



South Dakota Legislative Research Council

Issue Memorandum 94-29

Referred Law 2 -- Mandatory Use of Safety Belts

Introduction

This year the Legislature passed Senate Bill 63, which requires the use of safety belts by the front seat occupants of a passenger vehicle. Senate Bill 63 was to go into effect on July 1, 1994. However, in early June a petition with sufficient signatures was filed with the Secretary of State to have this law referred to a vote of the people in the November general election. The issue of mandating the use of seat belts will now appear on the ballot as Referred Law 2. This memorandum briefly reviews the history regarding safety belt legislation in the state, outlines the provisions of the pending seat belt law, and reviews some of the arguments for and against this referred law.

Background Information

The mandatory use of seat belts in motor vehicles has been an issue before the South Dakota Legislature for the last decade. With the exception of 1991, a bill to require the front seat passenger use of seat belts had been introduced every year in South Dakota since 1985. All attempts at such a safety belt law had failed to pass the Legislature, until this year. This year's attempt, Senate Bill 63, did pass the Legislature by slim margins in both the Senate and the House of Representatives. In the Senate the bill passed with the minimum majority of 18 aye votes and in the House was passed with 38 aye votes. The bill was signed by the Governor on February 25.

The primary impetus for seat belt legislation was a U.S. Department of Transportation rule adopted in 1984 which would require automobile manufacturers to install passive restraints--either air bags or automatic seat belts--in new automobiles to reduce the number of traffic deaths. This rule, however, was subject to withdrawal if states comprising at least two-thirds of the nation's population passed a mandatory safety belt law. As a result, the automobile industry promoted mandatory safety belt legislation in state legislatures across the nation, including South Dakota. By the end of 1987 mandatory seat belt laws had been passed in over thirty states, but not in South Dakota.

Congress then passed the Intermodal Surface Transportation Efficiency Act of 1991. Part of that legislation required the secretary of the U.S. Department of Transportation to adopt a rule requiring automobile manufacturers to install passive restraint systems. This legislation preempted the department's previous actions. Another part of that act provided a penalty to those states which had not adopted a safety belt law and a motorcycle helmet law. The penalty was a transfer of federal funds for highway construction to highway safety education programs. For South Dakota this meant, if such laws were not in effect by September 30, 1993, one and one-half percent (about \$1.3 million) of construction funds were to be transferred and, if such laws were not in effect by September 30, 1994, three percent

(about \$2.6 million) of construction funds were to be transferred. This penalty served as the impetus for further seat belt legislation, including legislation introduced on behalf of the Governor in 1992 and 1993.

Even if the safety belt law is approved by voters in November, the state still faces the transfer of three percent of its federal highway construction funds to highway safety education programs each year until the state adopts a motorcycle helmet law, since both laws have to be adopted to avoid the penalty.

Provisions of the Safety Belt Law

The safety belt law approved by the 1994 Legislature requires every operator and front seat passenger of a passenger vehicle operated on a public highway to wear a properly adjusted and fastened seat belt when the vehicle is moving forward. The legislation also requires the driver to see that all front seat passengers under age of eighteen are wearing a seat belt or are in a child passenger restraint system. A passenger vehicle as defined by the law includes passenger cars, station wagons, vans, taxicabs, emergency vehicles, motor homes, trucks, and pickups. The term does not include motorcycles, motor bikes, passenger buses, school buses, or farm tractors and implements of husbandry used primarily for agricultural operation.

Exemptions from the Safety Belt Law

South Dakota's safety belt law would not apply to the following:

- < The occupant of a vehicle manufactured before September 1, 1973;

- < The occupant of a vehicle who possesses a written statement from a doctor that the person is unable for medical reasons to wear a seat belt;
- < The occupant of a vehicle not equipped with seat belts because federal law does not require the vehicle to have seat belts; or
- < Any rural carrier of the United States postal service while delivering mail and any person delivering newspapers and periodicals on a home delivery route.

Enforcement and Penalties

Enforcement of the safety belt law in South Dakota is to be accomplished as a secondary action. This means a person has to be detained for an unrelated violation before the person can be cited for not using a seat belt. If the law is approved in November, a violation of the requirement to wear a seat belt in South Dakota will be a petty offense beginning January 1, 1995. A petty offense carries a twenty-dollar fine.

A violation will not be considered a moving traffic offense in this state and will not count as points against a person's driving record. Furthermore, failure to comply with the seat belt law cannot be used as evidence in any other criminal litigation or in any civil litigation on the issue of injuries or on the issue of mitigation of damages.

The Arguments

The reduction of motor vehicle traffic deaths and injuries is the primary argument made by the proponents of the seat belt legislation. They assert that seat belts are the single most

effective means for occupants of a motor vehicle to reduce the risk of death and serious injury in a motor vehicle crash. They point to the fact that a high percentage of fatal victims of motor vehicle accidents each year (over 80% in South Dakota each year) were not wearing seat belts. Many of these deaths, they claim, could have been avoided if the persons had been wearing seat belts. A mandatory seat belt law, they contend, would result in higher seat belt usage as it has done in other states. They also contend that the average hospital bill for those injured but not wearing a safety belt is about three times higher than the average bill for those injured but wearing a safety belt. These are costs that are passed on to everyone through higher insurance rates and higher medical rates.

In addition, because of the federal penalty, proponents point out that failure to pass a seat belt law will result in fewer dollars for highway construction; dollars which are badly needed to improve highways. Proponents also point out that South Dakota is one of only a handful of states which has not yet adopted a mandatory seat belt law and that South Dakota should not be the last. Currently, only the states of Maine, New Hampshire, and South Dakota have no seat belt law.

The freedom of choice is a major argument used by the opponents of mandatory safety belt legislation. Opponents maintain there is currently absolutely nothing preventing a person from wearing a seat belt. Although some opponents do not necessarily oppose the use of seat belts they believe that the decision to wear seat belts should be an individual choice and should not be mandated by the government. They cite cases where the use of seat belts contributed to the cause of death or to serious injuries as reasons seat belt use should not be mandated. Some opponents also claim there is no clear evidence of

reductions in overall injuries and fatalities due to mandatory safety laws in other states.

Opponents point out that the transfer of federal highway construction funds will take place even if the seat belt law is approved, since the state does not have a mandatory helmet law. They assert that the money would be better spent on safety education. More education about the benefits of wearing seat belts and better efforts at improving driver skills through driver education would do more to reduce motor vehicle traffic deaths and injuries in the long run, according to the opponents.

Conclusion

After a decade of debate, the Legislature this year finally approved a mandatory safety belt law and that law has now been referred to a vote of the people as Referred Law 2. The law only applies to the driver and the front seat passengers of a passenger vehicle. Enforcement of the law must be a secondary action and the penalty will be twenty dollars. It will now be up to the voters to weigh the pros and cons of the mandatory seat belt debate before they cast their votes on Referred Law 2.

This issue memorandum was written by David L. Ortbahn, Principal Research Analyst for the Legislative Research Council. It is designed to supply background information on the subject and is not a policy statement made by the Legislative Research Council.
