
Chapter One:

VEHICLE SAFETY STANDARDS SAVE MONEY AND LIVES

Q: Who could be against improved motor vehicle safety?
A: Well...

It is hard to be against improving safety. So opponents argue that improving safety *is* a good idea – just not right now – just not in this way – just not as a *requirement* that benefits everybody:

- Last year, the Alliance of Automobile Manufacturers told Automotive News that “the low-hanging fruit [in auto safety] was harvested in the early years.”
- The Bush Administration, in Secretary Mineta’s Statement of Administrative Policy on the highway funding bill, S. 1072, challenged the need for new vehicle safety mandates on cost-benefit grounds and as an interference in agency priorities.
- In a February 26, 2004, article in *USA Today*, “Will more safety rules save many more lives?” National Highway Traffic Safety Administration (NHTSA) officials and the Alliance echoed these arguments.

We answer this on the merits, below, with **Seven Facts on SAFETEA**. The most important response? No one has suggested that McCain-Hollings-Snowe-DeWine would not prevent the needless and continuing loss of human life. In fact, thousands of innocent lives would be saved, and tens of thousands of injuries prevented annually, by measures in the bill:

- **A new roof crush resistance standard:** 1,400 deaths and 2,300 severe injuries, including paraplegia and quadriplegia, would be prevented each year by a more stringent standard.¹
- **Improved head protection and side air bags:** 1,200 lives saved and 975 serious head injuries prevented, by a new requirement each year.²
- **Side window glazing (“safety glass”):** A requirement would save 1,305 lives and prevent 575 major injuries each year.³
- **Upgrade to door locks and latches standard:** An upgrade would help to prevent hundreds of the 2,500 door-related ejection deaths each year.⁴
- **Rollover prevention standard that evaluates the use of electronic stability control (ESC):** Studies estimate ESC reduces deaths and injuries by as much as *one-third* by preventing crashes from occurring, and could save as many as 2,100 lives a year in rollover crashes alone.⁵
- **Compatibility rules for light trucks:** NHTSA estimates 1,000 lives/year could be saved.⁶
- **Stronger seatback design:** 400 lives saved and 1,000 serious injuries prevented, each year.⁷
- **Effective seat belt reminders in all seats:** 900 lives each year would be saved by such a requirement.⁸
- **Applying new vehicles safety standards to vehicles up to 10,000 lbs.:** Would save hundreds of lives— some safety standards, such as the one for roof crush resistance, currently apply only to vehicles below 6,000 lbs., omitting the heaviest and most dangerous SUVs and trucks.

FACT #1: TITLE 4 OF SAFETEA IS DATA-DRIVEN

Motor vehicle fatalities remain at an historic high and are the leading cause of death for Americans ages 2 to 34 – every 10 seconds an American is injured in a crash and someone is killed every 12 minutes.⁹ The death toll on the road is equivalent to two fully loaded 747s (with 400 passengers) going down each week.

The problem is only getting worse. In 2002, highway deaths reached 42,815, the highest level since 1990. An astounding 82 percent of the increase in deaths between 2001 and 2002 occurred in rollover crashes. Rollover-prone SUVs and pickups, combined with vans, now are 49 percent of new passenger sales and 36 percent of registered motor vehicles – a 70 percent increase between 1990 and 2000.¹⁰

A recent federal study found that fatalities in rollover crashes in light trucks threaten to overwhelm *all other reductions in fatalities on the highway*, an astonishing fact when we consider that rates overall are improving: air bags are now a requirement for new vehicles and seat belt use keeps going up. NHTSA explained that “the increase in light truck occupant fatalities accounts for the continued high level of overall occupant fatalities, *having offset the decline in traffic deaths of passenger car occupants.*”¹¹

Each part of Title 4 – rollover prevention and survivability safeguards, ejection prevention measures, and vehicle compatibility measures, child safety, and 15-passenger vans – targets areas where cost-effective, feasible remedies are currently available to save lives.

Moreover, in many areas the hazards are inter-related— for example, rollover crashes involve interactions among vehicle factors such as rollover stability, ejection, side impact air bags, safety belt pretensioners, and door locks and latches. For that reason, NHTSA should be asked to examine problems as a whole, and to address, at the same time, all of the design and technology issues which can improve the survivability of rollover crashes. A comprehensive approach is also more cost-effective for manufacturers, as any re-design can be phased in at the same time over the life of the model cycles.

