

AUTO MAKERS CONTEST PASSIVE RESTRAINT RULE

Major foreign and domestic auto manufacturers are asking the National Highway Safety Bureau to reconsider its passive restraint standard issued in November. The bureau has received 18 petitions seeking relief from the standard's requirements.

The central complaint of most manufacturers is that they're being pushed too hard by the bureau's requirement that passive restraints be installed by July 1, 1973. They also insist that the bureau has violated the National Traffic and Motor Vehicle Safety Act of 1966 by issuing a standard that is "impracticable," "arbitrary" and "capricious" in its requirements.

In a petition endorsed by American Motors, Ford and Chrysler, the Automobile Manufacturers Association requests that the bureau withdraw its passive restraint standard, reissue it as a proposal and allow manufacturers additional time to comment on the proposal.

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Most of the car makers state in their petitions that although the air bag is the most promising approach to providing occupant crash protection, there has been insufficient time for development and field testing to verify its reliability.

With the exception of General Motors, all of the manufacturers insist they need considerably more time than the standard allows before they will be ready to install passive restraints as standard equipment. In its petition General Motors asked that the effective dates of the standard be moved only two months — from July 1, 1973 to September 1, 1973 and from July 1, 1974 to September 1, 1974. They maintain that July effective dates would force retooling for passive restraints

late in the model years or an early close on production in each of the two years. (For a description of the standard's requirements and effective dates see Status Report Vol. 5, No. 20, Nov. 17, 1970.)

Other foreign and domestic manufacturers insist they will not be able to install passive restraints anywhere near the bureau's deadline.

- Ford states that starting Jan. 1, 1975, passive restraints could be installed "as a production option in all car lines and light conventional trucks (under 10,000 pounds GVWR)."
- American Motors estimates that passive restraints can be incorporated as standard equipment for front seat passengers in its 1976 models.
- Volkswagen says that it "could probably meet some of the performance requirements" for front seat positions "sooner than 1975," but adds that Jan. 1, 1975, is the earliest that an air bag system could be installed "with the knowledge that it had been thoroughly proved in real world driving and crash conditions."
- The Japan Automobile Manufacturers Association is asking that the bureau postpone the effective date of the standard until Jan. 1, 1976.
- Chrysler contends that "the time schedule proposed by the bureau does not allow sufficient time even to isolate, much less solve (passive restraint) hazards," but the company does not say when it could meet the standard's requirements.

A company spokesman told Status Report that a target date was not included in Chrysler's petition because of "uncertainty" that surrounds test requirements and allowable G forces under the standard.

(cont'd. on page 3)

FORD LOWER CONTROL ARMS SUBJECT OF SUIT

An Illinois attorney has filed a class action suit against Ford Motor Company on behalf of "approximately 4 million" Ford owners whose cars are equipped with allegedly defective lower control arms. The suit seeks \$480 million in "actual money damages" and \$960 million in punitive damages.

The suit contends that the "front wheel suspension system in each of said motor vehicles contained a latent defect making it eminently, inherently or unreasonably dangerous to anyone using" the automobile.

The complaint stated that the control arms ". . . experience a progressive fatigue originating in the vicinity of the ball joint rivet holes . . . causing said lower control arms to fail by bending, cracking or breaking, resulting in a sudden front wheel collapse, thereby causing the automobile to become suddenly dangerous and completely uncontrollable."

When the bureau issued its passive restraint standard it also issued a proposal that would establish tests for rollover and lateral crashes and set a minimum crash speed at which restraint systems would deploy. The bureau will not make a final decision on these requirements until after considering comments by the manufacturers — due by Feb. 1, 1971. Because the additional comments may result in changes in the passive restraint standard, the auto makers argue that the standard as issued in November is "incomplete" and that the effects of these proposals "can not be anticipated."

Ford, American Motors and the Automobile Manufacturers Association complain that the bureau adopted requirements in its final standard that were not put forward in earlier proposals. They argue that these requirements are "arbitrary" and "unlawful" because the companies were not given an opportunity to comment on them.

In their petitions for reconsideration, the manufacturers contend that test procedures and devices specified in the standard do not produce "repeatable results" and are not supported by "realistic scientific data."

Auto makers may also fight the bureau's passive restraint standard in court. Under the National Traffic and Motor Vehicle Safety Act of 1966, any person adversely affected by a standard may seek relief in court within 60 days after the standard is issued.

NHSB IGNORES ITS OWN STUDY IN SPEED CONTROL PLAN

The National Highway Safety Bureau has proposed that speed limits be built into highway vehicles — but at a ceiling higher than the bureau's own experts earlier recommended as an absolute maximum.

