HOUSE BILL NO. 647

AN ACT TO AMEND SECTION 83-11-1, MISSISSIPPI CODE OF 1972, TO REVISE THE DEFINITION OF AUTOMOBILE LIABILITY COVERAGE SO THAT SUCH COVERAGE SHALL NOT BE CONSTRUED AS REQUIRING COVERAGE FOR PUNITIVE DAMAGES; TO AMEND SECTIONS 63-15-3 AND 63-15-43, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; TO AUTHORIZE THE COMMISSIONER OF INSURANCE TO APPROVE AUTOMOBILE LIABILITY INSURANCE POLICIES WHICH EXCLUDE COVERAGE FOR PUNITIVE DAMAGES; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 83-11-1, Mississippi Code of 1972, is amended as follows:

83-11-1. As used in this article:

(a) "Policy" means an automobile liability, automobile physical damage, or automobile collision policy, or any combination thereof, delivered or issued for delivery in this state, insuring a single individual, or husband and wife resident of the same household, as named insured and under which the insured vehicles therein designated are of the following types only:

(i) A motor vehicle of the private passenger or station wagon type that is not used as a public or livery conveyance for passengers, nor rented to others; or

(ii) Any other four-wheel motor vehicle with a load capacity of fifteen hundred (1,500) pounds or less which is not used in the occupation, profession, or business of the insured; provided, however, that this article shall not apply to any policy issued under an automobile assigned risk plan, to any policy insuring more than four (4) automobiles, or to any policy covering garage, automobile sales agency, repair shop, service station, or public parking place operation hazards.
(b) "Automobile liability coverage" includes only coverage of bodily injury and property damage liability, medical payments, and uninsured motorist coverage. "Automobile liability coverage" shall not be construed as requiring coverage for punitive damages.

(c) "Automobile physical damage coverage" includes all coverage of loss or damage to an automobile insured under the policy except loss or damage resulting from collision or upset.

(d) "Automobile collision coverage" includes all coverage of loss or damage to an automobile insured under the policy resulting from collision or upset.

(e) "Renewal" or "to renew" means the issuance and delivery by an insurer of a policy replacing at the end of the policy period a policy previously issued and delivered by the same insurer, or the issuance and delivery of a certificate of notice extending the term of a policy beyond its policy period or term; provided, however, that any policy with a policy period or term of less than six (6) months shall for the purpose of this article be considered as if written for a policy period or term of six (6) months. Any policy written for a term longer than one (1) year or any policy with no fixed expiration date shall, for the purpose of this article, be considered as if written for successive policy periods or terms of one (1) year; and such policy may be terminated at the expiration of any annual period upon giving thirty (30) days' notice of cancellation prior to such anniversary date. Such cancellation shall not be subject to any other provisions of this article.

(f) "Nonpayment of premium" means failure of the named insured to discharge when due any of his obligations in connection with the payment of premiums on a policy, or any installment of such premium, whether the premium is payable directly to the insurer or its agents or indirectly under any premium finance plan or extension of credit.
SECTION 2. 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: Ten Thousand Dollars ($10,000.00) because of bodily injury to or death of one (1) person in any one accident and, subject to said limit for one (1) person, Twenty Thousand Dollars ($20,000.00) because of bodily injury to or death of two (2) or more persons in any one (1) accident, and Five Thousand Dollars ($5,000.00) 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
death or property damage, or both, and is subject to all the
provisions of this chapter.

(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 paragraph (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.

(12) Nothing contained in this section shall be construed as requiring coverage for punitive damages under automobile liability insurance policies issued in this state after July 1, 2003. Upon the effective date of House Bill No. ___ , 2003 Regular Session, the Commissioner of Insurance may approve or disapprove automobile liability insurance policies which exclude coverage for punitive damages.

SECTION 3. 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 Ten Thousand Dollars ($10,000.00) 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 Twenty Thousand Dollars ($20,000.00) because of bodily injury to or death of two (2) or more persons in any one (1) accident, and in the amount of Five Thousand Dollars ($5,000.00) because of injury to or destruction of property of others in any one (1) accident. Liability insurance policies issued in compliance with this section may include coverage for punitive damages or may exclude coverage for punitive damages.

(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 4. The Commissioner of Insurance may approve or disapprove automobile liability insurance policies issued after July 1, 2003, which exclude coverage for punitive damages. The Commissioner of Insurance may adopt any rules and regulations.
necessary to implement the provisions of House Bill No. ____, 2003 Regular Session.

SECTION 5. This act shall take effect and be in force from and after July 1, 2003.