

(SENATE AUTHORS: GAZELKA, Scheid, Dahms, Brown and Kruse)

DATE	D-PG	OFFICIAL STATUS
02/07/2011	187	Introduction and first reading Referred to Commerce and Consumer Protection
02/21/2011	269	Comm report: To pass and re-referred to Judiciary and Public Safety

1.1

A bill for an act

1.2

relating to insurance; establishing the Fairness for Responsible Drivers Act;

1.3

limiting certain remedies of uninsured motorists; increasing the amount of

1.4

certain criminal fines; amending Minnesota Statutes 2010, sections 65B.51,

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subdivision 3; 169.797, subdivision 4.

1.6

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7

Section 1. Minnesota Statutes 2010, section 65B.51, subdivision 3, is amended to read:

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Subd. 3. **Limitation of damages for noneconomic detriment.** In an action

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described in subdivision 1, no person shall recover damages for noneconomic detriment

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unless:

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(a) The sum of the following exceeds \$4,000:

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(1) reasonable medical expense benefits paid, payable<sub>2</sub> or payable but for any

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applicable deductible, plus

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(2) the value of free medical or surgical care or ordinary and necessary nursing

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services performed by a relative of the injured person or a member of the injured person's

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household, plus

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(3) the amount by which the value of reimbursable medical services or products

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exceeds the amount of benefit paid, payable, or payable but for an applicable deductible

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for those services or products if the injured person was charged less than the average

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reasonable amount charged in this state for similar services or products, minus

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(4) the amount of medical expense benefits paid, payable, or payable but for

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an applicable deductible for diagnostic X-rays and for a procedure or treatment for

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rehabilitation and not for remedial purposes or a course of rehabilitative occupational

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training; or

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(b) the injury results in:

- (1) permanent disfigurement;
- (2) permanent injury;
- (3) death; or
- (4) disability for 60 days or more.

(c) For the purposes of clause (a) evidence of the reasonable value of medical services and products shall be admissible in any action brought in this state.

For the purposes of this subdivision disability means the inability to engage in substantially all of the injured person's usual and customary daily activities.

(d) Except as provided in paragraph (f), in any action to recover damages arising out of the operation or use of a motor vehicle, a person shall not recover noneconomic losses to compensate for pain, suffering, inconvenience, physical impairment, disfigurement, and other nonpecuniary damages if any of the following applies:

(1) the injured person was at the time of the accident operating the vehicle in violation of sections 169A.20 to 169A.27 and was convicted of that offense;

(2) the injured person was the owner of a vehicle involved in the accident and the vehicle was not insured as required by the financial responsibility laws of this state; or

(3) the injured person was the operator of a vehicle involved in the accident and the operator cannot establish financial responsibility as required by the financial responsibility laws of this state.

(e) Except as provided in paragraph (f), an insurer is not liable, directly or indirectly, under a policy of liability or uninsured motorist insurance to indemnify for noneconomic losses of a person injured as described in paragraph (d).

(f) In the event a person described in paragraph (d), clause (2), was injured by a motorist who at the time of the accident was operating their vehicle in violation of sections 169A.20 to 169A.27 and was convicted of that offense, the injured person is not barred from recovering noneconomic losses to compensate for pain, suffering, inconvenience, physical impairment, disfigurement, and other nonpecuniary damages.

Sec. 2. Minnesota Statutes 2010, section 169.797, subdivision 4, is amended to read:

Subd. 4. **Penalty.** (a) A person who violates this section is guilty of a misdemeanor. A person is guilty of a gross misdemeanor who violates this section within ten years of the first of two prior convictions under this section, section 169.791, or a statute or ordinance in conformity with one of those sections. The operator of a vehicle who violates subdivision 3 and who causes or contributes to causing a vehicle accident that results in the death of any person or in substantial bodily harm to any person, as defined in section 609.02, subdivision 7a, is guilty of a gross misdemeanor. The same prosecuting authority

who is responsible for prosecuting misdemeanor violations of this section is responsible for prosecuting gross misdemeanor violations of this section. In addition to any sentence of imprisonment that the court may impose on a person convicted of violating this section, the court shall impose a fine of not less than ~~\$200~~ \$600 nor more than the maximum amount authorized by law. The court may allow community service in lieu of any fine imposed if the defendant is indigent.

(b) The court may impose consecutive sentences for offenses arising out of a single course of conduct as permitted in section 609.035, subdivision 2.

(c) In addition to the criminal penalty, the driver's license of an operator convicted under this section shall be revoked for not more than 12 months. If the operator is also an owner of the vehicle, the registration of the vehicle shall also be revoked for not more than 12 months. Before reinstatement of a driver's license or registration, the operator shall file with the commissioner of public safety the written certificate of an insurance carrier authorized to do business in this state stating that security has been provided by the operator as required by section 65B.48.

(d) The commissioner shall include a notice of the penalties contained in this section on all forms for registration of vehicles required to maintain a plan of reparation security.

**EFFECTIVE DATE.** This section is effective January 1, 2012.

Sec. 3. **TITLE.**

Sections 1 and 2 shall be known as the Fairness for Responsible Drivers Act.