Starting Oct. 1, 1972, the bureau's three-part proposal would:

- 1) Set 95 miles per hour as the speed ceiling that must be built into all new vehicles — cars, trucks, buses, multi-purpose vehicles and motorcycles;
- 2) Set 85 miles per hour as the highest speed that could be shown on a vehicle's speedometer;
- 3) Require that as a vehicle entered the 81-85 mile per hour speed range its horn would sound and warning lights flash until the speed dropped below that point.

In announcing the proposal, the bureau suggested that building speed limits into cars could mean less expensive vehicles, because it "may result in substantial reduction in the cost of manufacturing vehicle power plants."

The bureau cited in its announcement a Cornell Aeronautical Research Laboratory study showing that at speeds over 80 miles per hour, 509 of 2,948 "unbelted exposed persons," or 17.3 per cent, were killed. However, it offered no evidence to suggest how its proposed masking of speedometers above 85 miles per hour, or the sounding of horns and blinking of warning lights in the 81-85 miles per hour range, would reduce crash losses.

A forerunner of the new proposal was the bureau's 1967 "advance notice" of intent to publish a speed control standard for new vehicles. Response to the notice was almost entirely from auto manufacturers and muscle car proponents — and was almost entirely in opposition. This contrasted with the results of a CBS television poll, conducted the same year, showing that 52 per cent of 1,081 surveyed drivers would favor built-in speed-limiting devices.

Evidence that 95 miles per hour would be excessively high for such limits was contained in a little-publicized NHTSB report released in early 1969 and entitled, "Maximum Safe Speed for Motor Vehicles." (Copies are available on request, for \$1, by writing the Superintendent of Documents, Government Printing Office, Washington, D. C. 20402.) That report, not referred to in the new bureau proposal, pointed out that:

- No maximum posted speed limit in the United States exceeds 80 miles per hour. (Two states, it reports, have no posted limits.)
- Based on an examination of crash data in one surveyed state, "fatalities might be reduced in the order of 13 per cent if the speed maximum were set as low as 60 miles per hour," and with a 70 mile per hour maximum, an "eight per cent (fatalities cut) might be achievable" — but for crash speeds above 80 miles per hour, available data are "inadequate for the purpose of quantifying hazard-casualty-speed relationships." (The report noted that an eight per cent reduction in fatalities for the nation because of a 70 mile per hour speed maximum would mean 4,000 lives per year.)
- Even for a "fully restrained occupant who has been packaged to provide large areal distribution and controlled acceleration rates of the crash forces up to a peak of about 40 G's" — such as with an effective air bag system — the "maximum crash speed that can be tolerated without exceeding the human injury threshold . . . (is) about 85 miles per hour." (G forces experienced by an occupant in a 95 mile per hour crash would be 25 per cent greater than in an otherwise identical crash at 85 miles per hour.)
- The "majority of foreign cars" — but "only two domestic models" — surveyed in the report had maximum speed capabilities lower than 90 miles per hour.

A major contributor to the 1969 report was Col. John Stapp, a bureau official reknowned for his research in high-speed crash survivability.

A vehicle speed performance ceiling above 90 miles per hour, Stapp said in the report, would be "a gratuitous promotional extravagance and a total waste for the law abiding consumer." Stapp urged — and the report concluded by recommending — that the bureau adopt a standards-making strategy "to control (speed) at 90 miles per hour as a beginning and work down as public acceptance grows and more evidence is gathered to show the additional payoff at lower maximum speeds."

Comments on the proposal (docket 1-19) may be sent to: Docket Section, National Highway Safety Bureau, Room 4223, 400 Seventh Street, S.W., Washington, D. C. 20591. Closing date for comments is Feb. 26, 1971.

DOT'S BUMPER RULE WOULD LEAVE ROLE FOR STATES

The Department of Transportation's proposed bumper standard would not preempt states from enacting and enforcing laws requiring that cars withstand damage in low speed crashes.

In announcing its standard plan late last month, DOT's National Highway Safety Bureau said that "recent legislative activity at the state level concerning vehicle bumpers has raised questions concerning the extent to which this federal standard would preempt state laws on the subject." (Florida has passed a law requiring that cars manufactured for sale in the state beginning in 1973 be warranted as damage-proof in low speed crashes, and other states are considering similar legislation.)

In response to these questions, the bureau pointed out that the National Traffic and Motor Vehicle Safety Act of 1966 "requires any state standard dealing with the same aspect of performance as the federal standard to be identical to the federal standard to the extent that it regulates the same vehicles This (bumper) proposal would establish requirements for the impact resistance and the configuration of front and rear vehicle surfaces, and any state standard dealing with those aspects of performance would be under the restrictions" of the act.

