

BILL ANALYSIS

Senate Research Center

S.B. 1931
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Economic Development
5-5-97
As Filed

DIGEST

Currently, a person who has suffered an injury from a car accident may sue the person, business or government at fault for the injury to recover economic and noneconomic losses. While it is against the law to drive under the influence of alcohol or drugs and/or to drive without automobile liability insurance, many people choose to do so. These same individuals sue for noneconomic damage awards when they are involved in a car accident. This bill would prohibit the recovery of noneconomic damages by drunk drivers, uninsured motorists and fleeing felons. Additionally, this bill would allow an uninsured motorist to recover noneconomic losses if injured by a drunk driver in an accident.

PURPOSE

As proposed, S.B. 1931 limits a person's ability to recover noneconomic damages arising from a motor vehicle accident under certain conditions.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 4, Civil Practice and Remedies Code, by adding Chapter 92, as follows:

CHAPTER 92. PERSONAL RESPONSIBILITY FOR MOTOR VEHICLE ACCIDENTS

Sec. 92.001. DEFINITIONS. Defines "claimant," "economic damages," "exemplary damages," and "noneconomic damages."

Sec. 92.002. SCOPE OF CHAPTER. Provides that this chapter applies only to a civil action to recover damages arising out of an accident involving the operation or use of a motor vehicle.

Sec. 92.003. LIMITATION ON DAMAGES. Prohibits a claimant from recovering noneconomic damages under certain conditions. Provides that Subsection (a) does not apply to a claimant described by Subsection (a)(2) if the claimant was injured by another person under certain conditions. Prohibits this section from being interpreted to authorize a claimant to recover damages in a circumstance for which recovery of damages is barred under Chapter 87, as added by Chapter 604, Acts of the 74th Legislature, Regular Session, 1995.

Sec. 92.004. LIABILITY OF INSURER. Provides that an insurer is not directly or indirectly liable under a motor vehicle liability insurance policy or under uninsured or underinsured motorist coverage to indemnify a claimant described by Section 92.003(a) for noneconomic damages. Provides that this section does not apply to a claimant described by Section 92.003(b). Authorizes an insurer to delay payment of all or part of a claim that is attributable to noneconomic damages under certain conditions. Requires an insurer to make or deny payment on any part of a claim for which payment is delayed under Subsection (b) promptly after the resolution of any criminal action against the claimant. Provides that a delay of

payment of all or part of a claim in accordance with Subsection (b) is not an unfair method of competition or an unfair or deceptive act or practice in the business of insurance for purposes of Article 21.21, Insurance Code.

Sec. 92.005. DERIVATIVE CLAIMS. Provides that Section 92.003 applies to a claim for damage made by a claimant other than a person described by Section 92.003(a) under certain conditions.

Sec. 92.006. EXCEPTION. Provides that this chapter does not limit the award of exemplary damages for a wilful act or omission or gross neglect in a wrongful death action brought by or on behalf of a surviving spouse or heirs of the decedent's body, in accordance with Section 26, Article XVI, Texas Constitution.

Sec. 92.007. CONVICTION. Provides that a person is convicted of an offense for purposes of this chapter under certain conditions.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 1997.

SECTION 4. Emergency clause.