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National Council of Insurance Legislators (NCOIL)

Fairness for Responsible Drivers Model Act

**Sponsored by Sen. Shawn Vadaa (ND)*

**Draft as of March 16th, 2021.*

**To be introduced and discussed during the Property & Casualty Insurance Committee on April 18, 2021.*

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Section 1. Title

This Act shall be known and cited as the “[State] Fairness for Responsible Drivers Act.”

Section 2. Application

This Act applies to a civil action brought to recover damages for injury to or the death of a person, or damage to property, resulting from a motor vehicle accident.

Section 3. Definitions

(A) “Noneconomic damages” means costs for 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 costs for 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.
- (8) Any other pecuniary loss proximately caused by a motor vehicle accident.

Section 4. 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 under [insert citation to state wrongful death statute] for the person's 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.

Section 5. Exceptions

The prohibition against the recovery of noneconomic damages in Section 4 does not apply if the person who is liable for the injury, damage or death:

(A) was driving while under the influence of an alcoholic beverage or controlled substance;

(B) acted intentionally, recklessly, or with gross negligence;

(C) fled from the scene of the accident; or

(D) was acting in furtherance of an offense or in immediate flight from an offense that constitutes a felony.

Section 6. Effective Date

This Act shall take effect _____.