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## PROHIBIT RIDING IN BEDS OF PICKUP TRUCKS

**House Bill 4255 as passed by the House  
Second Analysis (1-13-98)**

**Sponsor: Rep. Deb Cherry  
Committee: Transportation**

### ***THE APPARENT PROBLEM:***

Riding in the back of a pickup truck, though a common practice, is widely considered to be a dangerous one. The hazards have been documented by state police data; in 1986, for example, of some 46 people 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, with 19 of those fatalities occurring in Michigan. Although New Jersey is the only state that currently has an absolute prohibition against riding in the open bed of a pickup truck, twenty-two other states (including Michigan) have some restriction on who can ride in the bed of a pickup truck. (Current law in Michigan provides that a child age four through fifteen cannot ride in the bed of a pickup truck unless there are no available seat belts in the cab of the truck.) While legislation to restrict the practice in Michigan has been introduced as far back as 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. However, there have been renewed calls for legislation to restrict riding in the backs of pickups in the wake a recent accident in Concord Township in Jackson County. In that accident, eleven people were killed, 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.

seated and wearing a properly adjusted and fastened safety belt. In

### ***THE CONTENT OF THE BILL:***

House Bill 4255 would amend the Michigan Vehicle Code to prohibit a passenger who was under 16 years old from riding in the bed of a pickup truck, or an owner or operator of a pickup truck from allowing such a passenger to ride in the bed of the pickup truck. This prohibition would apply to trucks driven or ridden on a highway or any other place in a city, village, or township that was open to the general public unless the person riding in the bed of the pickup was properly

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order to meet this exception, both the seat and the safety belt would have to be of a type and installed in a manner that met the requirements set forth in 49 C.F.R. 571.207, 571.208, and 571.210.

Furthermore, the bill would include several exceptions. The bill's restrictions would not apply to military vehicles, authorized emergency vehicles, or to vehicles used to transport search and rescue teams to and from emergency sites. In addition, parade vehicles under a permit from the governmental unit with jurisdiction over the highway or street being traveled upon, and vehicles used by an employer or employee of a farm operation, construction business, or similar enterprise during the course of work activities would also be exempt from the bill's provisions.

An owner or operator who permitted a violation of the bill's provisions would be responsible for a civil infraction.

MCL 257.682b

### **FISCAL IMPLICATIONS:**

According to the House Fiscal Agency, the bill would have no direct state fiscal implications. Indirect fiscal implications could include higher administrative costs due to increased number of citations and increased savings due to decreases in injuries as a result of accidents involving persons riding in the backs of pickups. (1-8-98)

### **ARGUMENTS:**

#### **For:**

Although it seems only common sense not to ride -- or to allow others to ride -- in the bed of a pickup truck, it is not uncommon to see people doing this. Even parents, who normally might be expected to be more careful of their children's safety, let their children 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; 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.

In addition, the bill also applies to passengers in truck beds 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, anyone riding in a capped pickup bed will be 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 the unfortunate passenger. 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 only applies to children under the age of 16 and is riddled with exceptions. The point of the bill's restrictions is to attempt to prevent people from dying in accidents because they were riding the back of a pickup truck. By applying the restrictions only to persons under the age of 16 and adding numerous exceptions the bill will do nothing to prevent most people from continuing to engage in this extremely unsafe behavior.

If, and all the evidence suggests that this is so, preventing people from riding in the beds of pickup trucks will save lives, then shouldn't the restrictions apply to everyone? Or is it the intent of the supporters of such exceptions to suggest that the deaths of people 16 years of age and older, farm workers, or construction workers would somehow be less tragic and therefore less worthy of protection than the lives of others that would be protected by the bill's provisions?

Given that the bill would apply only to those under the age of 16, many of the exceptions contained in the bill seem unnecessary. How often will children under the age

of 16 be members of a search and rescue team, or riding in military vehicles? While such exceptions might make sense if adults were restricted, they seem unnecessary given the age limit currently included in the bill. Furthermore, the exception for farm operations, construction businesses, or similar enterprises is extremely broad. A "similar enterprise" could include almost anything; perhaps mowing lawns or other yardwork would be included, for example.

In addition, some of the exceptions could raise constitutional issues. 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 is 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 - a very expensive prospect for most.

**Against:**

The bill is an overreaction to a recent horrifying accident; unfortunately, even if the bill's provisions had been law before the accident occurred it is unlikely that any lives would have been saved as a result. It is the rare law that actually prevents people from engaging in dangerous behaviors; as a result, the bill 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 and allow government to engage in limiting or allowing risky behaviors based upon flimsy evidence.

**POSITIONS:**

The Department of State Police supports the bill. (1-6-98)

The Office of Highway and Safety Planning supports the bill. (1-6-98)

The Traffic Safety Association of Michigan supports original concept of the bill. (1-8-98)

The Michigan Farm Bureau does not oppose the bill. (1-6-98)

AAA Michigan opposes the bill. (1-6-98)

The Michigan Catholic Conference opposes the bill. (1-6-98)

Analyst: W. Flory

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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.