

Court Delays Bumper Review to Give NHTSA Time to Reconsider

A federal court has granted an unopposed request by the National Highway Traffic Safety Administration (NHTSA) for a delay in judicial review of its bumper standard rollback decision. The agency said it wants the delay to further study a petition by the Insurance Institute for Highway Safety for reconsideration of the rollback.

"The agency's resolution of the issues before it could thus satisfy the concerns of petitioners in these actions and make judicial review entirely unnecessary," NHTSA said in applying for the extension.

Indefinite Deferment Asked

NHTSA filed for a deferment of indefinite length after the State Farm Mutual Automobile Insurance Co. and the Center for Auto Safety had asked the U.S. Court of Appeals for the District of Columbia to review the rollback of bumper test requirements to 2.5 mph from 5 mph. (See *Status Report*, Vol. 17, No. 10, July 22, 1982.)

The Institute asked NHTSA to reconsider its rollback decision in a petition filed with the agency June 15. (See *Status Report*, Vol. 17, No. 9, July 1, 1982.) NHTSA policy requires that a response to the petition be made within 90 days. "Because of the technical complexity of the issues involved," NHTSA has told the federal court, "the Respondents anticipate that the federal agency may require the full 90-day period for consideration of the IIHS petition, which will expire on Sept. 13, 1982."

Neither State Farm nor the Center for Auto Safety opposed the motion for delay, but both insisted that it be limited. "To grant an indefinite stay of these

Auto Makers Appeal Restraints Decision

Three parties that intervened in the recent federal court case that resulted in a decision mandating automatic restraints have appealed to the U.S. Supreme Court to review that decision. Meanwhile, Chief Justice Warren Burger has refused to grant the government an additional 30 days to make an appeal, allowing instead one week — until September 8. (See *Status Report*, Vol. 17, No. 11, Aug. 12, 1982.)

The Motor Vehicle Manufacturers Association, representing domestic auto makers, and the Automobile Importers Association, acting for foreign makers, joined in one petition to the Supreme Court for a writ of certiorari. The second request was made by Consumer Alert and the Pacific Legal Foundation. If four justices agree to the requests, the High Court would call up the record of proceedings from the U.S. Court of Appeals for the District of Columbia.

In asking for the delay to file a government appeal, the U.S. Solicitor General, acting on behalf of the National Highway Traffic Safety Administration, said a decision to appeal had not been reached and extra time was needed. The request was opposed by attorneys for State Farm Mutual Automobile Insurance Co. and the National Association of Independent Insurers.

proceedings on the grounds that Respondent NHTSA might soon decide to reconsider its order, a process which might consume a period of months or even longer, would be to sanction open-ended rulemaking at a time when petitioners are subject to the adverse consequences of the order that they challenge," State Farm attorneys pointed out.

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The appellate court agreed to deferment of the court proceedings until October 25, a date suggested by both State Farm and the Center for Auto Safety. This will give NHTSA more than 40 days after its deadline on the reconsideration petition to respond to the demand for judicial review — if that review is still necessary. Meanwhile, the 2.5 mph standard, remains in effect.

Both the State Farm and the Center for Auto Safety petitions for court review have been consolidated into a single action. Also taking part in the proceeding as intervenors are the Motor Vehicle Manufacturers Association, representing domestic auto makers, and the Automobile Importers of America, on behalf of foreign manufacturers.

Senate Tries to Block NHTSA Funds to Fight Court Restraints Order

The Senate agreed by unanimous consent on August 10 to block the National Highway Traffic Safety Administration (NHTSA) from using any appropriated funds to fight a federal court order requiring automatic restraints in new cars, beginning with the 1984 model year.

The Senate action, in the form of an amendment to a supplemental appropriations bill, was subsequently dropped in conference committee. However, Senate staff members called the amendment an effective move in putting NHTSA on notice that the Senate strongly opposes agency efforts to abandon the automatic restraint standard.

Offered by Senator Danforth

The amendment was offered by Sen. John C. Danforth (R. -Mo.), chairman of the Surface Transportation Subcommittee. Danforth said he offered the amendment to ensure that “congressional funding for NHTSA be used actively in safety programs rather than for fighting in court against implementation of the passive restraint standard.” (See *Status Report*, Vol. 17, No. 11, August 12, 1982.) The U.S. Court of

Appeals directed NHTSA to reinstate the automatic restraint requirement of Federal Motor Vehicle Safety Standard (FMVSS) 208, which had been rescinded by the safety agency last October.

