

Petition Would Deny Waiver for New York's Seat Belt Use Law

The possibility of two-thirds of the U.S. population coming under seat belt use laws in five years — thus wiping out the government's decision to require air bags or automatic belts in all new cars by 1990 — has hit another legal snag.

The nation's second most populous state, New York, which enacted a seat belt law that might include its 17,659,000 residents in that two-thirds figure, may not qualify.

The Insurance Institute for Highway Safety, citing an overlooked executive modification to the law that allows front seat occupants to tuck the shoulder portion of their belts behind them, has petitioned Transportation Secretary Elizabeth Dole to deny a waiver from the Department's minimum requirements for the New York law.

In a petition dated Oct. 19, 1984, William Haddon, Jr., M.D., president of the Institute, said that if Dole ignores DOT's own criteria for belt use laws outlined in the final rule on Federal Motor Vehicle Safety Standard (FMVSS) 208, the action "will make a mockery ... of the standard." (See *Status Report*, Vol. 19, No. 13, July 28, 1984.)

Under the new rule, automakers are required to phase in automatic seat belts or air bags on new car models, with all cars to be so equipped by 1990 unless two-thirds of the population is covered by seat belt use laws on April 1, 1989.

Among the criteria set for state belt use laws in the final rule is a stipulation that seat belts be "properly fastened." Also contained in the final notice was a provision stating that DOT "would consider granting a waiver from the minimum requirements for any state that, before August 1, 1984, has passed a mandatory use law that substantially complies with those requirements."

The only state eligible for such a waiver is New York, the Institute noted.

Under a July 12 executive memorandum issued by New York Governor Mario Cuomo, the bill was modified. Cuomo said: "...the legislative intent of the bill is to require use of safety belts across the lap. Thus, if the shoulder harness causes discomfort, it could be placed behind the person."

The Institute told Dole that since compliance can be achieved by wearing lap belts only, the expected benefits will be reduced "substantially." In its final rule on FMVSS 208, DOT estimated that manual lap belts are 10 percent less effective than combination lap and shoulder belts in lowering fatalities in crashes, and 20 percent less effective in cutting moderate to critical injuries.

"Furthermore," said the Institute, "the enforcement of a law that allows compliance with lap belt use
(*Cont'd on page 2*)

Link Shown Between Crash Test Results And Actual Traffic Deaths

For the first time, researchers have found a definite link between fatalities occurring in real-world crashes and individual car performance in a controversial government crash test program.

For drivers involved in frontal crashes, there is a 60 percent greater risk of death in cars that had the poorest results in the National Highway Traffic Safety Administration's (NHTSA) 35 mph New Car Assessment Program (NCAP) crash tests, compared with those cars with the best results, a new study by the Insurance Institute for Highway Safety reveals.

The researchers emphasized that the greater fatality risk involves only crashes between cars of comparable size.
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only becomes especially difficult, and as the DOT has repeatedly recognized, enforcement is an essential ingredient of any successful seat belt law."

The Institute added, "a shoulder harness placed behind a person is *not* properly fastened and is a major deviation from the minimum criteria specified under FMVSS 208. If a waiver is granted for this law, it will make a mockery of the minimum requirements specified in the standard."

A transportation department official told *Status Report* that the agency has under study another portion of New York's law that also does not appear to comply with a DOT requirement for a \$25 minimum fine. New York's law states only that violators will face a \$50 maximum fine, but the official said it is unlikely the waiver would be denied for that reason. Transportation department officials did not appear to be aware of Cuomo's memorandum.

Separately, the DOT is under court challenge by a number of large insurers and health groups seeking to throw out the portion of the rule that would permit state legislatures to overturn, in effect, the automatic restraint requirement. (See *Status Report*, Vol. 19, No. 16, Oct. 13, 1984.)

Link Shown Between Crash Test Results and Actual Traffic Deaths (Cont'd from page 1)

A study of fatal frontal car crashes occurring between 1975 and 1983 compared with crash test results for individual makes and models shows a "significant correlation" between actual deaths and the crash test results, Institute researchers Paul L. Zador, Ian S. Jones, and Marvin Ginsburg have reported.

"The results show ... the likelihood of a fatal driver injury was almost 60 percent higher for cars with the worst NCAP results than for cars with the best results," they said.

