

1 STATE OF OKLAHOMA

2 1st Extraordinary Session of the 54th Legislature (2013)

3 HOUSE BILL 1019

By: Perryman

4  
5  
6 AS INTRODUCED

7 An Act relating to passenger restraint systems;  
8 repealing Sections 26 and 27, Chapter 228, O.S.L.  
9 2009, which relate to passenger restraint systems;  
10 amending 47 O.S. 2011, Section 11-1112, as amended by  
11 Section 8, Chapter 283, O.S.L. 2012 (47 O.S. Supp.  
12 2012, Section 11-1112), which relates to child  
13 passenger restraint systems; providing that certain  
14 evidence is not admissible in specific actions;  
15 amending 47 O.S. 2011, Section 11-1112, as last  
16 amended by Section 2 of this act, which relates to  
17 child passenger restraint systems; providing that  
18 certain evidence is admissible in specific actions;  
19 amending 47 O.S. 2011, Section 12-420, which relates  
20 to seat belts; providing that certain evidence is not  
21 admissible in civil actions; amending 47 O.S. 2011,  
22 Section 12-420, as amended by Section 4 of this act,  
23 which relates to seat belts; providing that certain  
24 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O.S.L. 2009, are hereby repealed.

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

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

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

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

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

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

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

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

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

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

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

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

7 F. Any person convicted of violating subsection A or B of this  
8 section shall be punished by a fine of Fifty Dollars (\$50.00) and  
9 shall pay all court costs thereof. Revenue from such fine shall be  
10 apportioned to the Department of Public Safety Restricted Revolving  
11 Fund and used by the Oklahoma Highway Safety Office to promote the  
12 use of child passenger restraint systems as provided in Section 11-  
13 1113 of this title. This fine shall be suspended and the court  
14 costs limited to a maximum of Fifteen Dollars (\$15.00) in the case  
15 of the first offense upon proof of purchase or acquisition by loan  
16 of a child passenger restraint system. Provided, the Department of  
17 Public Safety shall not assess points to the driving record of any  
18 person convicted of a violation of this section.

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

22 Section 11-1112. A. Every driver, when transporting a child  
23 under six (6) years of age in a motor vehicle operated on the  
24 roadways, streets, or highways of this state, shall provide for the

1 protection of said child by properly using a child passenger  
2 restraint system. For purposes of this section and Section 11-1113  
3 of this title, "child passenger restraint system" means an infant or  
4 child passenger restraint system which meets the federal standards  
5 as set by 49 C.F.R., Section 571.213.

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

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

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

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

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

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

19 5. The transportation of a child who weighs more than forty  
20 (40) pounds and who is being transported in the back seat of a  
21 vehicle while wearing only a lap safety belt when the back seat of  
22 the vehicle is not equipped with combination lap and shoulder safety  
23 belts, or when the combination lap and shoulder safety belts in the  
24 back seat are being used by other children who weigh more than forty

1 (40) pounds. Provided, however, for purposes of this paragraph,  
2 back seat shall include all seats located behind the front seat of a  
3 vehicle operated by a licensed child care facility or church.  
4 Provided further, there shall be a rebuttable presumption that a  
5 child has met the weight requirements of this paragraph if at the  
6 request of any law enforcement officer, the licensed child care  
7 facility or church provides the officer with a written statement  
8 verified by the parent or legal guardian that the child weighs more  
9 than forty (40) pounds.

10 D. A violation of the provisions of this section shall ~~not~~ be  
11 admissible as evidence in any civil action or proceeding for damages  
12 unless the action or proceeding is brought by or on behalf of a  
13 child under sixteen (16) years of age.

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

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

1 F. Any person convicted of violating subsection A or B of this  
2 section shall be punished by a fine of Fifty Dollars (\$50.00) and  
3 shall pay all court costs thereof. Revenue from such fine shall be  
4 apportioned to the Department of Public Safety Restricted Revolving  
5 Fund and used by the Oklahoma Highway Safety Office to promote the  
6 use of child passenger restraint systems as provided in Section 11-  
7 1113 of this title. This fine shall be suspended and the court  
8 costs limited to a maximum of Fifteen Dollars (\$15.00) in the case  
9 of the first offense upon proof of purchase or acquisition by loan  
10 of a child passenger restraint system. Provided, the Department of  
11 Public Safety shall not assess points to the driving record of any  
12 person convicted of a violation of this section.

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

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

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

22 Section 12-420. ~~Nothing in~~ Sections ~~12-416 through 12-420~~ 12-  
23 417 through 12-419 of this title ~~shall~~ may be used in any civil  
24 proceeding in this state and the use or nonuse of seat belts shall

1 ~~not be submitted~~ may be admissible into evidence in any civil suit  
2 in Oklahoma unless the action is brought by or on behalf of a child  
3 under sixteen (16) years of age.

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

6 The amendatory provisions contained in Sections 2 and 4 of this  
7 act conform the statute to the holding in *Douglas v. Cox Retirement*  
8 *Properties, Inc.*, 2013 OK 37, 302 P.2d 789 (Okla. 2013). The  
9 amendatory provisions contained in Sections 3 and 5 of this act  
10 conform the statute in some, but not all, respects to the amendatory  
11 provisions of Enrolled House Bill No. 1603 of the 1st Session of the  
12 52nd Oklahoma Legislature, c. 228, O.S.L. 2009.

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

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18 54-1EX-50033 SD 09/03/13  
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