In short, Title 4’s comprehensive approach will produce the most cost-effective and scientifically sound new safety standards.

Congressional Mandates Are Appropriate

The Administration’s plan for reviewing safety standards outside of its “priority areas” is for a cyclical, 7-year review. While a more regular review of standards is a good idea (some have been on the books for more than thirty years!), such an approach is hardly “data-driven.”

The number of lives that would be saved by Title 4 dwarfs the still-tragic number of people killed in the Ford-Firestone tragedy, yet NHTSA’s Administrator, Dr. Jeffrey Runge, suggested at a Mar. 18, 2004, hearing in the House of Representatives that asking NHTSA to act in a timely way in these areas is unreasonable. In response to questions, Dr. Runge also said that, in contrast, “[l]egislative mandates are important when we have a crisis situation like in the TREAD [Act].”

Fact: Between 2000, when the TREAD Act was passed, and 2002, 150 times that many people were killed in the U.S. in rollovers alone.

This situation is a crisis.

FACT #2: NHTSA'S PRIORITIES ARE TITLE 4'S

None of the major SAFETEA provisions establishes new priorities for NHTSA – and many are identical to NHTSA's stated goals. The bill merely gives many of NHTSA's already-planned actions a timely certainty. The Administration's per se objection to a requirement in these areas is both misguided and misplaced.

<i>SAFETEA Provision</i>	<i>NHTSA's Plans: On the Record</i>
Rollover prevention: A rollover prevention standard to improve vehicles' resistance to rollover and a study of electronic stability control.	Rollover, including prevention, is one of the agency's four major priority areas. NHTSA has plans to research ESC in 2004-05 and will also evaluate a vehicle handling test for the New Car Assessment Program (NCAP).
Rollover survival: An upgraded roof crush standard; improved seat structure and safety belt design (including belt pretensioners), side impact head protection airbags, and side head protection airbags and upgraded door locks.	NHTSA plans to upgrade the roof crush standard soon. NHTSA is currently researching belt pretensioners and side-window ejection mitigation and is plans to upgrade the door lock standard. NHTSA also plans to upgrade the side impact test to require head-protection side-impact airbags.
Front Impact: Upgrade the frontal impact test procedure, consider new barriers and head impact and neck injuries, as well as offset barrier testing.	NHTSA's on-record priorities include an upgrade of crash-test dummies now used in frontal crashes and evaluation of a frontal offset barrier test during 2004.
Side Impact: Upgrade the side impact standard by considering new barriers and measures of occupant head impact and neck injuries and upgrade to dummy tests.	NHTSA's priorities include an upgrade of the side-impact standard to address light trucks and upgrade of injury criteria and data from second-generation side impact dummies.
Aggressivity/Compatibility: Standard to reduce vehicle incompatibility; a standard rating metric to evaluate compatibility and aggressivity and a consumer information program to communicate this information.	NHTSA published a "Priority Plan" on vehicle compatibility, another of the agency's four major priority areas, and plans to evaluate the feasibility of a compatibility requirement by 2004 and to develop an aggressivity metric thereafter.
15 Passenger Vans: Include 15-passenger vans in relevant safety programs, require 15-passenger vans to comply with relevant safety standards, and evaluate technologies to assist drivers in controlling the vans.	NHTSA will continue public education on the hazards of 15-passenger vans, require lap and shoulder belts in the vans, and include them in the upgraded roof crush rule. NHTSA also plans to evaluate ESC for 15-passenger vans.
Tire Safety: Upgrade tire safety to improve strength, road hazard, bead unseating and aging performance criteria – all as asked for once in TREAD, and discarded by the agency.	NHTSA plans to research tire strength and aging (2003-2004).

