

By: Senator(s) Turner

To: Insurance

SENATE BILL NO. 2328

1 AN ACT TO AMEND SECTIONS 63-15-3, 63-15-11, 63-15-31 AND
 2 63-15-43, MISSISSIPPI CODE OF 1972, TO INCREASE THE STATUTORY
 3 MINIMUM FOR MOTOR VEHICLE LIABILITY INSURANCE COVERAGE IN ANY ONE
 4 ACCIDENT FROM \$10,000.00 TO \$25,000.00 FOR BODILY INJURY TO OR
 5 DEATH OF ONE PERSON, FROM \$20,000.00 TO \$50,000.00 FOR BODILY
 6 INJURY TO OR DEATH OF TWO OR MORE PERSONS AND FROM \$5,000.00 TO
 7 \$20,000.00 FOR INJURY TO OR DESTRUCTION OF PROPERTY OF OTHERS; AND
 8 FOR RELATED PURPOSES.

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

10 **SECTION 1.** Section 63-15-3, Mississippi Code of 1972, is
 11 amended as follows:

12 63-15-3. The following words and phrases, when used in this
 13 chapter, shall, for the purposes of this chapter, have the
 14 meanings respectively ascribed to them in this section, except in
 15 those instances where the context clearly indicates a different
 16 meaning:

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

23 (b) "Judgment" means any judgment which shall have
 24 become final by expiration, without appeal, of the time within
 25 which an appeal might have been perfected, or by final affirmation
 26 on appeal, rendered by a court of competent jurisdiction of any
 27 state or of the United States, upon a cause of action arising out
 28 of the ownership, maintenance or use of any motor vehicle, for
 29 damages, including damages for care and loss of services, because
 30 of bodily injury to or death of any person, or for damages because

31 of injury to or destruction of property, including the loss of use
32 thereof, or upon a cause of action on an agreement of settlement
33 for such damages.

34 (c) "Motor vehicle" means every self-propelled vehicle
35 (other than traction engines, road rollers and graders, tractor
36 cranes, power shovels, well drillers, implements of husbandry and
37 electric personal assistive mobility device as defined in Section
38 63-3-103) which is designed for use upon a highway, including
39 trailers and semitrailers designed for use with such vehicles, and
40 every vehicle which is propelled by electric power obtained from
41 overhead wires but not operated upon rails.

42 For purposes of this definition, "implements of husbandry"
43 shall not include trucks, pickup trucks, trailers and semitrailers
44 designed for use with such trucks and pickup trucks.

45 (d) "License" means any driver's, operator's,
46 commercial operator's, or chauffeur's license, temporary
47 instruction permit or temporary license, or restricted license,
48 issued under the laws of the State of Mississippi pertaining to
49 the licensing of persons to operate motor vehicles.

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

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

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

58 (h) "Owner" means a person who holds the legal title of
59 a motor vehicle; in the event a motor vehicle is the subject of an
60 agreement for the conditional sale or lease thereof with the right
61 of purchase upon performance of the conditions stated in the
62 agreement and with an immediate right of possession vested in the
63 conditional vendee or lessee or in the event a mortgagor of a

64 vehicle is entitled to possession, then such conditional vendee or
65 lessee or mortgagor shall be deemed the owner for the purpose of
66 this chapter.

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

69 (j) "Proof of financial responsibility" means proof of
70 ability to respond in damages for liability, on account of
71 accidents occurring subsequent to the effective date of said
72 proof, arising out of the ownership, maintenance or use of a motor
73 vehicle, in the amount of Twenty-five Thousand Dollars
74 (\$25,000.00) because of bodily injury to or death of one (1)
75 person in any one (1) accident, and subject to said limit for one
76 (1) person, in the amount of Fifty Thousand Dollars (\$50,000.00)
77 because of bodily injury to or death of two (2) or more persons in
78 any one (1) accident, and in the amount of Twenty Thousand Dollars
79 (\$20,000.00) because of injury to or destruction of property of
80 others in any one (1) accident.

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

84 (l) "Department" means the Department of Public Safety
85 of the State of Mississippi, acting directly or through its
86 authorized officers and agents, except in such sections of this
87 chapter in which some other state department is specifically
88 named.

89 (m) "State" means any state, territory or possession of
90 the United States, the District of Columbia, or any province of
91 the Dominion of Canada.

92 **SECTION 2.** Section 63-15-11, Mississippi Code of 1972, is
93 amended as follows:

94 63-15-11. (1) If twenty (20) days after the receipt of a
95 report of a motor vehicle accident in this state which has
96 resulted in bodily injury or death, or damage to the property of

97 any one (1) person in excess of Two Hundred Fifty Dollars
98 (\$250.00), the department does not have on file evidence
99 satisfactory to it that the person who would otherwise be required
100 to file security under subsection (2) of this section has been
101 finally adjudicated not to be liable, or has executed a duly
102 acknowledged written agreement providing for the payment of an
103 agreed amount in installments with respect to all claims for
104 injuries or damages resulting from the accident, the department
105 shall determine the amount of security which shall be sufficient
106 in its judgment to satisfy any judgment or judgments for damages
107 resulting from such accident as may be recovered against each
108 operator or owner.

