

By: Chism, Nicholson

To: Insurance

HOUSE BILL NO. 527

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 IF THE OWNER OR
 5 OPERATOR OF THE MOTOR VEHICLE FAILS TO HAVE MOTOR VEHICLE
 6 LIABILITY INSURANCE; TO PROVIDE FOR A DECREASED RATE FOR CERTAIN
 7 UNINSURED/UNDERINSURED MOTORIST COVERAGE; AND FOR RELATED
 8 PURPOSES.

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

10 SECTION 1. (1) There shall be no recovery for the first Ten
 11 Thousand Dollars (\$10,000.00) of bodily injury and no recovery for
 12 the first Ten Thousand Dollars (\$10,000.00) of property damage
 13 based on any cause or right of action arising out of a motor
 14 vehicle accident for such injury or damages occasioned by an owner
 15 or operator of a motor vehicle involved in such accident who fails
 16 to own or maintain motor vehicle liability insurance or is
 17 otherwise not financially responsible up to the liability limits
 18 set by law.

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

24 (3) The limitation of recovery provisions of this section

25 does not apply if the driver of the other vehicle:

26 (a) Is cited for a violation of the Implied Consent Law
27 as a result of the accident and is subsequently convicted of or
28 pleads nolo contendere to such offense;

29 (b) Intentionally causes the accident;

30 (c) Flees from the scene of the accident; or

31 (d) At the time of the accident, is in furtherance of
32 the commission of a felony offense under the law.

33 (4) Each person who is involved in an accident in which the
34 other motor vehicle was not covered by motor vehicle liability
35 insurance or whose owner is not financially responsible up to the
36 liability limits set by law and who is found to be liable for
37 damages to the owner or operator of the other motor vehicle may
38 assert as an affirmative defense the limitation of recovery
39 provisions of subsection (1) of this section.

40 (5) If the owner of a motor vehicle, who fails to own or
41 maintain motor vehicle liability insurance or is otherwise not
42 financially responsible up to the liability limits set by law,
43 institutes an action to recover damages in any amount, regardless
44 of whether such owner or operator is at fault, and is awarded an
45 amount equal to or less than the minimum amount of motor vehicle
46 liability limits required by law, then such owner or operator
47 shall be assessed and held liable for all court costs incurred by
48 all parties to the action.

49 (6) Each person who applies for a driver's license,
50 registers a motor vehicle or operates or owns a motor vehicle in
51 this state is deemed to have given his consent to be subject to
52 and governed by the provisions of this section. All persons who
53 apply for the issuance or renewal of a driver's license, motor
54 vehicle title or motor vehicle registration shall sign a
55 declaration on a form developed by the Department of Public Safety

56 pursuant to rule and regulation that the person acknowledges and
57 gives consent to the requirements and provisions of this section
58 and that the person will comply with all provisions of this
59 section and the Motor Vehicle Safety-Responsibility Law. Proof of
60 whether the person obtained or signed such declaration is
61 irrelevant to the application of this section.

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

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

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

81 SECTION 2. Every motor vehicle insurer authorized to
82 transact business in this state shall make an automobile policy
83 rate filing with the Commissioner of Insurance to reduce its

84 uninsured/underinsured motorist coverage for insureds who select a
85 policy that provides economic-only uninsured motorist coverage, by
86 a minimum of twenty percent (20%) by January 1, 2001, unless the
87 motor vehicle insurer can demonstrate at a rate hearing that such
88 a decrease shall result in inadequate rates or in the continuation
89 of inadequate existing rates for the insurer. For purposes of
90 this section, "economic-only" uninsured motorist coverage is
91 coverage that allows the insured to recover only economic damages
92 associated with a claim and does not include recovery for pain,
93 suffering, mental anguish and other noneconomic damages.

94 SECTION 3. This act shall take effect and be in force from
95 and after July 1, 2000.