

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
89th General Assembly  
Regular Session, 2013

As Engrossed: S3/26/13

# A Bill

SENATE BILL 1060

By: Senators Hester, *Files*

## For An Act To Be Entitled

*AN ACT TO PROTECT THE INSURED DRIVERS OF ARKANSAS; TO ENCOURAGE COMPLIANCE WITH THE MOTOR VEHICLE LIABILITY INSURANCE LAWS OF ARKANSAS; AND FOR OTHER PURPOSES.*

### Subtitle

*TO PROTECT THE INSURED DRIVERS OF ARKANSAS; AND TO ENCOURAGE COMPLIANCE WITH THE MOTOR VEHICLE LIABILITY INSURANCE LAWS OF ARKANSAS.*

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 27, Chapter 22, Subchapter 1, is amended to add an additional section to read as follows:

27-22-112. Accidents between insured and uninsured motorists.

(a) Except as provided in subsection (b) of this section, in a civil action filed by or on behalf of a person who at the time of an accident involving the operation of a motor vehicle did not comply with § 27-22-104 and the Motor Vehicle Safety Responsibility Act, § 27-19-101 et seq., to recover damages arising from the accident or for any claim against the motor vehicle liability insurance coverage of an insured party to the accident, a person who at the time of the accident complied with § 27-22-104 and the Motor Vehicle Safety Responsibility Act, § 27-19-101 et seq., may be held liable only for medical costs, property damage, and lost income.

(b) Subsection (a) of this section does not apply:

(1) If the plaintiff or claimant was injured by a motorist who at the time of the accident was operating or using a motor vehicle while



under the influence of alcohol or drugs in violation of a law relating to the illegal operation or use of a motor vehicle while under the influence of alcohol or drugs, and the motorist:

(A) Was convicted of or pleaded guilty or nolo contendere to the violation of law; or

(B) Dies as a result of the accident if it is proven by a preponderance of the evidence that the motorist was operating or using the motor vehicle while under the influence of alcohol or drugs in violation of a law relating to the illegal operation or use of a motor vehicle while under the influence of alcohol or drugs;

(2) If the plaintiff or claimant was a passenger in a motor vehicle involved in the accident, unless the plaintiff or claimant is an owner of the vehicle;

(3) If the plaintiff or claimant was not the driver or a passenger in a motor vehicle involved in the accident;

(4) To a claim for wrongful death;

(5) If the *insured motorist* who caused the accident:

(A) Intentionally caused the accident;

(B) Left the scene of the accident; or

(C) At the time of the accident was acting in furtherance of the commission of a felony;

(6) If at the time of the accident, the plaintiff or claimant was *claimed or was eligible to be claimed* as a dependent on the federal income tax return of one (1) or both parents of the plaintiff or claimant and the parent or parents were not in compliance with § 27-22-104 and the Motor Vehicle Safety Responsibility Act, § 27-19-101 et seq.; or

(7) If at the time of the accident, the plaintiff or claimant previously had been covered by an insurance policy meeting the requirements of § 27-22-104 and the Motor Vehicle Safety Responsibility Act, § 27-19-101 et seq., that was terminated or not renewed for failure to pay the premium, unless at least thirty (30) days before the accident, notice of termination was sent to the last known mailing address of the policyholder.

(c) This section may be asserted by:

(1) Each *insured person* who is:

(A) Involved in an accident to which this section applies;

and

(B) Found liable for damages to the plaintiff or claimant;  
and  
(2) The motor vehicle liability insurer of a person described in  
subdivision (c)(1) of this section.

*/s/Hester*