

## '84 Cars Must Have Automatic Restraints

All new cars, starting with the 1984 models, must be equipped with automatic restraints, the U.S. Court of Appeals for the District of Columbia has ruled.

The court capped 12 years of controversy and an eight-month legal battle on August 4 with a brief order directing that the automatic restraint provisions of Federal Motor Vehicle Safety Standard 208 apply to all cars manufactured after Sept. 1, 1983. This reversed the October 1981 decision of the National Highway Traffic Safety Administration (NHTSA) rescinding the requirements.

NHTSA was given until Oct. 1, 1982, to tell the court if the 1984 model year deadline is achievable. If the agency feels it cannot be met it must provide the court with "adequate reasons" why not.

### Court Denies Rehearing

In a companion order, the court ruled that no extension of time would be granted the government to seek a rehearing of the case. The three-judge court had ruled unanimously June 1 that NHTSA had acted "arbitrarily and capriciously" in revoking the automatic restraint standard. The court decision came in petitions for judicial review brought by State Farm Mutual Automobile Insurance Co. and the National Association of Independent Insurers. (See *Status Report*, Vol. 17, No. 8, June 9, 1982.)

Denial of the rehearing deadline extension left an appeal to the Supreme Court as one remaining possibility. (See box.) NHTSA has not yet indicated whether it will pursue that course.

In the appeals court's initial ruling, NHTSA had been given 30 days to submit a "feasible schedule for completing analysis" of questions raised by the court. The questions included the potential usage of automatic belts, possible use of nondetachable automatic belts or air bags, and consideration of an air bag demonstration program similar to that proposed in 1976 by then-Secretary of Transportation William Coleman.

NHTSA's response was to propose reopening rulemaking, seek public comments, and engage in research projects over an extended period. Such action "is not inconsistent with the Court's order," the appeals judges ruled, but it should not be permitted to delay implementation of the automatic restraint standard.

This is the text of the memorandum accompanying the court's order:

"On June 1, 1982, the Court issued a decision holding that Federal Motor Vehicle Safety Standard 208 had been unlawfully rescinded. The effect of the Court's decision was to restore Standard 208 to the status quo ante litem, as Standard 208 stood on December 7, 1981.

*(Cont'd on next page)*

## Vehicle Operators Face Greater Risk of Fatal Injury While Working

A recent Maryland study indicates that employees who operate motor vehicles as part of their daily work face a considerably higher risk of fatal injury than do industrial workers.

Efforts to reduce occupational hazards "have virtually ignored transportation vehicles, which are involved in about 40 percent of all work injury deaths," the study reported.

Supported by the Insurance Institute for Highway Safety and the Maryland Medical-Legal Foundation, a Johns Hopkins School of Public Health research team headed by Susan P. Baker combed records to identify 148 people who died of work-related injuries that occurred in Maryland during 1978. Of those, they found

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"The Court's opinion recognized that DOT had misgivings about particular technology that might be used to comply with Standard 208, specifically the so-called detachable passive seatbelt. Despite DOT's failure in Notice 25 to provide a rational basis for the conclusion that detachable passive seatbelts would not advance the goals of Standard 208, the Court therefore suggested that DOT prepare a schedule for addressing this and other questions raised in the Court's opinion. The Court's opinion also emphasized that even if DOT were lawfully to conclude that detachable passive seatbelts did not advance the goals of Standard 208, additional analysis would still be required before the agency could rescind Standard 208 altogether.

"Until that analysis is performed by the agency, however, Standard 208 remains fully in force. The safety standard that was unlawfully rescinded by DOT

### Legal Maneuvers

Several legal moves are seen as possible before government compliance with the appeals court ruling becomes a certainty. Among them are these:

- Lawyers for NHTSA may go to the U.S. Court of Appeals for the District of Columbia and ask for a stay of the effective date of the court's ruling, pending Supreme Court review of the case.
- If the appellate court rejects the petition for a stay, NHTSA's representatives may go to a single justice of the Supreme Court and ask for a similar order staying the effective date. Normally such a request would go to Chief Justice Warren Burger, who has responsibility for the District of Columbia appellate court.
- By early September, if the government decides to pursue an appeal, NHTSA would ask the Supreme Court for a writ of certiorari, an order calling up the record of the case from the Court of Appeals for Supreme Court consideration. The Supreme Court may or may not grant the writ.
- Before October 1, NHTSA may request the Sept. 1, 1983 effective date be lifted, arguing manufacturer inability to comply by that time.