Danforth told colleagues there are indications NHTSA may try to stall compliance with the court ruling by filing continuing motions and pressing for additional appeals.

Can Congress Be Overruled?

The issue, said Danforth, “is whether a federal agency can effectively overrule Congress by accomplishing through administrative rulemaking what Congress has refused to do legislatively.... This is exactly what NHTSA has done, and the U.S. court of appeals has told the agency it is out of bounds.”

Any effort by NHTSA to stall compliance would “only squander public funds, waste judicial resources, and undermine people’s faith in our system of government,” Danforth told the Senate. “If Congress wants to change the passive restraint standard, then it should do so, but it should not allow an agency to expend public monies to filibuster.”

New Marijuana Test Procedure Developed

A highly sensitive and reliable chemical test procedure for detecting the presence of marijuana has been developed by University of Utah researchers, whose work has been supported by the Insurance Institute for Highway Safety.

The research team from the university’s Center for Human Toxicology has reported the test procedure can be performed relatively easily and rapidly by a reasonably skilled laboratory technician with access to modern laboratory equipment. Already the procedure has been applied by the U.S. Army in evaluating urine tests for military personnel.

Copies of the study, “Quantitative Measurement of Tetrahydrocannabinol and Two Major Metabolites in Physiological Specimens Using Capillary Column Gas Chromatography/Negative Ion Chemical Ionization Mass Spectrometry,” by Rodger L. Foltz, Kim M. McGinnis, and Dennis M. Chinn, are available from the Insurance Institute for Highway Safety, Watergate 600, Washington, D.C. 20037.

Reflectors Reduce Night Crashes on Curves

Reflectorized pavement markers on the center lines of sharp curves reduce nighttime crashes by more than 20 percent, and single-vehicle nighttime crashes were reduced more than other nighttime crashes a new Insurance Institute for Highway Safety study has found. Recessed pavement markers last at least twice as long as the raised variety, researchers also noted.

Studying the frequency of crashes at nearly 700 sites in Georgia where the state Department of Transportation had installed reflectorized markers on curves, researchers from the Institute and the Georgia Institute of Technology classified 614 crashes according to the year in which the markers were installed (1975-1977), the year of the crash (1975-1980), and the time of the crash (day or night). The crash frequencies were analyzed in relation to the degree of curvature at the sites and the amount of traffic. "The overall reduction in nighttime fatal crashes... was found to be 22 percent," the researchers said, adding that "the