<p>Child Safety – Booster Seats, Backover Avoidance, Power Windows, Test Dummies and Rollover: Establish a state incentive for booster seat laws. Increase the use of child dummies, develop a new child dummy for rollover testing, develop a consumer information program relating to child safety in rollover crashes, and report on the performance of safety belts for children in rollovers. Report on technologies used to prevent injuries and deaths caused by automatic windows and a standard to ensure safer switches, and study methods to reduce injury and death outside parked vehicles.</p>	<p>NHTSA is developing a 10-year-old child crash dummy and looking into developing a three-year-old child dummy. NHTSA is also establishing performance requirements for booster seats and planning to compile death certificates to look at off-road vehicular deaths, including driveway incidents.</p>
<p>Safety Belt Reminder Systems: NHTSA to address alternate means to encourage increased belt use including consideration of audible or visual reminders.</p>	<p>NHTSA plans a study of the effectiveness of belt minders and evaluation of possible rulemaking (2003-2005).</p>

In fact, there are no surprises in the bill. All the areas highlighted are areas of clear existing need that have been discussed for decades, as NHTSA’s plans show.

Yet action is uncertain without deadlines. **As the chart at the end of Chapter One shows,** there is a long history of unfortunate slippage between plans and promises – and *NHTSA’s record on all of these issues is one of unreasonable delay and many broken promises to act.* **A mandate will assure that NHTSA’s activities achieve the greatest possible savings in lives.**

Some critics of the bill have suggested that safety belt use should be the only focus of efforts to save lives. Critical provisions relate to safety belt and child restraints in the bill, such as; 1) changes regarding safety belt reminder systems; a report on technologies to improve the performance of safety belts for children between the ages of 4 and 8; and establishment of a grant state incentive program for states that enact laws mandating booster seats for children who are too big for child safety seats.

And while increasing safety belt use is a critical goal, the statistics do little to explain the high death rates in SUVs. In fact, SUV occupants are just as likely as car occupants to wear safety belts:

- NHTSA statistics show that 78 percent of SUV and van occupants, and 77 percent of passenger car occupants, wear their belts.¹²
- In fatal rollovers, the most deadly of crashes, SUV and passenger car belt-use rates are virtually identical, *yet these crashes are 61 percent of SUV occupant deaths but comprise only 24 percent of car occupant deaths.*¹³

**In the face of preventable suffering,
there is no good reason for delay.**

**FACT #3: MAJOR TITLE 4 MEASURES ARE
THIRTY YEARS OVERDUE**

As demonstrated by the 10 chronologies in Chapter Two, NHTSA and the auto industry have known about the risks areas addressed by Title 4 for more than thirty years.

CASE STUDY: ROLLOVER

Despite years of improving belt use, rollover fatalities are at their highest level in a decade, mostly due to the rising rates of rollover deaths.

- Vehicle rollovers cause more than 10,000 fatalities each year—a full *third* of vehicle occupant deaths.^{14 15}
- The 2002 highway death toll was the highest in over a decade — and rollover crashes accounted for over 80 percent of these increased deaths.¹⁶
- SUV and pickup rollovers account for nearly half of the increase in annual occupant fatalities.¹⁷
- Sixty-one percent of sport utility vehicle occupant fatalities occur in rollover crashes,¹⁸ and SUVs roll over in fatal crashes at 3 times the rate of cars.¹⁹
- Shockingly, more than 20 percent of people killed in rollover crashes *were restrained* by safety belts at the time of the crash.²⁰

Rollover: Stymied Efforts Since 1973

In April 1973, NHTSA first proposed a rulemaking for a rollover resistance standard, which was never finished.

Thirteen years later, in September of 1986, Congressman Tim Wirth called on NHTSA to pass a life-saving rollover standard. His petition to the agency was denied. In 1988, Consumers Union and the Center for Auto Safety again asked NHTSA to act, as rollovers killed 9,500 people each year.

In 1991, Congress passed the Intermodal Surface Transportation Efficiency Act, which required NHTSA to address means of protecting motorists from “unreasonable risk of rollovers” in passenger vehicles.²¹

But in 1994, the agency terminated its work on a rollover propensity minimum standard, promising that a series of new standards for rollover crashworthiness and a consumer information program were forthcoming.²²

The rules promised in 1994 included: advanced window glazing to prevent ejections, and stronger roofs; in addition, NHTSA stated publicly that it would also require improvements in door latches and hinges and upper side-impact protection.

None of the promised regulations on rollover crashworthiness has since been issued, but all are contained in Title 4.

The More Things Change...

The *New York Times* reported in September 2000 that:

[R]egulators have been studying rollovers for 27 years, but industry lobbyists have appealed to members of Congress from auto-producing states to block periodic efforts to adopt rules that would address the problem.

