MISSISSIPPI LEGISLATURE
REGULAR SESSION 2003

By: Representatives McBride, Jennings, Mayo
To: Insurance

HOUSE BILL NO. 792

1 AN ACT TO ESTABLISH THE "COMMANDER DAVID ERWIN MITCHELL
2 UNINSURED MOTORIST CLARIFICATION ACT OF 2003"; TO AMEND SECTION
3 83-11-101, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT UNINSURED
4 MOTORIST COVERAGE SHALL INCLUDE COVERAGE FOR BODILY INJURY ARISING
5 OUT OF A MOTOR VEHICLE ACCIDENT CAUSED BY AN AUTOMOBILE WHICH HAS
6 NO PHYSICAL CONTACT WITH THE INJURED PARTY IF THE INJURED PARTY
7 PROVES, BY AN INDEPENDENT AND DISINTERESTED WITNESS, THAT THE
8 INJURY WAS THE RESULT OF THE ACTIONS OF THE DRIVER OF ANOTHER
9 VEHICLE WHOSE IDENTITY IS UNKNOWN; TO AMEND SECTION 83-11-103,
10 MISSISSIPPI CODE OF 1972, TO REVISE THE DEFINITION OF AN UNINSURED
11 MOTOR VEHICLE TO ELIMINATE THE NEED FOR PHYSICAL CONTACT BETWEEN A
12 COVERED MOTOR VEHICLE AND AN UNINSURED MOTOR VEHICLE WHEN THE
13 INJURED PARTY PROVES, BY AN INDEPENDENT AND DISINTERESTED WITNESS,
14 THAT THE INJURY WAS THE RESULT OF THE ACTIONS OF THE DRIVER OF
15 ANOTHER VEHICLE WHOSE IDENTITY IS UNKNOWN; AND FOR RELATED
16 PURPOSES.

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

SECTION 1. This act shall be known and may be cited as the
"Commander David Erwin Mitchell Uninsured Motorist Clarification
Act of 2003."

SECTION 2. Section 83-11-101, Mississippi Code of 1972, is
amended as follows:

83-11-101. (1) No automobile liability insurance policy or
contract shall be issued or delivered after January 1, 1967,
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 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 motorist 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

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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 automobile liability insurance policy or contract
shall be issued or delivered after January 1, 1980, 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 motorist 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 motorist 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.

(4) Uninsured motorist coverage shall include coverage for bodily injury arising out of a motor vehicle accident caused by an automobile which has no physical contact with the injured party or with a vehicle which the injured party is occupying at the time of the accident if the injured party proves, by an independent and disinterested witness, that the injury was the result of the actions of the driver of another vehicle whose identity is unknown.

SECTION 3. Section 83-11-103, Mississippi Code of 1972, is amended as follows:

83-11-103. As used in this article:

(a) The term "bodily injury" shall include death resulting from such injury.

(b) The term "insured" shall mean the named insured and, while resident of the same household, the spouse of any such named insured and relatives of either, while in a motor vehicle or otherwise, and any person who uses, with the consent, expressed or implied, of the named insured, the motor vehicle to which the policy applies, and a guest in such motor vehicle 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 motorist portion of the policy.

(c) The term "uninsured motor vehicle" shall mean:

(i) A motor vehicle as to which there is no bodily injury liability insurance; or
(ii) A motor vehicle 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 motor vehicle, when the liability insurer of such vehicle 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 motorist coverage; or

(iv) A motor vehicle as to which there is no bond or deposit of cash or securities in lieu of such bodily injury and property damage liability insurance or other compliance with 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 motor vehicle 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 motor vehicle which causes bodily injury to the insured is unknown, actual physical contact must have occurred between the motor vehicle owned or operated by such unknown person and the person or property of the insured unless the injured party can show by an independent and disinterested witness that the injury was the result of the actions of the driver of another vehicle whose identity is unknown.

No vehicle 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.

SECTION 4. This act shall take effect and be in force from and after July 1, 2003.