

HOUSE BILL No. 4772

May 4, 1989, Introduced by Reps. Saunders, Kilpatrick, Miller, DeMars, Berman, Gubow, Hunter, Watkins and Harrison 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.

9 (2) Notwithstanding any other provision of law, tort
10 liability arising from the ownership, maintenance, or use within

1 this state of a motor vehicle with respect to which the security
2 required by section 3101 ~~(3) and (4)~~ was in effect is abolished
3 except as to:

4 (a) Intentionally caused harm to persons or property. Even
5 though a person knows that harm to persons or property is sub-
6 stantially certain to be caused by his or her act or omission,
7 the person does not cause or suffer such harm intentionally if he
8 or she acts or refrains from acting for the purpose of averting
9 injury to any person, including himself or herself, or for the
10 purpose of averting damage to tangible property.

11 (b) Damages for noneconomic loss as provided and limited in
12 subsection (1).

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

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

24 (E) DAMAGES FOR LOSS OF EARNING CAPACITY.

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

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

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

7 (4) Actions under subsection (2)(d) shall be commenced,
8 whenever legally possible, in the small claims division of the
9 district court ~~or the conciliation division of the common pleas~~
10 ~~court of the city of Detroit~~ or the municipal court. If the
11 defendant or plaintiff removes such an action to a higher court
12 and does not prevail, the judge may assess costs.

13 (5) A decision of a court made pursuant to subsection
14 (2)(d), shall not be res judicata in any proceeding to determine
15 any other liability arising from the same circumstances as gave
16 rise to the action brought pursuant to subsection (2)(d).

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