### 'Stop Fighting Safety'

Sen. John Danforth (R.-Mo.), chairman of the Senate Commerce Committee's Surface Transportation Subcommittee, has urged NHTSA "to stop fighting safety" and comply with the federal court's ruling on automatic restraints.

In a Senate speech Danforth deplored indications that NHTSA might appeal the court decision, as well as auto makers' complaints that they cannot comply with the court's deadline. NHTSA's "dilatory tactics are totally inconsistent with its mandate from Congress," Danforth said, and "automobile manufacturers are only undermining their own credibility with such rhetoric."

Danforth said he hopes NHTSA "will stall no longer.... We need the protection of the passive restraint standard and it is time we had it."

would have required compliance for large and mid-size automobiles manufactured after September 1, 1982, and for small automobiles manufactured after September 1, 1983. Because of the obvious difficulties created by DOT's unlawful rescission, and in order to accommodate as fully as possible the policies expressed in the statutory scheme as a whole, *see slip op. at 42* (congressional concern that standard apply to all model sizes simultaneously), the Court in the exercise of its equity powers has stayed the compliance dates for large and mid-size cars until September 1, 1983. DOT has more than 45 days to advise the Court whether the revised compliance dates are achievable. The reporting date of October 1, 1982, does not affect the requirement that automobile makers comply with the standard by September 1, 1983.

"The Notice of Proposed Supplemental Rulemaking filed by DOT in response to the Court's order of June 1, 1982, is not inconsistent with the Court's order; at the same time, no party benefits from open-ended DOT decisionmaking, and some dates must be fixed. DOT is free to request additional comments from interested parties, to conduct further regulatory impact analyses, or even to terminate the rulemaking entirely, but additional rulemaking is not required before Standard 208 takes effect. The agency is free to issue orders rescinding or modifying the passive restraint standard, subject to judicial review. The agency is also free, of course, to take its views to Congress, as long as it does not attempt to change the law by administrative fiat."

# Safety Board Urges States Raise Minimum Drinking Age to 21

The National Transportation Safety Board (NTSB) has recommended that all states adopt a 21-year minimum drinking age in an effort to reduce the numbers of alcohol-related automobile crashes.

The board reported 1981 traffic death statistics show that of some 25,000 persons who died in alcohol-related crashes, 8,484, or about 35 percent of the total, were between the ages of 16 and 24.

“This death toll of young Americans is grossly disproportionate and can be accurately termed a national scandal,” said Jim Burnett, NTSB chairman. “Raising the drinking age to 21 nationwide could help save these young lives.”

## Institute Research Cited

Research by the Insurance Institute for Highway Safety was cited by the safety board as a principal basis

for its recommendation. That research reported that eight of nine states that had raised their legal minimum drinking age had experienced a significant reduction in nighttime fatal crash involvement of young drivers, averaging 28 percent for the age groups involved. (See *Status Report*, Vol. 16, No. 10, July 15, 1981.)

The board sent its recommendation to the governors and state legislators of 35 states and to the mayor and city council of the District of Columbia — all jurisdictions where the minimum age for drinking or purchasing alcohol is under 21 years.

## Nine Killed In One Crash

The action grew out of an investigation of a railroad crossing crash last March 14 in Nassau County, New York, in which nine teenagers were killed. The 19-year-old driver of the van involved was found to have a blood alcohol concentration (BAC) of 0.09, the safety board reported. New York law provides that a BAC of between 0.06 and 0.09 is evidence of impairment, and 0.10 or more is considered proof of intoxication. At the time of the crash, New York’s minimum legal purchase age was 18 years; it has recently been raised to 19. *(Cont’d on next page)*

### Minimum Legal Drinking/Purchase Ages and Date of Last Legislative Change for the Fifty States and the District of Columbia

