

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997

A Bill

HOUSE BILL 2109

4
5 By: Representative Young

For An Act To Be Entitled

"THE UNINSURED MOTORIST STIPULATION OF BENEFITS ACT"

Subtitle

"THE UNINSURED MOTORIST STIPULATION OF
BENEFITS ACT"

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. This act may be cited as "The Uninsured Motorist Stipulation of Benefits Act."

SECTION 2. (a) It is the policy of this state that an uninsured motorist shall be deemed to have waived his or her right to recover for noneconomic loss from a motorist who carries motor vehicle insurance required under the Motor Vehicle Safety Responsibility Act, Arkansas Code Annotated §§ 27-19-101, et seq., in the event of an accident unless the accident was caused by the insured motorist's use of alcohol or other drugs.

(b) If an insured motorist is awarded damages against an insured motorist, it shall require the deduction of the portion of the award representing compensation for noneconomic losses and prohibits informing the trier of the fact of such deduction.

SECTION 3. (a) An owner and operator 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 providing at least the minimum liability coverage required by the Motor Vehicle Safety Responsibility Act, Arkansas Code Annotated §§ 27-10-101, et

1 seq., and covering said motor vehicle at the time of an accident, shall:

2 (1) be deemed to have waived any right to recover against a
 3 complying policyholder for noneconomic loss; and

4 (2) recover, if at all, only for an award covering economic loss;
 5 and

6 (3) such waiver shall not apply if it can be demonstrated by
 7 clear and convincing evidence that the accident was caused, wholly or in part,
 8 by a tort-feasors operating a motor vehicle under the influence of drugs or
 9 alcohol, or who is convicted of vehicular assault or homicide.

10 (b) In an action against a complying policyholder by a person deemed to
 11 have waived recovery under subsection (a) of this section:

12 (1) Any award in favor of such person shall be reduced by an
 13 amount equal to the portion of the award representing compensation for
 14 noneconomic losses.

15 (2) The trier of fact shall not be informed, directly or
 16 indirectly, of such waiver or of its effect on the total amount of said
 17 persons recovery.

18 (c) Nothing in this act shall be construed to preclude recovery against
 19 an alleged tort-feasor of benefits provided or economic loss coverage.

20 (d) There is a rebuttable presumption of a knowing violation of the
 21 minimum insurance requirements contained in subsection (a) of this section, if
 22 said insurance has lapsed, terminated, or otherwise been ineffective for a
 23 period of at least thirty (30) days prior to the accident.

24 (e) Passengers in the uninsured vehicle are not subject to this waiver.

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26 SECTION 4. All provisions of this act of a general and permanent nature
 27 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
 28 Revision Commission shall incorporate the same in the Code.

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30 SECTION 5. If any provision of this act or the application thereof to
 31 any person or circumstance is held invalid, such invalidity shall not affect
 32 other provisions or applications of the act which can be given effect without
 33 the invalid provision or application, and to this end the provisions of this
 34 act are declared to be severable.

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36 SECTION 6. All laws and parts of laws in conflict with this act are

1 hereby repealed.

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