

106 H-300 AI-4

NATIONAL TRANSPORTATION SAFETY BOARD  
WASHINGTON, D.C.

ISSUED: September 29, 1981

Forwarded to:  
Governors of all States  
(See attached list)

SAFETY RECOMMENDATION(S)

H-81-68 and -69

The National Transportation Safety Board has concluded a special study 1/ which examined fatalities and injuries as a result of persons riding in the cargo areas of pickup trucks. 2/ The study was made to demonstrate the need for model guidelines prohibiting passengers from riding in the open cargo area of a vehicle, and to make available information about the dangers to passengers riding in the cargo area of a vehicle.

An average of 242 persons were killed each year from 1975 through 1979 in accidents while riding in the cargo areas of pickup trucks, according to data from the National Highway Traffic Safety Administration's (NHTSA) Fatal Accident Reporting System (FARS). In addition, an average of 167 persons suffered incapacitating injuries and 142 persons received nonincapacitating injuries each year.

In 1979, the Safety Board investigated an accident involving a compact pickup truck in which the driver and three persons were riding in the cab and eight persons were in the open cargo area of the truck. The driver failed to negotiate a curve and the truck ran off the road and overturned. Seven persons in the cargo area were killed. 3/ As a result of its investigation of this accident, the Safety Board determined that model guidelines might assist States in formulating legislation which would control the use of cargo areas of vehicles for passenger conveyance. Accordingly, the Safety Board recommended on September 6, 1979, that the National Committee on Uniform Traffic Laws and Ordinances (NCUTLO):

1/ For more detailed information, read Special Study--"Fatalities and Injuries Associated with Riding in Cargo Areas of Pickup Trucks" (NTSB-HSS-81-2).

2/ Includes all pickup trucks, with or without caps, campers, stake, and small dump bodies.

3/ Highway Accident Report--"Ford Courier Pickup Truck, Fixed Object Collision, Patuxent Road, Near Crofton, Maryland, April 23, 1979" (NTSB-HAR-79-6).

Establish model guidelines for prohibiting passengers from riding in open-cargo areas of vehicles that are not being used for work-related purposes. (H-79-40)

Since the Safety Board's recommendation was made after the NCUTLO's last full meeting in August 1979, it could not be acted on. The NCUTLO subcommittee on traffic operations was to meet in February 1981 and determine whether the recommendation would be put on the agenda for the NCUTLO's next full meeting in August 1981. These meetings were never held because of budget constraints. The subcommittee may meet in the fall of 1981 and again consider placing the recommendation on the agenda in preparation for a full meeting in August 1982.

The Safety Board's special study is recommending that the National Highway Traffic Safety Administration, the Insurance Institute for Highway Safety, and the Motor Vehicle Manufacturers Association support the NCUTLO in the development of a model law.

Every State except one reported fatalities resulting from passengers riding in the cargo areas of pickup trucks. Fourteen States had 25 or more fatalities, California had 170 fatalities, and Texas had 139. Since the number of fatalities in each State is related to the number of people and vehicles in that State, local weather, vehicle mileage, etc., comparisons between States are not meaningful without data to permit the establishment of rates. It is apparent, however, that this type of accident occurs almost everywhere in the United States. Therefore, each State should be concerned with corrective measures to eliminate such accidents.

The accidents discussed in the Safety Board's special study occurred in California, Maryland, Massachusetts, Virginia, and Nebraska. Of these States, only California has a law pertaining to unlawful riding, 4/ which states:

- (a) No person driving a motor vehicle shall knowingly permit any person to ride on any vehicle or upon any portion thereof not designed or intended for the use of passengers.
- (b) No person shall ride on any vehicle or upon any portion thereof not designed or intended for the use of passengers.
- (c) Subdivisions (a) and (b) shall not apply to any employee engaged in the necessary discharge of his duty or in the case of persons riding completely within or upon vehicle bodies in space intended for any load on the vehicle.

