

HOUSE BILL No. 4933

July 2, 2003, Introduced by Reps. Howell, LaSata, Julian, Lipsey and Adamini and referred to the Committee on Insurance.

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending sections 45, 401, 514, and 520 (MCL 257.45, 257.401,
257.514, and 257.520), section 401 as amended by 2002 PA 652.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 45. "Proof of financial responsibility" means proof of
2 ability to respond in damages for liability ~~—, on account of~~ **for**
3 accidents occurring ~~—subsequent to—~~ **after** the effective date of
4 the proof ~~—~~ arising out of the ownership, maintenance, or use
5 of a motor vehicle ~~—, in the amount of \$20,000.00~~ **\$75,000.00**
6 because of bodily injury to or death of 1 person in any ~~one~~ **1**
7 accident, and, subject to ~~said~~ **that** limit for 1 person, in the
8 amount of ~~\$40,000.00~~ **\$150,000.00** because of bodily injury to or
9 death of 2 or more persons in any ~~one~~ **1** accident, and in the
10 amount of \$10,000.00 because of injury to or destruction of

1 property of others in any ~~one~~ 1 accident.

2 Sec. 401. (1) This section shall not be construed to limit
3 the right of a person to bring a civil action for damages for
4 injuries to either person or property resulting from a violation
5 of this act by the owner or operator of a motor vehicle or his or
6 her agent or servant. The owner of a motor vehicle is liable for
7 an injury caused by the negligent operation of the motor vehicle
8 whether the negligence consists of a violation of a statute of
9 this state or the ordinary care standard required by common law.
10 The owner is not liable unless the motor vehicle is being driven
11 with his or her express or implied consent or knowledge. It is
12 presumed that the motor vehicle is being driven with the
13 knowledge and consent of the owner if it is driven at the time of
14 the injury by his or her spouse, father, mother, brother, sister,
15 son, daughter, or other immediate member of the family.

16 (2) A person engaged in the business of leasing motor
17 vehicles who is the lessor of a motor vehicle under a lease
18 providing for the use of the motor vehicle by the lessee for a
19 period that is greater than 30 days, or a dealer acting as agent
20 for that lessor, is not liable at common law for damages for
21 injuries to either person or property resulting from the
22 operation of the leased motor vehicle, including damages
23 occurring after the expiration of the lease if the vehicle is in
24 the possession of the lessee.

25 (3) Notwithstanding subsection (1), a person engaged in the
26 business of leasing motor vehicles who is the lessor of a motor
27 vehicle under a lease providing for the use of the motor vehicle

1 by the lessee for a period of 30 days or less is liable for an
2 injury caused by the negligent operation of the leased motor
3 vehicle only if the injury occurred while the leased motor
4 vehicle was being operated by an authorized driver under the
5 lease agreement or by the lessee's spouse, father, mother,
6 brother, sister, son, daughter, or other immediate family
7 member. Unless the lessor, or his or her agent, was negligent in
8 the leasing of the motor vehicle, the lessor's liability under
9 this subsection is limited to ~~-\$20,000.00-~~ **\$75,000.00** because of
10 bodily injury to or death of 1 person in any 1 accident and
11 ~~-\$40,000.00-~~ **\$150,000.00** because of bodily injury to or death of
12 2 or more persons in any 1 accident.

13 (4) A person engaged in the business of leasing motor
14 vehicles as provided under subsection (3) shall notify a lessee
15 that the lessor is liable only up to the maximum amounts provided
16 for in subsection (3), and only if the leased motor vehicle was
17 being operated by the lessee or other authorized driver or by the
18 lessee's spouse, father, mother, brother, sister, son, daughter,
19 or other immediate family member, and that the lessee may be
20 liable to the lessor up to amounts provided for in subsection
21 (3), and to an injured person for amounts awarded in excess of
22 the maximum amounts provided for in subsection (3).

23 (5) Subsections (3) and (4) shall not be construed to expand
24 or reduce, except as otherwise provided by this act, the
25 liability of a person engaged in the business of leasing motor
26 vehicles or to impair that person's right to indemnity or
27 contribution, or both.

1 (6) As used in subsections (3), (4), and (5), "motor vehicle"
 2 means a self-propelled device by which a person or property may
 3 be transported upon a public highway. Motor vehicle does not
 4 include a bus, power shovel, road machinery, agricultural
 5 machinery, or other machinery or vehicle not designed primarily
 6 for highway transportation. Motor vehicle also does not include
 7 a device that moves upon or is guided by a track.

8 (7) A lessee in possession of an off lease vehicle, and not
 9 the dealer of the vehicle, is liable as the owner of the vehicle
 10 for any damages awarded for an injury to a person or property
 11 resulting from the operation of the vehicle. The dealer of an
 12 off lease vehicle may be liable at common law for damages awarded
 13 for an injury to a person or property resulting from the
 14 operation of the vehicle only if the dealer is in possession of
 15 the vehicle and the certificate of title and has acknowledged
 16 possession of the certificate of title to the lessor.

