

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2378

2001 SENATE TRANSPORTATION

SB 2378

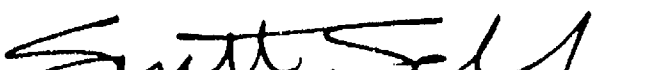
# 2001 SENATE STANDING COMMITTEE MINUTES

## BILL/RESOLUTION NO. SB 2378

Senate Transportation Committee

☐ Conference Committee

Hearing Date 2-9-01; ~~2-15-01; 2-16-01~~

Tape Number	Side A	Side B	Meter #
1	x		19.8- End
1		x	0.0-1.4
2-15 2	x		0.0-2.9
2-16 1	x		0.0-13.4
Committee Clerk Signature 			

Minutes: SB 2378 relates to passengers in a vehicle and to nonmoving violations.

**Senator Erbele:** ( District 28; Supports) American Academy of Pediatrics asked him to sponsor this bill. See attached information. Basically says minors aren't allowed to ride in portion of vehicle not designed for passengers. Such as pickup boxes, and trunks of cars. There are exceptions stated for parades, emergency situations, etc. This protects our young children. Gives an example of "car-surfing" and how a young girl's life was altered because of it. This bill won't prevent the farmer with a pickup load of kids from driving along side the fence line, but it will affect kids in back of trucks in town.

**Rep. Todd Porter:** (District 34; Supports) In his profession he is a paramedic for ambulance services in Bismarck. Numerous times he has seen children hurt by riding in back of trucks. He watched a pickup load of kids go down "thrill hill" on Mandan. Situations like this are why we need this bill. He finds it funny how we have ordinances for dogs being tethered, but not children.

**Senator Trenbeath:** Why is this limited to minors? Why is this a nonmoving violation when vehicle is actually moving?

**Rep. Porter:** Adults we hope are smarter than that. I have no opposition to take "individual under 18 years of age" out of bill. I'm not sure why this is a nonmoving violation.

**Senator O'Connell:** What's the penalty for nonmoving violations?

**Senator Trenbeath:** \$20. With some exception \$50. No points.

**Senator Stenehjem:** I feel this is covered already by the current seat belt laws. We'll check into this.

**Rep. Porter:** I think it has to do with those seats that have belts. It doesn't deal with the back of a truck where there are none.

**Senator O'Connell:** ( District 6; Supports) For the record, I do sponsor this bill. I will not testify because I did have a 10 year old son who was killed in a pickup.

**David Peske:** (ND Medical Association, ND Academy of Pediatrics; Supports) See attached testimony.

**Senator Stenehjem:** (Reads from ND Century Code) States that while vehicle is moving, child under 4 must be in child restraint. 4-17 years old must be in restraint system also. So basically, we already have this- this is already the law.

**David Peske:** I've been told that this statute applies only to minors riding inside vehicle.

**Senator O'Connell:** I've had this discussion before also and " in the vehicle" and " riding in back of vehicle" are seen as two different things.

**Tom Magill:** (NDMA, Employed by Medcenter One Emergency Dept. Of Bismarek; Supports)  
This bill makes sense. Did his training in California where this law exists for everyone, not just minors.

Page 3  
Senate Transportation Committee  
Bill/Resolution Number SB 2378  
Hearing Date ~~2-15-01~~ 2-15-01; 2-16-01

**Charles Allen:** ( Employed by St. A's Emergency Dept.; Supports) States that he's had many experiences with this. Gives examples of incidents involving this bill and the danger of riding in back of pickups.

**Jan Schmid:** (RN; Supports) See attached testimony.

**Keith Sorenson:** ( ND EMS Association; Supports) Supports this bill.

**Carol Holzer:** ( ND Dept. Of Health; Neutral) See attached testimony.

Hearing closed.

**Committee reopened on 2-15-01.**

Amendment distributed by Senator Trenbeath.

**Senator Trenbeath** motions to accept proposed amendment. Seconded by Senator Espegard.

Roll call taken. 2-3-1. Amendment failed

**Committee reopened on 2-16-01.**

Senator O'Connell hands out proposed amendments.

