

By: Corte

H.B. No. 26

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:

(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

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

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

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

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

8 (2) convicted of an offense described by Subdivision
9 (1).

10 (c) Except as provided by Subsection (d), Subsection (a)
11 applies to a claim for damages made by a person whose right to
12 recovery derives from an injury to another person whose right to
13 recovery would be barred under Subsection (a), including a claim
14 for wrongful death or for loss of consortium or companionship.

15 (d) This section does not prohibit the recovery of exemplary
16 damages for a wilful act or omission or gross neglect in a wrongful
17 death action brought by or on behalf of a surviving spouse or heirs
18 of the decedent's body under a statute enacted pursuant to Section
19 26, Article XVI, Texas Constitution. A claim for exemplary damages
20 described by this subsection is governed by Chapter 41.

21 (e) Each insurer that issues a motor vehicle liability
22 insurance policy in this state to comply with the requirements of
23 Chapter 601, Transportation Code, including a Lloyd's plan, county
24 mutual insurance company, or reciprocal or interinsurance
25 exchange, shall notify the person to whom the policy is issued of
26 the provisions of Subsections (a)-(d). The notice required by this
27 subsection shall be made at the time the policy is initially issued

1 and at any time coverage under the policy is terminated. The
2 commissioner of insurance by rule shall adopt the form and content
3 of the notice required by this subsection.

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

8 (g) A person who offers a driving safety course approved by
9 the Texas Education Agency under Chapter 1001, Education Code,
10 shall notify each student in writing of the provisions of
11 Subsections (a)-(d). The Texas Education Agency shall adopt the
12 form and content of the notice required by this subsection. At the
13 option of the person who offers the course, the notice may be
14 included in approved course materials or provided separately from
15 those materials.

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

20 SECTION 2. This Act applies only to a cause of action that
21 accrues on or after the effective date of this Act. An action that
22 accrued before the effective date of this Act is governed by the law
23 applicable to the action immediately before the effective date of
24 this Act, and that law is continued in effect for that purpose.

25 SECTION 3. This Act takes effect immediately if it receives
26 a vote of two-thirds of all the members elected to each house, as
27 provided by Section 39, Article III, Texas Constitution. If this

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- 1 Act does not receive the vote necessary for immediate effect, this
- 2 Act takes effect September 1, 2007.