MISSISSIPPI LEGISLATURE

REGULAR SESSION 2001

By: Representative Watson

To: Insurance

HOUSE BILL NO. 739

AN ACT TO AMEND SECTIONS 63-15-3, 63-15-11, 63-15-31 AND 63-15-43, MISSISSIPPI CODE OF 1972, TO INCREASE THE STATUTORY MINIMUM FOR MOTOR VEHICLE LIABILITY INSURANCE COVERAGE IN ANY ONE ACCIDENT FROM $10,000.00 TO $25,000.00 FOR BODILY INJURY TO OR DEATH OF ONE PERSON, FROM $20,000.00 TO $50,000.00 FOR BODILY INJURY TO OR DEATH OF TWO OR MORE PERSONS AND FROM $5,000.00 TO $20,000.00 FOR INJURY TO OR DESTRUCTION OF PROPERTY OF OTHERS; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 63-15-3, Mississippi Code of 1972, is amended as follows:

63-15-3. The following words and phrases, when used in this chapter, shall, for the purposes of this chapter, have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

(a) "Highway" means the entire width between property lines of any road, street, way, thoroughfare, or bridge in the State of Mississippi not privately owned or controlled, when any part thereof is open to the public for vehicular traffic and over which the state has legislative jurisdiction under its police power.

(b) "Judgment" means any judgment which shall have become final by expiration, without appeal, of the time within which an appeal might have been perfected, or by final affirmation on appeal, rendered by a court of competent jurisdiction of any state or of the United States, upon a cause of action arising out of the ownership, maintenance or use of any motor vehicle, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because...
of injury to or destruction of property, including the loss of use thereof, or upon a cause of action on an agreement of settlement for such damages.

(c) "Motor vehicle" means every self-propelled vehicle (other than traction engines, road rollers and graders, tractor cranes, power shovels, well drillers and implements of husbandry) which is designed for use upon a highway, including trailers and semitrailers designed for use with such vehicles, and every vehicle which is propelled by electric power obtained from overhead wires but not operated upon rails.

For purposes of this definition, "implements of husbandry" shall not include trucks, pickup trucks, trailers and semitrailers designed for use with such trucks and pickup trucks.

(d) "License" means any driver's, operator's, commercial operator's, or chauffeur's license, temporary instruction permit or temporary license, or restricted license, issued under the laws of the State of Mississippi pertaining to the licensing of persons to operate motor vehicles.

(e) "Nonresident" means every person who is not a resident of the State of Mississippi.

(f) "Nonresident's operating privilege" means the privilege conferred upon a nonresident by the laws of Mississippi pertaining to the operation by him of a motor vehicle, or the use of a motor vehicle owned by him, in the State of Mississippi.

(g) "Operator" means every person who is in actual physical control of a motor vehicle.

(h) "Owner" means a person who holds the legal title of a motor vehicle; in the event a motor vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or
lessee or mortgagor shall be deemed the owner for the purpose of this chapter.

(i) "Person" means every natural person, firm, copartnership, association or corporation.

(j) "Proof of financial responsibility" means proof of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of said proof, arising out of the ownership, maintenance or use of a motor vehicle, in the amount of Twenty-five Thousand Dollars ($25,000.00) because of bodily injury to or death of one (1) person in any one (1) accident, and subject to said limit for one (1) person, in the amount of Fifty Thousand Dollars ($50,000.00) because of bodily injury to or death of two (2) or more persons in any one (1) accident, and in the amount of Twenty Thousand Dollars ($20,000.00) because of injury to or destruction of property of others in any one (1) accident.

(k) "Registration" means a certificate or certificates and registration plates issued under the laws of this state pertaining to the registration of motor vehicles.

(l) "Department" means the Department of Public Safety of the State of Mississippi, acting directly or through its authorized officers and agents, except in such sections of this chapter in which some other state department is specifically named.

(m) "State" means any state, territory or possession of the United States, the District of Columbia, or any province of the Dominion of Canada.

SECTION 2. Section 63-15-11, Mississippi Code of 1972, is amended as follows:

63-15-11. (1) If twenty (20) days after the receipt of a report of a motor vehicle accident in this state which has resulted in bodily injury or death, or damage to the property of any one (1) person in excess of Two Hundred Fifty Dollars

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($250.00), the department does not have on file evidence satisfactory to it that the person who would otherwise be required to file security under subsection (2) of this section has been finally adjudicated not to be liable, or has executed a duly acknowledged written agreement providing for the payment of an agreed amount in installments with respect to all claims for injuries or damages resulting from the accident, the department shall determine the amount of security which shall be sufficient in its judgment to satisfy any judgment or judgments for damages resulting from such accident as may be recovered against each operator or owner.

