

HOUSE BILL No. 5219

October 16, 2001, Introduced by Reps. Patterson, Raczkowski, LaSata, Bishop, Shulman, Koetje, Howell, Stewart, Kuipers, Neumann, Frank, Wojno, Whitmer, Basham, Minore, Bernero, Adamini, Jacobs, Bogardus, Lockwood, Woodward and Bovin and referred to the Committee on Insurance and Financial Services.

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending sections 45, 401, 514, and 520 (MCL 257.45, 257.401,
257.514, and 257.520), section 401 as amended by 1995 PA 98.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 45. "Proof of financial responsibility" means proof of
2 ability to respond in damages for liability ~~—, on account of—~~ FOR
3 accidents occurring ~~—subsequent to—~~ AFTER the effective date of
4 the proof ~~—,~~ arising out of the ownership, maintenance, or use
5 of a motor vehicle ~~—,~~ in the amount of ~~—\$20,000.00—~~ \$75,000.00
6 because of bodily injury to or death of 1 person in any ~~—one—~~ 1
7 accident, and, subject to ~~—said—~~ THAT limit for 1 person, in the
8 amount of ~~—\$40,000.00—~~ \$150,000.00 because of bodily injury to or
9 death of 2 or more persons in any ~~—one—~~ 1 accident, and in the

1 amount of \$10,000.00 because of injury to or destruction of
2 property of others in any ~~one~~ 1 accident.

3 Sec. 401. (1) This section shall not be construed to limit
4 the right of a person to bring a civil action for damages for
5 injuries to either person or property resulting from a violation
6 of this act by the owner or operator of a motor vehicle or his or
7 her agent or servant. The owner of a motor vehicle is liable for
8 an injury caused by the negligent operation of the motor vehicle
9 whether the negligence consists of a violation of a statute of
10 this state or the ordinary care standard required by common law.
11 The owner is not liable unless the motor vehicle is being driven
12 with his or her express or implied consent or knowledge. It is
13 presumed that the motor vehicle is being driven with the knowl-
14 edge and consent of the owner if it is driven at the time of the
15 injury by his or her spouse, father, mother, brother, sister,
16 son, daughter, or other immediate member of the family.

17 (2) A person engaged in the business of leasing motor vehi-
18 cles who is the lessor of a motor vehicle under a lease providing
19 for the use of the motor vehicle by the lessee for a period that
20 is greater than 30 days is not liable at common law for damages
21 for injuries to either person or property resulting from the
22 operation of the leased motor vehicle.

23 (3) Notwithstanding subsection (1), a person engaged in the
24 business of leasing motor vehicles who is the lessor of a motor
25 vehicle under a lease providing for the use of the motor vehicle
26 by the lessee for a period of 30 days or less is liable for an
27 injury caused by the negligent operation of the leased motor

1 vehicle only if the injury occurred while the leased motor
2 vehicle was being operated by an authorized driver under the
3 lease agreement or by the lessee's spouse, father, mother, broth-
4 er, sister, son, daughter, or other immediate family member.
5 Unless the lessor, or his or her agent, was negligent in the
6 leasing of the motor vehicle, the lessor's liability under this
7 subsection is limited to ~~-\$20,000.00-~~ \$75,000.00 because of
8 bodily injury to or death of 1 person in any 1 accident and
9 ~~-\$40,000.00-~~ \$150,000.00 because of bodily injury to or death of
10 2 or more persons in any 1 accident.

11 (4) A person engaged in the business of leasing motor vehi-
12 cles as provided under subsection (3) shall notify a lessee that
13 the lessor is liable only up to the maximum amounts provided for
14 in subsection (3), and only if the leased motor vehicle was being
15 operated by the lessee or other authorized driver or by the
16 lessee's spouse, father, mother, brother, sister, son, daughter,
17 or other immediate family member, and that the lessee may be
18 liable to the lessor up to amounts provided for in subsection
19 (3), and to an injured person for amounts awarded in excess of
20 the maximum amounts provided for in subsection (3).

21 (5) Subsections (3) and (4) shall not be construed to expand
22 or reduce, except as otherwise provided by this act, the liabil-
23 ity of a person engaged in the business of leasing motor vehicles
24 or to impair that person's right to indemnity or contribution, or
25 both.

26 (6) As used in subsections (3), (4), and (5), "motor
27 vehicle" means a self-propelled device by which a person or

1 property may be transported upon a public highway. Motor vehicle
 2 does not include a bus, power shovel, road machinery, agricul-
 3 tural machinery, or other machinery or vehicle not designed pri-
 4 marily for highway transportation. Motor vehicle also does not
 5 include a device that moves upon or is guided by a track.

