

211.82 CHILDREN - TRANSPORTING CHILDREN IN OPEN BED OF VEHICLE. N.C. Gen. Stat. § 20-135.2B.¹

The motor vehicle law provides that it is unlawful to operate on a [street] [highway]² a vehicle having an open bed or open cargo area without ensuring that no child under sixteen years of age is transported in the bed or cargo area of that vehicle. An open bed or open cargo area is a bed or cargo area without permanent overhead restraining construction.

A violation of this law is not negligence in and of itself. However, the evidence with regard to this law is to be considered with all other facts in evidence in determining whether the defendant was negligent.

1. N.C. Gen. Stat. § 20-135.2B(b) provides that this prohibition “does not apply in the following circumstances:

- (1) An adult is present in the bed or cargo of the vehicle and is supervising the child.
- (2) The child is secured or restrained by a seat belt manufactured in compliance with Federal Motor Vehicle Safety Standard No. 208, installed to support a load strength of not less than 5,000 pounds for each belt, and of a type approved by the Commissioner.
- (3) An emergency situation exists.
- (4) The vehicle is being operated in a parade.
- (5) The vehicle is being operated in an agricultural enterprise, including providing transportation to and from the principal place of the agricultural enterprise.”

2. See *Clontz v. St. Marks Evangelical Lutheran Church*, 157 N.C. App. 325, 330, 578 S.E.2d 654, 658 (2003) (noting that “N.C. Gen. Stat. § 20-115 limits the applicability of N.C. Gen. Stat. § 20-135.2B to vehicles operated on highways,” as defined in N.C. Gen. Stat. § 20-4.01(13) as “open to the use of the public as a matter of right for the purposes of vehicular traffic.”).