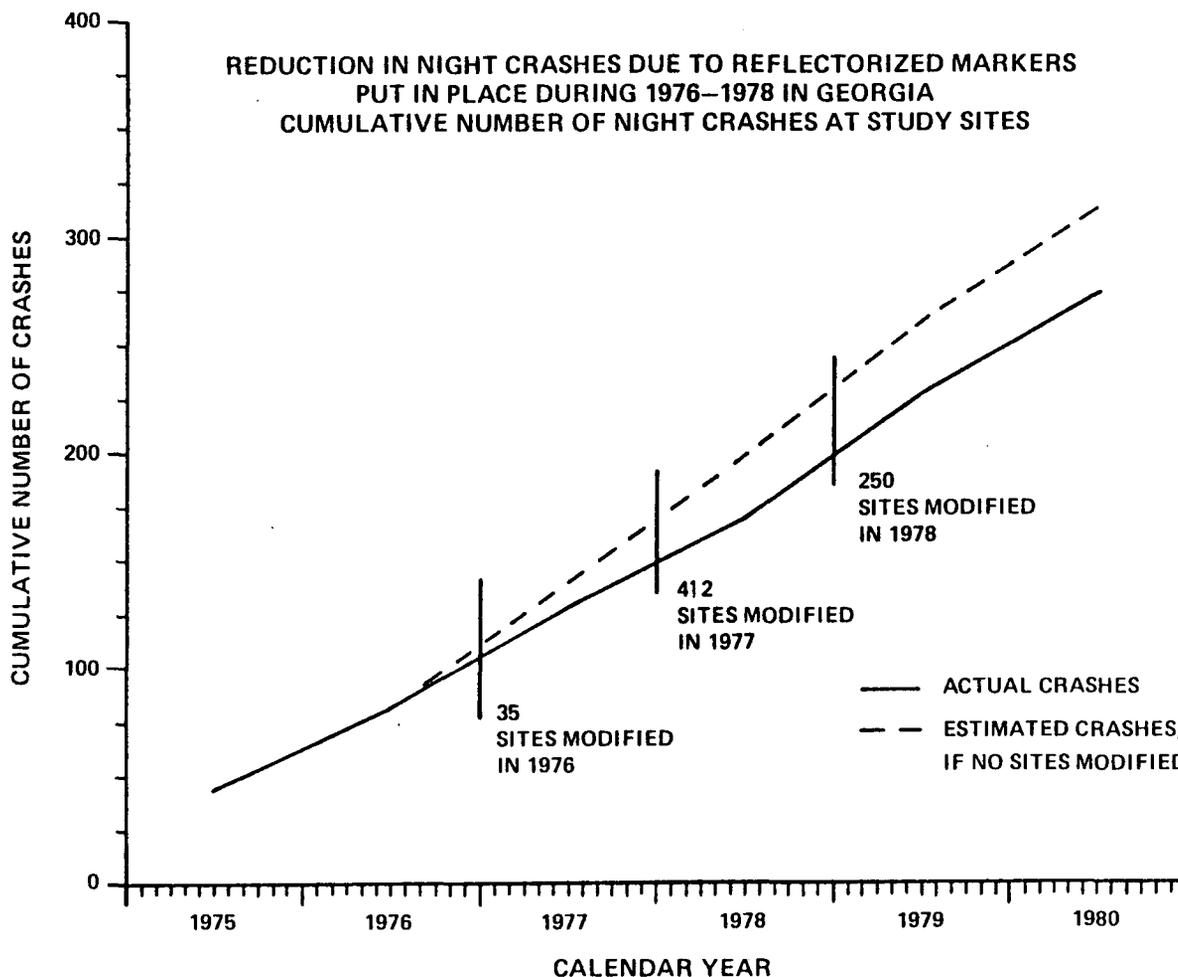
effect of the improvements was independent of both the curvature and the volume of traffic at the site."

The researchers also reported that the installation of reflectorized pavement markers reduced single-vehicle crashes more than other kinds of nighttime crashes. "The reductions in single-vehicle crashes were 37 percent for sites modified in 1976, and eight percent for sites modified in 1977. There was a 12 percent increase for the 1978 modifications. The overall reduction in single-vehicle nighttime crashes compared to other night crashes... was about 12 percent," the researchers said.

These findings follow up earlier Institute work which established the positive association between horizontal curvature and frequency of fatal or injury-producing single-vehicle and rollover crashes. (See *Status Report*, Vol. 11, No. 4, March 3, 1976, and Vol. 16, No. 2, Feb. 9, 1981.)

In a related study of 61 curve sites, "recessed markers were found to outlast raised pavement markers by at least a factor of two in Georgia." Using equa-

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Reflectors Reduce Night Crashes on Curves (Cont'd from page 3)

tions to calculate the length of time raised and recessed markers would be expected to last, based on both elapsed time and average traffic, researchers said that "only 50 percent of the raised markers would survive for 6.2 years." They added that "it would take 41.7 years to eliminate half of the recessed markers."

Copies of the new studies are available from Communications Department, Insurance Institute for Highway Safety, Watergate 600, Washington, D.C. 20037. Ask for: "Effect of Pavement Markers on Nighttime Crashes in Georgia" by Paul H. Wright, Paul L. Zador, Choon Yup Park, and Ronald S. Karpf, and "Survivability of Reflectorized Pavement Markers" by Paul H. Wright and Paul Zador.

Society Urges NHTSA Expedite Rulemaking For New Windshields

The executive director of the National Society to Prevent Blindness (NSPB) has urged the National Highway Traffic Safety Administration (NHTSA) "to dispense with the long, drawn out — and unnecessary — rulemaking procedure now in effect to evaluate the four-ply windshield which could otherwise be made available for use on vehicles in the United States."

