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STATUS REPORT

INSURANCE INSTITUTE
for Highway Safety

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Motorcyclists Wage Anti-Helmet Drive

A nationwide effort is underway to do away with laws that require motorcyclists to wear helmets when they ride on public streets and highways.

The effort is spearheaded primarily by motorcyclists and motorcyclist organizations in what Charles Hartman, former National Highway Traffic Safety Administration deputy administrator and now head of the Motorcycle Safety Foundation, describes as a loose confederation of riders concerned about their alleged loss of constitutional rights. Those fighting helmet laws also claim that helmets which meet the federal standard for motorcycle helmets (FMVSS 218) are actually a hazard.

Currently all states, with the exception of California, Illinois and Utah, have laws that comply with the Department of Transportation's National Highway Safety Program Standard (HSPS 3) regarding motorcycle safety. The standard prescribes, among other things, that states require that motorcyclists wear an approved safety helmet. (See *Status Report*, Vol. 10, No. 14, Aug. 14, 1975.)

In the forefront of organizations spearheading the anti-helmet drive are the American Motorcycle Association, a national organization of motorcycle dealers and riders; the Modified Motorcycle Association, a California-based organization; ABATE (A Brotherhood Against Totalitarian Enactments); state-level organizations established by motorcyclists to fight helmet laws, and other state-level motorcyclist clubs. According to Melvin Stahl, director of government relations for the Motorcycle Industry Council, his organization, which represents motorcycle and helmet manufacturers and distributors, has sided "as a historical position" with cyclists against helmet use laws. However, the council does not actively oppose such laws, he said. Another cycle industry-funded organization, the Motorcycle Safety Foundation, takes an opposing view. In a position statement dated April 24, 1975, the foundation said it "supports laws

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The Insurance Institute for Highway Safety is an independent organization of scientists and communicators that identifies, evaluates and develops ways to reduce the nation's human and economic damage associated with the use of motor vehicles and with their crashes. The Institute is nonprofit; its research and educational work is wholly supported by the American Insurance Association, the National Association of Automotive Mutual Insurance Companies, the National Association of Independent Insurers and a number of individual insurance companies, which together write most of the nation's automobile insurance.

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 substinence. 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).]

requiring motorcycle safety helmet usage when motorcycles are operated on public streets and highways." It said it supports helmet use laws because:

- "Head injuries account for the majority of motorcycle fatalities;

- "Research has established that use of approved motorcycle helmets significantly reduces the incidence of serious and fatal head injuries."

For several years motorcyclists have unsuccessfully sought repeal of mandatory helmet laws by concentrating efforts mainly in individual state legislatures. Those efforts have been thwarted, possibly by the specter of loss of all federal highway safety funds and 10 per cent of federal highway construction funds for any state repealing its motorcycle helmet law. Efforts are now shifting to the national level in an attempt to remove the threat of federal penalties against states repealing helmet laws.

According to the Modified Motorcycle Association, 14 states currently have bills to repeal mandatory helmet laws – Alaska, Arizona, Connecticut, Hawaii, Kansas, Louisiana, Maine, Massachusetts, Mississippi, New Mexico, South Dakota, Virginia, Washington and Wyoming.

Earlier this year, Connecticut's Governor Ella Grasso threatened to veto a bill that would have repealed that state's helmet law. According to a press aide, she urged state legislators to abandon the bill, citing possible loss of federal funds. The National Highway Traffic Safety Administration had warned in a telegram that the agency "would have no choice but to recommend to the secretary [of transportation] that sanction procedures . . . be initiated against any state should they fail to enact effective motorcycle helmet legislation or should they repeal such existing legislation." Legislators abandoned the bill. Two previous Connecticut governors had vetoed legislative attempts to repeal the helmet law. In each case DOT had warned that federal funds could be withheld.

Recurring attempts to repeal Connecticut's helmet law can be attributed, at least in part, to efforts by the Connecticut Motorcycle Association, a motorcyclist group.

