HLS 19RS-446 ENGROSSED

2019 Regular Session

HOUSE BILL NO. 51

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BY REPRESENTATIVE HUVAL

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

EVIDENCE: Provides relative to the admissibility of evidence for failure to wear a safety belt

1 AN ACT

To amend and reenact R.S. 32:295.1(E), relative to the requirement to wear safety belts while operating a motor vehicle; to provide for the introduction of evidence of the failure to wear a safety belt under certain circumstances; to provide for exceptions; to provide that the failure to use a safety belt shall result in a reduction of damages; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 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

10 * * *

E.(1) In any action to recover damages arising out of the ownership, common maintenance, or operation of a motor vehicle, except when the operator or passenger of the motor vehicle is under the age of sixteen years, failure to wear a safety belt in violation of this Section shall not may be considered evidence of comparative negligence: and damages, except when the tortfeaser is charged with a violation of 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. Failure to wear a safety belt in violation of this Section shall not be admitted to mitigate damages.

Page 1 of 2

CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

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

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 51 Engrossed

2019 Regular Session

Huval

Abstract: Authorizes the introduction of evidence of failure to wear a safety belt in order to establish both comparative negligence and damages, except in certain circumstances.

<u>Present law</u> requires that each driver and passenger of a passenger car, van, sports utility vehicle, or truck having a gross weight of 10,000 pounds or less, have a safety belt properly fastened about his or her body at all times when the vehicle is in forward motion.

<u>Present law</u> provides certain exceptions to the <u>present law</u> requirement of wearing a seatbelt under certain circumstances, including exceptions for cars, vans, sports utility vehicles, or pickups manufactured prior to January 1, 1981, farm vehicles, rural letter carriers, utility workers, and occupants with physical or mental disabilities.

Proposed law retains present law.

<u>Present law</u> provides that the failure to wear a safety belt in violation of <u>present law</u> shall not be admitted to mitigate damages in any action to recover damages arising out of the ownership, common maintenance, or operation of a motor vehicle, and that failure to wear a safety belt in violation of <u>present law</u> shall not be considered evidence of comparative negligence.

<u>Proposed law</u> changes <u>present law</u> by authorizing the introduction of evidence of failure to wear a safety belt in order to establish both comparative negligence and damages, except when the operator or passenger is under 16 years of age, or when the tortfeasor is charged with a violation of the prohibition of operating a motor vehicle while intoxicated.

<u>Proposed law</u> requires that the total damages awarded to the injured person be reduced by 25% if a party proves by a preponderance of the evidence that the injured person failed to wear a safety belt at the time the injury occurred.

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

Summary of Amendments Adopted by House

The Committee Amendments Proposed by <u>House Committee on Civil Law and Procedure</u> to the <u>original</u> bill:

1. Add a provision requiring a 25% reduction in total damages awarded if a party proves that the injured person failed to wear a safety belt.

Page 2 of 2

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