

FIRST REGULAR SESSION

# HOUSE BILL NO. 746

## 98TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE MARSHALL.

1606L.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal section 303.190, RSMo, and section 565.024 as enacted by house bill no. 1715, ninety-fourth general assembly, second regular session, and to enact in lieu thereof two new sections relating to liability for driving while intoxicated, with penalty provisions.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 303.190, RSMo, and section 565.024 as enacted by house bill no. 1715, ninety-fourth general assembly, second regular session, are repealed and two new sections enacted in lieu thereof, to be known as sections 303.190 and 565.024, to read as follows:

303.190. 1. A "motor vehicle liability policy" as said term is used in this chapter shall mean an owner's or an operator's policy of liability insurance, certified as provided in section 303.170 or section 303.180 as proof of financial responsibility, and issued, except as otherwise provided in section 303.180 by an insurance carrier duly authorized to transact business in this state, to or for the benefit of the person named therein as insured.

2. Such owner's policy of liability insurance:

(1) Shall designate by explicit description or by appropriate reference all motor vehicles with respect to which coverage is thereby to be granted;

(2) Shall insure the person named therein and any other person, as insured, using any such motor vehicle or motor vehicles with the express or implied permission of such named insured, against loss from the liability imposed by law for damages arising out of the ownership, maintenance or use of such motor vehicle or motor vehicles within the United States of America or the Dominion of Canada, subject to limits, exclusive of interest and costs, with respect to each such motor vehicle, as follows: twenty-five thousand dollars because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, fifty thousand dollars

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 because of bodily injury to or death of two or more persons in any one accident, and ten thousand  
17 dollars because of injury to or destruction of property of others in any one accident; **except that:**

18 **(a) For an insured with a single conviction of driving while intoxicated offense, such**  
19 **minimum coverage shall be as follows for two years after such conviction: one hundred**  
20 **thousand dollars because of bodily injury to or death of one person in any one accident,**  
21 **and subject to said limit for one person, three hundred thousand dollars because of bodily**  
22 **injury to or death of two or more persons in any one accident, and fifty thousand dollars**  
23 **because of injury to or destruction of property of others in any one accident; and**

24 **(b) For an insured with a second conviction of driving while intoxicated offense,**  
25 **such minimum coverage shall be as follows for five years after such conviction: two**  
26 **hundred fifty thousand dollars because of bodily injury to or death of one person in any**  
27 **one accident, and subject to said limit for one person, five hundred thousand dollars**  
28 **because of bodily injury to or death of two or more persons in any one accident, and one**  
29 **hundred thousand dollars because of injury to or destruction of property of others in any**  
30 **one accident; and**

31 **(c) For an insured with a third or subsequent conviction of driving while**  
32 **intoxicated offense, such minimum coverage shall be as follows: five hundred thousand**  
33 **dollars because of bodily injury to or death of one person in any one accident, and subject**  
34 **to said limit for one person, one million dollars because of bodily injury to or death of two**  
35 **or more persons in any one accident, and two hundred thousand dollars because of injury**  
36 **to or destruction of property of others in any one accident; and**

37 (3) May exclude coverage against loss from liability imposed by law for damages arising  
38 out of the use of such motor vehicles by a member of the named insured's household who is a  
39 specifically excluded driver in the policy; **except that, such exclusion shall not be applied**  
40 **retrospectively.**

41 3. Such operator's policy of liability insurance shall insure the person named as insured  
42 therein against loss from the liability imposed upon him or her by law for damages arising out  
43 of the use by him or her of any motor vehicle not owned by him or her, within the said territorial  
44 limits and subject to the same limits of liability as are set forth above with respect to any owner's  
45 policy of liability insurance.

46 4. Such motor vehicle liability policy shall state the name and address of the named  
47 insured, the coverage afforded by the policy, the premium charged therefor, the policy period and  
48 the limits of liability, and shall contain an agreement or be endorsed that insurance is provided  
49 thereunder in accordance with the coverage defined in this chapter as respects bodily injury and  
50 death or property damage, or both, and is subject to all the provisions of this chapter.

51           5. Such motor vehicle liability policy need not insure any liability pursuant to any  
52 workers' compensation law nor any liability on account of bodily injury to or death of an  
53 employee of the insured while engaged in the employment, other than domestic, of the insured,  
54 or while engaged in the operation, maintenance or repair of any such motor vehicle nor any  
55 liability for damage to property owned by, rented to, in charge of or transported by the insured.