CONGRESSIONAL REPEAL

In the U.S. Congress, the first bill to abolish penalties against states that have no helmet law was introduced last year by then-representative from Connecticut, Robert Steele (R.). In this Congress, five bills are now pending to abolish penalties against states without helmet laws. The first such bill in this Congress was introduced by Connecticut representative Stewart B. McKinney (R.). The five bills (HR 3869, HR 6211, HR 6918, S 2252 and S 2292) would amend the Highway Safety Act of 1966 to prohibit the Department of Transportation from withholding funds from a state if it fails to enact or repeals a helmet use law.

The House Public Works Committee's Subcommittee on Surface Transportation held hearings July 21-22 and has scheduled other hearings in September to take testimony on the helmet law penalty bills, among other things. The Senate Public Works Committee does not plan to hold hearings on the bills.

A House Public Works staff member told *Status Report* that although committee members have not been polled on the subject, there is a "chance" that the committee will seek to amend the Highway Safety Act to prohibit penalties against states without mandatory helmet use laws.

A Senate Public Works Committee staff member said that the committee may discuss the measures but it is unlikely to report out any legislation to remove the threat of sanctions for states without motorcycle helmet laws. Sen. James L. Buckley (C.R.-N.Y.) is the only member of the committee who may be opposed to helmet laws as a "carryover from the seat belt" interlock debate, the staff member said.

In addition to working against helmet laws in state legislatures and in the Congress, cyclists made an unsuccessful attempt to remove the model motorcycle helmet law from the Uniform Code of Traffic Laws and Ordinances. States look to the Code for guidance in ensuring conformity in traffic statutes from one jurisdiction to another. Measures are included or deleted from the Code by vote of a 142-member committee comprised of representatives from state and federal highway and motor vehicle agencies, vehicle manufacturers, insurers and others. The proposal to remove the model helmet use law from the Code was defeated by a two-to-one vote.

OBJECTIONS TO HELMETS

Prior to this summer's meeting of the National Committee on Uniform Traffic Laws and Ordinances, Edward Kearney, executive director of the committee, wrote NHTSA Administrator James Gregory saying, "We recently have been receiving letters from people around the country opposing laws requiring motorcyclists to wear helmets." He asked for information from NHTSA on a number of "principal factual contentions:"

- *"Use of helmets causes death, injury or accidents."* NHTSA replied, "To the best of our knowledge no factual data exists to support this contention." The agency cited a 1974 analysis that it prepared comparing "motorcyclist helmet effectiveness in Michigan (which has a helmet law) and Illinois (which does not have a helmet law)." According to the agency, the study found that motorcycle crashes in Illinois "resulted in almost three times more serious or fatal head injury than similar accidents in Michigan."

In 1969 the National Highway Safety Bureau (now NHTSA), in its second annual report to the Congress, said "In 1967, and again in 1968, the fatal crash rate decreased in states both with and without helmet laws, but in each case the decrease in the rate for states with laws was more than twice that of the rate in the second group (without laws). The estimated crash rate for states with laws in effect by Jan. 1,

1968, is 28 per cent lower than the 1966 crash rate. For states without helmet laws in effect by Jan. 1, 1968, the reduction is 11 per cent. The decline in the overall fatal crash rate is 19 per cent since 1966."

Prior to passage of the Highway Safety Act in the fall of 1966 only three states required that motorcyclists wear helmets. Thirty-nine states required motorcyclists to wear helmets by Dec. 31, 1968.

Research in California, sponsored by the Insurance Institute for Highway Safety, found that although head injuries represented only 13 per cent of the injuries observed, such injuries accounted for one-half of the 18 fatalities studied. (See *Status Report*, Vol. 9, No. 10, May 15, 1974.)

- *"Statistics indicate an increase in motorcyclist fatalities during the first year after mandatory helmet usage became law."* NHTSA conceded, "It is possible that fatalities increased in several states after adoption of helmet laws." However, it claimed that "the benefits of helmet use may not have been able to totally off-set the increase in accidents, injuries and fatalities resulting from greatly increased motorcycle usage." It pointed to several states where motorcycle fatalities had decreased in years following adoption of helmet use laws.

