

**DOT Faces Showdown**

## California Threatens To Scrap Safety Program

California has threatened to scrap its state highway safety program and close down its offices if the Department of Transportation penalizes the state for failing to enact a motorcycle helmet law. Two other states – Maryland and Nebraska – also are in danger of losing funds for failure to enact various safety measures. However, neither of those states shares California's hard-line opposition to the substance of the requirements.

Last year DOT told 38 states and Puerto Rico that they would have to enact a range of specified highway safety measures before the close of their 1974 legislative sessions or face the penalty, spelled out in the Highway Safety Act of 1966, of losing all of their federal highway safety money and ten per cent of their highway construction funds. (See *Status Report*, Vol. 8, No. 19, Oct. 17, 1973.) Most of those states have already complied with DOT's requirements for this year, or still have time to comply before their legislature adjourns. California, Maryland and Nebraska cannot or will not comply this year, however. With additional DOT requirements coming due for most states next year, governors and their safety staffs across the country doubtless will be watching DOT's handling of the California, Maryland and Nebraska cases.

### CALIFORNIA

Although California's legislature will be in session through December of this year, no mandatory motorcycle helmet law is expected. Likewise DOT officials see little prospect that the required helmet legislation could be enacted there because of what they describe as Gov. Ronald Reagan's opposition to such laws on what he considers constitutional grounds. (See box, page 2.)

In a recent letter to NHTSA's regional administrator, Reagan's highway safety representative, L. G. Turner, asked for an early decision on whether California will lose its federal safety funds. "If the proposed federal sanctions are imposed [for failure to adopt a helmet law], the California Office of Traffic Safety will cease to exist as of June 30, 1974," he said.

The following day, in a letter to NHTSA Administrator James Gregory, Turner described California's opposition to helmet legislation: "California espouses the philosophy that personal safety is the

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responsibility of each individual citizen and government should not attempt to protect the individual from himself." An IIHS-funded study of California motorcycle injuries found that nearly two-thirds of the injuries surveyed resulted from crashes between motorcycles and another motor vehicle. (See *Status Report*, Vol. 7, No. 21, Nov. 13, 1972.)

Turner claimed in the letter that California's motorcycle fatalities per 10,000 registered motorcycles "is approximately the same as the national average" and that the "downward trend of deaths per 10,000 registered motorcycles and deaths per injury is approximately the same in California as for the states with mandatory motorcycle helmet legislation." California "needs proof positive that helmet legislation will further reduce fatalities," Turner told Gregory. He suggested that motorcycle helmets might even "cause riders to be overconfident and become involved in more severe accidents." In 1969, DOT reported to the Congress that, for 1966-1968, states with helmet laws had fewer deaths per 10,000 registered motorcycles than states without such laws.

According to a senior NHTSA official, the agency has not responded to Turner's letter. However, NHTSA continues to feel very strongly about the need for motorcycle helmet laws, he said.

Nebraska and Maryland have already completed their 1974 legislative sessions. Neither state enacted all of the measures that NHTSA said would be necessary in order to continue getting federal safety funds. Maryland was told to get in line with other states by lowering its presumptive intoxication level from 0.15 to 0.10 per cent blood-alcohol concentration. Nebraska was told it needed a helmet law for motorcyclists and a program for training and certifying ambulance attendants. These requirements, among others, are part of DOT's Highway Safety Program standards that were issued in 1967.

## NEBRASKA

Although DOT officials claim that a final decision to withhold funds has not been made, Nebraska's Governor J. James Exon, in a recent letter to Transportation Secretary Claude Brinegar, said that DOT

### ***Helmet Law Constitutionality Well Established***

In a 1972 decision — subsequently affirmed by the U.S. Supreme Court — upholding the constitutionality of a Massachusetts motorcycle helmet law, the Federal District Court for Massachusetts said:

(W)hile we agree with plaintiff that the act's only realistic purpose is the prevention of head injuries incurred in motorcycle mishaps, we cannot agree that the consequences of such injuries are limited to the individual who sustains the injury. . . . (T)he public has an interest in minimizing the resources directly involved. From the moment of the injury, society picks the person up off the highway; delivers him to a municipal hospital and municipal doctors; provides him with unemployment compensation if, after recovery, he cannot replace his lost job, and, if the injury causes permanent disability, may assume the responsibility for his and his family's subsistence. We do not understand a state of mind that permits plaintiff to think that only he himself is concerned.

[*Simon v. Sargent*, 346 F. Supp. 277, 279 (D. Mass. 1972), affirmed, 409 U.S. 1020 (1972).]

## ***Australians Find Helmets Reduce Head Injuries***

Two Australian physicians have found that “greater usage of motorcycle helmets has dramatically reduced both the incidence and the severity of head injury” among motorcyclists admitted to Brisbane area hospitals.