**Tim Dawson:** ( Legislative Council; Neutral) States that the amendment basically changes \$20 fee to a 1 point penalty and only applies to the operator of the vehicle. It's neither a nonmoving or moving violation, it's an exception.

Senator O'Connell motions to accept proposed amendment. Senator Bercier seconded. Roll call taken. 6-0-0. Senator O'Connell moves to Do Pass as amended. Seconded by Senator Bercier.

Roll call taken. 2-4-0. FAILED.

Senator Trenbeath motions to Do Not Pass. Seconded by Senator Espegard. Roll call taken.

4-2-0. Floor carrier is Senator Trenbeath.

Committee closed.

10762.0101  
Title.

Prepared by the Legislative Council staff for  
Senator Trenbeath  
February 15, 2001

X FAILED  
(3-2)

PROPOSED AMENDMENTS TO SENATE BILL NO. 2378

Page 1, line 21, remove "under eighteen years of age"

Renumber accordingly



JB  
2-16-01

PROPOSED AMENDMENTS TO SENATE BILL NO. 2378

Page 1, line 1, after "enact" insert "a new paragraph to subdivision a of subsection 3 of section 39-06.1-10 and"

Page 1, line 2, replace "39-06.1-08" with "39-06.1-09"

Page 1, line 3, replace "nonmoving" with "moving"

Page 1, replace lines 5 through 16 with:

**"SECTION 1. AMENDMENT.** Section 39-06.1-09 of the North Dakota Century Code is amended and reenacted as follows:

**39-06.1-09. Moving violation defined.** For the purposes of sections 39-06.1-06 and 39-06.1-13, a "moving violation" means a violation of section 39-04-22; subsection 1 of section 39-04-37; section 39-04-55; 39-06-01; 39-06-14; 39-06-16; 39-09-04.1; 39-09-09; 39-12-04; 39-12-05; 39-12-06; 39-12-09; 39-24-02; or 39-24-09, except subdivisions b and c of subsection 5, or equivalent ordinances; or a violation of the provisions of chapter 39-10, 39-10.2, or 39-21, or equivalent ordinances, except sections 39-10-73, 39-21-44, 39-21-45.1, 39-21-46, and those sections within those chapters which are specifically listed in subsection 1 of section 39-06.1-08.

**SECTION 2.** A new paragraph to subdivision a of subsection 3 of section 39-06.1-10 of the 1999 Supplement to the North Dakota Century Code is created and enacted as follows:

<u>Riding in prohibited area of vehicle</u>	<u>1 point</u>
<u>under section 39-10-73</u>	

Renumber accordingly



Roll Call Vote #:

2378

Committee

or

Legislative Council Amendment Number

move the Amendment

O'Connell

By

Bercier

[illegible]

Total (Yes) 1 No 0

Absent

### Floor Assignment

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

Date: 2-14  
Roll Call Vote #: 2

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2378

Senate Transportation Committee

☐ Subcommittee on \_\_\_\_\_  
or  
☐ Conference Committee

Legislative Council Amendment Number 10762.0102

Action Taken Do Pass As Amended

Motion Made By O'Connell Seconded By Bercier

Senators	Yes	No	Senators	Yes	No
Senator Stenehjem, Chairman		X	Senator O'Connell	X	
Senator Trenbeath, Vice-Chair		X	Senator Bercier	X	
Senator Mutch		X			
Senator Espgaard		X			

Total (Yes) 2 No 4

Absent 0

Floor Assignment \_\_\_\_\_

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

Failed

2-14  
Vote #: 3

2378

Committee

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

Do Not Pass

Submitted By Trinidad Seconded By Esperanza

[illegible]

4 No 2

2

Trenbark

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

**REPORT OF STANDING COMMITTEE**

**SB 2378: Transportation Committee (Sen. Stenehjem, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2378 was placed on the Sixth order on the calendar.