- *"Helmets reduce visibility and ability to hear."* NHTSA claimed that helmets are "available which do not cover the wearer's ears" or have "vents over the ears to improve hearing and ventilation. Anyone who has ridden a motorcycle knows that they are exposed to engine noise and often it is difficult to hear over the engine whether wearing or not wearing a helmet," NHTSA claimed.

"With regard to impairment of vision, particularly peripheral vision, the assertion that helmets create a hazard is not supported by accident studies or a thoughtful analysis of the circumstances in which motorcycle safety helmets are used." An agency official told *Status Report* that NHTSA recently completed and will soon release a study showing that helmets provide sufficient peripheral vision.

Utah Sanction Hearings Completed

The Department of Transportation has completed hearings to determine whether Utah should lose federal funds because its motorcycle helmet law does not conform with DOT's standard for such laws. Although penalties have been threatened in the past, this marks the first time the department has held sanction hearings – the last step before it decides whether or not to penalize a state. (See *Status Report*, Vol. 10, No. 14, Aug. 14, 1975).

Utah requires that motorcyclists wear protective helmets only on highways where the speed limit is more than 35 miles per hour. The national standard applies to all public streets and highways regardless of speed limit.

Utah has asked for a waiver of the requirement, proposing an alternative program that would involve public information, increased inspection, speed law enforcement, cyclist education and improved licensing procedures.

Utah's hearing was held September 4. An NHTSA official said a decision on whether to penalize Utah should be reached before October. Sanction hearings on the same issue were scheduled for California, September 11, and Illinois, September 30.

• *"A helmet gives its wearer a false sense of security."* NHTSA said, "We have seen no documentation supporting this view. The typical motorcyclist is relatively young, 16-24, which is a high risk-taking group. We don't believe that the use of helmets increases the tendency to take risks. There is certainly no evidence that the use of other safety devices, such as safety belts in automobiles, or safety glasses for shop workers, create a false sense of security."

• *"Wearing a helmet causes an increase in neck injuries."* The agency replied that its "statisticians have looked at all available sources of data alleged to have proved an increase in neck injuries induced by motorcycle safety helmets. None actually did and only one source indicated a possible significant increase in neck injuries for helmet users . . . . We are seriously considering" a study "which we believe would entirely resolve the issue of possible helmet induced neck injury." According to an NHTSA official, that study is about to begin and will be based on a comparison of autopsies performed on fatally injured helmeted and non-helmeted motorcyclists.

Constitutionality Of New Defect Law Challenged

Ford Motor Co. is attacking in court the constitutionality of the defect notification and penalty provisions of the National Traffic and Motor Vehicle Safety Act.

Ford brought its suit after being ordered by the National Highway Traffic Safety Administration to recall, and remedy at no charge to the owners, defective seat backs on all 1968-1969 Ford Mustangs and Mercury Cougars. NHTSA has brought its own suit seeking to enforce its order and fine Ford for failing to recall the cars.

NHTSA's order was based on the agency's finding that failure of the Mustang and Cougar "seat back pivot arm hinge pin brackets . . . can result in loss of vehicle control, accident or personal injury." Earlier this year, at NHTSA's proceeding on its initial defect determination, Ford challenged NHTSA's finding, arguing that "the probability of accident or injury, as borne out by actual case history is minimal, and the potential economic impact upon Ford in a full-blown [recall] campaign will be substantial." Ford also attacked the agency's proceeding, charging that it was not "the type of hearing and examination which we think is required by due process of law."

Although the Ford suit asserts that NHTSA's defect determination is incorrect, the auto maker's principal attack is aimed at several provisions of the Motor Vehicle and School Bus Safety Amendments of 1974 that increased NHTSA's civil penalty and defect notification powers. (See *Status Report*, Vol. 9, No. 19, Oct. 29, 1974.)

Ford challenges the civil penalty provision, which sets a maximum civil penalty of $800,000, as unconstitutional. The auto maker said the risk of incurring an $800,000 penalty deters manufacturers from going to court to challenge allegedly erroneous NHTSA defect determinations. In addition, Ford argues that the procedures set out in the act for making a defect determination violate due process of law. Manufacturers are denied such elements of a "full and fair hearing" as the right to subpoena and cross-examine witnesses at the NHTSA public proceeding where parties can challenge or support NHTSA's initial determination of defect, Ford said.

