

**Louisiana Property and Casualty Insurance Commission**  
**Notice of Meeting and *Revised* Agenda**  
**Thursday, January 16, 2020 at 10:00 A.M.**  
**Department of Insurance—Plaza Hearing Room—Poydras Building**

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- I. Call to Order—Chairman
- II. Roll Call—Director
- III. Discussions and Presentations
  - A. Discussion of and voting on recommendations for the Annual Report. (The following list of topics is drawn from the 2019 recommendations this year’s meetings. Members may propose additions, deletions, or amendments. The public may comment before each vote.)
    - 1. Uniform Construction Code. The LPCIC recommends the maintenance and strengthening of the Louisiana State Uniform Construction Code.
    - 2. Highway Safety. The LPCIC recommends that the legislature ban the manual use by the operator of a motor vehicle while in motion of all electronic devices not permanently installed in the vehicle.
    - 3. Civil Justice Reforms. The LPCIC recommends that the legislature:
      - a) Reduce the civil jury threshold.
      - b) Repeal the direct action statute or amend it to limit the instances for naming an insurer as a defendant to those where the insured is unable to be served with process.
      - c) Modify the collateral source rule to limit the ability of a plaintiff to recover damages for expenses that are not due or payable when there is a write-off pursuant to a healthcare provider agreement with an insurer or other health coverage issuer.
      - d) Amend La. C.C. P. art. 1812(C)(4) to provide for only one written finding of each of the following: general damages; past lost wages, future lost wages for each plaintiff on a special verdict form.
      - e) Amend La. R.S. 32:295.1(E) to admit seat belt use as evidence of comparative negligence.
      - f) Amend La. C.E. art. 411 to prohibit the reference to the name of an insurer or the retention of counsel by the insurer in a civil proceeding involving an insurer that issues a policy to a party to the suit.
      - g) Amend La. R.S. 32:866(A) to prohibit the recovery of general damages for an owner or operator of a motor vehicle who fails to maintain

compulsory liability insurance.

h) Amend C.C.P. art. 966 to permit certain evidence in rebuttal to opposition to motion for summary judgment.

i) Amend the Code of Evidence to permit force of impact evidence in personal injury cases.

j) Amend the Code of Evidence to require documentary evidence of past lost wages to support a claim for that element of damages.

k) Amend C.E. art. 408 to permit evidence of settlement to show why a party is not a defendant in a civil action.

l) Enact a statute to set a maximum fee for medical services rendered for bodily injuries sustained in a motor vehicle accident.

4. Opioid Abuse. The LPCIC recommends that the legislature enact a requirement for the use of a closed pharmacy formulary in workers' compensation claims.

B. Discussion and voting on study topics for the coming year.

1. Insurance and Technology. The LPCIC will monitor and study issues related to the effects of technology on the business of insurance and insurance coverage.

2. Cybersecurity and Insurance. The LPCIC will continue monitor and study issues related to cybersecurity and insurance.

3. Highly Automated Vehicles (HAV) and Driverless Vehicles. The LPCIC will study regulatory and insurance issues that arise with the development of driverless vehicles.

4. Federal and International Actions Affecting Insurance and Insurance Regulation. The LPCIC will monitor and study the effects of federal laws and regulations and international actions on the affordability and availability of property and casualty insurance.

5. Automobile Insurance Market. The LPCIC will study the automobile insurance market to determine solutions to the problems with availability and affordability of private passenger and commercial automobile insurance.

