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Folder Title:

Airbags [ISTEA [Intermodal Surface Transportation Efficiency Act]]

Stack:

S

Row:

15

Section:

5

Shelf:

7

Position:

1

markup
~~markup~~ ~ 2 wks ago

John Womack
366-9511

- Kempthorne did very well
- Boxer was poised to offer

Kemp. is demagogic

- NHTSA is devil
- safety groups is "

They said they didn't talk to safety grp's

~~They said~~

Today - we met w Hollings staff

Moses Bogel
Brian Schlang

They said - why aren't you fighting?

We " -

upshot: meeting tomorrow called by McClellan

NHTSA Hollings
NHTSB not the safety
Kemp.
Boxer

If McCain & Hollings are ready to fight, then it's a different story

We talked abt. some possible options:

- (1) Baper - give NHTSA a yr. to get smart rule out; hold Kemp. over NHTSA's head
- (2) suspend 30MPH ^{barrier} crash test until smart rule out; ~~is~~ effective

It's absurd

only Mercedes & BMW are using to certify

But doesn't smell good. Crash test is sacred.

2 different belted tests:

(a) sled test

(b) barrier test

Almost 2/3 are certifying to sled test.

Sled test suspended in 2001; but

K may reject our option b/c

If you go to face bags, you sit ↓ Bs
for unbelieved people, who are mainly
teenagers

ABs

BUSINESS

NHTSA Approves Rule Allowing Air Bag Cutoffs

Big Three Automakers Soften Opposition

By Warren Brown
Washington Post Staff Writer

The National Highway Traffic Safety Administration has approved a rule that would allow vehicle owners to turn off air bags in their cars and trucks without formally petitioning the agency for the right to do so.

But before it can be implemented, the rule must pass muster at the White House Office of Management and Budget, where it has been under review since Oct. 2, Clinton administration and some auto industry officials said yesterday.

Essentially, the rule would allow any car or truck owner to disable passenger-side air bags through the use of an "on-off" switch. Such devices are being installed in some Ford Motor Co. pickup trucks, in-

cluding the Ford Ranger. The switches also could be installed by mechanics in existing vehicles, federal and industry sources said yesterday.

But many automakers and air bag suppliers, as well as a number of auto safety and health care groups, disagree with the approach, arguing that air bags cannot save lives if they are turned off.

A full-page advertisement carrying that message appeared yesterday in USA Today, placed by a coalition of 13 national automotive and supplier groups opposed to the proposed NHTSA rule. And representatives of those groups made the same point yesterday in a meeting with OMB executives in a last-ditch effort to block the rule from taking effect.

See AIR BAGS, E2, Col. 5

Rule Would Allow Air Bags' Disabling

AIR BAGS, From E1

However, the Washington-based American Automobile Manufacturers Association, which represents Ford, General Motors Corp. and Chrysler Corp., was noticeably absent as a signatory to the USA Today ad.

"We know what the rule says and it says people have the right to deactivate," said an industry source, who asked not to be identified by name or company. "That being the case, we don't see the point now of being in the position of

opposing what consumers want, even though we still believe that air bags, used with seat belts, provide the best safety."

Some industry sources said that Ford objected to the timing, but not to the content of the ad.

NHTSA, in the midst of reports over the past year of the deaths of 86 children and adults in air-bag deployment accidents, has been under public and some congressional pressure to ease its air bag deactivation rules. OMB has 90 days to consider the NHTSA rule.

PHOTOCOPY
PRESERVATION

September 20, 1997

Dotty,

Enclosed is the draft letter I wrote. It was supposed to be signed by the auto companies, insurance companies (including IIHS), and consumer groups (except Consumers Union which won't join the industry as a matter of principle, but which supported the concept and said they would send a similar letter). Unfortunately, the auto companies said they didn't want to waste their political capital on this even though they support the idea. Joan said she did some lobbying on it, but I suspect she had other priorities for her primary energy.

Rather than expanding NASS, NHTSA could conduct more detailed investigations and analyses of a sample of FARS cases, particularly those involving late model vehicles. NHTSA could establish regional centers with expert analysts who would direct local police to obtain more data and pictures from selected fatal crashes. NHTSA would reimburse police for their efforts.

