

## 2.5 MPH Bumper Rule Benefits Are Found To Be 'Fictions'

Weaker bumper systems now permitted by the rollback of the federal bumper standard from 5 to 2.5 mph show that assumptions on which the change were based were wrong, the Insurance Institute for Highway Safety has told federal officials.

The Institute reported that analysis of several 1983 model cars revealed that projected savings in bumper weights and costs have not materialized as the result of rolling back the 5 mph bumper standard. The report came in the filing of additional material for the Institute's petition for reconsideration of the bumper standard rollback. The original petition was filed with the National Highway Traffic Safety Administration (NHTSA) on June 15. (See *Status Report*, Vol. 17, No. 9, July 1, 1982.)

### Change Not Reflected in Price

Several Chrysler products are now appearing in dealers' showrooms with the new, weaker bumper systems, the Institute pointed out, along with the same models that carry stronger bumpers of the type mandated by the 5 mph standard. Despite NHTSA predictions that the new bumpers would produce cost savings, and despite Chrysler's projection of "at least \$35" savings per car by abandoning the stronger bumpers, the Institute found that 1983 model Plymouth Horizon and Dodge Omni models were priced the same, regardless of which bumper system they carried.

The weaker systems on some Horizons and Omnis use rigid brackets on both the front and rear bumpers instead of the energy absorbers used for the stronger bumpers. Chrysler had estimated it could save 10 pounds in weight per car with the weaker systems, and NHTSA had projected weight savings of between 15 and 33 pounds. "Yet the weight reduction

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## NHTSA Rejects Petition To Reconsider Rollback

Brushing aside all objections to the rollback of the bumper standard from 5 mph to 2.5 mph, the National Highway Traffic Safety Administration (NHTSA) has refused to reconsider its decision.

In a lengthy document issued December 13, nearly six months after the Insurance Institute for Highway Safety had filed a petition for reconsideration of the rollback, NHTSA reiterated many of the arguments it had used when it announced the controversial decision May 15.

"Stated simply, the previous standard failed to provide the maximum feasible reductions in cost," NHTSA said in denying the petition. "Therefore, the agency determined that the previous standard could no longer be retained in accordance with the Cost Savings Act."

The Institute in its original petition filed June 15 and in subsequent filings of additional material

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## Air Bag Trial Is Set For U.S. Auto Fleet

Air bags may be demonstrated on several thousand federal government vehicles under an interagency agreement just announced.

The General Services Administration (GSA), which reached the agreement with the National Highway Traffic Safety Administration (NHTSA), also said it will soon begin equipping some federal passenger vehicles with high-mounted third brake lights in a second experimental program. Research by the Insurance Institute for Highway Safety and NHTSA has found the brake lights to be effective in reducing rear-end collisions. (See *Status Report*, Vol. 16, No. 7, May 13, 1981.)

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for these weakened bumper systems is only two pounds per car!" the Institute reported.

IIHS also found some 1983 models of the Plymouth Reliant and Dodge Aries equipped with weaker front bumper systems, yet the change reduced the cars' weight only six pounds and there was no reduction in price.

Changes in the Volvo 240 series and the Honda Civic and Accord were also analyzed. By replacing energy absorbers with rigid brackets and making the face bars lighter, Honda saved only 13 pounds for the Civic and 18 pounds for the Accord, the Institute reported.

"The 1983 model Volvo 240 series models have shorter energy absorbers than the corresponding 1982 models," the Institute said, "with the result that the face bars are much closer to the sheet metal on the new models. In addition, the face bars are made from thinner gauge metal. The weight savings for the new, inferior bumper system is 36 pounds. (As the Federal

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presented evidence that the agency's assumptions of cost savings from the weakened bumpers were incorrect, and questioned the agency's consideration of alternatives.

The agency continued to maintain "that cost savings will be passed through to consumers as a result of competition," and contended that no evidence had been offered to challenge auto makers' predictions of significant weight reductions by adopting the weakened bumper rule. The Institute's last additional filing on December 10, which provided new information on both these issues, was not considered in the denial document. (See accompanying article on page 1.)

