

HOUSE BILL No. 4232

February 21, 1989, Introduced by Reps. Wartner, Middaugh, Ouwinga, Gilmer, Johnson, Crandall, Jaye, Gnodtke, DeLange, DeMars and Munsell and referred to the Committee on Insurance.

A bill to amend section 3135 of Act No. 218 of the Public Acts of 1956, entitled as amended

"The insurance code of 1956,"

being section 500.3135 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 3135 of Act No. 218 of the Public Acts
2 of 1956, being section 500.3135 of the Michigan Compiled Laws, is
3 amended to read as follows:

4 Sec. 3135. (1) A person remains subject to tort liability
5 for noneconomic loss caused by his or her ownership, maintenance,
6 or use of a motor vehicle only if the injured person has suffered
7 death, serious impairment of body function, or permanent serious
8 disfigurement. IN AN ACTION FOR DAMAGES PURSUANT TO THIS
9 SUBSECTION, BOTH OF THE FOLLOWING APPLY:

1 (A) THE INJURED PERSON SHALL NOT HAVE SUFFERED SERIOUS
2 IMPAIRMENT OF BODY FUNCTION UNLESS THE PERSON HAS SUFFERED AN
3 OBJECTIVELY MANIFESTED IMPAIRMENT OF AN IMPORTANT BODY FUNCTION
4 WHICH AFFECTS HIS OR HER GENERAL ABILITY TO LEAD A NORMAL LIFE.
5 THE ISSUE OF WHETHER AN INJURED PERSON HAS SUFFERED SERIOUS
6 IMPAIRMENT OF BODY FUNCTION SHALL BE A QUESTION OF LAW FOR THE
7 COURT.

8 (B) EXCEPT AS AUTHORIZED UNDER SECTION 5851 OF THE REVISED
9 JUDICATURE ACT OF 1961, ACT NO. 236 OF THE PUBLIC ACTS OF 1961,
10 BEING SECTION 600.5851 OF THE MICHIGAN COMPILED LAWS, AN ACTION
11 UNDER THIS SUBSECTION SHALL NOT BE COMMENCED LATER THAN 3 YEARS
12 AFTER THE DATE OF THE ACCIDENT WHICH CAUSES THE INJURY.

13 (2) Notwithstanding any other provision of law, tort liabil-
14 ity arising from the ownership, maintenance, or use within this
15 state of a motor vehicle with respect to which the security
16 required by section ~~3101(3) and (4)~~ 3101(1) was in effect is
17 abolished except as to:

18 (a) Intentionally caused harm to persons or property. Even
19 though a person knows that harm to persons or property is sub-
20 stantially certain to be caused by his or her act or omission,
21 the person does not cause or suffer such harm intentionally if he
22 or she acts or refrains from acting for the purpose of averting
23 injury to any person, including himself or herself, or for the
24 purpose of averting damage to tangible property.

25 (b) Damages for noneconomic loss as provided and limited in
26 subsection (1).

1 (c) Damages for allowable expenses, work loss, and
2 survivor's loss as defined in sections 3107 to 3110 in excess of
3 the daily, monthly, and 3-year limitations contained in those
4 sections. The party liable for damages is entitled to an exemp-
5 tion reducing his or her liability by the amount of taxes that
6 would have been payable on account of income the injured person
7 would have received if he or she had not been injured.

8 (d) Damages up to \$400.00 to motor vehicles, to the extent
9 that the damages are not covered by insurance. An action for
10 damages pursuant to this subdivision shall be conducted in com-
11 pliance with subsection (3).

12 (3) In an action for damages pursuant to subsection (2)(d):

13 (a) Damages shall be assessed on the basis of comparative
14 fault, except that damages shall not be assessed in favor of a
15 party who is more than 50% at fault.

16 (b) Liability shall not be a component of residual liabili-
17 ty, as prescribed in section 3131, for which maintenance of
18 security is required by this act.

19 (4) Actions under subsection (2)(d) shall be commenced,
20 whenever legally possible, in the small claims division of the
21 district court or ~~the conciliation division of the common pleas~~
22 ~~court of the city of Detroit or~~ the municipal court. If the
23 defendant or plaintiff removes ~~such an~~ THE action to a higher
24 court and does not prevail, the judge may assess costs.

25 (5) A decision of a court made pursuant to subsection
26 (2)(d), shall not be res judicata in any proceeding to determine

1 any other liability arising from the same circumstances as gave
2 rise to the action brought pursuant to subsection (2)(d).

3 ~~(6) Subsections (2)(d), (3), (4), and (5) shall take effect~~
4 ~~July 1, 1980.~~

5 Section 2. This amendatory act applies to causes of action
6 arising on and after June 1, 1989.