The study was presented at the annual conference of the American Association for Automotive Medicine in Denver.

The researchers computed the risk of fatality by taking into account the effect of the weights of the impacting cars, driver ages, restraint use, the speed limit at the crash site, and NCAP test results, among other factors.

They noted that the government's crash tests, which utilize belted instrumented dummies, provide an indication of the cars' likely crash performance for unbelted front seat occupants. "It is likely that the differences in crashworthiness that produce superior performance for the restrained dummy also provide improved protection ... for unrestrained occupants, but at lower impact speeds," they said.

Although other studies have explored the relationship between crash test performance and risk of injury in real world crashes, none have sufficiently accounted for factors such as car size, driver age, and crash severity to be able to establish a definitive link. As a result, some car makers have criticized the NHTSA program, saying it fails to provide an accurate picture of what consumers can expect in a real frontal crash.

The researchers warned, however, that in cases where larger vehicles are striking smaller ones, the effects of mass will overwhelmingly increase the risk of driver fatality in the smaller car — regardless of its crash test results.

For copies of the paper, "Fatal Front-to-Front Car Collisions and the Results of 35 mph Frontal Barrier Impacts," write Publications, Insurance Institute for Highway Safety, Watergate 600, Washington, D.C. 20037.

Study Finds 81 Percent Of Male Drivers Killed In Crashes Took Drugs

Drugs in addition to alcohol are often present in the blood of drivers killed in motor vehicle crashes, a new Insurance Institute for Highway Safety study indicates.

More than 25 different drugs were found in the blood of young California men who had been killed as drivers of motor vehicles. "One or more drugs...were detected in 81 percent of the drivers," the researchers said, adding that multiple drug use "was common."

These findings were based on analyses of blood samples from 440 male drivers 15-34 years old who were killed in motor vehicle crashes in California. This population was chosen for study because "if drugs other than alcohol were found infrequently, it is likely that they constitute a negligible problem on the highways." In fact, a variety of drugs frequently was found.

Alcohol was the the drug found most often; it was detected in 70 percent of the drivers. Two other drugs "were found frequently enough to constitute a poten-

tially significant problem”: marijuana in 37 percent of the drivers and cocaine in 11 percent. Nearly half of the fatally injured drivers had two or more drugs in their blood.

The link between alcohol and responsibility for the crash was strong. The extent of the causal role of other drugs was difficult to measure, however, primarily because alcohol was often present along with traces of marijuana and other drugs in the drivers' blood.

Eighty-seven percent of the drivers with one drug were found to be responsible for their crashes, compared with 96 percent for those with two or more drugs.

“Drugs in Fatally Injured Young Male Drivers,” by Allan F. Williams, Michael A. Peat, Dennis J. Crouch, JoAnn K. Wells, and Bryan S. Finkle, will be published in *Public Health Reports*. Copies of the report are available from Publications, Insurance Institute for Highway Safety, Watergate 600, Washington, D.C., 20037.

NHTSA Outlines Plan For New Automated National Driver Register

The National Highway Traffic Safety Administration (NHTSA) has issued a proposal outlining its expected transition to an automated national driver register.

The notice of proposed rulemaking provides for establishing a computer-based referral system that permits state licensing authorities to instantaneously call up driver records before issuing new licenses. Under the current system it sometimes takes weeks to answer information requests.

In 1982, Congress authorized revision of the register. (See *Status Report*, Vol. 17, No. 15, Oct. 21, 1982.)

NHTSA said it expects to run a four-state pilot test prior to applying the new format system-wide.

Under the 1982 act, the registry's services will be expanded to permit the National Transportation Safety Board and the Bureau of Motor Carrier Safety to inquire about drivers involved in accident investigations. It also will permit state motor vehicle administrators to check the files on behalf of employers who wish to consult the records of applicants for commercial driving positions.

Legislation Enacted To Fight the Nation's Auto Theft 'Industry'

Legislation to help curb the nation's \$4 billion a year auto theft “industry” has been signed by President Reagan.

After years of study and delay, the final measure, H.R. 6257, which will require automakers to label major parts of cars with identification numbers on high theft models was approved shortly before Congress adjourned.

