

CHAPTER 348

COURTS

HOUSE BILL 94-1281

BY REPRESENTATIVES Strom, Dyer, Owen, Reeves, Schauer, Jerke, and Williams;
also SENATORS Bishop, Cassidy, Groff, Norton, and Schroeder.

AN ACT**CONCERNING THE LIMITATION OF ACTIONS ARISING OUT OF MOTOR VEHICLE OPERATIONS.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 13-80-101 (1), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

13-80-101. General limitation of actions - three years. (1) The following civil actions, regardless of the theory upon which suit is brought, or against whom suit is brought, shall be commenced within three years after the cause of action accrues, and not thereafter:

(n) (I) ALL TORT ACTIONS FOR BODILY INJURY OR PROPERTY DAMAGE ARISING OUT OF THE USE OR OPERATION OF A MOTOR VEHICLE INCLUDING ALL ACTIONS PURSUANT TO PARAGRAPH (j) OF THIS SUBSECTION (1).

(II) THE PROVISIONS OF THIS PARAGRAPH (n) DO NOT APPLY TO ANY ACTION FOR STRICT LIABILITY, ABSOLUTE LIABILITY, OR FAILURE TO INSTRUCT OR WARN GOVERNED BY THE PROVISIONS OF SECTION 13-80-102 (1) (b) OR SECTION 13-80-106.

SECTION 2. 13-80-102 (1) (a), Colorado Revised Statutes, 1987 Repl. Vol., is amended to read:

13-80-102. General limitation of actions - two years. (1) The following civil actions, regardless of the theory upon which suit is brought, or against whom suit is brought, shall be commenced within two years after the cause of action accrues, and not thereafter:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(a) Tort actions, including but not limited to actions for negligence, trespass, malicious abuse of process, malicious prosecution, outrageous conduct, interference with relationships, and tortious breach of contract; EXCEPT THAT THIS PARAGRAPH (a) DOES NOT APPLY TO ANY TORT ACTION ARISING OUT OF THE USE OR OPERATION OF A MOTOR VEHICLE AS SET FORTH IN SECTION 13-80-101 (1) (n);

SECTION 3. Article 80 of title 13, Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

13-80-107.5. Limitation of actions for uninsured or underinsured motorist insurance. (1) NOTWITHSTANDING ANY STATUTORY PROVISION TO THE CONTRARY, ALL ACTIONS OR ARBITRATIONS UNDER SECTIONS 10-4-609 AND 10-4-610, C.R.S., PERTAINING TO INSURANCE PROTECTION AGAINST UNINSURED OR UNDERINSURED MOTORISTS SHALL BE COMMENCED WITHIN THE FOLLOWING TIME LIMITATIONS AND NOT THEREAFTER:

(a) AN ACTION OR ARBITRATION OF AN "UNINSURED MOTORIST" INSURANCE CLAIM, AS DEFINED IN SECTIONS 10-4-609 AND 10-4-610, C.R.S., SHALL BE COMMENCED OR DEMANDED BY ARBITRATION DEMAND WITHIN THREE YEARS AFTER THE CAUSE OF ACTION ACCRUES; EXCEPT THAT, IF THE UNDERLYING BODILY INJURY LIABILITY CLAIM AGAINST THE UNINSURED MOTORIST IS PRESERVED BY COMMENCING AN ACTION AGAINST THE UNINSURED MOTORIST WITHIN THE TIME LIMIT SPECIFIED IN SECTIONS 13-80-101 (1) (n) AND 13-80-102 (1) (d), THEN AN ACTION OR ARBITRATION OF AN UNINSURED MOTORIST CLAIM SHALL BE TIMELY IF SUCH ACTION IS COMMENCED OR SUCH ARBITRATION IS DEMANDED WITHIN TWO YEARS AFTER THE INSURED KNOWS THAT THE PARTICULAR TORTFEASOR IS NOT COVERED BY ANY APPLICABLE INSURANCE. IN NO EVENT SHALL THE INSURED HAVE LESS THAN THREE YEARS AFTER THE CAUSE OF ACTION ACCRUES WITHIN WHICH TO COMMENCE SUCH ACTION OR DEMAND ARBITRATION.

