

2019 SENATE TRANSPORTATION

SB 2129

2019 SENATE STANDING COMMITTEE MINUTES

Transportation Committee
Lewis and Clark Room, State Capitol

SB 2129
1/17/2019
30945

- Subcommittee
 Conference Committee

Committee Clerk: Liz Stenehjem

Explanation or reason for introduction of bill/resolution:

A bill relating to entries against a driving record and prohibiting a minor from riding within the open bed of a truck; relating to moving violations; and to provide a penalty.

Minutes:

2 Attachments

Chairman Rust: Called committee to order.

Senator Larson, District 30: Introduced SB 2129, see **Attachment #1** for testimony.

Senator Dwyer: I see there are some exemptions.

(2:54) Senator Larson: Yes, I maybe should have called your attention to those exemptions. Like if you're riding in a parade for example and you're riding in the back of a pickup you're probably going 10 mph at most and there is plenty of supervision everywhere. So yes, there are some exemptions to this law.

(3:35) Senator Clemens: Can we get a little background for giving an exemption for farming and ranching? I can see where most occupations could probably have a need for an exemption.

(3:57) Senator Larson: When I was talking with the Sergeant who has extensive background in traffic he especially wanted to be able to provide for those things that just in the normal course of doing your work. With farming and ranching you might be having somebody in the back of a pickup that is going from one fence line or something. I really don't know, I'm not a farmer. I don't claim to know anything agricultural. We were just trying to address any of the exemptions that we thought might really be something that there may be a legitimate reason to have to use it.

(5:09) Senator Clemens: The bill is saying that under the age of 18 in the open bed of a truck, flatbed on a highway, then it says "does not apply to a motor vehicle being driven in the course of farming." So someone could legally drive down the highway at 70 mph, if they were going for parts let's say, and someone could be in the back of their pickup, true?

(5:48) Senator Larson: I don't think that's a bad observation. I would be completely happy if you wanted to amend that out of the bill. If you feel like that's something you want to do to get it through your committee, I would not oppose that at all.

(7:07) Sergeant Tim Bleth, Traffic Section, Bismarck Police Department: See Attachment #2 for testimony.

(11:12) Chairman Rust: You state that you are not able to take any corrective action

(11:20) Sgt. Bleth: That is correct

(11:21) Chairman Rust: If the pickup were driving a little recklessly, I'm just saying, they're probably going a little faster than they should be, could you then take some action?

(11:29) Sgt. Bleth: I can take action against the violation I observe, but just having them unrestrained in a pickup box because all seats are visibly taken I can't take any action. I have to allow them to just drive by me.

(11:42) Chairman Rust: I'm thinking of, well, I'm told that back in the younger days you might have somebody in a pickup who is driving a little faster than they should goes over a railroad track, somebody's in back and gets catapulted out of it and you have yourself serious head injury or something like that. That is kind of what I was wondering about. If somebody is driving a little less cautiously then they should be even though they may be within the speed limit you still can be in such a place where you could be on the iffy side. There you could possibly cite somebody? The driver?

(12:24) Sgt. Bleth: Its possible. We have done it in the past where we cited people for care required when we've seen an unsafe act with them driving. It's very touchy though. It gets very technical in court with that law, because of the loophole that's in there that says "if all seats are taken then they're able to ride in the back of a pickup box."

(12:49) Chairman Rust: Excuse me, would you explain that?

(12:51) Sgt. Bleth: In the seatbelt law, if all seats are taken it is legal for them to ride in the back of a pickup box.

Chairman Rust: Are you saying its illegal now?

Sgt. Bleth: It's legal to ride because if all seats are taken then anybody can ride in the back of a pickup box.

Chairman Rust: What if all seats are not taken, then what?

Sgt. Bleth: Then we can take action. Then we can cite.

(13:15) Chairman Rust: You can currently cite if there are seats open in a pickup if there are people in the pickup box?

(13:28) Sgt. Bleth: That's correct, especially if it is a minor. If it's a minor, we can because we can cite under the child restraint law.

