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February 22, 2010

David Strickland
Administrator
National Highway Traffic Safety Administration
1200 New Jersey Avenue, SE, West Building
Washington, DC 20590

Dear Administrator Strickland:

We are writing to request that the National Highway Traffic Safety Administration reexamine its approach to seat heater safety to mirror that of other agencies and organizations that enforce and address safety of heat-generating products.

In the past, NHTSA has evaluated seat heater malfunction complaints as fire hazards but not in context of the injury risk caused by a heater that runs at temperatures exceeding human tolerances. This is a particular hazard for disabled occupants and individuals suffering from lower body sensory deficits caused by paralysis or diabetes who are unable to tell when burns are occurring by touch. The result is serious and permanent injuries, which have been documented in the medical literature since 2003.

The agency itself has been alerted to the problem from disabled motorists and their advocates since 2002. For example, the attorney from one burn victim notified the agency in 2008:

“My client, **XXXXX XXXXXXXXXXX** was a passenger in the front passenger seat of a 2009 Ford Taurus. She is paralyzed from the waste down and was unaware the seat heater was on for the entire 2 hour drive from Phoenix Sky Harbor Airport to Sedona, Arizona. She subsequently discovered that she sustained 3rd degree burns on the bottom of her buttocks from the seat heater being on.... I just read a section of the owner's manual for the car and there is a warning that says in substance that individuals with spinal cord injuries can sustain burns even when the seat heater is used at low temperatures when used for an extended period of time. This owners' manual warning was obviously not read by my client when she entered the rent-a-car. A seat that can burn someone is not acceptable under any circumstances. In addition, a warning should be posted inside the vehicle in plain

view since car renters won't read the owner's manual. The car seat heater should be recalled before more injuries.”¹

These encounters often result in third-degree burns, requiring hospitalizations and long rehabilitations. They affect the disabled in areas of skin that are already vulnerable to breakdown. Despite this, the Office of Defects Investigations has often taken the stance that a seat that gets hot enough to scorch the seat cover, burn small holes and produce injuries is not a safety hazard.

In most of the six investigations into malfunctioning seat heaters, ODI has concluded that the harm caused by burning seats was minimal. For example, in closing investigation PE 0034, the agency described the complaints thus: “Of the 7 owners who complained investigations have revealed that the overheating resulted in some smoke and maybe a few sparks, but it doesn't appear that any seats actually burned or caught fire for any length of time or caused anything except very minor seat damage. No injuries were reported.”²

In 2001, NHTSA closed without further action a 2004 Engineering Analysis into seat heater malfunctions involving the 2002-2003 Volkswagen Jetta – even though it determined that the driver-side seat heater could malfunction.³ Owners had lodged 290 complaints, reporting 134 fires or crashes and 77 injuries. But NHTSA did not believe that the seat heaters posed a risk to safety, because none of the reported burns were serious and because the fires consisted of fabric scorch marks, without igniting actual flames.

Mandatory or voluntary safety standards governing the time and maximum temperature set points of vehicle seat heaters may be absent, but a wealth of human heat tolerance research exists.

The National Highway Traffic Safety Administration should re-examine its approach to seat heater defect investigations and regulations. The FDA sets temperature limits for some medical devices. The Consumer Product Safety Commission does not minimize the safety risk when consumers report even minor burns from a heat-generating product, such as an electric blanket. A seat heater that gets hot enough to scorch the seat should be considered a safety-related defect. NHTSA should categorize seat heaters that exceed well-established human tolerance as defective and encourage automakers to recall them.

¹ ODI Complaint 10280134 ;

² Closing Resume; Preliminary Evaluation 00034; National Highway Traffic Safety Administration; January 5, 2001

³ Closing Resume; Engineering Analysis 04010; National Highway Traffic Safety Administration; October 24, 2004

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I'd be happy to discuss this further with you at a mutually convenient time.

Sincerely,

A handwritten signature in black ink, appearing to read "Sean Kane". The signature is fluid and cursive, with the first name "Sean" written in a larger, more prominent script than the last name "Kane".

Sean Kane

CC Daniel Smith