

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

HOUSE BILL NO. 1265

By: Ostrander

AS INTRODUCED

An Act relating to damages; providing short title; stating legislative findings; defining terms; prohibiting recovery of noneconomic damages in certain circumstances; providing for codification; and providing an effective date.

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

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

A. This act shall be known and may be cited as the "Oklahoma Motorists' Personal Responsibility Act".

B. For the general welfare of this state, the Legislature finds that it must exercise its police power to restrict the right of uninsured motorists, drunk or drugged drivers, and drivers committing or fleeing felony crimes to recover certain civil damages if they are injured while breaking the law.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 100 of Title 23, unless there is created a duplication in numbering, reads as follows:

As used in this act:

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

2. "Economic damages" means compensatory damages for pecuniary loss. The term does not include exemplary damages or damages for physical and mental anguish, loss of consortium, disfigurement,

physical impairment, loss of companionship or society, or any other nonpecuniary damages; and

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

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 101 of Title 23, unless there is created a duplication in numbering, reads as follows:

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

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

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

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

B. The limitations noted in subsection A of this section shall not apply to a claimant described in paragraph 2 of subsection A of this section, if that claimant was injured by a motorist who at the time of the accident was operating or using a motor vehicle while intoxicated in violation of Section 11-902 of Title 47 of the Oklahoma Statutes, or any successor provision thereto relating to

the illegal operation or use of a motor vehicle while intoxicated, and that motorist was convicted of the offense.

C. The limitations noted in subsection A of this section shall not apply to a claimant bringing a products liability action against a manufacturer or seller.

D. Except as provided in subsections B and C of this section, an insurer shall not be liable, directly or indirectly, under a policy of liability or uninsured or underinsured motorist insurance to indemnify a claimant described in subsection A of this section for any noneconomic damages. In the event a claimant who may be subject to subsection A of this section makes a claim prior to resolution of any criminal action brought against the claimant, or that the insurer reasonably believes may be brought, the insurer may withhold any aspect of a claim payment not attributable to economic damages until the criminal action is completed.

E. The application of the limitations provided in this section shall constitute an additional civil penalty for engaging in the unlawful acts noted in subsection A of this section.

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

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

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

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

1. Sentence is imposed; or
2. The person receives a fine, probation, or deferred adjudication, regardless of an admission of guilt.

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

SECTION 4. This act shall become effective November 1, 1999.

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