



THE SAFETY RECORD

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Driver Distractions and Vehicle Contraptions

LAS VEGAS, NV – In the capital of distractions, visitors to the Consumer Electronics Show in Las Vegas this month got a preview of the latest innovation in on-board electronics – and it didn't make Transportation Secretary Ray LaHood very happy. Just two months after LaHood raised the alarm about distracted driving at a Washington summit, software-makers Intel and Google touted the marriage of computing and driving.

Dashboard PCs ramp up the competition for a driver's attention, allowing tomorrow's motorists not only to get directions to Disney World, for example, but also to find out the price of admission, nearby hotels and restaurants – all on a 10-inch screen above the gear-shift.

In a *New York Times* article about these systems, LaHood declared: "The idea they're going to load automobiles up with all kinds of ways to be distracted — that's not the direction we're going, and I

will speak out against it."

But will LaHood regulate against it? Already, today's driver can talk on the phone, receive a fax, read e-mail, surf the net. And should this interconnectedness distract him, his vehicle can warn him if he drifts the line, brake if he gets too close to the vehicle in front of him or help him negotiate a sharp curve up ahead. As auto-makers stuff vehicles with on-board electronic distractions, they are stuffing them with electronic "assistants" that take control of the vehicle while the driver is occupied elsewhere.

Distracted driving will continue to be a hot topic. It was at the center of almost every question senators asked NHTSA nominee David Strickland at his confirmation hearing last month. (See *Advocates Applaud Strickland Appointment*) Laws to regulate driver behavior are trying to catch up to the proliferation of attention-dividing devices and the national news media have kept the issue simmering with regular stories, like the *New York Times* coverage

of the consumer electronics convention.

But little attention is being paid to the big picture – the interplay between driver distractive technology, driver assistive technology and the problems that may inadvertently be created by the sheer size of a vehicle's electronic architecture. And other than state, and perhaps, eventually, a federal law governing driver behavior, nothing has been done to hold manufacturers accountable for making the task of driving more difficult as they turn automobiles into travelling entertainment centers and work stations.

NHTSA's Response

To date, the National Highway Traffic Safety Administration has done little but take note of the trend. While the agency has a role to play as a leader in setting automotive safety policy, its true power lies in regulating automobiles. In that respect, the agency has done nothing to curb the growth of on-board communication technologies.

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2010 Forecast: Toyota SUA Problems Continuing

NEW YORK, NY— Toyota ended the old year trying to decisively shut the door on sudden unintended acceleration (SUA) problems in its Toyota and Lexus vehicles, but it's unlikely that the automaker's troubles are gone with 2009.

A one-car crash in Dallas, Texas that left four dead the day after Christmas may be yet another incident to punch a hole in Toyota's floor mat interference theory. The four

occupants of a 2008 Toyota Avalon died after the sedan inexplicably went off the road, crashed through a fence and landed upside down in a pond. Investigators have already ruled out the floor mats – which were found in the trunk – as the cause.

Safety Research & Strategies, which has been tracking Toyota SUA, continues to review incidents that can't be explained by floor mat interference, including one

which a Toyota dealer witnessed.

One New Jersey owner of a 2007 Avalon described multiple instances of the vehicle accelerating of its own accord. In the first incident, the driver was able to slow the Avalon with brakes, and stop it by shifting into neutral as the engine raced to maximum RPMs. An initial check by the dealer didn't reveal any problems. The most recent incident ended with the dealer

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Since 2002, it has conducted research on driver behavior, publishing a spate of reports on the impact of distractions on truck drivers, naturalistic studies of hand-held cell phone use, assessments involving distracted driving and crash risk, and drivers' strategies for operating electronics while driving. Its other observational surveys have shown the steady creep of cell phone use while driving.

A NHTSA Research Note published last September begins with the damages report:

"In 2008, 5,870 people lost their lives and an estimated 515,000 people were injured in police-reported crashes in which at least one form of driver distraction was reported on the crash report. While these

numbers are significant, they may not state the true size of the problem, since the identification of distraction and its role in the crash by law enforcement can be very difficult."

An examination of data from the Fatality Analysis Reporting System (FARS) and the General Estimates Systems found that distraction was playing a role in a significant number of fatal and injury-causing crashes: 16 percent of all fatal crashes in 2008; 16 percent of all fatal crashes involving under-20 drivers; 21 percent of injury crashes; and more than 22 percent of all crashes *and* near-crashes recorded during a naturalistic driver study.

