

2025 SENATE JUDICIARY

SB 2206

2025 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee Peace Garden Room, State Capitol

SB 2206
1/20/2025

Relating to requiring safety belts in certain motor vehicles; and to provide a penalty.

10:30 a.m. Chair Larson opened the hearing.

Members present: Chair Larson, Vice Chairman Paulson, Senators: Castaneda, Cory, Luick, Myrdal, Braunberger.

Discussion Topics:

- Statute of limitations
- Comparing states with statutes of limitations
- 6 year case difference
- Seatbelt requirements in civil claims
- Capping noneconomic damages
- Motor carrier
- Jury system

10:31 a.m. Senator Cole Conley, District 12, testified in favor.

10:32 a.m. Scott Meske, ND Motor Carriers Association, Lobbyist, testified in favor and submitted testimony #30022.

10:39 a.m. David Bauer, VP, American Trucking Association, testified in favor and submitted testimony #29964.

10:49 a.m. Wally Keller, President of Jobbers Moving and Storage, testified in favor.

11:01 a.m. Melissa Dixon, ICC Practitioner, testified in favor and submitted testimony #30196.

11:13 a.m. Arik Spencer, President of GNDC, testified in favor.

11:15 a.m. Mike Groot, ND Petroleum Marketers & Propane Gas Association, testified in favor.

11:16 a.m. Jaci Hall, Executive Director of the ND Association for Justice, testified in opposition and submitted #30154.

11:32 a.m. Trista Dean, Mother & Crash Victim, testified in opposition and submitted testimony #30203.

11:52 a.m. David Schweigert, Attorney, testified in opposition and submitted testimony #30188.

Additional written testimony:

Dennis Pathroff, Lobbyist, American Property Casualty Insurance Association, submitted testimony in favor #29861.

Brooky Anderson, President, Karriers Inc., submitted testimony in favor #30118.

Tyler Johnson, Director of Safety and Maintenance, Midwest Motor Express Inc., submitted testimony in favor #30119.

Kelly Altendorf, Altendorf Trucking Inc., submitted testimony in favor #30122.

Steven J. Leibel, Attorney, Knoll Leibel LLP, submitted testimony in opposition #29859.

Nathan Severson, SW&L Attorneys, submitted testimony in opposition #29955.

Debra L. Hoffarth, ND Attorney, submitted testimony in opposition #30033.

12:01 p.m. Chair Larson adjourned the meeting.

Kendra McCann, Committee Clerk



January 17, 2025

Chairwoman Larson and members of the Judiciary Committee

I am a licensed attorney in the State of North Dakota with an office in Bismarck, ND. I have been practicing law since 2001, mostly in the area of civil litigation. I am writing to express my opposition to SB 2206.

SB 2206 has three main problems.

A. The proposed statute of limitation is unfair and vague.

SB 2206 seeks to amend § 28-01-18. Chapter 28-01 contains statutes of limitations for various types of claims. Claims for personal injury are controlled by N.D.C.C. 28-01-16, which provides a six (6) year statute of limitation for “[a]n action...for any other injury to the person or rights of another not arising upon contract, when not otherwise expressly provided.” Claims for wrongful death have a two (2) year statute of limitations. N.D.C.C. § 28-01-18(4). By creating a new subsection to § 28-01-18, SB 2206 seeks to give a “commercial motor carrier” the special protection of a two (2) year statute of limitations.

However, a “commercial motor carrier” is not defined by the proposed amendment. Under the United States Code, a “commercial motor vehicle” is a vehicle that is used in interstate commerce and: (A) has a gross vehicle weight rating or gross vehicle weight of at least 10,001 pounds; (B) is designed or used to transport more than 8 passengers for compensation, (C) is designed or used to transport more than 15 passengers, including the driver, and is not used for compensation, and (D) is used to transport hazardous materials and is required to have a placard. See 49 U.S.C. § 31132(1). This begs an initial threshold question. How is a person rear-ended during rush hour in Fargo supposed to know whether the other driver was a “commercial motor carrier?” How about the farmer who gets backed into at the elevator when the grain truck in front of him rolls backwards?

This is only the most obvious problem. For example, if Person A owns a trucking company and injures Person B in a bar fight, is the statute of limitations two years or six years? What about if Person A is self-employed as a truck driver and is involved in a car accident while driving his personal vehicle after hours. Is the statute of limitations two years or six years? Under each example, a defendant could argue that the two-year statute applies. The fundamental problem is that SB 2206

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does not modify the modify the limitations for a type of claim. Instead, it is intended to protect a certain type of person.

Nowhere is this clearer than the bonus SB 2206 gives to the commercial driver. The limitation under SB 2206 is two years for an action against a commercial motor carrier for an injury or death of an individual "*other than the owner or operator of the commercial motor vehicle involved*." Thus, the "owner or operator of the commercial motor vehicle involved" gets the benefit of a six (6) year statute of limitations. So if two semi-trucks run into each other hauling produced water in Watford City, both parties will have a six-year statute of limitations. However, if a New Jersey semi-truck driver collides at a stop sign with a Minot high school student, the New Jersey semi-truck driver gets the benefit of a six-year statute of limitations, but the Minot resident must bring her claim in two-years. There is simply no justification for this special treatment.

B. The seat belt amendment does not make sense.

The amendment regarding the seat belt language is largely unintelligible. The first subpart states that a failure to wear a seat belt "may be considered evidence of comparative negligence." This confuses the concept of "negligence" with "causation." Normally, a failure to wear a seat belt is not evidence of "negligence"—it has never been the law that a person has a duty to wear a seat belt or be responsible for damages. This was addressed by the compulsory seat belt law during the last session. Instead, a defendant was able to offer evidence of a failure to wear a seat belt on the issue of causation of injuries. This amendment tries to elevate the passive conduct of the victim to the active negligence of the negligent driver—this would be quite a coup for the insurance industry.

The third subpart makes no sense. It appears that a jury may reduce an award by 1% if they find that a person was not wearing a seatbelt. This appears to be a tax on an injury, except the party getting the benefit of the tax is the person that caused the accident. I don't know what to say.

C. The proposed cap on non-economic damages is unreasonable.

The bill also seeks to create a new cap on damages limiting the non-economic damages "a person" may recover at \$500,000. This limitation must be placed into its proper context. In a jury trial, a judge has an obligation to instruct a jury on the law. This is done through jury instructions. In North Dakota, we have a collection of pattern jury instructions that are used in almost every case.

In a typical car accident case, a North Dakota jury will be instructed they cannot award damages unless the jury first determines that a claimant is entitled to

damages, and the damages must be proportionate to the harm or loss suffered. *See* North Dakota Jury Instruction C-70.01. The jury is also instructed:

A person who is injured or has property damaged because of another's fault may recover money damages for past and future loss. Future damages must be proved with reasonable certainty. The evidence need not show conclusively or without a shadow of a doubt that future damages will be incurred. While absolute certainty is not required, an award of future damages cannot be based on conjecture or mere possibility.

C - 70.04 Damages Defined 2015 (North Dakota Jury Instructions - Civil (2024 Edition)). The jury is also instructed that the claimant has the burden of proof, and that “[d]amages, if allowed, should be adequate to fairly compensate the Plaintiff for all detriment proximately caused by the acts or omissions of those you find to be at fault, whether or not the detriment could have been anticipated. Damages in all cases must be reasonable.” N.D.J.I. C - 70.10 Adequate Compensation (Tort). In fact, the jury is told that an injured person “has the duty to exercise ordinary care to avoid loss or minimize the resulting damages. One who fails to do so cannot recover damages for any injury that could have been prevented by the exercise of reasonable care.” N.D.J.I. C-74.25.

When deciding the amount of “non-economic damages,” a jury is told it may award the following:

Compensation for non-economic damages which are damages arising from [pain,] [suffering,] [inconvenience,] [physical impairment,] [disfigurement,] [mental anguish,] [emotional distress,] [fear of injury, loss, or illness,] [loss of society and companionship,] [loss of consortium,] [injury to reputation,] [humiliation,] and other nonpecuniary damages.”

N.D.J.I. C - 70.38 Elements of Damages (Wrongful Death) 2016 (North Dakota Jury Instructions - Civil (2024 Edition)).

As you can see, a defendant in a personal injury case—including a commercial motor carrier—hardly goes into a trial without the protection of law. Instead, the opposite is true. I have tried injury and death cases to juries in North Dakota. I have never been involved in a case where a jury did not closely scrutinize the instructions from the judge. Furthermore, North Dakota juries are smart and very conservative when awarding money. This amendment is not about fighting “crazy liberal juries” in North Dakota. It is about limiting the recovery of people who are badly hurt and shifting it to private health insurers and public assistance.


Finally, over the road drivers travel to North Dakota from all over the United States. Putting a cap on damages only limits the exposure of a California truck driver when he or she is in North Dakota. The minute the truck driver crosses the state line in Minnesota, he or she is responsible for all the damages he or she causes. North Dakotans should not be penalized for living in North Dakota.

Trucking accidents often involve severe injuries. It is a simple physics equation. However, \$500,000 would be considered far below fair compensation for many kinds of injuries even in conservative North Dakota juries, such as severe burns, amputations, facial scarring, paralysis, and death. Shifting the burden of those damages from the responsible party will only add to the burden on the injured, public health resources, and private insurers. Most commercial truck drivers are the safest operators on the roads. Trying to shield the bad apples from responsibility hardly encourages safety or protects North Dakotans.

