

Insurance Commissioners Criticize Vehicle Design

The National Association of Insurance Commissioners (NAIC) has adopted a report highly critical of auto manufacturers for "vehicle design deficiencies [which] have exacted substantial needless human and property damage penalties from consumers, insurers, and society." The report by NAIC's Automobile Insurance Committee concluded that "automobiles are being designed to just barely meet the most minimal standards and [are] vulnerable to high damageability in collisions which involve any but the very low speeds," and suggested that "the automobile manufacturers are quite resistant to significantly improving the damageability characteristics of their automobiles."

The NAIC study was undertaken to determine what steps the insurance industry can take to control the rising "underlying costs" of automobile insurance. The report identified several major factors which it said affect insurance costs, including poor vehicle damageability and crashworthiness design, lack of adequate occupant protection, high repair costs, and highway design and maintenance inadequacies.

BUMPER PROBLEMS CITED

The report cited "the current inability, or unwillingness, of manufacturers to design a bumper system which will eliminate damage in low-speed, real-world accident situations" as an example of what NAIC considers overall poor vehicle design for damageability. Although NAIC believes the federal performance standard for bumpers to reduce economic damage in low-speed impacts, whose first phase will take effect on 1979 model cars, should bring about a reduction in property damage, the report said, manufacturers' response to that effort to improve damageability suggests "the battle against high repair bills stemming from low-speed accidents is by no means over Clearly, in complying with that standard, manufacturers seem to have chosen to design bumpers to meet the letter rather than the spirit of the law, because the result was, in many instances, needlessly cumbersome, complex, heavy, and expensive bumper systems which, while meeting the rather lenient compliance test criteria, produce an inordinately high cost of repair in crash situations just slightly above 5 mph. Thus, while claim frequencies were reduced as a result of the . . . [current] 'safety bumper,' the manufacturers' design decisions frustrated the hoped-for significant insurance cost savings."

A "significant proportion" of the costs of motor vehicle crashes (estimated by NAIC at more than \$30 billion in 1977) "can be attributed to the lack of crashworthiness of the vehicle design and the lack of adequate occupant safety features," the report said. It pointed to studies by the Insurance Institute for Highway Safety on the relationship of vehicle size and weight to the level of injuries and fatalities sustained by vehicle occupants, and noted "the desirability of relatively sizable but not heavy vehicles" for occupant protection. However, because NAIC believes the current trend toward small cars is likely to continue, "improved occupant protection is absolutely essential."

(Cont'd on page 2)

MORE OCCUPANT PROTECTION URGED

Although DOT's requirement for passive occupant restraint systems may "prove to be the biggest lifesaver and injury reducer in the history of our nation's auto safety efforts," the NAIC also called for "continued improvement of occupant protection . . . through strengthening of the occupant compartment."

"The [insurance] industry's most significant achievement" in its efforts to contain the underlying costs of auto insurance, NAIC said, "has been the founding and financial support of the Insurance Institute for Highway Safety." The report cited IIHS research into the "causes of human and economic damage arising from the use of motor vehicles and their crashes" and IIHS work to "identify ways to reduce the resultant losses." Other examples of industry efforts to find ways to control underlying insurance costs are the systematic analyses of insurance losses by vehicle make, model, and year, particularly the analyses done by the Highway Loss Data Institute and Allstate Insurance Co., NAIC said. Such analyses will permit the development of more equitable rating plans in which "those insurers selecting less injury or damage prone automobiles [could] pay lower premiums and vice versa."

The report recommended that the insurance industry use its "strategic economic position" to ensure that "the automobile manufacturers [are] urged, encouraged and/or compelled to design automobiles with due regard to damageability, repairability, occupant and pedestrian safety." It called on auto makers to provide "passive restraint protection in advance of the Department of Transportation (DOT) deadlines" and urged DOT to "continue to improve passive protection in high speed and other crash modes." The NAIC should also "undertake a closer review of insurance rating plans, current and potential, reflecting car year, make, and model with a view towards possible wider utilization throughout the industry."

