

THE HOUSE OF REPRESENTATIVES
Monday, March 2, 2009

Committee Substitute for
House Bill No. 2268

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 2268 - By: CHRISTIAN of the House.

An Act relating to motor vehicles; amending 47 O.S. 2001, Section 11-904, as amended by Section 13, Chapter 275, O.S.L. 2004 (47 O.S. Supp. 2008, Section 11-904), which relates to persons involved in personal injury accidents while under the influence of alcohol or other intoxicating substance; directing investigating officer to make certain request of drivers involved in accident; requiring certain test be administered in accordance with certain rules; requiring reports of test be forwarded to certain analyst; providing exception to test requirement; amending 47 O.S. 2001, Section 11-1112, as last amended by Section 1, Chapter 361, O.S.L. 2005 (47 O.S. Supp. 2008, Section 11-1112), which relates to child passenger restraint systems; modifying age requirement for child passenger restraint systems and 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.

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

- 1 SECTION 1. AMENDATORY 47 O.S. 2001, Section 11-904, as amended by
- 2 Section 13, Chapter 275, O.S.L. 2004 (47 O.S. Supp. 2008, Section 11-904), is amended to
- 3 read as follows:
- 4 Section 11-904. A. Any person who is involved in a personal injury accident while
- 5 driving or operating a motor vehicle within this state and who is in violation of the

1 provisions of subsection A of Section 11-902 of this title may be charged with a violation
2 of the provisions of this subsection as follows:

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

7 2. Any person who is convicted of a violation of the provisions of this subsection
8 after having been previously convicted of a violation of this subsection or of Section 11-
9 902 of this title shall be deemed guilty of a felony and shall be punished by imprisonment
10 in a state correctional institution for not less than one (1) year and not more than five (5)
11 years, and a fine of not more than Five Thousand Dollars (\$5,000.00).

12 B. 1. Any person who causes an accident resulting in great bodily injury to any
13 person other than himself while driving or operating a motor vehicle within this state
14 and who is in violation of the provisions of subsection A of Section 11-902 of this title may
15 be charged with a violation of the provisions of this subsection. Any person who is
16 convicted of a violation of the provisions of this subsection shall be deemed guilty of a
17 felony punishable by imprisonment in a state correctional institution for not less than
18 one (1) year and not more than five (5) years, and a fine of not more than Five Thousand
19 Dollars (\$5,000.00).

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

1 C. In all accidents resulting in the death of any person, the investigating officer
2 shall request each surviving driver to submit to a test of his or her breath for the purpose
3 of determining the concentration of alcohol, if any. In the event the driver of any vehicle
4 involved in an accident resulting in death agrees to submit to a test, the test shall be
5 administered in accordance with the provisions of Section 752 of this title and the rules
6 of the Board of Tests for Alcohol and Drug Influence. Reports of tests administered
7 pursuant to this section shall be forwarded directly to the Fatality Analysis Reporting
8 System (FARS) analyst at the Department of Public Safety. The provisions of this
9 subsection shall not apply to tests, requests to test, or refusals to test when the driver
10 has been placed under arrest for a violation of Section 11-902 of this title.

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

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

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

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

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

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

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

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

8 5. The transportation of a child who weighs more than forty (40) pounds and who is
9 being transported in the back seat of a vehicle while wearing only a lap safety belt when
10 the back seat of the vehicle is not equipped with combination lap and shoulder safety
11 belts, or when the combination lap and shoulder safety belts in the back seat are being
12 used by other children who weigh more than forty (40) pounds. Provided, however, for
13 purposes of this paragraph, back seat shall include all seats located behind the front seat
14 of a vehicle operated by a licensed child care facility or church. Provided further, there
15 shall be a rebuttable presumption that a child has met the weight requirements of this
16 paragraph if at the request of any law enforcement officer, the licensed child care facility
17 or church provides the officer with a written statement verified by the parent or legal
18 guardian that the child weighs more than forty (40) pounds.

19 D. A law enforcement officer is hereby authorized to stop a vehicle if it appears that
20 the driver of the vehicle has violated the provisions of this section and to give an oral
21 warning to said driver. The warning shall advise the driver of the possible danger to

1 children resulting from the failure to install or use a child passenger restraint system or
2 seat belts in the motor vehicle.

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

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

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

14 H. Any person convicted of violating subsection A or B of this section shall be
15 punished by a fine of Fifty Dollars (\$50.00) and shall pay all court costs thereof. Revenue
16 from such fine shall be apportioned to the Department of Public Safety Revolving Fund
17 and used by the Oklahoma Highway Safety Office to promote the use of child passenger
18 restraint systems as provided in Section 11-1113 of this title. This fine shall be
19 suspended and the court costs limited to a maximum of Fifteen Dollars (\$15.00) in the
20 case of the first offense upon proof of purchase or acquisition by loan of a child passenger
21 restraint system. Provided, the Department of Public Safety shall not assess points to
22 the driving record of any person convicted of a violation of this section.

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

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

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

14 B. The Commissioner of Public Safety, upon application from a person who, for
15 medical reasons, is unable to wear a safety seat belt system supported by written
16 attestation of such fact from a physician licensed pursuant to Section 495 of Title 59 of
17 the Oklahoma Statutes, may issue to the person an exemption from the provisions of this
18 section. The exemption shall be in the form of a restriction appearing on the driver
19 license of the person and shall remain in effect until the expiration date of the driver
20 license. Nothing in this subsection shall be construed to prevent the person from
21 applying for another exemption as provided for in this section. The issuance of an
22 attestation by a physician and the subsequent issuance of an exemption by the

1 Commissioner, in good faith, shall not give rise to, nor shall the physician and the state
2 thereby incur, any liability whatsoever in damages or otherwise, to any person injured by
3 reason of failure of the person to wear a safety seat belt system.

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

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

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

10 F. Municipalities may enact and municipal police officers may enforce ordinances
11 prohibiting and penalizing conduct under provisions of this section, but the provisions of
12 those ordinances shall be the same as provided for in this section, and the enforcement
13 provisions under those ordinances shall not be more stringent than those of this section.

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

15 COMMITTEE REPORT BY: COMMITTEE ON TRANSPORTATION, dated 02-26-09 -
16 DO PASS, As Amended.