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HOUSE BILL 97

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Larry A. Larranga

AN ACT

RELATING TO MOTOR VEHICLE INSURANCE; ENACTING THE MOTOR
VEHICLE INSURANCE RESPONSIBILITY ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the
"Motor Vehicle Insurance Responsibility Act".

Section 2. LEGISLATIVE FINDINGS--PURPOSE.--

A. The legislature finds that:

(1) an insured motorist has little hope of
recovering damages from an uninsured motorist who has been
found to be liable for damages;

(2) an uninsured injured person may make a
claim against an insured person with confidence that the
uninsured person will recover some damages if liability is
established against the insured person;

underscored material = new
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1 (3) uninsured persons may take advantage of a
2 compensation structure to which they do not contribute;

3 (4) the cost of uninsured motor vehicle
4 insurance is increasing; and

5 (5) persons driving under the influence of
6 intoxicating liquor or drugs put a greater burden on
7 financially responsible motorists through increasing insurance
8 costs and injuries.

9 B. The purpose of the Motor Vehicle Insurance
10 Responsibility Act is to:

11 (1) improve the fairness of the motor vehicle
12 liability insurance system;

13 (2) avoid ineffective or cumbersome proposals
14 to increase compliance with the Mandatory Financial
15 Responsibility Act; and

16 (3) reduce motor vehicle insurance costs.

17 Section 3. DEFINITIONS.--As used in the Motor Vehicle
18 Insurance Responsibility Act:

19 A. "convicted" means that the alleged violator has
20 entered a plea of guilty or nolo contendere or has been found
21 guilty in the trial court and has waived or exhausted all of
22 his rights to an appeal;

23 B. "driving under the influence of intoxicating
24 liquor or drugs" means driving under the influence of
25 intoxicating liquor or drugs as used in Chapter 66, Article 8

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1 of the NMSA 1978;

2 C. "felony" means "felony" as defined in the
3 Criminal Code; and

4 D. "noneconomic loss" means a loss other than
5 pecuniary loss or monetary expense incurred by or on behalf of
6 an injured person in connection with the operation or use of a
7 motor vehicle and includes loss associated with pain,
8 suffering, mental anguish, emotional distress or diminished
9 enjoyment of life.

10 Section 4. LIMITATIONS ON RECOVERY OF NONECONOMIC LOSS--
11 EXCEPTIONS. --

12 A. Except as provided in this section, no injured
13 person may recover for noneconomic loss in a legal action to
14 recover damages arising from an accident resulting from the
15 operation or use of a motor vehicle, if the injured person is:

16 (1) the operator of the motor vehicle
17 involved in the accident and is convicted of driving under the
18 influence of intoxicating liquor or drugs at the time of the
19 accident;

20 (2) an owner of a motor vehicle involved in
21 the accident and fails to produce proof of financial
22 responsibility pursuant to the Mandatory Financial
23 Responsibility Act;

24 (3) the operator of a motor vehicle involved
25 in an accident and is operating the motor vehicle in violation

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1 of the Mandatory Financial Responsibility Act;

2 (4) the operator of a motor vehicle involved
3 in an accident and is operating the motor vehicle with a
4 suspended or revoked license at the time of the accident; or

5 (5) at the time of the accident, injured in
6 the course of committing a felony or fleeing from the crime
7 scene and is convicted of that felony.

8 B. An injured person may recover for noneconomic
9 loss in a legal action to recover damages arising from the
10 operation of a motor vehicle involved in an accident if the
11 accident was caused by the willful and wanton act of a
12 motorist or the injured person is a person described in
13 Paragraph (2), (3) or (4) of Subsection A of this section who
14 is:

15 (1) injured by a motorist who is convicted of
16 driving under the influence of intoxicating liquor or drugs at
17 the time of the accident; or

18 (2) injured by a motorist, passenger in the
19 motor vehicle or pedestrian who was, at the time of the
20 accident, in the course of committing a felony or fleeing from
21 the crime scene and is convicted of that felony.

22 Section 5. LIMITATIONS ON INSURANCE COVERAGE. -- An
23 insurer is not liable to pay for damages to an injured person
24 for noneconomic loss if the injured person has been denied
25 recovery pursuant to the Motor Vehicle Insurance

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1 Responsibility Act.

