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BILL



ANALYSIS

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House Bill 4341

PUBLIC ACT 222 of 1995

Sponsor: Representative Harold S. Voorhees

House Committee: Insurance

Senate Committee: Financial Services

Date Completed: 1-8-96

SUMMARY OF HOUSE BILL 4341 as enrolled:

The bill amended the no-fault automobile insurance provisions of the Insurance Code to do all of the following:

- Provide that certain issues regarding personal injury in tort liability actions are questions of law for the court.
- Require that damages in tort liability cases be assessed on the basis of comparative fault.
- Prohibit damages from being assessed in favor of a party who is more than 50% at fault or who operated his or her vehicle without the required insurance coverage.
- Increase the maximum level of vehicle damages for which tort liability is available to the extent those damages are not covered by insurance.
- Define "serious impairment of body function" as "an objectively manifested impairment of an important body function that affects the person's general ability to lead his or her normal life".

The bill will take effect on March 28, 1996.

The Code's no-fault provisions specify that a person remains subject to tort liability for noneconomic loss caused by his or her ownership, maintenance, or use of a motor vehicle only if the injured person has suffered death, serious impairment of body function, or permanent serious disfigurement. The bill specifies that, for a cause of action for damages allowed under that provision filed on or after 120 days after the bill's effective date, the issues of whether an injured person has suffered serious impairment of a body function or permanent serious disfigurement are questions of law for the court (rather than a jury) to decide, if the court finds either of the following:

- There is no factual dispute concerning the nature and extent of the injuries.
- There is a factual dispute concerning the nature and extent of the injuries, but the dispute is not material to the determination of whether the person has suffered a serious impairment of a body function or permanent serious disfigurement. (For a closed-head injury, however, a question of fact is created for a jury if a licensed allopathic or osteopathic physician who regularly diagnoses or treats closed-head injuries testifies under oath that there may be a neurological injury.)

Also, under the bill, damages must be assessed on the basis of comparative fault, except that damages may not be assessed in favor of a party who is more than 50% at fault. Damages also may not be assessed in favor of a party who was operating his or her own vehicle at the time the injury occurred and did not have in effect for that vehicle the insurance coverage required by the Code.

In addition, the Code provides that, with certain exceptions, tort liability arising from the ownership, maintenance, or use within Michigan of a motor vehicle that has the required insurance coverage is abolished. One of the exceptions is for damages of up to a certain amount to motor vehicles, to the extent that the damages are not covered by insurance. The bill increased that amount from \$400 to \$500.

MCL 500.3135

Legislative Analyst: S. Margules

FISCAL IMPACT

The bill will have an indeterminate impact on the State and local units of government. The total cost to the State of automobile no-fault losses (amount paid and reserves) was \$3.2 million for FY 1992-93 and \$3.1 million in FY 1993-94. To the extent that this bill will limit exposure, there are potential savings.

Fiscal Analyst: B. Bowerman

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.