

**Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.**

1 State of Arkansas  
2 83rd General Assembly  
3 Regular Session, 2001  
4

*As Engrossed: H3/2/01*

# A Bill

HOUSE BILL 2178

5 By: Representatives French, Hausam, *Judy*  
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## **For An Act To Be Entitled**

9 AN ACT TO AMEND ARKANSAS CODE 27-22-105 TO REDUCE  
10 OTHERWISE RECOVERABLE DAMAGES FOR FAILURE TO  
11 MAINTAIN LIABILITY INSURANCE COVERAGE; AND FOR  
12 OTHER PURPOSES.  
13

## **Subtitle**

14 AN ACT TO AMEND ARKANSAS CODE 27-22-105  
15 TO REDUCE OTHERWISE RECOVERABLE DAMAGES  
16 FOR FAILURE TO MAINTAIN LIABILITY  
17 INSURANCE COVERAGE.  
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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23 SECTION 1. Arkansas Code 27-22-105, concerning motor vehicle insurance,  
24 is amended to read as follows:

25 27-22-105. Inadequate insurance during an accident - Penalty.

26 (a) When the operator of any motor vehicle is involved in a motor  
27 vehicle accident in this state and the vehicle is found not to be adequately  
28 insured, as required by § 27-22-104(a)(1), the operator shall be deemed guilty  
29 of a Class A misdemeanor.

30 (b) In addition, if a person is convicted of driving an inadequately  
31 insured vehicle which has been involved in an accident under subsection (a) of  
32 this section, the court may order that the vehicle be impounded until proof of  
33 vehicle insurance coverage is made to the court. The owner of the vehicle  
34 impounded shall be responsible for all costs of impoundment.

35 (c)(1) There shall be no recovery for non-economic losses to compensate  
36 for pain, suffering, inconvenience, mental anguish, physical impairment,

1 disfigurement, and other non-pecuniary damages based on any cause or right of  
2 action arising out of a motor vehicle accident by an owner or operator of a  
3 motor vehicle involved in such an accident who is not adequately insured, as  
4 required by § 27-22-104(a)(1).

5 (2) The limitation of recovery provisions of this subsection  
6 shall not apply if the driver of the other vehicle:

7 (A) Is cited for a violation of § 5-65-103 as a result of  
8 the accident and subsequently pleads guilty, nolo contendere, or is found  
9 guilty of the offense;

10 (B) Intentionally causes the accident;

11 (C) Flees from the scene of the accident; or

12 (D) At the time of the accident, is in furtherance of the  
13 commission of a felony offense.

14 (3) Each person who is involved in an accident in which the other  
15 motor vehicle was not adequately insured, as required by § 27-22-104(a)(1),  
16 and who is found to be liable for damages to the owner or operator of the  
17 other motor vehicle, may assert as an affirmative defense the limitation of  
18 recovery under subsection (c) of this section for all liability in excess of  
19 that required by § 27-22-104(a)(1).

20 (4) Each person who applies for a driver's license, registers a  
21 motor vehicle, or operates or owns a motor vehicle in this state is deemed to  
22 have given his or her consent to be subject to and governed by the provisions  
23 of this section.

24 (5)(A) Nothing in this section shall preclude a passenger in a  
25 vehicle from asserting a claim to recover non-economic losses which he or she  
26 suffered, in whole or in part, by the negligence of another person arising out  
27 of the operation or use of a motor vehicle.

28 (B) This subsection shall not apply to a passenger who is  
29 also the owner of the uninsured motor vehicle involved in the accident.

30 */s/ French, et al.*

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