A New Jersey statute 5/ states that:

No person shall ride on, and no operator shall knowingly allow a person to ride on, a street car or vehicle, or on a portion thereof not designed or intended for the conveyance of passengers. This section shall not apply to an employee engaged in the necessary discharge of a duty.

4/ West's Annotated California Codes, Vehicle Code Sections 16000 to 22449, Official California Vehicle Code Classification, Vol. 66A, Section 21712, p. 486; West Publishing Co., St. Paul, Minnesota, 1971.

5/ New Jersey Statutes Annotated, Title 39, Motor Vehicles and Traffic Regulation, 39:1 to 39.5D; Section 39:4-69, p. 359; West Publishing Co., St. Paul, Minnesota.

These and other State laws on this subject exclude passengers engaged in a work activity from the unlawful riding prohibition. The Safety Board recognizes the need for this exception and consequently has directed its recommendation to nonwork-related occupants. However, the Safety Board still does not believe the transporting of large numbers of workers in cargo areas of vehicles to job sites is advisable.

Some States may need to revise existing laws in order to remove possible ambiguous interpretations. The California law in fact allows riding in the cargo area. It is not clear whether the cargo area is considered a prohibited area under the New Jersey law. Where the law is precise and nonwork-related passengers are excluded from riding in the cargo areas, there may be no need for revision of such a law. Where no law exists to prevent nonwork-related passengers from riding in the cargo area, the Safety Board would urge the enactment of such a law.

The New York law, 6/ while allowing passengers to ride in cargo areas, is more definitive concerning the safety aspects of such riding:

1. No operator of any motor vehicle commonly known as an auto truck shall operate such auto truck, nor shall the owner thereof permit it to be operated, for a distance in excess of five miles, while there is standing therein or thereon any person or persons in excess of one-third of the number of persons therein or thereon:
  - a) Unless suitable seats are securely attached to the body of such auto truck;
  - b) Unless side racks of at least three feet in height above the floor of such auto truck are securely attached; and
  - c) Unless it shall have attached thereto a tail board or tailgate which is securely closed.

The provisions of this subdivision shall not apply to persons or corporations operating an agency or agencies for public service, who or which are subject to the jurisdiction, supervision, and regulations prescribed by or pursuant to the public service law nor to their agents or employees when engaged in the business of such persons or corporations.

2. No operator of any motor vehicle commonly known as an auto truck shall operate such auto truck, nor shall the owner thereof permit it to be operated, in excess of five miles, while there are in excess of five persons under eighteen years of age in the body of such truck unless at least one person over eighteen years of age also rides in the body of said truck.

This law restricts travel distance, standing, suitable seats, the height of side racks, the tailgate, and the number of persons by age. However, it still allows passengers to ride in the cargo area under other circumstances.

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6/ McKinney's Consolidated Laws of New York, Annotated; Section 1222, p. 248, Book 62A, Edward Thompson, Brooklyn, New York, 1970. See also 1981 Pocket Supplement for change to number 2, p. 81.

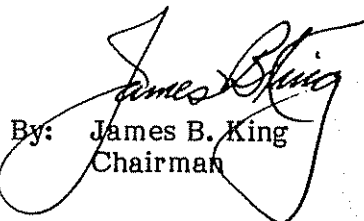
The National Committee on Uniform Traffic Laws and Ordinances in 1975 identified six States which ban riding on any part of a vehicle that is not designed or intended for passenger use. Eleven states prohibit riding on the outside part of a vehicle such as the running board, fender, hood, top, bumper, etc.

Therefore, the National Transportation Safety Board recommends that each State:

Review existing laws and revise as necessary to prohibit passengers from riding in the cargo area of a vehicle, except during work-related activities. (Class II, Priority Action) (H-81-68)

If no such law exists, enact legislation to prohibit passengers from riding in the cargo area of a vehicle, except during work-related activities. (Class II, Priority Action) (H-81-69)

KING, Chairman, and GOLDMAN and BURSLEY, Members, concurred in these recommendations. DRIVER, Vice Chairman, and McADAMS, Member, did not participate.

  
By: James B. King  
Chairman