

ENGROSSED HOUSE
BILL NO. 2875

By: Bryant, Pettigrew and
Pope (Tim) of the House

and

Dunlap of the Senate

(damages - Uninsured Motorist Stipulation of Benefits Act
- seizure and forfeiture - codification)

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 99 of Title 23, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Uninsured Motorist Stipulation of Benefits Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 100 of Title 23, unless there is created a duplication in numbering, reads as follows:

A. It is the policy of this state that an uninsured motorist shall be deemed to have waived the right to recover for noneconomic loss from a motorist who carries the statutorily required automobile insurance in the event of an accident unless the accident was caused by the insured motorist's use of alcohol or other intoxicating substance. The vehicle and driver license of the uninsured motorist is subject to seizure and forfeiture.

B. If an uninsured motorist is awarded damages against an insured motorist, the portion of the award representing compensation

for noneconomic losses shall be deducted from the award and the trier of fact shall not be informed of such deduction.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 101 of Title 23, unless there is created a duplication in numbering, reads as follows:

A. An owner and operator of a motor vehicle who operates the motor vehicle on the public highways of this state, or who knowingly permits the operation of the motor vehicle on the public highways of this state, who fails to have in full force and effect a complying liability policy providing at least the minimum liability coverage required by the state and covering said motor vehicle at the time of an accident shall:

1. Be deemed to have waived any right to recover against a complying policyholder for noneconomic loss; and

2. Recover, if at all, only for an award covering economic loss.

Such waiver and recovery limitation shall not apply if it can be demonstrated by clear and convincing evidence that the accident was caused wholly or in part by a tort-feasor operating a motor vehicle under the influence of drugs or alcohol, or who is convicted of vehicular assault or homicide.

B. In an action against a complying policyholder by a person deemed to have waived recovery under subsection A of this section:

1. Any award in favor of such person shall be reduced by an amount equal to the portion of the award representing compensation for noneconomic losses; and

2. The trier of fact shall not be informed, directly or indirectly, of such waiver or of its effect on the total amount of the person's recovery.

C. Nothing in this section shall be construed to preclude recovery against an alleged tort-feasor of benefits provided or economic loss coverage.

D. There is a rebuttable presumption of a knowing violation of the minimum insurance requirements contained in subsection A of this section if said insurance has lapsed, terminated, or otherwise been ineffective for a period of at least thirty (30) days prior to the accident.

E. Passengers in the uninsured vehicle are not subject to this waiver.

F. The provisions of this section shall apply to all causes of action that accrue on or after the effective date of this act.

Passed the House of Representatives the 9th day of March, 1998.

Speaker of the House of
Representatives

Passed the Senate the ____ day of _____, 1998.

President of the Senate