

1 House BILL NO. 496
2 INTRODUCED BY [Signature]

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING RULE 20 OF THE
5 MONTANA RULES OF CIVIL PROCEDURE TO ALLOW THE JOINDER OF
6 INSURERS OF MOTOR VEHICLES IN CERTAIN CASES."

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Rule 20 of the Montana Rules of Civil
10 Procedure is amended to read as follows:

11 Rule 20. Permissive joinder of parties.

12 (a) PERMISSIVE JOINDER. All persons may join in one
13 action as plaintiffs if they assert any right to relief
14 jointly, severally, or in the alternative in respect of or
15 arising out of the same transaction, occurrence, or series
16 of transactions or occurrences and if any question of law or
17 fact common to all these persons will arise in the action.
18 All persons may be joined in one action as defendants if
19 there is asserted against them jointly, severally, or in the
20 alternative, any right to relief in respect of or arising
21 out of the same transaction, occurrence or series of
22 transactions or occurrences and if any question of law or
23 fact common to all defendants will arise in the action. A
24 plaintiff or defendant need not be interested in obtaining
25 or defending against all the relief demanded. Judgment may

1 be given for one or more of the plaintiffs according to
2 their respective rights to relief, and against one or more
3 defendants according to their respective liabilities.

4 (b) SEPARATE TRIALS. The court may make such orders
5 as will prevent a party from being embarrassed, delayed, or
6 put to expense by the inclusion of a party against whom he
7 asserts no claim and who asserts no claim against him, and
8 may order separate trials or make other orders to prevent
9 delay or prejudice.

10 (c) DEFENDANTS WHO MAY BE JOINED. Any person may be
11 made a defendant who has or claims an interest in the
12 controversy adverse to the plaintiff, or who is a necessary
13 party to a complete determination or settlement of the
14 questions involved therein. A plaintiff may join as
15 defendants persons against whom the right to relief is
16 alleged to exist in the alternative, although recovery
17 against one may be inconsistent with recovery against the
18 other; and in all such actions the recovery of costs by any
19 of the parties to the action shall be in the discretion of
20 the court. In any action for damages caused by the
21 negligent operation, management or control of a motor
22 vehicle, any insurer of motor vehicles, which has an
23 interest in the outcome of such controversy adverse to the
24 plaintiff or any of the parties to such controversy, or
25 which by its policy of insurance assumes or reserves the

1 judgment against the insured or the amount of such
2 liability."

-End-

1 right to control the prosecution, defense, or settlement of
2 the claim or action of the plaintiff or any of the parties
3 to such claim or action, or which by its policy agrees to
4 prosecute or defend the action brought by the plaintiff or
5 any of the parties to such action, or agrees to engage
6 counsel to prosecute or defend the action, or agrees to pay
7 the costs of such litigation, is by this rule made a proper
8 party defendant in any action brought by plaintiff on
9 account of any claim against the insured.

10 (d) CROSS CLAIMS. When any insurer is made a party
11 defendant under this rule and it appears at any time before
12 or during the trial that there is or may be a cross-issue
13 between the insurer and the insured or any issue between any
14 other party and the insurer involving the question whether
15 the insurer would be liable if judgment is rendered against
16 the insured, the court may, upon motion of any defendant in
17 any such action, cause the person, who may be liable upon
18 such cross-issue, to be made a party defendant to the action
19 and all the issues involved in said controversy determined
20 in the trial of the action. Nothing herein prohibits the
21 trial court from directing and conducting first a trial as
22 to whether or not the insured is liable to the plaintiff or
23 other party and directing a separate trial on the issues
24 involving the question whether under its policy the insurer
25 is liable for the payment in whole or in part of any

HB 476

Approved by Committee
on Judiciary

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A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING RULE 20 OF THE MONTANA RULES OF CIVIL PROCEDURE TO ALLOW THE JOINDER OF INSURERS ~~OF MOTOR VEHICLES~~ IN CERTAIN CASES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Rule 20 of the Montana Rules of Civil Procedure is amended to read as follows:

Rule 20. Permissive joinder of parties.

(a) PERMISSIVE JOINDER. All persons may join in one action as plaintiffs if they assert any right to relief jointly, severally, or in the alternative in respect of or arising out of the same transaction, occurrence, or series of transactions or occurrences and if any question of law or fact common to all these persons will arise in the action. All persons may be joined in one action as defendants if there is asserted against them jointly, severally, or in the alternative, any right to relief in respect of or arising out of the same transaction, occurrence or series of transactions or occurrences and if any question of law or fact common to all defendants will arise in the action. A plaintiff or defendant need not be interested in obtaining or defending against all the relief demanded. Judgment may

be given for one or more of the plaintiffs according to their respective rights to relief, and against one or more defendants according to their respective liabilities.

(b) SEPARATE TRIALS. The court may make such orders as will prevent a party from being embarrassed, delayed, or put to expense by the inclusion of a party against whom he asserts no claim and who asserts no claim against him, and may order separate trials or make other orders to prevent delay or prejudice.

