

Regular Session, 2014

HOUSE BILL NO. 9

BY REPRESENTATIVE EDWARDS

INSURANCE/AUTOMOBILE: Provides for 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 for certain operators excluded from coverage; and to provide for related matters.

4 Be it enacted by the Legislature of Louisiana:

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

6 §1295.1. Excluded driver; named insured; liability

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

12 B. The liability of the named insured provided by this Section shall not
13 exceed the mandatory minimum limits for automobile insurance as provided by R.S.
14 32:900, unless the named insured has a parent-child or tutorship relationship to the
15 operator, or unless the named insured is otherwise vicariously liable for the acts or
16 omissions of the operator excluded from coverage on the motor vehicle liability
17 insurance policy pursuant to R.S. 32:900(L) or unless the named insured is
18 responsible for the acts and omissions of the operator excluded from coverage on the
19 motor vehicle liability insurance policy pursuant to R.S. 32:900(L).

- 1 C. If the operator has been excluded pursuant to R.S. 32:900(L), the insurer
 2 shall not be liable, and no liability or obligation of any kind shall result to the insurer
 3 for bodily injury, loss, or damage under any coverage of the policy, nor shall the
 4 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. 9

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

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

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 the reference from "owner" to "named insured" throughout the bill.
2. Required permission given by the named insured to the operator to be express.
3. For the purposes of providing an exception to the limitation of liability to the mandatory minimum limits for automobile insurance, distinguished between a named insured being vicariously liable for the acts or omissions of the excluded driver and a named insured being responsible for the acts and omissions of the excluded driver.