

By: Representative Martinson

To: Wildlife, Fisheries and  
Parks; Insurance

HOUSE BILL NO. 184

1 AN ACT TO REQUIRE THAT CERTAIN VESSELS OPERATED ON THE WATERS  
2 OF THIS STATE SHALL HAVE AN INSURANCE CARD MAINTAINED IN THE  
3 VESSEL AS PROOF OF LIABILITY INSURANCE; TO PROVIDE PENALTIES FOR  
4 FAILURE TO HAVE THE INSURANCE CARD IN THE VESSEL; TO REQUIRE THAT  
5 VESSEL LIABILITY INSURANCE POLICIES SHALL CONTAIN PROVISIONS FOR  
6 UNINSURED VESSEL COVERAGE; TO PROVIDE DEFINITIONS; TO PROVIDE FOR  
7 THE REPORTING OF AN ACCIDENT; TO PROVIDE FOR SUBROGATION TO THE  
8 INSURER PAYING AN UNINSURED VESSEL CLAIM; TO ALLOW CERTAIN EXCESS  
9 INSURANCE COVERAGE; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** For purposes of this act:

12 (a) "Vessel" means every description of motorized,  
13 self-propelled watercraft used or capable of being used as a means  
14 of transportation on water. "Vessel" includes a boat that is:

15 (i) Less than sixteen (16) feet in length that has  
16 an outboard motor or which has an inboard motor which uses an  
17 internal combustion engine powering a water jet pump as its  
18 primary source of mobile propulsion; and

19 (ii) Is designed with the concept that the  
20 operator and passenger ride on the outside surfaces of the vessel  
21 as opposed to riding inside the vessel.

22 (b) "Operator" means the person who has charge of the  
23 navigation or use of a vessel.

24 (c) "Owner" means the person who claims lawful  
25 possession of a vessel by virtue of legal title.

26 (d) "Bodily injury" includes death resulting from such  
27 injury.

28 (e) "Insured" means the named insured and, while  
29 resident of the same household, the spouse of any such named  
30 insured and relatives of either, while in a vessel or otherwise,



31 and any person who uses, with the consent, expressed or implied,  
32 of the named insured, the vessel to which the policy applies, and  
33 a guest in such vessel to which the policy applies, or the  
34 personal representative of any of the above. The definition of  
35 the term "insured" given in this section shall apply only to the  
36 uninsured vessel portion of the policy.

37 (f) "Uninsured vessel" means:

38 (i) A vessel as to which there is no bodily injury  
39 liability insurance; or

40 (ii) A vessel as to which there is such insurance  
41 in existence, but the insurance company writing the same has  
42 legally denied coverage thereunder or is unable, because of being  
43 insolvent at the time of or becoming insolvent during the twelve  
44 (12) months following the accident, to make payment with respect  
45 to the legal liability of its insured; or

46 (iii) An insured vessel, when the liability  
47 insurer of such vessel has provided limits of bodily injury  
48 liability for its insured which are less than the limits  
49 applicable to the injured person provided under his uninsured  
50 vessel coverage; or

51 (iv) A vessel as to which there is no bond or  
52 deposit of cash or securities in lieu of such bodily injury and  
53 property damage liability insurance as set forth in the  
54 Mississippi Motor Vehicle Safety Responsibility Law, or where  
55 there is such bond or deposit of cash or securities, but such bond  
56 or deposit is less than the legal liability of the injuring party;  
57 or

58 (v) A vessel of which the owner or operator is  
59 unknown; provided that in order for the insured to recover under  
60 the endorsement where the owner or operator of any vessel which  
61 causes bodily injury to the insured is unknown, actual physical  
62 contact must have occurred between the vessel owned or operated by  
63 such unknown person and the person or property of the insured.



64 No vessel shall be considered uninsured that is owned by the  
65 United States government and against which a claim may be made  
66 under the Federal Tort Claims Act, as amended.

