

MINUTES OF THE MEETING
PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE
MONTANA STATE SENATE

FEBRUARY 4, 1985

The meeting of the Senate Public Health, Welfare and Safety Committee was called to order by Chairman Judy Jacobson on Monday, February 4, 1985 at 1:00 in Room 410 of the State Capitol.

ROLL CALL: All members were present. Karen Renne, staff researcher, was also present.

There were many, many visitors in attendance. See attachments.

ACTION ON SENATE BILL 174: Senator Bruce Crippen of Billings, is the chief sponsor of SB 174. This is an act to generally revise the law regulating the practice of optometry and the licensure of optometrists.

Karen explained the amendments which were proposed by Senator Jacobson.

A motion was made by Senator Towe that the amendments which were proposed by the Board of Optometry be adopted. The motion carried. Senator Towe stated that these amendments are very appropriate.

A motion was made by Senator Lynch to adopt the Jacobson amendments. Motion carried.

A motion was made by Senator Towe that the amendments which were proposed by the optometrist. Motion carried.

A motion was made by Senator Lynch that SB 174 DO PASS AS AMENDED. Motion carried with all present voting "yes" with the exception of Senator Stephens who voted "no".

ACTION ON HOUSE BILL 141: House Bill 141 introduced by Representative Rex Manuel is an act to delete the requirement that the Department of Health and Environmental Sciences perform syphilis tests without charge; and providing an immediate effective date.

A motion was made by Senator Hager that HB 141 BE CONCURRED IN.

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Senator Stephens stated that the State of Montana is performing an important service for the people of this state. The charge is being done at the physicians office.

Senator Hager stated that this service would probably not be charged at the Planned Parenthood Centers.

A Roll Call Vote was taken on the motion of Senator Hager. See attachments. Motion carried with all present voting "yes" and Senators Himsl and Towe voting "no".

ACTION ON HOUSE BILL 142: House Bill 142 introduced by Representative Rex Manuel is an act to conform the time limit within which a premartial serological test performed outside of Montana must be performed to that required for such tests performed within Montana, and providing an immediate effective date.

A motion was made by Senator Lynch that HB 142 BE CONCURRED IN. Motion carried.

Senator Lynch will carry this bill on the floor of the Senate.

CONSIDERATION OF SENATE BILL 211: Senator Dorothy Eck of Gallatin County, the chief sponsor of SB 211, gave a brief resume of the bill. This bill is an act requiring the use of seatbelts by occupants of the front seat of a motor vehicle; providing a penalty; providing that evidence of compliance or noncompliance is admissible in civil litigation and providing a termination date.

Senator Eck stated that this bill is an act to help contain the high costs of Medicaid services and high costs of health care. Wearing seatbelts save lives and stops alot of serious injuries. It is not difficult to learn to wear seatbelt, and it does not take very long to put them on. SB 211 is a preventive health care bill. This bill should be amended to conform with federal regulations.

The perennial argument against mandatory safety belts use is the alleged infringement on an individual's right to choose to use a seat belt or not. There is no such right to operate a motor vehicle. First, operation of a motor vehicle and the associated use of the driving system, whether it be related to the driver, vehicle or environment, have always been regulated by government through driver licensing, traffic laws, limited access highways, vehicle standards, mandatory insurance, and many other requirements. The benefits of available safety belts give overriding evidence of the efficacy of requiring use as a crash avoidance and injury control measure.

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Senator Eck stated that this bill has a sunset provision which would make the bill reviewed again in the next session. She asked the committee to give the bill a quick Do Pass.

Mike Greely, attorney General for the State of Montana, stood in support of the bill. Mr. Greely handed in written testimony for the record. See attachments.

Larry Tobiason, representing the Montana Automobile Association, stood in support of the bill. He handed in written testimony for the further consideration of the Committee. See attachments.

David Lackman, representing the Montana Public Health Association, stood in support of the bill. He stated that this is a preventive bill. Fatalities and injuries on our highways must be reduced. The provisions in this bill contribute to that effort. Secretary of Transportation, Dole, threatens to rescind the rule requiring manufacturers to install passive restraints if 2/3 of the states enact mandatory seat belt bills similar to New York's. However, SB 211 does not fall into that category. Passive restraints are the ultimate solution to the problem. He asked the committee to delete the \$500,000 liability insurance escape clause.

Al Goke, representing the Highway Traffic Safety Department, stood in support of the bill. He handed in a "Safety Belt Fact Sheet". He stated that there is sufficient money and funds available to do this. See attachments.

Randy Gray, representing the State Farm Insurance Company of Great Falls, stood in support of the bill. He stated that his company has been alarmed by the number of deaths and injuries occurring on our nation's highways, not only because of the impact on our company financially, but more importantly because of the extent of human suffering involved which we witness on a daily basis. Mr. Gray handed in written testimony for the record. See attachments.

Bonnie Tippy, representing the Alliance of American Insurers, stood in support of the bill. 52,000 American die and another 2,000,000 are injured in car accidents each year according to the National Safety Council. Auto crashes are second only to cancer in their economic burden to society. In 1980, the cost was \$39.3 billion. We pay this huge bill in many ways: increased expenses for insurance, medical services, and law enforcement, as well as lost savings, productivity, and human suffering. Seat Belts would dramatically decrease this costly burden. Mrs. Tippy handed in written testimony for the record. See attachments.

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Tom Harrison, representing the Montana Automobile Dealers Association, stood in support of the bill. He stated that this bill if passed should comply with the federal regulations.

Bob Moon, representing the state Department of Health and Environmental Sciences as a Health Education Consultant with the Division of Health Services and Medical Facilities, stood in support of the bill. He stated that from a public health viewpoint, mandatory seat belt usage could decrease Montana fatalities by at least 33%. It entails no known risks. People generally believe that buckling up is a good practice. However, only one third of Montanans use their seatbelts regularly.

Several studies have shown that health education alone does not increase seatbelt use. Regulation is much more effective. Prior to legislation requiring seatbelt use, under one third buckled up. Two months after regulation, over 70% claimed to use their seatbelts. Fatalities dropped by 10 to 20 %. The magnitude of the problem mandates more effective intervention and intervention mandates monitoring, so that we can know if we are making progress. Mr. Moon handed in written testimony for the Committee to consider further. See attachments.

Karl England, representing the Montana Trial Lawyers Association, stood in support of the concept of the bill. He offered an amendment which his association felt would improve the bill. See attachments. He also handed in written testimony for the record. See attachments.

Jerome Loendorf, representing the Montana Medical Association, stood in support of the bill. He stated that this bill has merit. Few traffic safety counter measures have the same potential payoff in terms of lives saved, injuries reduced, and savings to the public.

Shirley Thennis, representing the Montana Nurses Association, stood in support of the bill.

Colonel Bob Landon, chief of the Highway Patrol, stood in support of the bill. He stated that this Committee has the ability to save lives of fellow Montanans with this bill. The attitude of the people needs to be changed. He handed in a \$55 bill. He explained how the Highway Patrol uses this token bill when stopping people on the roadways of our state. He then commends those people wearing their safety belts and also driving 55 mph. He felt that it was very important to keep the bill simple. All we want to do is save lives, he stated.

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Secretary of Transportation, Dole, has recently rules that all 1990 model years cars must have automatic restraints such as air bags or automatic seat belts. The only way out of this unfortunate and costly requirement rests with state legislatures; if legislatures with jurisdiction over two thirds of American's population enact mandatory seat belt laws and enforce those laws before the end of 1989, the rule of air bags and automatic seat belts will not go into effect. Legislatures can spare the people the additional consumer cost of air bags and other devices of questionable effectiveness. This is one of the most important issues of the session. He urged the Committee to give the bill favorable consideration.

Kimberly Kradolfer, an assistant attorney general, stood in support of the bill. She stated this bill would help Montana comply with the federal regulations.

With no further proponents, the chairman called on the opponents. Hearing none, the meeting was opened to a question and answer period from the Committee.

Senator Hager asked about cars without seat belts.

Senator Hager asked Mr. Gray from the insurance company what would insurance rates do, would they in fact, go up for cars without seat belts. Mr. Gray replied that they, in fact, would have their rates go up for cars without seat belts.

Senator Stephens asked Mr. Gray if passage of this bill would have the insurance rates go down. Mr. Gray agreed that passage of this bill would help the insurance rates to go down.

Senator Towe commented to Mr. Greely that it does not make sense to not be in compliance with the federal government with this bill.

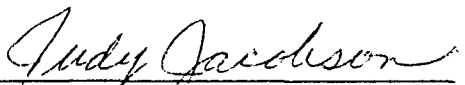
Senator Towe addressed Section 4 of the bill, which deals with evidence admissible without presentation of negligence.

Senator Eck closed. She stated that perhaps Section 4 should be eliminated. She asked the Committee to please pass the bill and do not get hung up on the details.

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ANNOUNCEMENTS: The next meeting of the Senate Public Health Committee will be held on Wednesday, February 6, 1985 in Room 410 of the State Capitol to consider Senate Bills 227, 254, and also House Bill 182.

ADJOURN: With no further business the meeting was adjourned.



SENATOR JUDY JACOBSON
CHAIRMAN

eg

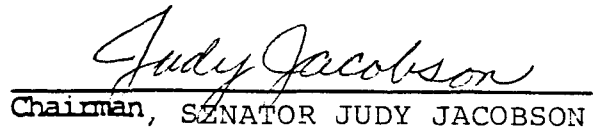
ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH, WELFARE AND SAFETY

Date FEBRUARY 4, 1985 HOUSE Bill No. 141 Time 1:24

NAME	YES	NO
SENATOR JUDY JACOBSON, CHAIRMAN	✓	
SENATOR J. D. LYNCH, VICE CHAIRMAN	✓	
SENATOR TOM HAGER	✓	
SENATOR MATT HIMSL		✓
SENATOR TED NEWMAN	✓	
SENATOR BILL NORMAN	✓	
SENATOR STAN STEPHENS	✓	
SENATOR TOM TOWE		✓


Secretary, ELAINE GRAVELEY


Chairman, SENATOR JUDY JACOBSON

Motion: A motion was made by Senator Hager that House Bill
141 BE CONCURRED IN. Motion carried.

ROLL CALL

PUBLIC HEALTH, WELFARE & SAFETY COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 2/1

SENATE
SEAT

#

6

SENATOR JUDY JACOBSON, CHAIRMAN

✓

5

SENATOR J. D. LYNCH, V. CHAIRMAN

✓

42

SENATOR TOM HAGER

✓

30

SENATOR MATT HIMSL

✓

17

SENATOR TED NEWMAN

✓

45

SENATOR BILL NORMAN

✓

14

SENATOR STAN STEPHENS

✓

26

SENATOR TOM TOWE

✓

Each day attach to minutes.

