

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

SENATE BILL 1262

By: Campbell

AS INTRODUCED

An Act relating to damages; limiting recovery for damages occasioned by owner or operator of a motor vehicle who fails to maintain compulsory motor vehicle liability security and stating exceptions; authorizing affirmative defense of failure to maintain motor vehicle liability security; making owner or operator of motor vehicle who fails to maintain motor vehicle liability security liable for court costs under certain circumstances; requiring consent to certain provisions of law and implying consent under certain circumstances; requiring adoption of form by Department of Public Safety by rule; limiting application to passengers; limiting application to certain rights of insurers; authorizing insurer to recover payments under certain circumstance; limiting application and effect of certain changes in certain terms of security; excluding application to legally parked vehicles; 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 15 of Title 23, unless there is created a duplication in numbering, reads as follows:

A. 1. There shall be no recovery for the first Ten Thousand Dollars (\$10,000.00) of bodily injury and no recovery for the first Ten Thousand Dollars (\$10,000.00) of property damage based on any cause or right of action arising out of a motor vehicle accident, for such injury or damages occasioned by an owner or operator of a motor vehicle involved in an accident who fails to own or maintain compulsory motor vehicle liability security.

2. The limitation of recovery provisions of this section shall not apply if the driver of the other vehicle:

- a. is convicted of, receives a deferred sentence for, or pleads guilty or nolo contendere to any statute or ordinance prohibiting driving under the influence of alcohol or other intoxicants,
- b. intentionally causes the accident,
- c. leaves the scene of the accident, or
- d. at the time of the accident, is acting in furtherance of the commission of a felony.

B. Each person who is involved in an accident in which the other motor vehicle was not covered by compulsory motor vehicle liability security and who is found liable for damages to the owner or operator of the other motor vehicle may assert the limitation of recovery provisions of subsection A of this section as an affirmative defense.

C. If the owner of a motor vehicle who fails to own or maintain compulsory motor vehicle liability security institutes an action to recover damages in any amount, regardless of whether the owner or operator is at fault, and is awarded an amount equal to or less than the minimum amount of compulsory motor vehicle liability security, the owner or operator shall be assessed and held liable for all court costs incurred by all parties to the action.

D. Each person who applies for a driver's license, registers a motor vehicle, or operates or owns a motor vehicle in this state is deemed to have given consent to be subject to and governed by the provisions of this section. All persons who apply for the issuance or renewal of a driver's license, motor vehicle title, or motor vehicle registration shall sign a declaration, on a form prescribed by the Commissioner of the Department of Public Safety by rule, that the person acknowledges and gives consent to the requirements and provisions of this section, the Oklahoma Highway Safety Code, and other applicable laws.

E. Nothing in this section shall limit the right of a passenger in a vehicle from asserting a claim to recover damages for injury, death, or loss which the passenger occasioned, in whole or in part, by the negligence of another person arising out of the operation or use of a motor vehicle. This section shall not apply to limit the right to recover damages by a passenger who is also the owner of the uninsured motor vehicle involved in the accident.

F. 1. Notwithstanding any provision of law to the contrary, no insurer shall lose any rights of subrogation for claims paid under the applicable insurance policy for the recovery of any sum in excess of the first Ten Thousand Dollars (\$10,000.00) of bodily injury and the first Ten Thousand Dollars (\$10,000.00) of property damage.

2. For claims for which no suit is filed, the claimant's insurer shall have all rights to recover any amount paid by the claimant's insurer on behalf of the insured for the recovery of any sum in excess of the first Ten Thousand Dollars (\$10,000.00) of bodily injury and the first Ten Thousand Dollars (\$10,000.00) of property damage.

G. 1. Except for newly acquired vehicles added to a policy subject to the policy terms, the issuance, change, or adjustment of any motor vehicle liability security or insurance policy subsequent to a motor vehicle accident, without proof of coverage having been bound prior to the accident, shall not effectuate any of the following:

- a. the recovery for injury or damages that are otherwise prohibited under this section,
- b. the defeat of any affirmative defense otherwise allowed under this section, or
- c. the avoidance of liability for court costs otherwise required under this section.

2. Reinstatement provisions of a policy during the premium payment grace period specified in the policy shall not be invalidated by the provisions of this section.

H. The provisions of this section shall not apply to any vehicle which is legally parked at the time of the accident.

SECTION 2. This act shall become effective November 1, 2000.

47-2-1937

MHR

6/12/2015 1:39:45 AM