67 **SECTION 2.** (1) (a) Every vessel operated in this state  
68 shall have an insurance card maintained in the vessel as proof of  
69 liability insurance that meets the same liability limits required  
70 by Section 63-15-3(j) for motor vehicles. The insured parties  
71 shall be responsible for maintaining the insurance card in each  
72 vessel.

73 (b) An insurance company issuing a policy of vessel  
74 liability insurance as required by this section shall furnish to  
75 the insured an insurance card for each vessel at the time the  
76 insurance policy becomes effective.

77 (2) Upon stopping a vessel for any other statutory  
78 violation, a law enforcement officer, who is authorized to issue  
79 citations for violations on the public waters of this state, as  
80 defined in Section 59-21-3(m), shall verify that the insurance  
81 card required by this section is in the vessel. However, no  
82 operator shall be stopped or detained solely for the purpose of  
83 verifying that an insurance card is in the vessel.

84 (3) Failure of the owner or the operator of a vessel to have  
85 the insurance card in the vessel is a misdemeanor and, upon  
86 conviction, is punishable by a fine of One Thousand Dollars  
87 (\$1,000.00). Fraudulent use of an insurance card shall be  
88 punishable in accordance with Section 97-7-10. The funds from  
89 such fines shall be deposited in the State General Fund in the  
90 State Treasury.

91 (4) If, at the hearing date or the date of payment of the  
92 fine, the vessel owner shows proof of vessel liability insurance  
93 in the same amounts required by Section 63-15-3(j) for motor  
94 vehicles, the fine shall be reduced to One Hundred Dollars  
95 (\$100.00). If the owner shows proof that such insurance was in



96 effect at the time of citation, the fine of One Hundred Dollars  
97 (\$100.00) and court costs shall be waived.

98 (5) The following vessels are exempted from the requirements  
99 of this section:

100 (a) Vessels that are propelled with less than fifteen  
101 (15) horsepower motors;

102 (b) Vessels that are operated on privately owned ponds  
103 or lakes which are not used for boat rentals or the charging of  
104 fees for fishing thereon.

105 **SECTION 3.** (1) No vessel liability insurance policy or  
106 contract shall be issued or delivered after January 1, 2008,  
107 unless it contains an endorsement or provisions undertaking to pay  
108 the insured all sums which he shall be legally entitled to recover  
109 as damages for bodily injury or death from the owner or operator  
110 of an uninsured vessel, within limits which shall be no less than  
111 those set forth in the Mississippi Motor Vehicle Safety  
112 Responsibility Law under provisions approved by the Commissioner  
113 of Insurance; however, at the option of the insured, the uninsured  
114 vessel limits may be increased to limits not to exceed those  
115 provided in the policy of bodily injury liability insurance of the  
116 insured or such lesser limits as the insured elects to carry over  
117 the minimum requirement set forth by this section. The coverage  
118 herein required shall not be applicable where any insured named in  
119 the policy shall reject the coverage in writing and provided  
120 further, that unless the named insured requests such coverage in  
121 writing, such coverage need not be provided in any renewal policy  
122 where the named insured had rejected the coverage in connection  
123 with a policy previously issued to him by the same insurer.

124 (2) No vessel liability insurance policy or contract shall  
125 be issued or delivered after January 1, 2008, unless it contains  
126 an endorsement or provisions undertaking to pay the insured all  
127 sums which he shall be legally entitled to recover as damages for  
128 property damage from the owner or operator of an uninsured vessel,



129 within limits which shall be no less than those set forth in the  
130 Mississippi Motor Vehicle Safety Responsibility Law under  
131 provisions approved by the Commissioner of Insurance; however, at  
132 the option of the insured, the uninsured vessel limits may be  
133 increased to limits not to exceed those provided in the policy of  
134 property damage liability insurance of the insured or such lesser  
135 limits as the insured elects to carry over the minimum requirement  
136 set forth by this section. The coverage herein required shall not  
137 be applicable where any insured named in the policy shall reject  
138 the coverage in writing and provided further, that unless the  
139 named insured requests such coverage in writing, such coverage  
140 need not be provided in any renewal policy where the named insured  
141 had rejected the coverage in connection with a policy previously  
142 issued to him by the same insurer.

