SENATE BILL No. 341

March 5, 2009, Introduced by Senators KAHN, JELINEK and PAPPAGEORGE and referred to the Committee on Transportation.

A bill to amend 1949 PA 300, entitled

"Michigan vehicle code,"

by amending section 710e (MCL 257.710e), as amended by 2008 PA 43.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 710e. (1) This section does not apply to an operator or passenger of any of the following:

(a) A motor vehicle manufactured before January 1, 1965.

(b) A bus.

(c) A motorcycle.

(d) A moped.

(e) A motor vehicle if the operator or passenger possesses a written verification from a physician that the operator or passenger is unable to wear a safety belt for physical or medical reasons.

SENATE BILL No. 341

(f) A motor vehicle that is not required to be equipped with safety belts under federal law.

(g) A commercial or United States postal service vehicle that makes frequent stops for the purpose of pickup or delivery of goods or services.

(h) A motor vehicle operated by a rural carrier of the United States postal service while serving his or her rural postal route.

(I) AN INDIVIDUAL WHO IS EMPLOYED TO DELIVER NEWSPAPERS, ADVERTISING MATERIAL, OR PERIODICALS AND WHO, IN THE COURSE OF THAT DELIVERY, IS MAKING FREQUENT STOPS. FOR PURPOSES OF THIS SUBDIVISION, "FREQUENT STOPS" MEANS A SERIES OF STOPS WITH AT LEAST 1 STOP WITHIN EVERY 1/2 MILE OF TRAVEL.

(2) This section does not apply to a passenger of a school bus.

(3) Each operator and front seat passenger of a motor vehicle operated on a street or highway in this state shall wear a properly adjusted and fastened safety belt except as follows:

(a) A child who is less than 4 years of age shall be protected as required in section 710d.

(b) A child who is 4 years of age or older but less than 8 years of age and who is less than 4 feet 9 inches in height shall be properly secured in a child restraint system in accordance with the child restraint manufacturer's and vehicle manufacturer's instructions and the standards prescribed in 49 CFR 571.213.

(4) If there are more passengers than safety belts available for use, and all safety belts in the motor vehicle are being utilized in compliance with this section, the operator of the motor

vehicle is in compliance with this section.

(5) Except as otherwise provided in subsection (3)(b), each operator of a motor vehicle transporting a child 4 years of age or older but less than 16 years of age in a motor vehicle shall secure the child in a properly adjusted and fastened safety belt and seated as required under this section. If the motor vehicle is transporting more children than there are safety belts available for use, all safety belts available in the motor vehicle are being utilized in compliance with this section, and the operator and all front seat passengers comply with subsection (3), the operator of a motor vehicle transporting a child 8 years of age or older but less than 16 years of age for which there is not an available safety belt is in compliance with this subsection if that child is seated in other than the front seat of the motor vehicle. However, if that motor vehicle is a pickup truck without an extended cab or jump seats, and all safety belts in the front seat are being used, the operator may transport the child in the front seat without a safety belt.

(6) If after December 31, 2005 the office of highway safety planning certifies that there has been less than 80% compliance with the safety belt requirements of this section during the preceding year, enforcement of this section by state or local law enforcement agencies shall be accomplished only as a secondary action when an operator of a motor vehicle has been detained for a suspected violation of another section of this act.

(7) Failure to wear a safety belt in violation of this section may be considered evidence of negligence and may reduce the

recovery for damages arising out of the ownership, maintenance, or operation of a motor vehicle. However, that negligence shall not reduce the recovery for damages by more than 5%.

(8) A person who violates this section is responsible for a civil infraction.

(9) A law enforcement agency shall conduct an investigation for all reports of police harassment that result from the enforcement of this section.

(10) The secretary of state shall engage an independent organization to conduct a 3-year study to determine the effect that the primary enforcement of this section has on the number of incidents of police harassment of motor vehicle operators. The organization that conducts the study shall submit a report to the legislature not later than June 30, 2001 and an annual report not later than June 30 each year thereafter.

(11) The secretary of state shall promote compliance with the safety belt requirements of this section at the branch offices and through any print or visual media determined appropriate by the secretary of state.

(12) It is the intent of the legislature that the enforcement of this section be conducted in a manner calculated to save lives and not in a manner that results in the harassment of the citizens of this state.

(13) Points shall not be assessed under section 320a for a violation of this section.