The Ford suit also challenges NHTSA's authority to order manufacturers to send provisional defect notification letters to owners of the affected vehicles while a court suit attacking NHTSA's defect determination is pending. Such letters must notify the owners that NHTSA has made a defect determination, that a suit is pending and that if NHTSA wins the suit the manufacturer must remedy the defect. A manufacturer is subject to a civil penalty if it refuses to send such a provisional defect notification

letter even if a court later rules the NHTSA determination of defect was incorrect. Ford argues that the provisional notification is unconstitutional because the company should be entitled to a hearing before it can be ordered to send the provisional notices, which Ford said would cost the company $500,000 and would "also denigrate its own product."

In response to the Ford claim that the penalty provisions are unconstitutional, the government argues that the Congress has frequently provided for the imposition of civil penalties for violations of environmental and safety statutes. Quoting from the U.S. District Court for the District of Columbia opinion in the General Motors truck wheels defect case, the government argues:

"The policy of the act with regard to civil penalties is clearly to discourage noncompliance with safety-defect orders except where the manufacturer is so certain of the correctness of its position that it is willing to risk civil penalties if it loses in court. Such a policy is clearly in the public interest in that it promotes prompt and uniform notification of safety hazards in all but the few cases where the manufacturer is sure its position in not sending the notifications is valid. Congress, in taking this course to assure the safety of highway users, was well within constitutional bounds as long as the NHTSA order is subject to judicial review."

The government contends that Ford's argument concerning the constitutionality of the provisional notification letter provisions is "clearly premature" since Ford has not been ordered by NHTSA to send such a letter. Even if the court chooses to rule on Ford's argument, the government maintains that the provisions are constitutional and have, in effect, been previously upheld in court.

The government is urging the court to reject Ford's charge that it was denied a full and fair hearing before NHTSA, arguing that the "Congress considered and rejected the formal evidentiary hearing" that Ford seeks. The government cites the House Commerce Committee report on the 1974 amendments which explains that "the avoidance of a lengthy hearing process was important . . . due to the primary need to reach a final determination by the agency on the existence of a safety-related defect or failure to comply so that timely remedy could be accomplished."

The suit is *Ford Motor Company v. William T. Coleman,* Civil Action 75-1340, U.S. District Court for the District of Columbia.

Court Qualifies Definition Of 'Defect'

A vehicle component is defective if a "significant number of failures" occur during normal use or result from expected owner abuse, according to a federal court of appeals. The court said that if a manufacturer wants to overturn a finding of defect it bears the burden of proving that the failures resulted "from unforseeable owner abuse (gross abuse) or unforseeable neglect of vehicle maintenance."

The decision, by the U.S. Court of Appeals for the District of Columbia, reverses an earlier ruling by a lower court that upheld the National Highway Traffic Safety Administration's contention that the failures in performance of a large number of wheels used on 1960-1965 General Motors pickup trucks justified a finding that those wheels had a safety-related defect. (See *Status Report*, Vol. 9, No. 13, July 8, 1974.)

In the earlier decision, the U.S. District Court for the District of Columbia had ruled that a defect campaign must be conducted "not only when there was a cognizable defect in design or manufacture but also when the evidence reveals a large number of failures of components or materials, *i.e., failures in performance,* regardless of the cause." (Emphasis in original.)

In reversing that ruling, the Court of Appeals said that the lower court had "erred in holding that the cause of the failures is irrelevant to the defect determination." The Court of Appeals, however, also refused to accept General Motors' contention that NHTSA, in making a determination of defect, can only consider failures that "occur on vehicles operated in conformity with the manufacturer's specifications."

Rejecting those definitions, the Court of Appeals set its own definitions in ruling that a vehicle or component contains a defect if "it is subject to a significant number of failures in normal operation, including failures either occurring during specified use or resulting from owner abuse (including inadequate maintenance) that is reasonably forseeable (ordinary abuse), but excluding failures attributable to normal deterioration of a component as a result of age and wear."