Age				
18	Hawaii (1972)	Vermont (1971)	Wisconsin (1972)	
	Louisiana (1948)	West Virginia (1980)		
19	Alabama (1970)	Florida (1980)	Minnesota (1976)	Tennessee (1979)
	Alaska (1979)	Georgia (1980)	Montana (1979)	Texas (1981)
	Arizona (1972)	Idaho (1972)	New Jersey (1980)	Wyoming (1973)
	Connecticut (1982)	Iowa (1978)	New York (1982)	
20	Delaware (1972)	Massachusetts (1979)	New Hampshire (1979)	
	Maine (1977)	Nebraska (1980)	Rhode Island (1981)	
21	Arkansas (1925)	Kentucky (1938)	Nevada (1933)	Pennsylvania (1935)
	California (1933)	Maryland (1982)	New Mexico (1934)	Utah (1935)
	Illinois (1980)	Michigan (1978)	North Dakota (1936)	Washington (1934)
	Indiana (1934)	Missouri (1945)	Oregon (1933)	
18/21	*Colorado (1945)	**Mississippi (1966)	*Oklahoma (1976)	****Virginia (1981)
	**Dist. of Columbia (1934)	**North Carolina (1935)	***South Carolina (1935)	
	*Kansas (1949)	*Ohio (1935)	*South Dakota (1972)	

\* 18 (3.2% Beer), 21 (Over 3.2% Beer, Wine & Distilled Spirits)  
 \*\* 18 (Beer & Table Wine), 21 (Fortified Wine & Distilled Spirits)  
 \*\*\* 18 (Beer & Wine), 21 (Distilled Spirits)  
 \*\*\*\* 18 (On Premises Sale of Beer), 19 (Off Premises Sale of Beer),  
 21 (Wine & Distilled Spirits)

(Source: National Transportation Safety Board)

## **Safety Board Urges States Raise Minimum Drinking Age to 21**

**(Cont'd from page 3)**

Three other major crashes involving drivers in the 18- to 21-year-old group, where alcohol was a factor, have been investigated by the safety board in the past three years. Those three plus the New York crash accounted for 30 fatalities and 15 injuries.

Jurisdictions that were urged to raise their minimum drinking and purchasing age are Alabama, Alaska, Arizona, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Iowa, Kansas, Louisiana, Maine, Massachusetts, Minnesota, Mississippi, Montana, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, Wyoming, and the District of Columbia.

## **NAII Plans Campaign Against Drunk Driving**

The National Association of Independent Insurers (NAII), a trade association of property and casualty insurance companies, has announced a "multi-faceted" campaign to attack problems of drunk and drugged drivers.

NAII President Lowell R. Beck told a hearing of the Senate Labor Committee's subcommittee on Alcohol and Drug Abuse that the association's plan includes these major elements:

- Active support for legislative, judicial, and administrative countermeasures to curb drunk driving and deal with the offender.
- A program for educating youth about the effects of alcohol and other drugs on driving ability.
- Continued support for automatic crash protection in all new cars.

"Our nation's impaired driver problem is not simply a transportation problem," Beck said. "It is a serious social and national health problem requiring a change in attitudes and behavior, and it must be dealt with as such, beginning with the youth of our country."

Among some of the specific measures included in the campaign are plans to: Raise the legal minimum

## **Alcohol Symposium Planned**

An International Symposium on Alcohol and Driving, scheduled for Washington, D.C., on November 17-18, is expected to draw about 400 participants.

The symposium is being sponsored by the American Insurance Association and the Insurance Information Institute. The Insurance Institute for Highway Safety is acting as a technical adviser.

The two-day meeting will bring together panels of experts in the field and will focus on problems of effective drunk driving laws, enforcement, and public attitudes on drinking and driving.

Additional information is available from the Insurance Information Institute, 110 William St., New York, N.Y. 10038. The toll-free telephone number is 800-221-4954.

age for purchasing alcoholic beverages to 21 in all states; encourage vigorous enforcement of drunk driving laws; handle first offenders where no injury is involved on an administrative basis; and support a strengthening of the National Driver Register.

## **IHS Reviews Surveys On Crash Protection**

The Insurance Institute for Highway Safety has released a summary of more than 20 polls taken during the last decade on public opinion toward occupant crash protection issues.