The effect of the agency's denial of the petition for reconsideration is to place disposition of the bumper rule rollback controversy in the hands of the U.S. Court of Appeals of the District of Columbia, where legal challenges have been filed.

Regulatory Impact Analysis pointed out, exceptionally large weight savings were possible on the Volvo because its 5 mph bumper system was so heavy.)

"It is worth noting that the new, inferior Volvo bumper system is heavier than superior 5 mph systems on other cars."

The IIHS filing concluded that, "As the Institute has repeatedly pointed out, the analysis in the FRIA and its conclusions are based on fictions and bear little relationship to what the consumer actually will be offered. Contrary to the claims made by NHTSA, it is evident that as a result of the bumper standard rollback inferior bumpers now are being offered to the public with no offsetting savings. And, clearly, these inferior bumper systems will continue to cost the public in huge amounts of unnecessary increased damage over the lifetime of the cars equipped with them."

The decision to roll back the bumper standard, which took effect on July 6, has been attacked in the U.S. Court of Appeals for the District of Columbia by the State Farm Mutual Insurance Co. and the Center for Auto Safety. (See *Status Report*, Vol. 17, No. 16, Nov. 5, 1982.)

## **Ford Executives Sought Nixon Help Against Standards**

The transcript of an often-rumored private meeting in 1971 between then-president Richard Nixon and top Ford Motor Co. executives has been made public as the result of a damage suit tried in Atlanta.

The meeting dealt primarily with the concerns of Henry Ford II and Lee Iacocca, then president of Ford, that the costs of complying with federal vehicle safety and emissions standards were imperiling the U.S. automobile industry. As the White House meeting ended, Nixon assured his visitors that he would look into the effect of vehicle standards, with cost-effectiveness as his main interest, and he particularly instructed John Ehrlichman, a principal aide, to study the requirement for passive restraints.

The transcript was made public by the *Automotive Litigation Reporter*, a periodical published by the Andrews Publications, Inc., of Edgemont, Pa. The former President's attorneys had agreed to releasing the transcript from the National Archives in lieu of Nixon testifying personally in lawsuits pending against the auto maker.

Ford and Iaccoca warned Nixon that restraints placed on the auto industry could result in a critical balance of payments problem for the government. "We are in a downhill slide, the likes of which we have never seen in our business," Iaccoca said. "And the Japs are in the wings ready to eat us up alive. So I'm in a position to be saying [to Department of Transportation officials]: 'Would you guys cool it a little bit? You're gonna break us.'"

The auto men explained the rulemaking procedure to the President, and briefed him on the status of passive restraint requirements.

Nixon asked his visitors what he could do to help the situation. Ford responded: "There are many things in DOT, Mr. President, that you could do by, you know, just callin' 'em up. I'd just say, 'Well, let's get some cost effectiveness.'"

Iaccoca told Nixon that his company had invested \$240 million in safety. "And we have on our cars today \$150 of I don't say all gadgetry, 'cause the steering columns, I think, are saving lives, the collapsible column and the like, but the shoulder harnesses, the headrests are complete wastes of money," he said.

Commenting on the White House transcript, a Ford Spokesman said: "The conversation with the President 11 years ago was nothing more than what we were saying publicly at the time and have said ever since .... To say this meeting was anything more than an opportunity to explain to the President what we were already telling the public is 100 percent hogwash."

## **Congressmen Question Propriety of Joint Research Program**

Two subcommittee chairmen of the House Science and Technology Committee have sharply questioned the propriety of a "cooperative" research program now under way between a federal agency and U.S. auto makers.

National Highway Traffic Safety Administration (NHTSA) chief Raymond Peck vigorously responded to charges of secrecy. "I swear to God I don't know how you can call it a secret," said Peck. "I have testified about it. I have taken great pride in both public statements and testimony before the Congress about it. It has been published in the *Federal Register*, the docket exists."