(13:37) Senator Dwyer: How do you know if they're minors?

(13:40) Sgt. Bleth: How do we know if they're minors? We have to do that all the time with any child restraint violation that we see. It's off of our observations, if they appear under the age of 18 anywhere in the vehicle, not restrained, then we have that primary law where we can stop and cite.

(14:00) Chairman Rust: So basically what you're saying right now, probably in a parade you have kids in a pickup box and a driver in the pickup, nobody else, they're illegal?

(14:13) Sgt. Bleth: Are they illegal? In parades? Well, technically they are, but it's like anything else that we do its discretionary. So parades are usually the exemption. That's why that was put in there.

Chairman Rust: Usually the Exemption, but not in current law.

(14:37) Senator Dwyer: Should it be just minors, should it maybe be for everybody?

(14:41) Sgt. Bleth: I wanted it to be everybody. That was the original thought and as I worked with Senator Larson she stated she did not think she could get the bill passed if it was with all ages. I'm not sure who she conferred with, but she was told it should probably be amended to be just minors. I wanted it to be all ages, just because it's unsafe for anybody to be unrestrained. I believe the seatbelt law should be everywhere in the vehicle should be buckled up. Not just because you're an adult that you don't have to buckle up in the backseat. Because, I've seen adults unrestrained fly up into the front-seat or roll and get ejected you can kill anybody. A 200-pound person flying through a vehicle at 40 mph or rolling will kill a child right next to them.

(15:37) Senator Clemens: How do you feel about allowing any pickup or flatbed that's involved in the course of farming, which is very broad. So are you ok with minors riding in the back of a pickup down the interstate?

(16:08) Sgt. Bleth: It's very broad. No, not at all. We were thinking about the farming exemption because I know that there's 15 year olds, 16 year olds even sometimes 12 year olds that are lifting bales and baling; putting them in the pickup boxes while they just slowly move through the field and keep stacking bales. Also as you do fence lines you ride, they might be in the back just kind of sitting on the end gate and they just go to every fencepost and checking and tightening fence posts. I know that because I've been on farms, I've assisted on farms, so that's the reason why it's on there. I do not want anybody riding on any highway in the back of a pickup box.

(16:54) Senator Clemens: So according to the bill it's not restricting someone hauling hay bales out in the hay field. This is on the highways, roads, streets, alleys, so I guess I'm just trying to understand where this would interfere with farming or ranching. If it's just limited to the highways and the roads and so forth.

(17:17) Sgt. Bleth: I don't think it would interfere, and that was my intention, I did want it to interfere with any farming activities that needed to be. The common practice of loading the bales or hauling something back there.

(17:35) Senator Clemens: So if we took out the farming exemption or ranching exemption, it really shouldn't affect their operations, correct?

(17:44) Sgt. Bleth: As long as it states on there "any highway road," then it shouldn't, no.

(17:54) Senator Patten: Going back to the hunting question, is that more common than farming?

(18:14) Sgt. Bleth: I didn't agree with it, that's why we didn't add it. I did not want it in there for that, but I know it's going to be a discussion when it comes to the floor. It's going to be brought up, because we are such a hunting oriented community around here. I've done that myself, but as vehicles have gotten better, we've gotten 4-door pickups, SUVs that can haul 8 people. That's what I'm seeing now days out there hunting. I don't see getting picked up nearly as much. If we just kept it with the minors, if it was absolutely needed that they had to haul an adult, put the minor in the front seat buckled up and the adult would have to ride in the back. That's the one reason to address it, that the minor should always be inside.

(19:16) Senator Patten: I didn't see or hear what the penalty actually is.

(19:20) Chairman Rust: \$20 and 1 point.

(19:23) Sgt. Bleth: We just went with the standard with the seatbelt laws with that.

(19:36) Senator Dwyer: This isn't really a question. I need to point out that I think the farming and ranching exemption is very important. Because numerous times we have 3 combines and 2 semis and we're moving from one field to another, it might be one mile it might be a couple miles. So we just take one vehicle, take everybody over and everybody jumps in their outfit and we move. I wouldn't want it to be a violation for those situations.