Major Bus Company Urges Speed Controls For Trucks, Buses

The Trailways bus company has requested a federal safety agency to adopt a rule requiring that all interstate commercial vehicles be designed so that they cannot travel faster than 57 mph under engine power.

If the rule were adopted, "all commercial vehicles would be controlled at a consistent speed, reducing highway speed differentials and hence reducing accidents," Trailways vice president D. Wayne Strout said in a petition to Joan Claybrook, administrator of the National Highway Traffic Safety Administration (NHTSA). In addition to reducing the number of motor vehicle-related deaths and injuries, the measure would conserve fuel, he said.

Strout said his company has tested the use of a road speed governor which "limits the road speed of the bus to 57 miles per hour and is reasonably tamperproof." He said Trailways plans to equip its buses with the governors, which cost "approximately \$75 and can be retrofitted." Such devices have been used by "safety minded fleets" in the past, he said.

Strout explained that the 57 mph figure was chosen to allow a vehicle enough speed to safely pass another vehicle traveling below the 55 mph nationwide speed limit on a two-lane road.

NHTSA is currently considering the petition, an agency spokesman said.

GAO Finds National Driver Register Not Meeting Goals

A tool designed to help states identify driver's license applicants with a record of dangerous driving in other states is not working the way it should, a Congressional study has concluded.

The National Driver Register (NDR), which is maintained by the National Highway Traffic Safety Administration (NHTSA), lists names, supplied on a voluntary basis by the states, of drivers whose licenses have been revoked or suspended for moving violations – in most cases for alcohol-related offenses.

The study, conducted by the General Accounting Office (GAO), contends that some states consult the register only to a very limited degree, if at all, in deciding whether to grant licenses. The GAO said that in 1976, for example, Florida made 10 inquiries of the register; New York, 802; and California, none. Texas, on the other hand, made almost 3.5 million inquiries, the study noted. It also said that, according to NHTSA officials, federal agencies don't always consult the register before issuing government driver's licenses to their employees.

INFORMATION FOUND INCOMPLETE

The study noted the following reasons given by licensing officials for not checking if applicants' names are on the NDR:

- NDR information is incomplete. If an applicant's name is found on the register, the accompanying identifying information is inadequate to ensure that the applicant is actually the person listed. Before a state can take action on register information, it must be verified by contacting another state licensing authority, the GAO noted. "Some states do not provide the full names, dates of birth, or all of the physical characteristics of the individuals," it said.

The study also noted that register information may be outdated because, in many cases, the states have not heeded NHTSA's request to provide the dates drivers are eligible to have their licenses restored, and the dates their licenses actually are restored.

In addition, the GAO reported that licensing officials have said they have submitted incomplete information to the NDR because of state restrictions on the submission of certain information to the federal government. Some state laws prevent the submission of the reasons for withdrawing driving privileges, the study said.

- Processing data for the NDR program costs too much, and NHTSA's response to inquiries takes too long.

- Information on the register sometimes can be obtained elsewhere. For example, the driving records of out-of-state applicants can be checked directly with their home states.

- State privacy laws preclude the use of register information, licensing officials have said.

EVIDENCE FOUND OF EFFECTIVE REGISTER USE

The NDR "has undoubtedly assisted some states and other licensing authorities with their highway safety programs," the GAO said. It noted that inquiries of the register increased from less than a million in

1962 to more than 25 million in 1977, and that “probable matches” between applicants and names on the register increased from less than 6,000 to more than 216,000 in those years. But the report cautioned that “because the register data is sometimes incomplete or out of date, additional information is needed to determine if such identifications benefited the states.”

The GAO reported that officials in 12 states estimated that in 1976, about 15,650 licenses either were canceled or denied based on the identification of applicants on the register – indicating that about 20 percent of the identifications sent to the 12 states were used to deny or cancel licenses. It also reported a NHTSA estimate, based on an eight-state survey in 1977, that “about 50 percent of the NDR identifications resulted in positive actions by the states, such as referring individuals to remedial driver programs or denying applicants driver’s licenses.” The study added that “this limited survey was the only attempt made to collect this type of information since 1967, according to NHTSA officials.”