Despite the strong link between distraction and on-road mayhem, people behave as though it

couldn't possibly happen to them. NHTSA's March 2008 study *Driver Strategies for Engaging in Distracting Tasks Using In-Vehicle Technologies* concluded that when technology calls, people answer, regardless of what's happening at the wheel:

"The general picture that emerged from this research is that driver decisions about engaging in in-vehicle tasks are strongly related to considerations of task motivations (even if they may appear trivial) and "lifestyle" perceptions, and more weakly related to driving considerations and current or upcoming roadway and traffic attributes. There is little planning and preparation for activities and little tendency for drivers to delay activities until driving task demand is low. The in-

vehicle task factor most important in driver considerations is visual demand. Common cell phone tasks did not engender much perceived risk or reluctance to engage in the activity."

Even hands free technology won't solve the problem. In 2007, the agency published a study examining the characteristics and effects of voice-based interfaces for in-vehicle systems on drivers. Thirty-six drivers in three age groups drove an instrumented vehicle while performing a combination of car following, peripheral target detection, and secondary tasks of varying complexity on a closed test track with some traffic present.

The researchers were trying to determine whether secondary
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2010 Forecast: Toyota SUA Problems Continuing

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witnessing the out-of-control vehicle engine and overheated brakes – with no floor mat interference. The owner was driving on the highway when the vehicle began to accelerate on its own. Despite brake pressure and a shift into neutral, the Avalon kept revving uncontrollably. He immediately headed to the nearby Toyota dealership by shifting between Drive and Neutral with the engine at full throttle. He pulled into the lot with the Avalon revving and the brakes smoking. The dealer service technician tried to physically move the pedal, but was unable to stop the vehicle engine from revving. The dealer contacted a Toyota corporate representative, who authorized replacement of the throttle body, accelerator pedal and the associated sensors and paid for the labor and a car rental for the owner.

The replacement part repair – and an event witnessed by Toyota – is another new wrinkle in the ongoing investigation into sudden unintended acceleration in Toyota vehicles and the automaker's response to the issue, going back seven years. Toyota has religiously stuck to pedal interference as the root cause. The only "parts" it has ever offered to replace was a floor mat or carpet and a shortened accelerator pedal. The emergence of a more substantive repair raises new questions about what Toyota knows about this problem and how candid it has been with the National Highway Traffic Safety Administration in the past.

The Avalon was one of 3.8 million vehicles Toyota recalled in October for sudden acceleration problems that the automaker has insisted was caused by floor mats inadvertently jamming the

accelerator pedals of its vehicles. In November, Toyota announced that it would reconfigure the shape of the accelerator pedal to remove the risk of floor mat entrapment by first offering to cut down the current design. In the Spring Toyota would replace the accelerator pedal assembly with a shortened version. For the ES350, Camry, and Avalon, the automaker said that it will change the shape of the floor surface to increase the space between the accelerator pedal and the floor. Vehicles with Toyota or Lexus brand floor mats will receive newly-designed replacement driver- and front passenger-side all-weather floor mats. And Toyota would install a brake override feature on the Camry, Avalon, and Lexus ES 350, IS350 and IS 250 models only. Toyota did not explain why other affected models was not getting this safety feature.

The recall was big enough to push Toyota to the top of a list it didn't want to be on: automakers with the most recalled vehicles in 2009.

On the upside for Toyota, disgruntled ex-corporate counsel Dimitrios Biller's explosive allegations of withholding evidence in about 300 rollover cases has ended with a whimper – for at least some litigants. E. Todd Tracey of the Tracey Law Firm in Dallas was hoping to use some of Biller's documents like a crowbar to re-open 17 rollover cases. But just before Christmas, he asked a federal judge in Marshall, Texas to dismiss the case, based on the contents of four boxes of internal materials Biller claimed would prove his allegations. Last summer, Biller, who handled Toyota's rollover cases
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(Cont. from p. 2)

tasks, performed using a hands-free voice interface, interfered with driving performance and how secondary task complexity was related to driving performance degradation. They were also trying to evaluate the effects of two specific voice interface attributes, one with a visual component and one without, and voice interface reliability.

The researchers found that “the in-vehicle tasks performed using voice interfaces were associated with significant degradation of driving performance. This was true both for simulated 511 system tasks (a traveler information system accessed by dialing 511) and for simulated hands-free phone tasks and leads to the conclusion that voice interfaces are not sufficient to eliminate the cognitive distraction associated with secondary tasks like those used in this study.”

