

**2013 HOUSE TRANSPORTATION**

**HB 1335**

# 2013 HOUSE STANDING COMMITTEE MINUTES

## House Transportation Committee Fort Totten Room, State Capitol

HB 1335  
02-01-13  
Job # 18186

Conference Committee

Committee Clerk Signature

*Jeanette Cook*

### Explanation or reason for introduction of bill/resolution:

A bill relating to the use of safety belts; and relating to secondary enforcement of safety belt requirements.

### Minutes:

Amendments 1-10

**Chairman Ruby** opened the hearing on HB 1335.

**Vice Chairman Owens** introduced HB 1335. He supports the bill. He stated that it removes the limitation within the current law that restricts enforcement of seat belts as a primary law. It does not change the fines or points. There are a lot of statistics, studies, and best practices, from and within other states that speak to this law. Others will explain that. He finds it interesting that in our own law that 39-21-41.1 requires every vehicle sold, built or exchanged in the state of North Dakota to include seatbelts, but don't require people to use them. He believes that the secondary benefit of this law will give us a double opportunity to save lives. His belief is that people who get into a vehicle and drive drunk do not think about using the seatbelt. Looking at how many alcohol related fatalities over the years, just in North Dakota, are associated with non-seatbelt use, he thinks those facts supports that. In the last two years over 55% of fatalities are alcohol related. His primary purpose in supporting this bill is to allow law enforcement the opportunity to stop someone who is not wearing a seatbelt. If that person has been drinking, they will not be able to run through the next stop sign and kill someone we know.

**Mike Reitan, Assistant Chief, West Fargo Police Department**, spoke to support HB 1335. He provided written testimony with a consolidated report from The Northern Great Plains Transportation Institute of a study of traffic crashes from 2002 through 2011. See attachment #1.

**Representative Delmore:** I saw a study that showed that the Eastern part of our state has a much higher rate of seatbelt use than the West. Is there any reason why you think that might be?

**Mike Reitan:** It might be just the climate of western North Dakota versus the urban areas of eastern North Dakota that has the most impact.

**Representative Vigesaa:** What percentage of the violations that your department gives includes the seat belt violation?

**Mike Reitan:** I don't have that statistical information in front of me. We do encourage officers to issue citations for seatbelts when they see the violation, and they have stopped the driver for another violation. It is low because it is a secondary violation.

**Chairman Ruby:** What about trucks that just have lap belts? Do you think they would get pulled over often?

**Mike Reitan:** They might get stopped, but once the driver demonstrated that to the officer, there would be no violation. There is a possibility that they would be getting stopped if the officer is not seeing the seatbelt.

**Representative Kreun:** Do you anticipate any higher percentage of traffic stops if this is a primary sector offense than any other primary sector offense?

**Mike Reitan:** No, it will just be another violation that officers will see and make the stop.

**Representative Kreun:** My understanding is that this will not be an all-out assault on people who do not wear their seatbelt, any more than any other violation. Is that correct?

**Mike Reitan:** Yes.(13:45)

**Aaron Burst, Association of Counties,** spoke to support HB 1335. His association strongly supports the bill. He stated that at least half of the fatalities that occur in North Dakota are on county roads. This bill does send a strong public policy message which is lacking with our secondary seatbelt law.

**Tom Balzer, Executive Vice President of the North Dakota Motor Carriers Association,** spoke to support HB 1335. He provided written testimony. See attachment #2. (18:44)

**Chairman Ruby:** Would you believe that in a collision between a passenger vehicle and a truck, the fatalities would most likely be in the passenger vehicle?

**Tom Balzer:** No, not necessarily, what we see in our accidents are not head on collisions. Most of them happen when someone swerves out of their lane and bump into a truck. They go off the road and roll their vehicle. Obviously, being belted in in a rolling vehicle, you have a much better chance of survival.

**Representative Becker:** I'm having difficulty changing this to a primary offense. I feel this is a victimless crime, so this law would protect me from myself. Are you saying that you are concerned that if a driver that is involved in an accident and someone is killed, it is traumatic for them, and they are a victim?

**Tom Balzer:** Yes, I think that our drivers definitely take their jobs seriously. If they are involved in an accident that results in a fatality, that will have a significant impact on their

life. So, yes it would be a good reason for everyone to use seatbelts. I wouldn't consider this a victimless crime. There are many cases when someone who is not belted may collide with someone else in the car, and that person will be a victim in that instance.

**Representative Becker:** Does this law pertain to backseat?

**Tom Balzer:** I don't believe so, but it doesn't prevent the driver who is unbelted from flying into the backseat when someone is back there. I think that with any law you can come up with some unlikely scenarios. When our drivers get into an accident and someone dies; it is going to be traumatic for them. (22:30).

**Kara Johnson, Attorney at Zuger Kirmis and Smith in Bismarck, spoke on behalf of State Farm Insurance Companies** in support of HB 1335. She provided written testimony. See attachment # 3.

**Kara Johnson:** To address Representative Becker question, I am typically a defense attorney, so, one of the places that I see the issue that you previously raised is in a wrongful death case. For example, two vehicles collide and someone is killed. Trying to explain to a family, who has brought a lawsuit on behalf of the estate, that they may not be entitled to as much money in a settlement because the person who passed away was not wearing their safety belt, is difficult. Sometimes there might be a situation that you need to protect a person from themselves, like requiring the person to wear a safety belt.

**Chairman Ruby:** Does someone have current data on seat belt usage from '09-'12 that is specific for our state? I am interested to see where we fit with other states.

**Mike Reitan:** On the Great Plains Traffic Institute study, there is information from 2009 to 2011 that shows the different areas of the state and the percentage of seatbelt use.

**Dave Weisz, owner of Weisz Family Funeral Home in Mandan,** spoke to support the use of seat belts as a primary law as in HB 1335. There are things that are more important than money, and that is life. Even in slow crashes death can occur, and seatbelts do save lives. Everyone needs to be reminded from time to time. If this helps to give a police officer a reason to pull me over, that might help to save a life. Even a drunk person's life is important. We ALL make mistakes, and we ALL have the right to live. (31:00)

**Gene LaDoucer, The Auto Club Group/AAA North Dakota,** spoke to support HB 1335. He provided written testimony and fact sheets that include information about accidents in North Dakota and a comparison of North Dakota's accidents to Minnesota's. See attachment #4. (34:47)

**Representative Becker:** You are estimating that we can save 7 lives and 2 serious injuries and \$15,000 in costs?

**Gene LaDoucer:** Yes.

**Representative Becker:** I would like to see that study. I have questions as to how they come up with the data.

**Gene LaDoucer:** I have the study; it was conducted by the National Highway Traffic Safety Administration. It shows the entire calculations and is about 80 pages long. I would be willing to share that with the committee.

**Chairman Ruby:** We would appreciate that. (36:45)

**Richard Ott,** executive director for the Head Injury Association of North Dakota, spoke in support of HB 1335. He provided written testimony. See attachment # 5..

There was no further support for HB 1335.

**Loren Campbell, Bismarck, North Dakota,** speaking on his own behalf, opposed HB 1335. He provided written testimony. See attachment #6. (43:20)

**Representative Becker:** Do you recall the percentage of the vote in 1994 that upheld the secondary enforcement?

**Loren Campbell:** It was very close to 50%

**Representative Kreun:** Thinking that people have the right to do as they please, would you adhere to the thought that, if in fact, the insurance would not pay for someone who doesn't use a seatbelt, and the rest of us would not have to pay higher premiums?