**IV. Any Other Matters and Public Comments**

**V. Adjournment**

**Louisiana Property and Casualty Insurance Commission**  
**Meeting Materials**  
**Thursday, January 16, 2020 at 10:00 A.M.**  
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1. Uniform Construction Code. **(No handout)**
2. Highway Safety. **Draft Proposal for Driving Under the Influence of an Electronic Device**
3. Civil Justice Reforms.
  - a) Reduce the civil jury threshold. **(No handout)**
  - b) Repeal the direct action statute or amend it to limit the instances for naming an insurer as a defendant to those where the insured is unable to be served with process. **(No handout)**
  - c) Modify the collateral source rule to limit the ability of a plaintiff to recover damages for expenses that are not due or payable when there is a write-off pursuant to a healthcare provider agreement with an insurer or other health coverage issuer. **Draft Collateral Source Bill**
  - d) Amend La. C.C. P. art. 1812(C)(4) to provide for only one written finding of each of the following: general damages; past lost wages, future lost wages, for each plaintiff on a special verdict form. **Draft Special Jury Verdict Forms Bill**
  - e) Amend La. R.S. 32:295.1(E) to admit seat belt use as evidence of comparative negligence. **Draft Evidence of Safety Belt Use Bill**
  - f) Amend La. C.E. art. 411 to prohibit the reference to the name of an insurer or the retention of counsel by the insurer in a civil proceeding involving an insurer that issues a policy to a party to the suit. **(No handout)**
  - g) Amend La. R.S. 32:866(A) to prohibit the recovery of general damages for an owner or operator of a motor vehicle who fails to maintain compulsory liability insurance. **Draft No Pay No Play Bill**
  - h) Amend C.C.P. art. 966 to permit certain evidence in rebuttal to opposition to motion for summary judgment. **Draft Summary Judgment Rebuttal Bill**
  - i) Amend the Code of Evidence to permit force of impact evidence in personal injury cases. **Draft Evidence of Force of Impact Bill**
  - j) Amend the Code of Evidence to require documentary evidence of past lost wages to support a claim for that element of damages. **Draft Evidence of Past Lost Wages**
  - k) Amend C.E. art. 408 to permit evidence of settlement to show why a party is not a defendant in a civil action. **Draft Evidence of Settlement Bill**

1) Enact a statute to set a maximum fee for medical services rendered for bodily injuries sustained in a motor vehicle accident. **Draft Reference Pricing/Fee Schedule Bill**

4. Opioid Abuse. The LPCIC recommends that the legislature enact a requirement for the use of a closed pharmacy formulary in workers' compensation claims. **(No handout)**

1/5/2020

LPCIC RECOMMENDATION DRAFT  
Driving under the Influence of an Electronic Device

2020 Regular Session

[HOUSE] [SENATE] BILL NO.

BY

TRAFFIC/VIOLATIONS: Prohibits operating a motor vehicle while under the influence of an electronic device

1 AN ACT

2 To amend and reenact R.S. 9:2798.4 and 32:300.5 and to repeal R.S. 32:300.6, 300.7, and  
3 300.8, relative to the prohibition of the use of certain wireless telecommunications  
4 devices while operating a motor vehicle; to provide for immunity from liability in  
5 certain instances; to provide for definitions; to provide for exceptions; to provide for  
6 penalties; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 9:2798.4 is hereby amended and reenacted to read as follows:

9 §2798.4. Immunity from liability; injuries sustained by persons driving under the  
10 influence of alcoholic beverages, ~~or drugs,~~ or electronic devices

11 A. Neither the state, a state agency, or a political subdivision of the state nor  
12 any person shall be liable for damages, including those available under Civil Code  
13 Article 2315.1 or 2315.2, for injury, death, or loss of the operator of a motor vehicle,  
14 aircraft, watercraft, or vessel who does any of the following:

15 (1) ~~Was operating~~ Operates a motor vehicle, aircraft, watercraft, or vessel  
16 while his blood alcohol concentration of 0.08 percent or more by weight based on  
17 grams of alcohol per one hundred cubic centimeters of blood; ~~or~~

1           (2) ~~Was operating~~ Operates a motor vehicle, aircraft, watercraft, or vessel  
2 while he was under the influence of any controlled dangerous substance described  
3 in R.S. 14:98(A)(1)(c) or R.S. 40:964.

4           (3) Operates a motor vehicle while he was under the influence of an  
5 electronic device as defined in R.S. 32:300.5.

