

ENGROSSED HOUSE AMENDMENT
TO
ENGROSSED SENATE BILL NO. 692

By: Leftwich of the Senate

and

Paulk of the House

(vehicle insurance - liability -

effective date)

AUTHORS: Add the following House Coauthors: Benge, Calvey, Miller
and Piatt

AMENDMENT NO. 1. Strike the stricken title, enacting clause and
entire bill and insert

"An Act relating to damages; defining terms;
prohibiting recovery of noneconomic damages in
certain circumstances; providing for codification;
and providing an effective date.

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:

A. As used in this section:

1. "Claimant" means a party, including a plaintiff, counter-
claimant, cross-claimant, or third-party claimant, seeking recovery
of damages;

2. "Economic damages" means compensatory damages for pecuniary
loss. The term does not include exemplary damages or damages for
physical and mental anguish, loss of consortium, disfigurement,
physical impairment, loss of companionship or society, or any other
nonpecuniary damages; and

3. "Noneconomic damages" means any damages other than economic damages.

B. Except as provided in subsection C of this section, in any civil action to recover damages arising out of an accident involving the operation or use of a motor vehicle, a claimant may not recover noneconomic damages if any of the following applies:

1. The claimant was, at the time of the accident, operating, using or in actual physical control of a motor vehicle while intoxicated in violation of Section 11-902 of Title 47 of the Oklahoma Statutes, or any successor provision thereto relating to the illegal operation or use of a motor vehicle while intoxicated, and the claimant was convicted of the offense;

2. The claimant was, at the time of the accident, operating or using the motor vehicle in violation of the financial responsibility provisions of Title 47 of the Oklahoma Statutes, or any successor provision thereto relating to the illegal operation or use of a motor vehicle without required financial responsibility, and the claimant was convicted of the offense; or

3. The claimant's injuries were in any way proximately caused by the claimant's commission of any felony, or immediate flight therefrom, and the claimant was duly convicted of that felony.

C. The limitations noted in subsection B of this section shall not apply to a claimant described in paragraph 2 of subsection B of this section, if that claimant was injured by a motorist who at the time of the accident was operating, using or in actual physical control of a motor vehicle while intoxicated in violation of Section 11-902 of Title 47 of the Oklahoma Statutes, or any successor provision thereto relating to the illegal operation or use of a motor vehicle while intoxicated, and that motorist was convicted of the offense.

D. Except as provided in subsection C of this section, an insurer shall not be liable, directly or indirectly, under a policy

of liability or uninsured or underinsured motorist insurance to indemnify a claimant described in subsection B of this section for any noneconomic damages. In the event a claimant who may be subject to subsection B of this section makes a claim prior to resolution of any criminal action brought against the claimant, or that the insurer reasonably believes may be brought, the insurer may withhold any aspect of a claim payment not attributable to economic damages until the criminal action is completed.

E. The application of the limitations provided in this section shall constitute an additional civil penalty for engaging in the unlawful acts noted in subsection B of this section.

F. The limitations contained in this section apply to a claim for damages made by a claimant other than a convicted claimant if:

1. The claimant's right of recovery results from injury to a convicted claimant, including a claim for the wrongful death of a convicted claimant or a claim for loss of consortium with or loss of the companionship of the convicted claimant; and

2. The convicted claimant's right to recovery would be barred under this section.

G. For purposes of subsection F of this section, a person is considered convicted in a case if:

1. Sentence is imposed; or

2. The person receives a fine, probation, or deferred adjudication, regardless of an admission of guilt.

H. The provisions of this section apply to all causes of action that accrue on or after November 1, 1999.

SECTION 2. This act shall become effective November 1, 1999."

Passed the House of Representatives the 7th day of April, 1999.

Speaker of the House of
Representatives

Passed the Senate the ____ day of _____, 1999.

President of the Senate