The people who will ultimately bear the burden of SB 2206—the victims of future trucking collisions—are silent. The legislature should resist the temptation to only listen to paid insurance lobbyists seeking to shift the burden of negligence onto the public.

For these reasons, I respectfully ask that the Committee reject SB 2206.

Respectfully yours,

By: 

Steven J. Leibel

SJL:cbs



January 17, 2025

RE: SUPPORT FOR SENATE BILL NO. 2206, Limiting the recovery of noneconomic damages from a commercial vehicle carrier, and allowing evidence of comparative fault for failure to wear a seatbelt.

The American Property Casualty Insurance Association (APCIA) represents nearly 60 percent of the U.S. property casualty insurance market. APCIA's mission is to promote and protect the viability of private competition for the benefit of consumers and insurers. APCIA represents the broadest cross-section of home, auto, and business insurers of any national trade association. In North Dakota, APCIA's members write more than \$9.1 billion in property and casualty insurance premiums. We respectfully submit the following comments in **SUPPORT of SB 2206**.

The increasingly aggressive litigation environment is worsening across the country, making it more difficult for motor carriers to operate. The frequency and amount of nuclear verdicts - excessive jury awards - are on the rise particularly in commercial auto liability cases.¹ Studies consistently show that noneconomic damages are by far the largest component of these verdicts.² As a result, trucking costs and insurance premiums have inflated, hurting the people of North Dakota.

Exorbitant non-economic damages have bankrupted smaller trucking companies.³ Inevitably, these costs are passed on to consumers and, as a result, North Dakota's small businesses and working families bear the biggest burden. Currently, North Dakota consumers pay an annual tort tax of \$2913 per household and excessive tort costs comprise 1.28% of the state's GDP.⁴ The correlation with noneconomic damages is clear as the National Association of Insurance Commissioners (NAIC) found insurance premium rates were lower in states that regulated the amount of noneconomic damages.⁵

¹ US Chamber, *Nuclear Verdicts, Trends, Causes and Solutions*, September 2023 Report

² US Chamber, *Tort Costs in America Empirical Analysis*, November 2024 Report

³ ATRI, *Understanding the Impact of Nuclear Verdicts in the Trucking Industry*, June 2020

⁴ U.S. Chamber, *Tort Costs in America*, November, 2024 Report.

⁵ NAIC, *Profitability by Line by State*, various reports



As you evaluate this situation, you are likely to ask why do uncapped noneconomic damages present such a challenge? Noneconomic damages are difficult to address objectively because of the emotions involved in cases of serious injury, and because of the financial interests of plaintiffs' lawyers. These damages involve no direct economic loss and have no precise value. The court typically provides minimal guidance to juries about how to determine the value of noneconomic losses, and plaintiffs' lawyers make dramatic appeals for large awards in many cases, such as through "jury anchoring". As a result, these awards tend to be erratic and excessive due to the highly charged environment of many types of civil litigation cases. Non-economic damages may far exceed the amount of economic damage awards because of their intangible nature, and courts and juries often struggle to calculate fair and rational noneconomic damage award.

Several states, including Ohio, Idaho, Colorado, Maryland, Mississippi, Oklahoma and West Virginia, have placed limits on non-economic damages to prevent the detrimental effects of nuclear verdicts. These verdicts can lead to increased costs for goods and services, impacting the availability and affordability of insurance, and disrupt fundamental fairness and predictability in the courts. Senate Bill 2206 provides a balanced approach to clarifying the "non-quantifiable" nature of noneconomic damages and addressing its increasingly harmful effects on consumers, small businesses, and the overall economy.

APCIA also supports the separate requirement that failure to wear a safety belt in violation of section 39 - 21 - 41.4 may be considered evidence of comparative negligence. Juries should be able to know whether a vehicle occupant contributed to their injuries or that their injuries were worse because they did not wear a seat belt. This is a commonsense measure that only increases transparency and ensures jurors have complete information when rendering a fair and just verdict.

Legislation like SB 2206 is essential for ensuring fairness and balance in the civil justice system. We appreciate the opportunity to express our support for this bill and urge the committee to vote **"YES" on SB 2206**.

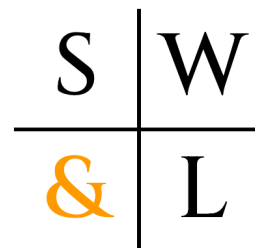
Respectfully,

Brooke Kelley

A handwritten signature in black ink that reads "Brooke Kelley". The signature is written in a cursive, flowing style.

Assistant Vice President, State Government Relations
American Property Casualty Insurance Association

January 19, 2025



ATTORNEYS

Chairwoman Larson and members of the Judiciary Committee,

I write today in opposition to the proposed legislation capping non-economic damages at \$500,000 for truck crash cases in North Dakota. This cap infringes on the constitutional right to a trial by jury, undermining one of the most fundamental principles of our justice system.

Article I, Section 13 of the North Dakota Constitution guarantees that “[t]he right of trial by jury shall be secured to all, and remain inviolate.” This right was enshrined in our constitution when North Dakota became a state, ensuring that juries would determine the facts and damages in civil cases. At statehood, juries held the exclusive authority to assess all damages, including those for pain and suffering. By imposing an arbitrary cap, this legislation usurps the jury’s role, substituting the legislature’s judgment for that of citizens entrusted to weigh the evidence. Such interference violates the North Dakota Constitution by diminishing the jury’s critical function as the sole decision maker on total non-economic damages.

The Supreme Court of North Dakota has long recognized that the jury’s fact-finding function is an essential incident of the right to trial by jury. In *Landers v. Goetz* (1978), the Court affirmed that this right extends to having the jury decide the full measure of damages. A statutory cap like the one proposed here strips jurors of their duty to determine damages based on the unique facts of each case, instead imposing a one-size-fits-all limit that ignores the profound human losses resulting from catastrophic truck crashes. The cap is not only an affront to the injured but also an erosion of the jury’s power—a cornerstone of North Dakota’s democracy.

If this right can be taken away under the guise of legislative efficiency, where does it end? The same rationale could be used to erode other rights, undermining the protections our founders fought to secure. This is a slippery slope that constitutionalists and defenders of personal liberty should find alarming. Today, it is the right to a jury trial; tomorrow, it could be other fundamental rights that citizens hold dear.

Beyond its constitutional defects, the proposed cap disproportionately harms those who suffer the most catastrophic injuries. Truck crashes often result in lifelong disabilities, disfigurement, and the loss of loved ones. Non-economic damages are the only avenue to recognize these profound human losses, and limiting them unfairly shifts the burden of care to families and taxpayers, while insulating wrongdoers from full accountability.

Finally, I urge the committee to consider the broader implications of this legislation. Limiting damages does not make our roads safer. Instead, it denies justice to those most in need and weakens the deterrent effect of our civil justice system. We should be working to protect our

citizens, not protecting those unsafe out of state drivers and companies who cause harm from accountability.

I respectfully urge you to reject this proposed cap and preserve the Constitutional right of North Dakotans to have their cases heard and decided by a jury.

Thank you for your time and consideration.

Sincerely, _



Digitally signed by
Nathan Severson
Date: 2025.01.19
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[Nathan Severson](#), Attorney

([ND #06402](#))

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The Honorable Diane Larson
Senate of North Dakota
State Capitol
600 East Boulevard
Bismarck, ND 58505-0360

RE: Support for Senate Bill 2206

Dear Senator Larson & Members of the Judiciary Committee,

On behalf of the American Trucking Associations¹ (ATA) and our thousands of motor carrier members in North Dakota and across the country, I write to fully endorse Senate Bill 2206.

Over the past several years, ATA has seen an explosion in lawsuits filed against our member companies- some of which have resulted in nuclear verdicts that amount to tens of millions of dollars where injuries were not necessarily proportionate to the damages awarded. In addition, ATA members have noted that many evidentiary and legal hurdles exist in states that make presenting a fair defense difficult for our motor carrier members. As a result, ATA has embarked on a campaign with our state federation colleagues to level the judicial playing field to enable our members to enter the judicial process with the ability to present a reasonable defense.

Senate Bill 2206 would improve the judicial process in North Dakota by creating sensible and rational changes- while doing nothing to remove the ability of the public access to the judicial system. One such change would be to bring North Dakota's statute of limitations for actions against trucking companies for an injury or death in line with other actions already in state law and limiting the time frame to two years.

This is already the case in North Dakota for actions such as assault, libel, battery, and other claims. **Indeed, 26 states have a 2-year personal injury claim statute of limitations.** North Dakota is an extreme outlier at six years, and we feel the state should reflect the judicial environment that over half the country views as a reasonable amount of time to file a claim.

¹ American Trucking Associations is the largest national trade association for the trucking industry. Through a federation of 50 affiliated state trucking associations and industry-related conferences and councils, ATA is the voice of the industry America depends on most to move our nation's freight. Follow ATA on Twitter or on Facebook.

