

By: Corte

H.B. No. 42

A BILL TO BE ENTITLED

AN ACT

relating to liability for injury arising from a motor vehicle accident.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 4, Civil Practice and Remedies Code, is amended by adding Chapter 92 to read as follows:

CHAPTER 92. LIABILITY FOR CERTAIN MOTOR VEHICLE ACCIDENTS

Sec. 92.001. DEFINITIONS. In this chapter, "exemplary damages" and "noneconomic damages" have the meanings assigned by Section 41.001.

Sec. 92.002. LIABILITY FOR INJURY TO CERTAIN OPERATORS.

(a) A person may not obtain noneconomic damages or exemplary damages in a civil action for bodily injury, death, or damage to or destruction of property arising out of a motor vehicle accident if the person was knowingly operating the motor vehicle at the time of the accident in violation of Section 601.051, Transportation Code.

(b) Subsection (a) does not apply if the person seeking damages was injured by:

(1) another person who was:

(A) operating a motor vehicle at the time of the accident while intoxicated in violation of Section 49.04, Penal Code, or another law of this state relating to the operation of a motor vehicle while intoxicated; and

(B) convicted of an offense described by

1 Subdivision (1); or

2 (2) the wilful act or omission or gross neglect of
3 another person.

4 (c) Subsection (a) applies to a claim for damages made by a
5 person whose right to recovery derives from an injury to another
6 person whose right to recovery would be barred under Subsection
7 (a), including a claim for wrongful death or for loss of consortium
8 or companionship.

9 (d) Each insurer that issues a motor vehicle liability
10 insurance policy in this state to comply with the requirements of
11 Chapter 601, Transportation Code, including a Lloyd's plan, county
12 mutual insurance company, or reciprocal or interinsurance
13 exchange, shall notify the person to whom the policy is issued of
14 the provisions of Subsections (a)-(c). The notice required by this
15 subsection shall be made at the time the policy is initially issued
16 and at any time coverage under the policy is terminated. The
17 commissioner of insurance by rule shall adopt the form and content
18 of the notice required by this subsection.

19 (e) The Department of Public Safety shall post notice of the
20 provisions of Subsections (a)-(c) at each facility of the
21 department at which an in-person application for issuance or
22 renewal of a license may be made.

23 (f) A person who offers a driving safety course approved by
24 the Texas Education Agency under Chapter 1001, Education Code,
25 shall notify each student in writing of the provisions of
26 Subsections (a)-(c). The Texas Education Agency shall adopt the
27 form and content of the notice required by this subsection. At the

1 option of the person who offers the course, the notice may be
2 included in approved course materials or provided separately from
3 those materials.

4 (g) This section does not prohibit a person described by
5 Subsection (a) from acting in a representative capacity to bring
6 suit on behalf of another person injured in the accident, as next
7 friend or otherwise.

8 SECTION 2. This Act applies only to a cause of action that
9 accrues on or after the effective date of this Act. An action that
10 accrued before the effective date of this Act is governed by the law
11 applicable to the action immediately before the effective date of
12 this Act, and that law is continued in effect for that purpose.

13 SECTION 3. This Act takes effect immediately if it receives
14 a vote of two-thirds of all the members elected to each house, as
15 provided by Section 39, Article III, Texas Constitution. If this
16 Act does not receive the vote necessary for immediate effect, this
17 Act takes effect September 1, 2009.