

2020 First Extraordinary Session

SENATE BILL NO. 9

BY SENATOR HEWITT

EVIDENCE. Provides relative to safety belts. (Item #40) (1/1/20)

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AN ACT

To amend and reenact R.S. 32:295.1(E), relative to safety belts; to provide relative to the failure to wear safety belts; to provide for certain terms and conditions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 32:295.1(E) is hereby amended and reenacted to read as follows:

§295.1. Safety belt use; tags indicating exemption

* * *

~~E. In any action to recover damages arising out of the ownership, common maintenance, or operation of a motor vehicle, failure to wear a safety belt in violation of this Section shall not be considered evidence of comparative negligence. Failure to wear a safety belt in violation of this Section shall not be admitted to mitigate damages.~~ **(1) In any action to recover damages arising out of the ownership, common maintenance, or operation of a motor vehicle, failure to wear a safety belt in violation of this Section may be considered evidence of comparative negligence, except when the tortfeasor is found to have been a distracted driver, or charged with a violation of R.S. 14:98 or an ordinance of**

1 a political subdivision prohibiting operation of any vehicle or means of
 2 transportation or conveyance while intoxicated, impaired, or while under the
 3 influence of alcohol, drugs, or any controlled dangerous substance.

4 (2) If a party proves by a preponderance of the evidence that the injured
 5 person failed to wear a safety belt in violation of this Section at the time the
 6 injury occurred, any damages awarded to that person shall be reduced by ten
 7 percent of the total damages awarded to that person.

* * *

9 Section 2. This Act shall become effective on January 1, 2021.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Margaret M. Corley.

DIGEST

SB 9 Engrossed

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Hewitt

Present law prohibits consideration of the failure to wear a safety belt in violation of law as evidence of comparative negligence in any action to recover damages arising out of the ownership, common maintenance, or operation of a motor vehicle.

Present law prohibits admission of the failure to wear a safety belt in violation of law to mitigate damages.

Proposed law removes prohibition of the admission of the failure to wear safety belts to mitigate damages.

Proposed law provides that in any action to recover damages arising out of the ownership, common maintenance, or operation of a motor vehicle, failure to wear a safety belt in violation of present law may be considered evidence of comparative negligence, except when the tortfeasor is found to have been a distracted driver, or charged with a violation of present law (R.S. 14:98) or an ordinance of a political subdivision prohibiting operation of any vehicle or means of transportation or conveyance while intoxicated, impaired, or while under the influence of alcohol, drugs, or any controlled dangerous substance.

Proposed law provides that if a party proves by a preponderance of the evidence that the injured person failed to wear a safety belt in violation of present law at the time the injury occurred, any damages awarded to that person shall be reduced by 10% of the total damages awarded to that person.

Effective January 1, 2021.

(Amends R.S. 32:295.1(E))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary A to the original bill

1. Removes repealer of present law.

2. Provides that in any action to recover damages arising out of the ownership, common maintenance, or operation of a motor vehicle, failure to wear a safety belt in violation of present law may be considered evidence of comparative negligence, except when the tortfeasor is found to have been a distracted driver, or charged with a violation of present law (R.S. 14:98) or an ordinance of a political subdivision prohibiting operation of any vehicle or means of transportation or conveyance while intoxicated, impaired, or while under the influence of alcohol, drugs, or any controlled dangerous substance.
3. Provides that if a party proves by a preponderance of the evidence that the injured person failed to wear a safety belt in violation of present law at the time the injury occurred, any damages awarded to that person shall be reduced by 10% of the total damages awarded to that person.