CASE STUDY: VEHICLE COMPATIBILITY

The design of light trucks — and large SUVs and pickup trucks in particular — with a high center of gravity, high bumpers, and steel bars and frame-on-rail construction, makes these vehicles act like battering rams in a crash.

The problem is a serious one:

- When an SUV strikes the side of a passenger car, the car driver is *22 times* more likely to die than is the driver of the SUV. When the striking vehicle is a pickup, the car driver is *39 times* more likely to be killed.
- NHTSA's Administrator estimated as long ago as 1997 that the aggressive design of light trucks kills 2,000 additional people needlessly each year.²³
- Another analysis found that 1,434 passenger car drivers who were killed in collisions with light trucks would have lived if they had been hit instead by a *passenger car of the same weight as the light truck*.²⁴

Yet, auto manufacturers continue to build ever-more heavy and aggressive SUVs and to market them as such. The chief designer of the 2006 Toyota Tundra recently bragged that his threatening design for the huge pickup truck is intended to highlight “the power of the fist.”²⁵

Despite shocking highway statistics and mounting research, in its June report NHTSA focused on only the struck vehicle — *bulking up protection in cars, but ignoring the equally important challenge of changes to reduce the aggressiveness of pickups and SUVs*. While improving occupant protection is critically important, the total crash dynamic can and must be considered.

Resisting Real Action: Promises, Promises by Manufacturers, Ratified by NHTSA

In December 2003, auto manufacturers announced a voluntary initiative to address incompatibility and aggressivity. The plan, currently to be phased-in on *most* vehicles by September 2009, would add side-impact air bags and lower the bumpers of SUVs or add a barrier to prevent them from riding over cars.

Yet the Alliance makes no specific commitments to redesign vehicles to be less aggressive. *Moreover, there is no requirement that all vehicles become compliant with the plan, and no outside body will verify vehicle compliance*. Voluntary “commitments” violate core principles of democratic accountability and transparency by involving closed, secret deliberations, no procedural or judicial oversight, no mechanisms for accountability, and no baseline for safety.

Even this new set of promises is only the latest in a series on compatibility issues. In 1998, the auto industry promised NHTSA Administrator Dr. Ricardo Martinez that it would make modifications to achieve safer designs, mainly by adjusting vehicle suspension. The industry refused to provide any details of their plans *and there is little evidence that any substantial design changes were made*. Consequently, the latest set of industry promises also raises questions, as vehicles continued to be designed to be large and aggressive, and the highway carnage continues.

As NHTSA states in the conclusion to its report making vehicle compatibility one of its four major priority areas, “[v]ehicle compatibility has been a concern for NHTSA since the 1970s.”

The time for action is now.

**FACT #4: TITLE 4 CLOSES SAFETY “DESIGN GAP”
WITH FEASIBLE AND AVAILABLE SOLUTIONS**

In spite of the absence of federal standards to improve occupant protection, there is a wide array of cost-effective safety technologies already available from automotive suppliers that could reduce deaths and injuries in crashes.

Chapter Three of this report contains supporting detail on the range of safety equipment available for 2004 model year vehicles, including: side impact airbags, laminated side-window safety glass, rearview cameras, backover prevention technologies, and rollover safety belt pretensioners.

Forty-seven percent of 2004 model-year vehicles offered head-protection side air bags, but only 27 percent offered the protection as standard equipment.²⁶ In the 2003 model year, 40 percent of vehicle models offered head-protection side air bags, but only 24 percent offered it standard.²⁷

Of model year 2003 cars tested by NHTSA in the New Car Assessment Program (NCAP), electronic stability control (ESC) was standard on 22 percent of cars and optional on 17 percent. At least six model year 2004 cars offer a rearview camera as an option, and at least one 2004 model offers as standard a rollover safety belt pretensioner in all seating positions.

Safety technologies that are already widely available to luxury car buyers should not be limited to those consumers who can pay a premium — and requirements that enable technologies to become standard will lower prices for all consumers. A decent baseline for safety should not be available only to the rich.