(20:08) Chairman Rust: One of the things that I see, is I do some camping, and there are lots of boaters there. You see kids get in the back of a pickup as they go to a dock to launch a boat. Now sometimes that's within the park, sometimes it's a quarter mile away.

(20:35) Sgt. Bleth: With the law, no it wouldn't and that is one exemption had not thought about. But it's still not a safe practice to allow them to ride in the back of the box of a pickup, anything can happen. It's more common seeing them when you take the boat, they actually put them in the boat and they're sitting in a seat and they're getting hauled in the boat I've seen that more than riding in the actual box of the pickup.

(21:08) Senator Patten: Along those lines, that still would be legal then, in the boat, correct?

(21:11) Sgt. Bleth: In a boat would still be legal because. I just want to make it common sense.

(21:26) Senator Clemens: I think the boat thing is covered under a law that says you can't be an occupant in a towed vehicle. Correct?

(21:38) Sgt. Bleth: That's correct, except for fifth-wheel campers and motorhomes.

Senator Clemens: You can be?

(21:49) Sgt. Bleth: In a fifth-wheel I believe you can, there are certain exemptions. It gets very technical with the fifth-wheel on what can and what can't be. I highly suggest never doing that, that is so unsafe. It's very unsafe towing something and having anybody back there.

(22:16) Senator Clemens: So then if someone was sitting in the back of a boat, that's already illegal, correct?

(22:22) Sgt. Bleth: It's illegal, but it's been kind of one of those discretionary things.

Chairman Rust: Closed hearing for SB 2129

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Minutes:

1 Attachment

Chairman Rust: I would like to look at SB 2129. I have asked Sergeant Kadrmas to come back to us. One of the things we kind of need to understand is, what is really with seatbelts and minors. After looking through the law I thought I understood it pretty well. See **Attachment #1** for information.

Sergeant Kadrmas: You are correct, each front seat occupant in the vehicle needs to wear a seatbelt and that's secondary for adults.

Chairman Rust: So we're driving down the road and David Rust has his 12-year old kid in the front seat beside him, he's a football player, he's not buckled in, you can stop me and issue me a citation because it's primary for that child but it's secondary for me?

Sgt. Kadrmas: Correct, so as a law enforcement officer I could stop you just for that child not being restrained, and then in turn say you're not wearing yours also, I can issue you a citation for yours too. But if your grandson was wearing his seatbelt and you weren't, I could not stop you.

Chairman Rust: We've got to remember that if they're a minor, it doesn't make any difference where they are in the vehicle they have to have a seatbelt on.

Sgt. Kadrmas: Correct, and since we spoke here a couple of hours ago I have reached out to several other troopers and Sgt. Bleth who spoke here yesterday and he said he reread the law as well, and that his understanding as well as mine and the other individuals I talked to is that anybody that is under the age of 18-years old needs to be in a seatbelt or a child restraint. So if they're in a pickup they cannot be riding in the back.

Chairman Rust: Currently this bill deals with minors in the box of the truck or on a flatbed. Essentially the law says that they must be in a seatbelt. So right now you can cite the driver

for having a minor in the box of a truck. What I'm a little fuzzy on is what if all the seats are taken in the vehicle.

Sgt. Kadrmas: There was some conflicting opinion, but one of the more common things when I talk to individuals was, there's nothing under 39-21-41.2 that allows that exemption when all seatbelts are taken they don't have to be buckled in. There is no exception.

Chairman Rust: They basically can't be there.

Sgt. Kadrmas: They can't be there. So if you're hosting a party with your kids and there's 15 kids you can't pile them all into one vehicle, you need to have enough vehicles to assure that each one of those under the age of 18 is buckled-up properly.

Chairman Rust: My thinking about this bill is that it is not necessary, you can't do it now. The only thing that the bill does do is provide exceptions.

Senator Clemens: Just to say it a different way, the bill we have in front of us is actually more lenient on seatbelts than current law.

