

By: Muñoz, Jr.

H.B. No. 3623

A BILL TO BE ENTITLED

AN ACT

relating to the protection of motorists, passengers, and pedestrians.

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

SECTION 1. Chapter 1951, Insurance Code, is amended by adding Subchapter A before Section 1951.001 to read as follows:

SUBCHAPTER A. GENERAL PROVISIONS

SECTION 2. Chapter 1951, Insurance Code, is amended by adding Subchapter B after Section 1951.004 to read as follows:

SUBCHAPTER B. PROTECTION OF INJURED PERSONS

Sec. 1951.005. PURPOSE. The purpose of this subchapter is to protect those injured by motorists from predatory practices engaged in by personal and commercial automobile insurers that seek to induce injured motorists into settling and releasing their legal claims for an amount that is insufficient to compensate their losses at a time when these losses are not known with any certainty. These practices result in costs both to the injured person and medical providers whose care and services may go uncompensated as a result of these predatory insurance practices.

Sec. 1951.006. APPLICABILITY OF SUBCHAPTER. This subchapter applies to all insurers writing personal or commercial automobile insurance in this state, including an insurance company, corporation, reciprocal or interinsurance exchange, mutual insurance company, association, Lloyd's plan, or other insurer.

1       Sec. 1951.007. DEFINITIONS. In this subchapter:

2           (1) "Claimant" means any individual or group of  
3 individuals who has a claim for injuries against any other  
4 individual, group of individuals, entity, or organization.

5           (2) "Release" means any contract or contractual  
6 obligation, written or oral, in which it is agreed that a sum of  
7 money, or other consideration, is paid by any releasee, to a  
8 claimant, in exchange for claimant releasing any or part of their  
9 claims for any injuries arising out of any occurrence.

10          (3) "Injuries" means any bodily or psychological  
11 injury.

12          (4) "Occurrence" means any accident or intentional  
13 harm caused by the acts or omissions of any individual or entity.

14          (5) "Releasee" means any individual or group of  
15 individuals, entity or organization, or their insurer, being  
16 released from any claims made by a claimant.

17       Sec. 1951.008. VOIDABLE RELEASE OF CLAIMS. (a) A release,  
18 signed by the claimant, or otherwise orally agreed to, releasing  
19 all or part of any claims for injuries, arising out of any  
20 occurrence, is voidable by the claimant if it is signed or orally  
21 agreed to within 45 days of an occurrence giving rise to the claim,  
22 and the claimant is not represented by an attorney.

23           (b) In order to void the release, the claimant must give the  
24 releasee written notice, within one year of the date of signing or  
25 orally agreeing to the release, that the claimant is voiding the  
26 release.

27           (c) Any consideration paid to the claimant, in return for a

1 release that is voidable under this statute, shall be credited  
2 against any future claim made against the releasee.

3 SECTION 3. Section 1952.056, Insurance Code, is amended to  
4 read as follows:

5 Sec. 1952.056. REQUIRED PROVISIONS: COVERAGE FOR CERTAIN  
6 SPOUSES AND FAMILY MEMBERS. A personal automobile insurance policy  
7 or any similar policy form adopted or approved by the commissioner  
8 under Article 5.06 or filed under Subchapter B, Chapter 2301, that  
9 covers liability arising out of ownership, maintenance, or use of a  
10 motor vehicle of a spouse who is otherwise insured by the policy  
11 must contain a provision to continue coverage for the spouse during  
12 a period of separation in contemplation of divorce and must not  
13 contain any provision which would deny or limit coverage to any  
14 family member of the insured, including any person who is related by  
15 blood, adoption, or marriage and who resides in the named insured's  
16 household.

17 SECTION 4. Subchapter B of Chapter 1952, Insurance Code, is  
18 amended by adding Section 1952.060 to read as follows:

19 Sec. 1952.060. CONDUCT EXCLUSION. All automobile owner's  
20 insurance policies issued in this state must provide the coverage  
21 specified in Section 601.076, Transportation Code. The only  
22 allowable conduct exclusion from the coverage provided in these  
23 policies is for results intended by the insured.

24 SECTION 5. Section 1952.106, Insurance Code, is amended to  
25 read as follows:

26 Sec. 1952.106. RECOVERY UNDER UNINSURED AND UNDERINSURED  
27 MOTORIST COVERAGE. Uninsured and underinsured motorist coverage

1 must provide for payment to the insured of all amounts that the  
2 insured is legally entitled to recover as damages from owners or  
3 operators of uninsured or underinsured motor vehicles because of  
4 bodily injury or property damage, not to exceed the limit specified  
5 in the insurance policy, and reduced by the amount recovered or  
6 recoverable from the insurer of the underinsured motor vehicle.  
7 This benefit shall be due the insured once the legal liability of  
8 the uninsured or underinsured motorist and the amount of the  
9 insured's damages are reasonably apparent and shall not be  
10 dependent on a judicial determination of the same.

11 SECTION 6. The change in law made by this Act applies only  
12 to an insurance policy that is delivered, issued for delivery, or  
13 renewed on or after January 1, 2018. A policy delivered, issued for  
14 delivery, or renewed before January 1, 2018, is governed by the law  
15 as it existed immediately before the effective date of this Act, and  
16 that law is continued in effect for that purpose.

17 SECTION 7. This Act takes effect September 1, 2017.