“Tasks that required drivers to look at a simulated map display were most disruptive, not only because of the requirement to look away from driving, but also because of increased cognitive demands associated with the requirement to interpret information obtained from the 511 system with the visual map display. The simulated phone task was only slightly less disruptive than the 511 tasks, however because the phone task is considered to be more demanding than typical phone calls, real-world use of 511 systems by drivers is likely to be more distracting than typical phone calls.

All secondary tasks were associated with significant cognitive distraction, which affected not only the cognitive aspects of driving but also visual target detection and vehicle control.

Thus while voice interfaces allow drivers to keep their hands on the wheel and eyes on the road, the cognitive distraction associated with queries of a 511 traveler information system or moderately demanding hands-free phone conversation may impose a significant cognitive load that has the potential to degrade all components of driving performance.”

These findings ought to give the agency pause – or at least a foundation to consider regulations on the installation of on-board technologies. So far, the agency has revealed no regulatory strategy for dealing with these issues.

The Legislative Approach

State legislatures have taken the most proactive stance – although the approach tends to be crude, spotty and badly lag the pace of technological innovation. To date, only cell phone use has been regulated.

According to a compilation of laws by the Governors Highway Safety Association, no state bans all cell phone use altogether for all drivers, but six states: California, Connecticut, New Jersey, New York, Oregon and Washington), the District of Columbia and the Virgin Islands prohibit all drivers from using handheld cell phones while driving; 21 states and the District of Columbia ban all cell use by novice drivers; 17 states and the District of Columbia, ban school bus drivers from all cell phone use when passengers are present. Nineteen states, the District of Columbia and Guam now ban text messaging for all drivers; 9 states prohibit text messaging by novice drivers; one state prohibits school bus drivers from texting while driving.

On the federal level, there are two pending bills: the Distracted Driving Prevention Act of 2009

and the Avoiding Life-Endangering and Reckless Texting by Drivers Act of 2009 (The ALERT Drivers Act).

The distracted driving prevention proposal offers states more highway money – some of which can be used for actual road projects – if they pass laws banning texting while driving. States would have to enact laws that ban texting and hands-on cell phone use while driving, and ban novice drivers from any cell phone activity. The laws would have to make the violation a primary offense – meaning a police officer could stop a driver for texting, and carry civil and criminal penalties, depending on the number of offenses or if a crash is involved.

The ALERT Drivers Act uses the stick instead of the carrot, withholding 25 percent of a state’s federal highway funding from states that do not pass texting while driving laws.

Meanwhile, Back at the Factory

As NHTSA ponders and policymakers pass laws, manufacturers keep a sharp eye out for the next electronic innovation that will control the vehicle when the driver is otherwise engaged.

Most of these are variations on automatic braking systems, which either slow down the vehicle when it tails another vehicle too closely, or enters a curve at too high a rate of speed. In 2006, for example, Nissan unveiled its Distance Control Assist System which integrates a GPS navigation system with electronic stability control, to automatically apply

the brakes if it senses that the vehicle is not cornering smoothly. The systems’ Navigation-Cooperative Intelligent Pedal predicts the optimum speed for the upcoming corners and prompts the driver to slow down by raising the accelerator pedal against the driver’s foot.

More recently, Bosch has been pushing its radar system that enables adaptive cruise control and predictive emergency braking, which combines predictive collision warning, emergency brake assist, and automatic emergency braking. Bosch also offers a multi-purpose camera to support lane departure warning and lane keeping technologies, which alerts the drivers that the vehicle is departing the roadway and corrects its course back to center.

But it seems likely that the powerful distractions – visual and otherwise – that manufacturers could install in vehicles could easily overwhelm the number of crash avoidance strategies suppliers could devise. Another concern that analysts have pointed out before: the number of defects is positively correlated with the size of a vehicle’s electronic architecture. As Toyota’s unintended acceleration problem shows, sometimes, when the car drives you, it’s a bad thing.

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NHTSA Proposes Anti-Ejection Regulations

WASHINGTON D.C. – At least a year past a Congressional deadline and several years behind its own schedule, the National Highway Traffic Safety Administration has proposed a new ejection-mitigation standard that would compel automakers to improve their side airbag designs to fully cover up to three rows of passengers and – perhaps – install advanced glazing.

The proposal would establish a new Federal Motor Vehicle Safety Standard 226 - Ejection Mitigation. The standard would apply to the side windows next to the first three rows of seats in motor vehicles with a gross vehicle weight rating of 10,000 pounds or less. The performance-based standard would institute a compliance test in which an impactor would be propelled from inside a test vehicle toward the windows. The ejection mitigation system would have to prevent the impactor – based on the mass imposed by a 50th percentile male's upper torso on the window opening – from moving more than a specified distance beyond the plane of the window. Each side window would be impacted at up to four locations around its perimeter at two time intervals following deployment, to ensure that the airbags remain deployed for the beginning and end stages of a rollover.