The GAO noted that NHTSA is taking steps to shorten response time to inquiries by experimenting with the use of an electronic communication system instead of the mail service. The agency has scheduled a demonstration program for the system for 1981, and plans to offer it to the states should the program prove successful, the study said.

However, the GAO concluded, NDR officials have “done little” to periodically review the effectiveness of the register. It recommended to Transportation Secretary Brock Adams that he require NHTSA to make a comprehensive evaluation of the NDR in order to improve it – noting that such an evaluation has not been made since the system was adopted in 1961.

Stressing the need for “up-to-date, essential data,” the GAO also recommended that NHTSA be required to issue instructions to the states describing specifically what information they should submit to improve system effectiveness and how often they should submit it. “These instructions should emphasize to the states that, to a large degree, the driver registration system can only be as effective as they wish to make it.”

NHTSA officials generally concurred with the study findings, and are planning a review of the NDR, the GAO reported.

LITTLE USE BY LARGE STATES

In a letter to NHTSA Administrator Joan Claybrook, Dominic J. Cornella, president of the Federation of Insurance Counsel (FIC), also urged the agency to step up its efforts to make the register more effective. Cornella noted that New York, Florida, California, and Massachusetts, whose residents comprise almost 25 percent of the driving population, make either “limited or no use” of the NDR. Cornella wrote that “our review of the literature indicates that the federal government has not provided any solid evidence to these individual states that . . . their non-use of the register has led to injuries and deaths . . . Such evidence would go a long way to convince the state officials to use the register, not only to reduce injuries and deaths, but to reduce liability claims” against the states.

In letters to the governors of the four states, the FIC warned that a state could be found liable for failing to use the register if a driver, who should not have been granted a license because of information contained in the register, is involved in a crash. The FIC noted that in a recent New York case, *Southworth v. State*, the court found the state liable for damages caused by a driver in a car crash on the grounds that his license was issued in violation of state law.

— Conference Committee Reaches Agreement —

Air Bag Funds Limited, But Research Is Approved

A Congressional conference committee has accepted an amendment to the Department of Transportation (DOT) appropriations bill for fiscal 1979 that is intended to block air bag progress, but also has approved another amendment providing that the legislation “does not prohibit the use of funds for any research and development activity relating to occupant restraint systems.” The first amendment, originally introduced in the House by Rep. Bud Shuster (R.-Pa.), would bar spending for enforcement of standards requiring any vehicle occupant restraint system other than a safety belt system (see *Status Report*, Vol. 13, No. 8, June 15, 1978). The limitation later was deleted from the bill by the Senate Appropriations Committee.

Conferees restored the funds limitation, but also restored the House amendment offered by Rep. Silvio O. Conte (R.-Mass.) to permit DOT freedom for continued research and development of passive restraints. The conference committee report made this explanation of the Conte amendment: “The conferees intend that the language of this provision permits broad research and development activities related to the provisions of occupant restraint standard No. 208. Where a regulation is final and must be met by manufacturers at a fixed future date, the Secretary’s activities must be realistically and broadly construed. The Secretary is expected to perform and report the findings of his diverse actions, including validation studies, investigations, and assessments, to maximize the regulation’s effectiveness and reliability.”

The DOT occupant-protection standard has been incorrectly referred to in Congressional debate by Shuster as “the mandatory air-bag passive restraint regulation.” Actually, DOT has only ruled that starting with some 1982 models new automobiles must be designed so that in serious front and front-angle crashes the severely injurious forces reaching front-seat occupants must be much lower than they are now. This is to be achieved automatically (“passively”) without any action, such as fastening a belt, on the part of the occupants. DOT has left entirely up to the automobile manufacturers how they choose to meet this *performance* standard, and has not required any specific type or design of equipment, whether passive belts, air bags, or any other approach meeting the crash-force-reduction requirement of the standard.

Seat Belt Use Found Low Among Drinking Drivers

A study of the effectiveness of a mandatory seat-belt law in Denmark has produced evidence that auto drivers and passengers under the influence of alcohol use safety belts far less frequently than nonintoxicated vehicle occupants.