17 Sec. 514. Judgments herein referred to, ~~shall,~~ for the
 18 purpose of this chapter only, ~~be deemed~~ **are considered**
 19 satisfied **as follows:**

20 (a) ~~1. When \$20,000.00~~ **If \$75,000.00** is credited upon any
 21 judgment or judgments rendered in excess of that amount because
 22 of bodily injury to or death of 1 person as the result of any
 23 ~~one~~ 1 accident. ~~;-or~~

24 (b) ~~2. When,~~ **If** subject to such limit of ~~\$20,000.00~~
 25 **\$75,000.00** because of bodily injury to or death of 1 person, the
 26 sum of ~~\$40,000.00~~ **\$150,000.00** is credited upon any judgment or
 27 judgments rendered in excess of that amount because of bodily

1 injury to or death of 2 or more persons as the result of any
 2 ~~one~~ 1 accident. ~~;-or~~

3 (c) ~~3. When~~ If \$10,000.00 is credited upon any judgment or
 4 judgments rendered in excess of that amount because of injury to
 5 or destruction of property of others as a result of any ~~one~~ 1
 6 accident.

7 Sec. 520. (1) ~~(a) A~~ As used in this chapter, "motor
 8 vehicle liability policy" ~~as used in this chapter, shall mean~~
 9 means an owner's or an operator's policy of liability insurance,
 10 certified as provided in section 518 or section 519 as proof of
 11 financial responsibility, and issued, except as otherwise
 12 provided in section 519, by an insurance carrier duly authorized
 13 to transact business in this state, to or for the benefit of the
 14 person named ~~therein as~~ in the policy as the insured.

15 (2) ~~(b) Such~~ An owner's policy of liability insurance shall
 16 provide for all of the following:

17 (a) ~~(1)~~ Shall designate by explicit description or by
 18 appropriate reference all motor vehicles with respect to which
 19 coverage is ~~thereby to be~~ granted. ~~;-and~~

20 (b) ~~(2)~~ Shall insure the person named ~~therein~~ in the
 21 policy and any other person, as insured, using any such motor
 22 vehicle or motor vehicles with the express or implied permission
 23 of ~~such~~ the named insured, against loss from the liability
 24 imposed by law for damages arising out of the ownership,
 25 maintenance, or use of such motor vehicle or motor vehicles
 26 within the United States of America or the Dominion of Canada,
 27 subject to limits exclusive of interest and costs, with respect

1 to each such motor vehicle, as follows: ~~-\$20,000.00~~ **\$75,000.00**
 2 because of bodily injury to or death of 1 person in any 1
 3 accident and, subject to ~~said~~ **that** limit for 1 person,
 4 ~~-\$40,000.00~~ **\$150,000.00** because of bodily injury to or death of
 5 2 or more persons in any 1 accident, and \$10,000.00 because of
 6 injury to or destruction of property of others in any 1 accident.
 7 ~~—;~~

8 **(c)** ~~—(3) When~~ **If** a certificate is filed showing that a
 9 policy or policies have been issued covering all motor vehicles
 10 owned by the insured but not insuring such person when operating
 11 any motor vehicle not owned by him **or her**, ~~it shall be unlawful~~
 12 ~~for such~~ **that** person ~~to~~ **shall not** operate any motor vehicle
 13 not owned by him **or her** or not covered by ~~such~~ **the**
 14 certificate.

15 **(3)** ~~—(c) Such~~ **An** operator's policy of liability insurance
 16 shall insure the person named as insured ~~therein~~ **in the policy**
 17 against loss from the liability imposed upon him **or her** by law
 18 for damages arising out of the use by him **or her** of any motor
 19 vehicle not owned by him **or her**, within the same territorial
 20 limits and subject to the same limits of liability as ~~are set~~
 21 ~~forth above~~ **provided in subsection (2)** with respect to an
 22 owner's policy of liability insurance.

23 **(4)** ~~—(d) Such~~ **A** motor vehicle liability policy shall state
 24 the name and address of the named insured, the coverage afforded
 25 by the policy, the policy period, and the limits of liability,
 26 and shall contain an agreement or be indorsed that insurance is
 27 provided ~~thereunder~~ **in the policy** in accordance with the

1 coverage defined in this chapter as respects bodily injury and
2 death or property damage, or both, and is subject to all the
3 provisions of this chapter.

4 (5) ~~—(e)—Such~~ A motor vehicle liability policy need not
5 insure any liability under any ~~workmen's~~ **worker's** compensation
6 law ~~—nor—~~ or any liability on account of bodily injury to or
7 death of an employee of the insured while engaged in the
8 employment, other than domestic, of the insured, or while engaged
9 in the operation, maintenance, or repair of any such motor
10 vehicle ~~—nor—~~ or any liability for damage to property owned by,
11 rented to, in charge of, or transported by the insured.

