STATE OF MINNESOTA

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ARNE H. CARLSON
GOVERNOR

June 3, 1997

The Honorable Allan Spear
President of the Senate
120 Capitol
Saint Paul, Minnesota 55155

Dear President Spear:

I have vetoed and am returning Chapter 211, Senate File 877, a bill which would partially lift the "gag rule" on the admissibility of evidence regarding seat belts and child passenger restraint systems.

Under current law, litigants are prevented from using evidence in court actions on whether a seatbelt was being used at the time of an accident. The Minnesota Supreme Court recently interpreted this gag rule to also prohibit the introduction of evidence about the failure or defectiveness of a seat belt or child restraint system. In 1963, the year it was enacted, this policy was sensible because there was no mandate to use seatbelts and because Minnesota then recognized the defense of contributory negligence. In 1997, however, this law is unnecessary public policy that meddles with the judicial process. It is unfair to both plaintiffs and defendants.

As stated in an April 11, 1997 letter to the Legislature, I support lifting the gag rule entirely. While I agree with the objective of the bill's authors, which is to allow injured motorists and passengers to sue for injuries they claim were caused by defective seat belts, I believe that defendants also should be able to introduce evidence about the use of restraint devices. Both of these objectives would have been achieved with a repeal of the entire gag rule, a measure supported by a number of state groups dedicated to public health and safety, including the Minnesota Medical Association, the Minnesota Troopers Association, and the Minnesota Sheriff's Association. Unfortunately, an amendment to do so was defeated in the House this past session.

I vetoed this bill because of three incontrovertible objections. First, I am philosophically opposed to gag rules, which prevent juries from hearing all arguments and facts in a case -- in effect significantly predetermining the outcome of a suit. It is generally unwise for the legislative or executive branch to dictate what is admissible evidence in judicial proceedings. We must respect the fact that evidentiary determinations rest squarely within the purview of the judiciary.

Second, it is unfair and inequitable to all litigants to provide only a partial repeal of the gag rule -- a change that could potentially tip the scales of justice in the favor of plaintiffs. The use of seat belts in this state is the law, just as we have laws against speeding and drunk driving. If the latter offenses can be used in civil suits, then juries should also hear information about the use of seatbelts by plaintiffs.

Finally, and contrary to the intentions of this bill, seatbelt evidence would be admissible in claims against some defendants in multiple defendant cases but would not be admissible against others in the same case. Ironically, the bill could potentially give more rights to a manufacturer defendant than another driver defendant in the same case and before the same jury. It would also make it nearly impossible for the courts to determine the rights of contribution among defendants, and could radically alter the law of joint and several liability in unpredictable ways.

For these reasons, I cannot support the changes proposed in this bill. I do, however, support the complete repeal of the seat belt gag rule, and will sign legislation next session that accomplishes this objective.

Warmest regards,

ARNE H. CARLSON
Governor

c: Senator Roger Moe, Majority Leader
Senator Dean Johnson, Minority Leader
Representative Phil Carruthers, Speaker of the House
Representative Steve Sviggum, Minority Leader
Chief Senate Author(s)
Chief House Author(s)
Mr. Patrick E. Flahaven, Secretary of the Senate
Mr. Edward A. Burdick, Chief Clerk of the House
Ms. Joan Anderson Growe, Secretary of State