

In bill text the following has special meaning
underline denotes added text
~~struck out text denotes deleted text~~

2008 AL H 15

AUTHOR: Keahey

VERSION: Substituted

VERSION DATE: 02/26/2008

Rep(s). By Representative Keahey

Bill Number: HB15

ENGROSSED,

A BILL

TO BE ENTITLED

AN ACT

To amend Sections 32-7-2, 32-7-6, 32-7-16, and 32-7-22, Code of Alabama 1975, relating to the Motor Vehicle Safety-Responsibility Act and providing for certain insurance or financial responsibility on recovery for death, bodily injury, and loss of services and property; to increase certain proof of financial responsibility.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 32-7-2, 32-7-6, 32-7-16, and 32-7-22, Code of Alabama 1975, are amended to read as follows:

Section 32-7-2.

"For the purposes of this chapter, the following terms shall have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

"(1) DIRECTOR. The Director of Public Safety of the State of Alabama.

"(2) JUDGMENT. Any judgment which shall have become final by expiration without appeal of the time within which an appeal might have been perfected, or by final affirmation on appeal rendered by a court of competent jurisdiction of any state or of the United States, upon a cause of action arising out of the ownership, maintenance or use of any motor vehicle, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, or upon a cause of action on an agreement of settlement for those damages.

"(3) LICENSE. Any license, temporary instruction permit, or temporary license issued under the laws of this state pertaining to the licensing of persons to operate motor vehicles.

"(4) MOTOR VEHICLE. Every self-propelled vehicle which is designed for use upon a highway,

including trailers and semitrailers designed for use with the vehicles (except traction engines, road rollers, farm tractors, tractor cranes, power shovels and well drillers) and every vehicle which is propelled by electric power obtained from overhead wires but not operated upon rails.

"(5) NONRESIDENT. Every person who is not a resident of this state.

"(6) NONRESIDENT'S OPERATION PRIVILEGE. The privilege conferred upon a nonresident by the laws of this state pertaining to the operation by him or her of a motor vehicle or the use of a motor vehicle owned by him or her in this state.

"(7) OPERATOR. Every person who is in actual physical control of a motor vehicle.

"(8) OWNER. A person who holds the legal title of a motor vehicle, or in the event a motor vehicle is the subject of an agreement for the conditional sale or lease of the motor vehicle with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee, or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then the conditional vendee, or lessee, or mortgagor shall be deemed the owner for the purposes of this subdivision.

"(9) PERSON. Every natural person, firm, copartnership, association or corporation.

"(10) PROOF OF FINANCIAL RESPONSIBILITY. Proof of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of the proof, arising out of the ownership, maintenance, or use of a motor vehicle in the amount of ~~\$20,000~~ twenty-five thousand dollars (\$25,000), because of bodily injury to or death of one person in any one accident, and, subject to the limit for one person, in the amount of ~~\$40,000~~ fifty thousand dollars (\$50,000) because of bodily injury to or death of two or more persons in any one accident, and in the amount of ~~\$10,000~~ twenty-five thousand dollars (\$25,000) because of injury to or destruction of property of others in any one accident.

"(11) REGISTRATION. Registration certificate or certificates and registration plates issued under the laws of this state pertaining to the registration of motor vehicles.

"(12) STATE. Any state, territory or possession of the United States, the District of Columbia or any province of the Dominion of Canada.

Section 32-7-6.

"(a) If 20 days after the receipt of a report of a motor vehicle accident within this state which has resulted in bodily injury or death, or damage to the property of any one person in excess of five hundred dollars (\$500), the director does not have on file evidence satisfactory that the person who would otherwise be required to file security under subsection (b) of this section has been released from liability, or has been finally adjudicated not to be liable, or has executed a duly acknowledged written agreement or conditional release providing for the payment of an agreed amount in installments with respect to all claims for injuries or damages resulting from the accident, which agreement or conditional release may include reasonable interest as set out in Section 32-7-7, the director shall determine the amount of security which shall be sufficient in his or her judgment to satisfy any judgment or judgments for damages resulting from the accident as may be recovered against each operator or owner.