STANDING COMMITTEE REPORT

FEBRUARY 4, 19 85

MR. PRESIDENT

We, your committee on PUBLIC HEALTH, WELFARE AND SAFETY

having had under consideration SENATE BILL No. 174

FIRST reading copy (WHITE)
color

REVISING LAW GOVERNING PRACTICE OF OPTOMETRY AND LICENSURE OF OPTOMETRISTS

Respectfully report as follows: That SENATE BILL No. 174

be amended as follows:

1. Page 2, line 7.
Following: "the optometric"
Insert: "optometric"
Following: "or optometric"
Insert: "optometric"
2. Page 2, line 12.
Following: "diagnosed,"
Insert: "optometrically diagnosed,"
3. Page 2, line 13.
Following: "optometric"
Insert: "optometric"
4. Page 2, line 16.
Following: "optometric"
Insert: "optometric"

XXXXXX
XXXXXX

XXXXXX
XXXXXX

5. Page 3, line 7.

Following: "and"

Insert: "and"

6. Page 3, lines 9 through 11.

Following "part 18" in line 9

Strike: remainder of line 9 through "lenses" in line 11

7. Page 3, line 20.

Following: "required"

Strike: "mechanical"

8. Page 3, line 23.

Following: line 22

Insert: "(4) an independent dispensing optician performing the tasks of advising selection, fabricating, dispensing, and adjusting spectacle eyewear;"

Renumber: subsequent subsections

9. Page 5, line 13.

Following: "(i)"

Strike: "fabricate,"

Following: "replace"

Strike: "1"

Following: "ophthalmic"

Insert: "ophthalmic"

10. Page 5, line 14.

Strike: "spectacle" in line 14

Following: "with-or" in line 14

Insert: "with or"

11. Page 5, line 18.

Following: "mechanic"

Insert: "without having at the time a valid certificate of registration as an optometrist; however, this subsection does not prevent an optician"

Following: "from"

Strike: remainder of line 18 through "surgeon;" on line 19

Insert: "1"

12. Page 6, line 3.

Following: line 2

Insert: "(i) doing the required work on an ophthalmic lens which is ordered on a prescription signed by a registered optometrist and is dispensed only by the optometrist or a person employed by the optometrist and who does so in the office of and under the direct personal supervision of an optometrist; or (ii) replacing or duplicating an existing lens for glasses;"

13. Page 6, line 20.

Following: "for"

Insert: ", "

Following: "fit?"

Insert: ", "

14. Page 10, line 19.

Following: "examination-~~er~~"

Insert: "examination or"

15. Page 12, line 11.

Following: "~~er-examination~~"

Insert: "or examination"

AND AS AMENDED

DO NOT PASS

STANDING COMMITTEE REPORT

FEBRUARY 4, 19. 35

MR. PRESIDENT

We, your committee on **PUBLIC HEALTH, WELFARE AND SAFETY**

having had under consideration **HOUSE BILL** No. **142**

THIRD reading copy (**BLUE**)
color

CONFORMING IN-STATE AND OUT-OF-STATE PREMARITAL SEROLOGY TEST TIME LIMITS

MANUEL (LYNCE)

Respectfully report as follows: That **HOUSE** No. **142**

BE CONCURRED IN

~~DO PASS~~

~~DO NOT PASS~~

SENATOR JUDY JACOBSON

Chairman.

[illegible]

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Larry Tobiason	N.A.A.	211	✓	
David Lactman	Mont. Public Hlth Assn	211	✓	
MIKE GREELY	DEPT. OF JUSTICE	211	✓	
Bonnie Tippy	Alliance of Americans ins	211	✓	
W. R.W. Landon	Highway Patrol	211	✓	
Chuck Mindemann	State Farm Ins. Cos.	211	✓	
KARL ENGLUND	MT. TRAIL LAWYERS	"	✓	
AL GOFK	High Safety - Justice	211	✓	
Randy Gray	State Farm + NAII	211	✓	
BOB MORRIS	STATE HEALTH DEPT	211	✓	
Kimberly Knapp	Attorney General	211	✓	
John T. Zundel	Nat. Medical Assn	211	✓	
LOREN LISA	SR - Medical	211		
Tom Hannon	Mont. Auto Dealers Assoc.	211	✓	
Joe Roberts	Attorney General	211	✓	
Riley Johnson	PIA (Prof. Insurance Agents)	211	✓	
Curly C. Thomsen	Montana Nurse Assn	211	✓	

(Please leave prepared statement with Secretariat)

PROPOSED AMENDMENTS TO SB 174 (Senator Jacobson)

1. Page 3, line 7.
Following: "2-15-1846;"
Strike: "and"
Insert: "and"
2. Page 3, lines 9 through 11.
Following: "part 18" in line 9
Strike: remainder of line 9 through "lenses" in line 11
3. Page 3, line 20.
Following: "required"
Strike: "mechanical"
- *4. Page 5, line 18.
Following: line 17
Strike: "optical mechanic"
Insert: "optician"
- *5. Page 5, line 20.
Following: "doing the"
Strike: "merely mechanical"
Insert: "required"

*Amendments 4 and 5 are contingent on the Board of Optometrists amendments.
If both sets of amendments are passed, these two would be incorporated
in Amendment 6.

PROPOSED AMENDMENT TO SB 174

1. Page 3, line 23.

Following: line 22

Insert: "(4) an independent dispensing optician performing the
tasks of advising selection, fabricating, dispensing,
and adjusting spectacle eyewear;"

Renumber: subsequent subsections

Page 3

Line 22 add:

or an independent dispensing optician from performing
those tasks of advising selection, fabrication,
dispensing, and adjusting spectacle eyeware.

TESTIMONY

S.B. #174

Senate Public Health Committee
Senate Judy Jacobsen, Chairman

Madam Chairman, members of the Committee,

For the record, my name is AlVerne Kautz, I am president of the Montana Board of Optometrists. I have practiced optometry in Montana for 23 years.

The Board of Optometrists was created by the Montana legislature in 1907. It is administratively supported by the Department of Commerce.

The Board of Optometrists is responsible for protecting the visual health of the people of Montana by insuring that all applicants for registration are qualified and competent in the field of optometry, that optometrists in active practice in Montana maintain their competency in accordance with the statutes and rules, and that all persons practicing optometry are registered optometrists.

It is the Board of Optometrists that requested the changes in Senate Bill #174. Most of the changes are routine language changes, some are directed to a name change and member terms, and still others are directed toward definition of terms in the present law which will assist the Board in enforcement of the statutes. At

issue on this last point is the fitting of contact lenses to the human eye by unqualified, unregistered, or unlicensed persons. Current statutes mandate formal education as a physician or optometrist and licensure only after passing tests of competency. Senate Bill # 174 gives definition that is needed to minimize individual interpretations of the statutes regulating the practice of optometry in Montana. I present Senate Bill #174 to you.

1. Page 1 Lines 13,14
Name changes because regulation is of the practice of optometry as well as optometrists.
2. Page 1 lines 23,24
Terms must be staggered and overlapping to provide continuity of the Board.
3. Page 2 lines 7-16
Senate Bill #174 as introduced was going to remove the word optometric. We propose to amend it back to the original language.
4. Page 2 line 21,22
Ophthalmic lenses to spectacle lenses to substitute a specific term for an all encompassing term.
5. Page 3 line 6
In keeping with the name change.
6. Page 3 lines 10,11
Mechanical work defined to eliminate individual interpretation. The Montana courts have held that the word should be defined and clarified.
7. Page 3 line 19
An addition to state that which has always been implied or assumed; that is to allow optometric assistants to so their work under the direct supervision of a optometrist. This does not affect or change present practice.
8. Page 3 line 22
Adding the word registered as a synonym for licensed.
9. Page 4 line 8-11
A requested change by the Department of Commerce to comply with standards of all boards to meet at least twice annually.
10. Page 5 lines 13-25 and Page 6 lines 1 and 2
Our intent is to amend back to the original language. This amendment will allow opticians to duplicate glasses prescriptions as they are now doing.
11. Page 6 lines 3-9
To prescribe, adapt, etc. ---- It was the intent of the legislation as passed in Sunset Review in 1981 to clarify that the fitting of contact lenses be limited to optometrists and physicians. This section further defines for the Board the delivery of contact lenses.

12. Page 6 line 11 and lines 17-19
Ophthalmic to spectacle to substitute a more specific term.
Lines 17,18,19 are covered elsewhere in this statute.
13. Page 6 lines 20-24
Measure for, fit, or adapt, etc.--- This section becomes definitive to the intent of Sunset Review. It simply states that examination procedures as well as the actual fitting of contact lenses are to be used only by licensed or registered physicians and optometrists.
14. Page 8 lines 10-21
This modification removes unnecessary language without changing its meaning. Reciprocity is covered in Section 7.
15. Page 9 lines 10,11
On reciprocity--- This section is changed to conform with accepted standards of other states' laws. This change was recommended by our staff lawyer.
16. Page 9 line 25
Complies with name change.
17. Page 10 line 19
Propose amending to original language.
18. Page 11 lines 6-25
Page 12 lines 2-12
These changes were made at the request of our staff attorney. At present the Board's only disciplinary action is revocation of license. The Board should have the right to suspensions, probations, or fines.

Our staff attorney's opinion that allowing the Board to further define professional misconduct, the Board will be better able to react to changing modes of practice and other areas of misconduct that may arise.
19. Page 12 line 14
This is a new section to extend rule making authority for the provisions of this act.

In summary, Senate Bill # 174 as presented with amendments is supported by optometrists and ophthalmologists. Dr. Douglas McBride, President of the Montana Optometric Association and Dr. Everett Lensink, President of the Montana Academy of Ophthalmology have voiced their support.

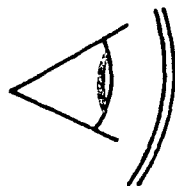
You may hear comments about the loss of jobs if this bill passes. This is not true. The part relating to contact lenses has been in the statutes since 1947 and did not put anyone out of business. It was amended in the Sunset Review legislation of 1981 and again it did not put anyone out of business. Senate Bill #174 as presented with amendments will not put anyone out of business either, unless they are presently violating the law.

We, the Board of Optometrists urge your endorsement of Senate Bill #174 with amendments. Thank you.

PROPOSED AMENDMENTS TO SB 174 (Board of Optometrists)

1. Page 2, line 7.
Following: "the"
Strike: "optometrie"
Insert: "optometric"
Following: "or"
Strike: "optometrie"
Insert: "optometric"
2. Page 2, lines 11 and 12.
Following: "may be" in line 11
Strike: "optometrically diagnosed"
Insert: "optometrically diagnosed"
3. Page 2, line 13.
Following: "any"
Strike: "optometrie"
Insert: "optometric"
4. Page 2, line 16.
Following: "complete"
Strike: "optometrie"
Insert: "optometric"
5. Page 5, line 13.
Following: "(i)"
Strike: "fabricate,"
Following: "replace"
Strike: ", "
Following: "duplicate"
Strike: "ophthalmie"
Insert: "ophthalmic"
6. Page 5, lines 14 through 18.
Following: line 13
Strike: "spectacle"
Following: "lenses" in line 14
Strike: "with or"
Insert: "with or"
Following: "prescription" in line 14
Strike: remainder of line 14 through "mechanic" in line 18
Insert: "without having at the time a valid certificate of registration as an optometrist; however this subsection does not prevent an optical mechanic"
7. Page 5, lines 18 and 19.
Following: "from"
Strike: remainder of line 18 through "surgeon;" in line 19
Insert: ":",
8. Page 5, lines 20 through 25.
Strike: subsection (i) in its entirety
9. Page 6, lines 1 and 2.
Strike: subsection (ii) in its entirety
10. Page 6, line 20.
Following: "for"
Insert: ", "
11. Page 10, line 19.
Following: "certificate of"
Strike: "examination or"
Insert: "examination or"
12. Page 12, line 11.
Following: "registration"
Strike: "examination or"
Insert: "examination or"

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Stan Bambauer
Dispensing Optician

February 1, 1985

Senate Committee on Public Health, Welfare and Safety

Madame Chairman,

I am an independent dispensing optician owning and operating two dispensaries in Bozeman.

