

PROHIBIT RIDING IN BEDS OF PICKUP TRUCKS

House Bill 4392 as enrolled
Public Act 434 of 2000
Third Analysis (12-20-00)

Sponsor: Rep. Deborah Cherry
House Committee: Transportation
**Senate Committee: Transportation and
Tourism**

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 an operator of a vehicle from allowing a person less than 18 years of age to ride in the open bed of a pickup truck. The prohibition would apply to those driving on a highway, road, or street in a city, village, or township at a speed greater than 15 miles per hour.

House Bill 4392 would not apply to the operator of 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 Senate Fiscal Agency, the bill would have no fiscal impact on state or local government. (11-13-00)

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 children to ride in the backs of pickups. The bill would restrict this practice for dependents who are minors, and save young lives and health care costs as a result.

For:

According to committee testimony, the bill also prohibits youngsters 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).

Response:

Since the bill would apply to riding in the "open bed" of a pickup truck, it is not clear whether riding in a truck bed with a cap would be prohibited.

Against:

The bill was amended in House 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. Subsequently in the Senate, the bill was amended so that the prohibition applies only when trucks are traveling at speeds more than 15 miles per hour. These compromises likely will result in the death of children and workers, deaths that could be prevented if the prohibition were extended to them when the trucks were traveling at any speed. 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. Further, the bill would only apply to people under 18 years of age riding in open truck beds, which makes many of these arguments inapplicable.

Against:

Some have argued that the decision whether or not to engage in "risky behavior" should be left to the individual rather than the government. They suggested that restrictions of the sort proposed by this bill interfere with the rights of individuals, and that the legislation should not govern the behavior of adults, but instead, the prohibition should apply only to children. Consequently, this bill was amended on the House floor so that it applies only to dependent minors.

Response:

The point of the bill as it was originally introduced was to prevent people of all ages from dying in accidents, by prohibiting them from riding in the back of a pickup truck. If the prohibition applies 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.

Reply:

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.

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#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.