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HOUSE BILL 59

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

INTRODUCED BY

Henry "Kiki" Saavedra

AN ACT

RELATING TO AUTOMOBILE INSURANCE; PROVIDING THAT UNINSURED  
MOTORISTS SHALL NOT HAVE A CIVIL CAUSE OF ACTION IN CERTAIN  
CIRCUMSTANCES; ENACTING A NEW SECTION OF THE MANDATORY  
FINANCIAL RESPONSIBILITY ACT.

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

Section 1. A new section of the Mandatory Financial  
Responsibility Act is enacted to read:

" NEW MATERIAL UNINSURED MOTORISTS-- RESTRICTIONS ON  
CIVIL CAUSE OF ACTION. --

A. An uninsured motorist shall not have a civil  
cause of action to recover damages from another person that  
result from an accident arising out of the operation,  
maintenance or use of a motor vehicle, when the other person  
is in compliance with the provisions of the Mandatory

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1 Financial Responsibility Act.

2 B. Notwithstanding the provisions of Subsection A  
3 of this section, an uninsured motorist shall have a civil  
4 cause of action against another person pursuant to common law  
5 tort principles for economic loss and noneconomic loss, when  
6 that person causes:

7 (1) personal injury to the uninsured motorist  
8 as a direct result of committing a felony while operating a  
9 motor vehicle or while driving under the influence of  
10 intoxicating liquor or drugs; or

11 (2) property damage to the uninsured  
12 motorist's motor vehicle as a direct result of committing a  
13 felony while operating a motor vehicle or while driving under  
14 the influence of intoxicating liquor or drugs.

15 C. Insurers are prohibited from paying damages  
16 assessed against an insured motorist pursuant to the  
17 provisions of Subsection B of this section, except for  
18 economic loss.

19 D. Notwithstanding the provisions of Subsection A  
20 of this section, an uninsured motorist shall have a civil  
21 cause of action against another person pursuant to common law  
22 tort principles for economic loss and noneconomic loss, when  
23 that person causes:

24 (1) personal injury to the uninsured motorist  
25 as a direct result of intentional misconduct; or

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1 (2) property damage to the uninsured  
2 motorist's motor vehicle as a direct result of intentional  
3 misconduct.

4 E. Insurers are prohibited from paying damages  
5 assessed against an insured motorist pursuant to the  
6 provisions of Subsection D of this section.

7 F. The provisions of this section are not intended  
8 to limit a cause of action in tort against any person other  
9 than the individual engaged in operating, maintaining or using  
10 a motor vehicle at the time of an accident.

11 G. As used in this section:

12 (1) "economic loss" means pecuniary loss and  
13 monetary expense incurred by or on behalf of an injured person  
14 as the result of an accidental bodily injury;

15 (2) "noneconomic loss" means any loss other  
16 than economic loss, including pain, suffering, loss of  
17 enjoyment of life, mental anguish, emotional distress and all  
18 other non-economic damages; and

19 (3) "uninsured motorist" means a person who  
20 is the owner of a motor vehicle or the person responsible for  
21 maintaining a motor vehicle liability policy or a certified  
22 motor vehicle liability policy on a motor vehicle subject to  
23 the provisions of the Mandatory Financial Responsibility Act,  
24 but who fails to maintain the minimum required coverages. "

25 Section 2. EFFECTIVE DATE. --The effective date of the

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provisions of this act is July 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;

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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HBIC/HB 59 & 97

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

**March 9, 1999**

**Mr. Speaker:**

**Your BUSINESS AND INDUSTRY COMMITTEE, to whom have  
been referred**

**HOUSE BILLS 59 AND 97**

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

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

**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

Page 11

4 Respectfully submitted,  
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9 Fred Luna, Chairman  
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11 Adopted \_\_\_\_\_

12 (Chief Clerk)

Not Adopted \_\_\_\_\_

(Chief Clerk)

13  
14 Date \_\_\_\_\_  
15

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  
21

J: \99BillsWP\H0059  
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