Page 1, line 1, after "enact" insert "a new paragraph to subdivision a of subsection 3 of section 39-06.1-10 and"

Page 1, line 2, replace "39-06.1-08" with "39-06.1-09"

Page 1, line 3, replace "nonmoving" with "moving"

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**SECTION 2.** A new paragraph to subdivision a of subsection 3 of section 39-06.1-10 of the 1999 Supplement to the North Dakota Century Code is created and enacted as follows:

Riding in prohibited area of vehicle

1 point"

under section 39-10-73

Renumber accordingly

2001 TESTIMONY

SB 2378

# Pickup Trucks

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## **AAP Policy:**

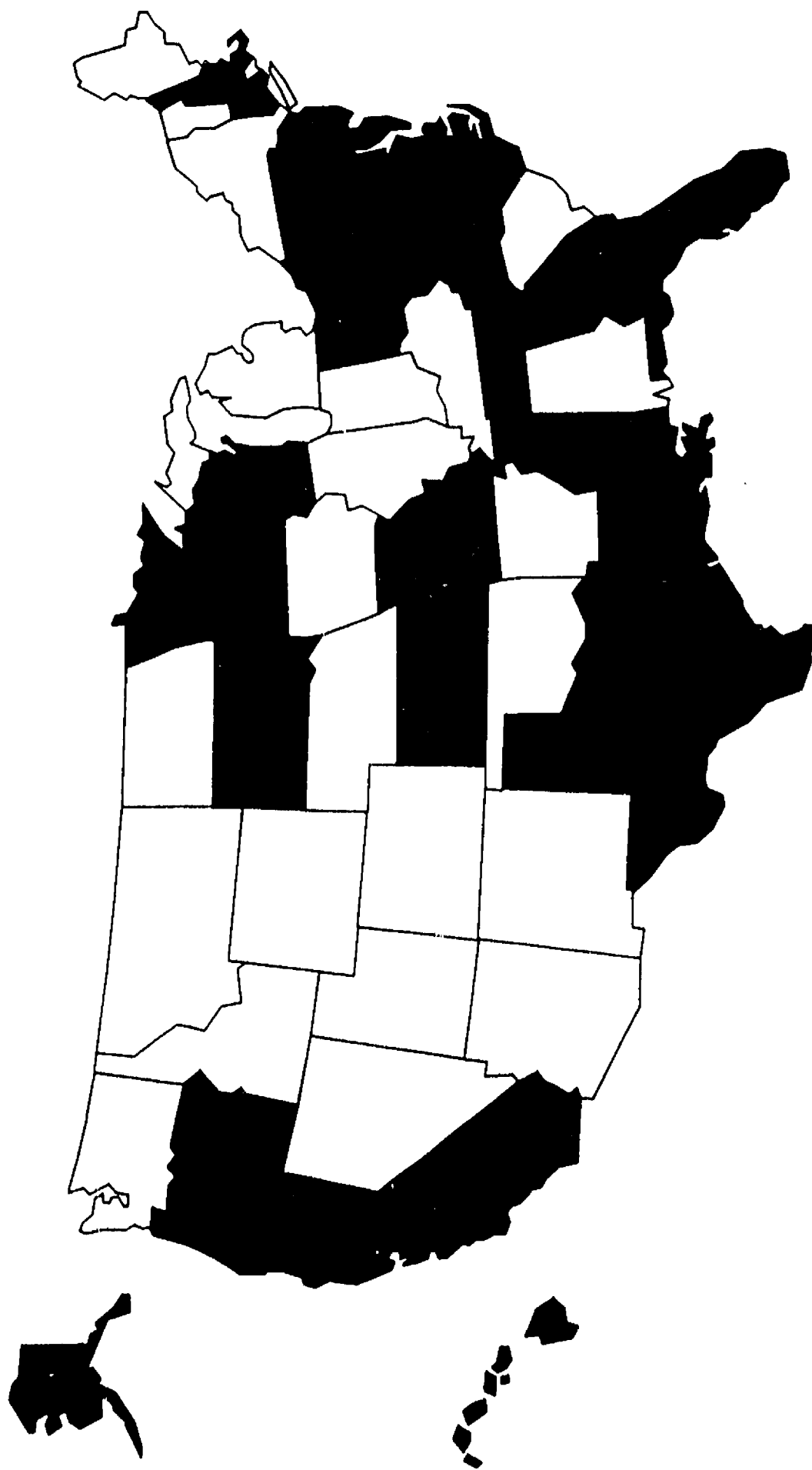
Pickup trucks have become increasingly popular in the United States. A recent study found that in crashes involving fatalities, cargo area passengers were 3 times more likely to die than were occupants in the cab. Compared with restrained cab occupants, the risk of death for those in the cargo area was 8 times higher. Furthermore, the increased use of extended-cab pickup trucks and air bag-equipped front passenger compartments creates concerns about the safe transport of children. The most effective preventive strategies are the legislative prohibition of travel in the cargo area and requirements for age-appropriate restraint use and seat selection in the cab. Parents should select vehicles that are appropriate for the safe transportation needs of the family. Physicians have an important role in counseling families and advocating public policy measures to reduce the number of deaths and injuries to occupants of pickup trucks.