However, under questioning from Reps. Dan Glickman (D.-Kan.), chairman of the subcommittee on transportation, aviation, and materials, and Albert Gore, Jr., (D.-Tenn.), chairman of the investigations and oversight subcommittee, Peck admitted the existence of the cooperative research effort had never been publicly announced in the *Federal Register*. Peck also said meetings between the agency and the Motor Vehicle Manufacturers' Association (MVMA), a U.S. trade association, are held privately and without public notice.

Glickman and Gore confronted Peck in a hearing on small car safety. Peck was accompanied by Michael Finkelstein, head of the agency's research and development section, who testified the cooperative research effort has been broken down into task forces which focus on various research subjects. He also said the agency had "made the decision to work with specific groups of people."

"In doing so," said Glickman, "you made a decision that the [MVMA] and their component members might be includable but others would not be included.

"I tell you what bothers the committee, or bothers me, is that it leads to the appearance that if a certain group of people are able to advise, set, or manipulate your research agenda, the same may be true with respect to your regulatory agenda," said Glickman.

### **'Access to Industry Research'**

Peck sought to assure Glickman and Gore that the agency had done nothing wrong. He said the program was "a way to get access to industry research which we have not previously had access to."

The most serious question raised about the propriety of the cooperative research effort had to do with the agency's work on side-impact protection. According to testimony, the task force began meeting on side-impact research in March 1982. In July, the agency published a *Federal Register* notice withdrawing a 1979 advance notice of proposed rulemaking (ANPRM) on side-impact protection. In the July 12, 1982, notice, the agency said "rulemaking will be reopened after research and analysis has progressed to the point that appropriate test methods and performance program parameters can be developed." (See *Status Report*, Vol. 17, No. 12, Sept. 2, 1982.)

Peck said that since the advance notice of proposed rulemaking was a request for information, not a description of a proposed rule, it had no status in law. Gore's comment in response was, "The first step in the regulatory process is the decision on whether or not to proceed with a specific regulatory approach. And it is, and the courts have so decided that it is an

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## **Standard Is Judged To Reduce Ejections**

A safety standard covering side-door strength in automobiles has “significantly reduced” occupant ejection in collisions with fixed objects, the National Highway Traffic Safety Administration (NHTSA) has reported.

In a November 29 *Federal Register* notice, the agency announced the publication of its evaluation of FMVSS 214, as part of a government-wide review of existing regulations.

“Standard 214 prevents 4,900 nonfatal hospitalizations per year in vehicle-to-vehicle side impacts but has little or no effect on fatalities in these crashes,” the agency reported. “The standard has significantly reduced door intrusion into the passenger compartment” and reduced injuries to occupants seated next to the door that was struck.

In 1982 dollars, the agency said, the standard adds \$61 to the cost of purchasing and operating a vehicle over its lifetime.

The agency asked for comments on the report to be filed no later than Jan. 28, 1983. Free copies of the report may be obtained by contacting Robert Hornickle, Office of Management Services, NHTSA, Room 4423, 400 Seventh St., S.W., Washington, D.C. 20590. The phone number is (202) 426-0875. Comments to the docket should refer to Docket No. 82-19, Notice 1, and be directed to the Docket Section, Room 5109, at the above address.

### **Congressmen Question Propriety of Joint Research Program (Cont'd from Page 3)**

integral part of the rulemaking process. What you had pending was a decision on whether or not you ought to go forward with a rulemaking proceeding.”

Gore went on: “And then you got together with the industry, with nobody else present, with no public notice of the fact that it was taking place, no notice of the time or place of the meetings, no other input except that of the industry, and then right after that you decided not to go forward with the rulemaking process.”

NHTSA had said in its July 12 notice, “the agency has determined that the rulemaking proceeding on an upgraded side impact protection standard should be terminated.” That statement was read into the hearing record and then Gore said, “Now you see the point. With no public interest input, no input from any other part of the society like the insurance industry, you set up a process that allows your agency technical people to sit down with those from — with only one point of view, to govern the technical data base on which this subject rests, and then right afterwards, still without any input from the insurance companies or from the public interest groups or from anybody else, right afterwards, you decide to terminate the rulemaking proceeding.”

