

By: Representative Chism

To: Insurance; Judiciary A

HOUSE BILL NO. 563

1 AN ACT TO CREATE THE "MISSISSIPPI AUTO LIABILITY INSURANCE NO
2 PAY - NO PLAY ACT"; TO PROVIDE THAT THERE SHALL BE NO RECOVERY FOR
3 THE FIRST \$10,000.00 OF BODILY INJURY AND NO RECOVERY FOR THE
4 FIRST \$10,000.00 OF PROPERTY DAMAGE BASED ON ANY CAUSE OR RIGHT OF
5 ACTION ARISING OUT OF A MOTOR VEHICLE ACCIDENT IF THE OWNER OR
6 OPERATOR OF THE MOTOR VEHICLE FAILS TO HAVE MOTOR VEHICLE
7 LIABILITY INSURANCE; TO PROVIDE FOR A DECREASED RATE FOR CERTAIN
8 UNINSURED/UNDERINSURED MOTORIST COVERAGE; AND FOR RELATED
9 PURPOSES.

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

11 **SECTION 1.** This act shall be known and may be cited the
12 "Mississippi Auto Liability Insurance No Pay - No Play Act."

13 **SECTION 2.** (1) There shall be no recovery for the first Ten
14 Thousand Dollars (\$10,000.00) of bodily injury and no recovery for
15 the first Ten Thousand Dollars (\$10,000.00) of property damage
16 based on any cause or right of action arising out of a motor
17 vehicle accident for such injury or damages occasioned by an owner
18 or operator of a motor vehicle involved in such accident who fails
19 to own or maintain motor vehicle liability insurance or is
20 otherwise not financially responsible up to the liability limits
21 set by law.

22 (2) For purposes of this section, the meaning of "bodily
23 injury" and "property damage" is governed by the applicable motor
24 vehicle liability insurance policy or, in the event of security
25 other than an insurance policy, the meaning of such terms is that
26 which is commonly ascribed thereto.

27 (3) The limitation of recovery provisions of this section
28 does not apply if the driver of the other vehicle:

29 (a) Is cited for a violation of the Implied Consent Law
30 as a result of the accident and is subsequently convicted of or
31 pleads nolo contendere to such offense;

32 (b) Intentionally causes the accident;

33 (c) Flees from the scene of the accident; or

34 (d) At the time of the accident, is in furtherance of
35 the commission of a felony offense under the law.

36 (4) Each person who is involved in an accident in which the
37 other motor vehicle was not covered by motor vehicle liability
38 insurance or whose owner is not financially responsible up to the
39 liability limits set by law and who is found to be liable for
40 damages to the owner or operator of the other motor vehicle may
41 assert as an affirmative defense the limitation of recovery
42 provisions of subsection (1) of this section.

43 (5) If the owner of a motor vehicle, who fails to own or
44 maintain motor vehicle liability insurance or is otherwise not
45 financially responsible up to the liability limits set by law,
46 institutes an action to recover damages in any amount, regardless
47 of whether such owner or operator is at fault, and is awarded an
48 amount equal to or less than the minimum amount of motor vehicle
49 liability limits required by law, then such owner or operator
50 shall be assessed and held liable for all court costs incurred by
51 all parties to the action.

52 (6) Each person who applies for a driver's license,
53 registers a motor vehicle or operates or owns a motor vehicle in
54 this state is deemed to have given his consent to be subject to
55 and governed by the provisions of this section. All persons who
56 apply for the issuance or renewal of a driver's license, motor
57 vehicle title or motor vehicle registration shall sign a
58 declaration on a form developed by the Department of Public Safety
59 pursuant to rule and regulation that the person acknowledges and
60 gives consent to the requirements and provisions of this section
61 and that the person will comply with all provisions of this

62 section and the Motor Vehicle Safety-Responsibility Law. Proof of
63 whether the person obtained or signed such declaration is
64 irrelevant to the application of this section.

65 (7) Nothing in this section shall preclude a passenger in a
66 vehicle from asserting a claim to recover damages for injury,
67 death or loss which he occasioned, in whole or in part, by the
68 negligence of another person arising out of the operation or use
69 of a motor vehicle. This subsection shall not apply to a
70 passenger who is also the owner of the uninsured motor vehicle
71 involved in the accident.

72 (8) (a) Notwithstanding any provision of law to the
73 contrary, no insurer shall lose any rights of subrogation for
74 claims paid under the applicable insurance policy for the recovery
75 of any sum in excess of the first Ten Thousand Dollars
76 (\$10,000.00) of bodily injury and the first Ten Thousand Dollars
77 (\$10,000.00) of property damages.

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

84 **SECTION 3.** Every motor vehicle insurer authorized to
85 transact business in this state shall make an automobile policy
86 rate filing with the Commissioner of Insurance to reduce its
87 uninsured/underinsured motorist coverage for insureds who select a
88 policy that provides economic-only uninsured motorist coverage, by
89 a minimum of twenty percent (20%) by January 1, 2006, unless the
90 motor vehicle insurer can demonstrate at a rate hearing that such
91 a decrease shall result in inadequate rates or in the continuation
92 of inadequate existing rates for the insurer. For purposes of
93 this section, "economic-only" uninsured motorist coverage is
94 coverage that allows the insured to recover only economic damages

95 associated with a claim and does not include recovery for pain,
96 suffering, mental anguish and other noneconomic damages.

97 **SECTION 4.** This act shall take effect and be in force from
98 and after July 1, 2005.