During the period of the study, 64 percent of front-seat occupants in road surveys were found to use seat belts. The study also found that only 17 percent of those in fatal crashes with a positive blood alcohol concentration had been using belts whereas 44 percent in fatal crashes with no blood alcohol were using belts.

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Jorgen B. Dalgaard, professor of forensic medicine at the University of Aarhus, who conducted the study, observed, "This result has important implications on prophylaxis, inasmuch as intoxicated drivers are not only more likely to be involved in accidents, as well known, but they are, as demonstrated, also more likely to omit the use of restraint, whether compulsory or not. Furthermore, intoxicated victims of accidents are exposed to special risks due to increased tendency to internal and external hemorrhages, delay in diagnosis, complications in anaesthesia and medication, and a protracted and complicated postoperative course."

Denmark's seat-belt law became effective in 1976. "We found, as did others, that it was not possible by means of education and propaganda alone to raise the frequency of belt usage above 25 percent," explained Dalgaard. Though no penalties were imposed during the first three months of the new law, belt use was found to climb to 50 percent. Observations at a number of street and highway checkpoints later found belt use had reached 87 percent.

The Danish study, "Experiences With the New Seat-Belt Law" by Jorgen B. Dalgaard, is included in the proceedings of the Sixth International Conference of the International Association for Accident and Traffic Medicine, held in Melbourne, Australia, Jan. 31 through Feb. 4, 1977. Copies of the proceedings are available from Dr. G. W. Trinca, Chairman, Road Trauma Committee, Royal Australasian College of Surgeons, Spring Street, Melbourne, 3000, Australia.

'Weak Impact' Of Norway's Drink-Drive Laws Analyzed

Norway's tough drinking-driving laws have had at best "only a very weak impact" on reducing the presence and levels of alcohol in drivers involved in accidents, the head surgeon of a Norwegian hospital has reported.

Analyzing the results of two studies of blood alcohol concentrations in drivers admitted to hospitals following crashes, Olav Bø, head surgeon of the Central Hospital of Rogaland, Stavanger, Norway, said that because of the findings, "The halo around Norwegian traffic-alcohol legislation becomes severely tarnished The outstanding findings of those investigations is that accident-involved drivers had drunk *very heavily* prior to their accidents, and it may be regarded as highly probable that alcohol was a major cause of the accidents in those cases."

Norway's drinking-driving laws contain a statutory limit, in force for more than 40 years, of 0.05 percent blood alcohol concentration (BAC), in contrast to the much higher 0.10 percent BAC endorsed by the U.S. government for state drunk-driving statutes in this country. The Norwegian law also imprisons, for a minimum of 21 days, anyone found driving with a BAC in excess of 0.05 percent. Drivers refusing to submit to BAC tests receive mandatory suspension of license for two years.

The two studies analyzed by Dr. Bø were carried out in 1972 and 1973. In one, a group of injured and hospitalized drivers from crashes in the Oslo area was sampled for BAC's and the findings were compared to those for a group of comparable non-accident drivers not seeking medical care and having no advance knowledge that their BAC's would be measured.

"Ethanol intoxication was found in 45.9 percent of accident drivers, i.e., those drivers had a higher blood alcohol level than the statutory limit of 0.05 percent," Dr. Bø said. But among the compared non-accident drivers, he said, only 3.4 percent had ingested alcohol before driving. For the crash-involved drivers "under the influence of alcohol," Dr. Bø also found, about half had concentrations at or above the extremely high level of 0.2 percent.

In the second study, at the regional hospital in Trondheim, 168 crash-involved drivers admitted as in-patients with head injuries were surveyed; "44.6 percent were proved to be under the influence of alcohol," Dr. Bø said.

