

By: Corte

H.B. No. 19

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:

(1) "Exemplary damages" has the meaning assigned by Section 41.001.

(2) "Noneconomic damages" means damages other than compensatory damages for pecuniary loss. The term includes damages for physical pain and mental anguish, loss of consortium, disfigurement, physical impairment, or loss of companionship and society. The term does not include exemplary damages.

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:

(1) the person 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

1 (B) convicted of an offense described by
2 Paragraph (A); or

3 (2) the person was knowingly operating the motor
4 vehicle, at the time of the accident, in violation of Section
5 601.051, Transportation Code.

6 (b) Subsection (a) does not apply to a person described by
7 Subsection (a)(2) if the person was injured by another person who
8 was:

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

13 (2) convicted of an offense described by Subdivision
14 (1).

15 (c) Except as provided by Subsection (d), Subsection (a)
16 applies to a claim for damages made by a person whose right to
17 recovery derives from an injury to another person whose right to
18 recovery would be barred under Subsection (a), including a claim
19 for wrongful death or for loss of consortium or companionship.

20 (d) This section does not prohibit the recovery of exemplary
21 damages for a wilful act or omission or gross neglect in a wrongful
22 death action brought by or on behalf of a surviving spouse or heirs
23 of the decedent's body under a statute enacted pursuant to Section
24 26, Article XVI, Texas Constitution. A claim for exemplary damages
25 described by this subsection is governed by Chapter 41.

26 (e) Each insurer that issues a policy of motor vehicle
27 insurance in this state to comply with the requirements of Chapter

1 601, Transportation Code, including a Lloyd's plan, county mutual
2 insurer, or reciprocal or interinsurance exchange, shall notify the
3 person to whom the policy is issued of the provisions of Subsections
4 (a)-(d). The notice required by this subsection shall be made at
5 the time the policy is initially issued and at any time coverage
6 under the policy is terminated. The commissioner of insurance by
7 rule shall adopt the form and content of the notice required by this
8 subsection.

9 (f) The Department of Public Safety shall post notice of the
10 provisions of Subsections (a)-(d) at each facility of the
11 department at which an in-person application for issuance or
12 renewal of a license may be made.

13 (g) A person who offers a driving safety course approved by
14 the Texas Education Agency under the Texas Driver and Traffic
15 Safety Education Act (Article 4413(29c), Vernon's Texas Civil
16 Statutes) shall notify each student in writing of the provisions of
17 Subsections (a)-(d). The Texas Education Agency shall adopt the
18 form and content of the notice required by this subsection. At the
19 option of the person who offers the course, the notice may be
20 included in approved course materials or provided separately from
21 those materials.

22 (h) This section does not prohibit a person described by
23 Subsection (a) from acting in a representative capacity to bring
24 suit on behalf of another person injured in the accident, as next
25 friend or otherwise.

26 SECTION 2. This Act applies only to a cause of action that
27 accrues on or after the effective date of this Act. An action that

1 accrued before the effective date of this Act is governed by the law
2 applicable to the action immediately before the effective date of
3 this Act, and that law is continued in effect for that purpose.

4 SECTION 3. This Act takes effect immediately.