According to the NPRM, the intention of the test is to:

“mitigate ejections in different types of rollover and side impact crashes involving different occupant kinematics. The test has been designed to represent the dynamic rollover event. The mass of the impactor, 18 kilograms (kg) (40 lb), in combination with the impact speed dis-

cussed below, has sufficient kinetic energy to assure that the ejection mitigation countermeasure is able to protect a far-reaching population of people in real world crashes.”

Don Friedman, inventor of the Jordan Rollover System, a repeatable dynamic rollover test, said that the proposal was good – as far as it went.

“It's not a dynamic test, but it's consistent with the plans they had laid out,” Friedman said. “And it is consistent with the roof crush standard in that they are proceeding with a simulated static test. It will have useful consequences that will hopefully be supplanted by a dynamic test in the NCAP which will deal with ejection and roof crush issue.”

This rulemaking comes on the heels of the 2007 upgrade to the FMVSS 214 side-impact pole test, which, in effect, mandated the use of side air curtains to prevent head injuries in side impacts. The agency predicts that manufacturers will meet this new proposed performance requirement by making existing side impact air bag curtains larger and able to stay inflated longer. The agency based the test on computer modeling showing that ejections can occur early and late in the rollover event. Under the proposed test, the impactor would strike the targets at two impact speeds and at two different points in time after the side curtain air bag deployed, to ensure that the curtains retain the occupant through all the stages of a rollover.

Under the NPRM, NHTSA could request that manufacturers describe the conditions under which the ejection mitigation air bags will deploy.

“We do not believe conditions need to be specified in the standard dictating when the sensors should deploy; field data indicate that rollover sensors are deploying when they should in the real world,” the agency said.

The ejection mitigation rulemaking was mandated under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, the massive transportation bill of 2005. NHTSA was to have issued a final ejection mitigation rule by September 1, 2009, when SAFETEA-LU's funding expired. The rulemaking was to be part of a broader initiative to reduce rollover crashes and the associated deaths and injuries.

The agency multi-pronged approach included a new rule mandating electronic stability control to improve rollover crash avoidance and a contentious upgrade to the roof crush standard. SAFETEA-LU's Section 10301 directed NHTSA to complete a rulemaking to reduce complete and partial ejections. The agency's early planning documents show that it expected to propose occupant containment performance requirement for side windows by 2006.

NHTSA has been studying advanced glazing as an ejection countermeasure since 1995, when it published “*Ejection Mitigation Using Advanced Glazings: A Status Report.*” The agency issued a second glazing report in 1999 and the following year published an Advance Notice of Proposed Rulemaking on anti-ejection glazing. But in 2001, the agency reversed itself. It issued a third report downplaying the benefits of anti-ejection glazing and in 2002 terminated the rule-

making, saying that “advanced glazing appeared to increase the risk of neck injury by producing higher neck shear loads and neck moments than impacts into tempered side glazing.” The agency also turned in high estimates for requiring automakers to install such glazing in front side windows ranging from more than \$800 million to over \$1.3 billion.

Advanced glazing may rise from the regulatory dead under this proposal. The agency drafted the test procedure to encourage the use of advanced laminated glazing in fixed and in moveable windows in addition to or in lieu of the side curtain air bag. Memphis attorney Patrick Ardis, who has been espousing the advantages of laminated glazing for years and has litigated civil suits that involve ejection, says that automakers should opt to use both, because both are necessary to complete the occupant protection system.

“It's only about 40 years too late,” says Ardis. “The bottom line is that none of the domestic car manufacturers have had to evaluate the real world performance of side windows or any other fixed windows. All they've done is a series of drop tests – tests that go back to the 1930s. So far, there's been this giant disconnect between a 1930s test and horrible performance in the real-world.”

In the agency's tests, the glazing was pre-broken to simulate the likely condition of glazing in a rollover. Tests of vehicles with advanced glazing resulted in an average 51 mm reduction in impactor displacement across the target locations. In other words, an ejection mitigation window curtain plus advanced
(Cont. on p. 5)

Advocates Applaud Strickland Nomination

WASHINGTON, D.C. – Fair. A listener. Safety conscious. The safety community was near unanimous in its reaction to the confirmation of David L. Strickland as NHTSA's new administrator.