"(b) The director shall, within 60 days after the receipt of the report of a motor vehicle accident, suspend the license of each operator and all registrations of each owner of a motor vehicle in any manner involved in the accident, and if the operator is a nonresident the privilege of operating a motor

vehicle within this state, and if the owner is a nonresident the privilege of the use within this state of any motor vehicle personally owned, unless the operator or owner or both shall deposit security in the sum so determined by the director. Notice of the suspension shall be sent by the director to the operator and owner, not less than 10 days prior to the effective date of the suspension, and shall state the amount required as security. Where erroneous information is given the director with respect to the matters set forth in subdivisions (1), (2), or (3) of subsection (c) of this section, he or she shall take appropriate action as provided within 60 days after receipt by the director of correct information with respect to these matters. Upon applying for reinstatement for suspension imposed under this section, no reinstatement fees shall be assessed if proper documentation is provided to the director that acceptable insurance was in effect at the time of the motor vehicle accident.

"(c) This section shall not apply under the conditions stated in Section 32-7-7 nor in any one of the following if:

"(1) The operator or owner if the owner had in effect at the time of the accident an automobile liability policy with respect to the motor vehicle involved in the accident.

"(2) The operator, if not the owner of the motor vehicle, if there was in effect at the time of the accident an automobile liability policy or bond with respect to the operation of motor vehicles not owned by him or her.

"(3) The operator or owner if the liability of the operator or owner for damages resulting from the accident is, in the judgment of the director, covered by any other form of liability insurance policy or bond.

"(4) Any person qualifying as a self-insurer under Section 32-7-34, or to any person operating a motor vehicle for the self-insurer.

"No policy or bond shall be effective under this section unless issued by an insurance company or surety company authorized to do business in this state unless the motor vehicle was not registered in this state, or was a motor vehicle which was registered elsewhere than in this state at the effective date of the policy or bond, or the most recent renewal thereof. The policy or bond shall not be effective under this section unless the insurance company or surety company, if not authorized to do business in this state, shall execute a power of attorney authorizing the director to accept service on its behalf of notice or process in any action upon the policy or bond arising out of the accident provided, that every policy or bond is subject, if the accident has resulted in bodily injury or death, to a limit, exclusive of interest and costs, of not less than ~~twenty thousand dollars (\$20,000)~~ twenty-five thousand dollars (\$25,000) because of bodily injury to or death to one person in any one accident and subject to the limit for one person, to a limit of not less than ~~forty thousand dollars (\$40,000)~~ fifty thousand dollars (\$50,000) because of bodily injury to or death of two or more persons in any one accident, and, if the accident has resulted in injury to or destruction of property, to a limit of not less than ~~ten thousand dollars (\$10,000)~~ twenty-five thousand dollars (\$25,000) because of injury to or destruction of property of others in any one accident.

Section 32-7-16.

"Judgments herein referred to shall, for the purpose of this chapter only, be deemed satisfied:

"(1) When ~~\$20,000.00~~ twenty-five thousand dollars (\$25,000) has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of one person as the result of any one accident;

"(2) When, subject to such limit of ~~\$20,000.00~~ twenty-five thousand dollars (\$25,000) because of bodily injury to or death of one person, the sum of ~~\$40,000.00~~ fifty thousand dollars (\$50,000) has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of two or more persons as the result of any one accident; or

"(3) When ~~\$10,000.00~~ twenty-five thousand dollars (\$25,000) has been credited upon any judgment or judgments rendered in excess of that amount because of injury to or destruction of property of others as a result of any one accident." Payments made in settlement of any claims because of bodily injury, death or property damage arising from a motor vehicle accident shall be credited in reduction of the amounts provided for in this section.

Section 32-7-22.

"(a) A "motor vehicle liability policy," as the term is used in this chapter, means an owner's or an operator's policy of liability insurance, certified as provided in Section 32-7-20 or Section 32-7-21 as proof of financial responsibility, and issued, except as otherwise provided in Section 32-7-21, by an insurance carrier duly authorized to transact business in this state, to or for the benefit of the person named in the policy as insured.

