

FIRST REGULAR SESSION

HOUSE BILL NO. 417

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES YATES (Sponsor), WILSON (130), DUSENBERG,

WILSON (119), RUPP, ROARK, NANCE AND KRATKY (Co-sponsors).

Read 1st time February 2, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

1286L.011

AN ACT

To amend chapter 303, RSMo, by adding thereto one new section relating to the uninsured motorist stipulation of benefits act.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 303, RSMo, is amended by adding thereto one new section, to be known as section 303.390, to read as follows:

303.390. 1. This section shall be known and may be cited as the "Uninsured Motorist Stipulation of Benefits Act of 2005".

2. 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 this state and covering the motor vehicle at the time of an accident shall:

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

(2) Recover, if at all, only for an award covering economic loss.

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Such waiver shall not apply if it can be demonstrated by clear and convincing evidence that the accident was caused, wholly or in part, by a tortfeasor's operating a motor vehicle under the influence of drugs or alcohol, or who is convicted of vehicular assault or

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 **homicide.**

16 **3. In an action against a complying policyholder by a person deemed to have**
17 **waived recovery under subsection 2 of this section:**

18 **(1) Any award in favor of such person shall be reduced by an amount equal to the**
19 **portion of the award representing compensation for noneconomic losses;**

20 **(2) The trier of fact shall not be informed, directly or indirectly, of such waiver or**
21 **of its effect on the total amount of such person's recovery.**

22 **4. Nothing in this section shall be construed to preclude recovery against an alleged**
23 **tortfeasor of benefits provided or economic loss coverage.**

24 **5. There is a rebuttable presumption of a knowing violation of the minimum**
25 **insurance requirements contained in subsection 2 of this section if such insurance has**
26 **lapsed, terminated, or otherwise been ineffective for a period of at least thirty days prior**
27 **to the accident.**

28 **6. Passengers in the uninsured motor vehicle are not subject to such waiver.**