

ARIZONA HOUSE OF REPRESENTATIVES
Fiftieth Legislature – First Regular Session

COMMITTEE ON TRANSPORTATION

Minutes of Meeting
Thursday, January 27, 2011
House Hearing Room 3 -- 9:00 a.m.

Chairman Williams called the meeting to order at 9:00 a.m. and roll call was taken by the secretary.

Members Present

Mrs. Burges
Ms. Fann
Mr. Farley

Ms. Hobbs
Mrs. McLain
Mr. Meyer

Mr. Weiers, JP
Mr. Gray, Vice-Chairman
Mr. Williams, Chairman

Members Absent

None

Committee Action

HB2089 – DISC. & HELD
AT REQUEST OF SPONSOR

HB2209 – DP (9-0-0-0)

CONSIDERATION OF BILLS

HB2089 – unrestrained minors; motor vehicles; prohibition – DISC. & HELD AT REQUEST OF SPONSOR

Vice-Chairman Gray moved that HB2089 do pass.

Jonathon Bates, Majority Intern, explained that HB2089 prohibits a person from driving on a highway with a passenger under 18 years of age in the back of a motor vehicle unless the passenger is safely restrained (Attachment 1). The Williams 10-line amendment adds the definition of *unenclosed motor vehicle* to mean a motor vehicle that is not an enclosed vehicle, including an open top truck or dump truck, flatbed or stake body truck, pickup truck, roll-off box or open top trailer with or without side walls, and removes language related to motor vehicles with camper or camper shells (Attachment 2).

Representative Matt Heinz, sponsor, stated that this bill with the amendment passed the House and Senate last year. It was sponsored at the request of multiple constituents in his and Representative Doris Goodale's districts, and it relates to the danger of minors riding in the back

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of pickup truck beds. Most other states have similar laws. HB2089 contains exemptions for speed limits at or below 35 miles per hour, tribal lands, emergency situations, parades and vehicles on private property for personal use.

Representative Doris Goodale, co-sponsor, stated that HB2089 was sponsored at the request of a constituent in Kingman. She and another woman lost their sons who made a bad decision to ride in the back of a truck. She said she continues to see children riding unrestrained in vehicles, which is a public safety concern.

Rochelle Wells, President-Elect, Arizona Parent-Teacher Association (PTA), spoke in support of HB2089. She stated that children riding unrestrained in moving vehicles, especially in the back of pickup trucks, has been a long-neglected safety issue. Federal standards require occupant compartments of vehicles to be designed to protect occupants during a crash. The beds of pickup trucks are designed to carry cargo, not people, and are not designed to provide protection in a crash. In addition, children and adults can be easily ejected from cargo areas at relatively low speeds as a result of a sharp turn to avoid an obstacle or crash. She urged the Members to protect the safety of children and vote yes on HB2089.

At the request of Chairman Williams, Mr. Heinz again reviewed the exemptions, including a motor vehicle operated by a farmer or rancher that is used exclusively within the boundaries of lands owned or managed by the farmer or rancher. In response to a question, he said he does not recall specific objections to the bill in the Senate last year, but some people are fundamentally opposed to this type of regulation.

Mr. Weiers conveyed that he sponsored a nearly identical bill in his freshman year at the House and he was told by many people that he would not be able to get it passed. He asked if an amendment would be considered to allow riding in the back of a pickup truck that is not fully covered, if seats are properly installed with seat belts and helmets are worn. Mr. Heinz responded that he had not considered helmets, but he is open to discussion.

Mr. Meyer surmised that the bill allows riding in the back of a pickup truck if the person is restrained because certain vehicles have seat belts in the back, to which Mr. Heinz agreed. To that point, Mr. Farley related that the language in the bill states that a person is prohibited from riding in the back of an unenclosed vehicle, unless the passenger is safely restrained.

Mr. Weiers submitted that the definition of *safely restrained* is an issue. He has a 1972 Jeep with the top taken off, and according to this bill, he is not sure if someone could ride in it. Children riding on all-terrain vehicles (ATV) or motorcycles must wear a helmet, so if the person is exposed, a helmet would probably be good protection. Also, some people with many children only have a pickup truck with a single cab, so there could be occasions when this restriction could be a problem. He added that the concern he battled six years ago was the question of whether the government or parents should be responsible for their children.

Mr. Heinz stated that from his experience in Arizona, these types of regulations are very touchy and it is best to legislate in small pieces. The first step would be to affirm that some kind of safety restraint is required before requiring helmets. Also, while some people with only pickups may be affected as Mr. Weiers described, when a similar law was passed in Colorado where

another argument for the bill was that the winters are particularly harsh, he reviewed anecdotal law enforcement reports indicating that people who were most concerned about where to seat their children somehow found alternative means. He said he believes Arizona families will figure out a way to transport their children. He added that he was made aware of an anecdotal report of an officer stopping a truck with too many small children in the cab and moving a child to the bed of the truck, which is what the current law allows, but it is a significant threat to public safety.

Kevin Biesty, Arizona Department of Transportation (ADOT), in response to a question, stated that he can check to see if safety restraint systems are addressed in statute, but he is not aware of any certification or inspections performed by ADOT.

Mr. Weiers stated that he and Mrs. McLain were under the impression that animals have to be restrained in the back of pickup trucks, but he was told that is not true. He again asked Mr. Heinz if he is willing to accept an amendment allowing seats installed with seat belts in the back of a pickup truck because he is concerned that a vehicle such as his could be considered a pickup truck. Mr. Heinz responded that in the past, in order to implement this law in other states, after-market adjustments with seats facing backward affixed to the back of the cab in older model trucks was allowed. He is willing to entertain that language. With regard to animals, he advised that an animal carcass has to be tied down, not a live animal.