Even if a manufacturer can show that some failures occurred because of gross abuse, NHTSA's defect determination will stand if the agency can show that "a significant number of failures occurred under conditions of specified use or ordinary abuse," the court said.

The case now goes back to the lower court for a hearing in which the court must apply the new definition of a safety-related defect.

(The decision is *U.S. v. General Motors Corporation,* U.S. Court of Appeals for the District of Columbia, Civil Action No. 74-1656, decided Aug. 4, 1975.)

FHWA: 'No Action' On Boobytrap Charges

A Federal Highway Administration task force has stated that "there are no actions" that FHWA should take in response to accusations made by the Center for Auto Safety that the nation's roadside safety planning has been a failure. Those findings "are substantially incorrect and in most instances are unsubstantiated charges and opinions," according to an "in-house" document prepared by the task force.

The report did, however, recommend that FHWA follow a specific course of action to improve its safety planning. These recommendations, according to an FHWA official, were the results of its own review of the situation. But a CAS official said that the FHWA recommendations overlap considerably with the recommendations published in the center's report, *The Yellow Book Road: The Failure of America's Roadside Safety Program.* (See *Status Report*, Vol. 9, No. 23, Dec. 26, 1974.)

The FHWA task force recommendations, all of which, an FHWA official said, are being acted upon, include:

- Improvement, clarification and broadening of the scope of highway safety design standards to apply to all roads, and not just federal-aid highways;

- Close liaison between the FHWA's Office of Highway Safety and Office of Engineering to insure safety design standard uniformity;

- Adoption of a "uniform vehicle" for issuing standards, specifications, policies, or guidelines relating to highway safety design and incorportation of all such materials into one program manual;

- Use of a public notice and comment procedure when revising the program manual;

- Continuation and further coordination of crash data collection and analysis.

In its report, CAS aimed its primary criticism at what it termed the "conflict of interest" in the delegation of authority for roadside safety to the same agencies, both federal and state, that have built, and are continuing to build, roadside hazards. This, coupled with what CAS saw as FHWA's junior role in the federal/state partnership, has resulted in the failure of the roadside safety program, according to the CAS report.

According to the task force's *Study of FHWA Roadside Safety Design*, "what may have been seen as FHWA's 'weak position' is its recognition of the expertise and capabilities of the State highway departments, and its operating procedures developed to insure that this expertise and capability is fully utilized in the federal-aid highway program."

Such expertise notwithstanding, the task force, in a subsequent section of its report, claimed that because of budget limitations, "to charge highway officials with failure to accept responsibility for safe roadside design because all roadside objects have not been eliminated from all existing highways is . . . absurd."

(As of June 30, 1975, the states had obligated – contracted to be spent – a total of $444 million for six categorical highway safety programs, less than half of the almost $1.3 billion available to them. See page 12.)

According to the CAS official, FHWA's reaction to criticisms of its highway safety programs "confirmed everything we documented. They don't care about the problem and they know nothing about it," the official said.

Air Brake Requirements Delayed

In response to manufacturers' pleas, the National Highway Traffic Safety Administration has delayed its scheduled upgrading of the braking capability of newly manufactured air brake equipped vehicles. The agency has also permanently exempted some vehicles and weakened present braking requirements for some loaded large trucks.

Meanwhile, the standard (FMVSS 121) continues to be attacked in court and by petitions filed with NHTSA.

Earlier this year, NHTSA had resisted efforts by truck and trailer manufacturers, the Council on Wage and Price Stability and others to indefinitely delay the first stage of the braking standard for air brake equipped vehicles. That stage of the standard went into effect for trucks and buses on March 1, 1975. (See *Status Report*, Vol. 10, No. 2, Jan. 21, 1975.)

The second stage of the standard was to have set more stringent stopping requirements for those vehicles beginning Sept. 1, 1975. In June, NHTSA, in response to manufacturers' requests, proposed a substantial delay of the second stage requirements. (See *Status Report*, Vol. 10, No. 12, July 9, 1975.) It is that proposal that the agency now has adopted.

