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Mini-Tort Grows Up, A Little: Legislature Amends MCL 500.3135, Increases No-Fault Act's Mini-Tort Limit From \$500 to \$1000

By Drew Broaddus

On June 7, 2012, Gov. Rick Snyder signed House Bill 5362 into law, resulting in important changes to the No-Fault Act's mini-tort provisions, MCL 500.3135(3) and 3135(4). Mini-tort – an exception to the No-Fault Act's general rule that motorists look solely to their own insurance – allows motorists who have their cars damaged by another driver to sue those drivers for reimbursement of the deductible, when another driver is clearly at fault for the accident. Generally, the No-Fault Act dictates that motorists be compensated by their own insurer in crashes, regardless of who was at fault, and largely prohibits motorists from suing each other.

The first important change brought about by House Bill 5362 (assigned Public Act 158) is an increase in the mini-tort limit from \$500 to \$1,000. According to this House Bill's legislative history, the mini-tort limit was last increased in 1995, by Public Act 22, from \$400 to \$500. "It is important we update state policies to reflect changes across our state. The \$1,000 recovery limit will help better cover repair damages," Gov. Snyder said in a press release.¹

State Rep. Cindy Denby (R-Handy Township), who sponsored the House Bill, further explained the rationale for increasing the limit: "Despite rising costs the amount residents can collect for damages under the mini-tort provision hasn't been increased in decades.... This common-sense reform will be helpful to Michigan drivers...."²

The second important change brought about by House Bill 5362 disqualifies uninsured vehicles from all coverage under mini-tort. Per the newly amended MCL 500.3135(4)(e): "Damages shall not be assessed if the damaged motor vehicle was being operated at the time of the damage without the security required by section 3101." "[S]ection 3101" refers to MCL 500.3101 of the No-Fault Act, which requires all vehicle owners and/or registrants to secure no-fault auto insurance for their vehicles. Before the passage of House Bill 5362, mini-tort relief was available regardless of whether the damaged vehicle was covered by a No-Fault auto insurance policy.

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Under Michigan's Mini-Tort law, an auto accident victim is entitled to recover a maximum of \$1,000 from an "at fault" driver to cover vehicle damage repair costs.

Mini-tort's existing comparative fault rule was not changed with the passage of House Bill 5362. Thus, mini-tort relief will continue to be reduced by a driver's percentage of fault. However, if the driver is "more than 50% at fault," then he or she will be disqualified from all mini-tort coverage. MCL 500.3135(4)(a).

House Bill 5362 states that "[t]his amendatory act takes effect October 1, 2012," but then the next sentence says "[t]his act is ordered to take immediate effect." This could create some confusion as to the amendment's effective date. However, most analysts agree that the Legislature intended for an October 1st effective date so that existing insurance policies, which specifically state that they will only pay up to \$500 for the mini-torts, can be updated.

¹ http://www.mlive.com/politics/index.ssf/2012/06/gov_snyder_signs_bill_increasi.html

² Id.

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House Bill 5362 also rewrites a provision which previously stated that mini-tort liability “shall not be a component of residual liability, as prescribed in Section 3131, for which maintenance of security is required by this act.” According to this House Bill’s legislative history, this has been understood to mean that residual liability insurance, which provides coverage for damages in certain kinds of lawsuits, does not protect you against the mini-tort. The newly amended provision clarifies this at MCL 500.3135(4)(b); this amendment is meant to better define residual liability as a separate form of coverage that does not protect a motorist from mini-tort liability.

MCL 500.3135, as amended by House Bill 5362, states in relevant part:

(3) ...[T]ort 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 was in effect is abolished except as to:

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

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

(a) Damages shall be assessed on the basis of comparative fault, except that damages shall 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 shall be commenced, whenever legally possible, in the small claims division of the district court or the municipal court....

(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 shall not be assessed if the damaged motor vehicle was being operated at the time of the damage without the security required by section 3101.

The versions of House Bill 5362 as passed by the House and Senate, along with the House Bill’s legislative history, can be viewed at the Michigan Legislature’s website.³

³[http://www.legislature.mi.gov/\(S\(zijxnq551o3yxyb0v4rw355\)\)/mileg.aspx?page=getObject&objectName=2012-HB-5362](http://www.legislature.mi.gov/(S(zijxnq551o3yxyb0v4rw355))/mileg.aspx?page=getObject&objectName=2012-HB-5362)

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