6           B. The provisions of this Section shall not apply unless both of the  
7 following occur:

8           (1) The operator is found to be in excess of twenty-five percent negligent as  
9 a result of any of the following:

10           (a) Having a blood alcohol concentration in excess of the limits provided in  
11 R.S. 14:98(A)(1)(b), ~~or the operator is found to be in excess of twenty five percent~~  
12 ~~negligent as a~~

13           (b) ~~result of being~~ Being under the influence of a controlled dangerous  
14 substance described in R.S. 14:98(A)(1)(c), ~~and~~

15           (c) Being under the influence of an electronic device as defined in R.S.  
16 32:300.5.

17           (2) This negligence was a contributing factor causing the damage.

18           C. For purposes of this Section, "damages" include all general damages,  
19 including those otherwise recoverable in a survival or wrongful death action, which  
20 may be recoverable for personal injury, death or loss, or damage to property by the  
21 operator of a motor vehicle, aircraft, watercraft, or vessel or the category of persons  
22 who would have a cause of action for the operator's wrongful death.

1           D. The provisions of this Section shall not apply if the operator tests positive  
2 for any controlled dangerous substance covered by the provisions of R.S.  
3 14:98(A)(1)(c) or R.S. 40:964 and the operator is taking that substance pursuant to  
4 a valid prescription for the identified substance or a health care provider verifies that  
5 he has prescribed or furnished the operator with that particular substance.

6           E. Unless the operator's insurance policy provides otherwise, nothing in this  
7 Section shall be construed to preclude the operator from making a claim under his  
8 or her own policy for first party indemnity coverages.

9           Section 2. R.S. 32:300.5 is hereby amended and reenacted to read as follows:

10       ~~§300.5. Use of certain wireless telecommunications devices for text messaging and~~  
11       ~~social networking prohibited~~

12       ~~A.(1) Except as provided in Subsection B of this Section, no person shall~~  
13       ~~operate any motor vehicle upon any public road or highway of this state while using~~  
14       ~~a wireless telecommunications device to write, send, or read a text based~~  
15       ~~communication. For purposes of this Section, a person shall not be deemed to be~~  
16       ~~writing, reading, or sending a text message if the person reads, selects, or enters a~~  
17       ~~telephone number or name in a wireless telecommunications device for the purpose~~  
18       ~~of making a telephone call.~~

19       ~~(2) No person shall operate any motor vehicle upon any public road or~~  
20       ~~highway of this state while using a wireless telecommunications device to access,~~  
21       ~~read, or post to a social networking site.~~

22       ~~(3)(a) "Wireless telecommunications device" means a cellular telephone, a~~

1 ~~text messaging device, a personal digital assistant, a stand-alone computer, or any~~  
2 ~~other substantially similar wireless device that is readily removable from the vehicle~~  
3 ~~and is used to write, send, or read text or data through manual input. A "wireless~~  
4 ~~telecommunications device" shall not include any device or component that is~~  
5 ~~permanently affixed to a motor vehicle. It does not include citizens band radios,~~  
6 ~~citizens band radio hybrids, commercial two-way radio communication devices,~~  
7 ~~two-way radio transmitters or receivers used by licensees of the Federal~~  
8 ~~Communication Commission in the Amateur Radio Service, or electronic~~  
9 ~~communication devices with a push-to-talk function.~~

10 (b) ~~"Write, send, or read a text-based communication" means using a~~  
11 ~~wireless telecommunications device to manually communicate with any person by~~  
12 ~~using a text-based communication referred to as a text message, instant message, or~~  
13 ~~electronic mail.~~

14 (c) ~~"Access, read, or post to a social networking site" means using a wireless~~  
15 ~~telecommunications device to access, read, or post on such device to any web-based~~  
16 ~~service that allows individuals to construct a profile within a bounded system,~~  
17 ~~articulate a list of other users with whom they share a connection, and communicate~~  
18 ~~with other members of the site.~~

19 B. ~~The provisions of Paragraph (A)(1) of this Section shall not apply to the~~  
20 ~~following:~~

21 (1) ~~Any law enforcement officer, firefighter, or operator of an authorized~~  
22 ~~emergency vehicle while engaged in the actual performance of his official duties.~~



