

2018 Regular Session

SENATE BILL NO. 382

BY SENATORS HEWITT, ERDEY, LONG, PRICE AND GARY SMITH

MOTOR VEHICLES. Provides relative to safety belts. (8/1/18)

1 AN ACT

2 To amend and reenact R.S. 32:295.1(D)(6), (7), (8), and (9), and (E), relative to safety belts;  
3 to remove certain penalties relative to special tags that exempt persons with a mental  
4 or physical disability from using safety belts; to provide relative to failure to wear  
5 a safety belt; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 32:295.1(D)(6), (7), (8), and (9), and (E) are hereby amended and  
8 reenacted to read as follows:

9 §295.1. Safety belt use; tags indicating exemption

10 \* \* \*

11 D. \* \* \*

12 (6) Any individual who is not impaired as provided in this Section and who  
13 willfully and falsely represents himself as having the conditions to obtain a special  
14 tag authorized by this Section shall be fined not less than one hundred dollars nor  
15 more than two hundred fifty dollars, ~~or shall be imprisoned for not more than thirty~~  
16 ~~days, or both~~, and on subsequent offenses, shall be fined not less than two hundred  
17 fifty dollars nor more than five hundred dollars, ~~or shall be imprisoned for not more~~

1 ~~than ninety days, or both.~~

2 (7) Any individual who utilizes a tag authorized by this Section which was  
3 not legally issued to him and who is not transporting the individual to whom the tag  
4 was issued shall be fined not less than fifty dollars nor more than two hundred fifty  
5 dollars ~~or shall be imprisoned for not more than thirty days, or both,~~ and on second  
6 and subsequent offenses, shall be fined not less than one hundred dollars nor more  
7 than five hundred dollars, ~~or shall be imprisoned for not more than sixty days, or~~  
8 ~~both.~~

9 (8) Any individual to whom a tag is issued under the provisions of this  
10 Section and who allows his tag to be used by an individual not entitled to the use of  
11 such tag shall have his tag suspended for six months and shall be fined not less than  
12 fifty dollars nor more than two hundred fifty dollars, ~~or shall be imprisoned for not~~  
13 ~~more than thirty days for the first offense, or both.~~ On the second and subsequent  
14 offenses, said suspension shall be for one year, and the individual shall be fined not  
15 less than two hundred fifty dollars nor more than five hundred dollars, in addition to  
16 suspension of said privileges, ~~or shall be imprisoned not more than thirty days, or~~  
17 ~~both.~~

18 (9) Any physician who willfully and falsely certifies that an individual is  
19 impaired in order to allow that person to obtain the special tag authorized in this  
20 Section shall be fined one thousand dollars, ~~or shall be imprisoned for not more than~~  
21 ~~ninety days, or both.~~

22 \* \* \*

23 E. In any action to recover damages arising out of the ownership, common  
24 maintenance, or operation of a motor vehicle, failure to wear a safety belt in  
25 violation of this Section ~~shall not~~ **may** be considered evidence of comparative  
26 negligence. ~~Failure to wear a safety belt in violation of this Section shall not be~~  
27 ~~admitted to mitigate damages.~~

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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Sharon F. Lyles.

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DIGEST

SB 382 Engrossed                      2018 Regular Session                      Hewitt

Present law exempts occupants of passenger cars or operators with a physically or mentally disabling condition that would prevent appropriate restraint in a safety belt, as certified by a physician, from wearing safety belts and provides for issuance of a special tag to indicate such exemption.

Present law provides penalties for improper use of a special tag or certification by a physician for issuance of a special tag as follows:

- (1) False representation by a person to obtain a special tag:
  - (a) 1st offense - \$100 not to exceed \$250, or up to 30 days imprisonment, or both.
  - (b) 2nd and subsequent offenses - \$250 not to exceed \$500, or up to 90 days imprisonment, or both.
- (2) Use of the special tag by another person not transporting the owner of the tag:
  - (a) 1st offense - \$50 not to exceed \$250, or up to 30 days imprisonment, or both.
  - (b) 2nd and subsequent offenses - \$100 not to exceed \$500, or up to 60 days imprisonment, or both.
- (3) Tag owner allowing use of the tag by another person not qualified for a tag:
  - (a) 1st offense - \$50 not to exceed \$250, or up to 30 days imprisonment, or both, and 6 months suspension of the tag.
  - (b) 2nd and subsequent offenses - \$250 not to exceed \$500, or up to 30 days imprisonment, or both, and one year suspension of the tag.
- (4) False certification by a physician of a person's impairment to obtain a tag:  
\$1,000 or up to 90 days imprisonment.

Proposed law removes imprisonment penalties.

Present law 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.

Present law provides certain exceptions to the present law 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.

Present law provides that the failure to wear a safety belt in violation of present law shall not be considered evidence of comparative negligence and 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.

Proposed law changes present law by authorizing consideration of the failure to wear a safety belt as evidence of comparative negligence and removes provision prohibiting its admission to mitigate damages.

Effective August 1, 2018.

(Amends R.S. 32:295.1(D)(6), (7), (8), and (9) and (E))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Transportation,  
Highways, and Public Works to the original bill

1. Allows consideration of evidence of failure to wear a safety belt in an action to recover damages arising from a motor vehicle accident as comparative negligence and removes provision prohibiting its admission to mitigate damages.