An additional change that SB 2206 would make is to enshroud in state law a reasonable limit of \$500,000 that would be established for noneconomic damages where in a civil action for injury/death is filed against a commercial motor carrier. **I would note that this does not necessarily limit any overall award- only those damages that refer to compensation awarded for subjective and intangible losses resulting from an injury.** These subjective damages are in many cases the reason for what our members have experienced around the country- huge jury awards for noneconomic damages that result in increased costs of business, skyrocketing insurance rates, and painful decisions as to continuing to operate given the risk of bankruptcy to satisfy awards. This would be a common-sense addition to North Dakota law that would continue to prioritize the flow of commerce through the state while also ensuring that any future victims would be provided for under the law.

Finally, SB 2206 would also bring North Dakota in line with many states that have recently repealed the so-called "seat belt gag rule". This is an evidentiary issue that prohibits a defendant, in our case a motor carrier, from introducing evidence that a plaintiff was *not wearing* their safety belt at the time of an accident. As you surely know, North Dakota law mandates occupants of a vehicle must wear a safety belt. **ATA strongly feels that if a plaintiff contributed to their injuries through their own negligence, this evidence should be probative to a fact finder in a suit and should enter the trial record along with any other admissible evidence.** ATA has been at the forefront of this issue in several other states in the past few years, which has resulted in the law changing and admitting non-seat belt usage in West Virginia, Indiana, and Louisiana. We believe North Dakota should join those states in permitting this evidence as admissible.

ATA appreciates the opportunity to weigh in on these important issues. Should you have any questions, please do not hesitate to contact me at dbauer@trucking.org. In addition, our state federation colleagues at the North Dakota Motor Carriers Association will be happy to coordinate any questions that you and the committee have.

Sincerely,

David E. Bauer
Vice President, State Policy

CC: Members of the North Dakota Senate Judiciary Committee

**TESTIMONY
SENATE BILL 2206
SENATE JUDICIARY COMMITTEE
JANUARY 20, 2025**

Madame Chair and members of the Senate Judiciary Committee, my name is Scott Meske. I appear on behalf of the North Dakota Motor Carriers Association (NDMCA) in support of SB 2206.

We appreciate Senator Conley and the cosponsors for bringing this bill forward and hope to provide the committee with what the bill does, is intended to do, and why it is important to North Dakota's trucking industry. I have conferred with Chairwoman Larson and asked that Committee action be delayed one week. We believe there are several changes that would make the bill clearer prior to final action, and we respectfully request the opportunity to bring those amendments forward.

As written, this bill has three objectives. Section 1 of the bill places into Century Code a limit of two years to bring an action against a motor carrier. Currently the statute of limitations is six years. It's important to note that the case does not have to be resolved within two years, merely must be filed. With a six-year statute of limitations, North Dakota stands as an outlier in the country in such cases. This bill inserts a new subsection to an already existing section relating to actions having two-year limitations.

Secondly, Section 2 of the bill places a limit of \$500,000 in a civil action for injury, death, or other loss resulting from the operation of a commercial motor vehicle that requires a CDL. This cap is for noneconomic damages only. Noneconomic damages are compensation for intangible losses that cannot easily be quantified by dollar amounts. Vehicle and property damage, loss of income are normally defined as economic damages, or items that can be quantified. The limit of \$500,000 mirrors the current North Dakota

Century Code in a medical malpractice case. Noneconomic damages are those commonly associated with pain and suffering, emotional distress as a result of an accident.

Why does this matter?

According to the US Chamber of Commerce's Institute for Legal Reform, the number of multi-million judgements are increasing rapidly. Such jury verdicts can be as high as \$10 million or more against a defendant. In North Dakota, the vast majority of our commercial carrier companies would be unable to sustain such a judgement and continue operating.

The point with this noneconomic damage limit is a) mirror what is already in the Code for a medical malpractice case, b) Allow the judicial system to render a fair and impartial decision in such accident cases, c) Provide some legal guard rails for companies and plaintiffs so we don't bankrupt firms and further drive up insurance rates.

You will hear opponents of the bill say there have been no such nuclear verdict awards in North Dakota. Most accident cases are resolved by the insurance providers and litigants to a satisfactory level. However, and not to call out any of my attorney friends but we live in a litigious society. They have a job to do, and we understand that. Finding fault in a significant motor vehicle accident isn't easy for any of the participants. No one wants to suffer through such a tragedy. As an industry though, it seems there are more and more efforts to "go after" a company, regardless of the finding of facts in a case.

A multi-million jury award may look good on someone's win column on a website or billboard. Insurance rates continuing to go up won't make up for any pain, suffering or loss; and it certainly will put in jeopardy the viability of a commercial motor carrier in North Dakota – the most freight dependent state in the country.

The last section of the bill relating to seat belt admissibility allows the jury to consider whether the victim's use of a seat belt in the accident contributed to the extent of injury. Since North Dakota has a primary seat belt law, we felt this was common sense. We want to ensure that evidence of seat belt use in an accident is important, and juries ought to be able to consider seat belt use when determining any monetary award in such cases.

This concludes my testimony. NDMCA urges a do pass on SB 2206, and I would be happy to answer any questions.

Following my testimony will be David Bauer from the American Trucking Association who will provide some national perspective on this issue. After David, Eric Grove from Magrum Trucking, Wally Keller from Jobbers, and Melissa Dixon of Dixon Insurance. Each of them has a different perspective on these issues for the benefit of the Committee.

WRITTEN TESTIMONY IN OPPOSITION TO SB 2206

Senate Judiciary Committee on Senate Bill 2206

Date of Hearing: January 20, 2025

Debra L. Hoffarth, 1320 11th Street SW, Minot, ND 58701

This written testimony is presented in opposition to SB2206, which will limit the statute of limitations of a commercial motor carrier causing an injury or death to two years; limiting non-economic damages from a commercial motor carrier causing injury, death, or losses to \$500,000; and evidence of safety belts in motor vehicle accidents. I am a licensed North Dakota attorney who practices civil litigation and have represented individuals severely injured or killed in accidents caused by commercial motor carriers.

Commercial motor carriers cause some of the most catastrophic accidents in the State of North Dakota. A quick review of the “Bakken Oilfield Fail of the Day” Facebook page illustrates the reality of sharing the roads in western North Dakota with commercial common carriers. Despite stringent DOT regulations, commercial common carriers regularly create hazardous conditions by running stop signs, unsafely crossing major highways or other intersections, operating in extreme weather conditions, speeding, aggressive driving, unsafe passing on two-lane roads, weaving lanes, hitting stationary vehicles, rear-ending vehicles, poor vehicle maintenance (i.e. faulty brakes, tires, or lighting), fatigued drivers, inadequately trained drivers, distracted or impaired driving, improper loading, and overloading. The statistics show the dangers caused by commercial common carriers: Truck crashes comprised of 25% of fatal crashes in 2024;¹ and in 2023, a fatality involving a heavy truck occurred every 15 days.² From 2017-2021, 53% of fatal crashes in oil country involved a commercial or heavy vehicle.³

The size and weight of commercial common carriers significantly increases the potential for catastrophic harm in the event of an accident. Operators of a commercial motor carrier are often unharmed or minimally injured in accidents. However, the smaller vehicle struck is often totaled with the occupants severely injured or killed. There is rarely sufficient recourse for those who are injured in this type of accident and they are often left with profoundly altered lives. In addition to the economic losses, they suffer from continued physical pain, anxiety, depression, PTSD, and a reduced quality of life. Everyday tasks such as sleeping, walking, feeding, dressing, showering, cleaning their home, and participating in hobbies are often overwhelming. Depending on the severity of the accident, it may take years for an individual to fully know the impact of their injuries. Non-economic damages compensate people for these profound and lasting impacts from an accident. Limiting these damages is not fair to those whose lives are upended as a result of an accident with a commercial common carrier.

An even more devastating scenario occurs when someone dies as a result of an accident with a commercial common carrier. Their families are forever deprived of the love, affection, and support of their loved one. No amount of money ever fills the void caused by such a tragic accident. \$500,000 is a grossly inadequate sum for such a loss.

¹<https://visionzero.nd.gov/uploads/118/StatusBoardUpdateasof01082025.pdf>

² https://visionzero.nd.gov/uploads/118/NDDOT_2023CrashSummary_Final_WEB1.pdf p. 14.

³ https://visionzero.nd.gov/uploads/114/NDDOT_SHSP_withVRU_FinalWeb.pdf p. 48.

Shortening the timeframe in which to bring a claim against a commercial common carrier is unnecessary and unjust to the victims of these types of accidents. The statute of limitations for wrongful death is two years, and the statute of limitations for personal injury is six years. It would be a manifest injustice for commercial common carriers, who cause so many serious injuries annually, to be granted a shorter statute of limitations. It forces victims to bring legal action before the full extent of injuries are understood.

Capping non-economic damages at \$500,000 enables commercial common carriers to maim, injure, and harm North Dakota drivers, without facing meaningful consequences. This sends the dangerous message that the lives and well-being of North Dakotans are secondary to the trucking industry's profits. Limiting non-economic damages shield commercial common carriers from taking responsibility for their careless, reckless, and negligent actions. It allows them to cut costs at the expense of safety.

Every North Dakota driver and family deserves justice when they are harmed through no fault of their own. Arbitrarily capping damages denies victims fair compensation for their pain, suffering, and loss of quality of life. It is not just a legal issue—it is a moral one. Our laws should protect individuals, not protect the trucking industry from accountability.

