

Senate Fiscal Agency
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BILL ANALYSIS

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House Bill 4392 (Substitute H-2 as reported with amendments)
Sponsor: Representative Deborah Cherry
House Committee: Transportation
Senate Committee: Transportation and Tourism

Date Completed: 11-13-00

RATIONALE

Although riding in the bed of a pickup truck is a common practice, it is a dangerous one. Passengers who have ridden in a truck's bed have been injured seriously and sometimes fatally as the result of collisions or accidents in which drivers swerved, braked suddenly, or drove on bumpy roads and passengers were tossed about or thrown from the truck bed. According to the National Highway Traffic Safety Administration's National Center for Statistics and Analysis, the number of fatalities of pickup truck bed occupants nationwide from 1990 to 1996 totaled 370 passengers, whose ages ranged from 0 to 15 years, and 1,016 passengers, who were 16 years of age or older. During the same period in Michigan, there were 11 fatalities of persons who were 0 to 15 years of age and 20 of people who were 16 years or older. In recent years, a number of individuals have been killed or severely injured as the result of accidents involving pickup trucks in Genesee, Wayne, and Jackson Counties. In 1997, eight persons were killed in Jackson County's Concord Township when the pickup in which they were riding was struck by an oncoming dump truck after the driver of the pickup apparently ignored a stop sign and drove through an intersection. Some of the fatally injured passengers were riding in the bed of the pickup truck. In light of these injuries and deaths, some people believe that no one should be allowed to ride in the bed of a pickup truck, except under certain circumstances.

CONTENT

The bill would amend the Michigan Vehicle Code to prohibit an owner or operator from permitting a person ride in the open bed of a pickup truck on a highway, road, or street in a city, village, or township at a speed greater than 15 miles per hour.

This prohibition would not apply to the owner or operator of any of the following:

- A motor vehicle operated as part of a parade

pursuant to a permit issued by the governmental unit with jurisdiction over the highway or street.

- A military motor vehicle.
- An authorized emergency vehicle.
- A motor vehicle controlled or operated by an employer or an employee of a farm operation, construction business, or similar enterprise during the course of work activities.
- A motor vehicle used to transport a search and rescue team to and from the site of an emergency.

A person who violated the bill would be responsible for a civil infraction.

The bill would take effect December 31, 2000.

Proposed MCL 257.682b

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

While it may be common sense not to ride or allow others to ride in the bed of a pickup truck, it is not uncommon for people to do this. Even some parents who generally are mindful of their children's safety allow them to ride in a pickup truck bed. Passengers in the back of pickup trucks are at great risk of injury and death, which could be prevented if this practice were prohibited. The Motor Vehicle Code currently requires each driver and front seat passenger of a vehicle to wear a properly adjusted and fastened safety belt. A driver who transports a child who is at least four years of age but under 16 must secure the child in a properly adjusted and fastened safety belt,

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although an unbelted child may be seated in the back seat if all available seat belts are being used. When a pickup truck does not have an extended cab or jump seat and all safety belts in the front seat are being used, however, the driver may transport a child in the front seat without a safety belt. Children under four must be properly secured in a child restraint system. Thus, drivers of pickup trucks must adhere to the seatbelt requirements. 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 beds of pickup trucks.

Supporting Argument

Many pickup truck owners cover their truck beds with caps or camper tops. Some people assume that a cap or camper top makes it safer to ride in the bed of a truck. Passengers riding in a capped truck bed still are at risk, however, since they can be flung about the truck bed, hitting the truck and cap walls. In addition, many caps or camper tops are constructed of fiberglass, which in a collision can splinter and cut a person who is sitting in the truck bed. Thus, people should not be allowed to ride in the bed of a pickup truck whether or not it is capped.

Response: It is not clear if the bill would apply to pickups equipped with caps or camper tops since the bill refers to the "open bed" of a pickup truck, which is not defined.

Supporting Argument

According to the National Conference of State Legislatures (NCSL), 26 states plus the District of Columbia and Puerto Rico in 1997 had some type of prohibition on passengers riding in the bed of a pickup truck. Of these, 13 states banned the practice on highways and six banned it on streets. Five states had seat restraint laws, five had speed restrictions, and some states had restrictions by age. Under the bill, Michigan would join the other jurisdictions that have taken steps to protect pickup truck passengers.

Opposing Argument

The bill would not apply to certain vehicles, including military vehicles, emergency vehicles, vehicles operated during farm or construction activities, and vehicles transporting search and rescue teams. These exceptions could result in the injury or death of workers who ride in the truck beds. In addition, creating these exceptions could raise constitutional issues. For example, exempting vehicles that transport agricultural employees could constitute a denial of equal protection for them, unless there were sufficient justification for treating these workers differently.

Response: The exceptions are needed for the specified businesses in which the use of pickup trucks to transport work crews is integral to the operation of the enterprise. Furthermore, of the

states that have some type of prohibition on passengers riding in the bed of a pickup truck, a number of states permit a variety of exceptions, including for work-related or farming activities, according to information from the NCSL.

Legislative Analyst: L. Arasim

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: B. Baker