

**TITLE 4 DEFERS TO NHTSA'S
JUDGMENT ON THE SUBSTANCE OF SAFETY RULES**



The clear language of SAFETEA invests NHTSA with substantial discretion over the content of tests to meet safety goals and recognizes the agency's expertise.

While Title 4 does specify *goals*, such as improving the safety of occupants in rollovers, **nothing in Title 4 predetermines an outcome or baseline for the new studies, test or safeguards.** The heart and soul of each new standard is entrusted to NHTSA. For example:

On ejection: “The Secretary of Transportation *shall prescribe a safety standard ... to reduce complete and partial occupant ejection* from motor vehicles. . .In formulating the safety standard, the Secretary *shall consider* the ejection-mitigation capabilities of safety technologies, such as advanced side glazing, side curtains, and side impact air bags.”

On compatibility: “The Secretary of Transportation shall issue motor vehicle safety standards *to reduce vehicle incompatibility and aggressivity...In formulating the standards,* the Secretary *shall consider factors such as* bumper height, weight, and any other design characteristics necessary *to ensure better management of crash forces ...in order to reduce occupant deaths and injuries.*”

On rollover: “The Secretary of Transportation *shall prescribe a motor vehicle safety standard ...for rollover crashworthiness... In formulating the safety standard, the Secretary shall consider...a roof strength standard based on dynamic tests . . .and shall consider* safety technologies and design improvements *such as* (A) improved seat structure and safety belt design, including seat belt pretensioners; (B) side impact head protection airbags; and (C) roof injury protection measures.”

Title 4 does not dictate effectiveness dates for any rule, *allowing NHTSA to write phase-in schedules that allow manufacturers considerable lead time to integrate changes into their platform re-design plans.* Wherever safety technologies are mentioned in the bill, Title 4 asks only that NHTSA *consider or evaluate* them. Whether to require the use of any technology is, in each instance, left to the agency's judgment and discretion.

Many vehicle safety issues, in the real world, are interrelated. For example, occupant protection in a rollover crash is related to: rollover propensity; ejection; side-impact airbags; window glazing; belt performance; and door latch and lock performance. *For this reason, Title 4 contemplates a holistic approach to vehicle safety, to encourage the agency to resist tradeoffs that compromise occupant problems, and to reduce the risk of unintended consequences.* The agency is also invited to apply current and available science on crash protection.

In short, a clear Congressional mandate on the inter-related priorities in Title 4 will avoid a piecemeal, scatter-shot approach by NHTSA, and allow vehicle manufacturers to most cost-effectively design safer vehicles. Agency discretion is actually enhanced by legislation which enables NHTSA to target safeguards that have long been the focus of concerted opposition from the auto industry.

Lastly, setting priorities for executive agencies is a core democratic responsibility of elected officials in Congress. Congress has fulfilled its duty in many recent laws, including ISTEA, and TEA-21. The history of ISTEA is instructive: **when Congress failed to direct NHTSA to issue a final rule, the result was either no rule or a very weak one, diminishing the impact of the law.**

The clear language of the provisions enacts performance standards, and not technology requirements.