"(b) The owner's policy of liability insurance:

"(1) Shall designate by explicit description or by appropriate reference all motor vehicles to be insured; and

"(2) Shall insure the person named in the policy and any other person, as insured, using any motor vehicle or motor vehicles designated in the policy with the express or implied permission of the named insured, against loss from the liability imposed by law for damages arising out of the ownership, maintenance, or use of such motor vehicle or motor vehicles within the United States of America or the Dominion of Canada, subject to limits exclusive of interest and costs, with respect to each such motor vehicle, as follows: ~~\$20,000~~ twenty-five thousand dollars (\$25,000) because of bodily injury to or death of one person in any one accident and, subject to the limit for one person, ~~\$40,000~~ fifty thousand dollars (\$50,000) because of bodily injury to or death of two or more persons in any one accident; and ~~\$10,000~~ twenty-five thousand dollars (\$25,000) because of injury to or destruction of property of others in any one accident.

"(c) The operator's policy of liability insurance shall insure the person named as insured in the policy against loss from the liability imposed upon him or her by law for damages arising out of the use by him or her of any motor vehicle not owned by him or her, within the same territorial limits and subject to the same limits of liability as are set forth above with respect to an owner's policy of liability insurance.

"(d) The motor vehicle liability policy shall state the name and address of the named insured, the coverage afforded by the policy, the premium charged for the policy, the policy period, and the limits of liability and shall contain an agreement or be endorsed that insurance is provided under the policy in accordance with the coverage defined in this chapter for bodily injury and death or property damage, or both, and is subject to all the provisions of this chapter.

"(e) The motor vehicle liability policy need not insure any liability under any workmen's compensation law nor any liability on account of bodily injury to or death of an employee of the insured while engaged in the employment, other than domestic, of the insured, or while engaged in the operation, maintenance, or repair of any motor vehicle nor any liability for damage to property owned by, rented to, in charge of or transported by the insured.

"(f) Every motor vehicle liability policy shall be subject to the following provisions which need not be contained in the policy:

"(1) The liability of the insurance carrier with respect to the insurance required by this chapter shall become absolute whenever injury or damage covered by the motor vehicle liability policy occurs. The policy may not be cancelled or annulled as to that liability by any agreement between the insurance carrier and the insured after the occurrence of the injury or damage. Any statement made by the insured or on his or her behalf and any violation of the policy shall not defeat or void the policy.

"(2) The satisfaction by the insured of a judgment for injury or damage shall not be a condition precedent to the right or duty of the insurance carrier to make payment on account of injury or damage.

"(3) The insurance carrier shall have the right to settle any claim covered by the policy, and if the settlement is made in good faith, the amount of the settlement shall be deductible from the limits of liability specified in subdivision (2) of subsection (b) of this section.

"(4) The policy, the written application for the policy, if any, and any rider or endorsement which does not conflict with this chapter shall constitute the entire contract between the parties.

"(g) Any policy which grants the coverage required for a motor vehicle liability policy may also grant any lawful coverage in excess of or in addition to the coverage specified for a motor vehicle liability policy, and the excess or additional coverage shall not be subject to this chapter. With respect to a policy which grants any excess or additional coverage, the term "motor vehicle liability policy" shall apply only to that part of the coverage which is required by this section.

"(h) Any motor vehicle liability policy may provide that the insured shall reimburse the insurance carrier for any payment the insurance carrier would not have been obligated to make under the terms of the policy except for this chapter.

"(i) Any motor vehicle liability policy may provide for the prorating of the insurance by its terms with other valid and collectible insurance.

"(j) The requirements for a motor vehicle liability policy may be fulfilled by the policies of one or more insurance carriers which policies together meet the requirements for a policy.

"(k) Any binder issued pending the issuance of a motor vehicle liability policy shall be deemed to fulfill the requirements for a policy."

Section 2. This act shall become effective for policies of new business with an effective date on or after 90 days from the first day of the month following its passage and approval by the Governor, or its otherwise becoming law. This act shall become effective for renewal policies with an effective date on or after 180 days from the first day of the month following its passage and approval by the Governor, or its otherwise becoming law.