SUPREME COURT OF LOUISIANA

No. 98-KK-2923

STATE OF LOUISIANA

versus

CADE M. BARBIER

KNOLL, JUSTICE, dissenting.

For the following reasons, I respectfully dissent.

The inherent weakness in the majority's opinion is that it overlooks that the Legislature intentionally changed the law; therefore, it is incongruent for the amended statute to be interpreted consist with the former law, which gives an absurd reading to the statute. The 1995 amendment to La. R.S. 32:295.1 evidences the Legislature's intent to change our mandatory safety belt law from a secondary to a primary offense.

In 1995 La. Act 643, La. R.S. 32:295.1 was amended and reenacted. The title of the Act provided that:

> To amend and reenact R.S. 32:295.1(F) and (G), relative to the required use of safety belts; <u>to allow vehicles and occupants to be stopped</u> or searched <u>because of failure to wear a safety belt</u>; to provide for a period of time in which warnings shall be issued; and to provide for related matters.

(emphasis added). Thus, while Act 643 maintained many provisions of La. R.S. 32:295.1, it expressly changed subsection (F). La. R.S. 32:295.1, as amended in 1995, provided in pertinent part that:

> A. (1) Each driver of a passenger car, van, or truck having a gross weight of six thousand pounds or less, commonly referred to as a pickup truck, in this state shall have a safety belt properly fastened about his or her body at all times when the vehicle is in forward motion. . . .
>
> . . . .

> F. No vehicle, the contents of the vehicle, driver, or passenger in a vehicle shall be inspected, detained, or searched solely because of a violation of this Section.

Thus, in amended form the Legislature added the phrase "the contents of the vehicle" and deleted the phrase "or to determine compliance with this section" from subsection (F). I find the Legislature's intentional deleting of the phrase significant, and, considering the deletion with the statute as a whole, would conclude that the statute allows a driver to be stopped solely for failing to properly wear a safety belt. A review of the legislative history supports this conclusion.

The 1995 amendment to La. R.S. 32:295.1 was introduced by Representative Stelly as H.B. 1350 and referred to the House Committee on Transportation, Highways, and Public Works. The bill made clear that the amendment would make the failure to wear a safety belt a primary offense. In committee hearings, Representative Stelly informed the members that the bill made the failure to wear a safety belt a primary offense. As approved by the Committee and presented to the full House, the bill deleted subsection (F). The full House amended, passed, and forwarded the bill to the Senate by retaining subsection (F) but deleting the term "detained" <u>and</u> the phrase "or to determine compliance with."

The Senate referred the bill to the Committee on Transportation, Highways and Public Works. Representative Stelly introduced the bill and reiterated that the bill made the failure to wear a safety belt a primary offense. The Senate Committee amended the bill by adding the phrase "the contents of the vehicle" and reinserted the word "detained." Noticeably absent from the Committee's proposals were the reinsertion of the phrase "or to determine compliance with" or a recommendation that the statute maintain its status as a secondary offense. The Senate effected no change to the title evidencing an intent to make La.R.S. 32:295.1 a primary offense. Both

chambers then passed the bill and sent it to the Governor for executive approval. Thus, with this clear showing of the Legislature's intent, I cannot accept the majority's view.