CASE STUDY: THE MIRACLE OF ESC

Electronic stability control (ESC) is an active safety system that helps drivers to maintain control of the vehicle and stay on the road. The system’s sensors compare the vehicle’s behavior in relation to the steering wheel position. When ESC detects a discrepancy, it intervenes to bring the vehicle’s direction back into line by transmitting the right commands to the antilock braking system and sometimes reducing the engine torque.

The core benefit of ESC is increased driver control, which translates into crash prevention. Studies conducted by DEKRA Automotive Research, DaimlerChrysler, Toyota, the University of Iowa and others indicate that ESC could positively influence *as much as 25 to 43 percent of fatal rollover crashes in the U.S.*, not to mention lives saved other crash types.

For example, one study showed a 27-percent reduction in fatalities in single-vehicle rollover crashes when vehicles had ESC, meaning that **installing ESC in all vehicles could save more than 2,100 lives in the U.S. annually in rollovers alone, not including fatalities that could be prevented in other types of crashes.**

Even with all this evidence, Title 4 allows NHTSA to draw its own conclusions on ESC, asking that NHTSA **issue** a rollover resistance standard, but merely **consider** additional technologies to improve vehicle handling, **including electronic stability control systems.**

CASE STUDY: THE FEASIBILITY OF A SUPERIOR DYNAMIC ROOF CRUSH TEST



The image above depicts the fixture used to conduct roof crush dynamic testing in a testing laboratory in Salinas, California. The road surface moves along the track, contacting the roof of the vehicle as it rotates on the spit. The test surface impacts both *sides of the roof on a single run*, imitating the first roll of a vehicle in a rollover crash. The picture shows a 1994 Chevrolet Suburban (*vehicle in white*).

The current federal test is a static test using a platen, or plate, on the roof, and measures the impact of force *on only one side of the roof* with the steady exertion of pressure.

A dynamic test is far superior because:

- 1) It measures the survivability of the rollover crash — the human impact;
- 2) It includes the lateral, or sliding, velocity of the road as it moves beneath the vehicle;
- 3) It tests *both sides* of the roof – the current test only tests one side, with the windshield intact. Yet research shows that passengers sitting in the seat below the second, or trailing edge, of the roll, are the ones severely injured or killed. At the second impact, the roof, already weakened, crushes downwards toward the occupants' heads.
- 4) It shows the harm after the windshield shatters in the first impact. Although a windshield breaks on the first impact with the roof, it typically provides up to one-third of the roof's strength in the static test.

- 5) The test shows the real dynamic of crush as a function of roof geometry (roundness, curvature, etc.). Because the static test is not designed to include roof geometry, it omits a major factor for survivability.

While a static test measures the strength of the roof, a dynamic test measures injury to people.

Dynamic drop tests for roof strength are repeatable. As a 2002 engineering paper states:

The automotive industry and researchers have used drop testing for years to evaluate roof strength. In the late 1960s, SAE developed a standardized procedure to perform full vehicle inverted drop testing. Many domestic and import auto manufacturers have utilized the inverted drop test technique as far back as the 1960s and 1970s to evaluate roof strength.²⁸

Dynamic Tests Are Repeatable

The auto industry first protested the “repeatability” of dynamic tests in the late 1960’s in opposition to NHTSA’s then-new frontal crash barrier tests – now a standard compliance test. Industry lodged similar objections over the crash test parameters for NHTSA’s New Car Assessment Program, now an accepted measurement.

In each case, the industry claimed that a repeatable dynamic test could not be formulated — and yet one was developed and used.

FACT #5: TITLE 4 WILL SAVE JOBS AND MONEY

“Overall, the U.S. automotive supplier industry employs approximately two million workers with operations and facilities in nearly all 50 states. Sales in the U.S. automotive supplier industry totaled approximately \$370 billion in 2002.”

-- Testimony of Jason Bonin, V. P. of Lighting Technology, Hella North America, before House Subcommittee on Commerce, Trade, and Consumer Protection.²⁹

Job Creation Benefits

An analysis of SAFETEA by the Enhanced Protective Glass Automotive Association (EPGAA) concluded that between 10,000 and 12,000 jobs would be created by the bill at both major manufacturers and safety suppliers.

Enhanced safety will also help to assure the longer-range competitiveness of the automotive industry. Recent books, such as *The End of Detroit*, by Michelin Maynard, point out that unless the domestic auto industry acts quickly to improve safety and quality, they will keep losing market share to foreign manufacturers.