Twenty-six states have enacted some form of legislation restricting riders in the beds of pickup trucks. Please see the following chart and map for details.

## **AAP Resources:**

Policy Statement:	<i>Children in Pickup Trucks (RE9953)</i>
Model Bill:	<i>Children and Pickup Trucks (AMA Model Bill)</i>
State Legislation Packet:	<i>Children and Pickup Trucks</i>

# PICKUP TRUCK RESTRICTIONS



■ = PICKUP TRUCK CARGO BED RESTRICTIONS

# CHILDREN AND PICKUP TRUCKS

1/5/01

STATE	BILL NUMBER	STATUS	PROHIBITS RIDING IN CARGO AREA	AGE	REQUIRES SEAT BELT OR RESTRAINT
ALABAMA					
ALASKA		Law		Under 7 yrs	X
ARIZONA	HB 2481	Died in Committee	If Enacted	All ages	
ARKANSAS					
CALIFORNIA		Law	Unless 46" siderails	Under 12 yrs	Seat belts required if seats installed
	AB 153	Enacted 1993	Unless restraint system installed camper shell	All ages	X
COLORADO					
CONNECTICUT	SB 698	Enacted 1993	Unless wearing safety belt	Under 16 yrs	
DELAWARE					
DISTRICT OF COLUMBIA					
FLORIDA		Law	X	Under 5 yrs	X
	SB 444	Died in Comm	If Enacted	All minors	X
GEORGIA		Enacted 1991	On interstates	Under 18 yrs	
	HB 533	Died in Committee	Adds pickups to seat belt statute		X
HAWAII		Law	Riding in cargo area permitted only when no cab seats available Prohibits standing		
	SB 870	Enacted 1997	Excludes emergencies, authorized parades	Under 13 yrs	
IDAHO					
ILLINOIS					
INDIANA					
IOWA					
KANSAS	HB 2766	Enacted 1992	In city limits or on a highway	Under 14 yrs	
KENTUCKY					
LOUISIANA	HB 194	Enacted 1988	On state highways, also prohibits in utility trailers	Under 6 yrs	
	HB 206	Enacted 1997		Under 12 yrs	
MAINE	HB 1096	Enacted 1999	No fine	19 and under	
MARYLAND	HB 482	Enacted 1996	Excludes enclosed beds and trucks traveling under 25 mph	Under 16 yrs	X
MASSACHUSETTS		Law			X
MICHIGAN	HB 4392	Died in Committee	If Enacted	Dependent Minors	
MINNESOTA		Law	Unless all cab seats are taken	Under 18 yrs	
MISSISSIPPI	SB 2455	Died in Committee	If Enacted	All Ages	X
MISSOURI		Law		Under 4 yrs	X
	SB 121	Enacted 1997	Unless cargo area enclosed, exempts parades, work uses	Under 18 yrs	

