

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 SENATE BILL 1766

By: Sparks

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5
6 AS INTRODUCED

7 An Act relating to motor vehicle liability insurance;
8 amending 47 O.S. 2011, Section 7-116, which relates
9 to damage limitation; adding exceptions to limitation
10 of liability; and providing an effective date.

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

12 SECTION 1. AMENDATORY 47 O.S. 2011, Section 7-116, is
13 amended to read as follows:

14 Section 7-116. A. Except as provided in subsection B of this
15 section, in any civil action to recover damages arising out of an
16 accident involving the operation of a motor vehicle or for any claim
17 against the motor vehicle liability insurance coverage of another
18 party, the maximum amount that a plaintiff or claimant may receive,
19 if the plaintiff or claimant is not in compliance with the
20 Compulsory Insurance Law, shall be limited to the amount of medical
21 costs, property damage, and lost income and shall not include any
22 award for pain and suffering.

23 B. The limitations provided for in subsection A of this section
24 shall not apply:

1 1. If the plaintiff or claimant was injured by a motorist who
2 at the time of the accident was operating or using a motor vehicle
3 while under the influence of drugs or alcohol in violation of any
4 provision of law relating to the illegal operation or use of a motor
5 vehicle while under the influence of drugs or alcohol, and that
6 motorist:

7 a. was convicted of, or pled guilty or nolo contendere
8 to, the offense, or

9 b. dies as a result of the accident if it is proven by a
10 preponderance of the evidence that the motorist was
11 operating or using the motor vehicle while under the
12 influence of drugs or alcohol in violation of any
13 provision of law relating to the illegal operation or
14 use of a motor vehicle while under the influence of
15 drugs or alcohol;

16 2. If the plaintiff or claimant was a passenger in a motor
17 vehicle involved in the accident, unless the plaintiff or claimant
18 is an owner of the vehicle;

19 3. If the plaintiff or claimant was not in any motor vehicle
20 involved in the accident;

21 4. To wrongful death claims;

22 5. If the motorist who caused the accident

23 a. intentionally caused the accident,

24 b. left the scene of the accident, or

1 c. at the time of the accident, was acting in furtherance
2 of the commission of a felony;

3 6. If, at the time of the accident, the plaintiff or claimant
4 was claimed as a dependent on the federal income tax return of one
5 or both parents of the plaintiff or claimant and the parent or
6 parents were not in compliance with the Compulsory Insurance Law; ~~or~~

7 ~~7. If, at the time of the accident, the plaintiff or claimant~~
8 ~~previously had been covered by an insurance policy meeting the~~
9 ~~requirements of the Compulsory Insurance Law that was terminated or~~
10 ~~nonrenewed for failure to pay the premium, unless at least thirty~~
11 ~~(30) days prior to the accident notice of termination was sent to~~
12 ~~the last-known mailing address of the policyholder~~ Unless at least
13 thirty (30) days prior to the accident, notice of termination was
14 sent to the last-known mailing address of the policyholder for
15 failure to pay the premium on the most recent insurance policy
16 meeting the requirements of the Compulsory Insurance Law covering
17 the vehicle of the plaintiff or claimant that was involved in the
18 accident; or

19 8. If, at the time of the accident, the plaintiff or claimant
20 was not the owner of the uninsured vehicle and operated the
21 uninsured vehicle without any actual or constructive knowledge that
22 the vehicle was not insured by the owner.

23 C. Each person who is involved in the accident which is the
24 basis for the action or claim by the plaintiff or claimant and who

1 is found liable for damages to the plaintiff or claimant may assert
2 the limitation of recovery provided for in subsection A of this
3 section, unless the provisions of subsection B of this section
4 apply. The motor vehicle liability insurer of the person asserting
5 the limitation of recovery also may assert the limitation.

6 SECTION 2. This act shall become effective November 1, 2012.

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