HOUSE BILL NO. 531

AN ACT TO REQUIRE THAT CERTAIN VESSELS OPERATED ON THE WATERS OF THIS STATE SHALL HAVE AN INSURANCE CARD MAINTAINED IN THE VESSEL AS PROOF OF LIABILITY INSURANCE; TO PROVIDE PENALTIES FOR FAILURE TO HAVE THE INSURANCE CARD IN THE VESSEL; TO REQUIRE THAT VESSEL LIABILITY INSURANCE POLICIES SHALL CONTAIN PROVISIONS FOR UNINSURED VESSEL COVERAGE; TO PROVIDE DEFINITIONS; TO PROVIDE FOR THE REPORTING OF AN ACCIDENT; TO PROVIDE FOR SUBROGATION TO THE INSURER PAYING AN UNINSURED VESSEL CLAIM; TO ALLOW CERTAIN EXCESS INSURANCE COVERAGE; AND FOR RELATED PURPOSES.

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

SECTION 1. (1) For purposes of this act:

(a) "Vessel" means every description of motorized, self-propelled watercraft used or capable of being used as a means of transportation on water. "Vessel" includes a boat that is:

(i) Less than sixteen (16) feet in length that has an outboard motor or which has an inboard motor which uses an internal combustion engine powering a water jet pump as its primary source of mobile propulsion; and

(ii) Is designed with the concept that the operator and passenger ride on the outside surfaces of the vessel as opposed to riding inside the vessel.

(b) "Operator" means the person who has charge of the navigation or use of a vessel.

(c) "Owner" means the person who claims lawful possession of a vessel by virtue of legal title.

(2) The following vessels are exempted from the requirements of this section:

(a) Vessels that are propelled with less than fifteen horsepower motors;
(b) Vessels that are operated on privately owned ponds or lakes which are not used for boat rentals or the charging of fees for fishing thereon.

(3) (a) Every vessel operated in this state shall have an insurance card maintained in the vessel as proof of liability insurance that meets the same liability limits required by Section 63-15-3(j) for motor vehicles. The insured parties shall be responsible for maintaining the insurance card in each vessel.

(b) An insurance company issuing a policy of vessel liability insurance as required by this section shall furnish to the insured an insurance card for each vessel at the time the insurance policy becomes effective.

(4) Upon stopping a vessel for any other statutory violation, a law enforcement officer, who is authorized to issue citations for violations on the public waters of this state, as defined in Section 59-21-5(m), shall verify that the insurance card required by this section is in the vessel. However, no operator shall be stopped or detained solely for the purpose of verifying that an insurance card is in the vessel.

(5) Failure of the owner or the operator of a vessel to have the insurance card in the vessel is a misdemeanor and, upon conviction, is punishable by a fine of One Thousand Dollars ($1,000.00). Fraudulent use of an insurance card shall be punishable in accordance with Section 97-7-10. The funds from such fines shall be deposited in the State General Fund in the State Treasury.

(6) If, at the hearing date or the date of payment of the fine, the vessel owner shows proof of vessel liability insurance in the same amounts required by Section 63-15-3(j) for motor vehicles, the fine shall be reduced to One Hundred Dollars ($100.00). If the owner shows proof that such insurance was in effect at the time of citation, the fine of One Hundred Dollars ($100.00) and court costs shall be waived.
SECTION 2. (1) No vessel liability insurance policy or contract shall be issued or delivered after July 1, 2002, unless it contains an endorsement or provisions undertaking to pay the insured all sums which he shall be legally entitled to recover as damages for bodily injury or death from the owner or operator of an uninsured vessel, within limits which shall be no less than those set forth in the Mississippi Motor Vehicle Safety Responsibility Law, as amended, under provisions approved by the Commissioner of Insurance; however, at the option of the insured, the uninsured vessel limits may be increased to limits not to exceed those provided in the policy of bodily injury liability insurance of the insured or such lesser limits as the insured elects to carry over the minimum requirement set forth by this section. The coverage herein required shall not be applicable where any insured named in the policy shall reject the coverage in writing and provided further, that unless the named insured requests such coverage in writing, such coverage need not be provided in any renewal policy where the named insured had rejected the coverage in connection with a policy previously issued to him by the same insurer.

(2) No vessel liability insurance policy or contract shall be issued or delivered after January 1, 2003, unless it contains an endorsement or provisions undertaking to pay the insured all sums which he shall be legally entitled to recover as damages for property damage from the owner or operator of an uninsured motor vehicle, within limits which shall be no less than those set forth in the Mississippi Motor Vehicle Safety Responsibility Law, as amended, under provisions approved by the Commissioner of Insurance; however, at the option of the insured, the uninsured vessel limits may be increased to limits not to exceed those provided in the policy of property damage liability insurance of the insured or such lesser limits as the insured elects to carry over the minimum requirement set forth by this section. The
coverage herein required shall not be applicable where any insured named in the policy shall reject the coverage in writing and provided further, that unless the named insured requests such coverage in writing, such coverage need not be provided in any renewal policy where the named insured had rejected the coverage in connection with a policy previously issued to him by the same insurer.

