STATE OF OKLAHOMA

1st Extraordinary Session of the 54th Legislature (2013)

HOUSE BILL 1015 By: Shannon of the House

and

Bingman and Sykes of the Senate

AS INTRODUCED

An Act relating to passenger restraint systems; repealing Sections 26 and 27, Chapter 228, O.S.L. 2009, which relate to passenger restraint systems; amending 47 O.S. 2011, Section 11-1112, as amended by Section 8, Chapter 283, O.S.L. 2012 (47 O.S. Supp. 2012, Section 11-1112), which relates to child passenger restraint systems; providing that certain evidence is not admissible in specific actions; amending 47 O.S. 2011, Section 11-1112, as last amended by Section 2 of this act, which relates to child passenger restraint systems; providing that certain evidence is admissible in specific actions; amending 47 O.S. 2011, Section 12-420, which relates to seat belts; providing that certain evidence is not admissible in civil actions; amending 47 O.S. 2011, Section 12-420, as amended by Section 4 of this act, which relates to seat belts; providing that certain evidence is admissible in civil actions; providing for construction of act; providing for noncodification; and declaring an emergency.

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

SECTION 1. REPEALER Sections 26 and 27, Chapter 228, O.S.L. 2009, are hereby repealed.

SECTION 2. AMENDATORY 47 O.S. 2011, Section 11-1112, as amended by Section 8, Chapter 283, O.S.L. 2012 (47 O.S. Supp. 2012, Section 11-1112), is amended to read as follows:

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

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

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

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

2. The driver of an ambulance or emergency vehicle;

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

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

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

D. A violation of the provisions of this section shall not be admissible as evidence in any civil action or proceeding for damages ~~unless the plaintiff in such action or proceeding is a child under sixteen (16) years of age~~.

In any action brought by or on behalf of an infant for personal injuries or wrongful death sustained in a motor vehicle collision,

the failure of any person to have the infant properly restrained in accordance with the provisions of this section shall not be used in aggravation or mitigation of damages.

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

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

SECTION 3. AMENDATORY 47 O.S. 2011, Section 11-1112, as last amended by Section 2 of this act, is amended to read as follows:

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

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

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

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

2. The driver of an ambulance or emergency vehicle;

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

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

5. The transportation of a child who weighs more than forty (40) pounds and who is being transported in the back seat of a vehicle while wearing only a lap safety belt when the back seat of

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

D. A violation of the provisions of this section shall ~~not~~ be admissible as evidence in any civil action or proceeding for damages <u>unless the plaintiff in such action or proceeding is a child under sixteen (16) years of age</u>.

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

E. A person who is certified as a Child Passenger Safety Technician and who in good faith provides inspection, adjustment, or educational services regarding child passenger restraint systems

shall not be liable for civil damages resulting from any act or omission in providing such services, other than acts or omissions constituting gross negligence or willful or wanton misconduct.

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

SECTION 4. AMENDATORY 47 O.S. 2011, Section 12-420, is amended to read as follows:

Section 12-420. Nothing in Sections 12-416 through 12-420 of this title ~~may~~ shall be used in any civil proceeding in this state and the use or nonuse of seat belts shall not be submitted into evidence in any civil suit in Oklahoma ~~unless the plaintiff in such suit is a child under sixteen (16) years of age~~.

SECTION 5. AMENDATORY 47 O.S. 2011, Section 12-420, as amended by Section 4 of this act, is amended to read as follows:

Section 12-420. ~~Nothing in~~ Sections 12-416 through 12-420 of this title ~~shall~~ may be used in any civil proceeding in this state and the use or nonuse of seat belts shall ~~not~~ be submitted into evidence in any civil suit in Oklahoma unless the plaintiff in such suit is a child under sixteen (16) years of age.

SECTION 6. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

The amendatory provisions contained in Sections 2 and 4 of this act conform the statute to the holding in *Douglas v. Cox Retirement Properties, Inc.*, 2013 OK 37, 302 P.2d 789 (Okla. 2013). The amendatory provisions contained in Sections 3 and 5 of this act conform the statute to the amendatory provisions of Enrolled House Bill No. 1603 of the 1st Session of the 52nd Oklahoma Legislature, c. 228, O.S.L. 2009.

SECTION 7. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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