143 The property damage provision may provide an exclusion for  
144 the first Two Hundred Dollars (\$200.00) of such property damage;  
145 however, the uninsured vessel provision need not insure any  
146 liability for property damage, for which loss the policyholder has  
147 been compensated by insurance or otherwise.

148 (3) The insured may reject the property damage liability  
149 insurance coverage required by subsection (2) of this section and  
150 retain the bodily injury liability insurance coverage required by  
151 subsection (1) of this section, but if the insured rejects the  
152 bodily injury liability coverage he may not retain the property  
153 damage liability coverage. No insured may have property damage  
154 liability insurance coverage under this section unless he also has  
155 bodily injury liability insurance coverage under this section.

156 **SECTION 4.** In the event the owner or operator of the  
157 uninsured vessel causing injury or death is known and action is  
158 brought against the owner or operator by the named insured as  
159 defined by the policy, then a copy of the process served upon the  
160 owner or operator shall also be served by the circuit clerk  
161 mailing, registered mail, a copy of the process to the insurance



162 company issuing the policy providing the uninsured vessel coverage  
163 as prescribed by law.

164 If the owner or operator of any vessel which causes bodily  
165 injury to the insured be unknown, the insured or someone on his  
166 behalf, or in the event of a death claim, someone on behalf of the  
167 party having such claim in order for the insured to recover under  
168 the endorsement, shall report the accident to a law enforcement  
169 official or department that has authority to issue citations for  
170 violations on the public waterways of the state.

171 **SECTION 5.** An insurer paying a claim under the endorsement  
172 or provisions required by Section 2 of this act shall be  
173 subrogated to the rights of the insured to whom such claim was  
174 paid against the person causing such injury, death, or damage to  
175 the extent that payment was made, including the proceeds  
176 recoverable from the assets of the insolvent insurer. The  
177 bringing of an action against the unknown owner or operator, or  
178 the conclusion of such an action, shall not constitute a bar to  
179 the insured if the identity of the owner or operator who caused  
180 the injury or damages complained of becomes known, provided that  
181 in any action brought against such owner or operator, the  
182 insurance company that has previously made payment as a result of  
183 the policyholder's claim against such owner or operator shall be  
184 mailed a copy of the summons issued for the defendant or  
185 defendants, and that any recovery against such owner or operator  
186 shall be paid to the insurance company to the extent that such  
187 insurance company paid the named insured in the action brought  
188 against such owner or operator, except that such insurance company  
189 shall pay its proportionate part of any reasonable costs and  
190 expense incurred in connection therewith, including reasonable  
191 attorney's fees.

192 **SECTION 6.** No such endorsement or provisions shall contain a  
193 provision requiring arbitration of any claim arising under any  
194 such endorsement or provisions. The insured shall not be



195 restricted or prevented in any manner from employing legal counsel  
196 or instituting or prosecuting to judgment legal proceedings, but  
197 the insured may be required to establish legal liability of the  
198 uninsured owner or operator.

199       **SECTION 7.** Any policy which grants the coverage required for  
200 vessel liability insurance may also grant any lawful coverage in  
201 excess of, or in addition to, the coverage specified for a vessel  
202 liability policy, and the excess or additional coverage shall not  
203 be subject to the provisions of this act, except as otherwise  
204 provided in this act. With respect to a policy which grants this  
205 excess or additional coverage, the term "vessel liability  
206 insurance policy" as used herein shall apply only to that part of  
207 the coverage which is required by this act.

208       Any binder issued pending the issuance of a vessel liability  
209 insurance policy shall be considered as fulfilling the  
210 requirements for such policy.

211       **SECTION 8.** This act shall take effect and be in force from  
212 and after July 1, 2007.

