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HOUSE BILL 196

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Lorenzo A. Larranaga

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) an uninsured person may take advantage of
2 a compensation structure to which they do not contribute;

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

5 (5) a person driving under the influence of
6 intoxicating liquor or drugs puts 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

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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 who 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 the accident and is operating the motor vehicle in

. 133767. 1

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1 violation of the Mandatory Financial Responsibility Act;

2 (4) the operator of a motor vehicle involved
3 in the 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, committing a felony or fleeing from the crime scene
21 and is convicted of that felony.

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

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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 an 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 any claim for
12 delay pursuant to Section 59A-16-20 NMSA 1978 nor shall any
13 cause of action accrue against the insurer for a claim for
14 delay until the injured party provides the evidence of the
15 final disposition of charges to the insurer, who may then take
16 reasonable steps to verify the validity of the evidence,
17 including verifying insurance coverage by other 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 Personal Responsibility Act no later
22 than August 1, 2001.

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

. 133767. 1

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

3 Section 9. APPLICABILITY. -- The provisions of the Motor
4 Vehicle Insurance Personal Responsibility Act apply to motor
5 vehicle accidents occurring on or after October 1, 2001.

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