

Senate Amendments to House Bill No. 722

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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

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

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

27 (b) "Judgment" means any judgment which shall have
28 become final by expiration, without appeal, of the time within
29 which an appeal might have been perfected, or by final affirmation
30 on appeal, rendered by a court of competent jurisdiction of any
31 state or of the United States, upon a cause of action arising out
32 of the ownership, maintenance or use of any motor vehicle, for
33 damages, including damages for care and loss of services, because
34 of bodily injury to or death of any person, or for damages because
35 of injury to or destruction of property, including the loss of use
36 thereof, or upon a cause of action on an agreement of settlement
37 for such damages.

38 (c) "Motor vehicle" means every self-propelled vehicle
39 (other than traction engines, road rollers and graders, tractor

40 cranes, power shovels, well drillers, implements of husbandry and
41 electric personal assistive mobility device as defined in Section
42 63-3-103) which is designed for use upon a highway, including
43 trailers and semitrailers designed for use with such vehicles, and
44 every vehicle which is propelled by electric power obtained from
45 overhead wires but not operated upon rails.

46 For purposes of this definition, "implements of husbandry"
47 shall not include trucks, pickup trucks, trailers and semitrailers
48 designed for use with such trucks and pickup trucks.

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

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

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

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

62 (h) "Owner" means a person who holds the legal title of
63 a motor vehicle; in the event a motor vehicle is the subject of an
64 agreement for the conditional sale or lease thereof with the right
65 of purchase upon performance of the conditions stated in the
66 agreement and with an immediate right of possession vested in the
67 conditional vendee or lessee or in the event a mortgagor of a
68 vehicle is entitled to possession, then such conditional vendee or
69 lessee or mortgagor shall be deemed the owner for the purpose of
70 this chapter.

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

73 (j) "Proof of financial responsibility" means proof of
74 ability to respond in damages for liability, on account of

75 accidents occurring subsequent to the effective date of said
76 proof, arising out of the ownership, maintenance or use of a motor
77 vehicle, in the amount of Twenty-five Thousand Dollars
78 (\$25,000.00) because of bodily injury to or death of one (1)
79 person in any one (1) accident, and subject to said limit for one
80 (1) person, in the amount of Fifty Thousand Dollars (\$50,000.00)
81 because of bodily injury to or death of two (2) or more persons in
82 any one (1) accident, and in the amount of Twenty-five Thousand
83 Dollars (\$25,000.00) because of injury to or destruction of
84 property of others in any one (1) accident.

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

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

93 (m) "State" means any state, territory or possession of
94 the United States, the District of Columbia, or any province of
95 the Dominion of Canada.

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

98 63-15-11. (1) If twenty (20) days after the receipt of a
99 report of a motor vehicle accident in this state which has
100 resulted in bodily injury or death, or damage to the property of
101 any one (1) person in excess of Two Hundred Fifty Dollars
102 (\$250.00), the department does not have on file evidence
103 satisfactory to it that the person who would otherwise be required
104 to file security under subsection (2) of this section has been
105 finally adjudicated not to be liable, or has executed a duly
106 acknowledged written agreement providing for the payment of an
107 agreed amount in installments with respect to all claims for
108 injuries or damages resulting from the accident, the department
109 shall determine the amount of security which shall be sufficient

110 in its judgment to satisfy any judgment or judgments for damages
111 resulting from such accident as may be recovered against each
112 operator or owner.

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

131 (3) Any person so notified of suspension may, within ten
132 (10) days after receipt of such notification, make a written
133 request to the department for a hearing, and such request shall
134 operate as a stay of any suspension pending the outcome of such
135 hearing. For the purposes of this section, the scope of such
136 hearing shall cover the issues of whether there is a reasonable
137 probability of a judgment being rendered against such person in a
138 lawsuit arising out of the accident and whether such person is
139 exempt from the requirement of depositing security under
140 subsection (4) of this section. At such hearing the department
141 may also consider the amount of security required to be deposited,
142 if any. The hearing shall be in accordance with rules and
143 regulations which shall be adopted by the department and furnished
144 to the operator or owner with the notice of suspension. For the

145 purposes of this section, a "hearing" may consist of a
146 determination of such issues by the department based solely on
147 written reports submitted by the operator or owner and by
148 investigatory officers, provided that the owner or operator, in
149 his request to the department for a hearing, has expressly
150 consented to such type hearing and that the department has
151 consented thereto.

