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PROHIBIT RIDING IN BEDS OF PICKUP TRUCKS

House Bill 4392 (Substitute H-2) First Analysis (10-28-99)

Sponsor: Rep. Deborah Cherry
Committee: Transportation

THE APPARENT PROBLEM:

Riding in the back of a pickup truck can be dangerous. According to the Pediatric Injury Prevention Research Group, a person riding in the cargo area of a pickup truck is 26 times more likely to be ejected from the vehicle than is a person riding in the pickup truck cab. The danger has been documented by state police data throughout the nation, and those statistics indicate that many serious and sometimes fatal injuries are caused both by collisions and non-collision incidents such as swerving, braking suddenly, or traveling on rough roads, which can result in falls within and ejections from the vehicle.

In 1986 some 46 people were reported to be injured in crashes while riding in the beds of pickup trucks; four died and 14 were incapacitated by their injuries. During 1994 through 1996, 558 people were killed while riding in the beds of pickup trucks nationwide, and 19 of those fatalities occurred in Michigan. In 1997 and 1998, the Michigan State Police, Office of Highway Safety Planning reported 24 occupant fatalities in pickup truck beds. Generally, fatalities in Michigan have averaged about eight each year since 1994, a total of 43 deaths in the five-year period.

According to the National Conference of State Legislatures, twenty-five states have laws that restrict the passenger use of light truck cargo areas, although no state law carries an absolute prohibition against riding in the open bed of a pickup truck. (See *BACKGROUND INFORMATION*, below.)

While legislation to restrict passenger use of truck cargo areas has been introduced in the Michigan legislature since 1987, it has yet to be enacted. In 1991, legislation prohibiting people from riding in the beds of pickup trucks was passed by both the House and Senate but died when the term ended before the Senate adopted the conference committee's report.

During the 1997-98 legislative session, a bill passed the House, but died in the Senate.

The renewed call for legislation to restrict riding in the backs of pickups comes as a result of accidents in Genesee, Wayne, and Jackson Counties. The accident in Concord Township of Jackson County killed 11 people, eight of whom were children who had been riding in the enclosed bed of a pickup truck when it was struck by an oncoming dump truck after the driver ignored a stop sign.

THE CONTENT OF THE BILL:

House Bill 4392 would amend the Michigan Vehicle Code to prohibit a person from riding in the open bed of a pickup truck, and also would prohibit an owner or operator of a pickup truck from allowing a passenger to do so. The prohibition would apply to those driving or riding on a highway in a city, village, or township.

House Bill 4392 would not apply to a vehicle moving as part of a parade (and having a parade permit), a military vehicle, an authorized emergency vehicle, a motor vehicle operated by an employer or employee of a farm operation, construction business, or similar enterprise during the course of work activities, or a motor vehicle used to transport a search and rescue team to and from the site of an emergency.

A violation of the bill would be a civil infraction, and the bill would take effect on December 31, 2000.

MCL 257.682b

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill could result in additional local revenue associated with violations of this prohibition. (10-11-99)

House Bill 4392 (10-28-99)

BACKGROUND INFORMATION:

According to the National Conference of State Legislatures, 25 states have laws that restrict the passenger use of light truck cargo areas. None of the laws carries a total prohibition, although nearly half (eleven) of those laws apply to people of all ages. Three laws apply to those under 18; five to those under 16, one to those under 14, three to those under 12, one to those under 11, one to those under nine, and two to those under six years of age. (The total exceeds 25 because two states have statutes that prohibit all ages, and also statutes that prohibit young people.) In addition to age limitations, the state statutes often have exemptions for parades, emergency situations, farming vehicles or work-related activities.

