

1 shall be limited to the amount of medical costs, property damage,
2 and lost income and shall not include any award for pain and
3 suffering.

4 B. The limitations provided for in subsection A of this section
5 shall not apply:

6 1. If the plaintiff or claimant was injured by a motorist who
7 at the time of the accident was operating or using a motor vehicle
8 while under the influence of drugs or alcohol in violation of any
9 provision of law relating to the illegal operation or use of a motor
10 vehicle while under the influence of drugs or alcohol, and that
11 motorist:

12 a. was convicted of, or pled guilty or nolo contendere
13 to, the offense, or

14 b. dies as a result of the accident if it is proven by a
15 preponderance of the evidence that the motorist was
16 operating or using the motor vehicle while under the
17 influence of drugs or alcohol in violation of any
18 provision of law relating to the illegal operation or
19 use of a motor vehicle while under the influence of
20 drugs or alcohol;

21 2. If the plaintiff or claimant was a passenger in a motor
22 vehicle involved in the accident, unless the plaintiff or claimant
23 is an owner of the vehicle;

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1 3. If the plaintiff or claimant was not in any motor vehicle
2 involved in the accident;

3 4. To wrongful death claims;

4 5. If the motorist who caused the accident:

5 a. intentionally caused the accident,

6 b. left the scene of the accident, or

7 c. at the time of the accident, was acting in furtherance
8 of the commission of a felony;

9 6. If, at the time of the accident, the plaintiff or claimant
10 was claimed as a dependent on the federal income tax return of one
11 or both parents of the plaintiff or claimant and the parent or
12 parents were not in compliance with the Compulsory Insurance Law; or

13 7. If, at the time of the accident, the plaintiff or claimant
14 previously had been covered by an insurance policy meeting the
15 requirements of the Compulsory Insurance Law that was terminated or
16 nonrenewed for failure to pay the premium, unless at least thirty
17 (30) days prior to the accident notice of termination was sent to
18 the last-known mailing address of the policyholder.

19 C. Each person who is involved in the accident which is the
20 basis for the action or claim by the plaintiff or claimant and who
21 is found liable for damages to the plaintiff or claimant may assert
22 the limitation of recovery provided for in subsection A of this
23 section, unless the provisions of subsection B of this section

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1 apply. The motor vehicle liability insurer of the person asserting
2 the limitation of recovery also may assert the limitation.

3 SECTION 2. This act shall become effective November 1, 2011.

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5 COMMITTEE REPORT BY: COMMITTEE ON INSURANCE, dated 04-18-2011 - DO
6 PASS.

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