(2) The department shall, within sixty (60) days after the receipt of such report of a motor vehicle accident, suspend the license of each operator and all registrations of each owner of a motor vehicle in any manner involved in such accident, and if such operator is a nonresident the privilege of operating a motor vehicle within this state, and if such owner is a nonresident the privilege of the use within this state of any motor vehicle owned by him, unless such operator or owner or both shall deposit security in the sum so determined by the department and shall also furnish proof of financial responsibility. Notice of such suspension shall be sent by the department to such operator and owner not less than ten (10) days prior to the effective date of such suspension and shall state the amount required as security. Where erroneous information is given the department with respect to the matters set forth in subdivisions (1), (2), and (3) of subsection (4) of this section, it shall take appropriate action as hereinafter provided, within sixty (60) days after receipt by it of correct information with respect to said matters.

(3) Any person so notified of suspension may, within ten (10) days after receipt of such notification, make a written request to the department for a hearing, and such request shall operate as a stay of any suspension pending the outcome of such
hearing. For the purposes of this section, the scope of such hearing shall cover the issues of whether there is a reasonable probability of a judgment being rendered against such person in a lawsuit arising out of the accident and whether such person is exempt from the requirement of depositing security under subsection (4) of this section. At such hearing the department may also consider the amount of security required to be deposited, if any. The hearing shall be in accordance with rules and regulations which shall be adopted by the department and furnished to the operator or owner with the notice of suspension. For the purposes of this section, a "hearing" may consist of a determination of such issues by the department based solely on written reports submitted by the operator or owner and by investigatory officers, provided that the owner or operator, in his request to the department for a hearing, has expressly consented to such type hearing and that the department has consented thereto.

Any person whose suspension has been sustained shall have the right to appeal as provided in Section 63-15-7. However, such suspension shall not be stayed by the department or any court while such appeal is pending.

(4) Subsections (1) and (2) of this section shall not apply: (1) to such operator or owner if such owner had in effect at the time of such accident a liability policy with respect to the motor vehicle involved in such accident; (2) to such operator, if not the owner of such motor vehicle, if there was in effect at the time of such accident a liability policy with respect to his operation of motor vehicles not owned by him; (3) to such operator or owner if the liability of such operator or owner for damages resulting from such accident is, in the judgment of the department, covered by any other form of liability insurance policy or bond of a surety company authorized to do business in this state; (4) to any person qualifying as a self-insurer under
Section 63-15-53, or to any person operating a motor vehicle for such self-insurer; (5) to the operator or the owner of a motor vehicle legally parked at the time of the accident; (6) to the owner of a motor vehicle if at the time of the accident the vehicle was stolen; or (7) to any person for whom the department has found in the hearing provided for in subsection (3) of this section, that there is not a reasonable probability of a judgment being rendered against such person in a lawsuit arising out of the accident.

No such policy shall be effective under this section unless issued by an insurance company or surety company authorized to write motor vehicle liability insurance in this state, except that if such motor vehicle was not registered in this state, or was a motor vehicle which was registered elsewhere than in this state at the effective date of the policy or the most recent renewal thereof, such policy shall not be effective under this section unless the insurance company or surety company if not authorized to do business in this state shall execute a power of attorney authorizing the department to accept service on its behalf of notice or process in any action upon such policy arising out of such accident. However, every such policy shall be subject, if the accident has resulted in bodily injury or death, to a limit, exclusive of interest and cost, of not less than Twenty-five Thousand Dollars ($25,000.00) because of bodily injury to or death of one (1) person in any one (1) accident and, subject to said limit for one (1) person, to a limit of not less than Fifty Thousand Dollars ($50,000.00) because of bodily injury to or death of two (2) or more persons in any one (1) accident, and if the accident has resulted in injury to or destruction of property, to a limit of not less than Twenty Thousand Dollars ($20,000.00) because of injury to or destruction of property of others in any one (1) accident.
SECTION 3. Section 63-15-31, Mississippi Code of 1972, is amended as follows:

63-15-31. Judgments referred to in this chapter shall, for the purpose of this chapter only, be deemed satisfied:

(a) When Twenty-five Thousand Dollars ($25,000.00) has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of one (1) person as the result of any one (1) accident; or

(b) When, subject to such limit of Twenty-five Thousand Dollars ($25,000.00) because of bodily injury to or death of one (1) person, the sum of Fifty Thousand Dollars ($50,000.00) has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of two (2) or more persons as the result of any one (1) accident; or

(c) When Twenty Thousand Dollars ($20,000.00) has been credited upon any judgment or judgments rendered in excess of that amount because of injury to or destruction of property of others as a result of any one (1) accident.