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

156 (4) Subsections (1) and (2) of this section shall not apply:
157 (a) to such operator or owner if such owner had in effect at the
158 time of such accident a liability policy with respect to the motor
159 vehicle involved in such accident; (b) to such operator, if not
160 the owner of such motor vehicle, if there was in effect at the
161 time of such accident a liability policy with respect to his
162 operation of motor vehicles not owned by him; (c) to such operator
163 or owner if the liability of such operator or owner for damages
164 resulting from such accident is, in the judgment of the
165 department, covered by any other form of liability insurance
166 policy or bond of a surety company authorized to do business in
167 this state; (d) to any person qualifying as a self-insurer under
168 Section 63-15-53, or to any person operating a motor vehicle for
169 such self-insurer; (e) to the operator or the owner of a motor
170 vehicle legally parked at the time of the accident; (f) to the
171 owner of a motor vehicle if at the time of the accident the
172 vehicle was stolen; or (g) to any person for whom the department
173 has found in the hearing provided for in subsection (3) of this
174 section, that there is not a reasonable probability of a judgment
175 being rendered against such person in a lawsuit arising out of the
176 accident.

177 No such policy shall be effective under this section unless
178 issued by an insurance company or surety company authorized to
179 write motor vehicle liability insurance in this state, except that

180 if such motor vehicle was not registered in this state, or was a
181 motor vehicle which was registered elsewhere than in this state at
182 the effective date of the policy or the most recent renewal
183 thereof, such policy shall not be effective under this section
184 unless the insurance company or surety company if not authorized
185 to do business in this state shall execute a power of attorney
186 authorizing the department to accept service on its behalf of
187 notice or process in any action upon such policy arising out of
188 such accident. However, every such policy shall be subject, if
189 the accident has resulted in bodily injury or death, to a limit,
190 exclusive of interest and cost, of not less than Twenty-five
191 Thousand Dollars (\$25,000.00) because of bodily injury to or death
192 of one (1) person in any one (1) accident and, subject to said
193 limit for one (1) person, to a limit of not less than Fifty
194 Thousand Dollars (\$50,000.00) because of bodily injury to or death
195 of two (2) or more persons in any one (1) accident, and if the
196 accident has resulted in injury to or destruction of property, to
197 a limit of not less than Twenty-five Thousand Dollars (\$25,000.00)
198 because of injury to or destruction of property of others in any
199 one (1) accident.

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

202 63-15-31. Judgments referred to in this chapter shall, for
203 the purpose of this chapter only, be deemed satisfied:

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

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

214 (c) When Twenty-five Thousand Dollars (\$25,000.00) has
215 been credited upon any judgment or judgments rendered in excess of
216 that amount because of injury to or destruction of property of
217 others as a result of any one (1) accident.

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

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

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

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

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

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

249 accident, and Twenty-five Thousand Dollars (\$25,000.00) because of
250 injury to or destruction of property of others in any one (1)
251 accident.

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

259 (4) Such motor vehicle liability policy shall state the name
260 and address of the named insured, the coverage afforded by the
261 policy, the premium charged therefor, the policy period and the
262 limits of liability, and shall contain an agreement or be endorsed
263 that insurance is provided thereunder in accordance with the
264 coverage defined in this chapter as respects bodily injury and
265 death or property damage, or both, and is subject to all the
266 provisions of this chapter.

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

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

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

276 (c) Any liability because of injury to or destruction
277 of property owned by, rented to, in charge of or transported by
278 the insured.

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

281 (a) The liability of the insurance company with respect
282 to the insurance required by this chapter shall become absolute
283 whenever injury or damage covered by said motor vehicle liability

284 policy occurs; said policy may not be cancelled or annulled as to
285 such liability by any agreement between the insurance company and
286 the insured after the occurrence of the injury or damage; no
287 statement made by the insured or on his behalf and no violation of
288 said policy shall defeat or void said policy;

289 (b) The satisfaction by the insured of a judgment for
290 such injury or damage shall not be a condition precedent to the
291 right or duty of the insurance company to make payment on account
292 of such injury or damage;

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

298 (d) The policy, the written application therefor, if
299 any, and any rider or endorsement which does not conflict with the
300 provisions of the chapter shall constitute the entire contract
301 between the parties.