**Loren Campbell:** I would say that is for the insurance company to make that stipulation. The insurance companies can decide to make it mandatory. It is not up to the state and law enforcement. We are not wards of the state. We should be free to take risks.

**Representative Kreun:** Then I should have the freedom to decide if I should pay the policy for you or not?

**Loren Campbell:** You are not paying my policy.

**Representative Kreun:** I would be if you didn't have insurance, got in an accident, and then became a ward of the state. We would have to take care of you. Do you want to take that responsibility on your own and pay for yourself?

**Loren Campbell:** Yes, I think that is incumbent to those that have liberty to make choices, to be responsible for their own actions. (48:25)

**Loren Campbell** provided written testimony from **John J. Gosbee**. See attachment #7.

**Ralph Mueche, Gladstone, North Dakota,** spoke to reveal his position to oppose a primary seatbelt law. He thinks that people should be allowed to make their own choices. He thinks the law should be left as a secondary offense. (56:33)

There was no further testimony in opposition to HB 1335.

**James Prochniak, superintendent of the North Dakota Highway Patrol**, spoke in a neutral position on HB 1335. He prefaced his testimony with the recognition that great policy decision making lies in the committee's hands this morning. The purpose of his testimony is to provide the committee with information. When the testimony was put together, it concentrated on what is seen in North Dakota. He provided written testimony. See attachment # 8.

**Chairman Ruby:** What is our statewide driver average of seatbelt usage?

**James Prochniak:** I don't think I have that specific information. There may be some follow-up that hits on that.

**Representative Vigesaa:** Of the 53 fatalities that were not buckled up last year, do you know how many had alcohol involved?

**James Prochniak:** I don't know that we track those together for our internal record keeping. Roughly around 50% + of our fatal crashes involve alcohol use.

**Representative Becker:** Are you able to separate the accidents that involve alcohol use, where the driver is intoxicated?

**James Prochniak:** When we report we are talking about the driver. When we are reporting "alcohol involved", that statement is general. Someone could have a glass of wine or a whole bottle of wine. When we suspect the latter, we do go after a sample to determine what the level will be. You can be found guilty for less amounts of alcohol than .08% if your driving is showing recklessness or undue care.

**Representative Becker:** Can you give me a percentage where the driver is actually drunk when involved in an accident?

**James Prochniak:** Our agency doesn't specifically track that. I will try to get that to share with the committee.

**Representative Schatz:** Are there any accidents that fatalities actually occur because they **were** wearing their seatbelts?

**James Prochniak:** Yes, it could happen when someone is wearing a seatbelt. It might be because of improper use.

**Representative Drovdal:** Chief Reitan, one statistic said that 76% of fatal crash victims were not wearing seatbelts in 2008. Another statistic said that North Dakota reports 59.2% use during the same time period. There are also other statistics that don't seem consistent.

**Mike Reitan:** The 59% came from the CDC study.

**Representative Drovdal:** Why don't they agree with the chart that you have on the second page?

**Mike Reitan:** This chart was prepared by the Upper Great Plains Traffic Institute. I would be unable to tell you why the two statistics are different.

**Mark Nelson, Safety Division Director, North Dakota Department of Transportation,** spoke in a neutral position on HB 1335. He provided written testimony. See attachment # 9. (1:15:20)

**Chairman Ruby:** In previous testimony we have heard that currently twenty-five states and the District of Columbia have primary enforcement. Twenty-four don't, and one has no seatbelt law at all. When we get information about seatbelt usage, there are states that have much higher populations than North Dakota. Wouldn't that skew the information?

**Mark Nelson:** When we conduct surveys, they are observational seatbelt surveys. They are done in specific areas, and someone is out there counting to see how many people are wearing their seatbelts. They sit in different areas to do the counting in any state.

**Chairman Ruby:** Could you provide the percentage of use in the last four to five years in North Dakota, so we can get an idea of the trend?

**Mark Nelson:** Yes, we will get those numbers.

**Representative Becker:** Looking at your studies that the aspect of being in rural areas really pulls that number down. The 76.7% includes the entire state, is that correct?

**Mark Nelson:** It is not necessarily aimed at the rural areas. The 76.7% is done more in the urban areas. They are selected by a methodology that we have with NITSA (National Highway Traffic Safety Administration). Those are typically done in the larger urban areas on primary roads. The second numbers get to additional surveys that were done in the rural areas. The 76.7 does not combine the rural areas into that figure.

**Representative Becker:** Wikipedia indicates that our whole state is at 75%. There must be a whole state usage statistic that we can refer to?

**Mark Nelson:** The statistic that we typically use when we report to NITSA.

**Representative Becker:** That seems incomplete and inaccurate. I'm surprised that the state would supply data that is based solely on a few population centers. Do other states selectively choose portions of their state for which they supply data?

**Mark Nelson:** The 76.6% is done with the same methodology as in all of the states. We can provide you with the areas that are surveyed. It is not just a few cities; it incorporates numerous counties.

**Representative Becker:** I would like to know the methodology and see the studies to glean the truth. I want to know how weighted the rural sections are.

**Mark Nelson:** The 76.6% does include all areas. I included the rural areas alone to show that in rural North Dakota we don't have a 76.7% seatbelt use. We can provide the methodology to you, so you can see how this is determined.

**Terry Dwelle, State Health Officer for the North Dakota Department of Health,** spoke in a neutral position on HB 1335. He provided written testimony. See attachment # 10.

There was no further testimony on HB 1335.  
The hearing was closed on HB 1335.



# 2013 HOUSE STANDING COMMITTEE MINUTES

House Transportation Committee  
Fort Totten Room, State Capitol

HB 1335  
02-14-13  
Job # 18936

Conference Committee

Committee Clerk Signature

*Janette Cook*

Minutes:

**Chairman Ruby** brought HB 1335 back before the committee.

**Vice Chairman Owens moved a DO PASS on HB 1335.**  
**Representative Gruchella seconded the motion.**

**Vice Chairman Owens:** We are dealing with deaths on the highways and 55% of the people were not wearing their seatbelts. The alcohol related deaths have been at 50% for the past two years in North Dakota. You can combine those two, but the whole focus here is prevention injury programs. This is one of those where death in some cases is reduced to major injury, or major injury is reduced to minor injury. The process of effective injury prevention is what they have identified as "Four Es": evaluation, education, engineering, and enforcement. We have done well on evaluation; education we have done a great job on; engineering - the Department of Transportation is engineering the roads the best way that they can, and we have seen great improvements. What we are lacking is enforcement. Wearing a seatbelt is a secondary law, and while there are a number of other states that have this as a secondary law, the fines range from \$15 to \$500 for a secondary offense. The focus here, for me, is not just reducing the deaths of the people who *won't* buckle up, but it is reducing the deaths of the people that they encounter. If you look at just the statistics, just in North Dakota, you will notice that drunk drivers don't buckle up. It is just one more tool to stop that drunk driver before they get to a stop sign or red light that they run, and hit and kill someone's loved one. That is what I am focusing on personally.