1           ~~(2) An operator of a moving motor vehicle using a wireless~~  
2 ~~telecommunications device to:~~

3           ~~(a) Report illegal activity.~~

4           ~~(b) Summon medical or other emergency help.~~

5           ~~(c) Prevent injury to a person or property.~~

6           ~~(d) Relay information between a transit or for hire operator and that~~  
7 ~~operator's dispatcher, in which the device is permanently affixed to the vehicle.~~

8           ~~(e) Navigate using a global positioning system.~~

9           ~~(3) A physician or other health care provider using a wireless~~  
10 ~~telecommunications device to communicate with a hospital, health clinic or the~~  
11 ~~office of the physician, or to otherwise provide for the health care of an individual~~  
12 ~~or medical emergency through a text-based communication.~~

13           ~~C.(1) The first violation of the provisions of this Section shall be punishable~~  
14 ~~by a fine of not more than five hundred dollars.~~

15           ~~(2) Each subsequent violation shall be punishable by a fine of not more than~~  
16 ~~one thousand dollars.~~

17           ~~(3) If the person is involved in a crash at the time of violation, then the fine~~  
18 ~~shall be equal to double the amount of the standard fine imposed in this Subsection~~  
19 ~~and the law enforcement officer investigating the crash shall indicate on the written~~  
20 ~~accident form that the person was using a wireless telecommunications device at the~~  
21 ~~time of the crash.~~

22           ~~(4) Any violation of this Section shall constitute a moving violation.~~

1       ~~§300.8.~~ §300.5. ~~Use of wireless telecommunications~~ Operating a motor vehicle  
2               while under the influence of an electronic devices ~~in school zones~~ prohibited;  
3               exceptions

4               A. As used in this Section, the following terms shall have the meanings  
5               ascribed to them in this Section, unless the context clearly indicates a different  
6               meaning:

7               (1) "Access, read, or post to a social networking site" means using a wireless  
8               telecommunications device to access, read, or post on such device to any web-based  
9               service that allows individuals to construct a profile within a bounded system,  
10              articulate a list of other users with whom they share a connection, and communicate  
11              with other members of the site.

12              (2) "Engage in a call" means talking or listening during a voice transmission  
13              on a wireless telecommunications device or manually entering names or telephone  
14              numbers to initiate a voice transmission.

15              (3) "Wireless telecommunications device" means a cellular telephone, a text-  
16              messaging device, a personal digital assistant, a stand-alone computer or other  
17              electronic device, or any other substantially similar portable wireless device that is  
18              readily removable from the vehicle and is used to write, send, or read text or data  
19              through manual input, or to create, edit, or view video or other images. A "wireless  
20              Wireless telecommunications device" shall not mean ~~include~~ any device or  
21              component ~~that is~~ permanently affixed to a motor vehicle, nor shall it mean any. ~~It~~  
22              ~~does not include a hands-free wireless telephone, an electronic communication~~

1 device used hands-free, citizens band radios, citizens band radio hybrids,  
2 commercial two-way radio communications devices, two-way radio transmitters or  
3 receivers used by licensees of the Federal Communication Commission in the  
4 Amateur Radio Service, or electronic communication devices with a push-to-talk  
5 function.

6 (4) "Write, send, or read a text-based communication" means using a  
7 ~~wireless telecommunications device to manually communicate with any person by~~  
8 ~~using a text based communication including but not limited to a text message,~~  
9 ~~instant message, or electronic mail, or other text-based application to manually~~  
10 communicate with any person.

11 B. (1) Except as provided in Subsection C of this Section, no person shall  
12 operate any ~~wireless telecommunications device while operating a motor vehicle~~  
13 upon any public road or highway while under the influence of an electronic device  
14 ~~during the posted hours within a school zone on such public road or highway.~~

15 (2) ~~Operating a wireless telecommunications~~ "Under the influence of an  
16 electronic device" ~~shall include~~ means any of the following:

17 (1) ~~(a)~~ (a) Engaging in a call.

