

THE INSURANCE CODE OF 1956 (EXCERPT)
Act 218 of 1956

500.3135 Tort liability for noneconomic loss; exceptions; cause of action for damages; "serious impairment of body function" defined.

Sec. 3135. (1) A person remains subject to tort liability for noneconomic loss caused by his or her ownership, maintenance, or use of a motor vehicle only if the injured person has suffered death, serious impairment of body function, or permanent serious disfigurement.

(2) For a cause of action for damages under subsection (1) or (3)(d), all of the following apply:

(a) The issues of whether the injured person has suffered serious impairment of body function or permanent serious disfigurement are questions of law for the court if the court finds either of the following:

(i) There is no factual dispute concerning the nature and extent of the person's injuries.

(ii) There is a factual dispute concerning the nature and extent of the person's injuries, but the dispute is not material to the determination whether the person has suffered a serious impairment of body function or permanent serious disfigurement. However, for a closed-head injury, a question of fact for the jury is created if a licensed allopathic or osteopathic physician who regularly diagnoses or treats closed-head injuries testifies under oath that there may be a serious neurological injury.

(b) Damages must be assessed on the basis of comparative fault, except that damages must not be assessed in favor of a party who is more than 50% at fault.

(c) Damages must not be assessed in favor of a party who was operating his or her own vehicle at the time the injury occurred and did not have in effect for that motor vehicle the security required by section 3101(1) at the time the injury occurred.

(3) Notwithstanding any other provision of law, tort liability arising from the ownership, maintenance, or use within this state of a motor vehicle with respect to which the security required by section 3101(1) was in effect is abolished except as to:

(a) Intentionally caused harm to persons or property. Even though a person knows that harm to persons or property is substantially certain to be caused by his or her act or omission, the person does not cause or suffer that harm intentionally if he or she acts or refrains from acting for the purpose of averting injury to any person, including himself or herself, or for the purpose of averting damage to tangible property.

(b) Damages for noneconomic loss as provided and limited in subsections (1) and (2).

(c) Damages for allowable expenses, work loss, and survivor's loss as defined in sections 3107 to 3110, including all future allowable expenses and work loss, in excess of any applicable limit under section 3107c or the daily, monthly, and 3-year limitations contained in those sections, or without limit for allowable expenses if an election to not maintain that coverage was made under section 3107d or if an exclusion under section 3109a(2) applies. The party liable for damages is entitled to an exemption reducing his or her liability by the amount of taxes that would have been payable on account of income the injured person would have received if he or she had not been injured.

(d) Damages for economic loss by a nonresident. However, to recover under this subdivision, the nonresident must have suffered death, serious impairment of body function, or permanent serious disfigurement.

(e) Damages up to \$1,000.00 to a motor vehicle or, for motor vehicle accidents that occur after July 1, 2020, up to \$3,000.00 to a motor vehicle, to the extent that the damages are not covered by insurance. An action for damages under this subdivision must be conducted as provided in subsection (4).

(4) All of the following apply to an action for damages under subsection (3)(e):

(a) Damages must be assessed on the basis of comparative fault, except that damages must not be assessed in favor of a party who is more than 50% at fault.

(b) Liability is not a component of residual liability, as prescribed in section 3131, for which maintenance of security is required by this act.

(c) The action must be commenced, whenever legally possible, in the small claims division of the district court or the municipal court. If the defendant or plaintiff removes the action to a higher court and does not prevail, the judge may assess costs.

(d) A decision of the court is not res judicata in any proceeding to determine any other liability arising from the same circumstances that gave rise to the action.

(e) Damages must not be assessed if the damaged motor vehicle was being operated at the time of the damage without the security required by section 3101(1).

(5) As used in this section, "serious impairment of body function" means an impairment that satisfies all of the following requirements:

(a) It is objectively manifested, meaning it is observable or perceivable from actual symptoms or

conditions by someone other than the injured person.

(b) It is an impairment of an important body function, which is a body function of great value, significance, or consequence to the injured person.

(c) It affects the injured person's general ability to lead his or her normal life, meaning it has had an influence on some of the person's capacity to live in his or her normal manner of living. Although temporal considerations may be relevant, there is no temporal requirement for how long an impairment must last. This examination is inherently fact and circumstance specific to each injured person, must be conducted on a case-by-case basis, and requires comparison of the injured person's life before and after the incident.

History: Add. 1972, Act 294, Eff. Mar. 30, 1973;—Am. 1979, Act 145, Imd. Eff. Nov. 13, 1979;—Am. 1979, Act 147, Imd. Eff. Nov. 13, 1979;—Am. 1995, Act 222, Eff. Mar. 28, 1996;—Am. 2002, Act 697, Eff. Mar. 31, 2003;—Am. 2012, Act 158, Eff. Oct. 1, 2012;—Am. 2019, Act 21, Imd. Eff. June 11, 2019;—Am. 2019, Act 22, Imd. Eff. June 11, 2019.

Compiler's note: Act 143 of 1993, which amended this section, was submitted to the people by referendum petition (as Proposal C) and rejected by a majority of the votes cast at the November 8, 1994, general election.

Enacting section 2 of Act 21 of 2019 provides:

"Enacting section 2. Section 3135 of the insurance code of 1956, 1956 PA 218, MCL 500.3135, as amended by this amendatory act, is intended to codify and give full effect to the opinion of the Michigan supreme court in *McCormick v Carrier*, 487 Mich 180 (2010)."

Enacting section 1 of Act 22 of 2019 provides:

"Enacting section 1. Section 3135 of the insurance code of 1956, 1956 PA 218, MCL 500.3135, as amended by this amendatory act, is intended to codify and give full effect to the opinion of the Michigan supreme court in *McCormick v Carrier*, 487 Mich 180 (2010)."

Popular name: Act 218

Popular name: Essential Insurance

Popular name: No-Fault Insurance