

By: Representative Chism

To: Insurance; Judiciary A

HOUSE BILL NO. 548

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, 2005. Upon  
168 the effective date of House Bill No. 548, 2005 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, 2005, 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. 548, 2005  
261 Regular Session.

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