(b) AN ACTION OR ARBITRATION OF AN "UNDERINSURED MOTORIST" INSURANCE CLAIM, AS DEFINED IN SECTION 10-4-609 (4), C.R.S., SHALL BE COMMENCED OR DEMANDED BY ARBITRATION DEMAND WITHIN THREE YEARS AFTER THE CAUSE OF ACTION ACCRUES; EXCEPT THAT, IF THE UNDERLYING BODILY INJURY LIABILITY CLAIM AGAINST THE UNDERINSURED MOTORIST IS PRESERVED BY COMMENCING AN ACTION AGAINST THE UNDERINSURED MOTORIST OR BY PAYMENT OF EITHER THE LIABILITY CLAIM SETTLEMENT OR JUDGMENT WITHIN THE TIME LIMIT SPECIFIED IN SECTIONS 13-80-101 (1) (n) AND 13-80-102 (1) (d), THEN AN ACTION OR ARBITRATION OF AN UNDERINSURED MOTORIST CLAIM SHALL BE TIMELY IF SUCH ACTION IS COMMENCED OR SUCH ARBITRATION IS DEMANDED WITHIN TWO YEARS AFTER THE INSURED RECEIVED PAYMENT OF THE SETTLEMENT OR JUDGMENT ON THE UNDERLYING BODILY INJURY LIABILITY CLAIM. IN NO EVENT SHALL THE INSURED HAVE LESS THAN THREE YEARS AFTER THE CAUSE OF ACTION ACCRUES WITHIN WHICH TO COMMENCE SUCH ACTION OR DEMAND ARBITRATION.

(2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "ACTION" MEANS A LAWSUIT COMMENCED IN A COURT OF COMPETENT JURISDICTION; AND

(b) "ARBITRATION DEMAND" MEANS A WRITTEN DEMAND FOR ARBITRATION

DELIVERED TO THE INSURER THAT REASONABLY IDENTIFIES THE PERSON MAKING THE CLAIM, THE IDENTITY OF THE UNINSURED OR UNDERINSURED MOTORIST, IF KNOWN, AND THE FACT THAT AN UNINSURED OR UNDERINSURED MOTORIST INSURANCE ARBITRATION IS BEING DEMANDED.

(3) AN UNINSURED OR UNDERINSURED MOTORIST CAUSE OF ACTION ACCRUES AFTER BOTH THE EXISTENCE OF THE DEATH, INJURY, OR DAMAGE GIVING RISE TO THE CLAIM AND THE CAUSE OF THE DEATH, INJURY, OR DAMAGE ARE KNOWN OR SHOULD HAVE BEEN KNOWN BY THE EXERCISE OF REASONABLE DILIGENCE.

SECTION 4. 13-80-108 (1), Colorado Revised Statutes, 1987 Repl. Vol., is amended, and the said 13-80-108 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

13-80-108. When a cause of action accrues. (1) EXCEPT AS PROVIDED IN SUBSECTION (12) OF THIS SECTION, a cause of action for injury to person, property, reputation, possession, relationship, or status shall be considered to accrue on the date both the injury and its cause are known or should have been known by the exercise of reasonable diligence.

(12) A CAUSE OF ACTION FOR BODILY INJURY OR PROPERTY DAMAGE ARISING OUT OF THE USE OR OPERATION OF A MOTOR VEHICLE ACCRUES ON THE DATE THAT BOTH THE EXISTENCE OF THE INJURY OR DAMAGE AND THE CAUSE OF THE INJURY OR DAMAGE ARE KNOWN OR SHOULD HAVE BEEN KNOWN BY THE EXERCISE OF REASONABLE DILIGENCE.

SECTION 5. Effective date - applicability. This act shall take effect July 1, 1994, and shall apply to any motor vehicle accident occurring on or after said date.

SECTION 6. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 3, 1994