Rep. Timothy Wirth, Colorado Democrat and chairman of the Telecommunications, Consumer Protection, and Finance Subcommittee of the House Energy and Commerce Committee, said the bill would give “law enforcement officials at all levels the much needed prosecutory tools to track criminal theft rings....”

Justice Department statistics show that professional car thieves now far outnumber the juvenile “joyriders” who used to steal most of the cars. Wirth said: “Professional thieves usually steal automobiles in order to chop them up into component parts and then sell the parts.” The annual recovery rate of stolen vehicles has slipped from 86 percent in 1967 to 58 percent, with only 13 percent of the more than one million annual thefts ever being solved.

Proponents of the legislation noted that auto engines and transmissions, which are already stamped with the vehicle identification number, are usually junked by thieves.

The legislation calls for:

- The Department of Transportation (DOT) to write an auto theft standard—within 11 months—requiring manufacturers of the most frequently stolen cars to indelibly mark autos' major parts, such as fenders, doors, and windows. The marking method is to cost the automaker no more than \$15 per car, and no manufacturer need mark more than 14 of its car lines that are already in production.
 - New cars introduced after the standard has become effective need be marked only if thefts are likely to exceed the median theft rate, or if the components are interchangeable with models with high theft rates.
 - A “black box” exemption is set for cars equipped with an antitheft device. The exemption accommo-
- (Cont'd on page 4)

Study on Fractures

About 4.6 million people visit emergency departments each year because of fractures, a northeastern Ohio study shows.

The study was conducted in order to determine the frequency of fractures in emergency room cases and to provide a population-based estimate of their national incidence. It was conducted with support from the Insurance Institute for Highway Safety.

The researchers found that 11 percent of emergency room visits for trauma involved fractures. The overall incidence rate was 21 per 1,000 persons with two peaks, the first between the ages of 10 to 14 and the second at ages above 60. The proportion of fractures that involved large bones rather than small ones increased markedly with increasing age.

Fractures among youngsters could be reduced by adopting changes in sports rules and equipment and by introducing improvements in motor vehicle design, they said. Lowering the incidence among the elderly "would require countermeasures that have yet to be developed and tested in that population," the researchers added.

"Northeastern Ohio Trauma Study III: Incidence of Fractures," by Daniel Fife and Jerome Barancik, will be published in the March issue of *Annals of Emergency Medicine*.

Legislation Enacted To Fight the Nation's Auto Theft

'Industry' (Cont'd from page 3)

dates General Motors, which has an antitheft device as standard equipment on some of its lines. DOT must monitor how well the device works, and if it does not lower the theft rate as effectively as parts labeling, the automaker may be ordered to meet the parts labeling requirement.

- Auto insurers will be required to report on auto thefts and recoveries, rating practices, and lowered premiums that result from lower theft rates.
- Studies assessing the merits of extending the parts labeling requirement to trucks, vans, and motorcycles are ordered.
- Tougher penalties are set for trafficking in, importing, or exporting stolen vehicles or parts.

Bill Gives DOT Power To Limit Bigger Trucks On Interstate System

Safety legislation permitting the Transportation Department to declare portions of the interstate system off-limits to bigger trucks has been adopted by the House and Senate.

Under the provisions of the Surface Transportation Assistance Act of 1982, DOT had said it lacked authority to exempt any part of the interstate highway system, including older sections that do not meet current safety standards.

Rep. Geraldine Ferraro, New York Democrat, who sponsored the interstate exemption measure, noted that many older, urban interstate segments have 10-foot-wide traffic lanes, inadequate shoulders or no shoulders at all, and no climbing or acceleration lanes to accommodate the heavier trucks.

Other provisions of the legislation, S. 2217, permit DOT to designate portions of the primary federal aid system open to eight-and-a-half-foot wide trucks, even though lane widths are less than 12 feet wide. The administration sought the amendment to the law in order to make moot a Center for Auto Safety lawsuit that charges DOT with illegally opening up narrow roads to the wider trucks. (See *Status Report*, Vol. 19, No. 3, Feb. 18, 1984.)

Rep. Glenn Anderson, California Democrat, told his colleagues that the House Public Works Committee — of which he chairs the Surface Transportation Subcommittee — "intends that the designation only include highways that can safely accommodate 102-inch wide vehicles."

