

HOUSE BILL NO. 797

2/12 Introduced  
2/12 Referred to Judiciary  
2/21 Hearing  
2/22 Adverse Committee Report  
2/23 Bill Killed

1 HOUSE BILL NO. 797  
2 INTRODUCED BY KRUEGER

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4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE JOINDER OF  
5 AN INSURER OF A MOTOR VEHICLE IN ANY ACTION FOR DAMAGES  
6 CAUSED BY THE NEGLIGENT OPERATION, MANAGEMENT, OR CONTROL OF  
7 THE MOTOR VEHICLE."

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

10 Section 1. Defendants who may be joined --  
11 cross-claims. (1) Any person may be made a defendant who  
12 has or claims an interest in the controversy adverse to the  
13 plaintiff or who is a necessary party to a complete  
14 determination or settlement of the questions involved  
15 therein. A plaintiff may join as defendants persons against  
16 whom the right to relief is alleged to exist in the  
17 alternative, although recovery against one may be  
18 inconsistent with recovery against the other; and in all  
19 such actions the recovery of costs by any of the parties to  
20 the action is in the discretion of the court. In any action  
21 for damages caused by the negligent operation, management,  
22 or control of a motor vehicle, any insurer of motor vehicles  
23 is a proper party defendant in any action brought by a  
24 plaintiff on account of any claim against an insured of that  
25 insurer if the insurer:

1 (a) has an interest in the outcome of such controversy  
2 adverse to the plaintiff or any of the parties to such  
3 controversy;

4 (b) by its policy of insurance assumes or reserves the  
5 right to control the prosecution, defense, or settlement of  
6 the claim or action of the plaintiff or any of the parties  
7 to such claim or action; or

8 (c) by its policy agrees to prosecute or defend the  
9 action brought by the plaintiff or any of the parties to  
10 such action or agrees to engage counsel to prosecute or  
11 defend the action or agrees to pay the costs of such  
12 litigation.

13 (2) If an insurer is made a party defendant under this  
14 section and it appears at any time before or during the  
15 trial that there is or may be a cross-claim between the  
16 insurer and the insured or any issue between any other party  
17 and the insurer involving the question whether the insurer  
18 would be liable if judgment is rendered against the insured,  
19 the court may, upon motion of any defendant in any such  
20 action, cause the person who may be liable upon such  
21 cross-claim to be made a party defendant to the action and  
22 all the issues involved in such controversy determined in  
23 the trial of the action. This section does not prohibit the  
24 trial court from directing and conducting first a trial as  
25 to whether or not the insured is liable to the plaintiff or

1 other party and directing a separate trial on the issues  
2 involving the question whether under its policy the insurer  
3 is liable for the payment in whole or in part of any  
4 judgment against the insured or the amount of such  
5 liability.

6 Section 2. Codification instruction. Section 1 is  
7 intended to be codified as an integral part of Title 25,  
8 chapter 5, part 2, and the provisions of Title 25, chapter  
9 5, part 2, apply to section 1.

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