I was present when SB 174 was submitted to your committee. Please accept my appreciation for the fair and competent way you and the committee received SB 174.

I oppose SB 174 mainly because, if it were to become law, of the way the language would be applied by a radical, aggressive board of "optometry". The language fails to recognize the existence of dispensing opticians, particularly those of us who are independent and not employed by an ophthalmologist or optometrist. The board's desire to regulate "optometry" rather than optometrists can be interpreted that all eye care practitioners, not specifically excluded, would be guilty of practicing optometry without a license. Dispensing opticianry is essentially the same activity as dispensing optometry, therefore would come under optometry regulation.

This is a sly way for these optometrists to gain absolute control over a significant part of their competition in the eye care industry. The three "O's" are separate entities and should remain so. Dispensing opticians are the only source of elective eye corrections that are not doctor owned, therefore addressing the question of conflict of interest.

Parts is parts, we don't want to be fused. Excuse me, but some levity at this point may be in order.

Many other uses of language in this bill, that are revised from the law, have the same intent and effect as the "optometry" usage previously described.

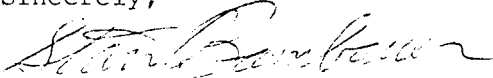
The issue of "who can sell or dispense contact lenses?" is the smoke screen of this bill. I am sure that a "Board of Optometry" could end the retail activities of dispensing opticians.

Please do anything and everything you can to stop this bill in committee and from being considered on the Senate floor.

I would also ask that you encourage the three "O's", ophthalmologists, optometrists and opticians, to work together on mutually acceptable effective legislation.

I've enclosed credible definitions of these professions for the committee's record.

Sincerely,

A handwritten signature in cursive script, appearing to read "Stan Bambauer".

Stan Bambauer

Fellow of The National Academy of Opticianry
Certified by The American Board of Opticianry
Member of The Guild of Prescription Opticians

From the Better Vision Institute, Inc.

as published in the New York Times

Opticians - An optician also known as the dispensing optician or the ophthalmic dispenser is one who designs, verifies and delivers lenses, frames and other specially fabricated optical devices upon prescription to the intended wearer. The ophthalmic dispensers' functions include, but are not limited to, prescription analysis and interpretation; the taking of measurements to determine the size, shape and specifications of the lenses, frames, contact lenses, or lens forms best suited to the wearers' needs; the preparation and delivery of work orders to laboratory technicians engaged in grinding lenses and fabricating eyewear; the verification of the quality of finished ophthalmic products; the adjustment of lenses or frames to the intended wearer's face or eyes; and the adjustment, replacement, repair and reproduction of previously prepared ophthalmic lenses, frames or other specially fabricated ophthalmic devices.

Optometrists - A doctor of optometry (O.D.) is a primary provider of vital health care services who examines, diagnoses and prescribes specific treatments for conditions of the vision system. He or she examines eyes and related structures to determine the presence of vision problems, diseases or other abnormalities, utilizing drugs for diagnostic purposes when permitted by state law. By thoroughly evaluating the internal and external structure of the eye, the optometrist can detect systemic and eye diseases that require referral of the patient to other health care practitioners.

The optometrist treats by prescribing and adapting spectacle lenses, contact lenses or other optical aids and uses visual training/visual therapy to preserve or restore maximum efficiency of vision.

Education of the optometrist includes 2 to 4 years of college pre-optometric training and 4 additional years of specialized professional training at an accredited college of optometry.

Ophthalmologist - M.D., eye physician, eye doctor, oculist. An ophthalmologist is a medical doctor who specializes in the total care of the eyes, he or she is the only practitioner medically trained and qualified to diagnose and treat all eye and visual systems problems, as well as general diseases of the body.

The eye is affected by disease and general health of the rest of the body. Hence the ophthalmologist diagnoses and treats eye problems as part of total medical and health care. His treatment may consist of eyeglasses or contact lenses, orthoptics, medications, surgery or any other required scientific therapy.

Education includes 4 years of college premedical training, 4 years or more of medical school, one year of general medical internship and three or more years of medical training and experience in eye care in hospitals and medical eye clinics.

(This sheet to be used by those testifying on a bill.)

NAME: MIKE GREELY DATE: 2/4/85

ADDRESS: JUSTICE BUILDING

PHONE: 444-2026

REPRESENTING WHOM? DEPARTMENT OF JUSTICE


APPEARING ON WHICH PROPOSAL: SB 211

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENT:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

STATEMENT BY ATTORNEY GENERAL MIKE GREELY
IN SUPPORT OF SENATE BILL 211
4 FEBRUARY 1985

 Mr. Chairman, I want to take this opportunity to urge this Committee to support Senate Bill 211, a bill to require the use of seat belts in Montana.

I have no doubt that this Committee will hear from opponents of S.B. 211, and some of those opponents will express views that I sympathize with; they will express concern over personal liberties and the seemingly endless intrusion of government into the lives of our citizens. I share that concern, and I too resist unnecessary intrusion by government into private affairs. I must point out, however, that like the vast majority of other citizens, I have accepted government efforts to protect my life, my health, and my property through the law. We have accepted consumer protection laws. We have accepted reasonable requirements by the Occupational Safety and Health Administration. We have accepted controls by the Food and Drug Administration, as well as federal safety standards for automobiles. We have accepted laws that require use of child restraints in passenger cars. The list goes on and on.

The point is simply this: Government can enact useful and protective laws without inflicting unreasonable curbs on personal freedom, without becoming unnecessarily intrusive. I believe that S. B. 211 would be such a law.

We all know that use of seat belts substantially reduces the likelihood of death or injury when an automobile accident occurs. The problem is that fewer than 20 percent of automobile occupants in this country wear

their seat belts. That is the problem that S. B. 211 seeks to address in Montana. Enactment of S. B. 211 would not only reduce death and injury, but also convince Montanans of the usefulness of seat belts. The resistance to seat belt use would disappear.

One of the most attractive features of this bill, Mr. Chairman, is that it is experimental. It has a sunset clause. If two years of experience does not provide proof that seat belts work, and if two years of experience does not convince the public that seat belts work, then the Legislature can simply let the law die.

I am certain that this Committee knows that New York recently became the first state to mandate the use of seat belts. New York's law just became effective this year, so we cannot really use it to project effects in Montana. About 30 countries around the world, however, have enacted mandatory seat belt laws. Among them are such bastions of personal freedom as Great Britain, Australia, France, Sweden, Norway, and seven provinces of Canada.

Great Britain's mandatory seat belt law took effect in 1983. Before enactment of the law, only about 40 percent of British passengers and drivers used their seat belts. After enactment, usage jumped to 95 percent; front-seat fatalities declined by 23 percent, and front-seat injuries declined by 26 percent. Great Britain's Department of Transport estimates that within the 11 months following enactment of the mandatory seat belt law, approximately 500 lives were saved, and approximately 7,000 injuries prevented.

In 1970 the Australian state of Victoria enacted its mandatory seat belt law. Within the first six months of that enactment, highway fatalities in that state's largest city, Melbourne, decreased about 18 percent. In Australia's state of New South Wales, the mandatory seat belt law reduced highway fatalities about 20 percent.

I know that this Committee does not need a long list of statistics to demonstrate that seat belts save lives, and that seat belts prevent injury. The value of seat belts is not the issue under consideration here. The question is whether the Legislature should require the citizens of Montana to take advantage of the life-saving benefits offered by seat belts. The question is whether a mandatory seat belt law would demonstrate to the people that seat belts are not uncomfortable, that they are not inconvenient, that they are not restrictive, that they are not any of the many troubles that people name as excuses for not buckling up.

This Committee will hear from those who claim a personal right to kill or maim themselves in a highway accident. I hope that the Committee rejects that notion. A person does not have such rights. A person does not have the right to be negligent in such a way that results in his or her own death or injury, because that death or injury would result in a cost to the public. The public supports hospitals and emergency services. The public pays for the police who must clean up the mess after an accident and keep the traffic moving. In short, the public pays the cost of low seat belt use--in death and suffering, in taxes, in high insurance premiums. No, a person does have the right to kill or maim himself or herself; on the contrary, a person has an obligation to the rest of society to stay as healthy

as possible.

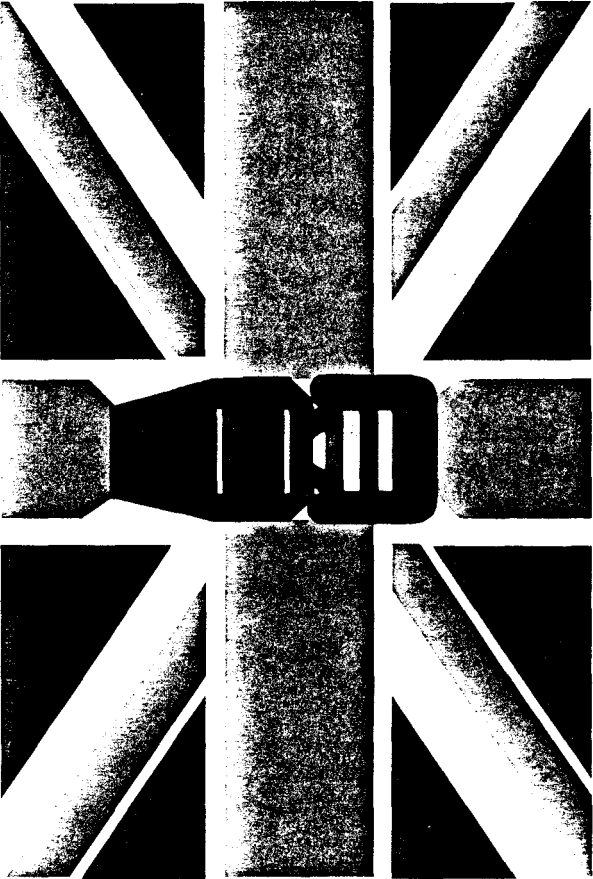
In closing, *Mr. Chairman*, I want to remind this Committee that the U.S. Department of Transportation has recently ruled that all 1990 model year cars must have automatic restraints such as air bags or automatic seat belts. The only way out of this unfortunate and costly requirement rests with state legislatures; if legislatures with jurisdiction over two-thirds of America's population enact mandatory seat belt laws and enforce those laws before the end of 1989, the rule on air bags and automatic seat belts will not go into effect. In other words, legislatures can spare the people the additional consumer cost of air bags and other devices of questionable effectiveness.

