

SUBJECT: Prohibiting children riding in open-bed vehicles

COMMITTEE: Transportation — favorable, without amendment

VOTE: 6 ayes — Bosse, Alonzo, Clemons, Moreno, Price, Siebert
2 nays — Alexander, Uher
1 absent — Edwards

SENATE VOTE: On final passage, March 8 — voice vote (Bivins, Haywood, Leedom, Nixon, Ratliff, Rosson, Shapiro, Sibley recorded nay)

WITNESSES: For — Karen Slay; Fidel Ogeda; Ann Streetman, Texas Safety Association, Brandon Aghmamalian, Texas Parent Teacher Association.
Against — None
On — David McEathron, Texas Department of Public Safety

BACKGROUND: In 1989 Texas became one of 20 states to limit carrying passengers in the open bed of a pickup. Texas prohibits a person from operating or towing an open-bed vehicle on a public street or highway if a child younger than age 12 is riding in the open bed and the vehicle is traveling over 35 miles per hour. An exception is allowed for emergencies. The offense is punishable by a fine of between \$25 and \$200.

DIGEST: SB 445 would make it illegal for anyone younger than 18 to ride in the open bed of a pickup, open flatbed truck or on an open flatbed trailer being towed going at *any* speed. A defense to prosecution for parades would be added to the defense for emergencies. Evidence of compliance or noncompliance with the prohibition would be inadmissible in a civil trial.
SB 445 would take effect September 1, 1995.

SUPPORTERS SAY: On July 3, 1994, near Snyder, Texas, a tractor-trailer rig slammed into a pickup truck that ran a stop sign. Eight out of the 12 children riding in the open bed of the truck were killed. In total 31 children died in Texas in

1994 because someone failed to realize that truck beds are meant to carry cargo, not children. The Texas Department of Public Safety reports that an average of 452 injuries and 14 deaths occurred annually between 1988 and 1993 involving pickup bed passengers. SB 445 would greatly improve Texas law governing the safety of child passengers on the public roads and promote more responsible behavior by parents and other drivers.

Allowing children to ride in the open bed of pickup trucks is inconsistent with other safety laws. Texas requires children younger than age 2 to be confined in a safety seat and children younger than age 4 to be restrained in some way while in a moving vehicle. A child riding in the front of a truck is required to wear a seatbelt, but under current law a child the same age is allowed to ride in the back of a truck with no restraints or other protection at speeds up to 35 miles per hour.

Passengers ejected from a truck during an accident are nearly six times more likely to die than those not thrown from the truck, and passengers riding in the back of a truck are much more likely to be thrown from the truck than those in the cab.

The argument that some parents find it inconvenient not to carry their children in the back of a truck is hardly convincing when viewed against the overwhelming dangers created by this behavior. Getting a vehicle fixed to conform with state safety standards may also be viewed as inconvenient by some, but the state enforces the law anyhow. Parents with several children and a single vehicle should be encouraged to select a vehicle that allows the children to ride safely. Children deserve minimal safety protections, regardless of their parents' income level.

The National Highway Traffic Safety Administration is starting a national campaign to heighten awareness of the dangers of riding in open bed pickup trucks. Also, the three largest auto makers have indicated they will add specific warnings in their 1996 owner's manuals about these dangers.

One head injury can cost up to \$1 million or up to \$50,000 a day in the hospital. A patient can take as long as four years to recover from a serious head injury, if recovery is possible. Texas has a motorcycle helmet law for

that very reason and should apply what it has learned to improving the lot of children who have little choice in where they ride.

**OPPONENTS
SAY:**

SB 445 would negatively affect farmers and migrant farmworkers in rural areas who use pickups as their sole means of transport and also use them in their work. Their ability to make a living and to transport their children would be severely limited.

Camper shells could be a solution for some families, yet they cost over \$200 and some families might have a hard time affording them, even if they could put up with the unbearable heat in the summer.

This bill illustrates once again how government continues to try to legislate common sense. There is no reason to enact a sweeping prohibition that will needlessly inconvenience motorists transporting children in an open truck bed no matter how safe the circumstances.