He added, "In making the designations, the Secretary also should take into account other factors ... such as enhancing the productivity of truck transportation; however, any designation made must be consistent with highway safety."

Under the measure, DOT must consult a state's governor before adding any federal aid highway that was not part of the designated system as of June 5, 1984.

Another provision establishes a safety panel that will review state and federal motor carrier safety standards and recommend preemption of state rules in some cases. The legislation also raises civil penalties for safety violations and authorizes a number of safety related studies, including studies of heavy truck braking and handling characteristics and occupant safety.

President Reagan is expected to sign the measure.

In Preliminary Step, FHWA Seeks Views On Auto Transporters

The Federal Highway Administration (FHWA) is seeking comments on automobile transporters and their tracking characteristics as a prelude to possible rulemaking.

In an advance notice of proposed rulemaking, FHWA said it had received comments from the auto transport industry seeking both to broaden FHWA's interpretation of the term, "auto transport," and to increase the overall minimum length restrictions permitted under the Surface Transportation Act of 1982.

Under a recent FHWA rule, no state may impose an overall length limit of less than 65 feet on automobile transporters. Since many states had already allowed the haulers to use units of that length or longer, the auto transporters have argued that the rule didn't give them the productivity increase they had expected in return for a rise in the gas tax under the 1982 law.

In order to increase their loads, some auto transporters have asked FHWA to amend the rule to provide for overall minimum length limits of 70 to 80 feet; others have sought a rule prohibiting the states from setting any overall length limitation at all.

FHWA has asked for comments on conventional auto transporters with semitrailer lengths of 48 feet and no cab size limitation, saying that "preliminary indications are...[that they] may have difficulty in negotiating some urban intersections."

Combination units utilizing a 30 to 35-foot tractor power unit capable of carrying three or four cars,

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coupled with semitrailers, may have better tracking characteristics than conventional units, FHWA noted. One hauler proposed an amendment to allow such units to operate with minimum lengths of 75 feet plus overhang.

The transport industry is also seeking a broader definition of auto transporters to include units used to haul truck tractors and motor vehicle parts.

Comments should be submitted to FHWA Docket No. 84-18, Room 4205, HCC-10, 400 Seventh St., SW, Washington, D.C. 20590 by December 3, 1984.

Report Criticizes Truck Safety Agency

A House committee has issued a report that is critical of federal truck safety enforcement activities.

The report was issued by the House Government Operations Committee, following hearings on truck safety. (See *Status Report*, Vol. 19, No. 15, Sept. 22, 1984.)

Rep. Cardiss Collins, Illinois Democrat and head of the subcommittee on Government Activities and Transportation, said safety auditors for the Bureau of Motor Carrier Safety (BMCS) may not be reporting safety violations by trucking companies.

In addition, said Collins, "the department has no program for detecting whether weak safety

audits are occurring or for reacting to audits which are questioned." She noted that as a result of deregulation, trucking companies are facing greater pressures to violate safety rules because doing so can lead to greater profits.

Collins said that lack of internal controls in BMCS, the bureau's failure to keep confidential the identity of company employees who report safety violations, and its failure to pursue specific, substantive complaints all contribute to what amounts to a "sham enforcement effort."

Copies of "Protecting the Integrity of the Department of Transportation's Truck Safety Audits" may be obtained on request from the subcommittee office.

Correction

In the Oct. 13 issue of *Status Report*, a story on the increase in crashes at right-turn-on-red intersections erroneously stated "bicyclist crashes with cars rose a hundredfold." It should have said: Bicyclist crashes with cars rose by 100 percent.

'Down Payment' Made On DOT's Seat Belt Education Program

Congress has set aside \$10 million for the Department of Transportation's controversial seat belt education program as a down payment on the campaign's expected \$160 million outlay over four years.

Some \$2.5 million will be available immediately, with the remainder to be freed following review by the House and Senate appropriations committees. The money will be reallocated from existing DOT sources, with \$2.5 million to come from the National Highway Traffic Safety Administration's (NHTSA) operations and research budget and the remainder from the Federal Highway Administration and the Urban Mass Transportation Administration.

In a letter in the *Congressional Record*, Transportation Secretary Elizabeth Dole pledged to spend some of the funds on consumer education about air bags. (See *Status Report*, Vol. 19, No. 16, Oct. 13, 1984.)