"We're very happy," says Janette Fennell, of Kids and Cars. "David's a great guy. Anybody who's worked on transportation issues knows that he's a prime player. He's very nice, very articulate. We have taken many families to meet with him and he's extremely compassionate. He does not over promise. He listens and he's a straight shooter."

At his confirmation hearing last month, Strickland received a standing ovation before his bosses at the Senate Commerce, Science and Transportation Committee, where he has worked since 2001. Republican Kay Bailey Hutchinson (Texas) quipped that he got a much better reception than the committee chairman John D. Rockefeller IV (D-W.Va.), when he arrived late.

Strickland was pelted with verbal bouquets from Rockefeller and former committee chair Daniel K. Inouye of Hawaii; the

rest of the committee members gently questioned him, mostly about the behavioral issues of impaired and distracted driving. Surrounded by extended family, Strickland returned the compliment, devoting most of his statement to praising others.

A graduate of the Harvard Law School, Strickland worked for the former law firm of Wiley, Rein & Fielding early in his career. From 1996 to 2001, Strickland served the Association of Trial Lawyers of America as the associate director and a lobbyist.

"He is a true consumer advocate," says Linda Lipsen, Senior Vice President for Public Affairs at the American Association for Justice. "That is his first concern – always. He is very big-hearted and he will come to this job with all the right values. It's a wonderful appointment. He's responsible for getting the most comprehensive consumer bill in years (The CPSIA). He just persevered and worked at it diligently. He got a more comprehensive bill than anybody expected. He's very talented and he's going to restore to the agency a real commitment to consumers."

As senior counsel to the consumer protection sub-committee Strickland was instrumental in the writing and passage of the Consumer Product Safety Improvement Act, and the Energy Independence and Security Act of 2007, which ushered in the first major upgrade in the Corporate Average Fuel Economy (CAFE) standards in 30 years. Advocates also credit Strickland with keeping important auto safety legislation in the 2005 Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). Mothers Against Drunk Driving named him Congressional Staffer of the Year in 2004.

"David was such a major part of the safety provisions (of SAFETEA-LU)," says Jackie Gillan, executive director of Advocates for Highway Safety. "The regulations implemented in the Bush administration haven't met their full life-saving potential, because they have been weak rules. David's familiar with congressional intent and what the public expects. He is known by the NHTSA staff and the stakeholders. He will be a great asset to (Transportation) Secretary (Ray) LaHood."

Many advocates believe that the

agency has been adrift under a series of short-term administrators, beginning with Nicole Nason. A Bush appointee, Nason had worked as a DOT lobbyist, and as communications director for former Republican Rep. Porter Goss before assuming the leadership of NHTSA. At the time of her appointment, one auto industry lobbyist sniped in a January 2006 news story: "Maybe she has talents not yet obvious to the outside world."

Likewise, many characterized Nason's 26-month tenure as underwhelming. In a move that befuddled reporters, Nason prohibited any staffer from speaking to the news media about the agency; she was the only on-the-record source. The agency promulgated a weak roof crush rule complete with a preemption clause, and apparently stopped enforcing regulations, according to an analysis by the Center for Auto Safety. The advocacy group said that the agency collected more than \$4.3 million in penalties from late 1995 to early 2006, and then, stopped imposing penalties altogether.

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NHTSA Proposes Anti-Ejection Regulations

(Cont. from p. 5) glazing resulted in the least displacement of the headform. To encourage manufacturers to enhance ejection mitigation curtains with advanced glazing, the NPRM proposed to allow windows of advanced laminated glazing to be in position, but pre-broken to reproduce the state of glazing in an actual rollover crash.

Attorney Jim Gilbert, who tried the nation's first windshield

pop-out case in the mid-1980s, and a leading specialist in rollover litigation, says that the proposal still constitutes an unnecessary delay. Gilbert's eventual appellate court victory over an international aftermarket windshield replacement company accused of substandard installation practices led to an industry-wide change. But Gilbert, of the Arvada, Colorado-based Gilbert, Ollanick & Komyatte P.C., hasn't seen OE manufacturers improve their

glazing at all.

"Manufacturers aren't going to start making improvements unless someone tells them they have to and that someone is either a jury or the government," Gilbert said.

But he decried the pace of the proposed phase-in, in which manufacturers would be required to have 20 percent of their fleets compliant by September 2014, with full imple-

mentation by 2017.

"Twenty percent is already being done," he said. "Sensors and side curtains have been around since the 1990s. Why aren't they acknowledging the facts – that this is available. It seems like an unreasonable delay after the decades of delay in the industry."