2 Section 6. PROCEDURE FOR PENDING CLAIMS. --

3 A. If an injured person has been charged in
4 connection with the accident with driving under the influence
5 of intoxicating liquor or drugs or the commission of a felony
6 and a final judgment has not been made, an insurer may advise
7 the injured person that settlement of the claim will be
8 suspended until a final judgment is rendered. The injured
9 person claiming damages shall provide evidence of the final
10 disposition of charges.

11 B. No insurer shall be liable for unfair claims
12 practices pursuant to Section 59A-16-20 NMSA 1978 nor shall
13 any cause of action accrue against the insurer until the
14 injured party provides the evidence to the insurer, who may
15 then take reasonable steps to verify the validity of the
16 evidence, including verifying insurance coverage by other
17 insurers.

18 Section 7. RATE FILING. -- Insurers shall file with the
19 insurance division of the public regulation commission
20 anticipated rates resulting from lower claim costs due to the
21 Motor Vehicle Insurance Responsibility Act no later than
22 August 1, 1999.

23 Section 8. ACT NOT SEVERABLE. -- If any part or
24 application of the Motor Vehicle Insurance Responsibility Act
25 is held invalid, the remainder or its application to other

1 situations or persons shall likewise be invalid. The
2 provisions of this act are not severable.

3 Section 9. APPLICABILITY. -- The provisions of the Motor
4 Vehicle Insurance Responsibility Act apply to motor vehicle
5 accidents occurring on or after October 1, 1999.

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HOUSE BUSINESS AND INDUSTRY COMMITTEE SUBSTITUTE FOR
HOUSE BILLS 59 AND 97

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

AN ACT

RELATING TO MOTOR VEHICLE INSURANCE; ENACTING THE MOTOR
VEHICLE INSURANCE PERSONAL RESPONSIBILITY ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE. -- This act may be cited as the
"Motor Vehicle Insurance Personal Responsibility Act".

Section 2. LEGISLATIVE FINDINGS--PURPOSE. --

A. The legislature finds that:

(1) an insured motorist has little hope of
recovering damages from an uninsured motorist who has been
found to be liable for damages;

(2) an uninsured injured person may make a
claim against an insured person with confidence that the
uninsured person will recover some damages if liability is
established against the insured person;

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1 (3) uninsured persons may take advantage of a
2 compensation structure to which they do not contribute;

3 (4) the cost of uninsured motor vehicle
4 insurance is increasing; and

5 (5) persons driving under the influence of
6 intoxicating liquor or drugs put a greater burden on
7 financially responsible motorists through increasing insurance
8 costs and injuries.

9 B. The purpose of the Motor Vehicle Insurance
10 Personal Responsibility Act is to:

11 (1) improve the fairness of the motor vehicle
12 liability insurance system;

13 (2) avoid ineffective or cumbersome proposals
14 to increase compliance with the Mandatory Financial
15 Responsibility Act; and

16 (3) reduce motor vehicle insurance costs.

17 Section 3. DEFINITIONS.--As used in the Motor Vehicle
18 Insurance Personal Responsibility Act:

19 A. "convicted" means that the alleged violator has
20 entered a plea of guilty or nolo contendere or has been found
21 guilty in the trial court and has waived or exhausted all of
22 his rights to an appeal;

23 B. "driving under the influence of intoxicating
24 liquor or drugs" means driving under the influence of
25 intoxicating liquor or drugs as used in Chapter 66, Article 8

1 of the NMSA 1978;

2 C. "felony" means "felony" as defined in the Criminal
3 Code; and

4 D. "noneconomic loss" means a loss other than
5 pecuniary loss or monetary expense incurred by or on behalf of an
6 injured person in connection with the operation or use of a motor
7 vehicle and includes loss associated with pain, suffering, mental
8 anguish, emotional distress or diminished enjoyment of life.