ARGUMENTS:

For:

People ride, and allow others to ride, in the bed of a pickup truck despite the fact that it is unsafe. Even parents, generally careful of their children's safety, let youngsters ride in the backs of pickups. Pediatric researchers, using data from the National Highway Traffic Safety Administration, have pointed out the special risks that riding in backs of pickups pose for children: in 1987, 22 percent of the "pediatric pickup truck deaths" were associated with riding in the cargo area of a pickup truck, while only 3 percent of the adult pickup deaths were under such circumstances (Pediatrics, Vol. 86, No. 5, November 1990, pp 683-691). Passengers riding in the back of pickup trucks are at great risk of injury and death. Consequently, the state has a legitimate interest in prohibiting the practice, not only to protect its citizens, but also to minimize the costs to society (including medical, rehabilitation, and insurance costs) presented by unnecessary traffic deaths and injuries. It is incongruous for the state to require the use of seat belts and child safety restraints, but continue to allow passengers to ride in the backs of pickups. The bill would restrict this practice and save lives and money as a result.

For:

The bill also prohibits passengers in truck beds that are covered by caps or camper tops. Many people mistakenly assume that a cap or camper top makes riding in the back of a pickup truck safer. However, those riding in a capped pickup bed are flung about in an accident, hitting whatever hard objects might be in the truck (including the cap walls). In fact, fiberglass caps present a special hazard, as they can splinter and cut an accident victim. The impression that caps

provide no real protection for occupants when an accident occurs has been confirmed by pediatric researchers, who concluded that "the enclosure of a pickup bed did little to reduce the risk of serious injury" (Pediatrics, Nov. 1990, at p. 689).

Against:

The bill was amended in committee to except emergency vehicles, farm vehicles, construction vehicles, and vehicles used to transport a search and rescue team to and from the site of an emergency. Further, the effective date of the bill was delayed to December 31, 2000. These compromises likely will result in the death of workers, deaths that could be prevented if the prohibition were extended to them. Indeed, some of the exceptions could raise constitutional issues. For example, it has been suggested that creating a specific exemption for seasonal and agricultural workers and those transporting such workers could constitute a denial of equal protection. It could be argued that unless the legislature were to establish sufficient justification for treating such workers differently, a law exempting them from the protections provided to others would be unconstitutional. It has been suggested that it is unlikely that sufficient arguments could be raised to support the assertion that adequate cause exists to exempt these groups of people from such a law's protections.

Response:

The exception for farming operations, construction, and similar enterprises is necessary to help these businesses. The use of pickup trucks has become an integral part of farming and construction. Riding in the back of a pickup truck is one of the cheapest and quickest means for transporting crews of workers from one work site to another. Without such exceptions, farmers and construction workers would be required to choose between continuing to use their pickups in violation of the law or finding another means of transportation, including possibly purchasing a different type of vehicle, which would be a very expensive prospect for most.

Against:

It is the rare law that actually prevents people from engaging in dangerous habits, and as a result, the bill likely would have little or no effect on many of the people who engage in this behavior. Furthermore, the decision whether or not to engage in "risky behavior" should be left to the individual rather than the government. Restrictions of this sort interfere with the

rights of individuals. This bill should not govern the behavior of adults, but instead, the prohibition should apply only to children. Adults should have the right to decide whether or not to participate in activities, even when those activities pose risks. Government regulation should not be so excessive as to unnecessarily restrain the behavior of adults.

Response:

The point of the bill is to attempt to prevent all people of all ages from dying in accidents, by prohibiting them from riding in the back of a pickup truck. If the prohibition applied only to young people, many would continue to risk their lives and the toll of unnecessary deaths would continue to climb. All the evidence suggests this is an unsafe practice, and it should be prohibited for everyone.

POSITIONS:

The Michigan Road Builders Association supports the bill as reported by the House committee. (10-27-99)

The Michigan Association of Home Builders supports the bill. (10-27-99)

The Department of State Police supports the bill. (10-27-99)

The Traffic Safety Association supports the bill as it was originally introduced. (10-27-99)

A representative of AAA of Michigan testified in support of the bill. (10-19-99)

A representative of the Michigan Farm Bureau testified in support of the bill as reported by the committee. (10-19-99)

Analyst: J. Hunault

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.