Sgt. Kadrmas: Yes, you are correct.

Senator Dwyer: So did Sgt. Bleth misunderstand the law then?

Sgt. Kadrmas: Talking to him today, he reread it, (inaudible) officers when they read it I think they're just confused that there is exemption under 21-41.4 where it states that if all seatbelts are in use then those in the front seat don't have to have one. So I think that officers unintentionally carry that over to the child restraints as was the case.

Chairman Rust: Now adults obviously could ride in the back of a truck.

Sgt. Kadrmas: Correct, and a little bit of what Sgt. Bleth was telling me, I don't know where the bill came from. I know it was introduced by Senator Larson, but a lot of his concern was when they're at that age between 17 and 18-years old. You might still have some kids in high school that are 18-years old, this is occurring Friday and Saturday nights downtown. But after he read through it again, we agreed that the current law now would require those under 18-years old not to ride in the back of a pickup.

Chairman Rust: Is there a point deduction now, under current law?

Sgt. Kadrmas: I'd have to double check. I don't know off the top of my head. I can email you.

Chairman Rust: We are correct basically that this law appears to expand the ability to ride in the truck box over what the law currently is, are we not? As I see this, there is a complete turn-around in this bill. The bill as we saw it I believe was one that was going to stop something that looked dangerous from happening and in essence we already have that and now we're going to make it a little more dangerous.

Senator Patten: I can't remember if we talked about the side-by-sides and the backs of those, if they fall under the same classification, if they're licensed to drive down the highway or the road?

Senator Dwyer: That would be my understanding.

Chairman Rust: Sgt. Kadrmas let's talk about hunting again. So we have 9 people and we have a pickup with 6 seatbelts in it, we have minors and adults. My understanding is you better put the minors inside the pickup and tell them to get a seatbelt on and the adults go in the box.

Senator Clemens: I move a **DO NOT PASS**.

Senator Fors: I second the motion.

Senator Bakke: by passing SB 2129 we would be making it more legal for kids to be unbuckled than if we just leave it as it is, is that correct?

Chairman Rust: Well, let's suppose I'm a farmer and I have land at exit 93 and I also have land at exit 100 right beside the interstate. I believe that this bill would allow you if you so deemed you could have your children get in the pickup box, you could get on the interstate and drive 75 mph from exit 93 to exit 100 because of this bill but you would not be legal under current law.

Senator Patten: The other components here under exemptions are parades, military or civil defense drills or exercises and medical emergencies.

Chairman Rust: They use some discretion. They're not going to cite somebody in a parade, but are they legal? No, probably not. (shared personal experience)

Roll Call Vote Taken: DO NOT PASS motion passes **5-1-0**.

Date: 1/18/19
Roll Call Vote # /

**2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO: 2129**

Senate Transportation Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar

Other Actions: Reconsider _____

Motion Made By Clemens Seconded By Fors

Senators	Yes	No	Senators	Yes	No
Senator Rust - Chairman	✓		Senator Bakke	✓	
Senator Clemens - Vice Chairman	✓				
Senator Dwyer	✓				
Senator Fors	✓				
Senator Patten		✓			

Total (Yes) 5 No 1

Absent 0

Floor Assignment Rust

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2129: Transportation Committee (Sen. Rust, Chairman) recommends **DO NOT PASS** (5 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SB 2129 was placed on the Eleventh order on the calendar.

2019 TESTIMONY

SB 2129

Mr. Chairman and members of the Transportation committee, for the record my name is Diane Larson and I represent District 30 in Bismarck,. The problem of juveniles riding in the back of a pickup truck was brought to my attention by a Police Sgt. At the Bismarck Police Department who is also here to explain the need for this legislation.

The driving record portion of the bill is on page one, line 22 where it specifies 1 point on the record. The penalty portion is on page one line 12 and 24 where it refers to section 3 of the act. This includes a \$20.00 fine The code reviser will number this section once the various bills are passed this session.