American Academy  
of Pediatrics



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## CHILDREN AND PICKUP TRUCKS

PAGE 2

STATE	BILL NUMBER	STATUS	PROHIBITS RIDING IN CARGO AREA	AGE	REQUIRES SEAT BELT OR RESTRAINT
MONTANA					
NEBRASKA					
NEVADA					
NEW HAMPSHIRE		Law		Under 12 yrs	X
NEW JERSEY		Law	X	All ages	
NEW MEXICO					
NEW YORK					
NORTH CAROLINA	HB 27	Enacted 1994	Unless adult in cargo area also, or if child is secured with a seat belt	Under 12 yrs	
NORTH DAKOTA					
OHIO		Law	If truck/trailer traveling over 25 mph	Under 16 yrs All ages if gate unlatched	
OKLAHOMA	HB 2386	Died in Committee	If Enacted	All ages	Restraint for bed riders
OREGON		Law		Under 16 yrs	Unless all seats are full
PENNSYLVANIA		Law		Under 4 yrs	X
PUERTO RICO					
RHODE ISLAND		Law	Unless seat belt secured	All ages	X
SOUTH CAROLINA	SB 131	Died in Committee	Can't sit or stand in bed of pickup while it is traveling over 25 MPH	Under 15 years of age	
SOUTH DAKOTA		Law		Under 5 yrs	X
TENNESSEE	SB 1958	Enacted 1996	Excluding organized events/ agricultural purposes where vehicle traveling <20 mph	Under 6 yrs	
	SB 7	Enacted 1999	Parades exempted	Under 6 years of age	
TEXAS		Law	If traveling faster than 35 mph	Under 12 yrs	
UTAH					
VERMONT					
VIRGINIA	SB 751	Enacted 2000	Makes various exceptions State highways only	Under 16	
WASHINGTON					
WEST VIRGINIA		Law	Unless all seats are full	Under 9 yrs	
WISCONSIN	AB 252	Enacted 1996	On highways, whether open or enclosed cargo area Excludes trucks used for farming, in parades & to transport hunters	Under 16 yrs	
WYOMING					
TOTAL LAWS			26		

2-08-01

I am writing to support Senate Bill No. 2378.

July 9, 1998, after jet skiing on a lake one quarter of a mile from our home, I placed my eleven-year-old daughter, Joy, and a large two seated tube in the back of our pickup to drive three miles to the other side of the lake. At 45 mph the wind caught the tube and Joy was catapulted out onto the gravel road. Joy sustained a severe brain injury upon impact. It caused her to have total right side paralysis and loss of speech. We spent weeks not knowing IF she would recover. However, slowly Joy's brain began to re-route and through extensive therapy and prayer she made improvements.

We spent one month in MeritCare Hospital, Fargo. That fall Joy was to enter the 6<sup>th</sup> grade and tested out at a 3<sup>rd</sup> grade level. Her recovery took place slowly over the next two years. Speech therapists worked to "reload" vocabulary into her brain and physical therapists worked on her balance. Also during this time I suffered Post -Traumatic Stress in dealing with the overwhelming guilt associated with the accident.

Joy's recovery has been exceptional, and we are extremely grateful. She is in the 8<sup>th</sup> grade and tests out at her current age level. However there isn't a day that goes by that I don't reflect upon what may have been a life altering change for our family. This has been one experience that I would want no one else to suffer.

Jean Gauderman  
934 85<sup>th</sup> Ave. NE  
Glenfield, North Dakota 58443

*Jean Gauderman*

Chairman Stenehjem and Members of the Senate Transportation Committee.

I'm here to speak for myself in favor of SB 2378.