American Consumers Value Vehicle Safety

- According to a JD Power and Associates 2002 study, nine of the top 10 features consumers most desired for their next new vehicle improve vehicle or occupant safety.³⁰
- A study by Maritz Research found that more than two-thirds of consumers say they would definitely or probably buy high-tech safety equipment on their next vehicle.³¹
- “We’ve learned that safety sells. It sells today. It clearly will sell tomorrow,” National Transportation Safety Board vice chairman Mark Rosenkar told automakers in January 2004.³²

It is nearly always far cheaper to prevent harm in the first place. For families of crash victims, the most difficult fact is often how little it would have cost to build safety protections into the vehicle.

A Comprehensive Approach Lowers Costs for Consumers and Society

Highway crashes cost the U.S. economy, in direct costs only, \$230.6 billion a year (in 2000 dollars), or \$820 for every man, woman and child in the U.S. The average direct economic cost to society of each death is over \$977,000 and is \$1.1 million for each critically injured member of society.³³ The figures do not include the costs to families, the untold suffering, or stress of family dissolution following the death of a child.

Society pays nearly three-quarters of all crash costs, primarily through insurance premiums, taxes and travel delay. In 2000, these costs totaled over \$170 billion.

Improved Safety Costs Pennies Per Vehicle

Some safety improvements, such as enhancing roof strength, cost very little, because they require mere improvements in design, rather than any new technologies. Others cost mere pennies. In contrast, automaker profit on SUVs is very high, as much as \$8,000 for each Ford Explorer.

\$ Dollars and Sense -- Wholesale Safety Costs per Vehicle

- ¢ *Belt pretensioners: \$2.00*
- ¢ *Laminated safety glass: \$1.40/ window*
- ¢ *Cables to enhance door latch protection: \$1.70*
- ¢ *Automatic door locking via software to reduce ejection: free (programming change only)*
- ¢ *Roof strength reinforcements: \$8 to \$27*

**FACT #6: 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.”

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

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.**

**FACT #7: RELIANCE ON VOLUNTARY SAFETY STANDARDS
PROVIDES NO ASSURANCE OF SAFETY AND IS ANTI-DEMOCRATIC**

Give us a “Commitment” Instead of a Rule

In December 2003, automakers announced a voluntary initiative to address incompatibility and aggressivity. The plan, currently to be phased-in on *most* vehicles by September 2009, would gradually increase the numbers of side impact air bags in vehicle and lower the bumpers of SUVs or add a barrier to prevent them from riding over cars.

Yet the Alliance made no specific or time-bound commitments to redesign these stiff vehicles to protect consumers, despite the fact that light trucks act as battering rams in crashes, and that the height and stiffness of SUVs makes them devastating on the highway.

Moreover, there is no requirement that all vehicles become compliant with the plan, and no outside body will verify vehicle compliance. While the commitment may increase occupant protection, it does little to address the violence that will be inflicted by the striking vehicle in crashes, ignoring the need to reduce stiffness and address ever-larger vehicle weights.

A voluntary “commitment” is a particularly inapt solution where, as here, thousands of lives are at stake. In fact, Congress rejected them almost three decades ago when it passed the National Traffic and Motor Vehicle Safety Act in 1966.

As the Senate Committee Report stated:

The promotion of motor vehicle safety through voluntary standards has largely failed. The unconditional imposition of mandatory standards at the earliest practicable date is the only course commensurate with the highway death and injury toll.³⁴

The 1966 Congressional legislators were right. The historical path of automakers’ voluntary efforts is paved with broken promises.

From General Motors’ promises in 1970 to voluntarily put air bags in all its vehicles by the mid-1970s (GM installed just 10,000 in model year 1974 and 1975 vehicles, and then discontinued the program), to Ford, DaimlerChrysler and GM’s recent recanting of their widely publicized 2001 promises to voluntarily improve the fuel economy of their light trucks by 25 percent (withdrawn after the threat of Congressional action on fuel economy receded), “voluntary” is often just another name for tactical maneuvering and delay.

