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**HOUSE COMMITTEE AMENDMENTS**

2020 Regular Session

Amendments proposed by House Committee on Civil Law and Procedure to Original House Bill No. 9 by Representative Garofalo

AMENDMENT NO. 1

On page 1, line 2, after "Civil Code" and before "3493.10" delete "Article" and insert "Articles 3492 and"

AMENDMENT NO. 2

On page 1, delete lines 3 through 9 in their entirety and insert the following:

"R.S. 22:1269 (B) and R.S. 32: 295.1(E), to enact R.S. 9:2800.25, and to repeal R.S. 22:333(E), relative to liability; to provide relative to civil liability and to motor vehicle liability coverage; to extend the general prescriptive period for delictual actions involving motor vehicle accidents; to prohibit the court from awarding a plaintiff the amount of medical expenses reduced or paid by a collateral source; to provide with respect to a jury trial in a lawsuit arising from a motor vehicle accident; to repeal the right of direct action against an insurer; to provide 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 and effects of such evidence; to provide for exceptions; to provide that the failure to use a safety belt shall result in a reduction of damages; to require certain annual rate filings with the commissioner of insurance; to provide for a mandatory rate reduction under certain circumstances; to provide for an effective date; and to provide for related matters."

AMENDMENT NO. 3

On page 1, line 16, after "vehicle" and before "insurance" insert "accidents and"

AMENDMENT NO. 4

On page 2, line 4, after "Civil Code" and before "hereby" delete "Article 3493.10 is" and insert "Articles 3492 and 3493.10 are"

AMENDMENT NO. 5

On page 2, between lines 5 and 6, insert the following:

"Art. 3492. Delictual actions

~~Delictual~~ Except as otherwise provided, delictual actions are subject to a liberative prescription of one year. This prescription commences to run from the day injury or damage is sustained. It does not run against minors or interdicts in actions involving permanent disability and brought pursuant to the Louisiana Products Liability Act or state law governing product liability actions in effect at the time of the injury or damage.

\* \* \*

AMENDMENT NO. 6

On page 2, at the end of line 6, insert a semicolon ";" and "operation or control of a motor vehicle"

AMENDMENT NO. 7

On page 2 line 7, after "actions" insert the following:

1 "for injury or damage arising from the operation or control of any motor vehicle,  
2 aircraft, watercraft, or other means of conveyance or which arise due to damages  
3 sustained as the result of an act defined as a crime of violence under Chapter 1 of  
4 Title 14 of the Louisiana Revised Statutes of 1950"

5 AMENDMENT NO. 8

6 On page 3, line 12, after "A." and before "Reductions" delete "(1)"

7 AMENDMENT NO. 9

8 On page 3, line 13, after "and are" and before "not" delete "therefore"

9 AMENDMENT NO. 10

10 On page 3, delete lines 18 through 21 in their entirety

11 AMENDMENT NO. 11

12 On page 4, between lines 2 and 3, insert the following:

13 "C. In an action for damages where a person suffers injury, death, or loss, the  
14 court may receive evidence concerning any amount which has been paid or  
15 contributed as of the date the court enters judgment by or on behalf of the claimant  
16 or members of his immediate family to secure the claimant's right to any private  
17 insurance benefit which he has received as a result of such injury, death, or loss."