Doctors Kenneth G. Jamieson and D’Arcy Kelly of the Royal Brisbane Hospital’s Department of Neurology and Neurosurgery found in their study of 254 motorcycle injury cases that major head injuries dropped from 29.1 per cent to 18.5 per cent after motorcycle helmets became mandatory.

“It is probable that some major injuries that would have been fatal were not, that some injuries that would have been major were only minor, and that some blows to the head that would have caused ‘minor injury’ did not produce concussion, because of the wearing of crash helmets,” they said.

Their findings were published in *The Medical Journal of Australia*, Oct. 27, 1973.

regional officials had told him “that the present position of NHTSA is to not approve funding for Nebraska’s Highway Safety Program after June 30, 1974. This I feel would be a tragic mistake.”

Exon said that “every effort was made by this office and Nebraska’s office of highway safety to secure the passage of the required legislation.” He expressed “keen disappointment” that the measures were not enacted.

“A tremendous injustice will be rendered to the people of this state and the cause of highway safety if Nebraska’s Highway Safety Program was forced to dismantle because of a failure of our legislature to pass the mandated legislation.”

He added, “On May 6, Nebraska will be recognized jointly by the Highway Users Federation and the National Safety Council as one of the top five states in the nation in the area of excellence in highway safety public involvement.”

Exon’s safety representative, John Sullivan, told *Status Report* that the state legislature “reacted violently” to DOT’s threat to cut off funds. He said that one of the required measures – ambulance attendant training – “would have passed had DOT’s tactics not been strong armed.” Sullivan said that Nebraska will contest any fund cutoff in court. Transportation Secretary Brinegar had told Exon in a letter that “the failure of the legislature to enact essential legislation represents a decision by the citizens of the state through their elected representatives, not to implement the program and, therefore, to accept reductions in federal funds.”

### **MARYLAND**

Maryland officials are “frankly not concerned” about losing the state’s “relatively small amount” of federal safety money, according to the state’s Motor Vehicle Administrator, Ejner Johnson. However, the state also stands to lose about \$18 million in highway construction funds if the penalty is invoked. “That would hurt,” he said. “Technically, Maryland is in compliance” with the federal guidelines, he told *Status Report*.

## NHTSA Proposes To 'Ease Burden' For Small Cycles

The National Highway Traffic Safety Administration has proposed several measures that it admits "may ease the burden of compliance" with federal safety standards for motor-driven bicycles, such as "mopeds." The proposed changes affect the braking, lighting and control location requirements for such vehicles. The proposal came in response to manufacturer and dealer requests to modify the standards.

The proposed changes, which NHTSA says were also prompted by "renewed public interest in this type of vehicle," can be made "without jeopardizing basic safety requirements," NHTSA claims.

The agency has proposed the following safety standard changes for motor-driven bicycles with a top speed of 30 miles per hour:

- exemption from the brake fade requirements of the motorcycle brake standard (FMVSS 122);
- establish maximum allowable stopping distances, since FMVSS 122 has no limits on stopping distances from less than 30 miles per hour;
- not require turn signals and cut in half the light output required of the stop lamps (FMVSS 108);
- allow the rear brake to be located on the left handlebar, rather than at the right foot position as required by the motorcycle controls and displays standard (FMVSS 123).

One comment already submitted to the rulemaking docket observes that not requiring a motor-driven bicycle to have turn signals and allowing the rear brake control to be placed on the left handlebar is "potentially dangerous." Edward H. Bessire, manager of Market Development for Prestolite Electrical Division, told the agency that when a rider "extends his left arm" to signal a turn he loses "half or more of his steering capability and all of the rear wheel braking capability."

Comments on the proposal should be submitted by May 13, 1974, to Docket 74-16, Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Severn St., S.W., Washington, D. C. 20590.

## MVMA-Backed Study Shows Standards Effective

The introduction of federally required crash protection features has made late-model cars significantly safer than earlier models, according to a new report sponsored by the U.S. automotive industry.

The report reviews existing studies on the effect of six crash protection devices – lap belts, shoulder belts, energy absorbing steering columns, high penetration resistant windshields, head restraints and side door beams – in different types of impact. These devices are among the many improvements in vehicle performance, including performance in crashes, required by federal vehicle safety standards issued under the National Traffic and Motor Vehicle Safety Act of 1966.

In preparing the report sponsored by the Motor Vehicle Manufacturers Association, Lindsay I. Griffin III, of the University of North Carolina's Highway Safety Research Center, examined studies based

on sampling of real world crashes. The report excludes articles that evaluated crash protection features in controlled crash situations or studies based on clinical examination of unique crashes.