12 (6) ~~—(f)—~~ Every motor vehicle liability policy ~~—shall be—~~ **is**
13 subject to the following provisions which need not be contained
14 ~~—therein—~~ **in the policy:**

15 (a) ~~—(1)—~~ The liability of the insurance carrier with respect
16 to the insurance required by this chapter shall become absolute
17 whenever injury or damage covered by ~~—said—~~ **the** motor vehicle
18 liability policy occurs; ~~—said—~~ **the** policy may not be ~~—cancelled—~~
19 **canceled** or annulled as to ~~—such—~~ **this** liability by any agreement
20 between the insurance carrier and the insured after the
21 occurrence of the injury or damage; no statement made by the
22 insured or on his **or her** behalf and no violation of ~~—said—~~ **the**
23 policy shall defeat or void ~~—said—~~ **the** policy, and except as
24 hereinafter provided, no fraud, misrepresentation, assumption of
25 liability, or other act of the insured in obtaining or retaining
26 ~~—such—~~ **the** policy, or in adjusting a claim under ~~—such—~~ **the**
27 policy, and no failure of the insured to give any notice, forward

1 any paper, or otherwise cooperate with the insurance carrier,
 2 shall constitute a defense as against ~~such~~ a judgment
 3 creditor.

4 (b) ~~-(2)-~~ The satisfaction by the insured of a judgment for
 5 ~~such~~ injury or damage ~~shall~~ **is** not ~~be~~ a condition precedent
 6 to the right or duty of the insurance carrier to make payment on
 7 account of such injury or damage.

8 (c) ~~-(3)-~~ If any person ~~shall secure~~ **secures** final judgment
 9 against the insured for loss or damage covered by any such policy
 10 and if ~~such~~ **the** judgment is not satisfied within 30 days after
 11 it ~~shall have become~~ **becomes** final, then ~~such~~ **the** judgment
 12 creditor ~~shall be~~ **is** entitled to recover under the terms of
 13 ~~such~~ **the** policy in the same manner and to the same extent as
 14 the insured, except as hereinafter provided.

15 (d) ~~-(4)-~~ The insurance carrier ~~shall have~~ **has** the right to
 16 settle any claim covered by the policy, and if ~~such~~ a
 17 settlement is made in good faith, the amount ~~thereof~~ **of the**
 18 **settlement** shall be deductible from the limits of liability
 19 ~~specified in subparagraph (2) of paragraph (b) of this section~~
 20 **under subsection (2)(b).**

21 (e) ~~-(5)-~~ The policy, the written application ~~therefor~~ **for**
 22 **the policy**, if any, and any rider or indorsement ~~which~~ **that**
 23 does not conflict with the provisions of this chapter, shall
 24 constitute the entire contract between the parties.

25 (f) ~~-(6)-~~ The insurance carrier ~~shall~~ **is** not ~~be~~ liable on
 26 any judgment if it has not had prompt notice of and reasonable
 27 opportunity to appear in and defend the action in which ~~such~~

1 **the** judgment was rendered, or if the judgment has been obtained
 2 through collusion between the judgment creditor and the insured.

3 (7) ~~-(g)-~~ Any policy ~~-which-~~ **that** grants the coverage
 4 required for a motor vehicle liability policy may also grant any
 5 lawful coverage in excess of or in addition to the coverage
 6 specified for a motor vehicle liability policy and such excess or
 7 additional coverage ~~-shall-~~ **is** not ~~-be-~~ subject to the provisions
 8 of this chapter. With respect to a policy ~~-which-~~ **that** grants
 9 ~~-such-~~ excess or additional coverage, the term "motor vehicle
 10 liability policy" shall apply only to that part of the coverage
 11 ~~-which-~~ **that** is required by this section.

12 (8) ~~-(h)-~~ Any motor vehicle liability policy may provide that
 13 the insured shall reimburse the insurance carrier for any payment
 14 the insurance carrier would not have been obligated to make under
 15 the terms of the policy except for the provisions of this
 16 chapter.

17 (9) ~~-(i)-~~ Any motor vehicle liability policy may provide for
 18 the prorating of the insurance ~~-thereunder-~~ **under the policy** with
 19 other valid and collectible insurance.

20 (10) ~~-(j)-~~ The requirements for a motor vehicle liability
 21 policy may be fulfilled by the policies of 1 or more insurance
 22 carriers which policies together meet such requirements.

23 (11) ~~-(k)-~~ Any carrier authorized to issue motor vehicle
 24 liability policies may, pending the issuance of such a policy,
 25 execute an agreement, to be known as a "binder", or may, in lieu
 26 of such a policy, issue an indorsement to an existing policy.
 27 Every ~~-such-~~ binder or indorsement ~~-shall-be-~~ **is** subject to the

1 provisions of this section and shall be construed to provide
2 indemnity or insurance in like manner and to the same extent as a
3 motor vehicle liability policy.

4 Enacting section 1. This amendatory act takes effect
5 July 1, 2003.