~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

May 1, 2019

**S. 493**

Introduced by Senators Senn, Talley, Sabb, Sheheen, Kimpson, McElveen, Allen, Gregory, McLeod, Harpootlian and Hembree

S. Printed 5/1/19--S.

Read the first time February 7, 2019.

**THE COMMITTEE ON BANKING AND INSURANCE**

To whom was referred a Bill (S. 493) to amend Section 38-77-170 of the 1976 Code, relating to conditions to sue or recover under the uninsured motorist provision when the owner or operator of a motor, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting clause and inserting:

/ SECTION 1. Section 38-77-170(2) of the 1976 Code is amended to read:

“(2) one of the following conditions is met:

(a) the injury or damage was caused by physical contact with the unknown vehicle~~, or~~;

(b) the accident must have been witnessed by someone other than the owner or operator of the insured vehicle; provided however, the witness must sign an affidavit attesting to the truth of the facts of the accident contained in the affidavit; or

(c) the insured can prove by photographic or video evidence that the damage or injury was caused by the unknown vehicle;”

SECTION 2. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

RONNIE W. CROMER for Committee.

**A** **BILL**

TO AMEND SECTION 38-77-170 OF THE 1976 CODE, RELATING TO CONDITIONS TO SUE OR RECOVER UNDER THE UNINSURED MOTORIST PROVISION WHEN THE OWNER OR OPERATOR OF A MOTOR VEHICLE CAUSING INJURY OR DAMAGE IS UNKNOWN, TO PROVIDE THAT THERE IS A RIGHT OF ACTION OR RECOVERY UNDER THE UNINSURED MOTORIST PROVISION IF THE INJURY OR DAMAGE WAS CAUSED BY THE UNKNOWN VEHICLE, OR THE INSURED CAN PROVE THAT THE INJURY OR DAMAGE WAS CAUSED BY AN UNKNOWN VEHICLE BY AN ELECTRONIC OR OTHER RECORDING OR OTHER CLEAR AND CONVINCING EVIDENCE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 38-77-170 of the 1976 Code is amended to read:

“Section 38-77-170. (A) If the owner or operator of any motor vehicle which causes bodily injury or property damage to the insured is unknown, there is no right of action or recovery under the uninsured motorist provision, unless:

(1) the insured or someone in his behalf has reported the accident to some appropriate police authority within a reasonable time, under all the circumstances, after its occurrence;

(2) the injury or damage was caused by ~~physical contact with~~ the unknown vehicle, or the insured can prove that the injury or damage was caused by an unknown vehicle by an electronic or other recording or other clear and convincing evidence ~~the accident must have been witnessed by someone other than the owner or operator of the insured vehicle; provided however, the witness must sign an affidavit attesting to the truth of the facts of the accident contained in the affidavit~~; and

(3) the insured was not negligent in failing to determine the identity of the other vehicle and the driver of the other vehicle at the time of the accident.

(B) The following statement must be prominently displayed on the face of the affidavit provided in item (2) above: A FALSE STATEMENT CONCERNING THE FACTS CONTAINED IN THIS AFFIDAVIT MAY SUBJECT THE PERSON MAKING THE FALSE STATEMENT TO CRIMINAL PENALTIES AS PROVIDED BY LAW.”

SECTION 2. This act takes effect upon approval by the Governor.

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