

Regular Session, 2012

HOUSE BILL NO. 404

BY REPRESENTATIVE EDWARDS

INSURANCE/AUTOMOBILE: Provides for joint liability for damages caused by an excluded driver

1 AN ACT

2 To enact R.S. 22:1295.1, relative to motor vehicle liability insurance; to provide for liability
3 of owners of motor vehicles for certain operators excluded from coverage; and to
4 provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 22:1295.1 is hereby enacted to read as follows:

7 §1295.1. Excluded driver; owner; liability

8 A. The owner and the operator of a motor vehicle shall be solidarily liable
9 for the damages caused by the operator's negligent or intentional act when the
10 operator has been designated as a person excluded from coverage on the motor
11 vehicle liability insurance policy pursuant to R.S. 32:900(L) and the operator is
12 operating the vehicle with the express or implied permission of the owner.

13 (1) The liability of the owner provided by this Section shall not exceed the
14 mandatory minimum limits for automobile insurance as provided by R.S. 32:900,
15 unless the owner has a parent-child or tutorship relationship to the operator, or unless
16 the owner is otherwise vicariously liable or responsible for the acts and omissions
17 of the operator.

18 (2) An excluded driver operating a motor vehicle shall be presumed to have
19 done so with the express or implied permission of the owner. Any owner contesting

1 this rebuttable presumption shall have the burden of proving the operator did not
 2 have his permission to operate the vehicle.

3 B. If the person has been excluded pursuant to R.S. 32:900(L), the insurer
 4 shall not be liable, and no liability or obligation of any kind shall result to the insurer
 5 for bodily injury, loss, or damage under any coverage of the policy, nor shall the
 6 insurer be obligated to provide a defense or pay any costs of defense.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Edwards

HB No. 404

Abstract: Provides for solidary liability for damages resulting from an excluded driver's operation of a vehicle when the owner provides express or implied permission to the excluded driver to operate the vehicle.

Present law provides that an insurer and insured may agree to exclude named persons from coverage of a policy of motor vehicle liability insurance.

Proposed law provides that the owner of a motor vehicle and the operator who has been excluded from coverage shall be solidarily liable for the damages caused by the operator's negligent or intentional acts that occur as a result of his operation of the vehicle.

Proposed law applies only when the owner provides express or implied permission to the excluded driver to operate the vehicle.

Proposed law limits the liability that can be attributed to the owner to the minimum required automobile insurance as provided by R.S. 32:900, unless the owner is the parent or tutor of the excluded driver, or is otherwise vicariously liable or responsible for the acts or omissions of the excluded driver.

Proposed law provides for a rebuttable presumption that the excluded driver was operating the vehicle with the implied or express permission of the owner. Further provides that the owner has the burden of proof in rebutting this presumption.

Proposed law provides that the insurer shall not be liable for bodily injury, loss, or damage under any coverage of the policy if the operator was properly excluded, as set forth by the provisions of present law (R.S. 32:900(L)), and that the insurer is not obligated to provide a defense or to pay the costs of defense.

(Adds R.S. 22:1295.1)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill.

1. Changed liability of the owner and operator from joint to solidary liability.

2. Replaced reference as to whether the owner knew or should have known the excluded driver was operating the vehicle with a reference as to whether the excluded driver had express or implied permission to operate the vehicle.
3. Added provision limiting liability of the owner to the minimum required automobile insurance coverage.
4. Added provision specifying that the insurer is not obligated to provide a defense or pay the costs of defense.