Mr. Chairman and members of the Transportation committee for the record, my name is Tim Bleth, I am a Sergeant with the Bismarck Police Department and assigned to the Traffic Section. I have been in law enforcement for over 20 years. With my statement, I have attached my CV to assist in explaining my experience and training.

I had a discussion with Senator Larson a couple of years ago about the need of having a law against persons riding in the back of a pick-up box. With all my training in traffic safety, this particular lack of law has bothered me for years. Allowing someone unrestrained in the back of a pick-up box is a tragedy waiting to happen. Every time I witness this act which I am not able to take corrective law enforcement action against, makes me sick to my stomach as I know and understand the injuries or deaths which could occur if the vehicle was involved in a crash. With no law in place, all I can do is pray for the occupants that they will be safe.

I understand some or most of us grew up riding in the back of pick-up boxes. I know I did as a kid and thought it was the greatest thrill. I did not know better back then and either did my parents. I was raised during a time of no seatbelt use and there was no such thing as child restraint systems. We have learned and have been educated over the years of how unsafe it is to not be restrained.

To have child restraint and seatbelt laws, but have no laws against unrestrained occupants in the back of a pick-up box because there is a loophole in the seatbelt law does not make sense to me. How can we make juveniles and children buckle up all the time, but if all seats are taken within the vehicle, they then can ride in the back of the box unrestrained. It makes no sense and to me this law is a no brainer.

It is our responsibility to make sure minors are safe. As a law enforcement officer, I take an oath to protect and serve, but I am unable to take action to protect those riding unrestrained in a pick-up box. I tried to come up with all the exemptions needed to ensure the law would pass as this law was originally drafted for all ages to not be able to ride in the box of a pick-up.

One exemption which I thought of, but was not included was during the course of hunting. In North Dakota, it used to be and probably still is a common practice to drop off and pick up hunters to begin or end a drive for pheasants or deer. I am a hunter and have done this in the past. Because this final draft is only for minors not being able to ride in the back of a pick-up box, this practice still would be permissible for adults. As adults, it is our responsibility to make sure minors are protected and they should ride inside a vehicle restrained at all times, even during the course of hunting.

I believe it is unsafe for anybody to be riding in the back of a pick-up box on a roadway, however at this time I am asking you to assist in passing a law against allowing minors to ride in the back of a pick-up box. We have an obligation to protect our children and this is one more step towards that goal which goes along with the Vision Zero campaign in this state.

Mr. Chairman and members of the Transportation committee, thank you for your time and your service, it is greatly appreciated.

SERGEANT TIMOTHY BLETH

Bismarck Police Department

BISMARCK, NORTH DAKOTA

(701)223-1212, ext. 1915 - tbleth@bismarcknd.gov

Experience:

Bismarck Police Department, 700 S. 9th St, Bismarck, ND 58504

Traffic Sergeant ▪ March 2017 – present

▪ I supervise six Traffic Investigators and five civilians in Animal Control and Parking Enforcement to ensure proper policy and procedures are followed. I ensure follow up is completed on serious injury and fatal crashes along with completing the crash reconstruction diagram and report. I assign follow up investigation for hit and run reports, bus violations and special traffic enforcement assignments. I manage the traffic extra overtime enforcement grants which includes DUI, Occupant Protection, Distracted Driving and Minor in Consumption enforcement. I complete evaluations on officers and civilian employees. I also enforce ND criminal and traffic laws within the City of Bismarck, Burleigh County. I am also the Field Inspector for the department's Intoxilyzer 8000 breath alcohol machine.

Traffic Investigator ▪ 2009 – March 2017

▪ I investigated over 3000 crashes which occurred within the City of Bismarck. I investigated and performed follow up on hit and run crashes. I reconstructed serious and fatal crashes utilizing the Total Station and the Crash Zone CAD program. I assisted Investigations with crime scenes by utilizing the Total Station equipment to measure scenes and complete diagrams on the Crime Zone CAD program. I enforced ND criminal and traffic laws within the City of Bismarck, Burleigh County. I assisted with the FTO program by training new officers.