**Chairman Ruby:** I don't look at the seatbelt law as a way to enforce drunken driving laws. I think we have laws that we are looking at toughening up for that reason. I am going to oppose the DO PASS motion because last summer I took the ABATE motorcycle safety class. One of the first things that they told us was: "When you get on a motorcycle and go out on the highways, you are accepting additional risk. If you don't want to accept the risk, don't get on a motorcycle." Why is it that we can accept that risk to get onto a motorcycle, but when we get into a car, we don't have a choice if we want to accept the risk or not? We don't have the freedom to decide if we want to buckle up. I do use my seatbelt because that is my choice.

**Representative Becker:** I am going to oppose a do pass. The reasons for a DO PASS would be a different approach of getting more DUI drivers. I don't agree with that approach.

I don't think that we can legislate different activities because of the chance they might orphan their children. The third reason is the cost to society, as we now are responsible and beholden to all other citizens for what we do that could or couldn't affect our health. Theoretically, they have a stake in our health. There are many things that are costly to society, and we can't legislate everything.

**Representative Gruchella:** Medical costs and death are a big issue with people who do not use their seatbelts. The age group, 25 - 34 year olds, which think they are invincible. Those are the ones that are getting killed. Many times alcohol is involved. The secondary enforcement takes away law enforcement's ability to enforce the law. If we pass a law, we should want it enforced. There is also the problem with injury to others in the car from someone who is not belted. All reasons to support the DO PASS.

**Representative Heller:** I happened to find in the Crash Report the page about seatbelt use. It says that in 2011 77% of North Dakotans already put their seatbelt on. If we make this a primary law, will it force the other 23% to wear their seatbelt? I'm not sure. It also shows that there were 71 fatalities of people who were not ejected, but 43 fatalities of ones that were ejected. It surprised me that there were more people that died in the car than were thrown out. I am rejecting the DO PASS.

**Vice Chairman Owens:** Statistically, it is shown that when you go from secondary to primary the usage increases by 10%. You will not catch everyone.

**A roll call vote was taken. Aye 6 Nay 7 Absent 1  
The motion failed.**

**Representative Weisz moved a DO NOT PASS on HB 1335.**

**Representative Becker seconded the motion.**

**A roll call vote was taken. Aye 7 Nay 6 Absent 1**

**The motion carried.**

**Representative Weisz will carry HB 1335.**

Date: 2-14-13  
 Roll Call Vote #: 1

**2013 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1335**

House Transportation Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt  
 Amendment

Rerefer to Appropriations  Reconsider

Motion Made By Owens Seconded By Gruchalla

Representatives	Yes	No	Representatives	Yes	No
Chairman Dan Ruby		✓	Rep. Lois Delmore	✓	
Vice Chairman Mark Owens	✓		Rep. Edmund Gruchalla	✓	
Rep. Rick Becker		✓	Rep. Kylie Oversen	✓	
Rep. David Drovdal	✓				
Rep. Robert Frantsvog	✓				
Rep. Brenda Heller		✓			
Rep. Curtiss Kreun	A				
Rep. Mike Schatz		✓			
Rep. Gary Sukut		✓			
Rep. Don Vigesaa		✓			
Rep. Robin Weisz		✓			

Total (Yes) 10 No 7

Absent 1

Floor Assignment Failed

If the vote is on an amendment, briefly indicate intent:

Date: 2-14-13  
 Roll Call Vote #: 2

**2013 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1335**

House Transportation Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt  
 Amendment

Rerefer to Appropriations  Reconsider

Motion Made By Weisz Seconded By Becker

Representatives	Yes	No	Representatives	Yes	No
Chairman Dan Ruby	✓		Rep. Lois Delmore		✓
Vice Chairman Mark Owens		✓	Rep. Edmund Gruchalla		✓
Rep. Rick Becker	✓		Rep. Kylie Oversen		✓
Rep. David Drovdal		✓			
Rep. Robert Frantsvog		✓			
Rep. Brenda Heller	✓				
Rep. Curtiss Kreun	A				
Rep. Mike Schatz	✓				
Rep. Gary Sukut	✓				
Rep. Don Vigesaa	✓				
Rep. Robin Weisz	✓				

Total (Yes) 7 No 6

Absent \_\_\_\_\_

Floor Assignment Weisz

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1335: Transportation Committee (Rep. Ruby, Chairman)** recommends **DO NOT PASS** (7 YEAS, 6 NAYS, 1 ABSENT AND NOT VOTING). HB 1335 was placed on the Eleventh order on the calendar.

**2013 TESTIMONY**

**HB 1335**

# /

Transportation Committee  
House Bill 1335  
Testimony of Mike Reitan, Assistant Chief, West Fargo Police Department

Good Afternoon

Chairman Ruby, Vice Chair Owens and members of the Committee, for the record my name is Mike Reitan, Assistant Chief of the West Fargo Police Department. I am testifying today in support of House Bill 1335. The bill before you today is meant to promote traffic safety through increased use of passenger restraints.

The Northern Great Plains Transportation Institute (NGPTI) has studied traffic crashes between 2002 and 2011 and I have included a consolidated report from that period. Of note, in 2008 approximately 76% of fatal crashes involved occupants not wearing seatbelts. 2008 was also the year reviewed in a study conducted by Center of Disease Control (CDC) where North Dakota is reported as dead last in the nation for seat belt use.

It is without argument that cars are designed to meet stringent federal regulation for rollover and other collision standards. If occupants in a motor vehicle crash remain in place through the use of occupant restraints they are far less likely to die or be injured in a crash. Each week we hear of a fatality crash in North Dakota. How often do you hear the person killed was not wearing a seat belt?

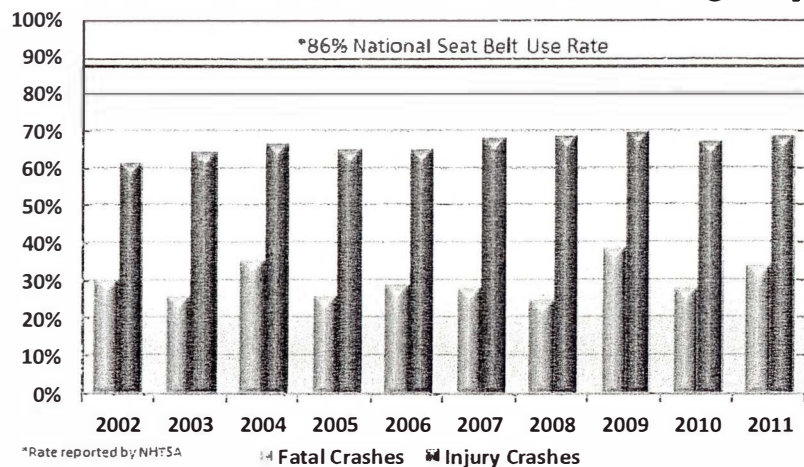
Primary enforcement seatbelt laws do work. The CDC's report indicated a national average of 88.2% of the drivers reported using seatbelts in states where primary enforcement laws are in place. North Dakota reported 59.2% during this same time period. The deterrent factor of primary enforcement has a significant impact upon compliance.

The NGPTI study showed seatbelt compliance of 73% for drivers 14 – 17 years of age, an age group where primary enforcement is the law here in North Dakota. The compliance percentage for age group 18 – 24 drops as low as 69% during the next six years they are subject to secondary enforcement actions. The simple change in law from primary to secondary enforcement removes the deterrent of being stopped and cited. The age group 18 – 24 apparently does not recognize the other incentive of passenger safety as displayed by those 55 and older who use seat belts more than 76% of the time.