18 AMENDMENT NO. 12

19 On page 4, line 3, after "R.S." change "22:1269" to "22:1269(B)"

20 AMENDMENT NO. 13

21 On page 4, delete lines 6 through 14 in their entirety and insert the following:

22 \*\* \* \*  
23 B.(1) The injured person or his survivors or heirs mentioned in Subsection  
24 A of this Section, at their option, shall have a right of direct action against the insurer  
25 within the terms and limits of the policy; and, such action may be brought against the  
26 insurer alone, or against both the insured and insurer jointly and in solido, in the  
27 parish in which the accident or injury occurred or in the parish in which an action  
28 could be brought against either the insured or the insurer under the general rules of  
29 venue prescribed by Code of Civil Procedure Art. 42 only; however, such action may  
30 be brought against the insurer alone only when at least one of the following applies:  
31 (a) The insured has been adjudged bankrupt by a court of competent  
32 jurisdiction or when proceedings to adjudge an insured bankrupt have been  
33 commenced before a court of competent jurisdiction.  
34 (b) The insured is insolvent.  
35 (c) Service of citation or other process cannot be made on the insured.  
36 (d)(b) When the cause of action is for damages as a result of an offense or  
37 quasi-offense between children and their parents or between married persons.  
38 (e) When the insurer is an uninsured motorist carrier.  
39 (f)(c) The insured is deceased.  
40 (2) This right of direct action shall exist whether or not the policy of  
41 insurance sued upon was written or delivered in the state of Louisiana and whether  
42 or not such policy contains a provision forbidding such direct action, provided the  
43 accident or injury occurred within the state of Louisiana. may be brought against the  
44 insurer alone in the parish in which the accident or injury occurred or in the parish  
45 in which an action could be brought against either the insured or the insurer under

1 the general rules of venue prescribed by Code of Civil Procedure Article 42 only.  
2 Nothing contained in this Section shall be construed to affect the provisions of the  
3 policy or contract if such provisions are not in violation of the laws of this state.

4 (3) When the circumstances enumerated in Paragraph (1) of this Subsection  
5 do not apply, neither the injured person nor the survivors or heirs mentioned in  
6 Subsection A of this Section shall have a right of direct action against the insurer.  
7 The injured person or his survivor or heirs shall bring an action against the insured,  
8 wherein a court of competent jurisdiction may render a finding of liability and  
9 damages against the insured. Nothing contained in this Section shall be construed to  
10 affect the insured's right to enforce the provisions of the policy or contract against  
11 the insurer.

12 \* \* \*

13 Section 6. R.S. 32:295.1(E) is hereby amended and reenacted to read as  
14 follows:

15 §295.1. Safety belt use; tags indicating exemption; evidence

16 \* \* \*

17 E.(1) In any action to recover damages arising out of the ownership, common  
18 maintenance, or operation of a motor vehicle, except when the operator or passenger  
19 of the motor vehicle is under the age of sixteen years, failure to wear a safety belt in  
20 violation of this Section shall not may be considered evidence of comparative  
21 negligence and damages, except when the tortfeasor is charged with a violation of  
22 R.S. 14:98 or an ordinance of a political subdivision prohibiting operation of any  
23 vehicle or means of transportation or conveyance while intoxicated, impaired, or  
24 while under the influence of alcohol, drugs, or any controlled dangerous substance.  
25 ~~Failure to wear a safety belt in violation of this Section shall not be admitted to~~  
26 ~~mitigate damages.~~

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

31 \* \* \*

32 Section 7. R.S. 22:333(E) is hereby repealed in its"

33 AMENDMENT NO. 14

34 On page 5, delete lines 14 through 20 in their entirety

35 AMENDMENT NO. 15

36 On page 5, at the beginning of line 22, change "Section 7." to "Section 8."

37 AMENDMENT NO. 16

38 On page 5, between lines 26 and 27, insert the following:

39 "Section 9. For policies of personal private passenger automobile insurance  
40 issued or renewed one year following the effective date of this Act, each insurer shall  
41 file with the commissioner of insurance for approval premium rates which actuarially  
42 reflect the savings it anticipates as a result of this Act, which is presumed to be ten  
43 percent lower for each impacted coverage, when compared to the premium rates in  
44 effect for that coverage on the date of enactment. Each such insurer shall have the  
45 right to request all or partial relief from the presumed roll-back amount of ten  
46 percent on each impacted coverage, if it can demonstrate to the commissioner of  
47 insurance that it has not experienced a sufficient reduction in loss costs to actuarially  
48 justify the full amount of presumed savings of ten percent. Any filing with premium  
49 rates that provides for the ten percent reduction or more for each impacted coverage  
50 shall be deemed approved, if not disapproved, thirty days after filing. This Section  
51 does not prohibit an increase for any individual insurance policy premium if the  
52 increase results from an increase in the risk of loss."

- 1 AMENDMENT NO. 17
- 2 On page 5, at the beginning of line 27, change "Section 8." to "Section 10."