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

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

315 (9) Any motor vehicle liability policy may provide for the
316 prorating of the insurance thereunder with other valid and
317 collectible insurance.

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

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

324 **SECTION 5.** Section 63-15-4, Mississippi Code of 1972, is
325 amended as follows:

326 63-15-4. (1) The following vehicles are exempted from the
327 requirements of this section:

328 (a) Vehicles exempted by Section 63-15-5;

329 (b) Vehicles for which a bond or a certificate of
330 deposit of money or securities in at least the minimum amounts
331 required for proof of financial responsibility is on file with the
332 department;

333 (c) Vehicles that are self-insured under Section
334 63-15-53; and

335 (d) Implements of husbandry.

336 (2) (a) Every motor vehicle operated in this state shall
337 have an insurance card maintained in the vehicle as proof of
338 liability insurance that is in compliance with the liability
339 limits required by Section 63-15-3(j). The insured parties shall
340 be responsible for maintaining the insurance card in each vehicle.

341 (b) An insurance company issuing a policy of motor
342 vehicle liability insurance as required by this section shall
343 furnish to the insured an insurance card for each vehicle at the
344 time the insurance policy becomes effective.

345 (3) Upon stopping a motor vehicle for any other statutory
346 violation, a law enforcement officer, who is authorized to issue
347 traffic citations, shall verify that the insurance card required
348 by this section is in the motor vehicle. However, no driver shall
349 be stopped or detained solely for the purpose of verifying that an
350 insurance card is in the motor vehicle.

351 (4) Failure of the owner or the operator of a motor vehicle
352 to have the insurance card in the motor vehicle is a misdemeanor

353 and, upon conviction, is punishable by a fine of One Thousand
354 Dollars (\$1,000.00) and suspension of driving privilege for a
355 period of one (1) year or until the owner of the motor vehicle
356 shows proof of liability insurance that is in compliance with the
357 liability limits required by Section 63-15-3(j). Fraudulent use
358 of an insurance card shall be punishable in accordance with
359 Section 97-7-10. The funds from such fines shall be deposited in
360 the State General Fund in the State Treasury. However, if such
361 fines are levied in a municipal court, twenty-five percent (25%)
362 of the funds from such fines shall be deposited in the general
363 fund of the municipality. If such fines are levied in any of the
364 courts of the county, twenty-five percent (25%) of the funds from
365 such fines shall be deposited in the general fund of the county.

366 (5) If, at the hearing date or the date of payment of the
367 fine, the motor vehicle owner shows proof of motor vehicle
368 liability insurance in the amounts required by Section 63-15-3(j),
369 the fine shall be reduced to One Hundred Dollars (\$100.00). If
370 the owner shows proof that such insurance was in effect at the
371 time of citation, the fine of One Hundred Dollars (\$100.00) and
372 court costs shall be waived.

373 **SECTION 6.** Sections 1 through 4 of this act shall take
374 effect and be in force from and after January 1, 2006, and shall
375 apply to policies issued or renewed with an effective date on or
376 after January 1, 2006. Section 5 of this act shall take effect
377 and be in force from and after July 1, 2005.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

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 \$25,000.00 FOR INJURY TO OR DESTRUCTION OF PROPERTY OF OTHERS; TO
8 AMEND SECTION 63-15-4, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A
9 PORTION OF THE FINES LEVIED IN MUNICIPAL COURT OR ANY OF THE
10 COURTS OF THE COUNTY ON PERSONS WHO DO NOT HAVE PROOF OF AUTO
11 LIABILITY INSURANCE SHALL BE DEPOSITED IN THE GENERAL FUND OF THE
12 MUNICIPALITY OR THE COUNTY; AND FOR RELATED PURPOSES.

SS01\HB722A.2J

John O. Gilbert
Secretary of the Senate