NHTSA last year refused a petition from the Insurance Institute for Highway Safety to deregulate a portion of Federal Motor Vehicle Safety Standard (FMVSS) 205 to facilitate introduction of such a windshield in American cars. (See *Status Report*, Vol. 16., No. 12, August 21, 1981.) The agency still has rulemaking pending that would permit U.S. use of a design that has been successfully used in European cars for a number of years. It features a layer of plastic on the interior surface of the windshield, effectively shielding occupants' faces from shattered glass in crashes.

Thousands Could Be Spared

NSPB said in a letter to NHTSA Administrator Raymond Peck that, "Thousands of Americans could be spared costly, painful and needless eye injuries if your agency interpreted Standard No. 205 to mean that abrasion test No. 18 applies only to the outer surface of

'Research Note' Reviews Driver Education Effects

A summary of key facts about the effect of high school driver education on the crash involvement of teenagers has been published by the Insurance Institute for Highway Safety in its series, "Research Notes." Copies of "Research Note: High School Driver Education and Crash Involvement," are available from the Insurance Institute for Highway Safety, Watergate 600, Washington, D.C. 20037.

a windshield. What type of exposure can conceivably exist for the inner portion of a windshield comparable to those on the outer surface? And why is the United States automobile industry and NHTSA so resistant to the immediate use of the windshield which would certainly prevent serious facial and eye injuries and even save lives? Your answer to this important question is eagerly awaited. The arguments against an expedited rulemaking procedure are specious."

An estimated 625,000 Americans suffer facial fractures and lacerations, including severe eye injuries and blindness, every year in motor vehicles. Many of these injuries occur when occupants impact vehicle windshields in crashes. (See *Status Report*, Vol. 17, No. 7, May 24, 1982.)

"Each day that passes as NHTSA's lengthy rulemaking procedure on Standard No. 205 unwinds, more Americans suffer needless eye injuries," the organization for the blind wrote Peck. "The time has come to make the eye injuries from motor vehicle accidents a story of the past."

Four More States Enact Child Restraint Laws

Nebraska, Alabama, and Connecticut have joined the growing list of states adopting some sort of child restraint legislation, while Hawaii has given a tax break to purchasers of approved restraints.

The Nebraska law applies only to licensed child care providers, and requires that a child passenger restraint system meeting federal standards be provided for every child under the age of one year. For children older than one year, the use of seat belts may be sub-

stituted for child restraint devices. Violators of the statute face the loss or suspension of their state child care license. The law went into effect July 17, 1982.

Children Under 3 Protected

Laws with much broader applicability have been enacted in Alabama and Connecticut. In Alabama, every person transporting a child under three years of age in a vehicle registered in the state must protect the child in a federally approved child restraint system. Trucks and buses weighing more than one ton are exempted from the requirement. A fine of up to \$10 may be imposed on violators of the law, which became effective June 30, 1982.

In Connecticut, the new restraint law covers children up to age four. For children between the ages of one and four, a seat belt in the back seat may be used instead of a child restraint device. Operators of trucks and buses weighing more than one ton, as well as recreational vehicles, are not required to comply with the law. Any fine imposed will be waived by the court if the violator provides proof that an approved child restraint system has been acquired and installed. The effective date of the Connecticut law is Oct. 1, 1982.

Clarification:

The July 1, 1982, issue of *Status Report* (Vol. 17, No. 9) carried a report of the Insurance Institute for Highway Safety petition for NHTSA reconsideration of its recent action weakening the federal bumper standard. The story contained the following paragraph:

A NHTSA estimate that 2.5 mph bumpers would weigh between 15 and 33 pounds less than 5 mph bumpers ignored contrary evidence submitted by auto companies themselves, including Volkswagen's statement that "it would expect a weight saving of only eight pounds on its Volkswagen Rabbit model...."

The quoted portion of the above statement was from the Institute's petition. The actual Volkswagen statement concerning Rabbit bumpers from which the quote was drawn was as follows: "This cost saving results from the substitution of the energy absorbing components with rigid brackets. The weight saving would be eight pounds."

Hawaii is employing a financial incentive to encourage the use of child restraints. Under the law that went into effect May 27, 1982, Hawaiians can receive a \$25 credit on their state income taxes if they purchase one or more child restraint systems during any taxable year beginning after Dec. 31, 1981. The amount of the credit will be paid to those taxpayers who have no income tax liability.