Please reject the financial interests of the trucking industry and affirm the rights of North Dakotans to justice and fair compensation by opposing Senate Bill No. 2206.

A handwritten signature in cursive script, appearing to read "Debra L. Hoffarth".

Debra L. Hoffarth



P.O. Box 12417
Grand Forks, North Dakota 58208-2417

Dear Senator Cory

Subject: SB 2206 –The Commercial Motor Carrier Fairness Act

I support critical legislative reforms aimed at ensuring fairness, efficiency, and clarity in civil actions involving commercial motor carriers. Specifically, these reforms focus on:

Establishing a Two-Year Statute of Limitations for initiating civil actions against motor carriers.

Capping Noneconomic Damages in such actions at \$500,000.

Allowing Evidence of Seatbelt Usage to be considered in civil cases where applicable.

Rationale for These Reforms:

1. A Two-Year Statute of Limitations:

A two-year limit strikes a fair balance between allowing adequate time for plaintiffs to file claims and preventing undue delays that hinder evidence preservation and legal clarity. This timeframe aligns with statutes of limitations in many other personal injury and civil action contexts, promoting consistency and predictability.

2. Capping Noneconomic Damages at \$500,000:

While recognizing the importance of compensating injured parties, capping noneconomic damages helps prevent excessive and unpredictable awards that can strain businesses, increase insurance premiums, and disrupt the transportation industry's economic stability. This measure ensures that the compensation system remains fair and sustainable.

3. Allowing Evidence of Seatbelt Usage:

Incorporating seatbelt usage as admissible evidence promotes accountability and encourages safer behavior among motorists. It provides a more comprehensive and

accurate assessment of liability and damages, ensuring equitable outcomes for all parties involved.

The Broader Impact:

These reforms will not only foster a fairer legal environment but also enhance road safety, support economic stability in the commercial motor carrier sector, and ensure just outcomes for all stakeholders. They reflect a commitment to maintaining a balance between protecting individual rights and supporting an essential industry that underpins our economy.

I encourage you to lend your voice and support to these proposed measures. By advocating for these changes, we can work towards a more equitable and efficient legal system that benefits all.

Thank you for considering this important issue. Please feel free to contact me if you have any questions or require additional information.

Sincerely,

Brooky Anderson
President Karriers Inc 701-746-8307
brooky@karriers.com



MIDWEST MOTOR EXPRESS, INC.

PO Box 1058 ♦ 5015 East Main Avenue ♦ Bismarck, ND 58502

Phone 701.223.1880 ♦ Fax 701.250.6625

Re: SB2206 – Relating to civil actions having two-year limitation, limiting noneconomic damages against commercial motor carrier, and evidence of safety belt usage in civil actions relating to requiring safety belts in certain motor vehicles; and to provide a penalty.

To whom it may concern:

Please treat this as an official testimony regarding SB2206. It is the stance of Midwest Motor Express that we are in favor of SB2206 due to the following reasons:

- Nuclear Verdicts in the trucking industry have skyrocketed over the last 5 years causing insurance costs to follow suit.
- Insurance Companies are having to “bake-in” excessive risk into trucking policies making it extremely difficult for small and large companies to operate at a profit.
- Capping non-economic damages help prevent excessive awards for subjective harm that cannot easily be objectively assessed.
- With seat belt usage being required by North Dakota law, it only makes practical sense that this information would be allowed in any civil case. Research has shown that seatbelt usage has mitigated injury and/or decreased severity of injuries in the event of a vehicular accident.

Thank you for the opportunity and consideration of this testimony regarding SB2206.

Tyler Johnson
Director of Safety and Maintenance
Midwest Motor Express, Inc.



P.O. Box 319 ▼ Minto, ND 58261 ▼ 701.248.3204 / 1.800.548.7800

January 20, 2025

105 7th St
Minto, ND 58261

To whom it may concern:

I'm writing to you in support of SB 2206. This bill is needed to help protect our industry from an increased number of frivolous lawsuits and nuclear verdicts. Over the years our company has been involved in simple incidents that have ended up with the threat of a million-dollar lawsuit. One example was that we had a driver attempt a lane change and took a mirror off and caused minor damage to the vehicle amounting to less than \$2,500.00. Police report was taken, no injuries were claimed. The driver immediately went to a law firm known for suing trucking companies and filled a one-million-dollar lawsuit claiming neck and back injuries. This suit was eventually dropped but there's more examples like this where we have had to pay out and settle to avoid going to court when no suit should have even been filed. The trucking industry has a target on its back and needs better protection. Thank you for your time and support for this bill.

Sincerely,


Kelly Altendorf

Altendorf Trucking



North Dakota Association for Justice
PO Box 365
Mandan, ND 58554
The Trial Lawyers of North Dakota

Jaclyn Hall, Executive Director
jaclyn@ndaj.org

Madam Chair Larson and members of the Senate Judiciary Committee, my name is Jaci Hall, Executive Director of the North Dakota Association for Justice in opposition to SB 2026.

SB2026 reduces the statute of limitations for victims to bring claims against a 'commercial motor carrier', creates a cap for victims to receive noneconomic damages and changes the requirement for seatbelt usage in civil claims. All three of these parts of this legislation are harmful to North Dakotans.

Statutes of Limitations

A statute of limitations is the maximum amount of time allowed for a party to initiate legal proceedings, whether filing criminal charges, or a civil lawsuit. Statutes of limitation are set by federal and state law, and the length of time varies according to the nature of the civil or criminal case.

North Dakota currently has established statutes of limitations from two to ten years, depending upon the claim. A majority of civil actions in North Dakota have a six-year statute of limitations.

In an accident, there are a variety of reasons why the current statute of limitations in North Dakota should stay at six years. Here are a few of them:

1. The time it takes to heal from an injury can be lengthy. A short statute may not give the injured party enough time to determine their injuries or who caused the injury.
2. Workers Compensation and other Insurance coverage can take time to determine fault and can be negatively impacted by a short statute of limitations.
3. In some cases, especially out in the western part of the state, it may take time to determine who is at fault. These contracts and agreements are multilayered and can take time. A longer statute of limitations allows the correct party to be held accountable. The last thing we want is to file a claim against a company and have them incur costs when they are not the company who should be



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held accountable. Shortening the statute can result in more litigation.

4. Each case is also unique, so not all cases utilize the entire statute time frame. Everyone wants these claims to be completed as timely as possible.

SB2026 provides a shorter statute for claims against a commercial motor carrier, however their claims would get six years. If two commercial carriers were in an accident, would they get two or six years? The statute of limitations should be on an act, not for a specific business class.

Changing statutes of limitations must be good for North Dakotans, not just because other states are different.

Creating Caps on Damages

When there is an accident or harm is done to another individual a claim of action will include economic and noneconomic damages. These damages are determined by a jury of one's peers. This right is guaranteed by the 7th Amendment. Damages are awarded as an attempt to restore someone's life after an accident or injury.

Under NDCC 32-03.2

- a. **Compensation for economic damages**, which are damages arising from medical expenses and medical care, rehabilitation services, custodial care, loss of earnings and services, loss of employment or business or employment opportunities and other monetary losses. An injured party can receive past and future economic damages.
- b. **Compensation for noneconomic damages**, which are damages arising from pain, suffering, inconvenience, physical impairment, disfigurement, mental anguish, emotional distress, fear of injury, loss or illness, loss of society and companionship, loss of consortium, injury to reputation, humiliation, and other nonpecuniary damages.

Safety on our roadways is important. Whether it is a truck or automobile accident, everyone's goal is to keep our loved ones safe on the roads we all share. Every year, preventable trucking accidents happen across the US, leaving families devastated, causing heartbreak and financial



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struggles. The justice system is a key tool for making sure trucking companies follow the rules and prioritize safety.

Proposals to limit lawsuits or cap damages would take away the ability of families to hold dangerous companies accountable. As a lawmaker, I ask you to protect fairness, safety, and the rights of all North Dakotans as they seek justice when they are harmed.

- 1. Trucking accidents hurt families and communities.** Over 450,000 crashes involving large trucks happen each year, leading to 5,600 deaths and 150,000 injuries (Source: FMCSA, 2021 Large Truck and Bus Crash Facts). Most of the people killed or injured are in smaller cars. These accidents leave families grieving and struggling to pay medical bills, fix their cars, and make ends meet. Truck crashes cost the U.S. \$180 billion every year, hitting families and communities hard (Source: FMCSA Report to Congress, 2022).
- 2. Families deserve accountability.** When a trucking company's carelessness causes harm, families should have the right to hold them accountable. Damage caps would take this right away and leave victims with fewer resources to restore their lives. Surveys show that 70% of Americans agree that trucking companies should face consequences when their negligence hurts people (Source: Pew Research, 2020). These lawsuits are often the only way families can get justice and force companies to change unsafe practices.
- 3. Accountability makes trucking safer for everyone.** When trucking companies are held accountable, they invest in safer trucks, better training, and regular maintenance. For example, lawsuits have required companies to add underride guards that prevent smaller cars from sliding under trailers or install automatic emergency braking. They've also led to better



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systems for tracking driver fatigue. Research also shows that safety technology like electronic logging devices (ELDs) became more common after legal pressure forced companies to take action. (Source: Center for Justice & Democracy, "Big Trucks: An Avoidable Public Safety Crisis," 2022)

4. Dangerous companies must face real consequences. When trucking companies hire unqualified drivers or skip important safety checks, they put everyone at risk. Under this legislation, carelessness and illegal activities causing accidents will still be reduced by the cap.

