



South Dakota Legislative Research Council

Issue Memorandum 94-21

SAFETY BELT LAWS

Introduction

The mandatory use of seat belts in motor vehicles has been an issue before the South Dakota Legislature for the last decade. 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 and was signed by the Governor. However, a petition with sufficient signatures was filed with the Secretary of State in early June to have this law referred to the November general election. The seat belt issue will now be settled by a vote of the people. This memorandum briefly reviews the history regarding safety belt legislation in the state and outlines the provisions of the pending seat belt law. This memorandum also contains information which compares South Dakota's proposed safety belt law to the safety belt laws of the other states.

Background Information

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. The primary impetus for this legislation in the beginning 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. This rule was adopted 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 \$1.1 million) of construction funds were to be transferred and, if such laws were not in effect by September 30, 1994, three percent (about \$3 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.

Requirements of the Safety Belt Law

The safety belt law approved by the 1994 Legislature in Senate Bill 63 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 operations.

Thirty-six states are like South Dakota in requiring the driver and front seat passengers to fasten their seat belts. Eleven states, including the states of Montana and Wisconsin, require all passengers to fasten their seat belts. Only the states of Maine and New Hampshire do not have laws or laws pending to require the use of seat belts.

Information regarding the vehicles and the seats covered by the law for all the states which have a safety belt law is contained in the enclosed table.

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.

These provisions are very similar to exemptions found in the other states. Many states, including Iowa and Minnesota, have a specific exemption for a person who is actively engaged in work that requires the person to alight from and reenter the vehicle at frequent intervals, if the vehicle does not exceed twenty-five miles per hour between stops. That exemption would cover more occupations than South Dakota's law covers. Minnesota also exempts persons driving or riding in a pickup truck while engaged in normal farming work or activity.

Enforcement

Enforcement of the safety belt law in South Dakota is to be accomplished as a secondary action. This means a person has to be pulled over for an unrelated violation before the person can be cited for not using a seat belt. Thirty-eight other states also have secondary enforcement of their safety belt laws. In nine states it is considered a primary violation and a motorist can be specifically pulled over and cited for not using a seat belt. The states of Iowa and Wisconsin are two states in South Dakota's region where a violation is a primary violation.

KEY PROVISIONS OF SAFETY SEAT BELT USE LAWS **JULY 1994**

State	Effective Date	Enforcement	Fine	Seats	Vehicle and Coverage by Law
Alabama	July 18, 1991	Secondary	\$25	Front	Passenger car front model year 1965.
Alaska	September 12, 1990	Secondary	\$15	All	Motor vehicle. Over age 16.
Arizona	January 1, 1991	Secondary	\$10	Front	Passenger car and van from model year 1972.
Arkansas	July 15, 1991	Secondary	\$25	Front	Passenger car, truck, and van.
California	January 1, 1986	Primary	\$20	All	Passenger car, van, and small truck.
Colorado	July 7, 1987	Secondary	\$10	Front	Passenger car, van, taxi, ambulance, RV, and small truck.
Connecticut	January 1, 1986	Primary	\$37	Front	Passenger car, van, and truck.
Delaware	January 1, 1992	Secondary	\$20	Front	Passenger car.
Florida	July 1, 1986	Secondary	\$20	Front	Motor vehicle and pickup truck.
Georgia	September 1, 1988	Secondary	\$15	Front	Passenger car to carry under 10 people.
Hawaii	December 16, 1985	Primary	\$20	Front	Vehicle registered in state.
Idaho	July 1, 1986	Secondary	\$5	Front	Motor vehicle under 8 thousand pounds.
Illinois	July 1, 1985	Secondary	\$25	Front	Motor vehicle to carry under 10 people and RV.
Indiana	July 1, 1987	Secondary	\$25	Front	Passenger car, bus, and school bus.
Iowa	July 1, 1986	Primary	\$10	Front	Passenger car, van, and truck 10 thousand pounds or less.
Kansas	July 1, 1986	Secondary	\$10	Front	Passenger car and van.
Kentucky	July 13, 1994	Secondary	\$25	All	Motor vehicles from model year 1965.
Louisiana	July 1, 1986	Secondary	\$25	Front	Passenger car, van, and truck under 6 thousand pounds.
Maryland	July 1, 1986	Secondary	\$25	Front	Passenger/multi-purpose vehicle, truck, tractor, and bus.
Massachusetts	February 1, 1994	Secondary	\$25	All	Passenger car, van, and truck.
Michigan	July 1, 1985	Secondary	\$25	Front	Motor vehicle.
Minnesota	August 1, 1986	Secondary	\$25	Front	Passenger car, pickup truck, van, and RV.
Mississippi	March 20, 1990	Secondary	\$25	Front	Passenger car and van.
Missouri	September 28, 1985	Secondary	\$10	Front	Passenger car to carry under 10 people.
Montana	October 1, 1987	Secondary	\$20	All	Motor vehicle.
Nebraska	January 1, 1993	Secondary	\$25	Front	Motor vehicle.
Nevada	July 1, 1987	Secondary	\$25	All	Passenger car under 6 thousand pounds.
New Jersey	March 1, 1985	Secondary	\$20	Front	Passenger car.
New Mexico	January 1, 1986	Primary	\$25	Front	Motor vehicle under 10 thousand pounds. Over age 16.
New York	December 1, 1984	Primary	\$50	Front	Passenger car.
North Carolina	October 1, 1985	Primary	\$25	Front	Passenger motor vehicle to carry under 10 people.
North Dakota	July 14, 1994	Secondary	\$20	Front	Motor vehicle.
Ohio	May 6, 1986	Secondary	\$20	Front	Passenger/commercial car, van, tractor, and truck.
Oklahoma	February 1, 1987	Secondary	\$10	Front	Passenger car, van, and pickup truck.

