HB 1131: Seat Belt Law Endangers Innocents

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Issue Backgrounder

By Linda Gorman

Synopsis: This bill is identical to HB 99-1212 which was voted down last year. It would make failing to wear a seat belt a more serious offense. At present, drivers are not cited for failure to wear a seat belt unless they are stopped for some other reason. This bill would make failing to wear seat belts a primary offense, meaning that police officers could stop vehicles and write citations whenever they see the seat belt law being violated. The bill makes the driver responsible for a Class B traffic infraction unless he, and all front seat passengers, are wearing seat belts

Discussion: The National Highway Traffic Safety Administration estimates that wearing a seat belt in an automobile accident reduces the risk of serious injury or death by roughly 50 percent. It argues that if the U.S. could achieve the 85% seat belt use rates enjoyed in other countries, 5,421 fewer people would have died in motor vehicle accidents in 1996. These estimates are based on police reported restraint use information for each individual occupant fatality, and include potential lives saved in all seating positions. Proponents of increasing the penalty for not using seat belts claim that increasing penalties increases usage, and that increased usage lowers traffic injuries and deaths.

Some states already have primary offense laws. A survey of seat belt use among the fatally injured suggests that seat belt use in that group was 15 percent higher in states with primary offense enforcement laws. In 1996, states that treated seat belt use as a primary offense reported that seat belts were used 74 percent of the time. States that treated seat belt use as a secondary offense reported usage rates of 61 percent.[1]

Unfortunately, data like these fail to show that making seat belt usage a primary offense decreases traffic injuries and fatalities. Nor is it clear that making seat belt use a primary offense will significantly change either usage or motor vehicle injury and death rates. It is important to keep in mind that some people wear seat belts whether there are laws requiring it or not. States with more risk averse populations may also have populations that are more likely to both drive carefully and buckle up. They may also be more likely to pass primary seat belt laws. New York passed a primary seat belt law in 1984. In 1996, its observed seat belt usage rate was 74%, and a large fraction, 46%, of its fatally injured car occupants were wearing seat belts.[2] Its fatality rate per 100,000,000 vehicle miles traveled (VMT) was 1.3[3]. But Iowa, which has had a primary law since 1986, had a fatality rate per VMT of 1.7 in 1996 despite the fact that its observed seat belt use rate was 75% and fully 50% of its fatally injured car occupants were wearing seat belts.

Colorados fatality rate per VMT, 1.7, is the same as Iowas. This is in spite of the fact that Colorados observed rate of seat belt use was just 59%. Furthermore, high observed usage does

not guarantee a lower death rate. Wyoming[4] had no primary law and an observed usage rate of 72%. However, its fatality rate was higher, at 1.9 per VMT, and only 28.8% of its fatally injured car occupants were wearing seat belts.

The point is that there is more to highway safety than seat belt use. The age of the population, the condition of the roads, the speed at which people habitually travel, their affinity for drink, and a great many other factors all make a difference. Making failure to wear a seat belt a class B infraction will probably not do much to change behavior, let alone accident results. Relatively few motorists will even know that the change has occurred, let alone what it means.

Seat belt laws differ from traffic laws in that they attempt to regulate behavior that poses no danger to others. A person who refuses to wear a seat belt increases his own risk of injury or death, but not necessarily anyone elses. Traffic laws have historically sought to regulate driver behavior that poses an obvious risk to others. Everyone can see that running a stop sign endangers others. Since the law makes obvious sense, most people obey it.

As the 20-year experiment with artificially low speed limits demonstrated, laws designed to regulate individual risk do not necessarily enjoy high rates of compliance, and low compliance with one law may erode general respect for all laws. This seems to be a particular problem when government tries to regulate the risk involved in routine activities that generally end without incident.

When people see no reason to change the risk they are exposed to, they do not change their behavior. Frustrated government officials then proceed to ratchet penalties higher and higher in an effort to save face and force compliance. Since not enough people were thought to use seat belts in 1987, Colorado passed a law requiring front seat passengers to buckle up. Now enough people still are not using seat belts and the response is to increase police powers and to make the legal penalty harsher. What if that doesnt work, either? Just how much should otherwise law-abiding citizens have to pay for failing to wear a seat belt when that activity poses no danger to others? Should it cost them their license?

Supporters of behavior regulation often argue that government has a right to regulate behavior that poses no danger to others when those behaviors increase costs, usually medical costs, for others. By that standard activities like mountain climbing, backcountry skiing, motor cycles and scuba diving would be outlawed, and everyone would be required to document 30 minutes of exercise 5 times each week.

This law is not just about seat belts. The real question is whether, and how much, government should seek to regulate the risk that a free adult chooses to incur. Trying to convince people to wear their seat belts is one thing. Requiring then to do so when educational efforts fail is quite another.

[1] U.S. Department of Transportation, National Highway Traffic Safety Administration. *Occupant Protection*, part of the Traffic Safety Facts 1996 series. http:/www.nhtsa.dot.gov.

[2] All data on states are from the National Highway Traffic Safety Administration, U.S. Department of Transportation and is current as of January 1, 1998. See http://www.nhtsa.dot.gov/people/ncsa/stateinfo/intro.htm.

[3] If the average person drives 25,000 miles a year, it would take him 4,000 years to travel 100,000,000 miles.

[4] Wyoming passed a secondary seat belt law in 1989. It and Vermont were the only two states that had higher fatalities per VMT in 1995 than in 1990.

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