The agency is accepting comments on this proposal through January.

IIHS Rates Booster Seats; New Study Examines Effectiveness

ARLINGTON, VA — The Insurance Institute for Highway Safety released its latest ratings for boosters, and out of 60 models gave 15 models high marks and dinged 11 as “not recommended.” Meanwhile, a statistical analysis of the association between booster seat use and the risk of death found that boosters were no better than seatbelts alone in preventing death among 4-8-year-old children.

Researchers T.M. Rice, C.L. Anderson, and A.S. Lee of the University of California, Berkeley’s Traffic Safety Center and the Center for Trauma and Injury Prevention Research at the University of California Irvine’s Department of Emergency Medicine conducted a matched cohort study (matching exposed to unexposed persons prior to outcome determination) using 1996-2006 data from the Fatality Analysis Reporting System. The sample of 6,006 vehicles included those with two or more occupants in the first two rows of seating, with one or more occupants aged 4-8 years old in which one or more occupants died.

The analysis, published in *Injury Prevention*, showed that seat belts, used with booster seats, were “highly effective” in preventing death among young motor vehicle occupants. In a severe crash, unrestrained chil-

dren in the sample were 2.8 times more likely to die than those restrained in seat belts with boosters. The effectiveness for children 6-8 years was slightly less. But the study showed that belts alone were almost as effective: “Unrestrained children were 2.6 times more likely to suffer fatal injury than belted children. The estimated death risk ratio comparing seatbelts with boosters with seatbelts alone was 0.92.”

The researchers concluded that, in looking at the risk of death only, “booster seats do not appear to improve the performance of seatbelts.” They also noted that these results were similar to a 2002 study published in the *Annual Proceedings Association for the Advancement of Automotive Medicine*.

The numbers did not lead the researchers to recommend that young children use seatbelts alone because other studies show that booster seats reduce non-fatal injury severity – the abdominal and spinal injuries characteristic of seatbelt syndrome.

“Clinicians and injury prevention specialists should continue to recommend the use of boosters to parents of young children,” the study’s authors said.

IIHS’s second annual recommended booster seat list attempts to help parents and caregivers select the booster seats “most likely to provide good lap and shoulder belt fit in a range of vehicles,” the institute said in a news release about rankings. In its first year, the institute evaluated 41 seats. This latest round covers nearly all models sold in the United States. Eventually, IIHS plans to structure its booster seat ratings like its Top Safety Pick awards, evaluating new models as they are released to the public.

Institute engineers assess each model by measuring how lap shoulder belts fit a “specially outfitted” 6-year-old crash test dummy under “four conditions spanning the range of safety belt configurations in vehicle models. Each booster gets four scores for lap belt fit and four for shoulder belt fit. The overall rating for each booster is based on the range of scores for each measurement,” the news release said. The IIHS’s best-rated boosters are: the Combi Dakota backless with clip, Recaro Young Sport highback (combination seat), Recaro Vivo highback, Maxi-Cosi Rodi XR dual-use highback, Evenflo Big Kid Amp backless with clip, Eddie Bauer Auto Booster dual-use highback, Cosco Juvenile Pronto dual-use highback, Britax Frontier highback.

The Institute did not recommend: Harmony Secure Comfort Deluxe backless with clip, Combi Kobuk dual-use highback, Evenflo Express highback (combination), Eddie Bauer Deluxe highback (combination), and Evenflo Sightseer highback. Also on the list are 3-in-1s including the Safety 1st Alpha Omega Elite, Alpha Omega Elite, Eddie Bauer Deluxe 3-in-1, Safety 1st All-in-One, Alpha Omega Luxe Echelon, and Alpha Omega. Half of the boosters that aren’t recommended are 3-in-1s that leave the lap belt too high on the abdomen and the shoulder belt too far out on the shoulder. One seat, the Harmony Secure, has armrests that push the lap belt away from the hips, way out on a child’s thighs. Shoulder belt fit is the main problem for the rest — the Combi, 2 Evenflos, and the Eddie Bauer Deluxe.

Dorel Juvenile Group, the largest US children’s gear distributor, makes three of the most highly recommended boosters and seven of those that aren’t recommended. Dorel seats sell under the names Cosco, Dorel, Eddie Bauer, Maxi-Cosi, and Safety 1st.

These recent developments contradict, in part, earlier findings by researcher Suzanne Tylko of Transport Canada, (Cont. on p. 8)

Advocates Applaud Strickland Nomination

(Cont. from p.5)
Her successor, David Kelly, was previously Nason’s chief of staff and a program manager at the National Safety Council. He headed the agency for a scant four months, before departing last January with the Bush administration. Senior Associate Administrator for Vehicle Safety, Ronald Medford has

been acting deputy administrator ever since.

