

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 2268

6 By: Christian

7 COMMITTEE SUBSTITUTE

8 An Act relating to motor vehicles; amending 47 O.S.
9 2001, Section 11-904, as amended by Section 13,
10 Chapter 275, O.S.L. 2004 (47 O.S. Supp. 2008, Section
11 11-904), which relates to persons involved in
12 personal injury accidents while under the influence
13 of alcohol or other intoxicating substance; directing
14 investigating officer to make certain request of
15 drivers involved in accident; requiring certain test
16 be administered in accordance with certain rules;
17 requiring reports of test be forwarded to certain
18 analyst; providing exception to test requirement;
19 amending 47 O.S. 2001, Section 11-1112, as last
20 amended by Section 1, Chapter 361, O.S.L. 2005 (47
21 O.S. Supp. 2008, Section 11-1112), which relates to
22 child passenger restraint systems; modifying age
23 requirement for child passenger restraint systems and
24 seat belts; requiring written documentation for
certain exemption; providing immunity from civil
liability for certified Child Passenger Safety
Technicians; providing an exception; amending 47 O.S.
2001, Section 12-417, as last amended by Section 10,
Chapter 190, O.S.L. 2005 (47 O.S. Supp. 2008, Section
12-417), which relates to the Oklahoma Mandatory Seat
Belt Use Act; increasing fine amount for seat belt
violations; and providing an effective date.

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

1 SECTION 1. AMENDATORY 47 O.S. 2001, Section 11-904, as
2 amended by Section 13, Chapter 275, O.S.L. 2004 (47 O.S. Supp. 2008,
3 Section 11-904), is amended to read as follows:

4 Section 11-904. A. Any person who is involved in a personal
5 injury accident while driving or operating a motor vehicle within
6 this state and who is in violation of the provisions of subsection A
7 of Section 11-902 of this title may be charged with a violation of
8 the provisions of this subsection as follows:

9 1. Any person who is convicted of a violation of the provisions
10 of this subsection shall be deemed guilty of a misdemeanor for the
11 first offense and shall be punished by imprisonment in the county
12 jail for not less than ninety (90) days nor more than one (1) year,
13 and a fine of not more than Two Thousand Five Hundred Dollars
14 (\$2,500.00); and

15 2. Any person who is convicted of a violation of the provisions
16 of this subsection after having been previously convicted of a
17 violation of this subsection or of Section 11-902 of this title
18 shall be deemed guilty of a felony and shall be punished by
19 imprisonment in a state correctional institution for not less than
20 one (1) year and not more than five (5) years, and a fine of not
21 more than Five Thousand Dollars (\$5,000.00).

22 B. 1. Any person who causes an accident resulting in great
23 bodily injury to any person other than himself while driving or
24 operating a motor vehicle within this state and who is in violation

1 of the provisions of subsection A of Section 11-902 of this title
2 may be charged with a violation of the provisions of this
3 subsection. Any person who is convicted of a violation of the
4 provisions of this subsection shall be deemed guilty of a felony
5 punishable by imprisonment in a state correctional institution for
6 not less than one (1) year and not more than five (5) years, and a
7 fine of not more than Five Thousand Dollars (\$5,000.00).

8 2. As used in this subsection, "great bodily injury" means
9 bodily injury which creates a substantial risk of death or which
10 causes serious, permanent disfigurement or protracted loss or
11 impairment of the function of any bodily member or organ.

12 C. In all accidents resulting in the death of any person, the
13 investigating officer shall request each surviving driver to submit
14 to a test of his or her breath for the purpose of determining the
15 concentration of alcohol, if any. In the event the driver of any
16 vehicle involved in an accident resulting in death agrees to submit
17 to a test, the test shall be administered in accordance with the
18 provisions of Section 752 of this title and the rules of the Board
19 of Tests for Alcohol and Drug Influence. Reports of tests
20 administered pursuant to this section shall be forwarded directly to
21 the Fatality Analysis Reporting System (FARS) analyst at the
22 Department of Public Safety. The provisions of this subsection
23 shall not apply to tests, requests to test, or refusals to test when

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1 the driver has been placed under arrest for a violation of Section
2 11-902 of this title.

3 SECTION 2. AMENDATORY 47 O.S. 2001, Section 11-1112, as
4 last amended by Section 1, Chapter 361, O.S.L. 2005 (47 O.S. Supp.
5 2008, Section 11-1112), is amended to read as follows:

6 Section 11-1112. A. Every driver, when transporting a child
7 under six (6) years of age in a motor vehicle operated on the
8 roadways, streets, or highways of this state, shall provide for the
9 protection of ~~said~~ the child by properly using a child passenger
10 restraint system. For purposes of this section and Section 11-1113
11 of this title, "child passenger restraint system" means an infant or
12 child passenger restraint system which meets the federal standards
13 as set by 49 C.F.R., Section 571.213.

14 B. Children at least six (6) years of age but younger than
15 ~~thirteen (13)~~ sixteen (16) years of age shall be protected by use of
16 a child passenger restraint system or a seat belt.