6 Sec. 514. Judgments herein referred to, ~~shall,~~ for the
 7 purpose of this chapter only, ~~be deemed~~ ARE CONSIDERED satis-
 8 fied AS FOLLOWS:

9 (A) ~~1. When \$20,000.00~~ IF \$75,000.00 is credited upon any
 10 judgment or judgments rendered in excess of that amount because
 11 of bodily injury to or death of 1 person as the result of any
 12 ~~one~~ 1 accident. ~~;/ or~~

13 (B) ~~2. When,~~ IF subject to such limit of ~~\$20,000.00~~
 14 \$75,000.00 because of bodily injury to or death of 1 person, the
 15 sum of ~~\$40,000.00~~ \$150,000.00 is credited upon any judgment or
 16 judgments rendered in excess of that amount because of bodily
 17 injury to or death of 2 or more persons as the result of any
 18 ~~one~~ 1 accident. ~~;/ or~~

19 (C) ~~3. When~~ IF \$10,000.00 is credited upon any judgment
 20 or judgments rendered in excess of that amount because of injury
 21 to or destruction of property of others as a result of any ~~one~~
 22 1 accident.

23 Sec. 520. (1) ~~(a) A~~ AS USED IN THIS CHAPTER, "motor vehi-
 24 cle liability policy" ~~as used in this chapter, shall mean~~ MEANS
 25 an owner's or an operator's policy of liability insurance, certi-
 26 fied as provided in section 518 or section 519 as proof of
 27 financial responsibility, and issued, except as otherwise

1 provided in section 519, by an insurance carrier duly authorized
 2 to transact business in this state, to or for the benefit of the
 3 person named ~~therein as~~ IN THE POLICY AS THE insured.

4 (2) ~~(b) Such~~ AN owner's policy of liability insurance
 5 SHALL PROVIDE FOR ALL OF THE FOLLOWING:

6 (A) ~~(1)~~ Shall designate by explicit description or by
 7 appropriate reference all motor vehicles with respect to which
 8 coverage is ~~thereby to be~~ granted. ~~and~~

9 (B) ~~(2)~~ Shall insure the person named ~~therein~~ IN THE
 10 POLICY and any other person, as insured, using any such motor
 11 vehicle or motor vehicles with the express or implied permission
 12 of ~~such~~ THE named insured, against loss from the liability
 13 imposed by law for damages arising out of the ownership,
 14 maintenance, or use of such motor vehicle or motor vehicles
 15 within the United States of America or the Dominion of Canada,
 16 subject to limits exclusive of interest and costs, with respect
 17 to each such motor vehicle, as follows: ~~\$20,000.00~~ \$75,000.00
 18 because of bodily injury to or death of 1 person in any 1 acci-
 19 dent and, subject to ~~said~~ THAT limit for 1 person, ~~\$40,000.00~~
 20 \$150,000.00 because of bodily injury to or death of 2 or more
 21 persons in any 1 accident, and \$10,000.00 because of injury to or
 22 destruction of property of others in any 1 accident. ~~and~~

23 (C) ~~(3) When~~ IF a certificate is filed showing that a
 24 policy or policies have been issued covering all motor vehicles
 25 owned by the insured but not insuring such person when operating
 26 any motor vehicle not owned by him OR HER, ~~it shall be unlawful~~
 27 ~~for such~~ THAT person ~~to~~ SHALL NOT operate any motor vehicle

1 not owned by him OR HER or not covered by ~~such~~ THE
2 certificate.

3 (3) ~~(c) Such~~ AN operator's policy of liability insurance
4 shall insure the person named as insured ~~therein~~ IN THE POLICY
5 against loss from the liability imposed upon him OR HER by law
6 for damages arising out of the use by him OR HER of any motor
7 vehicle not owned by him OR HER, within the same territorial
8 limits and subject to the same limits of liability as ~~are set~~
9 ~~forth above~~ PROVIDED IN SUBSECTION (2) with respect to an
10 owner's policy of liability insurance.

11 (4) ~~(d) Such~~ A motor vehicle liability policy shall state
12 the name and address of the named insured, the coverage afforded
13 by the policy, the policy period, and the limits of liability,
14 and shall contain an agreement or be indorsed that insurance is
15 provided ~~thereunder~~ IN THE POLICY in accordance with the cover-
16 age defined in this chapter as respects bodily injury and death
17 or property damage, or both, and is subject to all the provisions
18 of this chapter.

19 (5) ~~(e) Such~~ A motor vehicle liability policy need not
20 insure any liability under any ~~workmen's~~ WORKER'S compensation
21 law ~~nor~~ OR any liability on account of bodily injury to or
22 death of an employee of the insured while engaged in the employ-
23 ment, other than domestic, of the insured, or while engaged in
24 the operation, maintenance, or repair of any such motor vehicle
25 ~~nor~~ OR any liability for damage to property owned by, rented
26 to, in charge of, or transported by the insured.