SHARP CONTRAST BETWEEN GROUPS

Dr. Bø noted that while other Norwegian studies have shown very small incidences of alcohol influence for drivers *not* involved in crashes in Norway, the two cited studies make clear that "among accident-involved drivers, there is a pattern of pre-accident drinking quite different" from the former group. "Although Norway's present alcohol countermeasures do have an inhibiting influence, at least generally speaking, on the average non-accident driver, the facts show that those countermeasures are not at all effective against heavy drinking among accident-involved drivers. The possibility thus exists that those drivers represent a high-risk group, toward which another type of drinking-preventing measure may be necessary," Dr. Bø concluded.

A 1975 study sponsored by the Insurance Institute for Highway Safety found that another, similarly tough Scandinavian drinking-driving law was not having the effect claimed for it. The Swedish and Norwegian laws, the study found, was associated with no significant changes in the number or rate of fatal motor vehicle crashes. The study concluded that because of the laws, several thousand people annually "waste their time in jail in honor of a plausible but fundamentally unsupported hypothesis." (See *Status Report*, Vol. 10, No. 9, April 28, 1975.)

Referring to the Institute-supported study, Dr. Bø said that its criticism of the Scandinavian approach "may be just and appropriate . . . genuine scientific evidence of the effectiveness of Scandinavian drinking-driving legislation is still lacking." So far, Dr. Bø concluded, there "still exists a serious alcohol problem in Norwegian road traffic."

Dr. Bø's analysis was contained in his article, "The Enigma of the Present Evidence on Drinking-Driving in Norway," in the *Journal of Traffic Medicine*, Vol. 6, No. 1, March 1978.

UPDATE . . .

OMNI/HORIZON HANDLING FOUND SAFE: The National Highway Traffic Safety Administration (NHTSA) has reported that its evaluation of the Dodge Omni and the Plymouth Horizon found no evidence of a safety problem in the subcompacts' handling and stability. NHTSA made the evaluation after Consumers Union (CU) reported that two types of handling tests it conducted on the Chrysler vehicles produced evidence they are unsafe because they exhibited "unpredictable and possibly dangerous handling during some abrupt maneuvers" (see *Status Report*, Vol. 13, No. 9, June 29, 1978). NHTSA said that in its own tests, the particular handling responses reported by CU were "essentially duplicated."

In addition to the Omni and the Horizon, the safety agency said it tested 13 other cars representing 3 U.S. auto makers and 5 foreign models. "Some of the other cars exhibited responses similar to those of the Omni/Horizon in the two CU tests," NHTSA explained. However, the agency said that neither the tests used by CU nor the results of those tests "seem to have any material significance" to handling characteristics that would affect the safety of the Chrysler vehicles in real-world use. The agency said it conducted three handling tests in addition to the two CU tests, and reported no safety problems in the Chrysler subcompacts' handling.

Manufacturers Held Liable For High-Speed Tire Failure

A Louisiana federal judge has handed down a decision that could have far-reaching implications in the area of auto safety. In a case brought against Ford and Goodyear, the judge found that both manufacturers should be held liable for the failure of a tire whose high-speed blowout resulted in the death of one person and serious injuries for another.

“[T]he Goodyear tire and the Mercury automobile on which the tire was mounted were unreasonably dangerous for normal use,” the judge declared. The car, capable of doing more than 100 mph, had been equipped with tires not tested beyond 85 mph.

According to testimony, at about 5 a.m. on June 6, 1976, Shelby Leleux and Floyd Dugas climbed into Leleux’s 1976 Mercury Cougar and headed for a dance in Riceville, Louisiana. The record indicates that “both men had been visiting and drinking in several bars” in Kaplan, a small town located southwest of Baton Rouge in the Louisiana lowlands.

CAR PUSHED BEYOND 100 MPH

About a mile out of Kaplan, on a straight, flat two-lane highway, Leleux pushed the Cougar, equipped with a 460-cubic-inch engine, to speeds “in excess of 100 mph,” at one point “burying” the needle, according to his companion. The speedometer on the Cougar could register a maximum speed of 140 mph.

“Approximately 10 miles from Kaplan or less than 6 minutes later, Dugas heard a small explosion, followed by a thumping sound, which seemed to emanate from the left rear of the car,” said the record. Some 511 feet later, 25-year-old Leleux was dead and Dugas had a ruptured bladder, fractured pelvis and clavicle, and other serious injuries.