“He’s terrific. I hope he can revive the agency,” says Joan Claybrook, who served as the NHTSA Administrator in the 1970s. “Very little has been done in the last eight years and we need to have some raw energy and safety orientation in-

jected into the agency. I think he has a real chance of selling his perspective.”

In May, President Obama’s first NHTSA nominee MADD CEO Chuck Hurley withdrew after environmental groups protested, citing Hurley’s opposition to stricter fuel economy standards when he

worked for the Insurance Institute for Highway Safety. Strickland has received public endorsements from the Rubber Manufacturers Association and the Governors Highway Safety Association, which urged a quick confirmation. No groups had raised any objections. Strickland’s nomination was voted out of committee on Dec. 17, and the Senate approved it on December 24.

U.S. Bus Cries Uncle, Pays 20K Fine

WASHINGTON, D.C – On the eve of a rare non-compliance public hearing, Transportation Collaborative, Inc., a New York school bus company, agreed to complete by September, 15 recalls campaigns dating back to 2001 and to pay a \$20,000 fine.

NHTSA abruptly cancelled an October 23, 2009 public hearing to determine if TCI had met its obligations to notify owners and to remedy defects related to a slew safety failures – ranging from minor infractions, such as a misplaced mirror use label, to serious violations, such as seat anchorages that didn’t meet the minimum standard — in buses built by U.S. Bus, Inc.

Over a six-year period, ending in 2007, U.S. Bus Corp filed 21 defect and non-compliance reports to the agency. It had agreed to complete the campaigns, and filed quarterly reports, but recorded no real progress in making any substantive repairs. Then, in November 2007, U.S. Bus “sold” its assets to TCI, another bus company located about 15 miles away. After the transfer, the agency began to investigate the outstanding recalls and the ownership of both companies. The agency discovered that it was merely a paper transfer among common owners, motivated by an attempt to skirt their recall responsibilities. NHTSA tentatively concluded that TCI was on the hook to finish the recalls.

According to a settlement agreement signed on Oct. 23, TCI was required to file a revised defect and noncompliance information report for the 15 undone recalls to NHTSA’s Recall Management Division by Nov. 13, including a description of TCI’s remedy and a plan for reimbursing any owner who incurred costs trying to fix the

problem. NHTSA reserved the right to request that TCI send the agency a complete remedy kit with instructions to determine if the remedy is sufficient.

“Failure to correct a deficiency is considered breach of this Agreement and Order, unless TCI can show that the vehicle owner was sent the remedy kit or owner notification letter and failed to remedy the vehicle,” the agreement states.

For six of the recalls, TCI had until the end of November to provide NHTSA with a separate report for each recall “documenting successful installation and testing of the remedy in a full vehicle or a vehicle body that is identical, in pertinent respects, to that of the affected vehicles.”

TCI was also required to send a notice of the noncompliances or defects to all owners, purchasers, and dealers of the affected vehicles, except those that TCI could document as having had the remedy performed.

It appears as though many, many TCI customers received notices. New documents filed to satisfy the settlement agreement show that U.S. Bus didn’t actually make any repairs in some of the most serious instances. For example, Recall 05V-255 required U.S. Bus to fix improper or missing welds from the restraining barrier located in front of the forward-most seat of the Sturdibus HD model. Recall 05V257 required the company to make repairs to the glass retention gasket on the rear emergency door windows, to comply with the FMVSS 217 Emergency Exits and Retention and Release retention force requirements. The company’s latest defect filings show that not one vehicle in those recall populations has ever been re-

paired.

U.S. Bus had previously sent all of the typical recall paperwork to the agency – including a copy of the owner notification letter. But given the seriousness of the defects and the population of occupants in the affected vehicles – school children – one can’t help but wonder why no owners demanded repairs. NHTSA may have concluded that U.S. Bus didn’t actually send any notice to owners – the settlement agreement required TCI not only to file a copy of the materials used to inform owners of affected vehicles, it also mandated that TCI supply a list of the recipients of the notices, the VIN numbers of the affected vehicles, and the date the notices were sent.

TCI must again file its six quarterly reports, and if the company has not repaired at least 50 percent of the vehicles by Sept. 30, it will be required to report the poor remedy rate to NHTSA and to launch another campaign. Once the final recall reports are filed, NHTSA will decide if TCI has finally fulfilled its recall obligations – any work the agency deems undone will have to be completed, according to the agreement.