### **SAFETY BELTS (FMVSS 208)**

Lap belts “reduce death and serious injury to drivers by 40 or 50 per cent,” the report says. For right front seat passengers, the reduction is “probably between 30 and 40 per cent” and less for rear seat passengers. The report concludes that lap belts are probably most effective in rollover crashes and some side impacts. They “reduce the severity of injury, and they increase the probability that a vehicle occupant will sustain no injury” during the crash.

Although few studies of the effectiveness of combined lap and shoulder belts have been conducted in the United States, “it is estimated that the three-point belt reduces serious and fatal injuries by 50 to 60 per cent.”

### **STEERING COLUMNS (FMVSS 203)**

Energy absorbing steering columns “may reduce deaths and serious injuries to drivers by 5 or 10 per cent.” A steering column that absorbs energy by compressing under severe loading was required by federal standard in January, 1968. During impact, much of the energy that was formerly absorbed by the driver’s chest, with a resulting high potential for injury, is absorbed by the column.

### **WINDSHIELDS (FMVSS 205)**

High penetration resistant glass is “certainly reducing the frequency and extent of dangerous and disfiguring facial injuries. To a lesser extent, this new glass is also reducing fatalities.”

### **HEAD RESTRAINTS (FMVSS 202)**

Head restraints are most effective during severe rear-end crashes, the report says. Although the probability of death or serious injury in such a crash is “relatively low” the possibility of an occupant “sustaining a neck or back injury of minor to moderate degree is fairly high,” it says. Griffin cites an Insurance Institute for Highway Safety study which found an 18 per cent reduction in “whiplash” injury claims for drivers in cars equipped with head restraints. (See *Status Report*, Vol. 6, No. 17, Sept. 20, 1971.)

The report cites estimates, including the IIHS study, that between 70 and 85 per cent of all adjustable head restraints presently in use are positioned incorrectly. “To say that the adjustable head restraint is or is not effective in rear-end collisions without considering the positioning of the device is like saying that seat belts are or are not effective without considering whether or not they are being worn,” it says.

### **DOOR BEAMS (FMVSS 214)**

Side door beams were not required on domestic cars until January, 1973, although they were already standard equipment on many cars. There is not yet enough evidence, however, to make general conclusions about their effectiveness, the report says. It appears from preliminary studies that unbelted drivers suffer less severe injuries in beam equipped cars, it says.

Copies of *Analysis of the Benefits Derived from Certain Presently Existing Motor Vehicle Safety Devices: A Review of the Literature*, by Lindsay I. Griffin III, are available by writing to: Public Relations Department, Motor Vehicle Manufacturers Association, 320 New Center Building, Detroit, Michigan 48202.

## Congress Proposes New Transportation Safety Agency

The Congress is considering legislation to convert the National Transportation Safety Board into a fully independent transportation safety watchdog. The congressional move was prompted by executive branch "pressure, harassment, and in some cases intimidation" of NTSB, according to Sen. Warren G. Magnuson (D-Wash.).

The Department of Transportation has opposed the legislation.

For the past two years, NTSB has asked to be removed from DOT and made a completely separate, independent agency. NTSB has argued that its current position as an independent agency within the department whose safety-program effectiveness it monitors creates "doubts about its objectivity, integrity and credibility."

Under a bill (S. 2401) introduced by Magnuson and Sen. Howard D. Cannon (D-Nev.), NTSB's responsibility would be shifted to a proposed "National Agency for Transportation Safety." The proposed agency would be given a stronger role in safety advocacy and wider crash investigation authority than NTSB now has. The proposed agency would act to represent "the interests of safety" in federal activity that may "substantially affect" transportation safety. By invitation, the agency would be permitted to perform a similar role in court or state and local government proceedings.

In addition to its role as safety advocate, the proposed agency would monitor activities of other federal transportation safety agencies. Each year the agency would evaluate the effectiveness of federal transportation loss reduction programs and report its findings to the Congress.

The agency's hand would be strengthened in making transportation safety recommendations to DOT. DOT would have 90 days from receipt of a recommendation to provide a timetable for its full or partial adoption or a detailed explanation for refusing to adopt the recommendation. Each recommendation and DOT's response would be published in the *Federal Register*. Congressman Brock Adams (D-Wash.) has urged the Congress to consider giving the proposed agency power to "make its recommendations mandatory in some instances."

Under other legislation (S. 3245) introduced by Sen. J. Glenn Beall, Jr. (R-Md.), the safety board's role in highway transportation safety would be substantially increased. Beall noted that of the 61,000 persons who died in 1973 U. S. transportation crashes, 97 per cent died in surface transportation crashes and only three per cent in aviation crashes. However, NTSB's current "resources are reversed," he said, since NTSB's budget is "85 per cent for aviation and only 15 per cent for surface [transportation] investigations." Beall's bill would authorize \$4 million for a demonstration project to determine if a "greater focus" by the board on motor vehicle crashes would "significantly reduce" the number of vehicle crashes and fatalities. During the demonstration project, the board would conduct in-depth vehicle crash investigations in one state.