These FARS centers could send out digital cameras and communications linkages to the local police. A center expert would direct the officer to point the camera to get specific pictures of the wrecked vehicles and scene, and to get other information needed to analyze the crash. The officer would obtain hospital and autopsy records, and could interview survivors or witnesses). The expert would then prepare a detailed analysis of the crash similar to that in NASS. For local police who will not cooperate, an expert could be sent to the location to get the pictures and data.

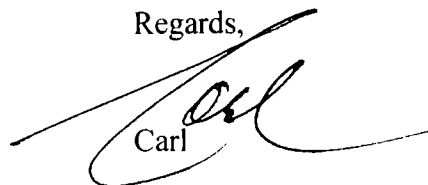
The advantage of this type of investigation is that it most of the crashes would be severe enough to show real problems. By comparison, the majority of NASS cases are too minor to be very useful. The result would be that 5,000 to 10,000 of these cases would be as valuable as the full NASS system. The extra cost of these expanded FARS cases should be no more than the present cost of NASS cases (around \$2,000 each). At the very least, NHTSA should be directed to study how such a system could work and to run a pilot project to try it out.

It would take at least two years to reestablish a 75 team NASS system or to establish the new addition to the FARS system. In the first year, the agency would need at least \$10 million in new appropriations while in the second, at least \$20 million would be needed. It would also require a commitment to continued funding to make it worthwhile to expand these systems. The agency would probably also need at least 4 to 6 additional professional employees (in addition to contractors) to run the expanded systems.

Money for this effort could most easily come from the Highway Trust Fund rather than from regular appropriations. I suspect even FHWA would support this use of trust funds.

If you would like me to do more detailed work on these concepts or to draft some legislative language, let me know. Enjoyed seeing you last night. Did you see the review in Saturday's paper?

Regards,


Carl

Appropriations Committees
United States Congress
Washington, D.C.

Dear Sirs:

This letter is to urge increased funding for the National Accident Sampling System. The undersigned represent a diverse group that has been brought together by a common goal. We are committed to improving the safety of motor vehicle transportation in the United States. Unfortunately, the lack of adequate, detailed data on motor vehicle crashes leaves us partially blinded in that quest.

Crash data provides the primary vision through which we diagnose, address, and evaluate progress in motor vehicle safety. A full analysis of the safety challenges we face requires high quantity, detailed data that represents the state of safety across the nation. NASS provides both the detail and national representativeness we need, but it does not have sufficient quantity of data on contemporary vehicles.

When the National Highway Traffic Safety Administration designed the National Accident Sampling System approximately twenty years ago, it was to investigate nearly 17,800 crashes within seventy-five regions throughout the nation. The NASS sites were selected to represent the variety of traffic and conditions in all parts of the country. A committee of experts from government, industry, academia, and institutes concerned with traffic safety reviewed and approved the design. In particular, this committee found that this size was the minimum necessary to understand the full spectrum of crashes and injuries in the United States. NASS cases are selected according to a well-designed sampling procedure. Thus they can tell us precisely what happens in these crashes and how often similar crashes occur.

Since 1981, continuing budget cuts have reduced this system to about one-third of its original design size. NHTSA has been forced to scale back both the number of investigations it can conduct, and has narrowed the scope of such investigations. For example, NASS no longer investigates pedestrian or large truck collisions.

The argument that road safety has improved to the point that we don't need as much crash data ignores the more than 40,000 people who still die in crashes every year. Furthermore, two recent developments indicate why we need more crash data to understand and address safety problems rapidly.

The first is the finding, based on the Fatal Accident Reporting System, that cars and light trucks with anti-lock brakes have at least as many fatalities as cars without this advanced technology. Unfortunately, FARS does not have sufficient detail to tell us why. Although most analysts have concluded that drivers were not adequately informed about

how to use anti-lock brakes, we have insufficient data to show how to improve these important safety systems.