The bureau's statement, contained in the preamble to its rule proposal, seemed to suggest that state laws such as Florida's would be in conflict with the standard. But that is neither what the statement meant nor, apparently, was intended to mean. The 1966 act and its legal history since adoption support the conclusion that state laws governing property damage in crashes could not be preempted by the standard.

The 1966 act (section 103(d)) says only that when a federal vehicle safety standard is in effect, no state has "authority either to establish, or to continue in effect . . . any safety standard applicable to the same aspect of performance of such vehicle." (Emphasis added.) The act:

- Does not affect state property damage laws or rules, because the DOT is forbidden from setting vehicle standards to reduce property damage and resulting dollar losses in crashes. Its proposed bumper standard would protect a limited range of occupant safety features of cars, but wouldn't set property loss limits of any kind. (See Status Report, Vol. 5, No. 21, Dec. 1, 1970.)
- Does not prohibit states from setting laws or rules governing different aspects of vehicle safety than those covered in federal standards. In 1969 a federal court decision recognized the right of two states to regulate a Chrysler Corp. headlight design, despite the existence of federal lighting standards. The U. S. Court of Appeals for the Second Circuit held that "state regulation of a different aspect of performance does not conflict with the federal scheme; rather, it seems to have been contemplated as a contribution to the 'execution of the full purposes and objectives of Congress.'" In the case, DOT had urged the court to reach this conclusion. (For details, see Status Report, Vol. 5, No. 1, Jan. 15, 1970.)

The potential role for states if DOT adopts its proposed bumper standard was perhaps best spelled out by NHTSB Director Douglas Toms in a press conference statement reported by Automotive News. Asked whether the federal standard would "preempt the bumper design area from states passing differing legislation on bumpers with an eye to reducing repair rates and collision insurance costs," Toms was quoted as replying:

"If a state wanted to get tough about it, it probably could write its own law. The federal standard only preempts the field as it regards safety. The states are very sovereign in the area of controlling commerce within their borders."

NADER PUSHES FOR BEEFED-UP CONSUMER INFORMATION PROGRAM

Ralph Nader has urged the National Highway Safety Bureau not to abandon any of its proposed consumer information regulations. In a letter to NHTSB Director Douglas Toms, he said it "appears that the NHTSB has taken steps to discontinue rulemaking on a number of these regulations."

Nader asked that the bureau instead strengthen its consumer information program by designating a specific office and staff "to be responsible for development, enforcement and publicity" of the regulations, rather than continuing "its present status of merely another function of the already overburdened engineering staff."

"Not until the true safety value of a vehicle is revealed and made widely known can it be expected that the public will buy a vehicle primarily on the basis of its safety qualifications," he said.

Under consumer information regulations, auto manufacturers are required to furnish various performance data on each of their new car models both to car shoppers and to the bureau. The latter is supposed to disseminate it among the public. Nader's letter cited nine consumer information regulations proposed in 1968 and one proposal added this year:

Three already in force cover braking, tire reserve loads and acceleration and passing.

Two others are listed in the 1970 "Program Plan for Motor Vehicle Safety Standards" as being "on their way to final issuance," Nader said. They cover performance of passenger cars and multi-purpose vehicles when towing trailers and field of view for drivers. He said it was his "understanding," however, that "a decision has been made to discontinue the field of view regulation and issue it as a motor vehicle safety standard, primarily because it might be too complicated for some consumers to understand."

Nader said, "This argument should be rejected on the basis that the issuances of the bureau should not be made to conform to the least capable interested party — either consumer or manufacturer."

The 1970 master plan listed three regulations as "terminated," covering lateral intrusion, roof intrusion and material flammability.

Two other proposals are not mentioned in the plan as either active or terminated: illumination and glare produced by headlamps, and steering ratio.

Nader asked why some proposed regulations had been terminated, "why there was no press release or explanation to the public" and what the bureau is planning in the way of future consumer information regulations.

He said he also "would appreciate an explanation of the bureau's compliance activities to enforce these regulations. For example, have any violations been found to date? What percentage of the marketplace has the bureau tested for conformance?"

NHSB STAFF USE OF "TEST CARS" PROMPTS SENATE QUERY

The chairman of the Senate Commerce Committee has asked Transportation Secretary John A. Volpe for full details about a program — "which, I understand, has not been publicly announced to date" — under which bureau personnel are testing "under routine driving conditions" cars supplied by manufacturers.

In a letter to Volpe, Sen. Warren G. Magnuson (D-Wash.) said he understood the cars are models "equipped with innovative safety components."