Mr. Chairman, I urge this Committee to give favorable consideration to S.B. 211.

Thank-you very much.

Mike Deely
February 4, 1985

SEAT BELT USE LAWS:



THE BRITISH EXPERIENCE

*A publication of
the Highway Users Federation
and
the Automotive Safety Foundation*

Highway Users Federation



FOR SAFETY AND MOBILITY
1776 Massachusetts Avenue, N.W.
Washington, D.C. 20036

Automotive Safety Foundation

1776 Massachusetts Avenue, N.W.
Washington, D.C. 20036

Montana Automobile Association



STATE HEADQUARTERS OFFICES: P.O. BOX 4129
607 N. LAMBORN / HELENA, MONTANA 59601
PHONE 442-5920

TESTIMONY OF
THE MONTANA AUTOMOBILE ASSOCIATION

ON S.B. # ~~2~~ 211
MANDATORY SAFETY BELT USE

Presented by
LARRY A. TOBIASON

Branch Offices: BILLINGS
3220 4TH AVE. NORTH (59101)
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The issue at hand is not just mandatory "Safety Belt" use, but whether we have mandatory "Safety Belt" use or the purchasing of automatic safety devices in automobiles such as air bags.

A recent Department of Transportation final ruling on occupant crash protection standards require installation of automatic safety devices in all new cars by the end of the decade, unless two-thirds of the U. S. population is covered by a mandatory "Safety Belt" use law by that time. It is hard to get an exact fix on just what these automatic safety devices would cost, as the figures range from \$360 per unit to nearly \$1,000.

In a recent survey of the Montana Automobile Association's 72,000 members we asked the question "Do you favor the passage of mandatory Seatbelt Legislation"? Slightly over half, 52% said they were opposed to such a measure. However, in another survey the question was asked whether they prefer a mandatory "Safety Belt" use law or purchasing automatic safety devices, a vast majority preferred a "Safety Belt" use law: fully 67% chose this option.

This of course is only part of the problem we face. The most impressive argument for mandatory "Safety Belt" use is the substantial reduction in economic costs of road trauma. A 1976 annual report stated that the cost-benefit ratio of a belt use law is on the order of 37.5 to 1. Society would save \$37.50 for every dollar invested in enactment and enforcement of such legislation. If 80% of motorists would wear safety belts regularly over 12,000 lives would be saved and 330,700 injuries would be prevented and over \$5 billion of accident costs avoided. In Montana alone projections are that 80 lives would be saved, 2,100 injuries avoided and \$33 million saved.

The perennial argument against mandatory "Safety Belt" use is the alleged infringement on an individual's right to choose to use a belt or not. There is no such inbridled right to operate a motor vehicle. First, operation of a motor vehicle and the associated use of the driving system, whether it be related to the driver, vehicle or environment, have always been regulated by government through driver licensing, traffic laws, limited access highways, vehicle standards, mandatory insurance, and many other requirements. The benefits of available safety belts give overriding evidence of the efficacy of requiring use as a crash avoidance and injury control measure.

Second, the debate over the right to choose becomes moot when the cost to society in terms of medical, rehabilitation, unemployment and welfare services supersede the "right" of people to seriously or fatally injure themselves by not buckling up.

A "Safety Belt" use law is similar to other types of public health measures, such as compulsory immunization against communicable diseases. Road trauma is, in fact, a disease of epidemic proportions. Motor crash injury may take a different form, but it is just as deadly. More importantly, the majority of injuries are preventable at the time of the crash.

Lap and shoulder belts, when worn, have been proven to reduce a person's chance of being killed or seriously injured by at least 60%. For crashes above 40 MPH, studies of accident victims show that only about 3% of occupants were wearing their belts when they needed them. Of every 100 occupants who suffer serious or fatal injuries, 57 could have been saved if they had used restraints.

I don't want to get into the merits of what type of restraint system is the best. I do know, however, Air Bags are designed to deploy only when involved in a frontal impact. Lap and shoulder restraints can keep you in place in any kind of impact

Belt use laws do not require roadblocks or stringent enforcement campaigns to be effective. Most citizens obey laws a majority of the time without police surveillance, simply because it's the law. Many foreign countries now have belt use laws and are experiencing exceptional results. Great Britain for example has experienced nearly 90% useage after three-months of such legislation.

Few legislative decisions are clearly good or bad, but proponets of compulsory "Safety Belt" use argue that:

- . An individual decision not to wear Safety Belts effects the rest of the public through high insurance premiums, automobile prices, medical costs and taxes.
- . Occupant restraint laws are not "an improper intrusion" upon individual liberties if one also considers that an individual has a right to life and health. Is there a choice between preserving the right of a child to wear or not wear a safety belt and preserving his right to a healthy life? Two years ago we faced that question and wisely passed a law called "The Child Restraint".
- . Traffic Safety has always been regulated by government. Passage of occupant restraint laws will not mean bigger

government, but it will mean less expensive government.

can any state afford to ignore the potential savings in
tax dollars that would result from mandatory Safety Belt
use?

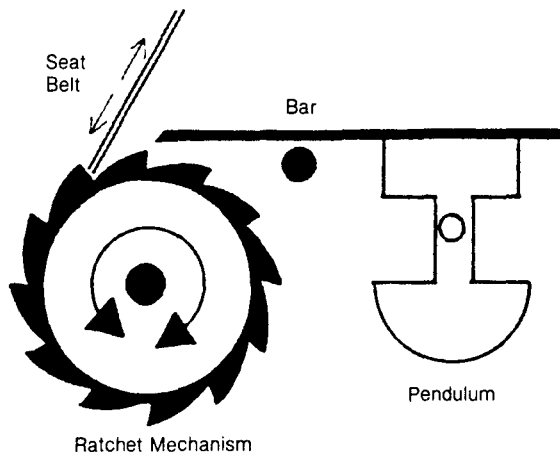
You, our Legislators, must decide this issue. It would, however, be a mistake
not to consider carefully the proponent case for occupant restraint laws.

The issue has merit and substance. Further, few traffic safety counter measures
have the same potential payoff in terms of lives saved, injuries reduced,
and savings to the public.

I urge you to give a "do pass" recommendation to S.B. ~~SB~~. 211

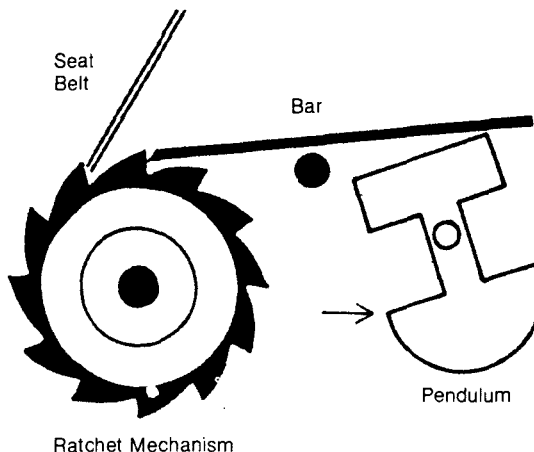
The Safety Belt: How It Works

Normal Conditions



Under normal conditions, the pendulum and bar are in their rest positions. The reel, which holds the belt, is free to rotate. As the occupant moves forward the belt moves unrestrained with the occupant.

Emergency Conditions



Under emergency conditions, such as in a collision, the pendulum moves forward under the force of the impact causing the bar to engage the ratchet. The reel and seat belt now lock in place and the occupant is held firmly in place.

Types of Safety Seats

Infant Carriers



Up until they weigh about twenty pounds, new-borns require a carrier which is a tub-shaped bed that cradles the child in a semi-erect position. The infant is held securely in the carrier by means of a harness. Infant carriers are designed to face the rear of the car and must be secured to the seat by the adult belts already in the car. Accident data show that the rear seat is generally safer than the front seat. However, many parents alone in the car with their baby feel uncomfortable placing an infant in the rear seat facing to the rear where they cannot see the child. Since the rear-facing infant carrier is designed to protect the baby's head from the dashboard and windshield, the front seat is a suitable alternative. It is most important, however, that infant carriers never be used facing the front of the car. For a very small infant, it may be more comfortable to roll up small blankets or towels and place them inside the carrier at the sides of the infant's body.

Child safety seats come in several shapes and sizes because different stages of a small child's development require different types of protection. So parents have several considerations to keep in mind when selecting a safety seat. There is no "best" seat. The important thing is to find the seat that best suits you, your child, and your car. Be sure that the safety seat you choose will fit the seat belts in your car(s). Insist on the right to return the seat if it does not fit.

Booster Seats



A new type of seat currently being marketed is the automobile booster seat. Booster seats are designed primarily to fill the gap between when a child outgrows the standard child safety seat and when the child can use the adult belt only and still see out the window. Some models can also be used for smaller children, as small as twenty pounds, and all can be used for children up to about sixty-five pounds. It is extremely important to note that booster seats should only be used with upper torso support, either by using the lap and shoulder belt, or for maximum safety, by using the body harness supplied with the booster seat in the rear seat. The body harness is secured in the same manner as a standard top tether strap. A booster seat without upper torso support is less effective than using the adult lap belt without the booster.

Convertible Models

Some models of infant carriers convert to child seats so that they can be used from birth until the child weighs about forty pounds. For economic reasons, a convertible model may be a sound choice, since there is no need to buy a second seat when the child outgrows the infant mode.



Proper Tether Use



Attached to Rear Seat Belt

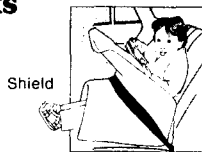


Attached to Rear Window Shelf

If you decide to buy a convertible model, there are several points to consider. Some infant seats that convert to child seats require a top tether strap that must be secured to the rear seat belt if used in the front seat (see diagram). To use this type of seat in the rear seat requires that a hole be drilled in the rear window shelf, or cargo area of station wagon or hatchback. Correctly-used tether straps add extra stability to seats and less head movement in a crash. However, if you do not intend to properly anchor the tether strap every time you place the seat in the car, do not buy this type of seat. There are convertible models that do not require a tether strap.

Toddler Seats

For children who weigh more than twenty pounds and can sit up by themselves, there are two types of child seats. The shield type consists of a seat with a padded and slightly flexible impact shield that comes up close to the child's stomach and then bends away from the face and chest. The safety seat itself is held securely in place by an adult lap belt which is fastened around the shield. An advantage of this type of restraint is that parents do not have any harnesses or buckles to deal with. Children can learn to climb in behind some shield models with the seat already secured in place. However, children can also climb out of the shield while the car is moving, therefore, this type should only be used with well-behaved and disciplined children.



Shield

The harness type secures the child to the safety seat with a five-part belt system. This type of seat may be more complicated to use than the shield type but they are harder for an active child to wiggle out of and may allow for more freedom of movement within the seat. Some of the newer models of safety seats secure the child with a combination of shield and harness.