Primary enforcement can and does make a difference. I respectfully ask for a recommendation of DO PASS on HB1335.

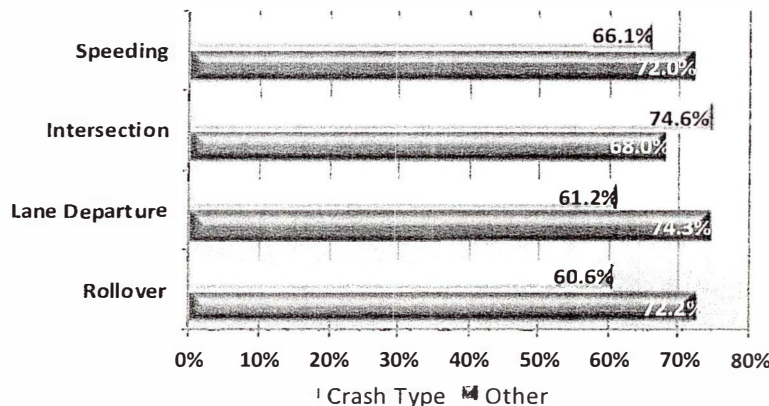
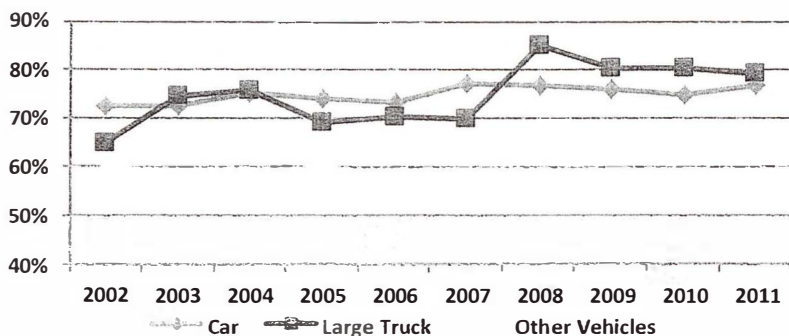
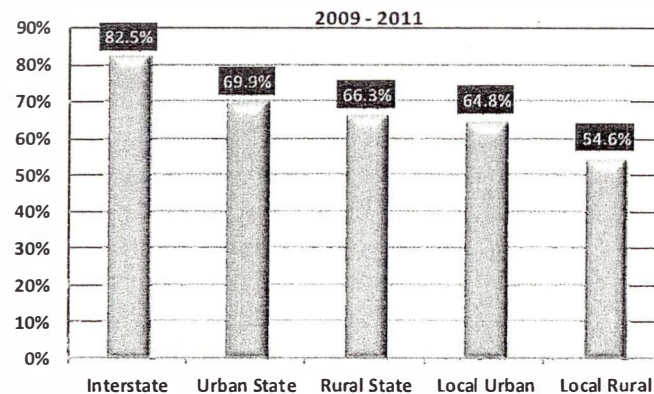
Thank you for your consideration. I would be willing to answer any questions you may have.

# Seat Belt Use In Fatal and Injury Crashes



Seat belt use in fatal and injury crashes is considerably lower than the mainstream national average reported by NHTSA. North Dakota's 10-year average for fatal crashes is 31%, and injury - 66%.

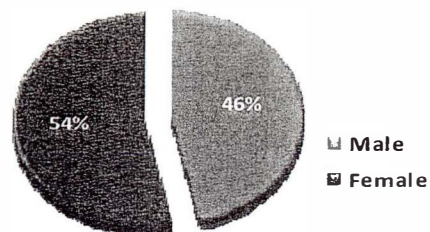
Drivers in crashes on interstate roads demonstrate the highest seat belt use. Urban and rural roads have mean use in crashes of 67% and 60% respectively.



Frequency of seat belt use of drivers in speeding, lane departure, and rollover crash types is approximately 10-15% less than those in crashes outside each category. Only intersection crashes show higher usage.

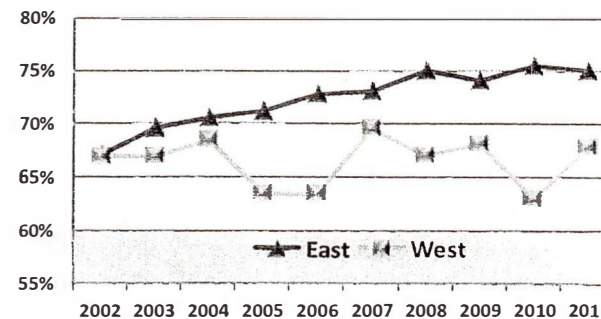
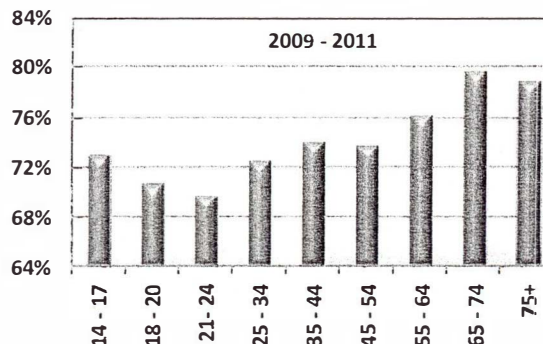
Seat belt use in large truck crashes has outpaced cars and other vehicles since 2008.

While regional seat belt use in crashes was uniform in 2002, the East has trended upwards while the West has demonstrated irregular use. The East 10-year average is 72% and the West - 67%.



Observational studies of seat belt use in ND have found that female use is higher than male use, and this pattern holds true in crashes. From 2009-2011, female use in crashes was 54% compared to male use of 46%.

The distribution of seat belt use in crashes by age reflects a slight drop in use in the 18-24 year olds and a steady increase with age, hovering about 80% for 65 years and older.



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# More Seat Belt Use, Fewer Car Crash Injuries

## Oregon Most Buckled-Up State, North Dakota Least Secured

By Daniel J. DeNoon  
WebMD Health News

Reviewed by Laura J. Martin, MD

Jan. 4, 2011 -- State laws that fine motorists and passengers who don't buckle up increase seat belt use and cut car crash injury rates, a CDC study finds.

Overall, six out of seven Americans say they always wear a seat belt when they're in a motor vehicle.

"Wearing a seat belt on every trip has become the norm in America, and that is related to a steady fall in deaths from motor vehicle crashes," CDC Director Thomas Frieden, MD, MPH, said at a news teleconference.

In "click-it or ticket" states -- states that allow police to stop cars and ticket motorists for failure to use seat belts -- 88% of people say they always wear their seat belts when in a vehicle.

At the top of the list is Oregon, where nearly 94% of residents report always using seat belts.

But 18 states only give tickets for not wearing seat belts when a car is stopped for some other violation. In these states -- including New Hampshire, where there is no seat belt law -- only 79% of residents say they always wear their seat belts.

**At the bottom of the list is North Dakota, where only about 59% of residents report always using seat belts.**

Why wear seat belts? Data show that when there's a car crash, people wearing seat belts are about half as likely to be seriously injured, and about 45% less likely to die.