17 C. The provisions of this section shall not apply to:

18 1. The driver of a school bus, taxicab, moped, motorcycle, or
19 other motor vehicle not required to be equipped with safety belts
20 pursuant to state or federal laws;

21 2. The driver of an ambulance or emergency vehicle;

22 3. The driver of a vehicle in which all of the seat belts are
23 in use;

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1 4. The transportation of children who for medical reasons are
2 unable to be placed in such devices, provided there is written
3 documentation from a physician of such medical reason; or

4 5. The transportation of a child who weighs more than forty
5 (40) pounds and who is being transported in the back seat of a
6 vehicle while wearing only a lap safety belt when the back seat of
7 the vehicle is not equipped with combination lap and shoulder safety
8 belts, or when the combination lap and shoulder safety belts in the
9 back seat are being used by other children who weigh more than forty
10 (40) pounds. Provided, however, for purposes of this paragraph,
11 back seat shall include all seats located behind the front seat of a
12 vehicle operated by a licensed child care facility or church.

13 Provided further, there shall be a rebuttable presumption that a
14 child has met the weight requirements of this paragraph if at the
15 request of any law enforcement officer, the licensed child care
16 facility or church provides the officer with a written statement
17 verified by the parent or legal guardian that the child weighs more
18 than forty (40) pounds.

19 D. A law enforcement officer is hereby authorized to stop a
20 vehicle if it appears that the driver of the vehicle has violated
21 the provisions of this section and to give an oral warning to said
22 driver. The warning shall advise the driver of the possible danger
23 to children resulting from the failure to install or use a child
24 passenger restraint system or seat belts in the motor vehicle.

1 E. A violation of the provisions of this section shall not be
2 admissible as evidence in any civil action or proceeding for
3 damages.

4 F. In any action brought by or on behalf of an infant for
5 personal injuries or wrongful death sustained in a motor vehicle
6 collision, the failure of any person to have the infant properly
7 restrained in accordance with the provisions of this section shall
8 not be used in aggravation or mitigation of damages.

9 G. A person who is certified as a Child Passenger Safety
10 Technician and who in good faith provides inspection, adjustment, or
11 educational services regarding child passenger restraint systems
12 shall not be liable for civil damages from any act or omission in
13 providing such services, other than acts or omissions constituting
14 gross negligence or willful or wanton misconduct.

15 H. Any person convicted of violating subsection A or B of this
16 section shall be punished by a fine of Fifty Dollars (\$50.00) and
17 shall pay all court costs thereof. Revenue from such fine shall be
18 apportioned to the Department of Public Safety Revolving Fund and
19 used by the Oklahoma Highway Safety Office to promote the use of
20 child passenger restraint systems as provided in Section 11-1113 of
21 this title. This fine shall be suspended and the court costs
22 limited to a maximum of Fifteen Dollars (\$15.00) in the case of the
23 first offense upon proof of purchase or acquisition by loan of a
24 child passenger restraint system. Provided, the Department of

1 Public Safety shall not assess points to the driving record of any
2 person convicted of a violation of this section.

3 SECTION 3. AMENDATORY 47 O.S. 2001, Section 12-417, as
4 last amended by Section 10, Chapter 190, O.S.L. 2005 (47 O.S. Supp.
5 2008, Section 12-417), is amended to read as follows:

6 Section 12-417. A. 1. Every operator and front seat passenger
7 of a passenger car operated in this state shall wear a properly
8 adjusted and fastened safety seat belt system, required to be
9 installed in the motor vehicle when manufactured pursuant to 49
10 C.F.R., Section 571.208.

11 2. For the purposes of this section, "passenger car" shall mean
12 "vehicle" as defined in Section 1102 of this title. "Passenger car"
13 shall include the passenger compartment of pickups, vans, minivans,
14 and sport utility vehicles. "Passenger car" shall not include
15 trucks, truck-tractors, recreational vehicles, motorcycles, or
16 motorized bicycles. "Passenger car" shall not include a vehicle
17 used primarily for farm use which is registered and licensed
18 pursuant to the provisions of Section 1134 of this title.

19 B. The Commissioner of Public Safety, upon application from a
20 person who, for medical reasons, is unable to wear a safety seat
21 belt system supported by written attestation of such fact from a
22 physician licensed pursuant to Section 495 of Title 59 of the
23 Oklahoma Statutes, may issue to the person an exemption from the
24 provisions of this section. The exemption shall be in the form of a

1 restriction appearing on the driver license of the person and shall
2 remain in effect until the expiration date of the driver license.
3 Nothing in this subsection shall be construed to prevent the person
4 from applying for another exemption as provided for in this section.
5 The issuance of an attestation by a physician and the subsequent
6 issuance of an exemption by the Commissioner, in good faith, shall
7 not give rise to, nor shall the physician and the state thereby
8 incur, any liability whatsoever in damages or otherwise, to any
9 person injured by reason of failure of the person to wear a safety
10 seat belt system.

11 C. This section shall not apply to an operator of a motor
12 vehicle while performing official duties as a route carrier of the
13 U.S. Postal Service.

14 D. The Department of Public Safety shall not record or assess
15 points for violations of this section on any license holder's
16 traffic record maintained by the Department.

17 E. ~~Fine~~ The fine and court costs for ~~violating the provisions a~~
18 violation of this section shall ~~not exceed Twenty Dollars (\$20.00)~~
19 be Twenty-five Dollars (\$25.00).

20 F. Municipalities may enact and municipal police officers may
21 enforce ordinances prohibiting and penalizing conduct under
22 provisions of this section, but the provisions of those ordinances
23 shall be the same as provided for in this section, and the
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1 enforcement provisions under those ordinances shall not be more
2 stringent than those of this section.

3 SECTION 4. This act shall become effective November 1, 2009.

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