WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2220

By Delegate Westfall

[Introduced January 11, 2023; Referred to the Committee on Banking and Insurance then the Judiciary]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17-31-1, §17-31-2, §17-31-3, and §17-31-4, all relating to responsible driving, providing that a person who was an uninsured motorist and who sustained bodily injury or property damage as the result of a motor vehicle accident may not recover noneconomic damages for the person’s bodily injury or property damage

Be it enacted by the Legislature of West Virginia:

Article 31. Resposible driving act.

§17-31-1. Title.

This article shall be known and cited as the "Fairness for Responsible Drivers Act."

§17-31-2. Definitions.

(a) "Noneconomic damages" means the following:

(1) Physical and emotional pain and suffering;

(2) Physical impairment;

(3) Emotional distress;

(4) Mental anguish;

(5) Loss of enjoyment;

(6) Loss of companionship, services, and consortium;

(7) Any other nonpecuniary loss proximately caused by a motor vehicle accident.

(b) The term "Noneconomic damages" does not include the following:

(1) Treatment and rehabilitation;

(2) Medical expenses;

(3) Loss of economic or educational potential;

(4) Loss of productivity;

(5) Absenteeism;

(6) Support expenses;

(7) Accidents or injury; and

(8) Any other pecuniary loss proximately caused by a motor vehicle accident.

§17-31-3. Prohibition on recovery of noneconomic damages.

(a) A person who was an uninsured motorist and who sustained bodily injury or property damage as the result of a motor vehicle accident may not recover noneconomic damages for the person’s bodily injury or property damage.

(b) The personal representative of a person who was an uninsured motorist and who died as the result of a motor vehicle accident may not recover noneconomic damages for the persons death.

(c) The provisions of this section shall not apply to an uninsured motorist who at the time of the automobile accident has failed to maintain coverage for a period of 45 days or less and who had maintained continuous coverage for at least one year immediately prior to such failure to maintain coverage.

§17-31-4. Exceptions.

The prohibition against recovery of noneconomic damages does not apply if the person who is liable for injury, death, or damage:

(1) Was driving while under the influence of alcohol or a controlled substance:

(2) Acted intentionally, recklessly, or with gross negligence,

(3) Fled from the scene of the accident, or

(4) Was acting in furtherance of an offences or in immediate flight from an offences that constitutes a felony under this code.

NOTE: The purpose of this bill is to prohibit the recovery of noneconomic damages for failure to maintain auto insurance.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.