According to the National Highway Traffic Safety Administration's 2009 data, if all states had strict "click-it or ticket" laws:

- 450 lives would have been saved.
- 12,000 nonfatal injuries would have been prevented.
- \$1.6 billion in societal costs would have been saved.

Even though more Americans than ever are wearing their seat belts, rates of consistent seat belt use are much higher in Europe.

"The U.S. traffic fatality rate is far higher than in Europe, where people drive just as fast and drink just as much as we do," Frieden said.

Men, young adults, and people who live in rural areas are less likely to wear seat belts than are other Americans.

### Seat Belt Use: Best States, Worst States

States in which police can stop a car solely because seat belts are not being used have "primary enforcement laws." States in which police can only give a seat belt ticket if the car is stopped for some other violation have "secondary enforcement laws."

New Hampshire is the only state with no seat belt law. Since the CDC compiled these statistics in 2008, Arkansas, Florida, Kansas, Minnesota, and Wisconsin have passed primary enforcement laws.

The table shows the percentage of state residents who in 2008 reported "always" wearing a seat belt whenever they are in a motor vehicle.

**TESTIMONY  
HOUSE BILL 1335  
TRANSPORTATION COMMITTEE  
FEBRUARY 1, 2013**

Mr. Chairman and members of the House Transportation Committee my name is Tom Balzer, executive vice president of the North Dakota Motor Carriers Association. I am here this morning to testify in support of House Bill 1335.

For every crash, there is the potential for three different points of impact. The first is the force caused by your vehicle colliding with another object. Second, the occupant's body collides with the interior of the vehicle. Finally, within the occupant's body, organs collide against your skeleton. A seat belt secures the occupant so its body doesn't continue to move forward and backward after the car has stopped. A seat belt also spreads the impact over the larger, stronger parts of the body such as the pelvis and shoulders, rather than the upper midsection of the body.

According to the Federal Motor Carrier Safety Administration seat belt usage rates were 78% in those states that had primary seat belt laws in place. In states that do not have primary seat belt laws, seat belt usage rate was just about 72%.

A 2006 Virginia Tech analysis of two studies conducted for the Department of Transportation found that 78 percent of crashes were caused by passenger car drivers. AAA found in July 2002 that 80 percent of crashes were caused by car drivers. In fatal crashes involving a car and a large truck, 35 percent of the time the crash occurred in one of the four blind spots surrounding large trucks.

For us primary seatbelts make sense economically, unbelted crash victims have medical bills 50 percent higher than belted crash victims. Unbelted drivers are more severely injured in accidents and as a result cost more in medical cost and litigation costs.

A strong connection exists between primary enforcement laws and a reduction in fatalities. Primary enforcement states showed nearly double the reduction in fatalities compared to secondary states. Furthermore, an upgrade to primary enforcement was associated with a 5.1 percent decline in fatalities for drivers and a 4.7 percent decrease in all vehicle occupant fatalities.

You may hear stories today about people who burned or drowned as a result of wearing a seatbelt. These events although tragic are not that common, less than five percent of crashes cause a car to start on fire or be submerged in water.

People are more likely to wear their seatbelt when there is primary enforcement.

We would ask for a DO PASS recommendation for House Bill 1335. Mr. Chairman this concludes my testimony, I would be happy to answer any questions.

#3

**Testimony in Support of House Bill 1335**  
**House Transportation Committee**  
**February 1, 2013**

Good morning Chairman Ruby and Committee Members. My name is Kara Johnson. I am an attorney at Zuger Kirmis & Smith here in Bismarck where I work with Pat Ward. I am here today on behalf of State Farm Insurance Companies in support of House Bill 1335, relating to the primary enforcement of safety belts.

According to the National Highway Traffic Safety Administration, a safety belt is one of the most effective methods for reducing injuries and saving lives in a motor vehicle accident. Safety belts prevent 11,900 deaths and 325,000 serious injuries annually. It is anticipated that if all vehicle occupants used safety belts, an additional 9,200 deaths and 143,000 serious injuries could be prevented annually. Deaths and injuries from failing to use safety belts are estimated to cost society \$26 billion annually for medical care, lost productivity, and other injury-related costs.

The injuries sustained from a non-restrained driver are 50% higher than victims using safety belts. Society bears 74% of this increased

cost through increased insurance premiums, taxes and health care costs.

Education and legal requirements will not be enough to get everyone to wear a safety belt; however, in 2011, states with secondary enforcement laws had a safety belt usage rate of 76% while primary enforcement states had a usage rate of 87%. When states change their enforcement from secondary to primary for the use of safety belts, states have seen dramatic increase in the use of safety belts. For example, in Kansas, safety belt use increased 5% in 2010, after their enforcement law was changed from secondary to primary. The National Insurance Institute for Highway Safety found that when states strengthen their laws from secondary to primary enforcement, driver death rates declined by an estimated 7%.

Studies have also shown that primary enforcement in the use of safety belts by adults increases the use of safety belts and booster seats in children, if the adult in the vehicle is using his or her safety belt. This statistic corresponds to House Bill 1329.

Currently, 25 states and the District of Columbia have primary enforcement laws and 24 states have secondary enforcement laws. State Farm fully supports changing from a secondary enforcement state to a primary enforcement state.

I urge you to place a “do pass” on House Bill 1335.

#4

**Testimony in Support of HB 1335  
House Transportation Committee – Feb. 1, 2013  
Gene LaDoucer, The Auto Club Group/AAA North Dakota**

Good morning, Mr. Chairman and members of the committee. Thank you for the opportunity to express support for House Bill 1335. My name is Gene LaDoucer, and I represent AAA North Dakota and The Auto Club Group, the second largest AAA club in North America with approximately 8.8 million members.

For more than 110 years, AAA has been a leader and advocate for the safety and security of all travelers and it's our position that it's time to stop thinking of traffic crashes as "normal" and traffic fatalities and severe injuries as "acceptable losses." In fact, there should be outrage that over the past two years we've seen a sharp increase in traffic fatalities in North Dakota. While fatalities in the United States have fallen to levels not seen since 1949, in North Dakota deaths are at a 30-year high.

There is no disputing the effectiveness of seat belts. Even those who don't regularly wear them admit they would buckle up if they knew they would be involved in a crash. Many – and evidence would point largely to teens and men -- believe they are good drivers and won't be involved in a crash. That overconfidence is tested daily resulting in preventable deaths and injuries.

