

FIRST REGULAR SESSION

SENATE BILL NO. 335

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR RUPP.

Read 1st time February 9, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

1637S.03I

AN ACT

To amend chapter 303, RSMo, by adding thereto one new section relating to the recovery of noneconomic damages by uninsured motorists.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 303, RSMo, is amended by adding thereto one new section, to be known as section 303.390, to read as follows:

303.390. 1. An owner of a motor vehicle who operates the motor vehicle on the public highways of this state, or who knowingly permits the operation of the motor vehicle on the public highways of this state, who fails to have in full force and effect a complying liability policy, or other form of proof of financial responsibility prescribed by section 303.160, providing at least the minimum liability coverage required by this state and covering the motor vehicle at the time of an accident shall:

(1) Be deemed to have waived any right to recover for noneconomic loss against a person who is in compliance with the financial responsibility laws prescribed by this chapter;

(2) Recover, if at all, only for an award covering economic loss. Such waiver shall not apply if it can be proven that the accident was caused, in whole or in part, by a tortfeasor who operated a motor vehicle under the influence of drugs or alcohol, or who is convicted of involuntary manslaughter under subdivision (2) of subsection 1 of section 565.024, RSMo, or assault in the second degree under subdivision (4) of subsection 1 of section 565.060, RSMo.

2. The provisions of this section shall not apply to an uninsured motorist whose immediately previous insurance policy meeting the requirements of section 303.190 was terminated or nonrenewed for

22 failure to pay the premium, unless notice of termination or nonrenewal
23 for failure to pay such premium was provided by such insurer at least
24 thirty days prior to the time of the accident.

25 3. In an action against a person who is in compliance with the
26 financial responsibility laws prescribed by this chapter by a person
27 deemed to have waived recovery under subsection 1 of this section:

28 (1) Any award in favor of such person shall be reduced by an
29 amount equal to the portion of the award representing compensation
30 for noneconomic losses;

31 (2) The trier of fact shall not be informed, directly or indirectly,
32 of such waiver or of its effect on the total amount of such person's
33 recovery.

34 4. Nothing in this section shall be construed to preclude recovery
35 against an alleged tortfeasor of benefits provided or economic loss
36 coverage.

37 5. For purposes of this section, there is a rebuttable presumption
38 of a knowing violation of the minimum insurance requirements
39 contained in section 303.160 if such insurance has lapsed, terminated,
40 or otherwise been ineffective for a period of at least thirty days prior
41 to the accident.

42 6. Passengers in the uninsured motor vehicle are not subject to
43 such recovery limitation.

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