

## DOT Softens Stand On Recall Powers

The Department of Transportation has decided not to ask the Congress for authority to force manufacturers to recall defective vehicles and equipment, even though National Highway Traffic Safety Administrator Douglas Toms earlier told the Senate Commerce Committee that such authority is necessary "to do our job."

The apparent shift is revealed by the absence of recall authority language from a new DOT request for amendments to the National Traffic and Motor Vehicle Safety Act of 1966. The shift follows a dispute between DOT and the Department of Commerce in which Commerce maintained that the safety administration already "has sufficient authority" under the 1966 Act to "insure the removal of unsafe vehicles from the nation's roads." (See *Status Report*, Vol. 7, No. 4, Feb. 28, 1972.)

According to a DOT official, NHTSA "still feels" that it needs the authority but has decided to "put the ball in Congress' court" on this "very sensitive question." NHTSA is "already on record" as wanting recall authority and, although "not requesting it in the legislation," there are no plans to lobby "for or against" it, he said.

DOT's new package of legislative proposals, which is expected to be introduced when the Congress returns from Easter recess, includes a request for authority to "temporarily exempt" motor vehicles from compliance with federal safety standards if the vehicle manufacturer can show that compliance would cause "economic hardship" and that the exemption "would be consistent with the public interest." In 1970 the Federal District Court for the District of Columbia ruled that under present law, DOT does not have authority to grant exemptions to individual manufacturers.

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The change that DOT now seeks would permit it to give exemptions of up to three years to manufacturers whose total production does not exceed 10,000 vehicles per year.

Another significant request in the DOT package is for a provision that would prevent manufacturers from sending car owners defect notification letters which deny that a defect exists, once the safety administration has issued a determination of defect.

In December 1971 General Motors sent letters to Corvair owners saying that "Chevrolet does not agree with the initial determination of a defect (involving Corvair heaters) which was made by the National

Highway Traffic Safety Administration. It is Chevrolet's position that there is no such risk if the Corvair has been regularly inspected and properly maintained and is in good working order. Rather than engage in a controversy with the Traffic Safety Administration, Chevrolet is mailing this defect notification letter to all owners of 1961 through 1969 model Corvairs to advise them of this initial determination by the National Highway Traffic Safety Administration."

According to testimony presented to the Senate Commerce Committee by the Nader-affiliated Public Interest Research Group, the organization received "about 75" letters from Corvair owners "expressing varying degrees of bewilderment, incomprehension and rage" over the GM disclaimer.

Other significant statutory changes being sought by DOT include:

- Authority for NHTSA crash investigators to impound, "for a period not to exceed 72 hours," vehicles that have been in a crash involving death, personal injury or property damage. According to an NHTSA report to the Congress, some vehicle owners, under advice of their attorney or insurance company, have refused to allow government multi-disciplinary investigation teams access to crash-involved vehicles pending settlement of claims.

- Authority to prevent the sale or importation of any new motor vehicle that contains "a defect which relates to motor vehicle safety." Current law applies only to motor vehicles that are not in conformance with applicable safety standards.

- Authority to obtain information from vehicle dealers and distributors to determine whether they are "acting in compliance" with the Act. Under present law only manufacturers are required to furnish NHTSA with information. According to a DOT official, the provision would allow NHTSA to check dealers and distributors to "see what kind of trouble they are having on defects and repairs."

## **Ford Control Arm Queries Prompt Puzzling Answers**

The National Highway Traffic Safety Administration is continuing to advise inquirers that it is possible to detect incipient failures of Ford lower control arms "by visual inspection" despite a two-year-old internal agency memorandum to the contrary.

Meanwhile, Ford itself is continuing to insist that "there is no defect in the arms in question," and that "such breakages as have occurred appear to be attributable to extreme impact type overloading. . . . Our tests show that the overloads required to cause breakage far exceed any likely to be encountered in normal operations."

Since the suspected defect in Ford lower control arms became known in 1970, two studies have concluded that the failures—which can cause the front wheels to wrench away from the car while it is in motion—are not caused by severe impact loads. (See *Status Report*, Vol. 7, No. 4, Feb. 28, 1971.)

NHTSA's promotion of visual inspection by Ford owners came to light recently when Andrew Detrick, acting director of its office of defects investigation, responded to a letter of inquiry by suggesting, "The periodic examination for cracks in the vicinity of the ball joint rivets (of Fords equipped with the suspect control arms) . . . is a good means of assuring yourself of the vehicle's safety."