1. DUI
2. Drugged driving; Chemical test refusal;
3. Vehicle-related felony
4. Drug and human trafficking.
5. Unlicensed/disqualified driving
6. Reckless driving
7. Driver fatigue / Over hours
8. Distracted driving (electronic device use)
9. Excessive speeding (15+ mph over limit)

Cutting corners on safety is not acceptable. These penalties are rare but critical for making sure companies think twice before putting profits over lives. (Source: Center for Justice & Democracy, "Big Trucks: An Avoidable Public Safety Crisis," 2022)

5. The cost of safety is worth it. Some trucking companies claim lawsuits are too expensive, but insurance costs are just 5% of their total expenses—about 10 cents per mile (Source: ATRI, "Operational Costs of Trucking," 2024 Update). For comparison, truckers spend much more on fuel (24%) and driver wages (43%). These costs are small compared to the lives saved and the safer roads we all deserve. In western North Dakota,



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carriers who drive with hazardous chemicals are required to carry a minimum of \$5 million in insurance.

6. Small-town families are hit the hardest. Many of these commercial carriers are out of state companies, while their victims are our friends and neighbors here in North Dakota. Limiting damages would leave families relying on state programs to care for their loved ones. (Source: FMCSA Crash Data, 2021).

In North Dakota, we have not had a claim that has resulted in a business shutting their doors. There was a large award in Texas that has become the posterchild for legislation just like this. However, in that case – which resulted in a death of a seven year old and a twelve-year-old girl becoming a quadriplegic – the award accounted for a life care plan for this young girl, which increased the award total. Her life care plan is in place to try and restore her life. If this legislation were to pass and that accident happened here in ND, her award would have been reduced, and she may have had to rely on the state to care for her in the future. The state should not be responsible for the carelessness of others.

North Dakota juries are very conservative and do not make decisions lightly. By capping damages, without their knowledge, we are telling them that their decision, and their due diligence to reach that decision, is disregarded by the law and not important.

Seatbelt Usage

Changing the requirements of seat belt usage in civil actions is very confusing in this proposed legislation.

The first states that a failure to wear a seat belt “may be considered evidence of comparative negligence.” This could be detrimental for both the injured party and the party at fault. It would mean that a person cited for wearing a seat belt is negligent and is responsible for all resulting damages.



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The second part requires hiring an expert to determine if seatbelt usage had an impact. Experts are very costly, along with crash reconstruction. Small trucking companies should not have to incur additional costs.

The third part reduces the award based on seatbelt usage. I have discussed in this testimony how being reckless will still result in a cap on damages, now we are going to reduce the award based on seatbelt usage?

Conclusion

Every family deserves to feel safe on the road and have a fair shot at justice when something goes wrong. Legislation like this is being introduced all over the nation. They are limiting time, reducing compensation and changing seatbelt usage. This is not a North Dakota problem; this is an effort by large companies to limit their liability after the large award in Texas. Creating legislation without a clear problem in North Dakota is wrong.

SB2026 provides support for commercial motor carriers, but what is the definition? The definition I found covers trucks carrying freight, passengers or hazardous materials involved in commerce. Does it cover just the Amazon truck moving down the interstate, or does it cover the Amazon delivery driver in their own vehicle? Does it cover a commercial bus driver with an empty bus, or do they need to have a full bus? **This proposed legislation has too many questions, with no clear answer.**

I have a fourteen-year-old daughter. She is thriving and I have so many hopes and dreams for her. Last night we were on the interstate coming home from basketball practice and I could not help but think about how this potential legislation would impact her future. If the unthinkable were to happen to my daughter or to another child, I hope I will be able to rely on a jury of my peers, not worry about a cap impacting the future medical care of my child to restore her life.

Please oppose SB2026 with a Do Not Pass Recommendation. This legislation will have a detrimental impact on North Dakotans, while protecting out of state business.

Good morning. My name is David Schweigert, and I am here to testify against SB 2206.

I have been an attorney in the state of North Dakota for just about 32 years. In that time I have taken numerous matters to a jury to decide what is right and what is wrong. I have represented families who were injured in mishaps. I have represented individuals who have been sued by people they have injured. This includes truck drivers who were negligent and people who were injured by the negligent truck driver. It is because of these experiences, that I am here today to testify in my opinion on behalf of us North Dakotans **against** this bill.

In my opinion, for the North Dakota Legislature to arbitrarily say in every case in which you were injured by a negligent truck driver the most you could have sustained in non-economic loss is \$500,000, is a slap in the face to the individuals who elected you. Not only does it tell North Dakota citizens that you believe a person who has sustained a broken arm should be entitled to recover the same as someone who is a quadriplegic for their daily struggles, you are also telling the people of North Dakota that you don't trust them to do the right thing. By passing a law that takes that decision away from the people who elected you, you are telling me and others who elected you, I don't trust you. When you have stood in front of a jury of North Dakota citizens as many times as I have you don't have that concern. When given the facts and the law, people of North Dakota make the right decisions. Each of you are here because the people of North Dakota decided you were the right person for your district.

I believe strongly in the jury system. There is a reason why the individuals who wrote our constitution believed it best that when we are wronged by someone else, a group of our peers is best positioned to make the right decision about the victim's and the perpetrator's fate. The 7th Amendment in my opinion is as important as the 2nd Amendment. I have seen first-hand why the individuals who wrote the US Constitution were correct. If I represent a truck driver who caused an injury, we are fair and honest with jurors and they are fair in their decision. We don't have run away verdicts in North Dakota for non-economic damages. If someone comes up here and starts referencing big verdicts, those verdicts were not because of non-economic damages.

Additionally, if someone in North Dakota believes that the amount of non-economic damages they have been ordered to pay is unreasonable, they have an opportunity to ask a judge to reduce the award. Judges in North Dakota are elected. Although they can be appointed if someone steps down before the end of their term and they are appointed, they still have to put their name in front of North Dakota voters, and someone can run against them. By you arbitrarily trying to step into this process and first take this decision away from North Dakota voters who elected you and then going even a step further and tell North Dakota citizens that not only do you not trust them, you also don't trust the people they elected as a safeguard, i.e. judges, you are in essence telling the people who elected you they don't know how to make the right decision.

As someone who has seen North Dakota jurors in action, and as a citizen of the state of North Dakota, please don't attempt to take away or limit our constitutional rights. Trust the people who elected you to do the right thing.

Thank you.

David D. Schweigert

Testimony in support of SB 2206

January 20, 2025

Submitted By:

E. Melissa Dixon

ICC Practitioner , Principal

Dixon Truck Insurance

3101 39th St S, Ste A

Fargo, ND 58104

701-281-8200

Seatbelt Usage

Since 1984 there has been continued seatbelt regulation in one form or another which has since spread to all states but New Hampshire. Although New Hampshire concedes the importance of buckling-up for those under 18-years of age, they allow adults to make that choice by having no regulation in place.

The National Highway Traffic Safety Administration (NHTSA) found that in 2023, 91.9% of front seat Drivers and passengers wore their seatbelts regularly. That was a .3% increase over 2022 which concludes this continues as a trend. And why not? Statistics continue to prove seatbelt usage saves lives. We all have the duty to reduce risk, when prudent and available. Seatbelts are prudent, and available.

In fatal vehicular accidents, seatbelts make a difference:

- Of the 26,325 passenger vehicle occupants killed in 2021, over 50% were not wearing seat belts. ([Center for Disease Control – CDC](#))
- By minimizing crash injuries, seat belts can help drivers avoid the cascading costs associated with a serious motor vehicle crash, from hospital bills and [insurance rate hikes](#) to lost wages and diminished quality of life. ([Bankrates Editorial Team - 2024](#))
- Just like proper vehicle maintenance, using one's seatbelt is a responsibility of all in the motoring public.

In my eyes, failing to protect oneself and do one's part to limit one's exposure to bodily harm is negligent. Why should we not hold vehicle occupants responsible for their actions and contribution to their injuries. The seatbelt laws and transparency of the same in courts is not a one-sided affair. It holds all those other than those driving farm implements to use a seatbelt and to concede one's percentage of liability in the courts for failing to do so. Truckers and 4wheelers alike.

Tort CAP on Punitive Damages in Commercial Motor Carrier Vehicle Accidents

So far in North Dakota (ND) we have been blessed with reasonable and fair-mindedness in our courts. But this will not last forever. There is an increasing tendency for absurd and unreasonable awards across our Country and it will be only a matter of time before we experience here in the Peace Garden State.

To get ahead of this senseless and abusive trend, we need to put limits on what the courts can award for Punitive Damages. ND has had a CAP on Medical Malpractice suits since 1995. This has enabled all NoDak's to enjoy excellent health care in our state and access to competitive health insurance.