9 Section 4. LIMITATIONS ON RECOVERY OF NONECONOMIC LOSS--
10 EXCEPTIONS.--

11 A. Except as provided in this section, no injured
12 person may recover for noneconomic loss in a legal action to
13 recover damages arising from an accident resulting from the
14 operation or use of a motor vehicle, if the injured person is:

15 (1) the operator of the motor vehicle involved
16 in the accident and is convicted of driving under the influence
17 of intoxicating liquor or drugs at the time of the accident;

18 (2) an owner of a motor vehicle involved in the
19 accident and fails to produce proof of financial responsibility
20 pursuant to the Mandatory Financial Responsibility Act;

21 (3) the operator of a motor vehicle involved in
22 an accident and is operating the motor vehicle in violation of
23 the Mandatory Financial Responsibility Act;

24 (4) the operator of a motor vehicle involved in
25 an accident and is operating the motor vehicle with a suspended

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1 or revoked license at the time of the accident; or

2 (5) at the time of the accident, injured in the
3 course of committing a felony or fleeing from the crime scene and
4 is convicted of that felony.

5 B. An injured person may recover for noneconomic loss
6 in a legal action to recover damages arising from the operation
7 of a motor vehicle involved in an accident if the accident was
8 caused by the willful and wanton act of a motorist or the injured
9 person is a person described in Paragraph (2), (3) or (4) of
10 Subsection A of this section who is:

11 (1) injured by a motorist who is convicted of
12 driving under the influence of intoxicating liquor or drugs at
13 the time of the accident; or

14 (2) injured by a motorist, passenger in the
15 motor vehicle or pedestrian who was, at the time of the accident,
16 in the course of committing a felony or fleeing from the crime
17 scene and is convicted of that felony.

18 Section 5. LIMITATIONS ON INSURANCE COVERAGE. --An insurer
19 shall not pay damages to an injured person for noneconomic loss
20 if the injured person has been denied recovery pursuant to the
21 Motor Vehicle Insurance Personal Responsibility Act.

22 Section 6. PROCEDURE FOR PENDING CLAIMS. --

23 A. If an injured person has been charged in
24 connection with the accident with driving under the influence of
25 intoxicating liquor or drugs or the commission of a felony and a

1 final judgment has not been made, an insurer may advise the
2 injured person that settlement of the claim will be suspended
3 until a final judgment is rendered. The injured person claiming
4 damages shall provide evidence of the final disposition of
5 charges.

6 B. No insurer shall be liable for any claim for delay
7 pursuant to Section 59A-16-20 NMSA 1978 nor shall any cause of
8 action accrue against the insurer for a claim for delay until the
9 injured party provides the evidence of the final disposition of
10 charges to the insurer, who may then take reasonable steps to
11 verify the validity of the evidence, including verifying
12 insurance coverage by other insurers.

13 Section 7. RATE FILING.--Insurers shall file with the
14 insurance division of the public regulation commission
15 anticipated rates resulting from lower claim costs due to the
16 Motor Vehicle Insurance Personal Responsibility Act no later than
17 August 1, 1999.

18 Section 8. ACT NOT SEVERABLE.--If any part or application
19 of the Motor Vehicle Insurance Personal Responsibility Act is
20 held invalid, the remainder or its application to other
21 situations or persons shall likewise be invalid. The provisions
22 of this act are not severable.

23 Section 9. APPLICABILITY.--The provisions of the Motor
24 Vehicle Insurance Personal Responsibility Act apply to motor
25 vehicle accidents occurring on or after October 1, 1999.

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2 HBIC/HB 59 & 97

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4 FORTY- FOURTH LEGISLATURE
5 FIRST SESSION, 1999
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9 March 9, 1999
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11 Mr. Speaker:
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13 Your BUSINESS AND INDUSTRY COMMITTEE, to whom have
14 been referred

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16 HOUSE BILLS 59 AND 97

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18 has had them under consideration and reports same with
19 recommendation that they DO NOT PASS, but that

20 HOUSE BUSINESS AND INDUSTRY COMMITTEE SUBSTITUTE FOR
21 HOUSE BILLS 59 AND 97

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23 DO PASS, and thence referred to the JUDICIARY COMMITTEE.
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1 FORTY-FOURTH LEGISLATURE
2 FIRST SESSION, 1999

3 HBIC/HB 59/97

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4 Respectfully submitted,
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8 _____
9 Fred Luna, Chairman
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11 Adopted _____

Not Adopted _____

12 (Chief Clerk)

(Chief Clerk)

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14 Date _____
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16 The roll call vote was 6 For 3 Against

17 Yes: 6

18 No: Luna, Urioste, Rodella

19 Excused: None

20 Absent: Mohorovic, J. G. Taylor, T. Taylor
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J: \99BillsWP\H0097
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