18 (2) ~~(b)~~ (b) Writing, sending, or reading a text-based communication.

19 (3) ~~(c)~~ (c) Accessing, reading, or posting to a social networking site.

20 (d) Accessing, viewing, posting, editing, or creating a video, photograph or  
21 other image.

22 (e) Accessing, reading, viewing, composing, browsing, transmitting, saving,

1        or retrieving electronic data from any application or other media.

2                (f) Using any application or feature of a wireless telecommunications device  
3        by making manual entries of letters, numbers, symbols, commands, or any  
4        combination thereof.

5                (g) Holding or physically supporting a wireless telecommunications device  
6        in either or both hands or with any part of the body, except for an earpiece or headphone  
7        device or a device worn on the wrist to talk or listen during a voice transmission.

8                C. (1) The provisions of Subsection B of this Section shall not apply to any  
9        of the following in the performance of their official duties:

10                (a) A law enforcement officer.

11                (b) A firefighter.

12                (c) An operator of an authorized emergency vehicle.

13                ~~C.~~ (2) The provisions of Subsection B of this Section shall not apply to a  
14        person who uses a wireless telecommunications device ~~and~~ to do ~~does~~ any of the  
15        following:

16                ~~(1)(a) Reports~~ Report a traffic collision, medical emergency, other  
17        emergency, or serious road hazard.

18                ~~(2)(b) Reports~~ Report a situation in which the person believes that a person  
19        ~~his personal safety~~ is in jeopardy of serious injury or death.

20                ~~(3) Reports or averts the perpetration or potential perpetration of a criminal~~  
21        ~~act against the driver or another person.~~

22                (c) Relay information between a transit or for-hire operator, including a

1 transportation network company driver, and that operator's dispatcher, in which the  
2 device is affixed to the vehicle.

3 (d) View data or images related to navigation of a motor vehicle using a  
4 hands-free global positioning system.

5 ~~(4)~~ (e) Operate ~~Operates~~ a wireless telecommunications device while the  
6 motor vehicle is lawfully stationary or lawfully parked.

7 ~~(5) Uses a wireless telecommunications device in an official capacity as an~~  
8 ~~operator of an authorized emergency vehicle.~~

9 D. (1) Any violation of this Section shall constitute a moving violation.

10 (2)(a) The first violation of the provisions of this Section shall be punishable  
11 by a fine of not more than ~~five~~ one hundred dollars or community service.

12 ~~(b) Each subsequent~~ The second violation shall be punishable by a fine of  
13 not more than ~~one thousand~~ three hundred dollars ~~and a suspension of driver's~~  
14 ~~license for a sixty-day period.~~

15 (c) The third violation shall be punishable by a fine of not more than three  
16 hundred dollars and a suspension of the person's driver's license for a period of  
17 thirty days.

18 ~~(e)~~ (d) If a person the operator of a motor vehicle is involved in a ~~collision~~  
19 crash at the time of the violation, ~~then~~ the fine shall be equal to double the amount  
20 of the standard fine imposed in this Subsection. ~~The and the~~ law enforcement officer  
21 investigating the ~~collision~~ crash shall indicate on the written accident report that the  
22 ~~person~~ operator of a motor vehicle was using a wireless telecommunications device

1 at the time of the collision.

2 (3) ~~Use of a wireless telecommunications device for any purposes provided~~  
3 ~~for in Subsection C of this Section~~ shall be an affirmative defense ~~against to a an~~  
4 ~~alleged violation of this Section in support of which for~~ the operator of a motor  
5 vehicle person to may produce documentary or other evidence ~~that the wireless~~  
6 ~~telecommunications device that is the basis of the alleged violation was used for~~  
7 ~~emergency purposes as provided in Subsection C of this Section.~~

8 (4) For any violation occurring before January 1, 2021, the law enforcement  
9 officer shall only issue a written warning.