It is important to note whether or not the seat you choose requires a top tether strap that must be secured to a rear seat belt or the window shelf behind the rear seat (or cargo area of station wagon or hatchback). Again, if you do not intend to anchor the tether strap every time you place the seat in a car, choose a model that does not require a top tether.



Harness

Adult Safety Belts



Adult safety belts should be used for children who have outgrown their safety seats or for children who can sit up by themselves when no safety seat is available. The belt should be snug and as low on the child's hips as possible. If

the shoulder belt crosses the child's face or neck, the shoulder belt should be placed behind the child's back after the buckle has been fastened. Parents should check to make sure the child's head will not hit the dash in a crash or sudden stop. If this could happen, the child should be placed in the rear seat.

Pillows or cushions should not be used to boost a child. They can slide out from under the child, allowing him or her to submerge under the lap belt, or allowing the child's head to move so far forward that it strikes the car's interior.



U.S. Department of Transportation
National Highway Traffic Safety Administration

Safety Belt Fact Sheet

The Facts

Approximately 50,000 Fatalities Caused by Motor Vehicle Accidents Annually

- Leading cause of death among people 44 and younger.
- Number 1 cause of on-the-job fatalities.
- Costs the average employer nearly \$120,000 per employee death.
- Comparable to the number of American soldiers killed in Vietnam.
- Two and one half times greater than all fatalities caused by accidents in the home.
- Ten times greater than fatalities caused by all other forms of transportation.
- Equivalent to a 727 passenger jet crashing every day.

Safety Belts Make A Difference

- Approximately 35,000 people die annually in cars, light trucks or vans equipped with safety belts.
- About 50 percent (17,000) of these people could be saved if they wore safety belts.
- Safety belts cut your chances of being killed or seriously maimed in a crash by about 50 percent.
- On any single vehicular trip the chance of an accident is very low; but the possibility of a serious accident on one of the many trips in your lifetime is better than 50 percent. (What percent of your friends have never been in an accident? Ask around . . . the percentage will be low.)
- Three out of four crashes happen within 25 miles of home.
- A common cause of death and injury to children in automobiles is being crushed by adults who are not wearing safety belts. In fact, one out of four serious injuries to passengers is caused by occupants being thrown into each other.
- Drivers wearing safety belts have more control over their car in emergency situations and are therefore more likely to avoid an accident.

The Myths

Myth

"I don't need safety belts because I'm a really good driver. I have excellent reactions."

Fact

"No matter how good a driver you are, you can't control the other car. When another car comes at you, it may be the result of mechanical failure and there's no way to protect yourself against someone else's poor judgement and bad driving."

"I don't want to be trapped in by a safety belt. It's better to be thrown free in an accident."

"Being thrown free is 25 times more dangerous . . . 25 times more lethal. If you're wearing your belt you're far more likely to be conscious after an accident . . . to free yourself and help your passengers. Safety belts can keep you from:

- plunging through the windshield
- being thrown out the door and hurtled through the air
- scraping along the ground
- being crushed by your own car

In almost any collision, you're better off being held inside the car by safety belts

"If I wear a safety belt, I might be trapped in a burning or submerged car!"

"Less than one-half of one percent of all injury-producing collisions involve fire or submersion. But if fire or submersion does occur, wearing a safety belt can save your life. If you're involved in a crash without your safety belt, you might be stunned or knocked unconscious by striking the interior of the car. Then your chances of getting out of a burning or submerged car would be far less. You're better off wearing a safety belt at all times in a car. With safety belts, you're more likely to be unhurt, alert, and capable of escaping quickly."

"I don't need it. In case of an accident, I can brace myself with my hands."

"At 35 miles per hour, the force of impact on you and your passengers is brutal. There's no way your arms and legs can brace you against that kind of collision. The speed and force are just too great. The force of impact at just 10 mph is equivalent to the force of catching a 200-pound bag of cement from a first story window."

"Most people would be offended if I asked them to put on a seat belt in my car."

"Polls show that the overwhelming majority of passengers would even willingly put their own belts on if only you, the driver, would ask them."

"I just don't believe it will ever happen to me."

"Everyone of us can expect to be in a crash once every ten years. For one out of 20 of us, it'll be a serious crash. For one out of every 60 children born today, it will be fatal."

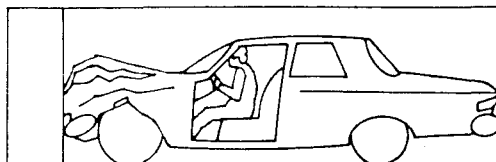
"Well, I only need to wear them when I have to go on long trips, or at high speeds."

"Eighty percent of deaths and serious injuries occur in cars traveling under 40 miles per hour and 75 percent of deaths or injuries occur less than 25 miles from your home."

"I can touch my head to the dashboard when I'm wearing my seat belt so there's no way it can help me in a car accident."

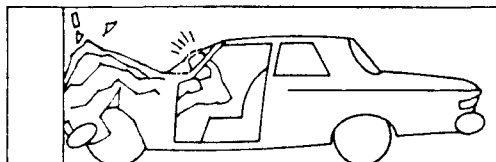
Safety belts were designed to allow you to move freely in your car. They were also designed with a latching device that locks the safety belt in place if your car should come to a sudden halt. This latching device keeps you from hitting the inside of the car or being ejected. It's there when you need it."

The Human Collision

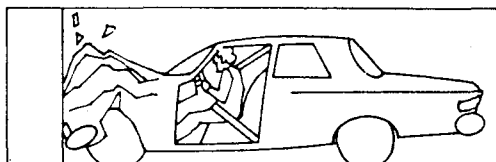


On impact, the car begins to stop and slow down. The driver, however, continues to move forward at the same speed the car was traveling.

Within 1/10 of a second, the driver has come to a stop, but the car is still moving forward.



1/50 of a second after the car has stopped, the unbelted person is still moving forward. This is the human collision.



With effective safety belts, the person will stop before hitting the steering wheel, dash or windshield.

The car has come to a complete stop within one tenth of a second. However, the unbelted driver is still moving along inside the car at 30 mph. It will take the driver about one-fiftieth of a second more to hit something—say the windshield or the steering wheel. That's the human collision. It happens about 0.02 seconds after the first collision, and belts can make a big difference in determining how serious that second collision is. A lot of people think they are strong enough to brace themselves in a crash. They aren't. At just 30 mph you'd be thrown toward the dash with the same force as if you'd jumped head first off a three-story building. No one's arms are anywhere near strong enough to "catch" himself and break a three-story fall. Safety belts are, though. And that's why people need them, even in a low-speed crash.

How Effective are Safety Belts?

Most people accept the fact that wearing safety belts offers protection in a crash. A few bother to find out exactly how much protection they can expect. If they asked, they would probably be surprised by the answer. While researchers may differ by a few percentage points either way, average figures coming out of safety belt studies look like this:

- Safety belts cut the number of serious injuries received by 50 percent.
- Safety belts cut fatalities by 60 to 70 percent.

To put these figures in other words, not wearing a safety belt doubles your chance of being hurt seriously in a crash. Serious injuries received in crashes often involve the head or spinal cord. In fact, in the U.S., auto accidents are the number one cause of epilepsy (from head injury) and paraplegia (from damage to the spinal cord). The restraining action of safety belts—especially shoulder belts—helps explain why they so drastically reduce the likelihood of being seriously hurt. Wearing just a lap belt gives you twice as good a chance of living through a crash as you'd have if you wore no belt at all. And using a lap/shoulder belt combination makes your chances of survival *three to four times better* than they are if you were beltless. One important note: These improved chances of escaping injury or death thanks to safety belts hold true *regardless of speed*. Whether you're going 5 mph or 75 mph, you're a lot better off using belts.

The aim of safety belts is to:

- First, maximize whatever benefits come from the First Collision through "riding down." By making the impact of the first collision work on you so that belts give you the benefit of increased stopping distance and dissipation of the forces of impact by the car itself.
- Second, minimize the harm of the Second Collision. By taking the forces of impact quickly (but not too quickly), the belts dissipate those forces through a relatively safe medium (the belt itself) instead of through a dangerous medium (glass or steel).

Safety belts help occupants in five ways:

1. There is the "ride down" benefit, in which the belt begins to stop the car as the car is stopping.
2. The belt keeps the head and face of the wearer from striking objects like the wheel rim, windshield, interior post, or dashboard.
3. The belt spreads the stopping force widely across the strong parts of the body.
4. Belts prevent vehicle occupants from colliding with each other.
5. Belts help the driver to maintain vehicle control, thus decreasing the possibility of a second collision.

WITNESS STATEMENT

Name DAVID B. LACKMAN Committee On Senate
Public Health, W & S
Address 1400 Winne Avenue, Helena, Montana 59601 Date February 4, 1985 (Monday)
Representing Montana Public Health Association Support X Yes
Bill No. SB 211 Eck Mandatory Seatbelt Use Act Oppose _____
Amend Out the \$500,000 liability
Insurance Clause

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

I am David Lackman, lobbyist for the Montana Public Health Association, testifying
Comments: in support of SB 211.
X.

1. We encourage the enactment of SB 211. It comes within our Prevention classification.
Fatalities and injuries on our highways must be reduced. The provisions in this
2X bill contribute to that effort.
2. One caution: Secretary of Transportation, Dole, threatens to rescind the rule
requiring manufacturers to install passive restraints if 2/3 of the states
X. enact mandatory seat-belt bills similar to New York's. However, SB211 does not
fall into that category. We feel that passive restraints are the ultimate
X. solution to the problem.
4. I hope that the committee will see fit to delete, by amendment, the \$500,000
liability insurance escape clause. It just messes up the bill.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

TO: Senate Public Health Committee

FROM: State Farm Insurance Companies and National
Association of Independent Insurers (NAII)

RE: SB 211, Mandatory Seat Belt Bill
Respectfully submitted by Randy Gray, Lobbyist

DATE: February 4, 1985

State Farm Insurance Companies and The National Association of Independent Insurers (NAII) appear today to voice conditional support for SB 211. State Farm is the largest auto insurance company in the United States. NAII is the nation's largest voluntary national trade association of property/casualty insurance companies with more than 500 member companies which provide nearly $\frac{1}{2}$ of the automobile insurance in the country. We have been alarmed for years by the number of deaths and injuries occurring on our nation's highways, not only because of the impact on our companies financially, but more importantly because of the extent of human suffering involved which we witness on a daily basis.

If this hearing on mandatory seatbelt usage were conducted a year ago, we would be appearing to register its unconditional endorsement for SB 211 in order to encourage motorists to buckle up and use the safety technology that has been built into automobiles sold in this country since the mid 1960's. Since the U.S. Department of Transportation (DOT) issued its July, 1984, ruling which could prevent the citizens of this and every other state from receiving the more proficient safety benefits afforded by automatic crash protection devices such as self-deploying seatbelts, airbags and softer automobile interior components. We have been forced to totally re-think our legislative position on this key highway safety issue. While we endorse the concept of seatbelt usage as a worthy means of enhancing motor vehicle passenger protection, we now in 1985 must warn this legislative committee of the possible adverse consequences resulting from the enactment of mandatory seatbelt legislation in Montana.