The total number of states with child restraint requirements has risen to 17. In addition to Hawaii, two other states have established informational programs to promote child restraints without setting specific requirements. (See *Status Report*, Vol. 17, No. 6, April 27, 1982; Vol. 17, No. 5, April 1, 1982; and Vol. 17, No. 2, Jan. 27, 1982.)

Industry Findings Erode Bumper Rollback Decision

The fuel savings associated with lighter bumpers meeting the National Highway Traffic Safety Administration's (NHTSA) new 2.5 mph bumper performance standard would be substantially less than the agency predicted in its Final Regulatory Impact Analysis (FRIA), if data calculated by Ford Motor Company engineers are used. The study, now published by the Society of Automotive Engineers, analyzed trade-offs between increased costs for lightweight vehicle materials and the attendant fuel savings from weight reduction.

Fuel Savings Overestimated?

NHTSA's analysis of the costs and benefits of bumper standards claimed that the principal savings from weaker bumpers would be reduced fuel costs. To predict these reduced costs, the agency assumed that one gallon of gasoline would be saved over the lifetime of a car for each pound of weight removed. However, the Ford analysis indicated that the lifetime vehicle fuel savings per pound of weight saved would be only 0.35 gallons for the short term. For long range savings, the analysis estimated 0.49 to 0.79 gallons of gasoline per pound of car weight removed.

In addition, the Ford analysis pointed out that secondary weight savings — which figured prominently in the NHTSA cost benefit analysis — can only occur on "all-new cars" and that these are "rare events." According to Ford, secondary weight savings "are probably only practically realizable in a 10-year or more time frame." The achievement of such savings are further

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Industry Findings Erode Bumper Rollback Decision (Cont'd from page 5)

complicated because of the automakers' practice of deriving a variety of vehicles from a common base.

"If these values [derived by Ford] are used in the FRIA, even with the FRIA's inflated weight reduction assumptions, the calculated net benefits for 2.5 mph bumper systems are reduced substantially," the Insurance Institute for Highway Safety told NHTSA in an additional submission to the Institute's petition to reconsider the bumper standard rollback from 5 mph to 2.5 mph. (See *Status Report*, Vol. 17, No. 9, July 1, 1982.) The Institute added that the results presented by Ford "even further erode the credibility of the NHTSA cost-benefit analysis of bumper performance levels and provide further support for the restoration of the 5 mph no-damage performance."

The Institute has filed with NHTSA copies of the Ford study, "The Role of Weight Reducing Materials in Automotive Fuel Savings," along with other documents including survey results showing overwhelming public support for 5 mph bumpers.

NHTSA Ends Rulemaking On Side-door Strength

Federal rulemaking for improved vehicle side-impact protection has been abandoned for at least a year, ending a three-year effort by the National Highway Traffic Safety Administration (NHTSA).

In announcing termination of the rulemaking, NHTSA said "extensive research remains to be completed to determine the best approach for upgrading the standard." The agency added that the rulemaking will be reopened "after research has progressed to the point that definitive test methods and performance parameters can be developed."

Dynamic Tests Proposed

The existing rule, Federal Motor Vehicle Safety Standard (FMVSS) 214, requires minimum levels of crush resistance in automobile side doors. The standard specifies only static test conditions, and does not apply to trucks, vans, or multipurpose vehicles. When new rulemaking was opened by NHTSA in 1979, the agency indicated interest in developing new dynamic test procedures as well as tests that would simulate

multivehicle side-impact crashes. Development of a satisfactory instrumented dummy to measure crash forces has been one of the major issues in the rulemaking. (See *Status Report*, Vol. 14, No. 18, Dec. 21, 1979.)

In comments filed in 1980 on the NHTSA rulemaking proposal, the Insurance Institute for Highway Safety stressed that while the existing standard focuses on minimizing occupant compartment intrusion, "it is essential that any upgrading of this standard define requirements to reduce the likelihood of occupant ejection." (See *Status Report*, Vol. 15, No. 5, March 26, 1980.)

Real-World Simulation Urged

"To achieve this," the Institute observed, "compliance tests should be developed that simulate real-world side-impact crashes and these tests should be coupled with requirements that the anthropomorphic test dummy occupants not be ejected, either partially or completely, that the doors not open as a result of the impact, and that the side glazing not break in a way that would permit either partial or complete ejection."

