25.0285.03000

Sixty-ninth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2206

Introduced by

Senators Conley, Rummel, Clemens

Representatives K. Anderson, Grueneich, Hauck

A BILL for an Act to create and enact a new subsection to section 28-01-18, a new section to chapter 32-03, and a new section to chapter 39-21 of the North Dakota Century Code, relating to civil actions having two-year limitations, limiting noneconomic damages against a commercial motor carrier, and evidence of safety belt usage in civil actions; and to amend and reenact section 39-21-41.4 of the North Dakota Century Code, relating to requiring safety belts in certain motor vehicles; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 28-01-18 of the North Dakota Century Code is created and enacted as follows:

An action against a commercial motor carrier for an injury to or the death of an individual other than the owner or operator of the commercial motor vehicle involved.

SECTION 2. A new section to chapter 32-03 of the North Dakota Century Code is created and enacted as follows:

Commercial motor carrier - Noneconomic damages limited - Reduction of award.

The total amount a person may recover from the owner or operator of a commercial motor carrier for noneconomic damages in a civil action for injury, death, or other loss resulting from the operation of a commercial motor vehicle requiring a commercial driver's license may not exceed five hundred thousand dollars. A jury in a civil action against a commercial motor carrier may not be informed of the limitation on noneconomic damages. If a jury awards an amount exceeding five hundred thousand dollars, the court shall reduce the amount to comply with this section.

SECTION 3. AMENDMENT. Section 39-21-41.4 of the North Dakota Century Code is amended and reenacted as follows:

39-21-41.4. Use of safety belts required in certain motor vehicles - Enforcement ~~-~~ ~~Evidence~~.

1. A driver may not operate upon a highway a motor vehicle designed for carrying fewer than eleven passengers, which was originally manufactured with safety belts unless each occupant is wearing a properly adjusted and fastened safety belt.
2. This section does not apply to ~~a~~:
   a. A child in a child restraint or safety belt in accordance with section 39-21-41.2; ~~to drivers~~
   b. Drivers of implements of husbandry; ~~to operators~~
   c. Operators of farm vehicles as defined in subsection 5 of section 39-04-19; ~~to rural~~
   d. Rural mail carriers while on duty delivering mail; ~~to an~~
   e. An occupant with a medical or physically disabling condition that prevents appropriate restraint in a safety belt, if a qualified physician, physician assistant, or advanced practice registered nurse states in a signed writing the nature of the condition and the reason restraint is inappropriate; ~~to an~~
   f. An occupant who is an emergency medical services personnel, during the provision of direct patient care; or ~~when~~
   g. When all safety belts are in use by other occupants.
3. A physician, physician assistant, or advanced practice registered nurse who, in good faith, provides a statement that restraint would be inappropriate is not subject to civil liability. ~~A violation for not wearing a safety belt under this section is not, in itself, evidence of negligence. The fact of a violation of this section is not admissible in any proceeding other than one charging the violation.~~

SECTION 4. A new section to chapter 39-21 of the North Dakota Century Code is created and enacted as follows:

Evidence of safety belt usage in civil actions.

1. In an action to recover damages arising out of the ownership, common maintenance, or operation of a motor vehicle, failure to wear a safety belt in violation of section 39-21-41.4 may be considered evidence of comparative negligence.

2. Failure to wear a safety belt in violation of section 39-21-41.4 may be admitted to mitigate damages if the party introducing evidence of the failure to wear a safety belt in violation of section 39-21-41.4 first provides expert evidence showing the failure to wear a safety belt contributed to the death or injury sustained by the plaintiff.

3. If the evidence supports that the failure to wear a safety belt contributed to the plaintiff's death or injury, the trier of fact may find the failure to wear a safety belt in violation of section 39-21-41.4 contributed to the plaintiff's injury and reduce the amount of the plaintiff's recovery by an amount not to exceed one percent of the damages awarded after any reductions for comparative negligence.