Sen. Magnuson's letter requested that the secretary furnish the committee a full list of the cars supplied for road testing, the "safety or other experimental equipment present on each," the names of all bureau staff members who have used the cars and — if the cars are or have been driven "for off-hours in-use testing" — the "exact circumstances under which those staff members have been directed or permitted to drive the vehicles."

The senator asked Volpe for the financial terms of the road testing program "including the per diem rental rate, if any, paid by the bureau for each vehicle."

He said he also wanted to know "the appropriations and authorizations items from which these funds were drawn and the total cost of the program to the bureau both over its full life and on a month-by-month basis up to the present."

He asked which office in the bureau is "directly responsible for administration of road testing of these vehicles." He said Volpe should also give the committee an evaluation of the program and its results and "your general view as to whether you expect to continue with this program."

MANUFACTURERS' WARRANTY CUTS MAY UNDERCUT DEFECT NOTIFICATIONS

A Senate committee may examine the implications of auto manufacturers' cuts in warranty periods on the defect notification provisions of the National Traffic and Motor Vehicle Safety Act of 1966.

Under the act, manufacturers are required to notify by certified mail the first purchaser or any subsequent purchaser "to whom has been transferred any warranty" when a safety defect is discovered in a model. The act does not require such notification of second owners who bought their cars after its warranty expired. A manufacturer, by shortening his warranty, can correspondingly lessen his statutory obligation to notify subsequent purchasers.

In 1966, when the act was adopted, most cars were covered by five year or 50,000 mile warranties as the result of a "warranty war" among manufacturers during the earlier half of the decade. Such warranties, covering about half the average life of a car, could be assumed by second and third purchasers if previous owners of the cars kept their warranties in force.

Under warranty limits set for most 1971 models, the protection period has been trimmed to one year or 12,000 miles for most cars. An exception is Volkswagen, which maintains a two year, 24,000 mile warranty on its 1971 cars.

The five year warranty limitations prevalent in 1966 were major considerations in drafting the notification provisions of the act. The manufacturers' warranty files provided a fairly reliable set of records on car owners over half of the average car life.

Now, however, records of car owners reflected in warranty files will be limited to one year from the time of first purchase. Any car resold after one year will not be subject to defect notification under the law.

Considerations such as these have prompted staff members of the Senate Commerce Committee to plan raising the issue during highway safety hearings early in the 1971 session of Congress. The Commerce Committee has jurisdiction in the Senate over the National Traffic and Motor Vehicle Safety Act of 1966.

STUDY RAPS VERMONT BOOBY TRAPS

A study of roadside hazards in Vermont — the first of its kind on the state level — shows that unyielding sign posts, rigid light poles, spear-like guardrails and other roadside obstacles have been responsible for "between a third and a half of Vermont's highway fatalities over the past 20 years."

The study recommends a countermeasures program including identification, placarding, reporting and correcting of needlessly lethal booby traps.

The project was carried out by Drs. Julian A. Waller, an epidemiologist and widely known loss reduction researcher, and Lawrence S. Harris, Vermont's chief medical exam-

iner, and medical student John J. Oprendeck, Jr. Waller and Harris are on the community medicine faculty of the University of Vermont.

Their study, entitled, "Booby Trapped Highways in the Beckoning Country," draws from newspaper files and crash reports to show a history in Vermont of fatalities associated with cars crashing into such structures. It includes photographs of hazards that were left on roadsides even after killing and maiming people in crashes. The study points out that remedies are commonly available in the form of various energy absorbing or vehicle deflecting devices that could be substituted — often at less cost to build and maintain — for the death dealing obstacles.

The study scores several state institutions for lack of appropriate attention to roadside hazards. These include state highway and local road maintenance agencies, the state legislature for failing to provide adequate funds and the mass media for its lack of emphasis on the problem.

The study notes that in 1969 some 50 of the 144 highway deaths in Vermont involved crashes with roadside obstacles. "More important," it adds, "in most of these fatal crashes and in non-fatal crashes as well — at least one and sometimes several other people were severely injured. Many of these people, although still alive, have permanent disabilities as a result"

To rid the state of these hazards, the study recommends:

- Placarding of known hazards by state highway officials, pending their removal or correction, to alert the public to the magnitude of the problem; (A proposal for nationwide placarding of hazards has been advanced by Joseph Linko, a New York authority on the boobytrap problem, in testimony before a House Public Works subcommittee);
- Development of a statewide system to identify and record exact locations of crashes and a continuing review of crash records to identify sites needing booby trap correction, requiring full cooperation from state and local police;
- Introduction of a standard crash reporting form for police, including provision for identifying contributing roadside hazards;

HOLIDAY SCHEDULE

Because of the Christmas and New Year holidays, Status Report will not be published January 1. Publication will resume Jan. 15, 1971, with Vol. 6, No. 1.

