

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

HOUSE BILL NO. 2626

By: Vaughn

AS INTRODUCED

An Act relating to damages; creating the Uninsured Motorist Stipulation of Benefits Act; providing short title; stating policy; prohibiting recovery of noneconomic damages by uninsured motorists in certain circumstances; declaring rebuttable presumption; excluding passengers from waiver of recovery; providing scope of application; providing for codification; and declaring an emergency.

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.

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 tortfeasor 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 tortfeasor 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.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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