STOPPING DISTANCES

NHTSA's delay of the effective date of the second stage requirements is from Sept. 1, 1975, until Jan. 1, 1978. Although most manufacturers requested that the agency abandon the second stage requirements, NHTSA denied those requests because, it said, "insufficient data exist at this time on which to base such a decision."

Under the amended standard, air brake equipped trucks and buses will have to meet only the following stopping requirements during the interim period between Sept. 1, 1975, and Jan. 1, 1978:

- buses (both loaded and unloaded) will have to stop within distances currently required;
- trucks (unloaded), will also only have to meet the current requirements;
- trucks (loaded), will be allowed even longer stopping distances than at present.

The following chart shows the current and new stopping distances:

Miles Per Hour	Current Requirements For All Trucks and Buses	New Requirements For Loaded Trucks (Until Jan. 1, 1978)	Jan. 1, 1978 Requirements For All Trucks and Buses
20	35	35	33
30	72	73	68
40	121	127	115
50	183	194	174
60	258	277	245

EXEMPTIONS

NHTSA had proposed that trailers weighing 10,000 pounds or less in a loaded condition be exempt from FMVSS 121. However, NHTSA dropped that proposal on the basis of comments from the State of California arguing that if the exemption were granted such light trailers might be overloaded by their users and that manufacturers might assign lower weight ratings to their trailers in order to take advantage of the proposed exemption.

NHTSA did adopt, as proposed, two exemptions for:

- large, slow moving, non-passenger vehicles such as cranes and excavators; and
- trailers that the agency had previously characterized as consisting of "equipment which is mounted on an axle system for convenience or infrequent shifts from job site to job site," such as portable auto crushers.

Law suits seeking to overturn all or part of the air brake standard have been filed by PACCAR, a truck manufacturer, Standard Forge and Axle Co., the American Trucking Associations and the Truck Equipment and Body Distributors Association. In addition, three petitions are pending with NHTSA seeking repeal of part or all of the standard. The petitioners are the Private Truck Council of America, Inc., White Motor Corp. and the California Highway Patrol.

Omission

The story in *Status Report*, Vol. 10, No. 14, Aug. 14, 1975, appearing on page six, titled, " 'Very Substantial' Increase Reported in 1975 Model Claims," should have included the following paragraph:

"It should be kept in mind that, in general, the greater the exposure of a vehicle series the more confidence can be placed in the results presented for it."

We regret the omission.

Pennsylvania Safety Equipment Rules Challenged

State authority to regulate the sale of motor vehicle safety equipment is being challenged in a suit filed against the Commonwealth of Pennsylvania.

The suit charges that the Pennsylvania statutes and regulations are invalid because they are preempted by federal motor vehicle safety standards issued by the National Highway Traffic Safety Administration and because they create an unconstitutional burden on interstate commerce.

Filed by the Truck Safety Equipment Institute and several manufacturers of vehicle lighting equipment, the suit attacks Pennsylvania's statutes and regulations requiring manufacturers and sellers of certain vehicle equipment to receive state certification before such equipment can be used or sold in the state. As a part of the certification process, the manufacturer or seller must provide samples of its equipment for testing or submit independent laboratory test reports proving that the equipment conforms to the applicable state safety regulation.

According to a Pennsylvania official, manufacturers and sellers can submit test data and other information to the American Association of Motor Vehicle Administrators (AAMVA). This organization can certify that products conform to Pennsylvania safety regulations.

An AAMVA official told *Status Report* that the District of Columbia and all states except California and Virginia accept AAMVA certification that motor vehicle equipment conforms to the applicable state rules.

(The suit is *Truck Safety Equipment Institute, et. al. v. Robert P. Kane, Attorney General, Commonwealth of Pennsylvania, et. al.,* Civil Action No. 75-636, filed in the U. S. District Court for the Middle District of Pennsylvania.)

Safety Belt Rule Temporarily Extended

The National Highway Traffic Safety Administration has extended the current occupant protection standard (FMVSS 208) requirements until the end of the 1976 model year.