However, payments made in settlement of any claims because of bodily injury, death or property damage arising from a motor vehicle accident shall be credited in reduction of the amounts provided for in this section.

SECTION 4. Section 63-15-43, Mississippi Code of 1972, is amended as follows:

63-15-43. (1) A "motor vehicle liability policy" as said term is used in this chapter shall mean an owner's or an operator's policy of liability insurance, certified as provided in Section 63-15-39 or Section 63-15-41, as proof of financial responsibility, and issued, except as otherwise provided in Section 63-15-41, by an insurance company duly authorized to write motor vehicle liability insurance in this state, to or for the benefit of the person named therein as insured.

(2) Such owner's policy of liability insurance:
(a) Shall designate by explicit description or by appropriate reference all motor vehicles with respect to which coverage is thereby to be granted.

(b) Shall pay on behalf of the insured named therein and any other person, as insured, using any such motor vehicle or motor vehicles with the express or implied permission of such named insured, all sums which the insured shall become legally obligated to pay as damages arising out of the ownership, maintenance or use of such motor vehicle or motor vehicles within the United States of America or the Dominion of Canada, subject to limits exclusive of interest and costs, with respect to each such motor vehicle, as follows: Twenty-five Thousand Dollars ($25,000.00) because of bodily injury to or death of one (1) person in any one (1) accident and, subject to said limit for one (1) person, Fifty Thousand Dollars ($50,000.00) because of bodily injury to or death of two (2) or more persons in any one (1) accident, and Twenty Thousand Dollars ($20,000.00) because of injury to or destruction of property of others in any one (1) accident.

(3) Such operator's policy of liability insurance shall pay on behalf of the insured named therein all sums which the insured shall become legally obligated to pay as damages arising out of the use by him of any motor vehicle not owned by him, within the same territorial limits and subject to the same limits of liability as are set forth above with respect to an owner's policy of liability insurance.

(4) Such motor vehicle liability policy shall state the name and address of the named insured, the coverage afforded by the policy, the premium charged therefor, the policy period and the limits of liability, and shall contain an agreement or be endorsed that insurance is provided thereunder in accordance with the coverage defined in this chapter as respects bodily injury and
(5) Such motor vehicle liability policy shall not insure:

(a) Any obligation for which the insured or any company
as his insurer may be held liable under any workmen's compensation
law;

(b) Any liability on account of bodily injury to or
death of any employee of the insured while engaged in the
employment, other than domestic, of the insured, or in domestic
employment if benefits therefor are either payable or required to
be provided under any workmen's compensation law; or

(c) Any liability because of injury to or destruction
of property owned by, rented to, in charge of or transported by
the insured.

(6) Every motor vehicle liability policy shall be subject to
the following provisions which need not be contained therein:

(a) The liability of the insurance company with respect
to the insurance required by this chapter shall become absolute
whenever injury or damage covered by said motor vehicle liability
policy occurs; said policy may not be cancelled or annulled as to
such liability by any agreement between the insurance company and
the insured after the occurrence of the injury or damage; no
statement made by the insured or on his behalf and no violation of
said policy shall defeat or void said policy;

(b) The satisfaction by the insured of a judgment for
such injury or damage shall not be a condition precedent to the
right or duty of the insurance company to make payment on account
of such injury or damage;

(c) The insurance company shall have the right to
settle any claim covered by the policy, and if such settlement is
made in good faith, the amount thereof shall be deductible from
the limits of liability specified in subdivision (b) of subsection
(2) of this section; or
(d) The policy, the written application therefor, if any, and any rider or endorsement which does not conflict with the provisions of the chapter shall constitute the entire contract between the parties.

(7) Any policy which grants the coverage required for a motor vehicle liability policy may also grant any lawful coverage in excess of or in addition to the coverage specified for a motor vehicle liability policy, and such excess or additional coverage shall not be subject to the provisions of this chapter. With respect to a policy which grants such excess or additional coverage, the term "motor vehicle liability policy" shall apply only to that part of the coverage which is required by this section.

(8) Any motor vehicle liability policy may provide that the insured shall reimburse the insurance company for any payment the insurance company would not have been obligated to make under the terms of the policy except for the provisions of this chapter.

(9) Any motor vehicle liability policy may provide for the prorating of the insurance thereunder with other valid and collectible insurance.

(10) The requirements for a motor vehicle liability policy may be fulfilled by the policies of one or more insurance companies which policies together meet such requirements.

(11) Any binder issued pending the issuance of a motor vehicle liability policy shall be deemed to fulfill the requirements for such a policy.

SECTION 5. This act shall take effect and be in force from and after July 1, 2001.