

By: Thompson of Brazoria

H.B. No. 1774

A BILL TO BE ENTITLED

AN ACT

relating to liability for injury arising from certain motor vehicle accidents.

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 72A to read as follows:

CHAPTER 72A. LIABILITY FOR CERTAIN MOTOR VEHICLE ACCIDENTS

Sec. 72A.001. DEFINITIONS. In this chapter, "exemplary damages" and "noneconomic damages" have the meanings assigned by Section 41.001.

Sec. 72A.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 to a person described by Subsection (a) if the person is injured by another person:

(1) who is 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 who is convicted of an offense;

(2) whose wilful act or omission or gross neglect causes the injury;

1           (3) who flees from the scene of the accident; or

2           (4) who, at the time of the accident, is acting in  
3 furtherance of the commission of a felony.

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 driver's license may be made.

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

1 the course, the notice may be included in approved course materials  
2 or provided separately from those materials.

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

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

13 SECTION 3. This Act is an exercise of authority under  
14 Section 66(c), Article III, Texas Constitution, and takes effect  
15 only if it receives a vote of three-fifths of all the members  
16 elected to each house, as provided by Subsection (e) of that  
17 section.

18 SECTION 4. This Act takes effect immediately if it receives  
19 a vote of two-thirds of all the members elected to each house, as  
20 provided by Section 39, Article III, Texas Constitution. If this  
21 Act does not receive the vote necessary for immediate effect, this  
22 Act takes effect September 1, 2013.