According to Ford’s testimony, HR78-15 Goodyear custom power radial tires are standard equipment for the Mercury Cougar. “Examination of the left rear tire after the accident revealed that the tread of the tire had separated from the carcass,” said the judge.

FEW TIRES TESTED AT HIGH SPEEDS

Testimony showed that under Department of Transportation regulations, the top speed at which manufacturers are required to test tires is 85 mph. Goodyear randomly selects tires for further testing at speeds of 95 and 100 mph. However, according to a Goodyear representative at the trial, about 10 percent of these tires do not survive the 100 mph test.

Following the crash, Leleux’s blood was found to contain 0.18 percent alcohol, almost twice the “impaired” limit of 0.10 percent. While the court found that “Shelby Leleux was negligent in operating his vehicle at an excessive speed,” the actual cause of the accident was “the sudden separation of the tread from the carcass of the tire.”

“Ford should have foreseen that a significant number of ultimate users of its products would drive their vehicles at top speed,” declared Judge Eugene Davis. “This is particularly true of a sports model automobile such as a Cougar with wide appeal to youthful drivers.”

“Ford, as assembler, was aware of both the design limitations of the tire and the speed capability of the automobile,” he asserted. The judge awarded Dugas \$36,400 and Leleux’s survivor \$36,900.

OTHER COMPONENTS UNTESTED FOR HIGH SPEED SAFETY

The case may have significant implications for motor vehicle manufacturers and suppliers. If auto makers build top speeds of over 100 mph into their cars, will they be held liable for damages incurred when component equipment which has been tested at lower speeds fails?

For instance, if a person is operating a car at night, at speeds in excess of 100 mph, there is some question whether headlights would be bright enough to provide time for the driver to avert impacts with stray pedestrians or slower vehicles on the roadway.

Separately, since many courts have ruled that manufacturers may be held liable for inadequacies in the crash design of their vehicles, (see "Evans Rule," *Status Report*, Vol. 13, No. 1, Jan. 16, 1978), the decision may foreshadow actions based on the claim that the top speeds provided by the manufacturers should not exceed those at which their vehicles provide adequate crash protection. Currently, the top speeds that manufacturers routinely engineer into their cars are commonly at least twice the maximum speed limit of 55 mph.

For further information, see *Duhon v. Goodyear Tire and Rubber Co.*, ___ F. Supp. ___ (W.D. La. 1978, Nos. 76-1191, 76-1323), *appeal filed*.

Motorist Wins Damages For Injuries Inflicted By Guardrail

A New York State Court of Claims judge has awarded \$475,000 to a Brooklyn man permanently disabled in a crash in which he was speared by a wooden guardrail on the Southern State Parkway. Judge Robert Mangum said that the state's Park and Recreation Commission was more concerned about "rustic aesthetic appearances rather than with the design, engineering, and safety of the system."

Richard Lattanzi was critically injured when he attempted to brake his 1973 Ford van on the icy wet parkway to avoid hitting a car which had suddenly slowed in front of him. He lost control of the van, he testified, and it veered into the median barrier at about 35 mph. Lattanzi, only 28 years old at the time of the January 1974 crash, was injured when a wooden crossbeam fractured and separated from its post. It penetrated the van's front grill, passed the engine, and entered the passenger section where it gored Lattanzi's left upper thigh and groin.

According to testimony, the barrier consisted of steel cables strung between wooden posts and sandwiched between wooden cross beams.

A New York State Department of Transportation spokesman said the state is gradually replacing the wooden barriers with steel and contoured concrete. When the New York parkways were constructed in the 1920's and 30's, he said, one of the main concerns was rustic appearance. The parkways were originally designed for touring at low speeds, he said. But even at low speeds, the brittle wooden barriers can become deadly spears in crashes. The judge criticized the park commission for its failure to test wooden guardrails for impact performance, citing a 1972 memo from the state transportation department's Bureau of Research and Development. In it, the bureau warned that passenger compartments of autos could be penetrated by wooden sections in impacts and was critical of the commission's preoccupation with aesthetics rather than consideration of the wooden barriers' performance in crashes.