If we don't act in a proactive manner regarding Motor Carrier Tort Reform, we may find ourselves trying to play catch-up long after the damage is done. Why is this so important today? Many parts of ND rely solely on the Trucking Industry for access to goods and services. You can't lay a train track down anywhere. The rural nature of our environment in the Upper Midwest demands a robust, nimble, and dedicated trucking industry.

Nuclear Verdicts in Trucking

"Nuclear verdicts"—verdicts costing over \$10 million in damages—are common in trucking accident cases. Trucking litigation data between 2006 and 2019 showed 26 cases over \$1 million from 2006 to 2011. However, in the last five years of that data set, 300 cases cost over \$1 million. A recent study from the U.S. Chamber of Commerce Institute for Legal Reform showed that [between June 2020 and April 2023, the average award was \\$27.5 million](#). (Cit. ©2024 Marsh & McLennan Agency)

Every trucking company from small Mom & Pop shops to large carriers with hundreds of trucks are only one nuclear verdict away from failure. The trucking industry operates on very tight margins. It is subject to continued increasing costs to comply with Safety Regulations, EPA Standards, Rising Insurance Costs, Increased Equipment Maintenance and Labor Costs, to name a few. All this while freight rates continue stagnant and even dropping as third-party intermediators work their way into the supply chain breaking down the direct relationships between truckers and shippers. This peels away the layers of the freight rate until you get to the bottom of the line where the work is done, on the back of the trucking industry.

There is no way to insure against every foreseeable threat, not in Trucking, Manufacturing, or any industry. One must weigh the cost of risk mitigation against the potential loss and roll the dice. But when an industry is laden with unfair and overzealous lawsuits setting precedent after precedent in the amount awarded by the courts there is no way to even equate the potential cost of loss to try and mitigate risk. There is no fair playground in the world of trucking. Nuclear verdicts have removed that and the only way to somewhat control this freight train is to CAP the amount awarded punitive damages. With this simple control in place the industry can:

- Get back on its feet and begin to control the runaway cost of insurance.
- Plan for and be able to address these claims as they arise and have an appropriate amount of insurance to compensate others for its actions.
- Invest in additional safety measures to continue to provide safe vehicles with the most modern and effective tools available.
- Direct more dollars toward safety training, maintenance, and driver quality of life.

The Edge – New Term Used to Describe Cases Fought Through the Reptile Theory

In 2009, a couple Trial Attorneys wrote a book and coined the term 'Reptile Theory' as the best way to win large settlements in trucking accidents. It was essentially a playbook on how to instill so much fear in the jurors' minds that they could only find one way, against the defendant, and award huge and unfathomable dollar amounts.

- The Reptile Theory was taught as a class to litigators interested in learning how to employ this tactic to garner large jury awards particularly in Motor Carrier related cases.
- This tactic has been expounded on and is now referred to as The Edge. They now have "Hit Lists" which are carefully crafted to bring about the fear and misplaced liability.
- The tactic uses unfair and somewhat less than ethical means which skew a defendant's testimony and instills fear in the jurors themselves.

There is no better example of this than the Werner case wherein the jury awarded the plaintiff 90 million dollars for an accident that was caused by the personal van being driven by an individual found to be driving too fast for conditions. This individual lost control of his minivan and left the HWY driving through the median and up on the other side of the HWY where he drove head-on into a Commercial Truck, killing the occupants of the minivan. The Werner truck was found to be traveling at a lesser rate of speed than the speed limit at the time of the incident.

Sadly, this is not a one of a kind case, they are happening more and more frequently, contributing to company failures, loss of jobs, and supply chain disruption.

It isn't just the Trucking Company at risk, it is everyone in our Country. And in ND 67.6% of our communities are served solely by the Trucking Industry. When we continue allow the threat of nuclear verdicts in our state, we put the access to goods and services at risk. Without legislation to CAP this type of Tort, we will ultimately fail our fellow North Dakotans.

ND Insurance Limits

- 1) Truckers Carry the Load for the Under and Uninsured as well as the general public.
 - a. My personal vehicle cost \$50k new – it's a nice vehicle now worth \$25k used
 - b. If another personal vehicle causes my vehicle to be totaled, their insurance will cover it as our state minimums are \$25k/\$50k
 - c. If that same vehicle causes the total of a Commercial truck – their insurance will cover the cost of a bumper and a radiator – maybe
 - d. Our industry is at a disadvantage from the start.
 - e. ND Requires a minimum Limit of \$200,000 Auto Liability for INTRASTATE carriers.
 - f. The Federal Government requires \$750,000 or higher based on goods hauled.
 - g. Our office does not write an insurance policy for anyone involved in the trucking industry for less than \$1Mil.
- 2) Reinsurance
 - a. Insurance Companies purchase reinsurance to help spread their losses
 - b. The reinsurance market is volatile and costs are continuing to climb at an increased pace

c. Treaty Reinsurance – Cit AMWINS

Casualty rates are set to increase in 2025 and concerns from global reinsurers about adequate reserves juxtaposed against the rise of nuclear verdicts paint a concerning picture. We expect there will likely be a reduction in available capacity as some reinsurers exit the segment.

- i. Auto is problematic across the Environmental segment. Accounts with heavy fleets, such as recycling, hydrovac or soil remediation, are facing very limited options, particularly in excess coverage. The cause is the same as in commercial nuclear verdicts are driving up loss costs.
- ii. The transportation insurance market continues to face significant challenges amid an evolving landscape characterized by economic pressures, shifting carrier appetites and increasing loss severity. While some sectors show signs of resilience, the overall environment remains tough for many insureds, particularly within the trucking industry.
- iii. The primary auto insurance market is hardening, with carriers scaling back their appetites and focusing on rate increases for renewals. However, the entrance of new capacity over the past few years has moderated some rate hikes, particularly in the preferred trucking space, where competition remains healthy. For risks that do not qualify for this market, finding coverage has become considerably more challenging.
- iv. In Business/Specialty Auto, carriers are scrutinizing auto exposures closely, with some exiting the auto line, especially in specialized classes like non-emergency medical transportation (NEMT) and last mile delivery. These exits have created gaps in coverage, requiring insureds to seek out more specialized brokerage partners that can help to provide broader cover.
- v. A tough legal environment / Social inflation continues to be a significant concern for carriers and reinsurers, particularly in states with plaintiff friendly legal venues, such as Georgia, Pennsylvania and California. At the heart of this issue is not only nuclear verdicts but third-party litigation funding, which has introduced new complexities to the legal landscape. The issue isn't simply the existence of litigation funding itself, but the disclosure (or lack thereof) in individual court cases, which can skew the playing field and contribute to the rising cost of claims. Indiana, Louisiana and West Virginia enacted reforms at the state level this year to address litigation funding, and legislation was recently introduced at the federal level for more transparency in federal cases. While these are encouraging developments, more states will need to address the issues of litigation financing and tort reform before we see any meaningful impact to the casualty market.



