

RÉSUMÉ DIGEST

HB 55

2020 First Extraordinary Session

Mike Johnson

Present law provides certain requirements for wearing of safety belts.

Present law further 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 would not be considered evidence of comparative negligence. Further provides that failure to wear a safety belt in violation of present law would not be admitted to mitigate damages.

Proposed law would have repealed present law provisions, and added a new Code of Evidence Article that provided for the introduction of evidence of failure to wear a safety belt in order to establish comparative negligence, causation, and the mitigation of damage. Proposed law provided that the evidence for failure to wear a safety belt may be used as an affirmative defense.

(Proposed to add C.E. Art. 416; Proposed to repeal R.S. 32:295.1(E))

VETO MESSAGE:

"Please be advised that I have vetoed House Bill 55 of the 2020 First Extraordinary Session.

This bill is one of several from this session involving the admissibility of safety belt evidence in civil litigation arising from motor vehicle accidents. I have signed into law your House Bill 57 from this session, which, among other things, repeals La. R.S. 32:295.1(E) which prohibits evidence of the failure to wear a safety belt for the purpose of determining comparative fault. Thus, after House Bill 57 becomes effective on January 1, 2021, this evidence will no longer be prohibited. I have vetoed House Bill 55 for two reasons. First, it also repeals La. R.S. 32:295.1, but it has a different effective date from House Bill 57. Secondly, it amends article 416 of the Code of Evidence to conclude that "failure to wear a safety belt . . . shall be considered as evidence in the determination of comparative negligence." By including the word "shall," as opposed to "may," this bill goes beyond the repeal of La. R.S. 32:295.1 and mandates that the evidence be admissible. This would eliminate any ability of a court to determine if such evidence was relevant under La. C.E. art. 402 before it was to be admissible. Now that this evidence may be admissible because of House Bill 57, there should still be a determination by a court that the failure to wear a safety belt is relevant. Since House Bill 55 appears to prevent the consideration of relevancy, it should not become law.

I will further note that the report of the High Automobile Insurance Rates Task Force, formed by Commissioner Donelon as a result of House Concurrent Resolution 47 and Senate Concurrent Resolution 55 of the 2018 Regular Session, which was sent to the Louisiana Legislature on July 31, 2018, concluded that the elimination of the prohibition on safety belt evidence alone would lead to a 5% reduction in insurance rates. This promised reduction has been repeated by the Insurance Commissioner and several of the proponents of this issue for some time. With my signature, House Bill 57 completes this repeal (among other things with additional promised rate reductions in the task force report). I hope that together we can remember these promised reductions and see if they are delivered as a result of the bill becoming law."