Oregon	December 7, 1990	Primary	\$50	All	Passenger car.
Pennsylvania	November 23, 1987	Secondary	\$10	Front	Passenger car, truck, and motor home.
Rhode Island	June 18, 1991	Secondary	No	All	Passenger car. Over age 12.
South Carolina	July 1, 1989	Secondary	\$10	Front	Passenger car, van, truck, RV and taxi.
South Dakota*	January 1, 1995	Secondary	\$20	Front	Passenger car, van, truck, RV and taxi.
Tennessee	April 21, 1986	Secondary	\$25	Front	Vehicle under 8.5 thousand pounds.
Texas	September 1, 1985	Primary	\$25	Front	Passenger car, van, and certain trucks.
Utah	April 28, 1986	Secondary	\$25	Front	Motor vehicle.
Vermont	January 1, 1994	Secondary	\$10	All	Passenger car.
Virginia	January 1, 1988	Secondary	\$25	Front	Motor vehicle.
Washington	June 11, 1986	Secondary	\$25	All	Passenger/multi-purpose vehicle, bus, and truck.
West Virginia	September 1, 1993	Secondary	\$25	Front	Passenger car. Age 18 and under in rear seat.
Wisconsin	December 1, 1987	Secondary	\$10	All	Motor vehicle.
Wyoming	June 8, 1989	Secondary	No	Front	Passenger car, van, and pickup truck.
* Suspended pending November 8, 1994, general election			Source: National Highway Traffic Safety Administration		

Penalties

A violation of the requirement to wear a seat belt in South Dakota will be a petty offense beginning January 1, 1995, if the law is approved in November. A petty offense is a twenty-dollar fine. Fines in other states range from five dollars in Idaho to fifty dollars in the states of New York and Oregon. The states of Rhode Island and Wyoming have no fines for a violation. In Wyoming the fines for all motor vehicle violations are reduced by five dollars if the officer notes that the person had complied with the seat belt law.

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. Similar provisions are found in most other states, especially the states where enforcement is a secondary action.

The enclosed table shows the fines imposed by the various states and whether the enforcement of the state's safety belt law is a primary or a secondary action.

Conclusion

The safety belt law which was approved by the 1994 Legislature and the Governor and will be before the people in November is very similar to laws already adopted in forty-seven other states. 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. Even if the safety belt law is approved in November, the state 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.

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.