Glickman said the committees would ask the General Accounting Office to look into the matter to assure that the law was being complied with.

Former NHTSA head Joan Claybrook charged the “cooperative” research project “is in fact, a hand-picked industry advisory committee, established by the agency to provide advice and recommendations regarding the allocation of research funds and their use and is clearly illegal.”

David Martin, General Motors director of automotive safety engineering, said the MVMA “is engaged in research on a coordinated basis with the NHTSA. This is not a rulemaking activity. This is an endeavor to identify tests that will promote safer vehicle design, tests that recognize field injury mechanisms, so that the test that is selected will relate to field conditions. It does not address the question of what the performance level should be.”

## **Institute Cautions That Flashing Lights Can Pose Problem**

A proposal to allow motorcycle headlights of pulsing intensity could inadvertently produce an effect contributing to increases in highway crashes, the Insurance Institute for Highway Safety has cautioned federal safety officials.

In a comment on a proposed change in Federal Motor Vehicle Safety Standard 108 requested by the Harley-Davidson Motor Co., Inc., the Institute urged the National Highway Traffic Safety Administration (NHTSA) to consult aerospace medicine and military specialists before granting the petition.

"The purpose of this comment is to call the Agency's attention both to the well documented fact that pulsing lights, over a wide range of frequencies including those proposed by the Agency, can cause serious, relevant, abnormal reactions in ... some *normal* individuals," the Institute said, and that such reactions are believed to be an occasional cause of at least some transportation crashes.

The phenomenon, which is well known to specialists in aerospace medicine, is called "photic driving," the Institute explained. It has been known to cause nausea, dizziness, unconsciousness, and the turning of the head away from the pulsing light source. In addition, it can trigger epilepsy in some seizure-prone individuals.

"It is not known exactly what percentage of the normal U.S. public may respond adversely to varying lights," the Institute observed, "but there is reason to believe that the percentage is substantial, and that to some extent different members of the public respond adversely at different times and in different environmental circumstances."

The majority of other comments on the proposal (Docket No. 82-16, Notice 2) was in favor of the modulated headlight as a means of increasing the conspicuity of motorcycles in traffic. However, the Maryland Department of Transportation opposed the plan because of fears that pulsed headlights might be confused with the flashing lights of emergency vehicles.

Copies of the complete Institute submission cautioning of the photic effects are available from the Insurance Institute for Highway Safety, Watergate 600, Washington, D.C. 20037.

## Lack of Support Kills Michigan Belt-Use Law

Supporters of a mandatory seat belt-use law in Michigan have failed to muster the necessary votes in the state legislature. Chances for the proposal's adoption this year thus have been eliminated.

The belt-use law, which would have been the first to be passed in the United States, was supported by all of the major automobile manufacturers. They had joined with several state officials and a varied group of organizations interested in highway safety to form the Michigan Coalition for Safety Belt Use to promote passage of the law.

The sponsor of the belt-use law in the Michigan House of Representatives decided against bringing the

proposal to a second floor vote when he could not count sufficient backing for passage. The measure had failed to gain passage in an earlier unrecorded vote. The sponsor said he will again introduce the legislation early next year.

Under the proposed law, drivers and front-seat passengers of automobiles would have been required to wear safety belts, with a fine of \$10 set for violators. It would have expired after three years under a "sunset" provision, designed to provide a trial period of the law's effects.

Although belt-use laws have been adopted in 29 countries and Canadian provinces, no mandatory use proposal has been successful in the U.S.

## Safety Board Urges Governors to Seek Child Restraint Laws

The National Transportation Safety Board has urged the governors and governors-elect of 31 states and the mayor of Washington, D.C., to seek legislation requiring mandatory use of child restraints for children aged 4 and under.

Patricia Goldman, vice chairman of the safety board, said the recommendation was sparked by the board's findings from in-depth investigations of crashes involving children.

