

SECOND REGULAR SESSION

# SENATE BILL NO. 748

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR RUPP.

Read 1st time January 12, 2010, and ordered printed.

TERRY L. SPIELER, Secretary.

4353S.011

## AN ACT

To amend chapter 303, RSMo, by adding thereto one new section relating to the forfeiture of collecting noneconomic damages for failing to comply with the motor vehicle financial responsibility law.

*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 uninsured motorist shall waive the ability to have a cause of action or otherwise collect for noneconomic loss against a person who is in compliance with the financial responsibility laws of this chapter due to a motor vehicle accident in which the insured driver is alleged to be at fault. For purposes of this section, the term "uninsured motorist" shall include:**

- (1) An uninsured driver who is the owner of the vehicle;**
- (2) An uninsured permissive driver of the vehicle; and**
- (3) Any uninsured non-permissive driver.**

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, or assault in the second degree under subdivision (4) of subsection 1 of section 565.060.

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 failure to pay the premium, unless notice of termination or nonrenewal for failure to pay such premium was provided by such insurer at least

21 six months prior to the time of the accident.

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

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

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

31 4. Nothing in this section shall be construed to preclude recovery  
32 against an alleged tortfeasor of benefits provided or economic loss  
33 coverage.

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

39 6. Passengers in the uninsured motor vehicle are not subject to  
40 such recovery limitation.

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