The court said that Lattanzi had sustained "severe permanent injury" and awarded the claimant \$450,000 for medical expenses, loss of earnings, and other damages. His wife is to receive \$25,000 for loss

of her husband's services. However, a spokesman for the state attorney general's office said the state would appeal the judge's decision. For further information, see *Lattanzi v. State of New York*, Claim No. 58288 (Ct. Cl. N.Y. May 26, 1978), *appeal filed*.

Ford Found Negligent For Lack Of Rear Seat Protection

The Tenth Circuit U.S. Court of Appeals has upheld a Wyoming U.S. district court decision in which Ford Motor Company was found negligent for its failure to provide shoulder harness belts and crash padding for rear-seat passengers.

Currently, auto manufacturers are required to provide only lap belts for rear-seat passengers. Only a small number of foreign auto makers provide shoulder belts for rear-seat occupants as standard equipment.

In the Wyoming case, two women in the rear seat of a 1970 Ford Thunderbird had died of injuries received in a head-on collision with a pickup truck that crossed the centerline. Both women had been wearing lap belts at the time of the collision.

LAP BELTS INFLICTED INJURIES

Because the lap belts were anchored improperly, the court ruled, both women suffered severe abdominal injuries in the 1973 crash. In addition, both women jackknifed in the 30 mph collision, sustaining multiple spinal injuries. One died almost immediately, the other two weeks later.

The jury decided that both women would have survived if they had been wearing shoulder harnesses instead of lap belts. "Ford's expert even admitted that it is common knowledge in the industry that a shoulder harness was capable of minimizing abdominal injuries by preventing violent forward movement," the appeals court declared, "and that a three-point or combined shoulder-lap belt was the most effective restraint system."

"The manufacturer can reasonably be required to make minor and inexpensive changes," the court asserted. "... [W]e conclude that neither the absence of shoulder harnesses in the rear passenger compartment, nor lack of energy-absorbing materials in the backs of the front seats, nor the seat belts set at the wrong angle would be either costly or difficult to modify."

REAR SEAT SHOULDER MOUNTS UNUSED

Although the Department of Transportation requires auto makers to furnish rear seat mounts for shoulder belts, a recent survey of domestic autos failed to uncover any rear seat shoulder belts furnished as a standard item of equipment. With the exception of Cadillac, no domestic car models were found to supply the safety equipment as an optional item. NHTSA had promulgated the standard with the hope that manufacturers would either install the additional rear seat protection for passengers or have shoulder belts available as optional equipment for consumers.

Courts have generally considered federal safety standards to be minimums. Under the Larsen crash-worthiness doctrine (see *Status Report*, Vol. 13, No. 1, Jan. 16, 1978), the court noted "accidents are readily foreseeable in the course of the normal use of the automobile. The automobile's function is to furnish safe transportation to the extent reasonably possible under the present state of the art."

The appeals court noted that Ford had failed to test its vehicles adequately for rear-seat passenger safety. It was also shown that the manufacturer had built its front seats "with reference to tall people,"

providing crash padding only on the upper portion of the backs of the front seats. According to the decision, there was evidence that one of the women “would not have broken her neck had she come into contact with a padded surface.”

Declaring that Ford should have foreseen injury as a result of these defects, the court upheld the lower court’s award of \$350,000 to the estate of one of the deceased women and \$300,000 to the other. For more information, see *Fox v. Ford Motor Co.*, ___ F. 2d ___ (10th Cir. 1978) (No. 76-1636).

Correction

In the seventh paragraph of the article on the Highway Loss Data Institute report on collision coverage losses for 1978 models (*Status Report*, Vol. 13, No. 9, June 29, 1978) the statement should have read: “The increases in average loss payments ranged from 4 percent for intermediates to 14 percent for compact cars [not full-size cars, as printed]”

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Editor: Paul C. Hood

Writers in this issue: Ben Kelley, John Reichard,
Lynne Smith, Rea Tyler

Production: Robin McManus, Diane Schwartz