56           6. Every motor vehicle liability policy shall be subject to the following provisions which  
57 need not be contained therein:

58           (1) The liability of the insurance carrier with respect to the insurance required by this  
59 chapter shall become absolute whenever injury or damage covered by said motor vehicle liability  
60 policy occurs; said policy may not be canceled or annulled as to such liability by any agreement  
61 between the insurance carrier and the insured after the occurrence of the injury or damage; no  
62 statement made by the insured or on his or her behalf and no violation of said policy shall defeat  
63 or void said policy;

64           (2) The satisfaction by the insured of a judgment for such injury or damage shall not be  
65 a condition precedent to the right or duty of the insurance carrier to make payment on account  
66 of such injury or damage;

67           (3) The insurance carrier shall have the right to settle any claim covered by the policy,  
68 and if such settlement is made in good faith, the amount thereof shall be deductible from the  
69 limits of liability specified in subdivision (2) of subsection 2 of this section;

70           (4) The policy, the written application thereof, if any, and any rider or endorsement  
71 which does not conflict with the provisions of this chapter shall constitute the entire contract  
72 between the parties.

73           7. Any policy which grants the coverage required for a motor vehicle liability policy may  
74 also grant any lawful coverage in excess of or in addition to the coverage specified for a motor  
75 vehicle liability policy and such excess or additional coverage shall not be subject to the  
76 provisions of this chapter. With respect to a policy which grants such excess or additional  
77 coverage the term "motor vehicle liability policy" shall apply only to that part of the coverage  
78 which is required by this section.

79           8. Any motor vehicle liability policy may provide that the insured shall reimburse the  
80 insurance carrier for any payment the insurance carrier would not have been obligated to make  
81 under the terms of the policy except for the provisions of this chapter.

82           9. Any motor vehicle liability policy may provide for the prorating of the insurance  
83 thereunder with other valid and collectible insurance.

84           10. The requirements of a motor vehicle liability policy may be fulfilled by the policies  
85 of one or more insurance carriers which policies together meet such requirements.

86 11. Any binder issued pending the issuance of a motor vehicle liability policy shall be  
87 deemed to fulfill the requirement for such a policy.

2 565.024. 1. A person commits the crime of involuntary manslaughter in the first degree  
2 if he or she:

3 (1) Recklessly causes the death of another person; or

4 (2) While in an intoxicated condition operates a motor vehicle or vessel in this state and,  
5 when so operating, acts with criminal negligence to cause the death of any person; or

6 (3) While in an intoxicated condition operates a motor vehicle or vessel in this state, and,  
7 when so operating, acts with criminal negligence to:

8 (a) Cause the death of any person not a passenger in the vehicle or vessel operated by  
9 the defendant, including the death of an individual that results from the defendant's vehicle  
10 leaving a highway, as defined by section 301.010, or the highway's right-of-way; or vessel  
11 leaving the water; or

12 (b) Cause the death of two or more persons; or

13 (c) Cause the death of any person while he or she has a blood alcohol content of at least  
14 eighteen-hundredths of one percent by weight of alcohol in such person's blood; or

15 (4) Operates a motor vehicle in violation of subsection 2 of section 304.022, and when  
16 so operating, acts with criminal negligence to cause the death of any person authorized to operate  
17 an emergency vehicle, as defined in section 304.022, while such person is in the performance of  
18 official duties; **or**

19 (5) Operates a vessel in violation of subsections 1 and 2 of section 306.132, and when  
20 so operating acts with criminal negligence to cause the death of any person authorized to operate  
21 an emergency watercraft, as defined in section 306.132, while such person is in the performance  
22 of official duties.

23 2. Involuntary manslaughter in the first degree under subdivision (1) or (2) of subsection  
24 1 of this section is a class C felony. Involuntary manslaughter in the first degree under  
25 subdivision (3) of subsection 1 of this section is a class B felony; **except that, any person who**  
26 **has a prior conviction or plea of guilty to driving while intoxicated who violates subdivision**  
27 **(3) of subsection 1 of this section is guilty of a class A felony.** A second or subsequent  
28 violation of subdivision (3) of subsection 1 of this section is a class A felony. For any violation  
29 of subdivision (3) of subsection 1 of this section, the minimum prison term which the defendant  
30 must serve shall be eighty-five percent of his or her sentence. Any violation of subdivisions (4)  
31 and (5) of subsection 1 of this section is a class B felony.

32 3. A person commits the crime of involuntary manslaughter in the second degree if he  
33 acts with criminal negligence to cause the death of any person.

34 4. Involuntary manslaughter in the second degree is a class D felony.

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