1 (6) ~~-(f)-~~ Every motor vehicle liability policy ~~shall be~~ IS
2 subject to the following provisions which need not be contained
3 ~~therein~~ IN THE POLICY:

4 (A) ~~-(1)-~~ The liability of the insurance carrier with
5 respect to the insurance required by this chapter shall become
6 absolute whenever injury or damage covered by ~~said~~ THE motor
7 vehicle liability policy occurs; ~~said~~ THE policy may not be
8 ~~cancelled~~ CANCELED or annulled as to ~~such~~ THIS liability by
9 any agreement between the insurance carrier and the insured after
10 the occurrence of the injury or damage; no statement made by the
11 insured or on his OR HER behalf and no violation of ~~said~~ THE
12 policy shall defeat or void ~~said~~ THE policy, and except as
13 hereinafter provided, no fraud, misrepresentation, assumption of
14 liability, or other act of the insured in obtaining or retaining
15 ~~such~~ THE policy, or in adjusting a claim under ~~such~~ THE
16 policy, and no failure of the insured to give any notice, forward
17 any paper, or otherwise cooperate with the insurance carrier,
18 shall constitute a defense as against ~~such~~ A judgment
19 creditor.

20 (B) ~~-(2)-~~ The satisfaction by the insured of a judgment for
21 ~~such~~ injury or damage ~~shall~~ IS not ~~be~~ a condition precedent
22 to the right or duty of the insurance carrier to make payment on
23 account of such injury or damage.

24 (C) ~~-(3)-~~ If any person ~~shall secure~~ SECURES final judg-
25 ment against the insured for loss or damage covered by any such
26 policy and if ~~such~~ THE judgment is not satisfied within 30 days
27 after it ~~shall have become~~ BECOMES final, then ~~such~~ THE

1 judgment creditor ~~shall be~~ IS entitled to recover under the
2 terms of ~~such~~ THE policy in the same manner and to the same
3 extent as the insured, except as hereinafter provided.

4 (D) ~~(4)~~ The insurance carrier ~~shall have~~ HAS the right
5 to settle any claim covered by the policy, and if ~~such~~ A set-
6 tlement is made in good faith, the amount ~~thereof~~ OF THE
7 SETTLEMENT shall be deductible from the limits of liability
8 ~~specified in subparagraph (2) of paragraph (b) of this section~~
9 UNDER SUBSECTION (2)(B).

10 (E) ~~(5)~~ The policy, the written application ~~therefor~~ FOR
11 THE POLICY, if any, and any rider or indorsement ~~which~~ THAT
12 does not conflict with the provisions of this chapter, shall con-
13 stitute the entire contract between the parties.

14 (F) ~~(6)~~ The insurance carrier ~~shall~~ IS not ~~be~~ liable
15 on any judgment if it has not had prompt notice of and reasonable
16 opportunity to appear in and defend the action in which ~~such~~
17 THE judgment was rendered, or if the judgment has been obtained
18 through collusion between the judgment creditor and the insured.

19 (7) ~~(7)~~ Any policy ~~which~~ THAT grants the coverage
20 required for a motor vehicle liability policy may also grant any
21 lawful coverage in excess of or in addition to the coverage spec-
22 ified for a motor vehicle liability policy and such excess or
23 additional coverage ~~shall~~ IS not ~~be~~ subject to the provisions
24 of this chapter. With respect to a policy ~~which~~ THAT grants
25 ~~such~~ excess or additional coverage, the term "motor vehicle
26 liability policy" shall apply only to that part of the coverage
27 ~~which~~ THAT is required by this section.

1 (8) ~~(h)~~ Any motor vehicle liability policy may provide
2 that the insured shall reimburse the insurance carrier for any
3 payment the insurance carrier would not have been obligated to
4 make under the terms of the policy except for the provisions of
5 this chapter.

6 (9) ~~(i)~~ Any motor vehicle liability policy may provide for
7 the prorating of the insurance ~~thereunder~~ UNDER THE POLICY with
8 other valid and collectible insurance.

9 (10) ~~(j)~~ The requirements for a motor vehicle liability
10 policy may be fulfilled by the policies of 1 or more insurance
11 carriers which policies together meet such requirements.

12 (11) ~~(k)~~ Any carrier authorized to issue motor vehicle
13 liability policies may, pending the issuance of such a policy,
14 execute an agreement, to be known as a "binder", or may, in lieu
15 of such a policy, issue an indorsement to an existing policy.
16 Every ~~such~~ binder or indorsement ~~shall be~~ IS subject to the
17 provisions of this section and shall be construed to provide
18 indemnity or insurance in like manner and to the same extent as a
19 motor vehicle liability policy.

20 Enacting section 1. This amendatory act takes effect
21 July 1, 2002.