- State legislation to require closer coordination between state and local governments in "all phases of development and maintenance of the road and surrounding environment";
- Inventorying of all public roads in the state to identify hazardous areas;
- Setting by state highway officials of timetables for correction of known hazards and wide publicizing of the timetables.

"We believe that these recommendations are economically, technologically and organizationally feasible now," the study concludes. "Rural areas — including Vermont — have traditionally had much higher death rates from highway injury than have their urban counterparts. This deadly situation need not exist any longer."

The study was carried out under a grant from the Insurance Institute for Highway Safety. At a Vermont news conference announcing results of the study, the Institute's communications vice president, Albert Benjamin Kelley, said he hoped it would "inspire similar studies by health and highway safety workers in other states where citizens are daily being killed and crippled when they smash into needlessly placed hazards along the edge of millions of miles of publicly funded highways."

Copies of the report may be obtained from Dr. Waller, Associates in Community Medicine, Given Medical Building, University of Vermont, Burlington, Vermont, 05401.

ORAL SURGEONS' SURVEY SEES NEED FOR CHILD TRANSPORTATION SAFETY

A survey of oral surgeons has shown that during a one year period almost 16,000 school age children were treated for facial or dental injury "which may have been avoided if seat belts or other safety measures had been used."

The study was conducted by the Committee on Public Information of the American Society of Oral Surgeons under the direction of Dr. Harold E. Young of San Francisco, committee chairman, and Dr. Stanley J. Behrman of New York, committee vice chairman.

The survey, taken for the period September 1969 through August 1970, also concluded that more than 1,350 children received "severe facial and/or dental injuries requiring treatment by an oral surgeon as a direct result of school bus accidents."

The ASOS committee noted that "in 98 per cent of these (school bus crash) cases the oral surgeon indicated that the injuries could have been less severe or avoided entirely had seat belts or other safety measures been used." It added, "Seat belts or other safety devices were apparently required in only 3 per cent of the communities surveyed."

The ASOS figures were totals projected to the society's full membership on the basis of survey responses by 1,186 oral surgeons, or about 63 per cent of the society's membership. Non-member surgeons were not included. About 94 per cent of the nation's oral surgeons are members.

Results of the survey have prompted the society to adopt a policy to "seek to obtain better safety measures in modes of public transportation, and in particular school buses, by bringing to the attention of the appropriate federal, state and municipal officials the incidence of facial and dental injuries resulting from school bus and other public transportation accidents."

NAMBO: SPRAY PROTECTORS 'MINIMAL BENEFIT'

The National Association of Motor Bus Operators, representing 90 per cent of the nation's intercity bus owners, has told the National Highway Safety Bureau that buses should be exempted from the bureau's proposal to require tire spray protectors on vehicles.

The bureau's proposal would require the protectors on passenger cars, multi-purpose passenger vehicles, trucks, buses and trailers by Jan. 1, 1972, to reduce the hazard created by wheels throwing water spray and road surface debris on the windshields of following or passing vehicles.

"Spray protectors could of course be installed on intercity buses," NAMBO says, "but we question whether the considerable expense that would be involved is worth the minimal benefits to be realized."

Bus owners are evidently aware of the hazard created when water spray obstructs vision in their own vehicles: "Intercity buses are now equipped with spray deflectors on the front wheels, which keep the rear view mirror and (bus) driver's windows clean," NAMBO told the bureau.

The bus owners have also said that the spray shields the bureau proposes would hinder a driver's pre-trip wheel inspection and could be torn off when snow chains are used.

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ALCOHOL COUNTERMEASURES PUBLICATIONS AVAILABLE — The National Highway Safety Bureau has outlined its campaign to combat the abusive drinker who drives in two publications, both entitled "Alcohol Safety Countermeasures Program."

One is a 114-page detailed description of the program, the other a 12-page "overview." Both are available without charge by writing the bureau's Office of Alcohol Countermeasures, 100 Seventh Street, S.W., Washington, D. C. 20591.

CRITTENDEN LEAVES BUREAU POST — Bradford M. Crittenden, NHSB's Associate Director for Highway Safety Programs since 1967, has resigned to become director of the bureau's Region Nine (California, Arizona, Hawaii and Nevada).

He will be succeeded by James E. Wilson who served under Crittenden as head of State and Community Comprehensive Programs.

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