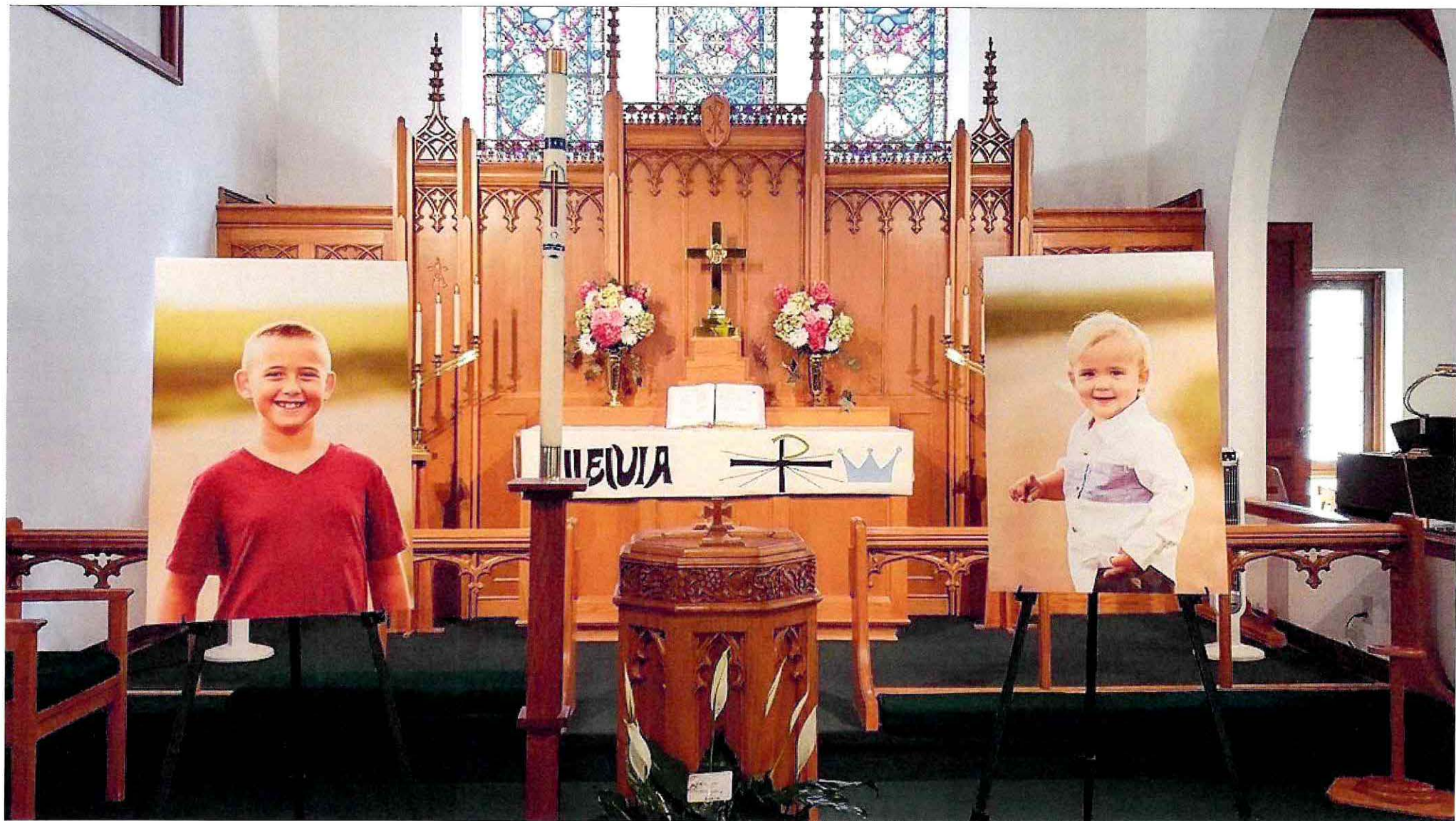
MARCH 25, 2018



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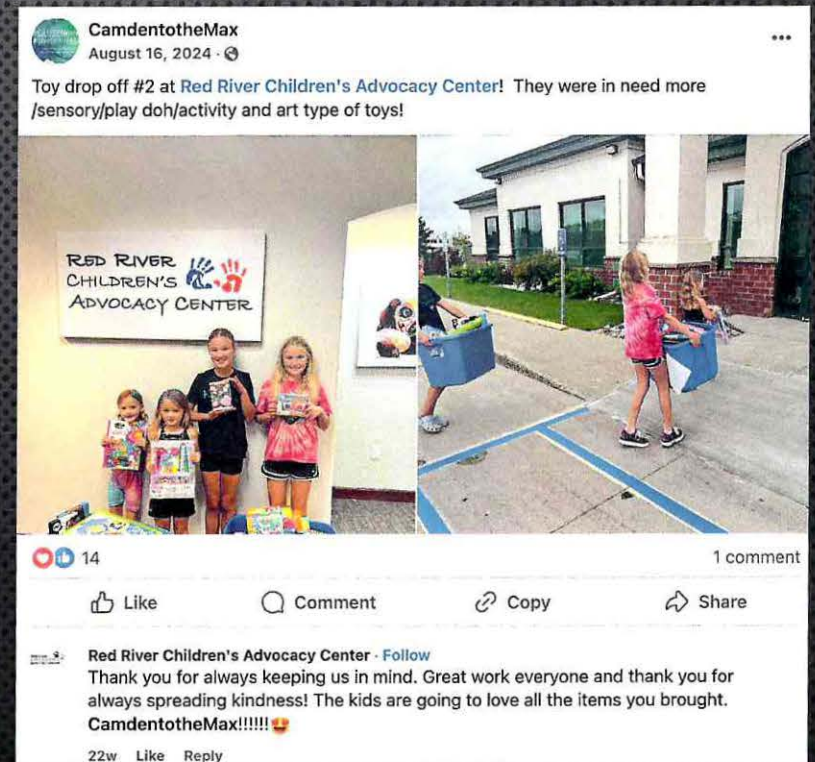
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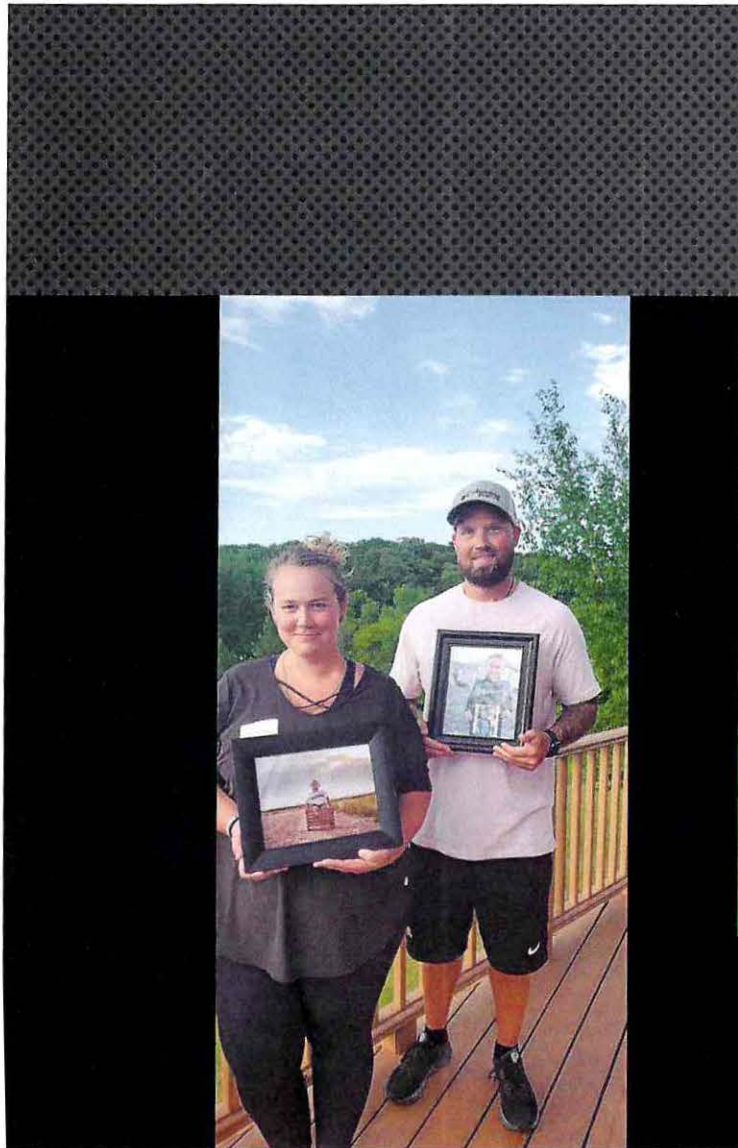
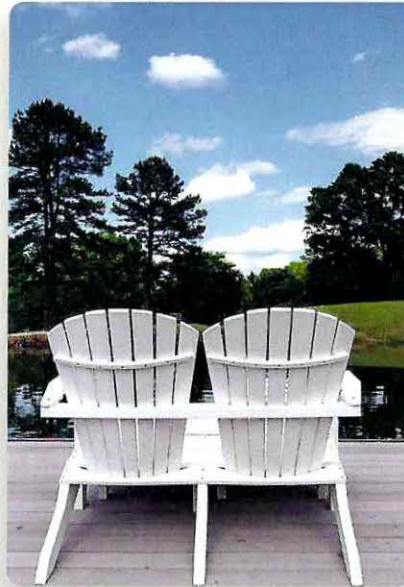


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faith-based retreats for bereaved parents

Finding hope and life after the loss of a child can be incredibly challenging.

The loss of a child, no matter that child's age, is profoundly life-altering. It's as if the foundations of everything we once held dear have been shaken and cracked.

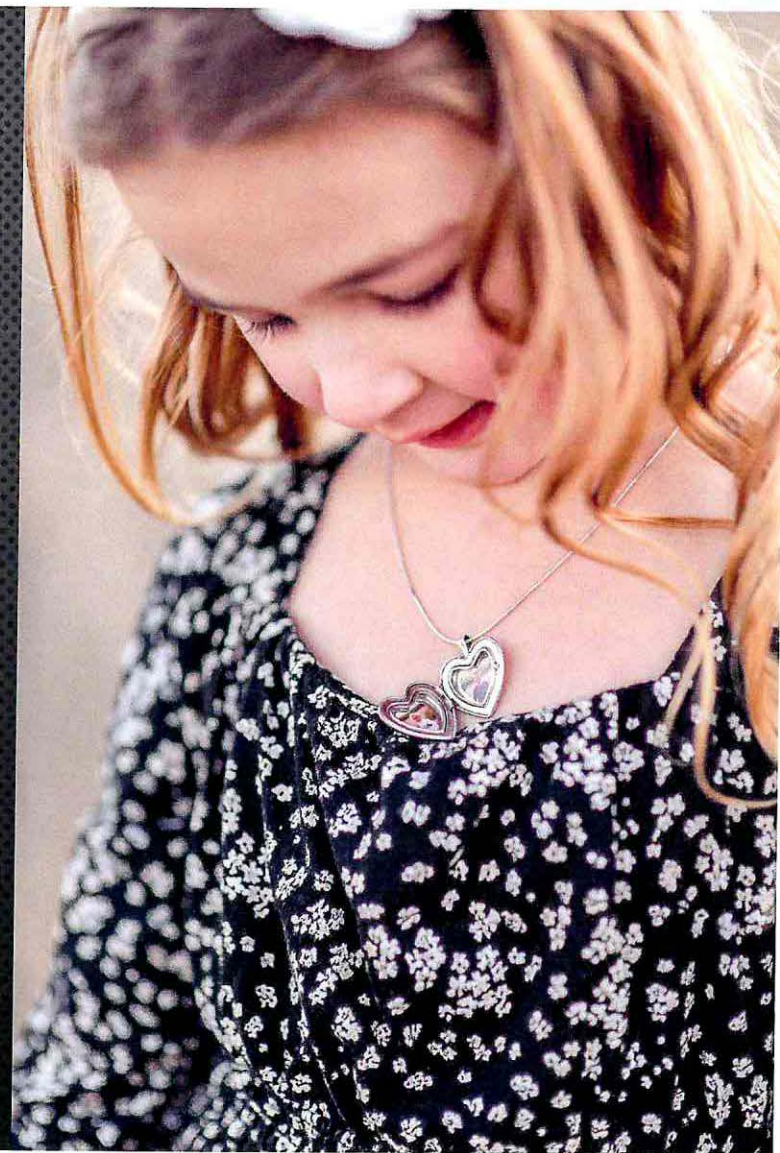
The While We're Waiting ministry offers free Biblically based retreats, where bereaved parents form bonds and make connections with other moms and dads who truly understand the experience of child loss.