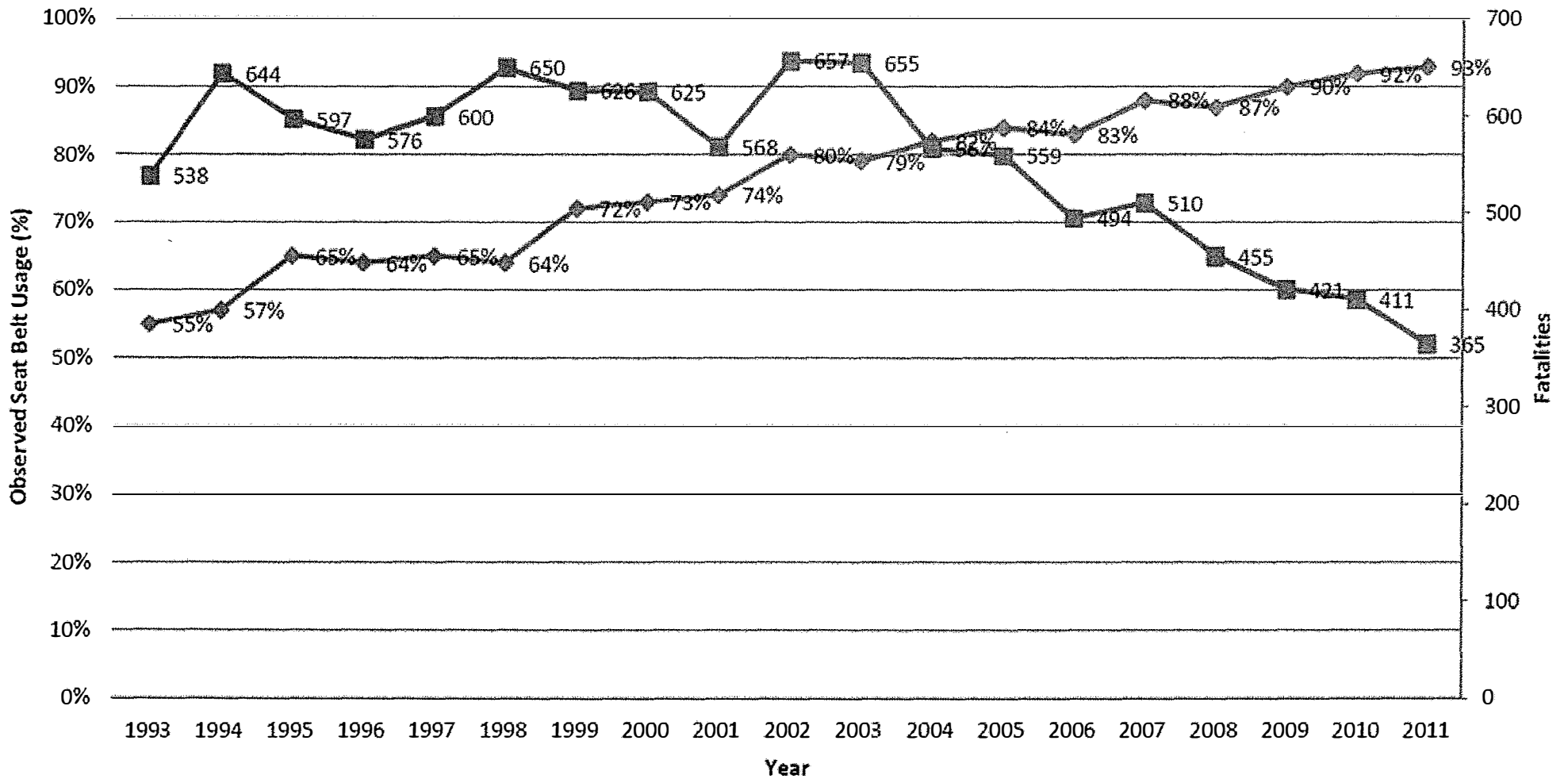
Primary seat belt laws – when embraced as part of a multidisciplinary approach to traffic safety -- are highly effective. We need to look no further than our neighbors to the east. In Minnesota, where they've adopted a "Toward Zero Deaths" initiative, results are in stark contrast to what we're seeing in North Dakota. While the primary seat law alone can't be credited with the differences, there is a strong correlation between seat belt use and the decline in deaths and injuries in that state (chart attached). Furthermore, consider the following:

- While North Dakota's crash fatalities are at a 30-year high, in Minnesota they are at their lowest level since 1944.
- Minnesota has seen a 42-percent reduction in deaths in the past decade; North Dakota has seen a 60-percent increase.
- Minnesota has 8 times the number of licenses drivers than North Dakota, but only 2.5 times as many crash fatalities.
- North Dakota's fatality rate per vehicle miles traveled (VMT) is 2.5 times greater than in Minnesota -- 1.61 per 100 million miles traveled vs. .65 (2011 crash facts).

By adopting a similar approach -- starting with passage of HB 1335 – we could begin to see similar results.

HB 1335 isn't meant to "strengthen" the law or allow law enforcement to "crack down" on motorists. It doesn't ask for an increase in the existing penalty. It only allows for the current law to be enforced like all others – to effectively end what might be viewed as the grace period provided by secondary enforcement. Primary enforcement would increase the effectiveness of education and enforcement campaigns and send the message that North Dakota takes traffic safety seriously.

# Minnesota Seat Belt Usage v Fatalities





# Fact Sheet

## North Dakota Traffic Safety & Seat Belts

### Costs:

- Traffic crashes cost the Nation about \$230 billion each year in medical expenses, lost productivity, property damage, and related costs.
  - North Dakota pays \$290 million of these costs; about \$452 for every resident each year.
  - About 74 percent of the costs are paid by citizens not involved in the crashes.
  - Crashes cost ND employers more than \$49 million annually—about \$150 per employee.

### Fatality Data:

- North Dakota has one of the nation's lowest seat belt use rates for those that die in fatal crashes — 29.5 percent compared to the national average of 47.4 percent.
- In 2011, 114 people died while riding in cars and light trucks in North Dakota. Of these, 67.5 percent died while not wearing seat belts.
- More than 96 percent of the state's motor vehicle traffic fatalities occur in rural areas, and the fatality rate per 100 million vehicle miles is higher in rural areas than in urban areas.

### Seat Belt Usage Data:

- Nearly 1 in 4 North Dakotans – more than 157,000 people – are not buckling up.
- An estimated 28 lives were saved by seat belts in North Dakota in 2010, and 20 additional lives could have been saved with 100 percent seat belt use.

### Primary Seat Belt Laws:

- In states with secondary enforcement more than half the public supports primary enforcement. In states with primary laws, support of primary enforcement is even higher at 73 percent (MVOSS 2007). In North Dakota, support is as high as 71% (AAA 2012).
- NHTSA estimates that if North Dakota were to pass a primary belt law, seat belt usage could increase 9 percentage points or more.
- With a primary law, North Dakota could save 7 lives, 52 serious injuries, and \$15 million in costs each year.
- The economic benefit of a primary law in North Dakota is estimated at \$55 million or more than \$170 per North Dakota household per year.

Seat belts prevent drivers and passengers from being ejected during a crash. People not wearing a seat belt are 30 times more likely to be ejected from a vehicle during a crash. More than 3 out of 4 people who are ejected during a crash die from their injuries. — CDC

Over 10 years, if North Dakota passes a primary law, it's conservatively expected:

- 70 lives will be saved
- 200 incapacitating and 500 non-incapacitating injuries will be prevented
- \$1,710 in costs per North Dakota household will be avoided

## **Driver shows mother's wisdom**

**By Monica J. Stich**

Fargo

**A**fter seeing the photo of Mary Hodell's demolished vehicle and reading that there were no fatalities, one cannot help but cheer, "Hip hip hooray!" (Forum, Jan. 13). Hodell demonstrated a mother's wisdom and had all five of her kids strapped in. She also demonstrated good role modeling by strapping herself in, as well.

While the accident was horrendous and regrettable, the fact that there was no loss of life speaks volumes for the responsibility shown toward her children. Hodell and her five children are walking and talking proof that seat belts save lives. Mary, you saved six lives that day. Hip hip hooray!