The second is air bags. We know that they are saving many lives. Unfortunately, a small but significant number of children and others have been casualties of air bags. Others have experienced injuries. We want to address this critical problem quickly without losing the advantages offered by air bags. Unfortunately, we have so little data on crashes of cars with air bags that we cannot fully address the questions raised by various air bag designs on the highway and which ones need revision. This also makes more difficult the challenge of how to rewrite the crash protection standard with the confidence it deserves.

We strongly advocate that NHTSA be appropriated sufficient funding -- ultimately at least an additional \$15 million per year -- to build NASS back up to its original design size. This amount is trivial compared with the \$150 billion in economic loss from motor vehicle crashes. It is small compared with the amounts spent on research and data collection in other national health programs. The economic benefit of saving fewer than 100 lives or severe injuries would more than justify the cost of expanding NASS.

We hope that the Congress will recognize the unanimous support for this initiative by the broad spectrum of interests we represent, and will heed this critical national health imperative.

Sincerely,

DOROTHY ROBYN

- Drop the Unbelted test, and substitute a requirement that in a 35 mph frontal barrier impact (such as the NCAP frontal test) there shall be no driver or right front passenger head contact with the steering wheel, instrument panel, or other part of the dummy itself.

This change will ensure that air bags will continue to be produced by most auto makers, and may facilitate more innovative approaches to occupant crash protection in frontal crashes.

- Direct NHTSA to conduct rulemaking to limit full power air bag deployment in low speed crashes (such as barrier-equivalent velocities under around 18 mph) of any type to be effective within one year.

This will help to eliminate low speed crash deployments that have been responsible for most serious to fatal injuries caused by air bag inflation in motor vehicle crashes. Furthermore, it will encourage the adoption of two-level inflators by auto makers that believe they will be exposed to product liability in cases where air bags do not inflate.

- Direct NHTSA to develop proposals and conduct rulemaking for the following:
 - A standard for effective safety belt use warning devices
 - An advanced New Car Assessment Program frontal test that will encourage the development and adoption of advanced restraint systems for frontal crash protection.

The first of these will encourage belt use so that manufacturers can design air bags that are optimal for safety belt users. The second will facilitate the adoption of the best advanced air bag systems at the lowest cost.

- Facilitate the adoption and enforcement of primary safety belt use laws in all states.

A reasonable proposal is currently contained in the new surface transportation legislation.



ADVOCATES
FOR HIGHWAY
AND AUTO SAFETY

FAX TRANSMISSION SHEET

DATE: October 7, 1997

TO: Dorothy Robyn, Special Asst to the Pres. for Econ. Policy

FAX #: 456-2223

FROM: Jackie Gillan

PAGES TO TRANSMIT (INCLUDING COVER SHEET):

COMMENTS:

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ADVOCATES FOR HIGHWAY AND AUTO SAFETY

MEMO TO: Erskine B. Bowles
Chief of Staff to the President

MEMO FROM: Joan Claybrook, President, Public Citizen

Jacqueline Gillan, Vice President,
Advocates for Highway and Auto Safety

RE: Meeting with Sen. Dirk Kempthorne Concerning his
Amendment to Eliminate the Unbelted Crash Test in
FMVSS 208 Requiring Air Bags.

DATE: October 6, 1997

On Thursday, October 2 we met with Sen. Kempthorne to discuss his amendment to S. 1173, the Senate version of the reauthorization of the Intermodal Surface Transportation Efficiency Act (ISTEA). During our meeting with Sen. Kempthorne he relayed to us that he has spoken with you about his amendment which would eliminate the "unbelted" requirement for testing compliance with the National Highway Traffic Safety Administration's (NHTSA) air bag standard, Federal Motor Vehicle Safety Standard (FMVSS) 208.

Sen. Kempthorne's amendment is opposed by highway safety groups, insurance companies, air bag suppliers, the Parents' Coalition for Air Bag Warnings (an organization of parents whose children have been killed or injured by air bags) and the U.S. Department of Transportation (US DOT). Because the Senate is scheduled to take up S. 1173 as early as this Wednesday, October 8, it is urgent that the White House urge Sen. Kempthorne to agree to a compromise provision being advocated by Sen. Boxer. Sen. Boxer's amendment will permit the US DOT to upgrade the air bag standard within one year without jeopardizing safety, which is the likely effect of Sen. Kempthorne's proposal.