Moreover, government reliance on voluntary “commitments” violates core principles of democratic accountability and transparency, because such voluntary agreements:

- **Contain no mechanisms for accountability:** If the program proves dangerously deficient, there is no recourse for injured consumers, nor for the government to initiate a defect investigation or compel the industry to perform a recall;
- **Involve closed, secret processes and meetings:** The public, which is at risk, is shut out of development of the proposal, which is in secret by industry working groups not subject to oversight, compliance with statutory requirements, a responsibility to explaining their decisions, or judicial review of decisions;
- **Lack transparency:** The public has no means to secure an independent evaluation of the quality of the industry’s voluntary tests or standards. The public gets no verification that a particular vehicle complies with the voluntary tests, unlike a government standards;

- **Lack a baseline for safety:** High-income purchasers, who can afford safety extras may be protected, but low-income purchasers remain vulnerable to cost-related decisions by manufacturers;
- **Produce weak and non-binding results:** Proposals are invariably weak because they represent the lowest common denominator among companies looking out for their own costs and product plans, and there is no obligation to be or remain in compliance, so companies may change their minds at will and withdraw any protection offered;
- **Are replete with exemptions and limited remedies:** Voluntary “commitments” usually have exemption clauses permitting manufacturers to opt out of “compliance” because of marketing considerations, costs, or for other reasons. Voluntary “fixes” also do not help many drivers. For example, the Ford Explorer 2-door “Sport” was never re-designed to lower its rollover propensity, although it is more popular and more rollover-prone than the 4-door model which was subject to a well-publicized re-design.

- **Undermine the efforts of regulatory agencies:** Voluntary efforts often sideline agency involvement and research into safety policy by allowing willing agencies to defer or avoid regulation in a timely and vigorous manner.

###

While automakers have spoken ominously about delay in their voluntary “commitments” if standards are enacted, **withdrawing safety protections from consumers, once they have been made available, would be both unwise and uncompetitive, in view of the strong consumer demand for safety technologies.**

In addition, Title 4 asks NHTSA to handle related vehicle safety issues as a package, and outlines a vigorous rulemaking schedule, to ensure that there will be little delay in achieving these crucial steps forward in safety.

SUV Owners Speak Out

Casey Ryan of Widlomar, CA father of 3 and driver of a 2003 Land Rover Discover:

If Americans can put a man on the moon during in the 60's and develop abstract topics like artificial intelligence, computer science, bioinformatics and genomics, then Americans can do anything they put their minds to. We need to be putting those minds to work for something that affects Americans on a daily basis; more relevant and practical for those who pay taxes and work hard like myself: Build a better SUV. We are the customers. They are the servers. Let's see some real customer service.

Endnotes: Chapter One

¹ Plungis, Jeff. "Lax auto safety rules cost thousands of lives." *Detroit News* 3 March 2002.

² "NHTSA's New Head Protection Rule Puts New Technology on Fast Track." Press Release. Washington: NHTSA, 30 July 1998.

³ Willke, Donald; Stephen Summers; Jing Wang; John Lee; Susan Partyka; Stephen Duffy. *Ejection Mitigation Using Advanced Glazing: Status Report II*. Washington: NHTSA and Transportation Research Center, August 1999.

⁴ Plungis, Jeff. "Lax auto safety rules cost thousands of lives." *Detroit News* 3 March 2002.

⁵ Schöpf, Hans-Joachim. (2002). *Analysis of Crash Statistics Mercedes Passenger Cars Are Involved In Fewer Accidents*. Germany: DaimlerChrysler AG. 11.

⁶ Joksch, Hans. *Fatality Risks in Collisions Between Cars and Light Trucks*. Final Report. Ann Arbor: Transportation Research Institute, Sept 1998.

⁷ Plungis, Jeff. "Lax auto safety rules cost thousands of lives." *Detroit News* 3 March 2002.

⁸ *The UCS Guardian & Guardian XSE: A Blue Print For A Better SUV*. Washington: Union of Concerned Scientists, 2003. www.suvsolutions.org/blueprint.asp.

⁹ See United States General Accounting Office, "Research Continues on a Variety of Factors That Contribute to Motor Vehicle Crashes," GAO-03-436 (Mar. 2003).

¹⁰ U.S. Environmental Protection Agency, "Light-Duty Automotive Technology and Fuel Economy Trends: 1975 Through 2003," EPA420-R03-006, April 2003.