(c) DEFENDANTS WHO MAY BE JOINED. Any person may be made a defendant who has or claims an interest in the controversy adverse to the plaintiff, or who is a necessary party to a complete determination or settlement of the questions involved therein. A plaintiff may join as defendants persons against whom the right to relief is alleged to exist in the alternative, although recovery against one may be inconsistent with recovery against the other; and in all such actions the recovery of costs by any of the parties to the action shall be in the discretion of the court. In any TORT action for damages ~~caused by the negligent--operation,--management--or--control--of--a--motor vehicle,~~ any insurer ~~of--motor--vehicles,~~ which has an interest in the outcome of such controversy adverse to the plaintiff or any of the parties to such controversy, or which by its policy of insurance assumes or reserves the

1 right to control the prosecution, defense, or settlement of
 2 the claim or action of the plaintiff or any of the parties
 3 to such claim or action, or which by its policy agrees to
 4 prosecute or defend the action brought by the plaintiff or
 5 any of the parties to such action, or agrees to engage
 6 counsel to prosecute or defend the action, or agrees to pay
 7 the costs of such litigation, is by this rule made a proper
 8 party defendant in any action brought by plaintiff on
 9 account of any claim against the insured.

10 (d) CROSS CLAIMS. When any insurer is made a party
 11 defendant under this rule and it appears at any time before
 12 or during the trial that there is or may be a cross-issue
 13 between the insurer and the insured or any issue between any
 14 other party and the insurer involving the question whether
 15 the insurer would be liable if judgment is rendered against
 16 the insured, the court may, upon motion of any defendant in
 17 any such action, cause the person, who may be liable upon
 18 such cross-issue, to be made a party defendant to the action
 19 and all the issues involved in said controversy determined
 20 in the trial of the action. Nothing herein prohibits the
 21 trial court from directing and conducting first a trial as
 22 to whether or not the insured is liable to the plaintiff or
 23 other party and directing a separate trial on the issues
 24 involving the question whether under its policy the insurer
 25 is liable for the payment in whole or in part of any

1 judgment against the insured or the amount of such
 2 liability."

-End-

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be given for one or more of the plaintiffs according to their respective rights to relief, and against one or more defendants according to their respective liabilities.

(b) SEPARATE TRIALS. The court may make such orders as will prevent a party from being embarrassed, delayed, or put to expense by the inclusion of a party against whom he asserts no claim and who asserts no claim against him, and may order separate trials or make other orders to prevent delay or prejudice.

(c) DEFENDANTS WHO MAY BE JOINED. Any person may be made a defendant who has or claims an interest in the controversy adverse to the plaintiff, or who is a necessary party to a complete determination or settlement of the questions involved therein. A plaintiff may join as defendants persons against whom the right to relief is alleged to exist in the alternative, although recovery against one may be inconsistent with recovery against the other; and in all such actions the recovery of costs by any of the parties to the action shall be in the discretion of the court. In any TORT action for damages caused by the negligent--operation,--management--or--control--of--a--motor vehicle, any insurer of--motor--vehicles, which has an interest in the outcome of such controversy adverse to the plaintiff or any of the parties to such controversy, or which by its policy of insurance assumes or reserves the

1 right to control the prosecution, defense, or settlement of
 2 the claim or action of the plaintiff or any of the parties
 3 to such claim or action, or which by its policy agrees to
 4 prosecute or defend the action brought by the plaintiff or
 5 any of the parties to such action, or agrees to engage
 6 counsel to prosecute or defend the action, or agrees to pay
 7 the costs of such litigation, is by this rule made a proper
 8 party defendant in any action brought by plaintiff on
 9 account of any claim against the insured.

10 (d) CROSS CLAIMS. When any insurer is made a party
 11 defendant under this rule and it appears at any time before
 12 or during the trial that there is or may be a cross-issue
 13 between the insurer and the insured or any issue between any
 14 other party and the insurer involving the question whether
 15 the insurer would be liable if judgment is rendered against
 16 the insured, the court may, upon motion of any defendant in
 17 any such action, cause the person, who may be liable upon
 18 such cross-issue, to be made a party defendant to the action
 19 and all the issues involved in said controversy determined
 20 in the trial of the action. Nothing herein prohibits the
 21 trial court from directing and conducting first a trial as
 22 to whether or not the insured is liable to the plaintiff or
 23 other party and directing a separate trial on the issues
 24 involving the question whether under its policy the insurer
 25 is liable for the payment in whole or in part of any

1 judgment against the insured or the amount of such
 2 liability."

-End-

March 20, 1975

SENATE COMMITTEE ON JUDICIARY
AMENDMENTS TO HOUSE BILL NO. 496

That House Bill No. 496, third reading, be amended as follows:

1. Amend title, line 6.
Following: "INSURERS"
Insert: "of motor vehicles"
2. Amend page 2, section 1, line 20.
Following: "damages"
Insert: "caused by the negligent operation, management or control of a motor vehicle,"
3. Amend page 2, section 1, line 22.
Following: "insurer"
Insert: "of motor vehicles,"