A diverse group of consumer, safety, victims, insurance groups and air bag manufacturers oppose the Kempthorne provision for several important reasons. Removal of the unbelted test will not protect unbelted children and small women from harm during crashes because the vast majority of occupants killed by air bags were unbelted or improperly belted. A short-term solution to the aggressiveness of air bags is already being addressed in a rule NHTSA issued in February allowing auto manufacturers to depower air bags (which is equivalent to Sen. Kempthorne's amendment to eliminate the unbelted crash test). However, NHTSA and the auto manufacturers acknowledge that depowering may mitigate but not significantly reduce the risk to unbelted children and may result in additional deaths and serious injuries in high speed crashes as a result of weakening the air bag.

Co-Chairs:

Richard D. Crabtree,
President & COO
Nationwide Mutual
Insurance Company

Andrew McGuire
Executive Director
Trauma Foundation

President:

Judith Lee Stone

**Consumer and Safety
Organizations:**

Stephen Brobeck
Consumer Federation
of America

Joan Claybrook
Public Citizen

Clarence Dillow
Center for Auto Safety

Donald Friedman
MCR Technology Inc.

Jay R. Halfon
New York Public Interest
Research Group

Stephen W. Hargarton, M.D., MPH
American College of
Emergency Physicians

Ralf Hotchkiss
Wheeled Mobility Center
San Francisco State University

Katharine P. Prescott
Mothers Against Drunk
Driving (MADD)

Stephen Teret
American Public Health
Association

Hubert Williams
Police Foundation

**Insurance and Agents
Organizations:**

Patricia A. Borowski
National Association of
Professional Insurance Agents

Herman Brandau
State Farm
Insurance Companies

Len Brevik
Independent Insurance Agents
of America

John Connors
Liberty Mutual
Insurance Company

Steve Hasenmiller
The Hartford

Rodger S. Lawson, PhD
Alliance of American Insurers

Gerald Mastman
Kemper Insurance Companies

Robert J. McMillan
Progressive Insurance

Robert Vagley
American Insurance Association



Removing the unbelted crash test will also compromise the safety of at-risk occupants like teenagers who are particularly lax about belt use and statistically over-represented in fatal car crashes. In fact, 65% of people involved in fatal car crashes are unbelted. Additionally, the Kempthorne amendment will slow the development of advanced air bag systems because it would require only a minimal restraint system. You should be aware that advanced technology that would improve the protection of unbelted adults in high speed crashes and unbelted children in low speed crashes exists today with the current standard (such as the vertically inflating top-mounted air bags in Hondas, Nissans, General Motors cars, and other models).

Sen. Boxer has proposed an alternative compromise to Sen. Kempthorne's provision which would require NHTSA to issue a revised FMVSS 208 standard within one year of enactment of the ISTEA bill (see attached language). If the agency fails to issue a revised standard, then the Kempthorne proposal will go into effect. This preferred alternative will give NHTSA a year to upgrade the current standard and test air bags to assure protection in a full range of crashes (i.e., low as well as high speed) and a full range of occupants (i.e., unrestrained 3 year old, 6 year old, small woman, as well as the existing test for a mid-sized male). The solution is not to eliminate the unbelted crash test currently required in the standard, but to add additional unbelted crash tests that will assure the safety of out-of-position children and women in lower speed crashes.

When we met with Sen. Kempthorne he was reluctant to change his amendment but did indicate a willingness to consider a compromise and to work with Sen. Boxer. However, he is skeptical about more delay and whether the agency will take the necessary action to issue a new standard that will eliminate the risk to children. His staff believes the only condition under which Sen. Kempthorne would compromise is if the President endorses the Kempthorne-Boxer proposal and gives his assurance that NHTSA will act within a year to correct the problem (NHTSA leadership says this timetable is feasible). We also believe that Sen. Chafee, Chair of the Senate Environment and Public Works Committee, and Sen. Warner, Chair of the subcommittee of jurisdiction, would welcome a compromise to the Kempthorne proposal in light of opposition from the safety community and the US DOT.