In announcing the extension, NHTSA said it "intends to propose the long-term requirements for occupant crash protection, both for passenger cars and for light trucks and MPV's as soon as possible." That long-term proposal will reveal NHTSA's decision on whether to require passive protection (such as by air bags). After the public hearing on passive restraints last May, NHTSA officials said it would be autumn before data could be analyzed and a proposal issued. (See *Status Report*, Vol. 10, No. 11, June 18, 1975.)

NHTSA denied requests from several vehicle manufacturers and the American Safety Belt Council for an indefinite extension, although it said it "recognizes that the present crash protection options will in all likelihood be in effect for some period after August 31, 1976 . . . ." FMVSS 208 at present allows safety belts, with a buzzer-light reminder system, as an alternative to passive restraints. (See *Status Report*, Vol. 9, No. 22, Dec. 10, 1974.)

DOT Scored For 32,000 Unsafe Bridges

The U.S. Comptroller General has urged that the Department of Transportation "exercise more leadership" in getting the states to replace "all 32,000 unsafe bridges on the federal-aid highways."

At the present level of specific bridge funding "it would take 80 years" to replace those bridges, at a cost of $10.4 billion, the Comptroller General said in a General Accounting Office report to the Congress.

In 1970 the Congress authorized a total of $475 million for a Special Bridge Replacement Program on federal-aid roads for fiscal years 1972 through 1976. This action was prompted, GAO said, by the "tragic collapse of the Silver Bridge at Point Pleasant, West Virginia, in December 1967 resulting in 46 fatalities."

According to an official of the Federal Highway Administration, as of July 31, 1975, the states had obligated – contracted to be spent – a total of almost $312 million of those funds for "roughly" 632 projects. FHWA is "going to give its best effort" to get the states to obligate the remaining funds by the end of this fiscal year, the official said.

In addition to these funds, however, states can use their general highway construction funds to rehabilitate or replace unsafe bridges. At present though, GAO said, such expenditure accounts for "only about 1 per cent of total funds obligated under the federal-aid highway construction programs (excepting the Interstate System)."

Included in the report were GAO's recommendations to the DOT Secretary, suggesting that he:

- Encourage states to make use of other federal-aid funds to replace, repair or improve unsafe bridges;

- Request each state to analyze its needs for adequate safety improvements and report its plans to FHWA;

- Analyze those reports and prepare a "plan of national priorities to assist the states;"

- Request the states to provide an update on safety improvements so that the condition of the federal-aid bridge inventory "can be analyzed and periodically reported to the Congress;"

- Direct FHWA to give bridge replacement "adequate priority in relation to other construction projects."

Currently, GAO said, FHWA is "not in a position to analyze comprehensively what is being done to render bridges safer, what remains to be done, and to plan and report accordingly."

DOT, taking issue with that charge, publicly replied that FHWA has "substantially satisfied congressional intent" in its implementation of the law. GAO's recommendations, FHWA said, "do not cite any tasks that are not implicitly or explicitly, being performed by this administration."

Copies of the report, *Unsafe Bridges on Federal-aid Highways Need More Attention,* are available from the Comptroller General of the United States, Washington, D.C. 20548.

Highway Safety Spending Increased

In a last minute spurt of highway safety spending for fiscal year 1975, the states obligated – contracted to be spent – a total of $444 million for six categorical safety programs, according to the Federal Highway Administration.

This $444 million total was still considerably less than the almost $1.3 billion available to the states for the six programs, but surpassed the $250 million goal that the Department of Transportation set for the year. The six programs are rail-highway crossings, identification of high-hazard locations, elimination of roadside obstacles, safer roads demonstration, pavement marking demonstration and bridge replacement.

According to FHWA's final *Report on the Status of Safety Funds Obligated During Fiscal Year 1975*, DOT has set a goal of $400 million for FY 1976 – the last of the three years for which the safety funds were apportioned. Should this goal be met but not surpassed, just over $400 million would be left unspent for the three-year period. However, states may continue to obligate money for two more years before the funds become unavailable.

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