A new study by NHTSA's National Center for Statistics and Analysis finds that almost one-fourth of fatally injured passenger car occupants and one-third of fatally injured light truck and van occupants are partially or completely ejected from their vehicles.

NHTSA's Safety Recall Procedures Criticized

Consumers may drive unsafe vehicles for years while federal officials wrangle over whether they should be recalled and fixed by manufacturers, the General Accounting Office (GAO) has charged.

In a study of the National Highway Traffic Safety Administration's (NHTSA) defect investigation and recall procedures, Congress' chief investigative body has charged NHTSA with unnecessary footdragging on exposing possible safety hazards.

GAO also said NHTSA requires unnecessarily bureaucratic language in recall letters, leaving owners confused and uncertain as to whether reported defects pose actual safety problems.

Many Notices Ignored

The result, says GAO, is that while nearly 128 million motor vehicles, tires, and other related items have been recalled because of safety defects, only about half of the millions of owners notified have had the defects corrected.

The main sticking point in the recall process, said GAO, is the amount of time NHTSA's chief counsel's office spends reviewing staff engineers' recommendation on whether to go forward or drop investigations. GAO investigators found the average time lag between receipt of recommendations from NHTSA's office of defects and investigations and a final decision by the general counsel was 14 months.

"A lengthy investigation process adversely affects the success of recalls — the longer it takes to initiate a recall, the less owners respond by having their vehicles corrected," GAO said.

Defect Studies Dwindle

The GAO also noted that the number of preliminary engineering analyses of possible defects has dropped off dramatically in the past year. Between 1977 and 1980, the office of defect investigations opened an average of 111 analyses each year. However, many were never resolved, GAO noted.

In 1981, only 19 engineering analyses were undertaken, with four resulting in formal defect investigations. All four led to recalls.

GAO said it was unable to determine whether the new pace may mean NHTSA fails to identify possible safety defects. "Only future complaints brought about by vehicle owners or safety advocate groups will be able to identify analyses that should be, but have not been, undertaken," the report said.

GAO recommended that Transportation Secretary Drew Lewis instruct NHTSA's administrator Raymond Peck to better coordinate relations between the office of defects investigation and office of chief counsel, providing for more direct communication.

The report also recommended the agency work with manufacturers to revise recall letters to make them easier to understand, and test the revisions along with various reminder techniques. GAO recommended simplified recall letters be followed up quickly with postcards urging owners to contact their dealers for free repairs.

Vehicle-Related Deaths In Workplace 'Appalling'

Calling new research findings about vehicle-related deaths in the workplace "appalling," Sen. John C. Danforth (R.-Mo.) has forwarded the information to key federal officials and labor leaders.

The study, announced at a press briefing hosted on Capitol Hill by Danforth, was conducted by a Johns Hopkins School of Public Health research team headed by Susan P. Baker and supported by the Insurance Institute for Highway Safety. From an analysis of records of persons who died of work-related injuries in Maryland during 1978, the researchers found that employees operating motor vehicles on the job face a considerably higher risk of fatal injury than do industrial workers. (See *Status Report*, Vol. 17, No. 11, Aug. 12, 1982.)

The Deadly Price

Pointing to "the deadly price being paid in the workplace by Americans who must operate motor vehicles as part of their employment," Danforth explained, "As incredible as it may seem, the leading causes of fatal occupational injuries are not connected with falls, mine collapses, or machinery malfunctions — important as these causes may be — but instead are connected with motor vehicle accidents."

Despite this, Danforth said that "federal compliance programs have virtually ignored the risks associated with the operation of motor vehicles."

Labor Leaders Contacted

"I find this appalling," he continued, "and as chairman of the Surface Transportation Subcommittee, I am transmitting copies of this study to the Administrators of the National Highway Traffic Safety Administration and the Occupational Safety and Health Administration, along with a request for their reactions to these findings." Danforth also sent copies of the study to major labor leaders, "asking for their suggestions as to how we might work together to remedy this problem."

Also participating in the press conference were Donald A. Henderson, M.D., dean of the Johns Hopkins School of Public Health, and Ben Kelley, senior vice president of the Insurance Institute for Highway Safety, which funded the study.

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