"Children from infancy through age 4 are especially vulnerable to death, disability, or disfigurement, even in minor crashes," said Goldman. "Not only are 650 children killed each year, but more than 5,000 a year are either seriously injured or permanently disabled."

Goldman said as many as 90 percent of the fatalities and most of the injuries could be prevented by proper use of child safety seats.

"We are also recommending that each governor develop an enforceable and realistic statewide child passenger safety program," said Goldman.

The safety board did not mention that research by the Insurance Institute for Highway Safety and others has shown that children are safest if they ride restrained in the rear seat. Research has also indicated that children down to the age of two can be afforded good protection by using available seat belts if child restraint systems are not available. (See *Status Report*, Vol. 13, No. 17, Nov. 30, 1978.) (Cont'd on page 6)

## **Safety Board Urges Governors To Seek Child Restraint Laws**

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The board has completed 30 of 50 in-depth investigations of crashes involving children four and under, Goldman noted. They are reviewing the crash performance of the child restraints in use during crashes, and whether the child safety seats are actually being used properly. The board will also look at the types of activities being generated by the federal sector, and state and local governments, Goldman said.

So far, 23 states have enacted child passenger safety laws and 19 of the 23 contain specific provisions requiring child restraint use, Goldman said. She added that enacting legislation is not enough; states must push for compliance and educate the public about the benefits of proper restraint use.

The board intends to conduct regional hearings on the issue starting in January in Dallas. Texas has the largest number of child fatalities, Goldman added.

## **Institute Makes Available Some Used Film Prints**

In connection with revisions in its film distribution program, the Insurance Institute for Highway Safety is making available at no charge a number of used 16mm prints of six of its most frequently shown films. They will be given to qualifying organizations in "as is" condition on a first-come, first-served basis.

Requests should be limited to one print of each film, and applicants should explain how the prints will be used. For further information or to request prints, write to Communications Department, Insurance Institute for Highway Safety, Watergate 600, Washington, D.C. 20037.

Several prints of each of the following films are available:

**"In the Crash"** (1970; color; sound; 22 minutes) — Shows what happens to people in car crashes, and how the redesign of vehicles and highways could prevent needless deaths and injuries.

**"Small Cars and Crashes"** (1972; color; sound; 23 minutes) — Series of head-on crashes of small, economy cars and large sedans shows risk of serious injury and death in small cars.

**"Boobytrap!"** (1972; color; sound; 28 minutes) — Explores national problem of roadside hazards such

as rigid light poles, blunt-end guardrails, and building abutments that turn otherwise minor, off-the-road incidents into major, injury-producing crashes. Explains practical solutions.

**"Cars That Crash and Burn"** (1973; color; sound; 27 minutes) — Close-ups of failing fuel systems in crashes show the vulnerability of these systems to damage in moderate speed, rear-end crashes. Countermeasures explained.

**"Crashes That Need Not Kill"** (1976; color; sound; 28 minutes) — Tests show violence occurring to car occupants not protected by air bags in crashes. Follow-up sequences show how air bags act as buffers between occupants and crash forces. Includes testimony by actual crash survivors whose lives were saved by air bags.

**"Underride"** (1978; color; sound; 15 minutes) — Test footage documents crashes that occur when cars run into and under the backs of trucks. Solutions to prevent underride explained.

## **Air Bag Trial Is Set For U.S. Auto Fleet**

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NHTSA will be responsible for funding the cost of the driver-side air bags which are expected to be specified by GSA in its purchase of all compact cars in the 1985 model year, an order expected to range between 2,000 and 4,000 vehicles.

Gerald P. Carmen, GSA administrator, said the air bag decision is being announced now to give the auto industry time to plan for the federal fleet requirements. "We're leading — not pushing," Carmen said. "We hope the car makers and buyers will be encouraged to accept and use safety devices by our voluntary GSA action."

A NHTSA spokesman also reported that included in the interagency agreement is a commitment by NHTSA to pursue the possibility of retrofitting driver-side air bags in 1984 models, if funds are available and no technical problems are encountered.