10 ~~E. The provisions of this Section shall only apply within a school zone upon~~  
11 ~~a public road or highway during posted hours when signs are located in a visible~~  
12 ~~manner in each direction that indicate the use of a hand held wireless~~  
13 ~~communications device is prohibited while operating a motor vehicle.~~

14 E. Based solely on a violation of this Section, the law enforcement officer  
15 shall not:

16 (1) Seize, search, view, or require the forfeiture of a wireless  
17 telecommunications device.

18 (2) Search or request to search a motor vehicle, motor vehicle operator, or  
19 passenger.

20 (3) Make a custodial arrest except upon a warrant issued for failure to appear  
21 in court when summoned or for failure to pay an imposed fine.

22 Section 3. R.S. 32:300.6, 300.7, and 300.8 are hereby repealed.

1/10/2020

LPCIC RECOMMENDATION DRAFT  
Collateral Source

2020 Regular Session

HOUSE/SENATE BILL NO.

BY

CIVIL LAW: Provides relative to reimbursement for medical and rehabilitation expenses for those injured in motor vehicle accidents

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AN ACT

To amend and reenact Civil Code Article 2315 relative to damages; to provide for definitions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Civil Code Article 2315 is amended and reenacted to read as follows:

Art. 2315. Liability for acts causing damages

A. Every act whatever of man that causes damage to another obliges him by whose fault it happened to repair it.

B. Damages may include loss of consortium, service, and society, and shall be recoverable by the same respective categories of persons who would have had a cause of action for wrongful death of an injured person. Damages do not include (1) costs for future medical treatment, services, surveillance, or procedures of any kind unless such treatment, services, surveillance, or procedures are directly related to a manifest physical or mental injury or disease or (2) any medical expenses that result from reductions, write-offs, or discounts for medical treatment, services, surveillance, or procedures of any kind, regardless of the submission of the bills to

1/10/2020

LPCIC RECOMMENDATION DRAFT  
Collateral Source

1 insurance or other health care coverage. Damages shall include any sales taxes paid  
2 by the owner on the repair or replacement of the property damaged.

3 C. For purposes of Paragraph B of this Article, the terms “reduction,” “write-  
4 off,” or “discount” mean the difference between the amount of medical expenses  
5 billed or charged and the amount the provider accepts as full payment.

6



1/5/2020

LPCIC RECOMMENDATION DRAFT  
Special Jury Verdict Forms

2020 Regular Session

[HOUSE] [SENATE] BILL NO.

BY

SPECIAL VERDICTS: Adds certain actions for damages to special jury verdicts.

1 AN ACT  
2 To amend and reenact Code of Civil Procedure Article 1812 relative to special verdicts in certain  
3 actions for damages; to provide for special written questions with respect damages; and to  
4 provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. Code of Civil Procedure Article 1812 is hereby amended and reenacted to read  
7 as follows:

8 Art. 1812. Special verdicts

9 \* \* \*

10 C. In cases to recover damages for injury, death, or loss, the court at the request of  
11 any party shall submit to the jury special written questions inquiring as to:

12 \* \* \*

13 (4) The total amount of special damages and the total amount of general  
14 damages sustained as a result of the injury, death, or loss, expressed in dollars, and if  
15 appropriate, the total amount of exemplary damages to be awarded **itemized as:**

16 **(a) General damages (pain and suffering).**

17 **(b) Past lost wages.**



1/5/2020

LPCIC RECOMMENDATION DRAFT

Evidence of Safety Belt Use

2020 Regular Session

[HOUSE] [SENATE] BILL NO.

BY

TRAFFIC: Provides relative to safety belts

1 AN ACT

2 To amend and reenact R.S. 32:295.1(E), relative to safety belts; to provide relative to the  
3 relative to the failure to wear a safety belt; and to provide for related matters.

4 Be it enacted by the Legislature of Louisiana:

5 Section 1. R.S. 32:295.1(E) is hereby amended and reenacted to read as follows:

6 §295.1. Safety belt use; tags indicating exemption

7 \* \* \*

8 E. In any action to recover damages arising out of the ownership, common  
9 maintenance, or operation of a motor vehicle, failure to wear a safety belt in violation  
10 of this Section ~~shall not~~ may be considered evidence of comparative negligence.