Conducted between 1975 and 1981, the polls indicate in sum that consumers have long-standing interest in the degree of safety offered in the cars they buy. The surveys show:

- Overwhelming support for automatic restraints, with most participants preferring air bags over automatic seat belts.
- Desire for government safety ratings to be included on new car window stickers.
- Support for other government safety regulations, such as mandatory helmet use laws.

For a copy of the report, "Public Opinion Surveys on Occupant Crash Protection," by Adrian K. Lund and Allan F. Williams, write for *Research Note*, No. 102, Insurance Institute for Highway Safety, Communications Dept., Watergate 600, Washington, D.C. 20037.

## Right-Turn-On-Red Laws Raise Intersection Toll

Nationwide adoption of right-turn-on-red laws has added significantly to the pedestrian and bicyclist crash toll at intersections controlled by traffic lights, a federal study has confirmed.

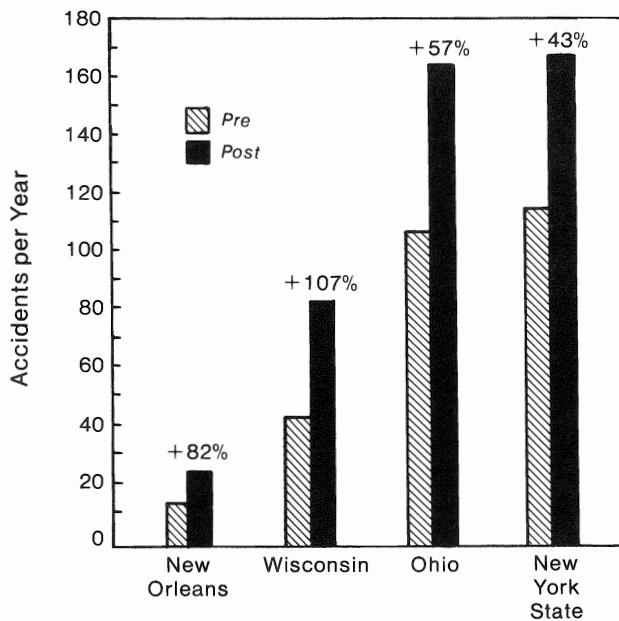
"Estimates of the magnitude of the increases ranged from 43 percent to 107 percent for pedestrian accidents and 72 percent to 123 percent for bicyclist accidents," the researchers said.

The increases, the researchers said, "could be directly attributed to the adoption" of RTOR.

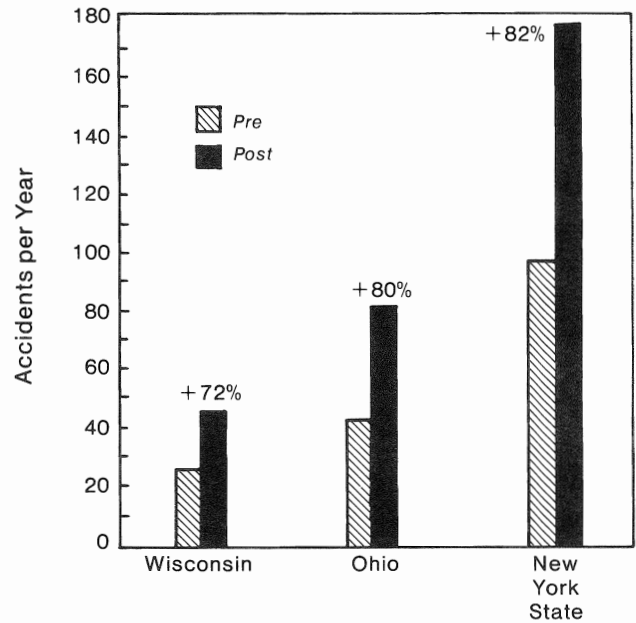
### Underscores IIHS Results

The study, carried out by a Connecticut research firm for the National Highway Traffic Safety Administration (NHTSA), is consistent with earlier findings of researchers for the Insurance Institute for Highway

**Pedestrian Accidents per Year  
Right Turning Vehicle at Signalized Location**



**Bicycle Accidents per Year  
Right Turning Vehicle at Signalized Location**



Safety. In 1980, the Institute reported a 57 percent increase in the number of pedestrians struck during right-turn maneuvers and a 20 percent overall increase in the number of motor vehicle crashes involving right turns at traffic lights. (See *Status Report*, Vol. 15, No. 18, Dec. 9, 1980.)

