



Greg Schwab

Final Analysis
Legislative Service Commission

Sub. H.B. 139

125th General Assembly
(As Passed by the General Assembly)

Reps. G. Smith, Gibbs, Barrett, Setzer, Sferra, Driehaus, Koziura, Faber, Cates, Clancy, Daniels, D. Evans, Fessler, Flowers, Gilb, Hughes, Martin, Niehaus, Olman, Raussen, Reidelbach, Schmidt, Schneider, Seitz, J. Stewart, Wolpert

Sens. Nein, Mumper, White, Harris

Effective date: February 12, 2004

ACT SUMMARY

- Makes an insurance company's liability under motor-vehicle liability insurance policies providing proof of financial responsibility subject to the terms and conditions of the policy.
- Allows violations of a motor-vehicle liability insurance policy to defeat or void the policy.

CONTENT AND OPERATION

Motor-vehicle insurer's liability for policies providing proof of financial responsibility

(secs. 4509.51 and 4509.53)

Under former law, a motor-vehicle liability insurance policy could not be defeated or voided by a violation of the policy. The act repeals this restriction, thereby allowing a violation of a motor-vehicle liability insurance policy to be used as a basis to defeat or void the policy.

Former law also provided that an insurance company's liability under a motor-vehicle liability insurance policy serving as proof of financial responsibility under Ohio's Financial Responsibility Law, Chapter 4509. of the Revised Code, became "absolute" whenever injury or damage covered by the policy occurred. The imposition of absolute liability on the insurance company may have permitted liability to be imposed on the company without regard as to whether its insured

was deemed to be at fault. The act stipulates that an insurance company's liability, with respect to this required insurance, becomes "conclusive" rather than "absolute" whenever the covered injury or damage occurs and makes that liability "[s]ubject to the terms and conditions of the policy." When the insurance company's liability becomes conclusive, its liability is fixed as to any liability then covered by the policy. However, since the company's liability is no longer absolute under the act, factors such as fault may be considered.

The ongoing Financial Responsibility Law prohibits any person from operating, or permitting the operation of, a motor vehicle in Ohio unless proof of financial responsibility is maintained continuously throughout the registration period with respect to that vehicle, or, if the driver is not the owner, with respect to the driver's operation of that vehicle. "Proof of financial responsibility" is proof of an individual's ability to respond to damages arising out of the ownership, maintenance, or use of a motor vehicle, in minimum amounts specified by the Law.

Ongoing law requires policies of motor-vehicle liability insurance to insure persons named in the policy, and persons using any insured vehicle with the permission of an insured, against loss for damages arising out of the ownership, maintenance, or use of the vehicles, subject to limits, exclusive of interest and costs, in the amounts that motorists are required to maintain under the Financial Responsibility Law. The act also makes this required coverage "[s]ubject to the terms and conditions" of the policy.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	03-25-03	p. 278
Reported, H. Insurance	05-21-03	p. 500
Passed House (81-16)	05-28-03	pp. 520-524
Reported, S. Insurance, Commerce & Labor	10-14-03	p. 1084
Passed Senate (33-0)	10-15-03	p. 1109
House concurred in Senate amendments (89-2)	10-15-03	pp. 1132-1133

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