

SENATOR V. JOHNSON: Mr. Speaker and members of the body, I had placed on your desk the letter from the National Automotive Dealers...Automobile Dealers Association that lists the regulations of the United States Department of Transportation on seat belt laws. Like it or not, the federal government is saying to the people of this country that the minimum criteria for state mandatory safety belt usage laws are as follows, and if you follow along you will see subparagraph 2 which says, "A provision specifying that the violation of the belt usage requirement may be used to mitigate damages with respect to any person who is involved in a passenger car accident while violating the belt usage requirement and who seeks in any subsequent litigation to recover damages for injuries resulting from the accident. This requirement is satisfied if there is a rule of law in the state permitting such mitigation." Now this bill, 496, is moving through this body because this Legislature is making a choice between air bags in cars from and after 1989 or mandatory seat belt laws. The truth of the matter is that the mandatory seat belt laws are probably good laws because it probably is beneficial to our safety to wear seat belts. In all honesty, as a result of this legislation, I, personally, have been wearing my seat belt to and from Lincoln and it is the first time I have ever done that. It is because my own conscience has become increasingly aware of the need for the seat belt. So I am going to support the legislation. But as long as I am going to support the legislation, I want to support the legislation in a way which will make the legislation be in conformance with or in compliance with the federal requirements. There is no point in doing legislation which will be offensive to some people in the state, such as Senator Chambers who doesn't like mandatory legislation, or Senator Haberman who doesn't like mandatory legislation, without at least conforming to the federal requirement. The bill, as currently amended, says that the failure to wear the seat belt may be used in the mitigation of damages. That rule is too harsh, Senator Nichol, that is too harsh a rule. We do not want people who are injured at the hands of negligent drivers to lose all their damages because the injured party failed to wear the seat belt. That is just too harsh. But we are saying that to be in compliance with the federal law, we have to have some mitigation requirement, therefore, permit a jury, permit a jury to say damages may be mitigated but not to exceed 5 percent for failure to wear the seat belt. So that means that a jury can make the decision, Senator Pirsch,