I'm a Registered Nurse with a background in Emergency Nursing. I currently work with a hospital Trauma Program, and am active in injury prevention activities at work and with my professional organization. I've had lots of experience taking care of injured people, and some of the most horribly injured are the ones who've been ejected from a vehicle. You are much more likely to die of your injuries if you are thrown out, and a person riding in a truck box will most certainly be thrown out if that vehicle is involved in a crash. The human body makes a very fragile missile. I've seen the damage done to human bodies when they've been hurled out and stopped by a light post, culvert, curb, the pavement, or worse yet, if the vehicle rolls over on them. It's not a pretty sight and you take that sight home with you after your shift is done, but that's nothing compared to what the loved ones go through. This is just the beginning. If they survive, they likely have to deal with pain, suffering, and disruption of their lives, and the lives of their families.

I remember a case about a year and a half ago not far from Bismarek where kids were riding in the back of a pickup. The driver lost control, and the pickup rolled. One child was dead at the scene, and others were injured. One of the injured was found 25 feet from the pickup. Seven of his vertebrae were broken, he had a head injury, both lungs had contusions, a shoulder was dislocated, and there was damage to his kidneys. He survived, and was discharged to a Rehabilitation hospital, but I don't think that's what that boy had in mind for his summer vacation. Another one riding in that truck box was found over 120 feet away. He had multiple broken ribs, and both lungs were partially collapsed. These are just typical injuries you see when victims are ejected.

The concept of injury prevention goes quite naturally with emergency care, and you can get quite passionate about it. You'd like to "prevent" yourself right out of business. This is an injury prevention bill, and injury prevention just makes sense.

Jan Schmid, RN  
1920 Catherine Drive  
Bismarek, ND 58501  
(h) 255-2561

TESTIMONY ON SB 2378  
Carol Holzer, ND Department of Health  
Senate Transportation Committee – February 9, 2001

Mr. Chairman, Senators, my name is Carol Holzer. I am with the Division of Maternal and Child Health, North Dakota Department of Health. Our agency coordinates child passenger safety projects throughout the state. I am here today to present background information regarding child passenger safety laws in our state.

The current child passenger safety law in North Dakota requires children under 18 to be properly buckled when in the vehicle, but it is currently legal for children to ride in the back of a pick-up truck.

Passengers in cargo areas are at risk for several reasons, including crashes, non-crash events such as ejections, falls, or being thrown into unpadded sides or the front of the cargo area, and carbon monoxide poisoning. It is estimated that one-fourth to two-thirds of pick-up truck cargo injuries to youth occur during non-crash events. Carbon monoxide poisoning occurs most frequently in camper shells or toppers that entrap fumes from a leaking or rear-exiting exhaust system.

Nationally, in 1997, 161 people including 77 children, died while riding in the back of pick-up trucks. In North Dakota from 1990 to 2000, one child died and 126 more were seriously injured as passengers in a cargo area. It is estimated that occupants riding in a cargo area are eight times more likely to die than restrained occupants riding in the cab of a pick-up.

There are currently 24 states that restrict passengers from riding in cargo areas. Our state has shown its concern for children by enacting its current child passenger protection law, and I thank you for what you have already done for our children. As you consider SB 2378, I ask you to remember that pick-up beds are designed for transporting cargo and that "kids are not cargo."

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

My name is Lori Sondrol. I am the president of the North Dakota chapter of the American Academy of Pediatrics and I practice pediatrics at Altru Health System in Grand Forks, ND. In August 2000, a 7 y/o boy was referred to our emergency room from Grafton. He had been riding on the sidewall of a pickup truck his father was driving with two of his brothers. The boy fell out or was thrown out, and dad thought that the pickup tire might have run over his boy's head. The boy was unresponsive at the scene, but did wake up. He would open his mouth to speak, but nothing came out. The boy was found to have multiple skull fractures, with his CT showing bleeding in his brain. Not only did he have a collapsed lung, but also he had multiple areas where air had entered his brain. Because of the severity of his injuries he was transferred to Meritcare in Fargo where they have a pediatric Intensive Care Unit. The boy subsequently died from severe brain injury.

Our chapter has asked for Senate bill 2378 to be introduced, and we are strongly in favor of it to prevent any more needless brain injuries and deaths.