In order to make the Committee's decision on mandatory seatbelt legislation an informed one, we wish to share a little background information with you. Automatic restraints such as airbags are more ambitious passenger safety device than manual seatbelts and are designed to both protect motor vehicle passengers who do not voluntarily use their seatbelts, and enhance the crash protection

available for persons who use their seatbelts. Automatic or passive restraints will shortly appear in a number of new car models manufactured or sold in this country on or after September 1, 1986. As a result of revised Federal Motor Vehicle Safety Standard (FMVSS) 208, the July, 1984, DOT ruling referred to above, auto makers must begin to install automatic crash protection devices such as self-deploying seatbelts, air cushions and softer auto interior components beginning with a limited number of 1987 model year automobiles. By September 1, 1989, all new automobiles sold in our country will be equipped with the automatic safety protection that auto makers have resisted putting into their cars for at least 15 years.

This state-of-the-art occupant crash protection will never reach the public if states representing 2/3 of the United States population enact mandatory seatbelt usage laws that meet certain federal requirements set forth by the Department of Transportation in their July, 1984, rulemaking action. DOT is thus attempting to have the state legislatures do indirectly (by enacting seatbelt laws) precisely what the U.S. Supreme Court recently said DOT cannot do directly, that is arbitrarily and capriciously ignore automatic crash protection technology. Automatic restraints and seatbelts are two complimentary passenger safety systems and neither approach needs to be sacrificed. Unfortunately, if the 16 most populous U.S. states enact mandatory seatbelt usage laws meeting the DOT criteria, then the automatic crash protection requirement will be rescinded. As a consequence, the remaining 34 states and their more than 80 million residents could end up with neither a seatbelt law nor a federal safety standard requiring new automobiles to have the most advanced occupant protection features available.

A pending court case before a U.S. Court of Appeals (District of Columbia Circuit) may resolve this situation so that state legislatures will not be forced to choose between two necessary yet complimentary automobile passenger safety systems. State Farm, NAI and other insurance industry groups have led this legal challenge in an effort to prevent the U.S. Department of Transportation from shortcircuiting auto safety progress by nullifying the federal automatic crash protection rule if states with 2/3 of the population enact mandatory seatbelt laws. A decision should be rendered in this case later this year.

For the record, it might be worthwhile to point out a few important differences between automatic crash protection devices and manual seatbelts. For the majority of motor vehicle occupants who do not use conventional seatbelts, air cushions or as they are more commonly referred to, airbags, provide crash protection vastly superior to no restraint.

Occupants using lap belts in addition to air cushions have two advantages - the best occupant protection available in any kind of crash and freedom from shoulder harnesses, which are not needed with air cushions. The importance of air cushions has been proven over the years in studies showing that about 55 percent of all deaths and major injuries involve frontal and front-angle crashes - the kind of crash in which air cushions work best.

While manual seatbelts also provide crash protection vastly superior to no restraint at all, their principal drawback is the fatal one of non-use by the vast majority of motor vehicle occupants. It is tempting to claim that the problem of manual seatbelt non-use can be solved by merely persuading more occupants to buckle up. The indisputable record of many years' attempts by both government and private organizations to increase seatbelt use through campaigns of persuasion, often carried out at a cost of millions of dollars, has been one of repeated, dismal failure. We do not believe that enacting a law which mandates seatbelt use will significantly increase the number of seatbelt users.

In contrast, air cushions or airbags have a use rate of virtually 100 percent. They do not require occupants to reach for or buckle shoulder harnesses, or to buckle manual lap belts, or to do anything at all. They work automatically, only when needed, like fuses and sprinkler systems. Airbags are designed to protect front seat occupants without belts in frontal crashes at least up to 30 mph. Even if the use rates of shoulder belts and air cushions were nearly equal, the airbag would still offer some distinct advantages. No kind of seatbelt protects occupants' necks, heads and faces from the flying glass and debris generated in crashes; the airbag does. The Insurance Institute for Highway Safety has studied actual serious frontal crashes and found that airbag-protected occupants experience greater reductions in fatal and serious injury (64 percent) than occupants wearing lap/shoulder belts (55 percent), compared to unrestrained occupants. In high speed crashes, seatbelts often do not prevent occupants from hitting the steering wheel and other rigid structures of their vehicle interiors. Airbags, on the other hand, fill almost the entire space between the occupants and the instrument panel or steering wheel, thus spreading violent crash forces as gently as possible over a wide body area - as if the occupants were going into very large pillows.

Since the DOT announced its ruling on automatic crash protection last July, and thereby put the burden of choosing between automatic crash protection and seatbelts on state legislatures, State Farm and NAIH have been forced to qualify their previous support for seatbelt laws. The NAIH Board of Governors met in September, 1984, and those members present unanimously resolved as follows:

The NAII and its member companies have historically supported highway traffic safety measures that save lives, avoid needless injury and promote casualty loss reduction, as most recently exemplified by the Association's legislative and public relations program addressing the nation's drunk and drugged driver problem and its support of child restraint use laws.

It is well recognized by auto safety experts, medical groups, insurers and others that automatic restraints (either airbags or automatic seatbelts) offer the best hope of dramatically reducing deaths and injuries on our nation's highways.

It is also recognized that mandatory seatbelt usage laws enforced in some foreign countries have raised seatbelt usage and resulted in some reductions in deaths and injuries also.

It is widely accepted that these are complimentary approaches and neither should be viewed as an exclusive response to the need for increased occupant protection.

The current U.S. Transportation Department Occupant Protection Rule wrongly pits automatic restraints against seatbelt laws when both should be used together to maximize the reduction in automobile crash deaths and injuries.

State Farm and NAII resolved to continue to support prompt implementation of an effective federal automatic restraint rule and enactment of state mandatory seatbelt usage laws, so long as such laws do not have the effect of fostering the revocation of the automatic restraint rule.

In addition, we continue to participate in the legal challenge to that portion of the current DOT rule which would result in the automatic restraint requirements being revoked if enough states enact mandatory seatbelt usage laws. We firmly believe that the citizens of Montana should not be precluded from receiving the dual safety benefits through the enactment of a mandatory seatbelt usage law which complies with the DOT guidelines. We realize that many states will be tempted to emulate the legislative precedent set in 1984 by New York and New Jersey and most recently by the state of Illinois. While on the surface these new laws approve to strike a blow for auto safety, in the long run they may prove short-sighted and ultimately prevent the availability of the state-of-the-art automatic crash protection technology whose life-saving benefits substantially exceed those associated with mandatory seatbelt usage laws.

In conclusion, we urge the Senate Public Health Committee to amend SB 211 by adding a Declaration of Policy section that clearly states the law is not to be used to rescind federal passive restraint requirements for new cars, and by changing the fine in the bill from \$25.00 to \$15.00. We believe these amendments will put Montana on record as supporting the best combination of auto safety features, that is, requiring a more safely constructed vehicle and the use of seat belts.

(This sheet to be used by those testifying on a bill.)

NAME: Bonnie L. Tippy DATE: Feb 4, 1985

ADDRESS: 1106 8th Ave Helena, MT 59601

PHONE: 442-2052

REPRESENTING WHOM? Alliance of American Insurers

APPEARING ON WHICH PROPOSAL: SB 211

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENT: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

TESTIMONY -- SENATE BILL 211
BONNIE TIPPY
THE ALLIANCE OF AMERICAN INSURERS

52,000 Americans die and another two million are injured in motor vehicle accidents each year according to the National Safety Council. Crash injuries produce more new cases of quadriplegia and paraplegia than all other causes combined. They also play a big part in the increased incidence of epilepsy and brain damage. Auto crashes are second only to cancer in their economic burden to society. In 1980 the cost was \$39.3 billion. We pay this huge bill in many ways: increased expenses for insurance, medical services, and law enforcement, as well as lost savings, productivity, and human suffering.

Seat belts would dramatically decrease this costly burden. Research shows that one-third of the victims killed in high speed crashes would survive, and two-thirds of those who are severely injured would escape with minor injuries (if any) if seat belts were used. With belts, there is a 20% decrease in the probability of any injury at all, a 50% decrease in the probability of a serious injury, and as much as a 75% decrease on the probability of death. If every American wore seat belts almost 17,000 lives could be saved every year.

A mandatory seat belt law is absolutely necessary because both hard and soft sell campaigns by the government as well as private safety organizations haven't worked. A good example of this fact is what happened in Michigan, a state that has long been a leader in highway safety programs. In 1977, Motorists Information, Inc., an organization formed by the major U. S. automakers, spent one and three-quarters million dollars on a media blitz in the Detroit area to promote belt use. When the Department of Transportation measured the effectiveness of the 10-week campaign, it concluded that there was "no response" to the effort. In fact, in one of the cities studied, belt use declined 1%. In March of 1980, the National Academy of Sciences in a report to DOT concluded that "past attempts to promote seat belt use have not been particularly successful."

Seat belt laws, on the other hand, have been successful in the five Canadian provinces and 24 countries where they have been tried. The most dramatic case is Sweden, where a seat belt law has been in effect since 1975. Driver deaths there were cut 47% and passenger deaths 67%. More than 85% of all Swedes use seat belts. The country saves between \$22 million and \$45 million each year in reduced medical and other societal costs.

The numbers are overwhelmingly in favor of a mandatory seat belt law, yet opponents will argue that this type of law infringes on our personal rights. However, driving is not a right, it is a privilege, already restricted in many ways. Drivers must pass a test before they can legally drive, obey traffic laws, observe speeding limits and refrain from drinking and driving. Seat belt laws may be one more restriction, but one whose benefits far outweigh the small cost in personal liberty and inconvenience. As Lee Iacocca, chairman of Chrysler Corp. and a keen supporter of mandatory seat belt laws, observed recently, it is indeed strange thinking that permits so much death and suffering in the name of personal convenience and wrinkled clothing.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES



TED SCHWINDEN, GOVERNOR

COGSWELL BUILDING

STATE OF MONTANA

HELENA, MONTANA 59620

Testimony Before the Senate Committee on Public Health, Welfare and Safety
February 4, 1985
Senate Bill 211

Madam Chairman and members of the committee: For the record, I am Bob Moon, Health Education Consultant with the Division of Health Services and Medical Facilities of the State Department of Health and Environmental Sciences in order to enter that the Department is supporting SB 211.

From a public health viewpoint, mandatory seat belt usage could decrease Montana fatalities by at least 33%^{1,2}. It entails no known risks. People generally believe that buckling up is good practice. Furthermore, at best, only a third of Montanans use their seatbelts regularly³.

Several studies have shown that health education alone does not increase seatbelt use. Regulation is more effective. Prior to legislation requiring seatbelt use, under one third buckled up. Two months after regulation, over 70% claimed to use their seatbelts. By six months, use declined slightly, but still was over twice the rate before regulation⁴. Also fatalities dropped by 10-20%⁵.