109 (2) The department shall, within sixty (60) days after the
110 receipt of such report of a motor vehicle accident, suspend the
111 license of each operator and all registrations of each owner of a
112 motor vehicle in any manner involved in such accident, and if such
113 operator is a nonresident the privilege of operating a motor
114 vehicle within this state, and if such owner is a nonresident the
115 privilege of the use within this state of any motor vehicle owned
116 by him, unless such operator or owner or both shall deposit
117 security in the sum so determined by the department and shall also
118 furnish proof of financial responsibility. Notice of such
119 suspension shall be sent by the department to such operator and
120 owner not less than ten (10) days prior to the effective date of
121 such suspension and shall state the amount required as security.
122 Where erroneous information is given the department with respect
123 to the matters set forth in paragraphs (a), (b) and (c) of
124 subsection (4) of this section, it shall take appropriate action
125 as hereinbefore provided, within sixty (60) days after receipt by
126 it of correct information with respect to said matters.

127 (3) Any person so notified of suspension may, within ten
128 (10) days after receipt of such notification, make a written
129 request to the department for a hearing, and such request shall

130 operate as a stay of any suspension pending the outcome of such
131 hearing. For the purposes of this section, the scope of such
132 hearing shall cover the issues of whether there is a reasonable
133 probability of a judgment being rendered against such person in a
134 lawsuit arising out of the accident and whether such person is
135 exempt from the requirement of depositing security under
136 subsection (4) of this section. At such hearing the department
137 may also consider the amount of security required to be deposited,
138 if any. The hearing shall be in accordance with rules and
139 regulations which shall be adopted by the department and furnished
140 to the operator or owner with the notice of suspension. For the
141 purposes of this section, a "hearing" may consist of a
142 determination of such issues by the department based solely on
143 written reports submitted by the operator or owner and by
144 investigatory officers, provided that the owner or operator, in
145 his request to the department for a hearing, has expressly
146 consented to such type hearing and that the department has
147 consented thereto.

148 Any person whose suspension has been sustained shall have the
149 right to appeal as provided in Section 63-15-7. However, such
150 suspension shall not be stayed by the department or any court
151 while such appeal is pending.

152 (4) Subsections (1) and (2) of this section shall not apply:
153 (a) to such operator or owner if such owner had in effect at the
154 time of such accident a liability policy with respect to the motor
155 vehicle involved in such accident; (b) to such operator, if not
156 the owner of such motor vehicle, if there was in effect at the
157 time of such accident a liability policy with respect to his
158 operation of motor vehicles not owned by him; (c) to such operator
159 or owner if the liability of such operator or owner for damages
160 resulting from such accident is, in the judgment of the
161 department, covered by any other form of liability insurance
162 policy or bond of a surety company authorized to do business in

163 this state; (d) to any person qualifying as a self-insurer under
164 Section 63-15-53, or to any person operating a motor vehicle for
165 such self-insurer; (e) to the operator or the owner of a motor
166 vehicle legally parked at the time of the accident; (f) to the
167 owner of a motor vehicle if at the time of the accident the
168 vehicle was stolen; or (g) to any person for whom the department
169 has found in the hearing provided for in subsection (3) of this
170 section, that there is not a reasonable probability of a judgment
171 being rendered against such person in a lawsuit arising out of the
172 accident.

173 No such policy shall be effective under this section unless
174 issued by an insurance company or surety company authorized to
175 write motor vehicle liability insurance in this state, except that
176 if such motor vehicle was not registered in this state, or was a
177 motor vehicle which was registered elsewhere than in this state at
178 the effective date of the policy or the most recent renewal
179 thereof, such policy shall not be effective under this section
180 unless the insurance company or surety company if not authorized
181 to do business in this state shall execute a power of attorney
182 authorizing the department to accept service on its behalf of
183 notice or process in any action upon such policy arising out of
184 such accident. However, every such policy shall be subject, if
185 the accident has resulted in bodily injury or death, to a limit,
186 exclusive of interest and cost, of not less than Twenty-five
187 Thousand Dollars (\$25,000.00) because of bodily injury to or death
188 of one (1) person in any one (1) accident and, subject to said
189 limit for one (1) person, to a limit of not less than Fifty
190 Thousand Dollars (\$50,000.00) because of bodily injury to or death
191 of two (2) or more persons in any one (1) accident, and if the
192 accident has resulted in injury to or destruction of property, to
193 a limit of not less than Twenty Thousand Dollars (\$20,000.00)
194 because of injury to or destruction of property of others in any
195 one (1) accident.

