

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 SENATE JOINT
4 RESOLUTION 28

By: Sykes

5
6 AS INTRODUCED

7 A Joint Resolution directing the Secretary of State
8 to refer to the people for their approval or
9 rejection a proposed amendment to the Oklahoma
10 Constitution by adding a new Section 7A to Article
11 23; limiting recovery for damages or claims against
12 insurer for liability for motor vehicle accidents in
13 certain circumstances; establishing exceptions;
14 providing ballot title; and directing filing.

15 BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE
16 1ST SESSION OF THE 55TH OKLAHOMA LEGISLATURE:

17 SECTION 1. The Secretary of State shall refer to the people for
18 their approval or rejection, as and in the manner provided by law,
19 the following proposed amendment to the Oklahoma Constitution by
20 adding a new Section 7A to Article 23 to read as follows:

21 Section 7A. A. Except as provided in subsection B of this
22 section, in any civil action to recover damages arising out of an
23 accident involving the operation of a motor vehicle or for any claim
24 against the motor vehicle liability insurance coverage of another
party, the maximum amount that a plaintiff or claimant may receive,
if the plaintiff or claimant is not in compliance with the

1 Compulsory Insurance Law, shall be limited to the amount of medical
2 costs, property damage, and lost income and shall not include any
3 award for pain and suffering.

4 B. The limitations provided for in subsection A of this section
5 shall not apply:

6 1. If the plaintiff or claimant was injured by a motorist who
7 at the time of the accident was operating or using a motor vehicle
8 while under the influence of drugs or alcohol in violation of any
9 provision of law relating to the illegal operation or use of a motor
10 vehicle while under the influence of drugs or alcohol, and that
11 motorist:

12 a. was convicted of, or pled guilty or nolo contendere
13 to, the offense, or

14 b. dies as a result of the accident if it is proven by a
15 preponderance of the evidence that the motorist was
16 operating or using the motor vehicle while under the
17 influence of drugs or alcohol in violation of any
18 provision of law relating to the illegal operation or
19 use of a motor vehicle while under the influence of
20 drugs or alcohol;

21 2. If the plaintiff or claimant was a passenger in a motor
22 vehicle involved in the accident, unless the plaintiff or claimant
23 is an owner of the vehicle;

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1 3. If the plaintiff or claimant was not in any motor vehicle
2 involved in the accident;

3 4. To wrongful death claims;

4 5. If the motorist who caused the accident:

5 a. intentionally caused the accident,

6 b. left the scene of the accident, or

7 c. at the time of the accident, was acting in furtherance
8 of the commission of a felony;

9 6. If, at the time of the accident, the plaintiff or claimant
10 was claimed as a dependent on the federal income tax return of one
11 or both parents of the plaintiff or claimant and the parent or
12 parents were not in compliance with the Compulsory Insurance Law; or

13 7. If, at the time of the accident, the plaintiff or claimant
14 previously had been covered by an insurance policy meeting the
15 requirements of the Compulsory Insurance Law that was terminated or
16 nonrenewed for failure to pay the premium, unless at least thirty
17 (30) days prior to the accident notice of termination was sent to
18 the last-known mailing address of the policyholder.

19 C. Each person who is involved in the accident which is the
20 basis for the action or claim by the plaintiff or claimant and who
21 is found liable for damages to the plaintiff or claimant may assert
22 the limitation of recovery provided for in subsection A of this
23 section, unless the provisions of subsection B of this section

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1 apply. The motor vehicle liability insurer of the person asserting
2 the limitation of recovery also may assert the limitation.

3 SECTION 2. The Ballot Title for the proposed Constitutional
4 amendment as set forth in SECTION 1 of this resolution shall be in
5 the following form:

6 BALLOT TITLE

7 Legislative Referendum No. _____ State Question No. _____

8 THE GIST OF THE PROPOSITION IS AS FOLLOWS:

9 This measure adds a new section to the Oklahoma Constitution.

10 It adds Section 7A of Article 23. It limits the amount a person
11 can recover for a vehicle accident if the person does not have
12 insurance. It creates exceptions to this limitation.

13 SHALL THE PROPOSAL BE APPROVED?

14 FOR THE PROPOSAL - YES _____

15 AGAINST THE PROPOSAL - NO _____

16 SECTION 3. The President Pro Tempore of the Senate shall,
17 immediately after the passage of this resolution, prepare and file
18 one copy thereof, including the Ballot Title set forth in SECTION 2
19 hereof, with the Secretary of State and one copy with the Attorney
20 General.

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