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SENATE BILL 216

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

INTRODUCED BY

William H. Payne

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
[bracketed material] = delete

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

. 126080. 1

underscored material = new
[bracketed material] = delete

1 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

underscored material = new
[bracketed material] = delete

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

underscored material = new
[bracketed material] = delete

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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1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

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4
5 February 22, 1999

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8 Mr. President:

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10 Your PUBLIC AFFAIRS COMMITTEE, to whom has been
11 referred

12
13 SENATE BILL 216

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15 has had it under consideration and reports same with
16 recommendation that it DO PASS, and thence referred to the
17 JUDICIARY COMMITTEE.

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19 Respectfully submitted,

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Shannon Robinson, Chairman

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Adopted _____ Not

Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 5 For 1 Against

Yes: 5

No: Robinson

Excused: Feldman, Garcia, Howes

Absent: None

S0216PA1

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SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR
SENATE BILL 216

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;

. 126879. 3

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 NMSA 1978;

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

4 D. "noneconomic loss" means a loss other than pecuniary
5 loss or monetary expense incurred by or on behalf of an injured
6 person in connection with the operation or use of a motor vehicle
7 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. No operator of a motor vehicle may recover for
12 noneconomic loss in a legal action to recover damages arising
13 from an accident resulting from the operation or use of a motor
14 vehicle if:

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

18 (2) the operator of a motor vehicle involved in an
19 accident is operating the motor vehicle in violation of the
20 Mandatory Financial Responsibility Act;

21 (3) the operator of a motor vehicle involved in an
22 accident is operating the motor vehicle with a suspended or
23 revoked license at the time of the accident; or

24 (4) at the time of the accident, the operator of
25 the motor vehicle is injured in the course of committing a felony

underscored material = new
[bracketed material] = delete

1 or fleeing from the crime scene and is convicted of that felony.

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

8 (1) injured by a motorist who is convicted of
9 driving under the influence of intoxicating liquor or drugs at
10 the time of the accident; or

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

15 Section 5. LIMITATIONS ON INSURANCE COVERAGE. --An insurer
16 shall not pay damages to an operator of a motor vehicle for
17 noneconomic loss if the operator has been denied recovery
18 pursuant to the Motor Vehicle Insurance Personal Responsibility
19 Act.

20 Section 6. PROCEDURE FOR PENDING CLAIMS. --

21 A. If an operator of a motor vehicle has been charged
22 in connection with the accident with driving under the influence
23 of intoxicating liquor or drugs or the commission of a felony and
24 a final judgment has not been made, an insurer may advise the
25 operator of the motor vehicle that settlement of the claim will

1 be suspended until a final judgment is rendered. The operator of
2 the motor vehicle claiming damages shall provide evidence of the
3 final disposition of charges.

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

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

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

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

SPAC/SB 216

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FORTY- FOURTH LEGI SLATURE
FI RST SESSI ON, 1999

SB 216/a

March 12, 1999

Mr. President:

Your CORPORATIONS & TRANSPORTATION COMMITTEE, to
whom has been referred

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR
SENATE BILL 216

has had it under consideration and reports same with
recommendation that it DO PASS, amended as follows:

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FORTY- FOURTH LEGISLATURE
FIRST SESSION, 1999

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SCORC/SB 216

Page 21

1. On page 5, line 12, strike "RATE FILING.--Insurer shall
file with the", strike lines 13, 14, 15, and 16, and insert in
lieu thereof:

"MOTOR VEHICLE INSURANCE RATES.--Effective October 1,
1999, all motor vehicle insurance premium rates will be lowered by
fifteen percent (15%).".

Respectfully submitted,

Roman M. Maes, Chairman

SPAC/SB 216

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

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SCORC/SB 216

Page 22

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 7 For 1 Against

Yes: 7

No: Maloof

Excused: McKibben, Robinson

Absent: None

. 126879. 3

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FORTY- FOURTH LEGISLATURE
FIRST SESSION, 1999

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SCORC/SB 216

Page 23

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~~SENATE JUDICIARY COMMITTEE~~ ^{SENATE BILL 216} SUBSTITUTE FOR

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;

underscored material = new
~~[bracketed material]~~ = delete

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

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

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

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

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

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

(3) reduce motor vehicle insurance costs.

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

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

B. "driving under the influence of intoxicating liquor or drugs" means driving under the influence of intoxicating liquor or drugs as used in Chapter 66, Article 8 of the NMSA 1978;

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

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

6 Section 4. LIMITATIONS ON RECOVERY OF NONECONOMIC LOSS--
7 EXCEPTIONS.--

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

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

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

18 (3) the operator of a motor vehicle involved in an
19 accident and is operating the motor vehicle in violation of the
20 Mandatory Financial Responsibility Act;

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

24 (5) at the time of the accident, injured in the
25 course of committing a felony or fleeing from the crime scene and

1 is convicted of that felony.

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

8 (1) injured by a motorist who is convicted of
9 driving under the influence of intoxicating liquor or drugs at
10 the time of the accident; or

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

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

19 Section 6. PROCEDURE FOR PENDING CLAIMS. --

20 A. If an injured person has been charged in connection
21 with the accident with driving under the influence of
22 intoxicating liquor or drugs or the commission of a felony and a
23 final judgment has not been made, an insurer may advise the
24 injured person that settlement of the claim will be suspended
25 until a final judgment is rendered. The injured person claiming

. 126879. 2

1 damages shall provide evidence of the final disposition of
2 charges.

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

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

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

20 Section 9. APPLICABILITY.--The provisions of the Motor
21 Vehicle Insurance Personal Responsibility Act apply to motor
22 vehicle accidents occurring on or after October 1, 1999.
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SPAC/SB 216

**FORTY- FOURTH LEGISLATURE
FIRST SESSION, 1999**

March 22, 1999

**SENATE FLOOR AMENDMENT number _____ to SENATE JUDICIARY
COMMITTEE**

**SUBSTITUTE FOR
SENATE BILL 216, as amended**

AMENDMENT sponsored by SENATOR McSORLEY

1. On page 4, strike lines 3 through 15.

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SPAC/SB 216

Senator Cisco McSorley

Adopted _____

(Chief Clerk)

Not Adopted _____
(Chief Clerk)

Date _____

S0216FS1

1 FORTY- FOURTH LEGISLATURE
2 FIRST SESSION, 1999
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6 March 18, 1999
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8 Mr. Speaker:
9

10 Your BUSINESS AND INDUSTRY COMMITTEE, to whom has
11 been referred
12

13 SENATE BILL 216, as amended
14

15 has had it under consideration and reports same with
16 recommendation that it DO PASS, and thence referred to the
17 JUDICIARY COMMITTEE.

18 Respectfully submitted,
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22 _____
23 Fred Luna, Chairman
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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

SPAC/SB 216

HBI C/SB 216a

Page 32

Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 7 For 3 Against

Yes: 7

No: J. G. Taylor, Urioste, Rodella

Excused: Kissner, Lutz

Absent: None

J: \99BillSWP\S0216

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