Patrol Officer ▪ January 2006 – 2009

▪ I enforced ND criminal and traffic laws within the City of Bismarck, Burleigh County. I was also a FTO and assisted in training new officers.

Current Supervisor: Lt. Jeff Solemsaas

Experience continued:

Mandan Police Department, 201 1st Ave NW, Mandan, ND 58554

Patrol Officer ▪ May 1999 – December 2005

▪ I was hired as an Animal Control and Parking Enforcement Officer and moved to a Patrol Officer in the beginning of the year 2000. I enforced ND criminal and traffic laws within the City of Mandan, Morton County. I also became a FTO (Field Training Officer) and assisted in training new officers. I also served as the traffic grants coordinator for the department in which I managed DUI, Seatbelt and Minor in Consumption overtime enforcement grants. I was also trained as a motorcycle patrol officer and performed patrol duties with a police motorcycle. I was also a member of the Mandan Police Department SWAT team from 2000 to 2003 until the area departments combined to become the West Dakota SWAT team in 2003. I continued on being a member of the West Dakota SWAT team even after I left the Mandan Police Department and started working for the Bismarck Police Department.

Supervisor: Lt. Richard Schaff (retired 2016)

Adams County Sheriff's Department, 604 Adams Ave, Hettinger, ND 58639

Deputy Sheriff ▪ July 1998 – May 1999

▪ I enforced ND criminal and traffic laws within Adams County.

Supervisor: Sheriff Eugene Molbert (no longer current Sheriff)

Education:

▪ Dickinson State University – Dickinson, North Dakota

-Attended in 1995-1997, over 60 credit hours achieved

▪ UND-Lake Region Peace Officer Academy, Devils Lake, North Dakota

-Graduated May 1998

Training/Activities (Not All Inclusive):

- Over 2000 hours of certified training from 1998 to present
- Reid Technique of Interview and Interrogation, 2001
- Homicide Investigation, 2001
- Advanced vehicle stops (Criminal Interdiction), 2001
- MOI Certified Instructor, 2003
- Bureau of Criminal Investigation-Criminal Investigations courses 1 &2, 2004
- SFST Instructor, 2006
- Traffic Occupant Protection Strategies Instructor, 2010
- Child Passenger Safety Technician, 2010
- Defensive Driving Instructor, 2012
- National Traffic Incident Management Instructor, 2014
- Technical and Advanced Crash Investigation (Collision Forensics Solutions), 2008
- Crash Reconstruction (Collision Forensics Solutions), 2009
- Crime and Crash scene Forensic- Total Station & CAD (Forensic Reconstruction Services), 2010
- Vericom computer brake meter training, 2011
- Motorcycle Crash Reconstruction, Northwestern University, 2015
- Forensic Mapping, ND Highway Patrol, 2016
- SWAT (monthly training), 2000-2011(retired October 2011)
- Basic and Advanced Sniper course, 2007
- SWAT Sniper Supervisor course, 2008 (Sniper Team Leader from 2007 to 2011)
- High Risk Event Planning, 2009
- Intoxilyzer 8000 Field Inspector, 2018

39-21-41.1. Safety belts. 1. Every passenger car manufactured or assembled after January 1, 1965, must be equipped with lapbelt assemblies for use in the driver's and one other front seating position. 2. All motor vehicles manufactured after January 1, 1968, must be equipped with any lapbelt or shoulder belt required at the time the vehicle was manufactured by standards of the United States department of transportation. Nothing in this subsection affects the requirement in subsection 1 for a lapbelt in the driver's seating position. 3. The department may except specified types of motor vehicles or seating positions within any motor vehicle from the requirements imposed by subsections 1 and 2 when compliance would be impractical. 4. No person may install, distribute, have for sale, offer for sale, or sell any belt for use in motor vehicles unless it meets current minimum standards and specifications of the United States department of transportation. 5. Every owner shall maintain belts and assemblies required by this section in proper condition and in a manner that will enable occupants to use them. 39-21-41.2. Child restraint devices - Evidence. 1. If a child, under eight years of age, is present in a motor vehicle, that motor vehicle must be equipped with at least one child restraint system for the child. However, a child under the age of eight who is at least fifty-seven inches [1.45 meters] tall is not required to use a child restraint system, but must be correctly buckled in a safety belt. The child restraint system must meet the standards adopted by the United States department of transportation for those systems [49 CFR 571.213]. While the motor vehicle is in motion, the child must be properly secured in the child restraint system in accordance with the manufacturer's instructions. While the motor vehicle is moving, each child of eight through seventeen years of age who is in the motor vehicle must be in an approved child restraint system in accordance with the manufacturer's instructions or correctly buckled in a safety