[FIND A RETREAT](#)[FAQ'S](#)

The loss of a child is very isolating –
Making us feel alone in a world that no
longer understands us.



DEAN FAMILY



2025 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Peace Garden Room, State Capitol

SB 2206
1/27/2025

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 relating to requiring safety belts in certain motor vehicles; and to provide a penalty.

3:15 p.m. Vice Chairman Paulson opened the hearing.

Members present:

Chair Larson, Vice Chairman Paulson, Senators: Castaneda, Cory, Luick, Myrdal, Braunberger.

Discussion Topics:

- Suggested amendment
- Act of personal injury
- Individual care
- Trucking cap
- Noneconomic damage

3:16 p.m. Scott Meske, Lobbyist from ND Motor Carriers Association, testified in favor and submitted testimony #31898.

3:24 p.m. Jaclyn Hall, Executive Director of the ND Association for Justice, testified in opposition.

3:36 p.m. Vice Chairman Paulson adjourned.

Kendra McCann, Committee Clerk

Suggested amendments for Senate Bill 2206

Page 1, Section 1 Line 10 – strike word “carrier”, insert word “vehicle”

Commercial motor vehicles are already defined in NDCC. Please reference this section of code to ensure consistency.

Place Section 1 of the bill into the Century Code that references three years for statute of limitations. Currently this section is in the two year statutes.

Page 1, Section 2 Line 18 – strike “five hundred thousand”, insert “one million”

Page 1, Section 3 beginning on line 22 – Strike entire section

Page 2, Section 4 beginning on line 25 – Strike entire section

Rationale:

Section 1: There already exists a Century Code definition of commercial motor vehicle. Using commercial motor “carrier” might cause confusion, requiring another round of definitions. NDMCA is comfortable with using “vehicle” in this instance. Secondly, the NDMCA would be open to raising the Statute of Limitations time period for such actions to three (3) years. Eighty percent of all states have a 2 or 3 year SL. North Dakota and Maine are the only two states currently with a 6 year SL.

Section 2: While the \$500,000 noneconomic damage limit proposed does have a basis for this level (reference \$500,000 noneconomic damage limits for a medical malpractice case; currently in Century Code), NDMCA recognizes that figure could be construed as an “old number.” And as presented in testimony, the vast majority of commercial carriers have liability insurance greater than \$500K. NDMCA proposes to raise that limit to \$1M.

During our discussions, opponents suggested some exceptions to this limit, however, our attorneys indicated putting exceptions in Century Code merely gives more reason to litigate, driving costs up further for both plaintiffs and defendants.

Section 3 and 4. Delete. Allowing evidence of seat belt use in an injury case is already permitted under NDCC.

2025 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee Peace Garden Room, State Capitol

SB 2206
1/28/2025

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 relating to requiring safety belts in certain motor vehicles; and to provide a penalty.

3:10 p.m. Chair Larson opened the hearing.

Members present: Chair Larson, Vice Chairman Paulson, Senators: Castaneda, Cory, Luick, Myrdal, Braunberger.

Discussion Topics:

- Amendments regarding statute of limitations and language clarification
- Committee Action

3:15 p.m. Senator Cory moved to adopt amendment to strike section 3 and 4.

3:15 p.m. Senator Myrdal seconded.

3:16 p.m. Voice Vote - Motion Passed.

3:16 p.m. Senator Luick moved to further amend 3 year statute of limitation and remove section 2 from the bill.

3:18 p.m. Senator Cory seconded.

Senators	Vote
Senator Diane Larson	Y
Senator Bob Paulson	Y
Senator Ryan Braunberger	N
Senator Jose L. Castaneda	Y
Senator Claire Cory	Y
Senator Larry Luick	Y
Senator Janne Myrdal	N

Motion Passed 5-2-0.

3:28 p.m. Senator Luick moved to further amend and to retain the 3 year statute of limitation.

3:29 p.m. Senator Myrdal seconded.

3:31 p.m. Voice Vote - Motion Passed.

3:32 p.m. Senator Luick moved a Do Pass as amended.

3:32 p.m. Senator Paulson seconded the motion.

Senators	Vote
Senator Diane Larson	Y
Senator Bob Paulson	Y
Senator Ryan Braunberger	N
Senator Jose L. Casteneda	N
Senator Claire Cory	N
Senator Larry Luick	Y
Senator Janne Myrdal	Y

Motion Passed 4-3-0.

Senator Luick will carry the bill.

3:35 p.m. Chair Larson adjourned.

Kendra McCann, Committee Clerk

January 28, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

SENATE BILL NO. 2206

Introduced by

Senators Conley, Rummel, Clemens

Representatives K. Anderson, Grueneich, Hauck

1-28-25
JH 1013

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.~~ for an Act to amend and reenact section
7 28-01-17, relating to civil actions having three-year limitations.

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

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

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

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

15 ~~Commercial motor carrier – Noneconomic damages limited – Reduction of award.~~

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

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~~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:~~

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~~**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.~~

SECTION 1. AMENDMENT. Section 28-01-17 of the North Dakota Century Code is amended and reenacted as follows:

28-01-17. Actions having three-year limitations - Exceptions.

The following actions must be commenced within three years after the claim for relief has accrued:

1. An action against a sheriff or coroner upon a liability incurred by the doing of an act in the sheriff's or coroner's official capacity and by virtue of that office, or by the omission of an official duty, including the nonpayment of money collected upon an execution. However, this subsection does not apply to an action for an escape.
2. An action upon a statute for a penalty or forfeiture, if the action is given to the party aggrieved, or to such party and the state, unless the statute imposing it prescribes a different limitation.
3. An action for the foreclosure of a construction lien.
4. An action against an employer for an injury to or the death of an individual, other than the owner or operator, occurring during the operation of a commercial motor vehicle.

**REPORT OF STANDING COMMITTEE
SB 2206**

Judiciary Committee (Sen. Larson, Chairman) recommends **AMENDMENTS** ([25.0285.03001](#)) and when so amended, recommends **DO PASS** (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SB 2206 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

2025 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee Peace Garden Room, State Capitol

SB 2206
2/4/2025

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 relating to requiring safety belts in certain motor vehicles; and to provide a penalty.

2:54 p.m. Chair Larson opened the hearing.

Members present: Chair Larson, Vice Chairman Paulson, Senators: Castaneda, Cory, Luick, Myrdal, Braunberger.

Discussion Topics:

- Legislative council
- Statute limitations
- Hog House
- Motor vehicle lawsuit
- Technical language

2:55 p.m. Senator Myrdal moved to reconsider.

2:55 p.m. Senator Luick seconded.

2:57 p.m. Voice Vote on reconsider - Motion Passed.

3:09 p.m. Chair Larson closed the hearing.

3:16 p.m. Chair Larson reconvened the hearing.

3:16 p.m. Victoria Christian, Legislative Council, testified as neutral.

3:24 p.m. Senator Myrdal moved to Do Pass as Amended LC# 25.0285.03001 from previous hearing.

3:24 p.m. Senator Paulson seconded.

Senators	Vote
Senator Diane Larson	Y
Senator Bob Paulson	Y
Senator Ryan Braunberger	N
Senator Jose L. Castaneda	N
Senator Claire Cory	N
Senator Larry Luick	N
Senator Janne Myrdal	Y

Motion Failed 3-4-0.

3:26 p.m. Senator Cory moved a Do Not Pass as Amended.

3:26 p.m. Senator Castaneda seconded the motion.

Senators	Vote
Senator Diane Larson	N
Senator Bob Paulson	N
Senator Ryan Braunberger	Y
Senator Jose L. Castaneda	Y
Senator Claire Cory	Y
Senator Larry Luick	Y
Senator Janne Myrdal	N

Motion Passed 4-3-0.

3:30 p.m. Senator Luick will carry the bill.

3:30 p.m. Chair Larson closed the hearing.

Kendra McCann, Committee Clerk

**REPORT OF STANDING COMMITTEE
SB 2206**

Judiciary Committee (Sen. Larson, Chairman) recommends **AMENDMENTS** ([25.0285.03001](#)) and when so amended, recommends **DO NOT PASS** (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SB 2206 was placed on the Sixth order on the calendar. This bill does not affect workforce development.