Mr. Weiers stated that his vehicle has no top or sides and questioned how that falls into this category. Mr. Heinz responded that Mr. Weiers would not be able to put children under the age of 18 in the equivalent of a pickup truck bed without some kind of safety restraint. Discussion followed about inclusion of vehicles other than pickups and clarification of vehicle features.

Mr. Weiers asked that the bill be held for one week to address issues.

Mr. Heinz pointed out that the bill is almost identical to the bill Mr. Weiers sponsored in 2007.

Chairman Williams stated that he appreciates the request, but a vote will be taken unless the sponsor requests that the bill be held.

Mr. Heinz reviewed the language in the amendment and stated that based on Mr. Weiers' description, if his vehicle is without walls or a top and there are seats with restraints, that would be fine, but if there are no seats with restraints, this law would apply.

Mr. Weiers reiterated the request to consult with Mr. Heinz.

Mr. Farley stated that if there are issues with the bill, those can be discussed and addressed on the Floor.

THE MEETING RECESSED AT 9:32 A.M.

THE MEETING RECONVENED AT 9:34 A.M. WITH ALL MEMBERS PRESENT.

Mr. Heinz stated that he would be glad to hold the bill for one week to discuss the amendment further with Mr. Weiers.

Chairman Williams stated that the bill will be held at the request of the sponsor.

Vice-Chairman Gray announced the names of those who signed up in favor of HB2089 but did not speak:

John Ortolano, Arizona Fraternal Order of Police-Legislation
James Mann, Arizona Fraternal Order of Police
Norman Moore, Attorney, Arizona Fraternal Order of Police
Beth Rosenberg, Lobbyist, Children's Action Alliance
Pat Vanmaanen, representing self
Sue Braga, Arizona Chapter, American Academy of Pediatrics
Shirley Gunther, Intergovernmental Affairs Manager, City of Avondale
Richard Bitner, Legislative Counsel, Arizona College of Emergency Physicians
Kelsey Lundy, Lobbyist, Arizona Highway Patrol Association
Stuart Goodman, Lobbyist, American Automobile Association Arizona
Don Isaacson, Fraternal Order of Police
Kerry Hayden, Government Affairs Representative, Farmers Insurance

Vice-Chairman Gray withdrew the motion that HB2089 do pass.

HB2209 – safety standards; light rail systems – DO PASS

Vice-Chairman Gray moved that HB2209 do pass.

Joe DeMenna, Majority Assistant Research Analyst, explained that HB2209 adds street car systems to the currently implemented light rail safety standards and lowers the county population requirement for light rail or street car system construction (Attachment 3). In response to a question, he advised that current standards followed are set by the Federal Transit Administration (FTA); this bill lowers the required amount for the population in order to follow those set rules. The standards are not being lowered.

Michael Racy, Lobbyist, Pima Association of Governments, spoke in favor of HB2209. He indicated that this bill is not about the standards and does not change the standards. This is simply a technical and conforming change so oversight of FTA safety standards by the Arizona Department of Transportation (ADOT) applies to Pima and Pinal Counties, which is required when federal funds are received from the FTA. A new street car system being built in Tucson received federal funds from the FTA, but the original statute was written only for Maricopa County.

Question was called on the motion that HB2209 do pass. The motion carried by a roll call vote of 9-0-0-0 (Attachment 4).

Names of persons who signed up in support of HB2209 but did not speak:
Paul Loomis, Mayor, Town of Oro Valley, representing self
Jim Dickey, Executive Director, Arizona Transit Association, representing self

PRESENTATION

Arizona Transit Association

Becky Hill, Arizona Transit Association (AzTA), stated that the hosts for an ice cream social later in the day are the AzTA and Friends of Transit. She introduced Bryan Jungwirth, AzTA President. She conveyed that Friends of Transit serves the greater Phoenix area and educates community members, businesses leaders and elected officials on the benefits of a well-designed and accessible mass transit system. The Chairwoman for Friends of Transit is Yvonne Hunter from Pinnacle West Capital Corporation. She introduced Councilwoman Shana Ellis.

Shana Ellis, Councilwoman, City of Tempe, gave a presentation on the Arizona transit system, which includes buses, paratransit, vans and shuttles and rail (Attachment 5). Transit facilitates movement of individuals to and from work and educational institutions. Paratransit serves seniors and the disabled. The federal government funds a large component of these specialized vehicles; however, operating funds for this service are the responsibility of local communities. Transit enables consumers to spend money in their community, particularly in geographically expansive communities where retail centers may not be close to home.

She advised that delivery of transit has been privatized in most Arizona cities for a long time. Many communities, particularly for paratransit, run a good portion of transit with volunteers. The City of Tempe was the first city to pass a local transit tax in Arizona. Arizona State University (ASU), with four major campuses in the Phoenix Metropolitan area in both the East Valley and the West Valley, is the largest public research university in the United States. Transit provides a key connection between the campuses with Metro light rail taking students between downtown Tempe and Phoenix. ASU also provides a transit pass to students at a reduced rate to travel from campus to campus.

She related that last year Arizona moved the lottery revenue that supported transit to the General Fund to cover state debt payments. At some point in the future, the state's role in supporting transit should be revisited.

Without objection, the meeting adjourned at 9:50 a.m.

Linda Taylor, Committee Secretary
February 3, 2011

(Original minutes, attachments and audio on file in the Chief Clerk's Office; video archives available at <http://www.azleg.gov>)