### RTOR Benefits Defended

A separate study conducted by a Milwaukee city agency also was consistent with the federal study's findings, but the agency still concluded that the costs of RTOR are outweighed by its benefits.

The study found that pedestrian impacts during right-turn maneuvers at intersections have risen an average of 61 percent during the five years since the city adopted RTOR in 1975, compared to the five years prior to its implementation. Vehicular impacts have risen by 24 percent.

Copies of the federal study, "The Effect of Right-Turn-on-Red on Pedestrian and Bicyclist Accidents," by D.F. Preusser, W.A. Leaf, K.B. DeBartolo, and R.D. Blomberg of Dunlap and Associates, may be obtained through the National Technical Information Service, Springfield, Va. 22161. Ask for DOT-HS-6-01411.

The Milwaukee study, "Right Turn on Red Safety versus Operation Benefits City of Milwaukee

(Cont'd on next page)

## **Right-Turn-On-Red Laws Raise Intersection Toll (Cont'd from page 5)**

Experience,” by David A. Novak, may be obtained from the research and planning section, traffic engineering division, City of Milwaukee Bureau of Traffic Engineering and Electrical Services, Milwaukee, Wis.

## **Senators Question NHTSA Commitment To Highway Safety**

Questioning the National Highway Traffic Safety Administration's (NHTSA) “commitment to highway safety,” members of the Senate Commerce, Science, and Transportation Committee nonetheless have cleared for a floor vote a three-year, \$172 million authorizations bill for the agency.

While some of NHTSA's recent deregulatory actions may be justified on a cost-benefit basis, the committee said in its report on H.R. 6273, “NHTSA clearly is embarking on a controversial course, calling into question its commitment to highway safety.”

### **‘Search and Destroy Mission’**

In an even stronger concurring statement, the chairman of the committee's Surface Transportation Subcommittee suggested that NHTSA may be engaged in a “search and destroy mission against any useful idea that is put forward to make the highways safer.”

The report was signed by Sen. Robert Packwood, chairman of the commerce committee.

It noted that witnesses have charged NHTSA with failing its mandate to save lives by revoking a requirement that new cars be equipped with either automatic seat belts or air bags. The agency also has allowed rulemaking on vehicle side impact and pedestrian protection to remain dormant, and has withheld or complicated public access to information, witnesses have testified.

### **Danforth Criticizes Agency**

In an appendix to the report, surface transportation subcommittee chairman John Danforth (R.-Mo.), added these concurring views:

“The recent airplane crash in New Orleans killed 147 passengers and was the second largest air tragedy in U.S. history,” said Danforth. “Yet in traffic safety, 140 people are killed every day and we seem to just more or less go along as is....”

“Would the U.S. Congress allow the National Transportation Safety Board to do nothing if 140 persons were killed in a major airline crash every day for even a week? Clearly not. Yet here is an agency which seems under its present management intent on doing away with almost anything constructive with respect to traffic safety.”

Danforth singled out for special mention the agency's failure to act to allow U.S. distribution of a new safety windshield, already in use in Europe, that could reduce the incidence of facial lacerations in crashes. (See *Status Report*, Vol. 17, No. 1, Jan. 5, 1982.)

“Congress created NHTSA to promote safety,” said Danforth. “I really do not know if this agency is aiding traffic safety or whether it is engaged in some sort of search and destroy mission against any useful idea that is put forward to make the highways safer. Indeed, NHTSA now seems to be doing all it can do thwart safety.”

### **Hoping For Better Days**

Danforth said he was seeking the approval of additional funds for the agency only because he is anticipating a time when the agency “does what it is supposed to do, that is, encourage more safety on the highways.”

The bill, which already has been adopted by the House, would fund the agency at current policy levels, consistent with the President's budget request for fiscal 1983.

It also contains a clarifying provision permitting states to undertake independent testing or require manufacturers to submit test data to ensure compliance with state standards which are identical to federal rules.

