

SENATE BILL NO. 2206

Introduced by

Senators Conley, Rummel, Clemens

Representatives K. Anderson, Grueneich, Hauck

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

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

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

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

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

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

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

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

1 **39-21-41.4. Use of safety belts required in certain motor vehicles - Enforcement --**

2 **Evidence.**

3 1. A driver may not operate upon a highway a motor vehicle designed for carrying fewer
4 than eleven passengers, which was originally manufactured with safety belts unless
5 each occupant is wearing a properly adjusted and fastened safety belt.

6 2. This section does not apply to a:

7 a. A child in a child restraint or safety belt in accordance with section 39-21-41.2; ~~to~~
8 drivers

9 b. Drivers of implements of husbandry; ~~to operators~~

10 c. Operators of farm vehicles as defined in subsection 5 of section 39-04-19; ~~to~~
11 rural

12 d. Rural mail carriers while on duty delivering mail; ~~to an~~

13 e. An occupant with a medical or physically disabling condition that prevents
14 appropriate restraint in a safety belt, if a qualified physician, physician assistant,
15 or advanced practice registered nurse states in a signed writing the nature of the
16 condition and the reason restraint is inappropriate; ~~to an~~

17 f. An occupant who is an emergency medical services personnel, during the
18 provision of direct patient care; or ~~when~~

19 g. When all safety belts are in use by other occupants.

20 3. A physician, physician assistant, or advanced practice registered nurse who, in good
21 faith, provides a statement that restraint would be inappropriate is not subject to civil
22 liability. ~~A violation for not wearing a safety belt under this section is not, in itself,~~
23 ~~evidence of negligence. The fact of a violation of this section is not admissible in any~~
24 ~~proceeding other than one charging the violation.~~

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

27 **Evidence of safety belt usage in civil actions.**

28 1. In an action to recover damages arising out of the ownership, common maintenance,
29 or operation of a motor vehicle, failure to wear a safety belt in violation of section
30 39-21-41.4 may be considered evidence of comparative negligence.

- 1 2. Failure to wear a safety belt in violation of section 39-21-41.4 may be admitted to
2 mitigate damages if the party introducing evidence of the failure to wear a safety belt
3 in violation of section 39-21-41.4 first provides expert evidence showing the failure to
4 wear a safety belt contributed to the death or injury sustained by the plaintiff.
- 5 3. If the evidence supports that the failure to wear a safety belt contributed to the
6 plaintiff's death or injury, the trier of fact may find the failure to wear a safety belt in
7 violation of section 39-21-41.4 contributed to the plaintiff's injury and reduce the
8 amount of the plaintiff's recovery by an amount not to exceed one percent of the
9 damages awarded after any reductions for comparative negligence.