196 **SECTION 3.** Section 63-15-31, Mississippi Code of 1972, is
197 amended as follows:

198 63-15-31. Judgments referred to in this chapter shall, for
199 the purpose of this chapter only, be deemed satisfied:

200 (a) When Twenty-five Thousand Dollars (\$25,000.00) has
201 been credited upon any judgment or judgments rendered in excess of
202 that amount because of bodily injury to or death of one (1) person
203 as the result of any one (1) accident; or

204 (b) When, subject to such limit of Twenty-five Thousand
205 Dollars (\$25,000.00) because of bodily injury to or death of one
206 (1) person, the sum of Fifty Thousand Dollars (\$50,000.00) has
207 been credited upon any judgment or judgments rendered in excess of
208 that amount because of bodily injury to or death of two (2) or
209 more persons as the result of any one (1) accident; or

210 (c) When Twenty Thousand Dollars (\$20,000.00) has been
211 credited upon any judgment or judgments rendered in excess of that
212 amount because of injury to or destruction of property of others
213 as a result of any one (1) accident.

214 However, payments made in settlement of any claims because of
215 bodily injury, death or property damage arising from a motor
216 vehicle accident shall be credited in reduction of the amounts
217 provided for in this section.

218 **SECTION 4.** Section 63-15-43, Mississippi Code of 1972, is
219 amended as follows:

220 63-15-43. (1) A "motor vehicle liability policy" as said
221 term is used in this chapter shall mean an owner's or an
222 operator's policy of liability insurance, certified as provided in
223 Section 63-15-39 or Section 63-15-41, as proof of financial
224 responsibility, and issued, except as otherwise provided in
225 Section 63-15-41, by an insurance company duly authorized to write
226 motor vehicle liability insurance in this state, to or for the
227 benefit of the person named therein as insured.

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

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

232 (b) Shall pay on behalf of the insured named therein
233 and any other person, as insured, using any such motor vehicle or
234 motor vehicles with the express or implied permission of such
235 named insured, all sums which the insured shall become legally
236 obligated to pay as damages arising out of the ownership,
237 maintenance or use of such motor vehicle or motor vehicles within
238 the United States of America or the Dominion of Canada, subject to
239 limits exclusive of interest and costs, with respect to each such
240 motor vehicle, as follows: Twenty-five Thousand Dollars
241 (\$25,000.00) because of bodily injury to or death of one (1)
242 person in any one (1) accident and, subject to said limit for one
243 (1) person, Fifty Thousand Dollars (\$50,000.00) because of bodily
244 injury to or death of two (2) or more persons in any one (1)
245 accident, and Twenty Thousand Dollars (\$20,000.00) because of
246 injury to or destruction of property of others in any one (1)
247 accident.

248 (3) Such operator's policy of liability insurance shall pay
249 on behalf of the insured named therein all sums which the insured
250 shall become legally obligated to pay as damages arising out of
251 the use by him of any motor vehicle not owned by him, within the
252 same territorial limits and subject to the same limits of
253 liability as are set forth above with respect to an owner's policy
254 of liability insurance.

255 (4) Such motor vehicle liability policy shall state the name
256 and address of the named insured, the coverage afforded by the
257 policy, the premium charged therefor, the policy period and the
258 limits of liability, and shall contain an agreement or be endorsed
259 that insurance is provided thereunder in accordance with the
260 coverage defined in this chapter as respects bodily injury and

261 death or property damage, or both, and is subject to all the
262 provisions of this chapter.

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

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

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

272 (c) Any liability because of injury to or destruction
273 of property owned by, rented to, in charge of or transported by
274 the insured.

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

277 (a) The liability of the insurance company with respect
278 to the insurance required by this chapter shall become absolute
279 whenever injury or damage covered by said motor vehicle liability
280 policy occurs; said policy may not be cancelled or annulled as to
281 such liability by any agreement between the insurance company and
282 the insured after the occurrence of the injury or damage; no
283 statement made by the insured or on his behalf and no violation of
284 said policy shall defeat or void said policy;

285 (b) The satisfaction by the insured of a judgment for
286 such injury or damage shall not be a condition precedent to the
287 right or duty of the insurance company to make payment on account
288 of such injury or damage;

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

294 (d) The policy, the written application therefor, if
295 any, and any rider or endorsement which does not conflict with the
296 provisions of the chapter shall constitute the entire contract
297 between the parties.

298 (7) Any policy which grants the coverage required for a
299 motor vehicle liability policy may also grant any lawful coverage
300 in excess of or in addition to the coverage specified for a motor
301 vehicle liability policy, and such excess or additional coverage
302 shall not be subject to the provisions of this chapter. With
303 respect to a policy which grants such excess or additional
304 coverage, the term "motor vehicle liability policy" shall apply
305 only to that part of the coverage which is required by this
306 section.

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

311 (9) Any motor vehicle liability policy may provide for the
312 prorating of the insurance thereunder with other valid and
313 collectible insurance.

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

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

320 **SECTION 5.** This act shall take effect and be in force from
321 and after July 1, 2005.