

1 STATE OF OKLAHOMA

2 1st Session of the 47th Legislature (1999)

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 SENATE BILL NO. 692

By: Leftwich of the Senate

and

Paulk of the House

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8
9 COMMITTEE SUBSTITUTE

10 An Act relating to damages; defining terms;
11 prohibiting recovery of noneconomic damages in
12 certain circumstances; providing for codification;
13 and providing an effective date.

14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 1. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 99 of Title 23, unless there is
17 created a duplication in numbering, reads as follows:

18 A. As used in this section:

19 1. "Claimant" means a party, including a plaintiff, counter-
20 claimant, cross-claimant, or third-party claimant, seeking recovery
21 of damages;

22 2. "Economic damages" means compensatory damages for pecuniary
23 loss. The term does not include exemplary damages or damages for
24 physical and mental anguish, loss of consortium, disfigurement,
25 physical impairment, loss of companionship or society, or any other
26 nonpecuniary damages; and

27 3. "Noneconomic damages" means any damages other than economic
28 damages.

29 B. Except as provided in subsections C and D of this section,
30 in any civil action to recover damages arising out of an accident
31 involving the operation or use of a motor vehicle, a claimant may
32 not recover noneconomic damages if any of the following applies:

1 1. The claimant was, at the time of the accident, operating,
2 using or in actual physical control of a motor vehicle while
3 intoxicated in violation of Section 11-902 of Title 47 of the
4 Oklahoma Statutes, or any successor provision thereto relating to
5 the illegal operation or use of a motor vehicle while intoxicated,
6 and the claimant was convicted of the offense;

7 2. The claimant was, at the time of the accident, operating or
8 using the motor vehicle in violation of the financial responsibility
9 provisions of Title 47 of the Oklahoma Statutes, or any successor
10 provision thereto relating to the illegal operation or use of a
11 motor vehicle without required financial responsibility, and the
12 claimant was convicted of the offense; or

13 3. The claimant's injuries were in any way proximately caused
14 by the claimant's commission of any felony, or immediate flight
15 therefrom, and the claimant was duly convicted of that felony.

16 C. The limitations noted in subsection B of this section shall
17 not apply to a claimant described in paragraph 2 of subsection B of
18 this section, if that claimant was injured by a motorist who at the
19 time of the accident was operating, using or in actual physical
20 control of a motor vehicle while intoxicated in violation of Section
21 11-902 of Title 47 of the Oklahoma Statutes, or any successor
22 provision thereto relating to the illegal operation or use of a
23 motor vehicle while intoxicated, and that motorist was convicted of
24 the offense.

25 D. The limitations noted in subsection B of this section shall
26 not apply to a claimant bringing a products liability action against
27 a manufacturer or seller.

28 E. Except as provided in subsections C and D of this section,
29 an insurer shall not be liable, directly or indirectly, under a
30 policy of liability or uninsured or underinsured motorist insurance
31 to indemnify a claimant described in subsection B of this section
32 for any noneconomic damages. In the event a claimant who may be

1 subject to subsection B of this section makes a claim prior to
2 resolution of any criminal action brought against the claimant, or
3 that the insurer reasonably believes may be brought, the insurer may
4 withhold any aspect of a claim payment not attributable to economic
5 damages until the criminal action is completed.

6 F. The application of the limitations provided in this section
7 shall constitute an additional civil penalty for engaging in the
8 unlawful acts noted in subsection B of this section.

9 G. The limitations contained in this section apply to a claim
10 for damages made by a claimant other than a convicted claimant if:

11 1. The claimant's right of recovery results from injury to a
12 convicted claimant, including a claim for the wrongful death of a
13 convicted claimant or a claim for loss of consortium with or loss of
14 the companionship of the convicted claimant; and

15 2. The convicted claimant's right to recovery would be barred
16 under this section.

17 H. For purposes of subsection G of this section, a person is
18 considered convicted in a case if:

19 1. Sentence is imposed; or

20 2. The person receives a fine, probation, or deferred
21 adjudication, regardless of an admission of guilt.

22 I. The provisions of this section apply to all causes of action
23 that accrue on or after November 1, 1999.

24 SECTION 6. This act shall become effective November 1, 1999.

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26 47-1-6682 SD 12/29/98

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