

By: Representatives Chism, Nicholson,
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To: Insurance

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 531

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

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

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

12 83-11-1. As used in this article:

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

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

23 (ii) Any other four-wheel motor vehicle with a
24 load capacity of fifteen hundred (1,500) pounds or less which is
25 not used in the occupation, profession, or business of the
26 insured; provided, however, that this article shall not apply 1.
27 to any policy issued under an automobile assigned risk plan, 2. to
28 any policy insuring more than four (4) automobiles, or 3. to any
29 policy covering garage, automobile sales agency, repair shop,
30 service station, or public parking place operation hazards.

31 (b) "Automobile liability coverage" includes only
32 coverage of bodily injury and property damage liability, medical
33 payments, and uninsured motorist coverage. "Automobile liability
34 coverage" shall not be construed as requiring coverage for
35 punitive damages.

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

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

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

58 (f) "Nonpayment of premium" means failure of the named
59 insured to discharge when due any of his obligations in connection
60 with the payment of premiums on a policy, or any installment of
61 such premium, whether the premium is payable directly to the
62 insurer or its agents or indirectly under any premium finance plan
63 or extension of credit.

64 **SECTION 2.** Section 63-15-43, Mississippi Code of 1972, is
65 amended as follows:

66 63-15-43. (1) A "motor vehicle liability policy" as said
67 term is used in this chapter shall mean an owner's or an
68 operator's policy of liability insurance, certified as provided in
69 Section 63-15-39 or Section 63-15-41, as proof of financial
70 responsibility, and issued, except as otherwise provided in
71 Section 63-15-41, by an insurance company duly authorized to write
72 motor vehicle liability insurance in this state, to or for the
73 benefit of the person named therein as insured.

74 (2) Such owner's policy of liability insurance:

75 (a) Shall designate by explicit description or by
76 appropriate reference all motor vehicles with respect to which
77 coverage is thereby to be granted.

78 (b) Shall pay on behalf of the insured named therein
79 and any other person, as insured, using any such motor vehicle or
80 motor vehicles with the express or implied permission of such
81 named insured, all sums which the insured shall become legally
82 obligated to pay as damages arising out of the ownership,
83 maintenance or use of such motor vehicle or motor vehicles within
84 the United States of America or the Dominion of Canada, subject to
85 limits exclusive of interest and costs, with respect to each such
86 motor vehicle, as follows: Ten Thousand Dollars (\$10,000.00)
87 because of bodily injury to or death of one (1) person in any one
88 (1) accident and, subject to said limit for one (1) person, Twenty
89 Thousand Dollars (\$20,000.00) because of bodily injury to or death
90 of two (2) or more persons in any one (1) accident, and Five
91 Thousand Dollars (\$5,000.00) because of injury to or destruction
92 of property of others in any one (1) accident.

93 (3) Such operator's policy of liability insurance shall pay
94 on behalf of the insured named therein all sums which the insured
95 shall become legally obligated to pay as damages arising out of
96 the use by him of any motor vehicle not owned by him, within the

97 same territorial limits and subject to the same limits of
98 liability as are set forth above with respect to an owner's policy
99 of liability insurance.

100 (4) Such motor vehicle liability policy shall state the name
101 and address of the named insured, the coverage afforded by the
102 policy, the premium charged therefor, the policy period and the
103 limits of liability, and shall contain an agreement or be endorsed
104 that insurance is provided thereunder in accordance with the
105 coverage defined in this chapter as respects bodily injury and
106 death or property damage, or both, and is subject to all the
107 provisions of this chapter.

108 (5) Such motor vehicle liability policy shall not insure:

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

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

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

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

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

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

134 (c) The insurance company shall have the right to
135 settle any claim covered by the policy, and if such settlement is
136 made in good faith, the amount thereof shall be deductible from
137 the limits of liability specified in paragraph (b) of subsection
138 (2) of this section; or

139 (d) The policy, the written application therefor, if
140 any, and any rider or endorsement which does not conflict with the
141 provisions of the chapter shall constitute the entire contract
142 between the parties.

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

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

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

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

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

165 (12) Nothing contained in this section shall be construed as
166 requiring coverage for punitive damages under automobile liability
167 insurance policies issued in this state after July 1, 2004. Upon
168 the effective date of House Bill No. 531, 2004 Regular Session,
169 the Commissioner of Insurance may approve or disapprove automobile
170 liability insurance policies which exclude coverage for punitive
171 damages.

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

174 63-15-3. The following words and phrases, when used in this
175 chapter, shall, for the purposes of this chapter, have the
176 meanings respectively ascribed to them in this section, except in
177 those instances where the context clearly indicates a different
178 meaning:

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

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

194 thereof, or upon a cause of action on an agreement of settlement
195 for such damages.

196 (c) "Motor vehicle" means every self-propelled vehicle
197 (other than traction engines, road rollers and graders, tractor
198 cranes, power shovels, well drillers, implements of husbandry and
199 electric personal assistive mobility device as defined in Section
200 63-3-103) which is designed for use upon a highway, including
201 trailers and semitrailers designed for use with such vehicles, and
202 every vehicle which is propelled by electric power obtained from
203 overhead wires but not operated upon rails.

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

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

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

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

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

220 (h) "Owner" means a person who holds the legal title of
221 a motor vehicle; in the event a motor vehicle is the subject of an
222 agreement for the conditional sale or lease thereof with the right
223 of purchase upon performance of the conditions stated in the
224 agreement and with an immediate right of possession vested in the
225 conditional vendee or lessee or in the event a mortgagor of a
226 vehicle is entitled to possession, then such conditional vendee or

227 lessee or mortgagor shall be deemed the owner for the purpose of
228 this chapter.

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

231 (j) "Proof of financial responsibility" means proof of
232 ability to respond in damages for liability, on account of
233 accidents occurring subsequent to the effective date of said
234 proof, arising out of the ownership, maintenance or use of a motor
235 vehicle, in the amount of Ten Thousand Dollars (\$10,000.00)
236 because of bodily injury to or death of one (1) person in any one
237 (1) accident, and subject to said limit for one (1) person, in the
238 amount of Twenty Thousand Dollars (\$20,000.00) because of bodily
239 injury to or death of two (2) or more persons in any one (1)
240 accident, and in the amount of Five Thousand Dollars (\$5,000.00)
241 because of injury to or destruction of property of others in any
242 one (1) accident. Liability insurance policies issued in
243 compliance with this section may include coverage for punitive
244 damages or may exclude coverage for punitive damages.

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

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

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

256 **SECTION 4.** The Commissioner of Insurance may approve or
257 disapprove automobile liability insurance policies issued after
258 July 1, 2004, which exclude coverage for punitive damages. The
259 Commissioner of Insurance may adopt any rules and regulations

260 necessary to implement the provisions of House Bill No. 531, 2004
261 Regular Session.

262 **SECTION 5.** This act shall take effect and be in force from
263 and after July 1, 2004.