11 ~~Failure to wear a safety belt in violation of this Section shall not be admitted to~~  
12 ~~mitigate damages.~~

13 \* \* \*



1/5/2020

LPCIC RECOMMENDATION DRAFT

No Pay No Play

2020 Regular Session

[HOUSE] [SENATE] BILL NO.

BY

COMPULSORY MOTOR VEHICLE LIABILITY SECURITY: Limitation of recovery of bodily injury or property damage from a vehicle accident

1 AN ACT

2 To amend and reenact R.S. 32:866 relative to motor vehicle liability security; to provide relative  
3 to the prohibition of the recovery of damages in certain circumstances; and to provide for  
4 related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 32:866 is hereby amended and reenacted to read as follows:

7 §866. Compulsory motor vehicle liability security; failure to comply; limitation of  
8 damages

9 A.(1) There shall be no recovery for the first ~~fifteen~~ fifty thousand dollars of bodily  
10 injury and no recovery for the first ~~twenty-five~~ one hundred thousand dollars of property  
11 damage based on any cause or right of action arising out of a motor vehicle accident, for  
12 such injury or damages occasioned by an owner or operator of a motor vehicle involved in  
13 such accident who fails to own or maintain compulsory motor vehicle liability security.

14 \* \* \*

15 F.(1) Notwithstanding any provision of law to the contrary, no insurer shall lose  
16 any rights of subrogation for claims paid under the applicable insurance policy for the  
17 recovery of any sum in excess of the first ~~fifteen~~ fifty thousand dollars of bodily injury and

1 the first ~~twenty-five~~ one hundred thousand dollars of property damages.

2 (2) In claims where no suit is filed, the claimant’s insurer shall have all rights  
3 to recover any amount paid by the claimant’s insurer on behalf of the insured for the  
4 recovery of any sum in excess of the first ~~fifteen~~ fifty thousand dollars of bodily injury and  
5 the first ~~twenty-five~~ one hundred thousand dollars of bodily injury and the first ~~twenty-~~  
6 ~~five~~ one hundred thousand dollars of property damages.

7 \* \* \*

8 Section 2. The provisions of this Act shall become effective on January 1, 2021 and  
9 shall apply only to policies issued or renewed on or after January 1, 2021.



1 provisions:

2 \* \* \*

3 (3) Any reply memorandum shall be filed and served in accordance with Article  
4 1313 not less than five days prior to the hearing on the motion. No additional documents  
5 may be filed with the reply memorandum, except those documents to rebut arguments  
6 made in the opposition memorandum. Further, the reply memorandum may include a  
7 complete certified copy of a deposition that was only partially produced in the opposition  
8 memorandum.

9 \* \* \*

10 D.(1) \* \* \*

11 (2) The court may consider only those documents filed in support of, which  
12 includes the reply, or in opposition to the motion for summary judgment and shall consider  
13 any documents to which no objection is made. Any objection to a document shall be raised  
14 in a timely filed opposition or reply memorandum. The court shall consider all objections  
15 prior to rendering judgment. The court shall specifically state on the record or in writing  
16 which documents, if any, it held to be inadmissible or declined to consider.

17 \* \* \*



1/5/2020

LPCIC RECOMMENDATION DRAFT  
Evidence of Force of Impact

2020 Regular Session

HOUSE/SENATE BILL NO.

BY

EVIDENCE: Provides relative to evidence of force of impact in personal injury cases

1 AN ACT

2 To enact Code of Evidence Article XXX relative to evidence of force of impact; to provide  
3 that evidence of force of impact may be considered to determine the occurrence or  
4 nature and extent of injury; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. Code of Evidence Article XXX is hereby enacted to read as follows:

7 Art. XXX. Force of impact

8 In any claim for personal injury damages, evidence of force of impact may  
9 be considered to determine the causation of an injury or the nature and extent of any  
10 injuries sustained.

