

# MAINE STATE LEGISLATURE

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# 114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

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Legislative Document

No. 695

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S.P. 267

In Senate, March 8, 1989

Reference to the Committee on Banking and Insurance suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator THERIAULT of Aroostook.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND EIGHTY-NINE

---

An Act Regarding the Exclusion of Family Members under a Motor Vehicle  
Liability Insurance Policy.

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1 Be it enacted by the People of the State of Maine as follows:

3 24-A MRSA §2902-A, as enacted by PL 1985, c. 136, is  
repealed and the following enacted in its place:

5 §2902-A. Household exclusion

7  
9 1. Definitions. As used in this section, unless the  
context otherwise indicates, the following terms have the  
following meanings.

11  
13 A. "Family member" means a person related to the insured by  
blood, marriage or adoption, who is a resident of the  
insured's household including a ward or foster child.

15  
17 B. "Medical expense" means incurred and demonstrably  
predictable expenses for necessary medical goods and  
services, including funeral expenses, resulting from bodily  
injury.

19  
21 C. "Spouse" means a person married to the insured who is a  
resident of the insured's household.

23  
25 D. "Wage loss" means any actual and demonstrably  
predictable cessation of present or future income or  
reduction of earned income resulting from bodily injury.

27  
29 2. Exclusion. Insurers are subject to the following  
prohibitions.

31  
33 A. No insurer may sell or renew an insurance policy  
providing motor vehicle liability insurance on or after  
January 1, 1990, that excludes coverage for injuries  
sustained by the insured's spouse unless the insurer  
notifies the bureau in writing of its utilization of the  
exclusion, the insurer notifies each of its licensed agents  
holding resident or nonresident licenses of its utilization  
of the exclusion and the exclusion is provided by a separate  
endorsement to the insured's policy. The separate  
endorsement may only exclude noneconomic damages resulting  
from bodily injury to an insured's spouse and may not  
exclude wage loss and medical expenses. An exclusion that  
does not meet the requirements of this section shall be  
invalid and of no effect.

45  
47 B. Except as provided in paragraph A, no insurer may sell  
or renew an insurance policy providing motor vehicle  
liability insurance on or after January 1, 1990, that  
excludes coverage for injuries sustained by the insured's  
family members.

51  
53 3. Rules. The superintendent shall issue rules mandating  
uniform policy language in compliance with this section.

1

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## STATEMENT OF FACT

5 There is an increasing trend to exclude family members of  
6 the household of an insured driver from protection under the  
7 liability policy. The courts have increased the availability of  
8 lawsuits by family members against the policy owner for injuries  
9 sustained in motor vehicle accidents. This allows for the  
10 protection of the injured family members who are not responsible  
11 for the injuries they have received. On the other hand, the law  
12 should not provide an opportunity for husband and wife to make a  
13 raid on the motor vehicle liability policy for damages that are  
14 not based upon out-of-pocket losses by presenting claims against  
15 the insurance company in collusion.

16 This bill allows the insurance company to exclude claims of  
17 a spouse, living in the same household as the policy owner, from  
18 making any claim for damages that are not specifically proven,  
19 that is, actual expenses shown by evidence to be dollar losses.  
20 Exclusion of other family members and the spouse's out of pocket  
21 losses would be prohibited.