.

21 (2) For purposes of this section, the meaning of "bodily
22 injury" and "property damage" is governed by the applicable motor
23 vehicle liability insurance policy or, in the event of security
24 other than an insurance policy, the meaning of such terms is that
25 which is commonly ascribed thereto.

26 (3) The limitation of recovery provisions of this section
27 shall not apply if the driver of the other vehicle:

28 (a) Is cited for a violation of Section 63-11-1 et seq.
29 as a result of the accident and is subsequently convicted of or
30 pleads nolo contendere to such offense;

31 (b) Intentionally causes the accident;
32 (c) Flees from the scene of the accident; or
33 (d) At the time of the accident, is in furtherance of
34 the commission of a felony offense under the law.

35 (4) Each person who is involved in an accident in which the
36 other motor vehicle was not covered by motor vehicle liability
37 insurance or other security as required by Section 63-15-1 et seq.
38 and who is found to be liable for damages to the owner or operator
39 of the other motor vehicle may assert as an affirmative defense
40 the limitation of recovery provision of subsection (1) of this
41 section.

42 (5) If the owner of a motor vehicle, who fails to own or
43 maintain motor vehicle liability insurance or otherwise meet the
44 security requirement of Section 63-15-1 et seq., institutes an
45 action to recover damages in any amount, regardless of whether
46 such owner or operator is at fault, and is awarded an amount equal
47 to or less than the minimum amount of motor vehicle liability
48 security required under Section 63-15-1 et seq., then such owner
49 or operator shall be assessed and held liable for all court costs
50 incurred by all parties to the action.

51 (6) Each person who applies for a driver's license,
52 registers a motor vehicle or operates or owns a motor vehicle in
53 this state is deemed to have given his consent to be subject to
54 and governed by the provisions of this section. All person who
55 apply for the insurance or renewal of a driver's license, motor
56 vehicle title or motor vehicle registration shall sign a
57 declaration on a form developed by the Department of Public Safety
58 stating that the person acknowledges and gives consent to the
59 requirements and provisions of this section and that the person
60 will comply with all provisions of this section and the
61 Mississippi Motor Vehicle Safety Responsibility Law. Proof of
62 whether the person obtained or signed such declaration is
63 irrelevant to the application of this section.

64 (7) Nothing in this section shall preclude a passenger in a
65 vehicle from asserting a claim to recover damages for injury,
66 death or loss which he incurred in whole or in part, by the
67 negligence of another person arising out of the operation or use
68 of a motor vehicle. This subsection shall not apply to a
69 passenger who is also the owner of the uninsured motor vehicle
70 involved in the accident.

71 (8) Notwithstanding any provision of law to the contrary, no
72 insurer shall lose any rights of subrogation for claims paid under
73 the applicable insurance policy for the recovery of any sum in
74 excess of the first Ten Thousand Dollars (\$10,000.00) of bodily
75 injury and the first Ten Thousand Dollars (\$10,000.00) of property
76 damages.

77 (9) In claims where no suit is filed, the claimant's insurer
78 shall have all rights to recover any amount paid by the claimant's
79 insurer on behalf of the insured for the recovery of any sum in
80 excess of the first Ten Thousand Dollars (\$10,000.00) of bodily
81 injury and the first Ten Thousand Dollars (\$10,000.00) of property
82 damages.

83 SECTION 2. This act shall take effect and be in force from
84 and after July 1, 1999.