#5

February 1, 2013

Mr. Chairman and Members of the Committee:

My name is Richard Ott and I am the executive director for the Head Injury Association of North Dakota. I am standing in support of mandating the use of seat belts for all persons in an automobile.

It is difficult for me to talk about this subject without getting sidetracked onto Traumatic Brain Injuries (TBI). If I hadn't already been an advocate of the pro-seat belt position before I took my present job, I certainly would have become a convert in short order.

The status of the people I work with on a regular basis emphasizes the need for prevention of various kinds. As we examine each TBI case, there seems to be a point at which different behavior would have altered the outcome – and normally this behavior is doing or not doing something relatively simple, like using a safety restraint or fastening a seat belt.

TBI on its own is a horrible experience for all concerned. Nothing can adequately describe the pain and anguish that the victim and the family suffer and money is never a factor when we are trying to save a life. However, when dust settles from the tragedy in question and we determine it could have been prevented, we need to reflect upon the entire matter to determine if we could have done something differently to prevent the calamity for numerous pertinent reasons.

It may appear that we are being insensitive to bring up the subject of money, but it is a factor that has to be addressed. How is this to be paid and by whom?

I recently was a part of a conversation in which two different parents were discussing the cases of their children with TBI and each cited costs in the seven figure range for the survival of their youngsters. It is great that they made it, but the bills still come in.

Will fines and penalties get the job done? I can only speak from my own experience. When seat belts first became popular, my wife would fine me \$20.00 each time she caught me without my seat belt fastened. I soon learned that there were numerous good reasons to keep buckled up.

Any TBI that can be prevented is a positive. Because of the possibility that a fastened seat belt could avert something as dreadful as a TBI, we can only be supportive of the bill before you.



Richard D. Ott, Executive Director

Head Injury Association of North Dakota  
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Bismarck, ND 58504  
701.255.2120

#6

Lorne Campbell  
Bismarck, ND 58501

## HB 1335 – House Transportation Committee

Primary enforcement of seatbelt use was approved by the Legislature in 1989 and then repealed by the people in a referendum election. Lawmakers approved the current secondary enforcement law four years later and it too was referred to a statewide vote, and narrowly upheld in June 1994. Opponents of the legislation then circulated an initiative petition to repeal the law; it failed in November 1994. In February of 2009 the state House defeated another proposal for primary enforcement.

This issue has been pursued over and over again wasting everyones time fighting a battle that shouldn't have been started. Adult citizens are free to do things others may find risky provided they don't endanger others. We can go down hill skiing, walk outside when there is ice on the sidewalks, ride a motorcycle (even without a helmet). Others are free to engage in “safer” behavior if they are so inclined but it is none of their business what anyone else does and they should not be allowed to use law enforcement to carry out their wishes. This applies to Federal and State safety statisticians too. We are not wards of the state.

This bill is not about wearing a seat belt, it is about using the force of law to penalize those that don't. It was wrong in 1989, in 2009, and it will always be wrong. The secondary enforcement law is also wrong in my opinion but it withstood a vote by the people. This kind of legislation is right up there with using law enforcement to make sure we brush our teeth or don't eat too many sweets. We should educate not penalize or intimidate – encouraging people to use a seatbelt because it is a smart idea. I resent the “click it or ticket” slogan which implies there is already primary enforcement.

Please stop considering this kind of legislation and cast a no vote for HB 1335

TESTIMONY OF JOHN J. GOSBEE, SELFRIDGE, ON HOUSE BILL 1335  
HOUSE TRANSPORTATION COMMITTEE  
February 1, 2013

Mr. Chairman and members of the Committee. My name is John Gosbee. I live in Sioux County in Selfridge.

Tomorrow is Ground Hog Day. If you remember the plot of the movie with that name, you'll have some idea of how I feel about this bill. The alarm clock rings and another seat belt law greets the people of North Dakota.

Back in 1989, we had a referral of a primary enforcement seat belt law. That law was repealed by the people. Seat belt referrals and initiatives have occupied a part of my life since then. If memory serves, we've had at least three referrals and one initiative on the subject.

Political rabble-rousing peace was eventually reached with the secondary enforcement law we now have

Back then, the promise of seat belt law fans was that they'd be satisfied with secondary enforcement. That promise, ratified by the voters, will be broken by this bill.

As then, friends of the bill say again, "If it saves one life, it's worth it." That's an old argument - one that has never improved with age. Saving a life is a necessary condition of such a bill; it is not a sufficient condition.

If the sponsor's true goal is to save lives on the road, here's an idea that will reduce fatalities to zero - the Slow Hum-Vee Act of 2013. We make the maximum speed limit 5 mph and we require everybody to drive a Hum-Vee.

Of course, we'll all go broke fueling our Hum-Vees and we'll never get to work. But lives would be saved.

That's silly, they say. But they must also admit that the question is over drawing a line, not saving "just one life." Remember, the Slow Hum-Vee Act of 2013 would save every life, but nobody wants it.

Here, the voters of North Dakota spoke on the subject. The voters have drawn the line. The line is secondary enforcement. Let's keep it that way.

Please vote No on House Bill 1335.

**Testimony – House Bill 1335  
House Transportation Committee  
Submitted by  
James Prochniak, NDHP**

February 1, 2013

Good morning, Mr. Chairman, and members of the House Transportation Committee. My name is James Prochniak, superintendent of the North Dakota Highway Patrol. I am here to provide testimony on House Bill 1335.

In the past two years alone (2011 and 2012), 318 lives were lost on North Dakota roadways. We know that many of these fatalities could have been prevented if seat belts had been used. Being securely fastened in a seat belt and remaining inside a vehicle during a crash may be the best defense against being seriously injured or killed. Last year there were 63 fatal rollover crashes on ND roads, resulting in 68 deaths. Of those 68 victims, 53 were not buckled up and 45 were ejected from the vehicle.

If you are thrown from a vehicle, the chance of being killed increases 25 times.\* Motorists are 75 percent less likely to be killed in a rollover crash if they are buckled up.\*

In our state, 65 percent of fatal crash victims were not wearing a seat belt in 2012. On average, one unbelted occupant died every 3.9 days. If you knew you would be involved in a crash today, would you buckle up?

The statistics are undisputed; wearing seat belts saves lives. States with a primary seat belt law have experienced success with reduced fatality rates.

The North Dakota Highway Patrol is committed to traffic safety. We know that seat belts prevent injuries and loss of life. Throughout 2012, troopers issued 8,830 seat belt citations. These efforts were enhanced with 1,762 hours of overtime during Click It or Ticket seat belt campaigns. We know that other states' enactment of primary enforcement of safety belt laws has led to increased usage of safety belts. Because of increased traffic and fatal crashes on our state's roadways, it's imperative that we consider many ways to improve traffic safety in our state.

If enacted into law, law enforcement officers would be able to make a traffic stop solely based on observing a safety belt violation. Currently, a stop has to be based upon a separate violation. The fine would remain the same, \$20, and there would be no points.

Mr. Chairman, members of the committee, this concludes my testimony. I would be happy to answer any questions.

