

# HOUSE BILL No. 4635

March 21, 1991, Introduced by Reps. Saunders, Harrison, Perry Bullard, Clarke, Murphy, Bennane, Kilpatrick, Joe Young, Sr., DeMars, Clack, Stallworth, Wallace, Joe Young, Jr., Owen, Harder, Emerson, Kosteva, Gubow, Jondahl, Scott, Hollister, Berman, Barns, Hood and Varga 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~~ PRESCRIBED in sections 3107 to 3110  
15 in excess of the daily, monthly, and 3-year limitations contained  
16 in those sections. The party liable for damages is entitled to  
17 an exemption reducing his or her liability by the amount of taxes  
18 that would have been payable on account of income the injured  
19 person 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.~~