Detrick made no mention of an NHTSA memorandum circulated internally in June 1970 that found "no evidence" that "the possibility of having a cracked control arm is one which can be detected by any examination short of complete disassembly of the A-frame components"—a step requiring destruction of

the arm. The memorandum was written by NHTSA engineer Paul Yoshida on the basis of extensive field investigations of reported Ford lower control arm failures.

Ford's position was spelled out in a company letter to an inquirer who had asked about the reported failures. J. D. Jallo, an "owner relations" representative with the auto maker, said in his letter that the company has "thoroughly investigated this matter and in our opinion there is no defect in the arms in question. . . . An arm that has not been damaged by such overloading can be expected to function properly for the life of the car."

The suspected arms in question are found on full size Fords and Mercurys for the model years 1965 through 1969. In 1970 NHTSA persuaded Ford to recall some 85,000 police pursuit vehicles for replacement of the arms, but it still has not completed its investigation of the failures as they affect private passenger cars. Last month the agency was asked by the Center for Auto Safety to broaden the probe to include lower control arms of a different style that are reportedly failing on some smaller model 1965 through 1969 Fords and Mercurys. (See *Status Report*, Vol. 7, No. 6, March 28, 1972.)

### *More On 'Baggies'*

## **Wide Use Could Cause Problems, Study Shows**

Alcohol programs that use inaccurate and imprecise disposable devices to test randomly selected drivers could result in numerous false arrests, according to an Insurance Institute for Highway Safety study. Random methods of selecting test subjects, when combined with detection devices that give unreliable results, "tend to magnify the problems" associated with poor devices, the study says. Such practices could result in "excessively high rates of false arrests" while allowing "dangerously impaired" drivers to remain on the highway, it concludes.

The findings raise serious questions concerning law enforcement and research projects using the disposable alcohol measuring devices to test drivers who have been randomly selected for testing at road-blocks. Until now, the critical relationship between the accuracy of a test and the method of selecting test subjects has been generally unrecognized.

The study emphasizes, "Even if random screening increases the risk of being caught, it will at the same time substantially increase the rate of false arrests, if the test method is subject to error rates typical of many disposable breath-testing methods. Hence, any advantages gained due to an increase in the risk of being caught could be jeopardized by a lack of confidence, mistrust or a justified indignation on the part of the general public generated by a situation resulting in large numbers of falsely arrested drivers. Moreover, successful court challenges would also appear to be a certainty."

In the study, Institute statisticians Brian O'Neill and Richard Eiswirth combined results from earlier findings in Grand Rapids, Michigan, and at the University of North Dakota. The Grand Rapids study, conducted in 1962 and 1963 by Professor Robert Borkenstein and his associates, showed that a group of crash-involved drivers could be expected to have a greater frequency of high blood alcohol concentration than drivers tested at random. The North Dakota study, conducted by University of North Dakota Professor Richard W. Prouty and O'Neill, showed that unreliable results were commonly produced by disposable breath test devices. (See *Status Report*, Vol. 6, No. 11, June 7, 1971.)

By using a formula which determines the most likely outcome of given combinations of events, the Institute researchers showed that if the crash-involved drivers in the Grand Rapids study had been tested

with disposable devices, the tests could have led to the arrest of 11 to 35 per cent of those tested who were actually not intoxicated under the law. Tests with a more precise instrument—the Breathalyzer—could have produced only one per cent of such false results, the Institute researchers found.

For non-crash-involved drivers—such as those stopped at roadblocks—the researchers found that tests with the disposable devices could have resulted in the false arrest of 42 to 84 per cent of those tested who were not actually intoxicated under the law. Tests with the Breathalyzer could have produced false arrests of only three per cent in such a screening situation, they concluded.

The Institute researchers pointed out that pre-arrest breath-screening tests are not widely used at present in the United States, although the Department of Transportation has advocated their adoption and several jurisdictions have recently passed legislation permitting such testing. (See *Status Report*, Vol. 6, No. 17, Sept. 20, 1971.) However, neither DOT nor those jurisdictions have advocated widespread use of the disposable breath-testing devices.

The Institute's study will appear in the September issue of the *American Journal of Public Health*. Single prepublication copies of the report may be obtained by writing to Insurance Institute for Highway Safety, Suite 300, Watergate 600, Washington, D.C. 20037.