\*statistic from the National Highway Traffic Safety Administration (NHTSA)

#19

**HOUSE TRANSPORTATION COMMITTEE**  
**February 1, 2013**

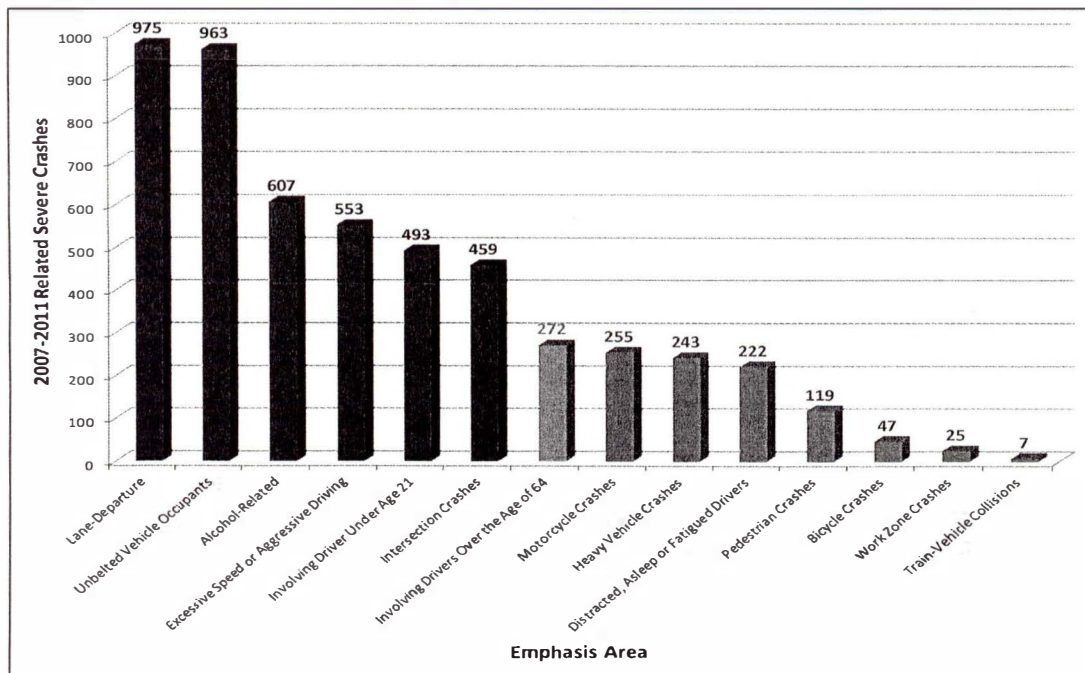
**North Dakota Department of Transportation**  
**Mark Nelson, Safety Division Director**

**HB 1335**

Mr. Chairman and members of the committee, my name is Mark Nelson and I serve as the Director of the Safety Division at the Department of Transportation (DOT). Thank you for allowing me the opportunity to present information to you today.

The DOT is in the process of updating the state's Strategic Highway Safety Plan (SHSP). Through the use of a data-driven process, this plan establishes goals aimed at addressing the frequency rate and primary factors contributing to fatalities and incapacitating injury crashes within our state.

Based on crash records from 2007-2011, six key emphasis areas were identified as top contributing factors in severe crashes and were selected for the North Dakota SHSP. One of the six key emphasis areas identified included unbelted vehicle occupants. Unbelted vehicle occupants accounted for 963 severe crashes on our North Dakota roadways, second only to lane departure crashes during this five-year period.



During the past three years, our state's percentage of unbelted fatalities has remained fairly constant:

- 2012 – 65 percent of fatalities were unbelted.
- 2011 – 69 percent unbelted.
- 2010 – 60 percent unbelted.

In 2011, North Dakota survey data showed that 76.7% of observed front seat occupants were buckled while the national average was at 84%, however, the observed seat belt use rate for drivers in rural areas drops to 59.3% while the use rate in rural towns drops to 36.6%.(Upper Great Plains Transportation Institute survey).

National research has found that seat belt usage rates increase in states that transition from secondary to primary enforcement of the seat belt law. In 2009, two states geographically close to North Dakota, Minnesota and Wisconsin, enacted primary seat belt enforcement laws. In both states, seat belt usage increased by almost 10% after the law was passed and implemented.

Recent statistics on all states show that North Dakota has the lowest percentage of reported seat belt use in fatal crashes. Increasing the number of drivers and passengers in severe crashes who wear seat belts will reduce the number of traffic fatalities in North Dakota. Supporting documentation comes from two major National Highway Traffic Safety Administration research findings addressing methods to increase belt use and reduce fatalities:

1. States that enact Primary Seat Belt Laws generally increase seat belt usage. In 2005, the average seat belt use rate in states with primary enforcement laws was 10 percentage points higher than in states without primary enforcement laws.
2. The survivability of severe crashes involving the likely death of an unbelted driver or passenger increases by 45% if the non-buckled driver or passenger is buckled. In addition, severe injuries requiring hospitalization of a non-buckled driver or occupant are 60% severity when the non-buckled person is buckled up.

This information is an important consideration for North Dakotans in terms of the number of traffic fatalities and crashes throughout the state.

This concludes my testimony. Thank you.



#10

**Testimony  
House Bill 1335  
House Transportation Committee  
Friday, February 1, 2013  
North Dakota Department of Health**

Good morning, Chairman Ruby and members of the House Transportation Committee. My name is Terry Dwelle and I am the State Health Officer for the North Dakota Department of Health. I am here to testify on House Bill 1335.

The mission of the North Dakota Department of Health is to protect and enhance the health and safety of all North Dakotans and the environment in which we live.

We review causes of death in North Dakota and develop programs to reduce the risk factors that are associated with complications and death in the state. Unintentional injuries are the leading cause of death for North Dakotans ages 1 to 44, with motor vehicle crashes the most common cause of injury death in the state. A review of motor vehicle accidents in North Dakota since 2007 shows that the number of people who died while not wearing seat belts was more than double the number of fatalities in which seat belts were in use. Twenty-four percent of unrestrained fatalities (273 total) between 2007-2011 were people younger than 20 years old (207 between 16-20 and 66 ≤ 15).

Deaths are not the only adverse outcome from vehicle crashes. Many people sustain life-long injuries and complications associated with crashes, including traumatic brain or spinal cord injuries that can permanently impact quality of life, economic status and health-care costs. Many of these severe complications of crashes are associated with ejections or violent impact with vehicle parts or the windshield in those not wearing seat belts. The average inpatient costs for traffic crash victims who did not use seat belts were 50 percent higher than for victims who were belted.

Lap-shoulder seat belts reduce the risk of fatal injury by 45 percent and the risk of moderate to critical injuries by 50 percent depending on the type of vehicle and seating position involved. For light truck occupants, safety belts reduce the risk of fatal injury by 60 percent and moderate to critical injury by 65 percent. Most people don't dispute the effectiveness of seat belts. The debate usually centers on whether seat belt laws should have primary or secondary enforcement. In a 2011 study, states with primary enforcement seat belt laws

had a use rate of 87 percent, while states with secondary enforcement laws had seat belt use rates of 76 percent.

A primary seat belt law in North Dakota is conservatively expected over 10 years to save 70 lives, prevent 200 incapacitating and 500 non-capacitating injuries, and avoid \$1,710 in costs per North Dakota household. An additional observation is that when Louisiana adopted a primary seat belt law, child restraint use jumped from 45 to 82 percent, even though the state's child passenger safety law did not change.

This concludes my testimony. I would be happy to answer any questions you may have.