

By: King, Kirby, Chaney

To: Insurance; Judiciary

SENATE BILL NO. 2361

1 AN ACT TO LIMIT THE DAMAGES FOR ACTIONS ARISING OUT OF A
2 MOTOR VEHICLE ACCIDENT WHEN THE OWNER OR OPERATOR OF THE MOTOR
3 VEHICLE FAILS TO OWN OR MAINTAIN MOTOR VEHICLE LIABILITY
4 INSURANCE; TO PROVIDE CERTAIN EXCEPTIONS TO THE PROVISIONS OF THE
5 ACT; AND FOR RELATED PURPOSES.

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

7 SECTION 1. (1) (a) There shall be no recovery for the
8 first Ten Thousand Dollars (\$10,000.00) of bodily injury and no
9 recovery for the first Ten Thousand Dollars (\$10,000.00) of
10 property damage based on any cause or right of action arising out
11 of a motor vehicle accident, for such injury or damages occasioned
12 by an owner or operator of a motor vehicle involved in such
13 accident who fails to own or maintain motor vehicle liability
14 insurance in at least the minimum amounts required for proof of
15 financial responsibility under Section 63-15-3.

16 (b) For purposes of this section, the meaning of bodily
17 injury and property damage is governed by the applicable motor
18 vehicle liability insurance policy.

19 (c) The limitation of recovery provisions of this
20 subsection (1) do not apply if the driver of the other vehicle:

21 (i) Is cited for a violation of Section 63-11-30
22 as a result of the accident and is subsequently convicted of or

23 pleads nolo contendere to such offense;

24 (ii) Intentionally causes the accident;

25 (iii) Flees from the scene of the accident; or

26 (iv) At the time of the accident, is in

27 furtherance of the commission of a felony offense under the law.

28 (2) Each person who is involved in an accident in which the
29 other motor vehicle was not covered by motor vehicle liability
30 insurance in at least the minimum amounts required for proof of
31 financial responsibility under Section 63-15-3, and who is found
32 to be liable for damages to the owner or operator of the other
33 motor vehicle may assert as an affirmative defense the limitation
34 of recovery provisions of subsection (1) of this section.

35 (3) If the owner of a motor vehicle, who fails to own or
36 maintain motor vehicle liability insurance in at least the minimum
37 amounts required for proof of financial responsibility under
38 Section 63-15-3, institutes an action to recover damages in any
39 amount, regardless of whether such owner or operator is at fault,
40 and is awarded an amount equal to or less than such minimum
41 amounts of motor vehicle liability insurance, then such owner or
42 operator shall be assessed and held liable for all court costs
43 incurred by all parties to the action.

44 (4) Each person who applies for a driver's license,
45 registers a motor vehicle, or operates or owns a motor vehicle in
46 this state is deemed to have given his consent to be subject to
47 and governed by the provisions of this section. All persons who
48 apply for the issuance or renewal of a driver's license, motor
49 vehicle title, or motor vehicle registration shall sign a
50 declaration on a form developed by the Department of Public Safety
51 pursuant to rule and regulation that the person acknowledges and
52 gives consent to the requirements and provisions of this section
53 and that the person will comply with all provisions of this

54 section and the Motor Vehicle Safety Responsibility Law, Section
55 63-15-1, et seq. Proof of whether the person obtained or signed
56 such declaration is irrelevant to the application of this section.

57 (5) Nothing in this section shall preclude a passenger in a
58 vehicle from asserting a claim to recover damages for injury,
59 death, or loss which he occasioned, in whole or in part, by the
60 negligence of another person arising out of the operation or use
61 of a motor vehicle. This subsection (5) shall not apply to a
62 passenger who is also the owner of the uninsured motor vehicle
63 involved in the accident.

64 (6) (a) Notwithstanding any provision of law to the
65 contrary, no insurer shall lose any rights of subrogation for
66 claims paid under the applicable insurance policy for the recovery
67 of any sum in excess of the first Ten Thousand Dollars
68 (\$10,000.00) of bodily injury and the first Ten Thousand Dollars
69 (\$10,000.00) of property damages.

70 (b) In claims where no suit is filed, the claimant's
71 insurer shall have all rights to recover any amount paid by the
72 claimant's insurer on behalf of the insured for the recovery of
73 any sum in excess of the first Ten Thousand Dollars (\$10,000.00)
74 of bodily injury and the first Ten Thousand Dollars (\$10,000.00)
75 of property damages.

76 SECTION 2. This act shall take effect and be in force from
77 and after July 1, 2000.