## Tri-Color Taillights Pushed

The Department of Transportation would be required to adopt a standard requiring that new motor vehicles be equipped with a standardized three-color rear lighting system under terms of legislation introduced in the U.S. Senate.

The lighting system would replace the prevailing red taillights with green lights to indicate when the vehicle is moving forward under power, amber lights when it is coasting or idling, and red lights when its brakes are being applied. Such a system, advocates contend, would serve as an "early warning system" because drivers would know the moment the driver ahead removed his foot from the accelerator.

The measure (S. 3306) would require the Secretary of Transportation to promulgate the necessary standard—probably a change in the current rear lighting standard, FMVSS 108—"as soon as practicable."

In introducing the legislation, Sen. Frank E. Moss (D-Utah) said that "a mounting tide of opinion" points to the deficiency in automobile lighting systems and that the deficiency is "particularly apparent" in rear warning lights. He said he has "grown disturbed" at DOT's failure to issue a revised rear lighting standard that "should have been available to the public some 18 months ago."

The senator added, "I am also spurred to further action because I am aware that General Motors is using early warning devices to safeguard its own drivers who are running emission control test cars on the company's heavily guarded Michigan proving grounds. This application of the tri-light system indicates much more than a testing of the early warning concept. The systems which have been rigged on the emission control test cars imply a solid endorsement of the whole concept."

The tri-light system recently was urged on the National Highway Traffic Safety Administration by the Center for Auto Safety in a petition that pointed out that DOT has contracted with eight agencies to do research on rear lighting systems and that "all of the research groups recognize the distinct advantages of color coding."

The Center cited the DOT research which, it said, showed that "a red-yellow-green system distinctly aids the drunken driver in distinguishing the mode of the preceding car," that the three-color system increases response accuracy and decreases the response time of following drivers and that the yellow "caution" taillight enables the following driver to determine "the cruciality of the braking action of the lead car by observing the length of time the amber light is on." The Center said that it is "probable that the longer the amber light is lit (while the driver is moving his foot from the accelerator to the brake pedal) the less the emergency is at hand."

The Center's petition urged that the proposed revised standard also require that taillights be mounted against a black, non-glare background instead of being framed in chrome and that they be set vertically in the rear window pillars in the same sequence as are most traffic signals.

"A compelling reason to require higher taillights in a standard position is to aid color blind drivers in recognizing which taillight is lit," the Center said. "The sequence is the same as traffic signals and is therefore automatically recognizable. Standard positioning will be an added redundancy in the coding system that will benefit all drivers. It will provide yet another means of producing unambiguous information."

"One of the best testaments to the value of the tri-light system is the incorporation of the tri-light system in the description of all (but one) of the proposed Experimental Safety Vehicle Cars that have been submitted to DOT," the Center said. It noted that the "exception is the AMF (American Machine and Foundry) ESV, whose designers endorse color coding by the use of a green-red system."

It cited DOT research to counter arguments that green lights have less visibility than red lights, and added, "The most convincing experiments using green lights are going on every day and have been for quite some time—namely the green signals used on train, airplane, ship and traffic signals."

The Center quoted a National Bureau of Standards report, "This (red-yellow-green) is the most common of all signal systems. It is used for long range lights of aviation, for the navigation lights of ships and for aids for marine navigation with nominally used white lights. With yellow lights it is used for the primary signal systems for railroads."

### ***Safety 'Report Cards' Sent, Grades Remain Secret***

The Department of Transportation has sent "report cards" to the governor of each state with evaluations of state highway safety efforts under the Highway Safety Act of 1966.

To date, details of the evaluations have not been made public, although Transportation Secretary John A. Volpe reportedly signed the letters to the governors on March 23. NHTSA officials responsible for the evaluations are referring all inquiries to the agency's public affairs office, which declines comment.

An agency spokesman told *Status Report* that the evaluations do not follow last year's ranking format that compared the performance of all the states. The comparisons drew fire from several states as "biased" and "unfair." (See *Status Report*, Vol. 6, No. 6, March 29, 1971.)

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The Insurance Institute for Highway Safety is an independent, nonprofit, scientific and educational organization. It is dedicated to reducing the losses—deaths, injuries and property damage—resulting from crashes on the nation's highways. The Institute is supported by the American Insurance Association, the National Association of Automotive Mutual Insurance Companies, the National Association of Independent Insurers and several individual insurance companies.

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**STATUS REPORT**

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