With only 2 days remaining until the bill could possibly be brought to the Senate floor, it is imperative to correct this problem in the Senate bill. At last week's White House meeting with Vice President Gore and Secretary Slater on the Administration's NEXTEA proposal, the Kempthorne amendment was identified as one of the Administration's major concerns about the Senate bill. The Administration's best opportunity for correcting the objectionable provision is to have Sen. Kempthorne agree to substitute his amendment with Sen. Boxer's compromise. This can best be accomplished with a letter to Sen. Kempthorne from the President stating that the Administration opposes his amendment in the ISTEA reauthorization bill but will support a Kempthorne-Boxer compromise with assurances that NHTSA will meet the legislative deadline for acting to protect children in the standard.

We are available to assist in any way. You can reach Joan Claybrook at 202-588-1000 and Jackie Gillan at 202-408-1711.

cc: The Honorable Barbara Boxer, U.S. Senate
Bruce N. Reed, Assistant to the President for Domestic Policy
John L. Hilley, Senior Advisor to the President and Director for Legislative Affairs
Ronald A. Klain, Assistant to the President and Chief of Staff and Counselor to the Vice President
John D. Podesta, Assistant to the President and Deputy Chief of Staff for Policy and Political Affairs

PROPOSED MODIFICATION TO KEMPTHORNE AMENDMENT

SEC. 1407. AUTOMATIC CRASH PROTECTION UNBELTED TESTING STANDARD.

(a) IN GENERAL.--

(1) TESTING WITH SIMULTANEOUS USE.-- Beginning *one year from ~~on the~~ the* date of enactment of this Act, *and as provided in subsection (b)*, for the purpose of certification under section 30115 of title 49, United States Code of compliance with the motor vehicle safety standards under section 30111 of that title, a manufacturer or distributor of a motor vehicle shall be deemed to be in compliance with applicable performance standards for occupant crash protection if the motor vehicle meets the applicable requirements for testing with the simultaneous use of both an automatic restraint system and a manual seat belt.

(2) PROHIBITION.-- In no case shall a manufacturer or distributor use, for the purpose of the certification referred to in paragraph (1), testing that provides for the use of an automatic restraint system without the use of a manual seat belt.

(b) REVISION OF STANDARDS.-- *Subsection (a) shall take effect unless, within one year from the date of enactment of this provision, the Secretary issues a final rule to amend federal motor vehicle safety standard number 208 to require additional types of tests to protect all sizes of occupants, particularly children. Should such a final rule not be issued within one year from the date of enactment, The Secretary shall issue such revised standards under section 30111 of title 49, United States Code, as are necessary to conform to subsection (a).*

Bold Italics = New Language

366-4573

e unbelted ^{test} req. for any vehicle that
has effective seat belt restraining
capability

Smart air bags don't make problem go
away.

- GPL doesn't think we're that close
to having the right technology.

anti-lock heavy truck brakes

specifying tech vs.

You can meet vs.

If you

w/out an unbelted test, no way

~~Don't~~

GPL

Not at all sure how or whether this can be done.

Slid test:

~~on it~~
- on rails w/ config. of passenger interior on it

- you can do test on slid w/ actual car

- "Pulse" used is good for big cars but not small cars.

GM - Cavalier air bag

- Real improvement

Steel Rest - ~~response~~

allows mfg's to certify in depowered
form w/out taxing their resources

Bigger prob^{lems} - air bags being
deployed at speeds too low.

If you're wearing a seat belt
you don't need a a.b. unit!
~ mid-20s

That's a rel. easy fix but auto
Co's don't want to do it for
fear of liability.

1974 - Stockholm reg.

You don't have to have an air bag
if -

use inducing device

so that $\frac{3}{4}$ of passengers

rel. to smart air bags

Face bags are most Cost-effective
but only if people use seat belts



Dorothy Robyn
10/08/97 10:16:05 AM

Record Type: Record

To: Jerold R. Mande/OSTP/EOP

cc:

Subject: Re: ISTEA reauthorization

I took the liberty of asking Mark Schwartz, the NHTSA budget examiner at OMB, to come to the meeting as well. He's very, very good.