The bill also would shift the responsibility for registering new tires from dealers to consumers. Tire dealers would be required to furnish buyers with forms which they could fill out and return to the manufacturer in order to protect themselves in the event of a recall campaign.

## Repair Parts Total Nearly Four Times Car Cost

The cost of repair parts for a totally demolished 1982 subcompact import costing \$7,128 new, would run \$26,787, unassembled, the Alliance of American Insurers has reported.

Last year, buying auto crash parts for a similar domestic model would have cost 3 1/2 times the new car price, the association of more than 150 property-casualty insurers said.

The trade group based this year's estimate on the cost of replacing all the parts of a 1982 Toyota 2-door hatchback with unitized construction.

Each year, the group releases a similar estimate to permit consumers an opportunity to compare the cost of replacing component parts to the prices of new cars, which are typically much lower, even though the new car price includes the labor cost of assembly.

Because only a fraction of a new car's parts have to be damaged to make it more economical to simply replace the whole car, insurers frequently declare cars totaled and award owners the pre-crash value of the car rather than authorizing repairs.

## Vehicle Operators Face Greater Risk of Fatal Injury While Working (Cont'd from page 1)

vehicle-related injuries — including those involving non-road vehicles such as construction and farm machinery as well as highway vehicles, boats, and planes — accounted for 57 percent of all fatalities.

Saying that the Maryland findings are “generally consistent with national statistics,” the researchers said the study provides “new and important insights into the problem of fatal occupational injuries.”

The largest group of deaths involved cars and trucks, which accounted for 25 percent of all Maryland injury-related worker deaths that year, the researchers reported. Other vehicles such as tractors, fork lifts, and cranes accounted for 16 percent of all deaths. Gunshot wounds followed vehicle-related fatal injuries as the second leading cause of death, with 11 percent of the 148 fatalities.

### Manufacturing Hazards Emphasized

The researchers noted the occupational death rate has dropped from 39 to 13 per 100,000 workers in the

past 25 years, due to preventive measures undertaken in the workplace, but new problems have arisen in other sectors. Today, only 14 percent of all work-related deaths occur in manufacturing, the authors said, but safety literature, regulations, and training programs tend to emphasize the industrial setting.

“Even in the manufacturing industry, more workers are killed by road vehicles than by fixed machinery,” the researchers said.

A switch by employers to small car fleets could “double a worker's likelihood of being killed in a job-related crash...,” the researchers noted, adding that “it seems unlikely that arguments related to cost or limited resources (counterparts to the ‘fuel economy’ arguments) would be considered valid justification for doubling a worker's likelihood of death from a carcinogen or fixed machinery.”

### Truckers At Greater Risk

Of the motor vehicle-related deaths, heavy trucks were involved in 23 of the 37 deaths, the researchers reported. Altogether, 16 occupants of heavy trucks were killed; many suffered from severe abdominal injuries from steering columns which do not meet safety standards required for automobiles. “None of the fatally-injured vehicle occupants was known to have been using a seat belt,” the researchers reported.

Of the 85 workers tested for blood alcohol concentrations (BAC's), 13 had measurable BAC's. Nine (11 percent) had BAC's of 0.08 or greater, considered evidence of impairment, the researchers noted. Four of the 13 workers had a BAC level of between 0.01 and 0.02 percent, concentrations that are less likely to cause impaired performance.

Exploding tires/rims accounted for three deaths in tire shops. Two explosions occurred when the multipiece rims separated during inflation — one of them occurred even though the tire was being inflated inside a safety cage (now required by OSHA regulations). NHTSA has cancelled rulemaking to phase out the production of multipiece rims which are prone to explosive separation when component parts become worn or damaged. (See *Status Report*, Vol. 16, No. 20, Dec. 21, 1981.)

The study, “Fatal Occupational Injuries,” by Susan P. Baker, Judith S. Samkoff, Russell S. Fisher, and Carol B. Van Buren, appeared in the August 13 issue of the *Journal of the American Medical Association*. Copies can be obtained by writing the Insurance Institute for Highway Safety, Watergate 600, Washington, D.C. 20037.

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# Status Report

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