In exchange for the fine, NHTSA agreed to make no formal determination on TCI’s failure to implement the recalls. But the agency kept a second, monetary threat in reserve: Should TCI fail to perform adequately implement all the recalls, the company will be assessed another \$100,000 fine.

NHTSA Releases Motor Coach Safety Plan

WASHINGTON, D.C. – After decades of successfully maintaining the status quo, motor coach manufacturers and operators are about to be regulated as part of a concerted approach to improve motorcoach safety.

The National Highway Traffic Safety Administration has released its Motorcoach Safety Action Plan, which includes rulemaking to make these buses safer and to better qualify their drivers initiated by NHTSA and the Federal Motor Carrier Safety Administration.

Agency data show that over the past decade, crashes have killed an average of 19 motorcoach occupant fatalities each year, in addition to pedestrians, drivers, and passengers of other vehicles involved in these crashes. Driver fatigue, vehicle rollover, occupant ejection, and operator maintenance have been major factors in these fatalities and injuries.

According to the plan, the National Transportation Safety Board “identified driver-related problems as root causes responsible for 56 percent of the motorcoach crashes it investigated.” In 13 percent of the cases, the NTSB identified the condition of the vehicle as a root cause. A second study by the University of Michigan Transportation Research Institute cited driver error is a factor in 31 percent of all motorcoach crashes. FMCSA’s Bus Crash Causation Study found that the bus was the critical cause of the crash in about one-half of the cases, with driver error a “primary factor nearly 80 percent of the time.”

The plan emanates from an April 30 directive from U.S. Secretary of Transportation Ray
(Cont. on p. 8)



Published by:
Safety Research & Strategies
340 Anawan St. / Suite 200
Rehoboth, MA 02769
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The Safety Record is published
bimonthly.

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Safety Research & Strategies, Inc.

ISSN 1554-1304

2010 Forecast: Toyota SUA Problems Continuing

(Cont. from p. 2)
for more than four years, sued his former employer in a Los Angeles federal court, alleging that the auto-maker routinely hid or destroyed evidence. Several thousand documents were delivered to the Texas court, where they remained under seal. Tracey pulled the plug after Biller showed him a duplicate set of the documents. But, other attorneys with similar intentions are still proceeding with their inquiries.

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IIHS Rates Booster Seats; New Study Examines Effectiveness

(Cont. from p. 6)

who reported three years ago that a five-point restraint system is the safest option for children.

Transport Canada measured the performance of booster seats with child Hybrid III dummies representing a 10- and 6-year-olds in full frontal rigid barrier and frontal offset deformable barrier tests. The 6-year-old dummy was restrained in a belt-positioning booster and the 10-year-old was restrained with either a booster or a three-point belt. Tytko and her colleague Dainius Dalmotas tested 77 passenger cars, cross-over vehicles, minivans and SUVs from the 2003-2005 model years, paired with low-back and high-back boosters, high-back boosters with a harness latch and tether and a lap and shoulder belt.

In the tests involving the six-year-old dummy in a lap and shoulder belt, the belt would either slide up into the neck or down to the shoulder, as the dummy pitched forward. In the latter case, some dummies rolled out of the belt entirely—particularly if there was any offset component to the crash—causing the head and chest to hit its lower extremities. Tytko found little difference among booster seats. All of them – unlike three-point belts alone – effectively kept the lap portion of the belt in the pelvic region, and prevented it from traveling into the abdominal cavity. But boosters didn't do much to protect the child's chest region, failing to keep them properly positioned in an adult three-point belt.

NHTSA Releases Motor Coach Safety Plan

(Cont. from p. 7)

LaHood to develop an integrated approach to motorcoach safety. DOT then identified seven actions that would have the greatest impact on improving motorcoach safety. Among the regulatory responsibilities for the FMCSA are rulemakings to require electronic on-board recording devices on all motorcoaches to monitor drivers' hours and fatigue; and to propose prohibiting texting and limiting the use of cellular telephones and other devices by motorcoach drivers.

NHTSA would be required to initiate rulemaking to require the installation of seat belts on motorcoaches; to improve tire performance; and to establish performance requirements for roof crush and for ESC on motorcoaches.

LaHood also charged NHTSA with expanding its research on crash-avoidance warning systems, improved glazing and window retention techniques and fire safety. The agency is also expected to develop enhanced emergency egress requirements, with special attention to children, older people, and people with disabilities. These ambitious goals are on a fast track. According to the plan, much of this is to be accomplished in the next two years.