

1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013  
4

As Engrossed: S3/26/13

# A Bill

SENATE BILL 1060

5 By: Senators Hester, Files  
6

## For An Act To Be Entitled

8 *AN ACT TO PROTECT THE INSURED DRIVERS OF ARKANSAS; TO*  
9 *ENCOURAGE COMPLIANCE WITH THE MOTOR VEHICLE LIABILITY*  
10 *INSURANCE LAWS OF ARKANSAS; AND FOR OTHER PURPOSES.*  
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## Subtitle

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14 *TO PROTECT THE INSURED DRIVERS OF*  
15 *ARKANSAS; AND TO ENCOURAGE COMPLIANCE*  
16 *WITH THE MOTOR VEHICLE LIABILITY*  
17 *INSURANCE LAWS OF ARKANSAS.*  
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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22 SECTION 1. Arkansas Code Title 27, Chapter 22, Subchapter 1, is  
23 amended to add an additional section to read as follows:

24 27-22-112. Accidents between insured and uninsured motorists.

25 (a) Except as provided in subsection (b) of this section, in a civil  
26 action filed by or on behalf of a person who at the time of an accident  
27 involving the operation of a motor vehicle did not comply with § 27-22-104  
28 and the Motor Vehicle Safety Responsibility Act, § 27-19-101 et seq., to  
29 recover damages arising from the accident or for any claim against the motor  
30 vehicle liability insurance coverage of an insured party to the accident, a  
31 person who at the time of the accident complied with § 27-22-104 and the  
32 Motor Vehicle Safety Responsibility Act, § 27-19-101 et seq., may be held  
33 liable only for medical costs, property damage, and lost income.

34 (b) Subsection (a) of this section does not apply:

35 (1) If the plaintiff or claimant was injured by a motorist who  
36 at the time of the accident was operating or using a motor vehicle while



1 under the influence of alcohol or drugs in violation of a law relating to the  
2 illegal operation or use of a motor vehicle while under the influence of  
3 alcohol or drugs, and the motorist:

4 (A) Was convicted of or pleaded guilty or nolo contendere  
5 to the violation of law; or

6 (B) Dies as a result of the accident if it is proven by a  
7 preponderance of the evidence that the motorist was operating or using the  
8 motor vehicle while under the influence of alcohol or drugs in violation of a  
9 law relating to the illegal operation or use of a motor vehicle while under  
10 the influence of alcohol or drugs;

11 (2) If the plaintiff or claimant was a passenger in a motor  
12 vehicle involved in the accident, unless the plaintiff or claimant is an  
13 owner of the vehicle;

14 (3) If the plaintiff or claimant was not the driver or a  
15 passenger in a motor vehicle involved in the accident;

16 (4) To a claim for wrongful death;

17 (5) If the *insured motorist* who caused the accident:

18 (A) Intentionally caused the accident;

19 (B) Left the scene of the accident; or

20 (C) At the time of the accident was acting in furtherance  
21 of the commission of a felony;

22 (6) If at the time of the accident, the plaintiff or claimant  
23 was *claimed* or was *eligible to be claimed* as a dependent on the federal  
24 income tax return of one (1) or both parents of the plaintiff or claimant and  
25 the parent or parents were not in compliance with § 27-22-104 and the Motor  
26 Vehicle Safety Responsibility Act, § 27-19-101 et seq.; or

27 (7) If at the time of the accident, the plaintiff or claimant  
28 previously had been covered by an insurance policy meeting the requirements  
29 of § 27-22-104 and the Motor Vehicle Safety Responsibility Act, § 27-19-101  
30 et seq., that was terminated or not renewed for failure to pay the premium,  
31 unless at least thirty (30) days before the accident, notice of termination  
32 was sent to the last known mailing address of the policyholder.

33 (c) *This section may be asserted by:*

34 (1) Each *insured person* who is:

35 (A) Involved in an accident to which this section applies;  
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(B) Found liable for damages to the plaintiff or claimant;

and

(2) The motor vehicle liability insurer of a person described in subdivision (c)(1) of this section.

*/s/Hester*