belt. Use of child restraint systems and safety belts is not required in motor vehicles that were not equipped with safety belts when manufactured. If a child is being transported in an emergency situation, this section does not apply. Page No. 14 2. Violation of this section is not, in itself, evidence of negligence. The fact of a violation of this section is not admissible in any proceeding other than one charging the violation. 39-21-41.3. Use of safety belts required in certain motor vehicles - Enforcement. Deleted by R.M. December 5, 1989. 39-21-41.4. Use of safety belts required in certain motor vehicles - Enforcement - Evidence. Subject to the limitations of this section and section 39-21-41.5, a driver may not operate upon a highway a motor vehicle designed for carrying fewer than eleven passengers, which was originally manufactured with safety belts unless each front seat occupant is wearing a properly adjusted and fastened safety belt. This section does not apply to a child in a child restraint or safety belt in accordance with section 39-21-41.2; to drivers of implements of husbandry; to operators of farm vehicles as defined in subsection 5 of section 39-04-19; to rural mail carriers while on duty delivering mail; to an occupant with a medical or physically disabling condition that prevents appropriate restraint in a safety belt, if a qualified physician, physician assistant, or advanced practice registered nurse states in a signed writing the nature of the condition and the reason restraint is inappropriate; or when all front seat safety belts are in use by other occupants. A physician, physician assistant, or advanced practice registered nurse who, in good faith, provides a statement that restraint would be inappropriate is not subject to civil liability. A violation for not wearing a safety belt under this section is not, in itself, evidence of negligence. The fact of a violation of this section is not admissible in any proceeding other than one charging the violation. 39-21-41.5. Secondary enforcement. A peace officer may not issue a citation for a

violation of section 39-21-41.4 unless the officer lawfully stopped or detained the driver of the motor vehicle for another violation. Drivers' license points may not be assessed against any person for violation of section 39-21-41.4. 39-21-42. Certain vehicles to carry flares or other warning devices. 1. No person may operate any motor truck, passenger bus, or truck tractor, or any motor vehicle towing a housetrailer, upon any highway outside the corporate limits of municipalities at any time from a half hour after sunset to a half hour before sunrise unless there is carried in the vehicle the following equipment except as provided in subsection 2: a. At least three flares or three red electric lanterns or three portable red emergency reflectors, each of which must be capable of being seen and distinguished at a distance of not less than six hundred feet [182.88 meters] under normal atmospheric conditions at nighttime. No flare, fusee, electric lantern, or cloth warning flag may be used for the purpose of compliance with the requirements of this section unless it is of a type which has been submitted to the department and approved by it. No portable reflector unit may be used for the purpose of compliance with the requirements of this section unless it meets the requirements of the national highway traffic safety administration motor vehicle safety standard number 125 or unless it is so designed and constructed as to include two reflecting elements one above the other, each of which must be capable of reflecting red light clearly visible from all distances within six hundred feet [182.88 meters] to one hundred feet [30.48 meters] under normal atmospheric conditions at night when directly in front of lawful lower beams of headlamps, and unless it is of a type which has been submitted to the department and approved by it. b. At least three red-burning fusees unless red electric lanterns or red portable emergency reflectors are carried. c. At least two red-cloth flags, not less than twelve inches [30.48 centimeters] square, with standards to support such flags. Page