The magnitude of the problem mandates more effective intervention and intervention mandates monitoring, so that we can know if we are making progress or not.

Thank you.

1. Campbell, B., O'Neill, B., and Tingly, B. "Comparative Injuries to Belted and Unbelted Drivers of Sub-compact, Compact, Intermediate, and Standard Cars." Presented at the Third International Congress of Automobile Safety, San Francisco, 1974.
2. Robertson, L. "Estimates of Motor Vehicle Seat Belt Effectiveness and Use: Implications for Occupant Crash Protection." AJPH. 1976, 66:859-864.
3. Moon, Robert W. Montana Behavioral Health Risk Survey - Statewide Analysis of Selected Health Risk Factors. Montana Department of Health and Environmental Sciences, 1984.
4. Williams, A. and Robertson, L. "Observed Daytime Seatbelt Use in Vancouver Before and After the British Columbia Belt-Use Law." Canadian J. Public Health. 1979, 70:329-332.
5. Robertson, L. "The Seat Belt Use Law in Ontario: Effects on Actual Use." Canadian J. Public Health. 1978, 69:154-157.

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Proposed Amendment to S.B. 211

Delete: Page 2, lines 9 through 14 (all of Section 4)

Add: Page 2. line 9, the following:

Section 4. Comparative negligence. Failure of any person to comply with [section 2] does not constitute negligence and evidence of compliance or noncompliance with [section 2] is not admissible in any civil action for personal injury or property damage resulting from the use or operation of a motor vehicle.

SB 211 -- PROPOSED AMENDMENTS BY
STATE FARM INSURANCE COMPANY AND
NATIONAL ASSOCIATION OF INDEPENDENT INSURERS

Section 1. Short title. **【Sections 1 through 4 5】** may be cited as the "Montana Seatbelt Safety Act".

Section 2. Declaration of Policy. It is the policy of this state and the purpose of this Act to promote highway safety measures which will prevent the needless loss of lives, serious injuries and economic loss to society resulting from automobile accidents upon the streets and highways of this state. We find that automobile accidents are the leading cause of death among persons aged five to forty-four and are a statewide health problem second only to cancer. We find also that properly enforced mandatory seat belt laws will contribute to reducing these deaths and injuries by encouraging greater usage of existing manual seat belts and that the best hope of reducing death and injuries lies in both automatic crash protection systems and mandatory use laws. Both are necessary to address this major cause of death and injury.

It is the policy of this State that enactment of this mandatory automobile safety belt usage law is intended to be compatible with support for federal safety standards requiring automatic crash protection, and should not be used in any manner to rescind federal automatic crash protection system requirements for new cars.

Section 3. Seatbelt use required -- exceptions.

(1) Each operator and person occupying a designated seating position in the front seat of a motor vehicle operated in Montana shall wear a properly adjusted and fastened safety seatbelt system, as required in vehicles pursuant to §61-9-409 and meeting the specifications set forth in §61-9-410;

(2) This section does not apply to:

- (a) an operator or passenger of a motor vehicle who:
 - (i) possesses a written verification from a licensed physician that he is unable to wear a safety seatbelt system for medical reasons; or
 - (ii) shows proof that the vehicle in which he is riding is covered by a liability insurance policy providing at least \$500,000 of protection for medical costs and disability payments;
- (b) Vehicles licensed as special mobile equipment;
- (c) Motorcycles or motor-driven cycles; or
- (d) Children subject to the provisions of §61-9-420.

Section 4. Penalty. Each person guilty of violating **【Section 2 3】** is subject to a fine of ~~\$25,00~~ \$15.00.

Section 5. Evidence admissible without presentation of negligence. Evidence of compliance or noncompliance with **【Section 2 3】** is admissible in any civil action for personal injury or property damage resulting from the use or operation of a motor vehicle, but noncompliance with **【Section 2 3】** does not alone constitute negligence.

Section 6. Codification instruction. Sections 1 through 5 are intended to be codified as an integral part of Title 61, Chapter 8, and the provisions of Title 61, Chapter 8, apply to Sections 1 through 5.

Section 7. Termination. This act terminates October 1, 1987.

TECHNOLOGY

AN AIR BAG THAT COULD CRASH THE COST BARRIER

Breed Corp., a small New Jersey contractor, has come up with a new, easy-to-install air bag that could cost as little as \$50.

THE BIGGEST OBSTACLE facing air bags has been the failure to protect a driver against their high price. For several years privately held New Jersey defense contractor, Breed Corp. (estimated 1984 sales: \$9 million), has claimed it could build a device

that was both safe and cheap. The U.S. government is giving Breed a chance to prove it. After conducting only three of 11 scheduled crash tests, the National Highway Traffic Safety Administration expects to install Breed bags in at least 100 police cars in the U.S. by next summer. Declares a NHTSA research and development official: "We think the Breed bag is a most interesting development, a novel approach, and it works."

Although it will take at least two years of police driving before a final evaluation, the preliminary results spell good news for Allen K. Breed, 57, the company's president, and for the big insurance companies and others who favor air bags over seat belts. The Secretary of Transportation has decreed that, unless states representing two-thirds of the U.S. population pass laws requiring the use of seat belts, either air bags or seat belts that automatically wrap around riders must be installed in all new cars by 1989.

Most observers believe seat belts will win over air bags chiefly because the belts are cheaper: \$60 vs. nearly \$900 for the only air bag offered now, by Mercedes Benz. Opponents of bags cite the experience of General Motors: from 1974 to 1976 it offered air bags on some top models, but sold only 10,000 despite a below-cost price of about \$300.

Breed claims his company can make a bag to sell for as little as \$50—assuming a vol-

ume of one million a year—because his technology involves a simple mechanical system rather than the electronic sensors and complex wiring in the GM and Mercedes systems. The Breed invention has three parts: a sensor, the bag, and an inflator. The sensor, in the steering wheel, contains a steel ball held in a cylinder by a lever. A force of four times gravity pushes the ball and moves the lever, which in turn releases a firing pin. The pin ignites sodium azide tablets, producing nitrogen, and the gas inflates the bag. Breed says the process evolved from technology the company developed for hand grenades.

The Breed bag can be packed compactly, sold in an auto parts store, and installed with four screws. Automakers need only leave a cavity in the steering wheel. (Bags for the passenger in the death seat would have to be in the dashboard and would cost about \$100.) Conventional designs require extensive connections to the car's electronics system and are costly to install.

While auto manufacturers have favored belts over expensive bags, both General Motors and Ford say they are interested in the Breed approach and are keeping an eye on the tests. Allen Breed has no doubts about what they will prove: "One day air bags will become as common as safety glass on the windshield."

— Eleanor Johnson Tracy



air bag by Breed in action

Buckling Up Around the World

More than 29 other countries today have some form of a mandatory seat belt law, including all of Western Europe except Italy. Worth noting is the reduction in injuries and fatalities within the first two years after the laws became effective:

Austria — Deaths down 13.6%; serious injuries down 28%

Belguim — Fatalities and injuries down 18%

Ontario (Canada) — Deaths down 16%

Saskatchewan (Canada) — Deaths down 23%; serious injuries down 39%

Czechoslovakia — Deaths down 55%; serious injuries down 25%

Denmark — Serious injuries down 30%

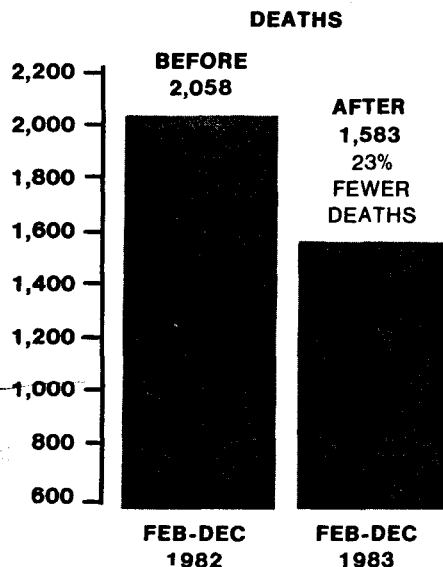
Netherlands — Deaths down 60%; critical injuries down 30%

New Zealand — Deaths down 27%

Spain — Deaths down 59%

Sweden — Fatalities and injuries down 50% to 70%

Effect of compulsory seat belt law in Great Britain before and after effective date (1/31/83)



Sources: American Seat Belt Council
Highway Users Foundation

C-189-1184

Six Myths



About Seat Belts

Alliance
of American Insurers

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Working to Make Insurance Work Better

Alliance

Comfort and convenience are probably two of the principal reasons why some people don't use the seat belts in their cars, a personal consideration that ignores the sad and costly consequences if an accident occurred.

But there are six other reasons often cited too. And each of them is a false assumption — a myth.

1 *Myth:* Seat belts are unnecessary for short trips.

Fact: More than 70 percent of injury-causing traffic accidents occur within 25 miles of home, says the National Safety Council. Over 80 percent of all collisions happen at speeds under 40 mph. People who were not wearing seat belts have even been killed in accidents that occurred at speeds as low as 12 mph — about the speed you would be driving in a parking lot.

2 *Myth:* Seat belts trap people inside cars, and I'd rather be thrown clear.

Fact: "Thrown clear" is a misnomer. Being thrown from a vehicle usually means flying through the windshield, or catapulting out a door. The force of a collision can fling you as much as 150 feet

into a roadside object, into the path of oncoming traffic or scraping along the pavement. For these reasons, if you are thrown from a vehicle in an accident, your chances of being killed are 25 times greater. What's more, instead of being trapped, belted occupants are likely to be conscious and unhurt, and therefore better able to escape in the rare situations where fire or submersions are added dangers.

3 *Myth:* Seat belts cause injuries.

Fact: Study after study in the United States and abroad show a substantial decrease in the number of serious injuries in actual auto accidents among those who are belted versus those who aren't. In the rare instances where injuries due to belts have been reported, either the belt was appropriately worn, or the crash was so severe the occupants would have been killed or seriously injured if they had been unbelted.

4 *Myth:* I don't need belts, since I'm a careful driver.

Fact: No matter how good a driver you are, you can't control the other car. There's no way to protect yourself against someone else's bad driving, poor

judgment, or mechanical failures. Even good drivers can be killed or injured in a crash.

5 *Myth:* I don't need belts; I can brace myself.

Fact: The force of an impact at just 10 mph is equivalent to catching a 200-pound bag of cement thrown from a first-story window, according to the National Safety Council. At 35 mph, the force of an impact is even more brutal. There's no way your arms and legs can brace you against that kind of force — even if you could react in time.

6 *Myth:* Seat belts are uncomfortable.

Fact: While lack of comfort and convenience may be somewhat valid reasons for not using safety belts in older vehicles, late model cars now come equipped with a one-piece lap and shoulder belt that allows for considerable freedom of movement.

Whether they really believe these myths or not, most Americans are simply not in the habit of buckling up — and will not unless continuously reminded to do so. Mandatory seat belt laws provide this type of reminder.

