

SESSION OF 2018

SUPPLEMENTAL NOTE ON SENATE BILL NO. 296

As Amended by House Committee on Judiciary

Brief*

SB 296, as amended, would provide that evidence of misuse or nonuse of a safety belt may be considered by the trier of fact in a civil action in which the plaintiff has asserted a product liability claim, as defined in statute, against an automobile manufacturer alleging harm caused by a defective vehicle occupant protection system, for the purpose of determining causation, the absence of a defect or hazard, or negligent design or construction.

Background

The bill was introduced by the Senate Committee on Judiciary at the request of the Kansas Chamber of Commerce. Current statute prohibits the admission of evidence of failure of any person to use a safety belt in any action for the purpose of determining any aspect of comparative negligence or mitigation of damages. As introduced, the bill would have amended this language to permit consideration of such evidence for the above purposes.

In the Senate Committee hearing, representatives of General Motors, the Kansas Association of Defense Counsel, the Kansas Chamber of Commerce, and State Farm Insurance Companies appeared in support of the bill. Representatives of the American Insurance Association and Kansas Association of Property and Casualty Insurance Companies offered written-only proponent testimony.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Representatives of the Kansas Trial Lawyers Association appeared as opponents. No other testimony was provided.

In the House Committee on Judiciary hearing, representatives of General Motors and the Kansas Chamber of Commerce testified in support of the bill. Representatives of the American Tort Reform Association, Ford Motor Company, Kansas Association of Defense Counsel, Kansas Association of Property and Casualty Insurance Companies, and State Farm Insurance Companies submitted written-only testimony supporting the bill. A representative of the Kansas County and District Attorneys Association testified as a neutral conferee. Attorneys and representatives of the Kansas Trial Lawyers Association, a representative of the DeVaughn James Injury Lawyers firm, and a citizen testified as opponents. A representative of Mothers Against Drunk Driving submitted written-only testimony opposing the bill.

The House Committee amended the bill to restore the prohibition on admission of safety belt evidence for comparative negligence or mitigation of damages purposes and to add the provision allowing the consideration of safety belt evidence for certain purposes in products liability cases.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Office of Judicial Administration indicates enactment of the bill could increase the number of cases filed in district courts and the number of appeals, as well as increase the length of trials, which would increase the time spent by judicial and nonjudicial personnel to process, research, and hear cases. However, it is not possible to predict the number of additional court cases that would arise or how time consuming they would be; thus, a fiscal effect cannot be determined. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2019 Governor's Budget Report*.