11 \* \* \*



1/5/2020

LPCIC RECOMMENDATION DRAFT  
Evidence of Past Lost Wages

2020 Regular Session

HOUSE/SENATE BILL NO.

BY

EVIDENCE: Provides relative to evidence of past lost wages

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AN ACT

To enact Code of Evidence Article XXX relative to evidence of past lost wages; to provide that documentary evidence of past lost wages shall be produced to support a claim; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Evidence Article XXX is hereby enacted to read as follows:

Art. XXX. Past lost wages

A. Any party making a claim for past lost wages shall introduce documentary evidence in support of the claim. Any party who fails to produce documentary evidence in support of a claim for past lost wages shall be precluded from referring in the course of trial directly or indirectly to any past lost wages, and past lost wages shall not be submitted to the jury or included on the jury verdict form.

B. Documentary evidence to establish past lost wages may include certified tax records, certified employment records that reflect the wages earned, and certified financial statements from an accredited depository or bank.

\* \* \*



1/4/2020

LPCIC CHAIRMAN'S DISCUSSION DRAFT  
Evidence of Settlement

2020 Regular Session

HOUSE/SENATE BILL NO.

BY

INSURANCE: Provides relative to evidence of compromise and offers to compromise

1 AN ACT

2 To amend and reenact Code of Evidence Article 408 relative to evidence of compromise  
3 and offers to compromise; to provide for the admission of evidence of compromise  
4 for the purpose of showing why a party is not a defendant at trial; and to provide for  
5 related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Evidence Article 408 is hereby amended and reenacted to read  
8 as follows:

9 Art. 408. Compromise and offers to compromise

10 A. Civil cases. In a civil case, evidence of (1) furnishing or offering or  
11 promising to furnish, or (2) accepting or offering or promising to accept, anything  
12 of value in compromising or attempting to compromise a claim which was disputed  
13 as to either validity or amount, is not admissible to prove liability for or invalidity  
14 of the claim or its amount. Evidence of conduct or statements made in compromise  
15 negotiations is likewise not admissible. This Article does not require the exclusion  
16 of any evidence otherwise admissible merely because it is presented in the course of



1/10/2020

LPCIC RECOMMENDATION DRAFT  
Reference Pricing/Fee Schedule

2020 Regular Session

HOUSE/SENATE BILL NO.

BY

INSURANCE: Provides relative to reimbursement for medical and rehabilitation expenses for those injured in motor vehicle accidents

1 AN ACT

2 To enact R.S. 9:xxxx relative to reimbursement for medical and rehabilitation expenses for  
3 persons injured in motor vehicle accidents; to provide for definitions; to provide for  
4 reference pricing of medical and rehabilitation services; and to provide for related  
5 matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 9:xxxx is hereby enacted to read as follows:

8 § xxxx. Medical and rehabilitation expenses in motor vehicle accidents

9 A. Subject to Subsection B of this Section, a physician, hospital, clinic, or  
10 other person that lawfully renders treatment or rehabilitative occupational training  
11 to an injured person for bodily injury arising out of a motor vehicle accident  
12 occurring in this state may charge a reasonable amount for the treatment or training.  
13 The charge shall not exceed the amount the person customarily charges for like  
14 treatment or training.

15 B. A physician, hospital, clinic, or other person that renders treatment or  
16 rehabilitative occupational training to an injured person for bodily injury arising out

1 of a motor vehicle accident occurring in this state is not eligible for payment or  
2 reimbursement under this Section for more than the following:

3 (1) For treatment or training rendered after June 30, 2021 and before July 1,  
4 2022, 200% of the amount payable to the person for the treatment or training under  
5 Medicare.

6 (2) For treatment or training rendered after June 30, 2022 and before July 1,  
7 2023, 195% of the amount payable to the person for the treatment or training under  
8 Medicare.

9 (3) For treatment or training rendered after June 30, 2023, 190% of the  
10 amount payable to the person for the treatment or training under Medicare.