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

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DIGEST

SB 9 Engrossed

2020 First Extraordinary Session

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.