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BILL



ANALYSIS

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House Bill 4341 (Substitute H-1)
Sponsor: Representative Harold S. Voorhees
House Committee: Insurance
Senate Committee: Financial Services

Date Completed: 5-10-95

SUMMARY OF HOUSE BILL 4341 (Substitute H-1) as passed by the House:

The bill would amend the no-fault automobile insurance provisions of the Insurance Code to do all of the following:

- Provide that certain issues regarding personal injury in tort liability actions would be questions of law for the court.
- Require that damages in tort liability cases be assessed on the basis of comparative fault.
- Prohibit damages from being assessed in favor of a party who was more than 50% at fault or who operated his or her vehicle without the required insurance coverage.
- Increase the maximum level of vehicle damages for which tort liability is available to the extent those damages are not covered by insurance.
- Define "serious impairment of body function" as "an objectively manifested impairment of an important body function that affects the person's general ability to lead his or her normal life".

The Code's no-fault provisions specify that a person remains subject to tort liability for noneconomic loss caused by his or her ownership, maintenance, or use of a motor vehicle only if the injured person has suffered death, serious impairment of body function, or permanent serious disfigurement. The bill specifies that, for a cause of action for damages allowed under that provision and filed on or after 120 days after the bill's effective date, the issues of whether an injured person had suffered serious impairment of a body function or permanent serious disfigurement would be questions of law for the court (rather than a jury) to decide, if the court found either of the following:

- There was no factual dispute concerning the nature and extent of the injuries.
- There was a factual dispute concerning the nature and extent of the injuries, but the dispute was not material to the determination of whether the person had suffered a serious impairment of a body function or permanent serious disfigurement. (For a closed-head injury, however, a deposition under oath by a licensed allopathic or osteopathic physician familiar with closed-head injuries that there could be a neurological injury would create a question of fact for the jury.)

Also, under the bill, damages would have to be assessed on the basis of comparative fault, except that damages could not be assessed in favor of a party who was more than 50% at fault, or in favor

of a party who operated his or her own vehicle at the time an injury occurred and did not have in effect for that vehicle the insurance coverage required by the Code.

In addition, the Code provides that, with certain exceptions, tort liability arising from the ownership, maintenance, or use within Michigan of a motor vehicle that has the required insurance coverage is abolished. One of the exceptions is for damages of up to \$400 to motor vehicles, to the extent that the damages are not covered by insurance. The bill would increase that amount to \$500.

MCL 500.3135

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would have an indeterminate impact on the State and local units of government. The total cost to the State of automobile no fault losses (amount paid and reserves) was \$3.2 million for FY 1992-93 and \$3.1 million in FY 1993-94. To the extent that this bill would limit exposure, there are potential savings.

The bill would have no fiscal impact on the courts.

Fiscal Analyst: B. Bowerman
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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.