Called my physicist friend who retired from NHTSA 2 yrs ago last nite after we spoke. He was out in Pasadena, where he's consulting w/ the Jet Propulsion Lab on the smart air bag issue. (By the way, according to Carl, JPL thinks we're several years or more away from having the right technology for smart air bags.)

He favors a strong focus on getting seat belt usage up -- by, among other things, having auto makers use technology that would induce passengers to buckle up (the old interlock technology tried to do that but in a way consumers wouldn't accept). If you can get belt use way up, he says the European-style bag ((called a "face bag" but it's really a smaller version of what we have) is the most cost-effective approach.

Carl is not a particular fan of the unbelted test (it dictates the technology rather than the outcome), but he confirmed that if you eliminate the unbelted test requirement, you essentially eliminate the requirement for air bags altogether, b/c car co's can meet the remaining requirements just with seat belts. In his view, main problem w/ air bags is that they deploy at speeds that are too low (12 mph, approx). If one is belted, air bags are unnecessary until you get to speeds in the mid-20s. The automakers can fix that problem relatively easily (early bags deployed at even lower speeds) but they don't want to for fear of liability.

His suggested compromise: eliminate unbelted test req. for cars with capability to induce passengers to buckle up. but he conceded after some thought that Claybrook wld probably not go along w/ it. I told him he needed to do better!

Loth:

- another closure date on campaign for at home
- assuming if Yitz, will go to 15th

EMK -

CR move into some of the a's (understand)

Let's say they get R

WK of 20 R

- CR

- approx 5

- similar strike

- fast track

~~Loth~~

- Loth very committed to multi-year bill

Now the bill is moving,

- We drafted 10 on DBEs

create real problems in my ability
to read the bill & sign the bill.

- Assuming we can keep it in h/wy part of
bill

- VC as cleanup amendment

.08

If ^{we} they w/d shut JC up by supporting
.08 (Kovr-Lautenberg), & they w/d agree
to be quiet on air bags.

~~Porter~~

Chapman's staff has asked for ^{key} 1/2. as
CMNO

We went back to 57/PP

— Safety

— Envir.

— OTW

— = opp. ^{for all} DBE

Need a POTUS 1/2 statement

Alford

give PM-10 non-attain. areas
a weight under CMNO opportunity
formula

Kemp. Talked to E. O. Hine

- sent pk-g.

-

J. M. wants to come up w/ compromise
E. O. Hine can live w/.

(1) What do you do w/ all the cars on
road today

OK

(2) What do you do in future - smart
air

(3) What to do w/ cars rolling off the
today?

K/Thorne will be credited for

that's not right approach

NHTSA of Claybrook

Mike Bajer

Pass K/Morse amendment. Give NHTSA a year to get out rule on smart air bags

de-powered bag.

They wanted to speed test; not results in

Keup. still doesn't like it b/c he thinks some kids will soon die.

Keup:

- won't value Bajer approach
- is frustrated w/ DOT

L-6018

Palmer

Palmer will meet w/ Rep. S. Longnecker

366-45⁷³~~00~~

SP

NHTSA says:

If they can't do unbelted test, can't develop tech. for smart air bags

How can we ~~give~~ Kemp credit

If this a puzzle -

mfg's will close as a "face bag"

- (1) - e un. test but req. restraint system that prevents head contact w/ steering wheel, inst. panel, or occ's own body in 35 mph test.

that force

- If she balks, remind her that

- (2) Limit inflat. restraint systems so they cannot deploy at < 18 mph

that with

they did keep current

in
a put 2-level deflator in

the

early
bags.

low speed crash - bag will come out in low force

Mercedes 519: If belt is on, ^{bag} doesn't deploy at low speed.

reg. req
(9) Direct NHTSA to do something (using other long
consequences 501's)

(1) effective belt use warning system

(2) advanced New Car Assessment Program (NCAP)
such as a 40 mph BSR req.

~~(4) Exemption~~

Smart air tag rule

- will be much more expensive
- " give automakers little flex.

- ^{If} ~~the~~ K's a param, wld NHTSA have to put out a rule?
- data on importance of unbelted test (w/ depowered bag).
- Another vehicle?

Don