The property damage provision may provide an exclusion for the first Two Hundred Dollars ($200.00) of such property damage; however, the uninsured vessel provision need not insure any liability for property damage, for which loss the policyholder has been compensated by insurance or otherwise.

(3) The insured may reject the property damage liability insurance coverage required by subsection (2) and retain the bodily injury liability insurance coverage required by subsection (1), but if the insured rejects the bodily injury liability coverage he may not retain the property damage liability coverage. No insured may have property damage liability insurance coverage under this section unless he also has bodily injury liability insurance coverage under this section.

SECTION 3. As used in this act:

(a) "Bodily injury" includes death resulting from such injury.

(b) "Insured" means the named insured and, while resident of the same household, the spouse of any such named insured and relatives of either, while in a vessel or otherwise, and any person who uses, with the consent, expressed or implied, of the named insured, the vessel to which the policy applies, and a guest in such vessel to which the policy applies, or the personal representative of any of the above. The definition of the term "insured" given in this section shall apply only to the uninsured vessel portion of the policy.

(c) "Uninsured vessel" means:
(i) A vessel as to which there is no bodily injury liability insurance; or

(ii) A vessel as to which there is such insurance in existence, but the insurance company writing the same has legally denied coverage thereunder or is unable, because of being insolvent at the time of or becoming insolvent during the twelve (12) months following the accident, to make payment with respect to the legal liability of its insured; or

(iii) An insured vessel, when the liability insurer of such vessel has provided limits of bodily injury liability for its insured which are less than the limits applicable to the injured person provided under his uninsured vessel coverage; or

(iv) A vessel as to which there is no bond or deposit of cash or securities in lieu of such bodily injury and property damage liability insurance as set forth in the state financial responsibility law, or where there is such bond or deposit of cash or securities, but such bond or deposit is less than the legal liability of the injuring party; or

(v) A vessel of which the owner or operator is unknown; provided that in order for the insured to recover under the endorsement where the owner or operator of any vessel which causes bodily injury to the insured is unknown, actual physical contact must have occurred between the vessel owned or operated by such unknown person and the person or property of the insured.

No vessel shall be considered uninsured that is owned by the United States government and against which a claim may be made under the Federal Tort Claims Act, as amended.

(d) "Vessel" means every description of motorized, self-propelled watercraft used or capable of being used as a means of transportation on water. "Vessel" includes a boat that is:

(i) Less than sixteen (16) feet in length that has an outboard motor or which has an inboard motor which uses an...
internal combustion engine powering a water jet pump as its primary source of mobile propulsion; and

(ii) Is designed with the concept that the operator and passenger ride on the outside surfaces of the vessel as opposed to riding inside the vessel.

SECTION 4. In the event the owner or operator of the uninsured vessel causing injury or death is known and action is brought against the owner or operator by the named insured as defined by the policy, then a copy of the process served upon the owner or operator shall also be served by the circuit clerk mailing, registered mail, a copy of the process to the insurance company issuing the policy providing the uninsured vessel coverage as prescribed by law.

If the owner or operator of any vessel which causes bodily injury to the insured be unknown, the insured or someone on his behalf, or in the event of a death claim, someone on behalf of the party having such claim in order for the insured to recover under the endorsement, shall report the accident to a law enforcement official or department that has authority to issue citations for violations on the public waterways of the state.

SECTION 5. An insurer paying a claim under the endorsement or provisions required by Section 2 of House Bill No. ____, 2002 Regular Session, shall be subrogated to the rights of the insured to whom such claim was paid against the person causing such injury, death, or damage to the extent that payment was made, including the proceeds recoverable from the assets of the insolvent insurer. The bringing of an action against the unknown owner or operator, or the conclusion of such an action, shall not constitute a bar to the insured if the identity of the owner or operator who caused the injury or damages complained of becomes known, provided that in any action brought against such owner or operator, the insurance company that has previously made payment as a result of the policyholder's claim against such owner or
ST: Liability insurance for boats and uninsured boat coverage; require self-propelled boats to be covered.

operator shall be mailed a copy of the summons issued for the defendant or defendants, and that any recovery against such owner or operator shall be paid to the insurance company to the extent that such insurance company paid the named insured in the action brought against such owner or operator, except that such insurance company shall pay its proportionate part of any reasonable costs and expense incurred in connection therewith, including reasonable attorney's fees.

SECTION 6. No such endorsement or provisions shall contain a provision requiring arbitration of any claim arising under any such endorsement or provisions. The insured shall not be restricted or prevented in any manner from employing legal counsel or instituting or prosecuting to judgment legal proceedings, but the insured may be required to establish legal liability of the uninsured owner or operator.

SECTION 7. Any policy which grants the coverage required for vessel liability insurance may also grant any lawful coverage in excess of, or in addition to, the coverage specified for a vessel liability policy, and the excess or additional coverage shall not be subject to the provisions of this act, except as otherwise provided in this act. With respect to a policy which grants this excess or additional coverage, the term "vessel liability policy" as used herein shall apply only to that part of the coverage which is required by this act.

Any binder issued pending the issuance of a vessel liability policy shall be considered as fulfilling the requirements for such policy.

SECTION 8. This act shall take effect and be in force from and after July 1, 2002.