GSA plans to start equipping its "passenger carrying vehicles" with the high-mounted brake lights in the near future. The lights, to be mounted on the hatch back, rear deck lid, or interior rear shelf, first will be installed on passenger cars in the Washington, D.C., and Chicago areas. Some 1,400 vehicles will be equipped in the next four to six months in the Washington area, and 1,370 in Chicago.

## Commission Urges Drinking Age of 21

The President's Commission on Drunk Driving has released an interim report recommending that each state adopt 21 as the legal minimum drinking age for all alcoholic beverages.

The commission said it would release its full report by April 1, 1983, but was releasing the interim recommendation so that state legislatures, which convene in January, could begin drafting legislation.

The report recommends a three-tiered approach to the problem of drinking and driving:

- Educational programs designed for long-term impact.
- State and local legislative action.
- Improved enforcement efforts.

In conjunction with the beginning of the national drunk and drugged driving awareness week, starting December 12, President Reagan issued a proclamation urging Americans to cooperate in a national campaign to prevent tragedies caused by combining motor vehicles and alcohol.

While current public attention to the problem of drunk driving provides great opportunity for dealing with it, the commission said, "enormous danger lies in the fact that either demands will be so unrealistic that any success will be virtually impossible, or that the Presidential commission will bring forth a mixture of suggestions or recommendations that would create a serious credibility problem." Short-term "cosmetic" solutions could seriously mislead the public, the commission said.

Among the recommendations issued by the commission, headed by John Volpe, former transportation secretary, were a variety of enforcement techniques it said should be considered by states, in addition to programs to enhance public awareness of the hazards of drinking and driving. They include:

- State adoption of laws allowing the use of preliminary breath testing by policemen in order to ascertain the probability of driver impairment.
- The use of selective enforcement and road blocks "to achieve a higher perception of risk of detection for driving under the influence" of alcohol.
- Adoption of 0.10 illegal *per se* laws making it illegal *per se* for a person with a blood alcohol concentration (BAC) of 0.10 percent or more to drive or control a motor vehicle. Persons with a BAC of 0.08 per-

cent legally should be presumed to be driving under the influence of alcohol.

- Encouragement of citizens to report drivers who are under the influence.

- Prompt administrative license suspension for drivers with a BAC of 0.10 or more.

- Mandatory sentencing for drivers convicted of driving under the influence. Such sentences should not be subject to suspension or probation and should include substantial minimum fines. A minimum sentence for first-time violators should be set at 48 hours in jail or license suspension of not less than 90 days plus a mandatory assignment of 100 hours of community service. Second-time offenders should receive a mandatory minimum jail sentence of 10 days and a one year license revocation. Repeat offenders should receive a minimum jail sentence of 120 days and a three-year license revocation.

- Oral or written impact statements by victims should be required prior to sentencing in all cases where death or serious injury has resulted from a DUI offense.

- States should adopt so-called "dram shop" laws establishing liability against any person who sells alcoholic beverages to a person who is visibly intoxicated.

- States and local governments should provide assistance to victims of offenders, including a requirement that prosecutors keep the victim and/or his family informed about the progress of the case and its disposition. Victims should also be informed about available community services and states should consider providing a victim compensation fund.

- Any person convicted of driving under the influence should be required to pay restitution to cover property damage, medical expenses, and lost wages.

- States should also speed up DUI cases at the trial level, concluding them within 60 days of arrest, and handing down sentences within 30 days of the trial's conclusion. Appeals should be expedited in order to be completed within 90 days.

The commission also recommended rehabilitation and education programs for individuals who have committed a DUI infraction. Problem drinkers and repeat offenders should receive intensive rehabilitation, as well, the commission recommended.

Copies of "An Interim Report to the Nation from the Presidential Commission on Drunk Driving," may be obtained by writing Eugene Lipp, Presidential Commission on Drunk Driving, Room 4109, 400 Seventh St., S.W., Washington, D.C. 20590.

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# Status Report

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