SHERWOOD & ENGLUND

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TESTIMONY OF KARL J. ENGLUND, REPRESENTING THE MONTANA TRIAL LAWYERS ASSOCIATION, BEFORE THE SENATE PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE, CONCERNING S.B. 211, FEBRUARY 4, 1985

Madam Chair and Members of the Committee:

My name is Karl Englund. I am an attorney from Missoula and am the registered lobbyist for the Montana Trial Lawyers Association. The Trial Lawyers Association is an organization of Montana attorneys who primarily represent plaintiffs, or injured parties, in civil litigation.

We consider our role at the Legislature to be fairly limited. It is our responsibility to insure that injured people have adequate remedies available to compensate them for injuries received through no fault of their own. For this reason, the Trial Lawyers neither support nor oppose the concept of mandatory seat belt use. However, there is one provision of S.B. 211 which will fundamentally change Montana law regarding what we lawyers call "the seat belt defense", or liability imposed upon an injured party because he/she failed to wear a seat belt.

Our Supreme Court considered, and rejected, adopting the seat belt defense in the case of Kopischke v. First Continental Corporation, ___ Mont. ___, 610 P.2d 668 (1980). In a well-reasoned opinion, our Court looked at what has been done in other states and concluded:

The overwhelming majority of the cases, be they from contributory negligence states or comparative negligence states, refuse to penalize a plaintiff for not using seat belts and have rejected the defense. Id. at 679

The Court also noted that the seat belt defense essentially

rewards negligent drivers by requiring people to anticipate their negligence. "The defendant should not diminish the consequences of his negligence by the failure of the plaintiff to anticipate the defendant's negligence in causing the accident itself." Id. at 680 "The plaintiff need not predict the negligence of the defendant. " Id.

Perhaps more importantly, the Court addressed administrative problems which would result from the adoption of the seat belt defense. In order to fully understand these administrative problems, one must first understand how motor vehicle accidents are handled under current Montana law. Lets assume that driver X is involved an an auto accident with driver Z. Z, intoxicated, runs a stop sign and hits X, causing significant personal and property damage. Under current Montana law, X's medical and out-of-pocket expenses will paid almost immediatley by Z or Z's insurance carrier. If we had adopted the seat belt defense and if X had not been wearing his/her seat belt, the burden would shift to X to demonstrate which of his/her injuries would have occurred had he/she been wearing the seat belt. This, in turn, would require X to hire some kind of expert to establish this difficult question of fact. Our Court said it best:

(A)llowing the seat belt defense would lead to a veritable battle of experts as to what injuries would have or have not been avoided had the plaintiff been wearing a belt. At best it would cause substantial speculation by the trier of the facts. Id.

Finally, our Court concluded its discussion by summarizing the negative aspects of the seat belt defense.

It would be improper for an injured driver or passenger to be penalized in the eyes of the jury by permitting

evidence to be presented that a seat belt was available which had not been put in use. The seat belt defense would soon become a fortuitous windfall to tort-feasors (wrong-doers) and would tend to cause rampant speculation as to the reduction (or increase) in the amount of recoverable damages attributable to the failure to use available seat belts...It would be a harsh and unsound rule which would deny all recovery to the plaintiff, whose mere failure to buckle his belt in no way contributed to the accident and exonerate the active tort-feasor but for whose negligence the plaintiff's omission would have been harmless. Id.

Accordingly, we have prepared an amendment to Section 4 of S.B. 211 which provides that the failure of any person to wear a seat belt is not negligence and not admissible in any civil action resulting from an automobile accident. This amendment will preserve the present status of the law in Montana and will insure that people who cause injuries in auto accidents are not rewarded for their wrongful conduct.

Thank you for your time and attention.

PROPOSED AMENDMENTS TO SB 211, INTRODUCED COPY:

1. Page 1, line 21
Following: "who"
Strike: ":"
2. Page 1, line 22
Strike: "(i)"
3. Page 1, line 24
Following: "reasons;"
Strike: "remainder of lines 24 through 25 in
their entirety"
4. Page 2, line 1
Strike: lines 1 through 3 in their entirety

(This sheet to be used by those testifying on a bill.)

NAME: Jerome T. Loendorf DATE: 2-4-85

ADDRESS: Helena, mt.

PHONE: 442-6350

REPRESENTING WHOM? mt. Medical Assn

APPEARING ON WHICH PROPOSAL: SB 211

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENT:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

only identify a portion of the economic benefits resulting from an automatic occupant protection rule, it is interesting to note some breakeven points for the cost related to automatic belts using low and high effectiveness estimates. The breakeven point occurs when lifetime cost (retail price increases and additional fuel cost) equal lifetime insurance premium reductions. At the high effectiveness level, the breakeven point occurs at the 32 percent usage level. At the low effectiveness level, the breakeven point occurs at the 44 percent usage level. Thus, by increasing current usage by approximately 20-30 percent, automatic belts will pay for themselves simply based on estimated insurance premium reductions. Inclusion of non-insurance benefits would lower these breakeven points, perhaps significantly.

Although airbag systems do not attain similar breakeven points based just on insurance premium reductions, it is interesting to note that a significant portion of airbag costs would be paid for just by insurance premium reductions. The estimated lifetime cost of a full front airbag system is \$364, including increased fuel cost; the lifetime insurance premium reductions are estimated to range from \$76 to \$158 assuming 12.5 percent usage of the lap belt.

By issuing a performance standard rather than mandating the specific use of one device such as airbags or prohibiting the use of specific devices such as nondetachable belts, the Department believes that it will provide sufficient latitude for industry to develop the most effective systems. The ability to offer alternative devices should enable the manufacturers to overcome any concerns about public acceptability by permitting some public choice. If there is concern, for example, about the comfort or convenience of automatic belts, the manufacturers have the option of providing airbags or passive interiors. For those who remain concerned about the cost of airbags, automatic belts provide an alternative. This approach also has the advantage of not discouraging the development of other technologies. For example, the development of passive interiors can be continued and offered as an alternative to those who have objections to automatic belts or airbags.

Because one manufacturer has already begun to offer airbags and three others have indicated plans to do so, the Department expects that airbags will be offered on some cars in response to this requirement. Moreover, the continued development of lower cost airbag systems, such as the system being

developed by Breed, may result in their use in even larger numbers of automobiles. By encouraging the use of such alternatives to automatic belts through this rulemaking, the Department expects that more effective and less expensive technologies will be developed. In fact, the Department believes it is in the public interest to encourage the development of technologies other than automatic belts to reduce the chance that the purchaser of an automobile will have no other option. See 103 S. Ct. at 2864. Thus, the rule is designed to encourage non-belt technologies during the phase-in period. The Department's expectation is that manufacturers who take advantage of this "weighting" will continue to offer such non-belt systems should the standard be fully reinstated. It also expects that improvements in automatic belt systems will be developed as more manufacturers gain actual experience with them.

Center Seat

The Department has also decided to exempt the center seat of cars from the requirement for automatic occupant protection. This has been done for a number of reasons described in more detail earlier in this preamble. First, limitations in current automatic belt technology would probably result in the elimination of the center seat for most cars if it were required to be protected. Balancing the loss of vehicle utility, and the numerous effects that this could have, with the limited number of occupants of the center seat and, thus, the limited benefits to be gained from protecting it, warrant exempting its coverage. It should be noted that different protection by seating position already exists as rear seat requirements differ from front seat requirements; the center front seat itself is already exempt from the requirement to provide shoulder belts. Thus, there is ample precedent for this action.

Mandatory Use Law Alternative

The rule requires the rescission of the automatic occupant protection requirement if two-thirds of the population of the United States are residents of states that have passed MULs meeting the requirements set forth in the regulation. The requirement would be rescinded as soon as a determination could be made that two-thirds of the population are covered by such statutes. However, if two-thirds of the population are not covered by MULs that take effect by September 1, 1989, the manufacturers will be required to install automatic protection systems in all automobiles manufactured after

September 1, 1989. As discussed in an earlier section, use of the three-point seatbelt (which our analysis indicates is exceeded in its effectiveness range only by an airbag with a three-point belt) is the quickest, least expensive way by far to significantly reduce fatalities and injuries. "We start with the accepted ground that if used, seatbelts unquestionably would save many thousands of lives and would prevent tens of thousands of crippling injuries." 103 S. Ct. at 2871. As set out in detail earlier in the preamble, coverage of a large percentage of the American people by seatbelt laws that are enforced would largely negate the incremental increase in safety to be expected from an automatic protection requirement.

The rule also contains minimum criteria for each state's MUL to be included in the determination by the Secretary that imposition of an automatic protection standard is no longer required. Those minimum criteria are as follows:

(1) A requirement that each outboard front seat occupant of a passenger car, which was required by Federal regulation, when manufactured, to be equipped with front seat occupant restraints, have those devices properly fastened about their bodies at all times while the vehicle is in forward motion.

(2) A prohibition of waivers from the mandatory use of seatbelts, except for medical reasons;

(3) An enforcement program that complies with the following minimum requirements:

(a) *Penalties* A penalty of \$25 (which may include court costs) or more for each violation of the MUL, with a separate penalty being imposed for each person violating the law.

(b) *Civil litigation penalties.* The violation of the MUL by any person when involved in an accident may be used in mitigating any damages sought by that person in any subsequent litigation to recover damages for injuries resulting from the accident. This requirement is satisfied if there is a rule of law in the State permitting such mitigation.

(c) *The establishment of prevention and education programs to encourage compliance with the MUL.*

(d) *The establishment of an MUL evaluation program by the state.* Each state that enacts an MUL will be required to include information on its experiences with those laws in the annual evaluation report on its Highway Safety Plan (HSP) that it submits to NHTSA and FHWA under 23 U.S.C. 402.

(4) An effective date of not later than September 1, 1989.

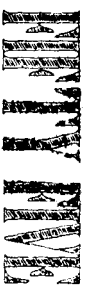
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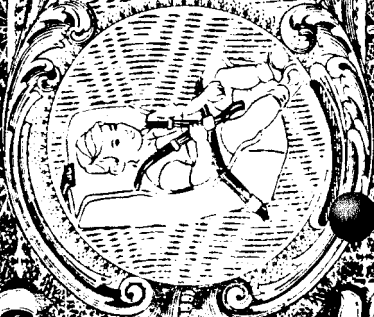
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1982

Col. R. W. Gardner
CHIEF, MONTANA HIGHWAY PATROL

BYH

55 SPEED LIMIT

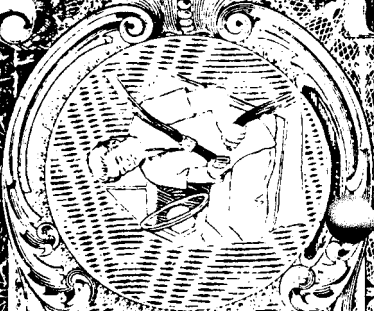
THE NEW YORK HIGHWAY PATROL



Thank You
For
Wearing Your



SEAT BELTS



SAFETY BELTS