The appropriation was introduced as part of an amendment to the continuing resolution appropriating funds for DOT in fiscal 1985, by Senators Jack Danforth, Missouri Republican, and Frank Lautenberg, New Jersey Democrat. The amendment also sets aside \$126.5 million for NHTSA's state and community highway safety programs, \$26.5 million more than had been sought. The additional funds will provide money for state incentive grants to be awarded for conversion to computerized traffic records, mandatory sentencing laws for convicted drunk drivers, and state child passenger safety programs.

Lautenberg and Danforth urged Dole to consider an accelerated demonstration program for an all-mechanical air bag design developed by the Breed Corp. Lautenberg said the system promises to lower the retail cost of air bags dramatically and suggested the demonstration "would provide a timely opportunity to allow this new technology to prove itself a viable alternative for consumers and automakers."

The continuing resolution also provided \$82.35 million for NHTSA's 1985 programs.

Many Repeat Offenders Among Drunk Drivers Involved in Fatal Crashes

The alcoholic driver continues to be a particularly intractable problem despite heightened law enforcement efforts, the National Transportation Safety Board has reported.

In a year-long study of 51 crashes causing 73 fatalities, the safety board found the crashes involved 56 alcohol-impaired drivers whose prior records showed at least 131 arrests and 93 previous convictions for drunk driving.

The board also interviewed 40 convicted, repeat offenders as part of its assessment of the problem, reported Jim Burnett, chairman of the board. "Our study has shown there are gaps—perhaps chasms—in various state operations meant to deal with the problem of the drunk driver," he added. "Some of the reasons for the failures rest with law enforcement, others are traced to motor vehicle department or judicial record-keeping systems, or to the role that judges have played, and still others relate to the questionable effectiveness of treatment programs used in lieu of incarceration."

The study revealed that there continues to be a widespread belief among offenders that they are unlikely to be caught for driving while under the influence (DWI) of alcohol. Convicted drivers also said that alcohol treatment programs ordered in lieu of license revocation are an insufficient deterrent. But even when their licenses are suspended or revoked, many continue to drive, the board reported.

Although not a scientific sample, of the 51 cases studied by the board, one-third of the drivers were operating their vehicles while their licenses were under suspension. The board cited an unpublished 1983 study by the National Highway Traffic Safety Administration, "Rehabilitation/Treatment of DWI Offenders," which purportedly indicates that as many as 30 percent of the annual 773,000 drunk driving convictions each year involve repeat offenders.

Many of the board's findings and recommendations mirror those reported in other studies, including *Deter-*

Moped Law

Effective January 1, in California, children under 15 and a half years will be required to wear safety helmets when riding as drivers or passengers on motorcycles or mopeds.

ring the Drinking Driver, by H. Laurence Ross, a book sponsored by the Insurance Institute for Highway Safety. (See *Status Report*, Vol. 17, No. 8, June 9, 1982.)

The board study did show that many juvenile offenders may be ill-served by gaps in the judicial system. Young drivers arrested for DWI were not often screened for signs of alcohol-related problems. The board recommended that law enforcement agencies routinely document in *any* arrest report whether the juvenile had been drinking.

In a series of recommendations issued to the states, the board suggested that:

- States not permit their alcohol treatment programs to be used in place of license revocation or suspension;
- Judges be provided special training on problems of drunk driving;
- The prior records of alcohol-related offenses be made available to judges prior to sentencing, and that juvenile records be carried into adulthood;

- Alcohol problem evaluations be performed for everyone arrested for drunk driving and that those evaluations be made available to the sentencing judge;

- States make available to juveniles special alcohol treatment programs geared to their needs;

- Governors propose legislation to facilitate collection of DWI evidence;

- Policies regarding holding of persons arrested for driving while intoxicated be reviewed to assure that people are not released before they are sober; and

- Efforts be made to lower the incidence of plea-bargaining and to require that every defendant's record reflect the original charge, despite the ultimate disposition of the case.

The board noted the emergence of new tools for law enforcement, including preliminary test devices that can show a driver's blood alcohol concentration level within 0.01 percent, and an eye test for quick determination of whether a driver is intoxicated.

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