SENNATE BILL NO. 2315

AN ACT TO LIMIT THE DAMAGES FOR ACTIONS ARISING OUT OF A MOTOR VEHICLE ACCIDENT WHEN THE OWNER OR OPERATOR OF THE MOTOR VEHICLE FAILS TO OWN OR MAINTAIN MOTOR VEHICLE LIABILITY INSURANCE; TO PROVIDE CERTAIN EXCEPTIONS TO THE PROVISIONS OF THE ACT; AND FOR RELATED PURPOSES.

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

SECTION 1. (1) (a) There shall be no recovery for the first Ten Thousand Dollars ($10,000.00) of bodily injury and no recovery for the first Ten Thousand Dollars ($10,000.00) of property damage based on any cause or right of action arising out of a motor vehicle accident, for such injury or damages occasioned by an owner or operator of a motor vehicle involved in such accident who fails to own or maintain motor vehicle liability insurance in at least the minimum amounts required for proof of financial responsibility under Section 63-15-3.

(b) For purposes of this section, the meaning of bodily injury and property damage is governed by the applicable motor vehicle liability insurance policy.

(c) The limitation of recovery provisions of this subsection (1) do not apply if the driver of the other vehicle:
   (i) Is cited for a violation of Section 63-11-30 as a result of the accident and is subsequently convicted of or pleads nolo contendere to such offense;
   (ii) Intentionally causes the accident;
   (iii) Flees from the scene of the accident; or
   (iv) At the time of the accident, is in furtherance of the commission of a felony offense under the law.
(2) Each person who is involved in an accident in which the other motor vehicle was not covered by motor vehicle liability insurance in at least the minimum amounts required for proof of financial responsibility under Section 63-15-3, and who is found to be liable for damages to the owner or operator of the other motor vehicle may assert as an affirmative defense the limitation of recovery provisions of subsection (1) of this section.

(3) If the owner of a motor vehicle, who fails to own or maintain motor vehicle liability insurance in at least the minimum amounts required for proof of financial responsibility under Section 63-15-3, institutes an action to recover damages in any amount, regardless of whether such owner or operator is at fault, and is awarded an amount equal to or less than such minimum amounts of motor vehicle liability insurance, then such owner or operator shall be assessed and held liable for all court costs incurred by all parties to the action.

(4) Each person who applies for a driver's license, registers a motor vehicle, or operates or owns a motor vehicle in this state is deemed to have given his consent to be subject to and governed by the provisions of this section. All persons who apply for the issuance or renewal of a driver's license, motor vehicle title, or motor vehicle registration shall sign a declaration on a form developed by the Department of Public Safety pursuant to rule and regulation that the person acknowledges and gives consent to the requirements and provisions of this section and that the person will comply with all provisions of this section and the Motor Vehicle Safety Responsibility Law, Section 63-15-1, et seq. Proof of whether the person obtained or signed such declaration is irrelevant to the application of this section.

(5) Nothing in this section shall preclude a passenger in a vehicle from asserting a claim to recover damages for injury, death, or loss which he occasioned, in whole or in part, by the negligence of another person arising out of the operation or use
of a motor vehicle. This subsection (5) shall not apply to a passenger who is also the owner of the uninsured motor vehicle involved in the accident.

(6) (a) Notwithstanding any provision of law to the contrary, no insurer shall lose any rights of subrogation for claims paid under the applicable insurance policy for the recovery of any sum in excess of the first Ten Thousand Dollars ($10,000.00) of bodily injury and the first Ten Thousand Dollars ($10,000.00) of property damage.

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

SECTION 2. This act shall take effect and be in force from and after July 1, 2002.