¹¹ National Center for Statistics and Analysis (NCSA), *Characteristics of Fatal Rollover Crashes*, DOT HS 809 438, at 22 (Apr. 2002), at 13 (emphasis added).

¹² See National Center Statistics and Analysis, *Safety Belt and Helmet Use in 2002-Overall Results*, Sept. 2002, at 8.

¹³ National Center for Statistics and Analysis, *Characteristics of Rollover Crashes*, April 2002, at 47 and National Center for Statistics and Analysis *Motor Vehicle Traffic Crash Fatality and Injury Estimates for 2002* at 50.

¹⁴ *2002 Annual Assessment of Motor Vehicle Crashes*. Washington: NHTSA, July 2003. 64.

¹⁵ *Initiatives to Address the Mitigation of Vehicle Rollovers*. Washington: NHTSA, 2003. 5.

¹⁶ Hilton, Judith; Umesh Shankar. *Motor Vehicle Traffic Crash Injury and Fatality Estimates*. (DOT HS 809 586). Washington: National Center for Statistics and Analysis, 2003. 8.

¹⁷ *Id.* at 1.

¹⁸ *2002 Annual Assessment of Motor Vehicle Crashes*. Washington: NHTSA, July 2003. 60.

¹⁹ *Characteristics of Rollover Crashes*. (DOT HS 809 4398). Washington: NHTSA, April 2002. 21.

²⁰ *Occupant Fatalities in Vehicles in Crashes with Initial Side, Rear, and Frontal Impact, and Rollover, by Year, Restraint Use, Ejection, and Vehicle Body Type. FARS 1992-2001 FINAL & 2002 ARF*. Data Request. Washington: NCSA, Sept. 2003.

²¹ See the Intermodal Surface Transportation Efficiency Act of 1991: USCA § 1392 at sec. 2503.

²² See 59 F.R. 33254, 33255 (June 8, 1994).

²³ Bradsher, Keith. *High and Mighty: SUVs-The World's Most Dangerous Vehicles and How They Got That Way*. New York: PublicAffairs 2002, at 193 (Referring to Hans C. Joksch, "Vehicle Design versus Aggressivity," (April 2000), DOT HS 809 194. p. 40-42).

²⁴ Joksch, Hans C. "Vehicle Design versus Aggressivity," at 41. Further calculations contained in an electronic mail communication between Public Citizen and safety researcher Hans Joksch stated: "In 1996, 890 car occupants died in collisions with SUVs. If the risk in collisions with cars of the same weight had been half as high, as estimated at that time, 445 deaths would not have occurred if SUVs had been replaced by cars of the same weight." Email from Hans Joksch to Laura MacCleery of Public Citizen, on Feb. 24, 2003 (on file with Public Citizen).

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²⁶ O'Donnell, Jayne. "Study: Side Air Bags Should Shield Head." *USA Today*, August 26, 2003

²⁷ Insurance Institute for Highway Safety Status Report, Vol. 38, No. 8, Aug. 26, 2003, at 2.

²⁸ Brian Herbst, Stephen Forrest, Steven E. Mayer and Davis Hock, *Alternative Roof Crush Resistance Testing with Production and Reinforced Roof Structures*, 2002-01-2076, SAE 2002.

²⁹ Hearing on Reauthorization of the National Highway Traffic Safety Administration, Washington D.C., March 18, 2004.

³⁰ Testimony of Robert Strassburger, Vice President, Safety & Harmonization Alliance of Automobile Manufacturers on the Reauthorization of the National Highway Traffic Safety Administration, before the Subcommittee on Commerce, Trade, and Consumer Protection, Mar. 18, 2004.

³¹ Edward Lapham, "Most drivers want safety over entertainment," *Automotive News*, Feb. 20, 2004.

³² Omar Sofradzija, "Automakers Told Features Necessary," *Law Vegas Review-Journal*, Jan. 31, 2004.

³³ Blincoe, L., A. Seay, E. Zaloshnja, T. Millar, E. Romano, S. Luchtner, R. Spicer. *The Economic Impact of Motor Vehicle Crashes, 2000*. (DOT HS 809 446). Washington: NHTSA, May 2002.

³⁴ Committee Report on S. 3005, The Traffic Safety Act of 1966, June 23, 1966, at 271, 273, 274.