In testimony before the Senate Commerce Committee, DOT Deputy Under Secretary, Robert H. Clement, claimed that the proposed legislation is "undesirable and unnecessary" since the "existing structure and functioning" of the board is "effective and efficient." While agreeing that NTSB should be an independent agency, NTSB chairman John T. Reed told the committee that the board has not been "directly interfered with or impeded" in carrying out its current functions. Reed said that the board, while opposing some parts of the proposed legislation, believed that the provision allowing DOT 90 days to respond to the proposed agency's safety recommendations was "overly generous."

## **NHTSA 'Strongly' Urges Mandatory Child Restraint**

The National Highway Traffic Safety Administration has "strongly" urged states to adopt safety belt laws that "require occupant restraint use by all children" regardless of age.

However, the agency has suggested that state legislatures first enact belt use laws directed at older vehicle occupants before turning their attention to small children. NHTSA set those priorities when recently it issued guidelines that state belt use laws must follow in order to qualify for extra federal funds.

Although protection for young children is excluded from the NHTSA incentive grant program, it is clear "that a safety belt use law drafted to maximize the saving of lives" should include infants and young children, NHTSA said. But, it claimed, "the cost of infant and child seating systems" was a reason for deciding "not to require occupant restraint use by infants and children less than four years old and 40 pounds as a minimum requirement for an incentive grant at this time."

States will receive a 10, 15 or 25 per cent increase in federal highway safety funds for enacting the following types of mandatory belt use laws:

- 10 per cent increase, if drivers and front seat passengers must wear available lap belts;
- 15 per cent increase, if drivers and front and rear passengers must wear available lap belts;
- 25 per cent increase, if driver and front and rear passengers must wear available lap and shoulder belts.

## **NHTSA Proposes Pulsating, Tri-Color Taillight Option**

The National Highway Traffic Safety Administration has proposed a standard that would allow taillights that signal when a car is decelerating.

Specifically, NHTSA proposes amending its lighting standard (FMVSS 108) to give consumers a choice of:

- a vertically-mounted, rear-facing, red-yellow-green lamp system that signals braking, no pedal application or acceleration or;
- pulsating rear lamps that indicate when the vehicle is decelerating rapidly.

The proposal would also allow for a combination of both systems. That is, in addition to the pulsating rear lamps system, the red lamp of the red-yellow-green system would also pulsate when the vehicle is decelerating rapidly. These systems would be options that auto makers would be able to add to currently required rear lighting systems.

The agency issued the proposal in response to petitions from the Center for Auto Safety and others. NHTSA says it has not yet concluded that "either system should be mandatory." The agency notes that "cost/benefit factors are indeterminate, since the benefits of wide-scale use are unknown."

## Proposed Rule Already Met, Bus Maker Says

A school bus manufacturer has told the National Highway Traffic Safety Administration that current school buses already can meet the agency's proposed standard on strengthening joints in school buses, scheduled to take effect in September, 1976. "All body manufacturers" are currently selling a bus body "which they claim" will meet state specifications "almost identical" to the one proposed by NHTSA, Ward School Bus Mfg., Inc. told the agency.

Other bus manufacturers have criticized the proposed standard for a loophole which they say could permit weaker, not stronger school buses.

NHTSA said its rulemaking was prompted by National Transportation Safety Board reports that failure of school bus joints in crashes "contributes to disintegration of the bus body and occupant ejection" and "lacerative injuries," caused by the edges of opened joints. NHTSA proposed that bus joints have at least 60 per cent of the strength of the sheet metal that is joined.

Several bus manufacturers and the Ralph Nader-affiliated Public Interest Research Group faulted NHTSA for failing to require a minimum strength for school bus sheet metal. A manufacturer could meet the joint strength requirement by "lowering the strength and the thickness" of the bus sheet metal and thus reduce the "overall strength of the bus body," Sheller-Globe Corp. told NHTSA.

Sheller-Globe and several other bus manufacturers also requested that NHTSA defer all rulemaking activity until current school bus crashworthiness research, being done separately by NHTSA and the school bus industry, has been completed. NHTSA's internal newsletter, *Weekly Bulletin*, recently reported that in a NHTSA sponsored test of school bus crashworthiness a "vertical stanchion (standard pole for handholding purposes located behind the driver) snapped off and would have impaled the child in the seat behind the driver (if the child had remained in his seat)."

Over a year ago, NHTSA began rulemaking to require stronger seats in school buses. The agency has not yet issued a final rule. (See *Status Report*, Vol. 8, No. 5, Feb. 26, 1973.)

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the highway  
loss reduction

### STATUS REPORT

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