



June 22, 2005

The Honorable Cliff Stearns
Chairman
Subcommittee on Commerce Trade and
Consumer Protection
Energy and Commerce Committee
U.S. House of Representatives
2370 Rayburn House Office Building
Washington, DC 20515

The Honorable Janice Schakowsky
Ranking Member
Subcommittee on Commerce Trade and
Consumer Protection
Energy and Commerce Committee
U.S. House of Representatives
1027 Longworth House Office Building
Washington, DC 20515

Dear Chairman Stearns and Ranking Member Schakowsky:

Consumers Union (CU) welcomes the opportunity to comment on the subject before your subcommittee this morning, the reauthorization of the National Highway Traffic Safety Administration (NHTSA).

Motor vehicle crashes are the leading cause of death for children three years of age and older, and more children are losing their lives because they are often victims of non-traffic, non-crash incidents as well. Children, especially young children, are unaware of the dangers that they can encounter each day in and around motor vehicles, even vehicles that are not moving. While it is the responsibility of parents and other adults to protect our children, many parents are themselves unaware of the risk presented by power windows or the simple act of backing the family car out of the driveway.

As a result, in 2003 Consumers Union – nonprofit publisher of *Consumer Reports* - launched the safecarsforkids.org campaign to highlight the dangers to children in and around cars. We began working with Kids And Cars – the leading advocacy organization focused on the dangers to children inside AND outside motor vehicles - and we're delighted to see the organization's founder testifying here today - to bring to Congress' attention the very tragic, but very preventable incidents of children being backed over and killed in their own driveways, children being injured and killed from poorly designed power windows, and children dying of hyperthermia inside hot cars.

In the process, we looked at the data generated by Kids And Cars, data that were not being tracked by anyone else, and conspicuously not being tracked by our own highway safety agency because they were occurring in private driveways and parking lots and therefore considered "nontraffic, noncrash" We thought this was an area that deserved Congressional attention.

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Sadly, some industry officials have used the government's inertia in tracking these data to argue that the problem doesn't exist – and in the process, have sought to undermine or downplay the very important data gathering function that Kids and Cars has played in highlighting the problem.

We would be remiss if we did not note the terrible trauma – the death of a child – too often involving a parent backing up a car – has on the child's family – parents, siblings, extended family, and entire community. Losing a child is something a family never recovers from – indeed, many marriages cannot withstand the grief that permeates their lives in the aftermath of such a tragedy. If Congress can act to help prevent these terrible incidents, you will have saved families from the awful grief that too many endure today.

Another federal agency has looked at backover injuries. The Centers for Disease Control and Prevention (CDC) reported that over 9,100 children were treated in emergency rooms from July 2000 to June, 2001, due to nontraffic noncrash events.¹ This is a weekly average of 176 injuries per week, each and every week. While some industry spokespeople have argued that there are no data to support NHTSA or the auto industry's attention to noncrash nontraffic data, the CDC report refutes this view.

Two years after CU launched our safecarsforkids.org campaign, we are pleased – and grateful to Senate Commerce Committee leadership - that the Senate amendment of the House-passed federal-aid highway reauthorization bill, H.R. 3, the *Transportation Equity Act: A Legacy for Users* (TEA-LU), includes a number of important child-friendly safety provisions. In the Senate version, Section 7254 provides for a study of technologies to prevent backover incidents in which people, especially children, are run over because they are in the blind zone and the driver was unable to see them when backing up.

Drivers should not be forced to drive in reverse without knowing what is in their path. Yet today, there are no standards that regulate what a person should be able to see when backing their vehicle. Section 7255, would have NHTSA collect non-traffic, noncrash incident data at least biennially, a critical step if we are to understand the true scope of the problem. In addition, Section 7258 of the Senate amendment would require the safer power window switches, which are less prone to inadvertent use and thus reduce some, although not all, of the danger to children in vehicles with automatic power windows.

The Kids And Cars database is recognized as the best source for information on vehicle backovers, hyperthermia and power window injuries and deaths. Each of the incidents in the Kids And Cars files is well documented; but data gathering as important as this should not simply be left to a small advocacy group with limited resources. NHTSA has the authority to

¹ Injuries and Deaths Among Children Left Unattended in or Around Motor Vehicles --- United States, July 2000-- June 2001, MMWR, 51(26); 570-572 (Jul. 5, 2002). Copy of study attached to testimony.

² Nonfatal Motor-Vehicle--Related Backover Injuries Among Children --- United States, 2001—2003, MMWR, 54(06); 144-146 (Feb. 18, 2005). Copy of study attached to testimony.

gather the information and far greater resources to do it. Unfortunately, seems that we literally need an act of Congress to get NHTSA to begin tracking these incidents.

Here are some of the statistics Kids And Cars has generated for the last year alone:

- 8 children died after being strangled by power windows,
- 101 children are backed over and killed, many by a parent in their own driveways because vehicle blind zones have grown larger as our cars and trucks have grown higher and longer,
- 35 children die of heatstroke because, for many, their loving but absent minded parent inadvertently left them inside a hot vehicle (From 1998 through 2004, at least 230 children have perished in this manner.)

In the course of discussing incidents in which children are injured or killed in these noncrash, nontraffic events, some have sought to blame parents and urge that no action should be taken because these are “issues of parental responsibility.” We disagree. Anyone who has been a parent knows that even the most conscientious of us have moments of distraction. The price that we pay must not be the death of a child.

Congress accepted this reality long ago – and embraced the notion that if we can make products safer for children for a reasonable cost – we ought to do so. As a result, Congress passed the Refrigerator Safety Act in 1956, requiring all refrigerators to open from the inside out (because children were hiding inside refrigerators where they were unable to exit and ran out of air,) the Poison Prevention Packaging Act in 1970, which requires child-proof caps on poison and medicine, as of 2001, because of a Congressional study that required NHTSA action and in the face of NHTSA refusing to act, we now have releases to open trunks from the inside in all vehicles (children sometimes play hide and seek in trunks, and in hot weather, unable to get out, they can die from heatstroke very quickly), garage doors that once closed on and killed over 50 children were mandated by the Consumer Product Safety Commission in 1993 to have sensors that cause them to pop up if there’s an obstruction in their path. All of these products were once hazardous to children – and in every case clearly a parent was not or could not pay full attention, but many children are alive today because of these simple and feasible product design changes.

We are attaching a chart from Consumer Reports depicting the rear blind zones for the 4 main categories of passenger vehicles were killed in 2002. In addition a February 2005 reports from the Centers for Disease Control and Prevention (CDC) found that for each of the years 2001 through 2003 an estimated 2,492 children per year were treated in emergency rooms for nonfatal motor vehicle backover injuries-a total of 7,475 children over a three year period injured in backover incidents (copy attached).² The tragedy is that they are preventable.

Since the House passed bill, H.R. 3, has no comparable provisions to protect the safety of children on these issues, we strongly urge the members of the Committee to support adoption of these Senate child safety provisions as part of the final bill.

The House also has the opportunity to build on the H.R. 3 provisions by moving expeditiously to pass H.R. 2230, the *Cameron Gulbransen Kids and Cars Safety Act of 2005*,

Introduced by the ranking member of this Subcommittee, Congresswoman Jan Schakowsky (D-IL) and Congressman Peter King (R-NY), this bill addresses four critical safety issues for children. H.R. 2230 will: 1) require auto reverse technology to be installed in all power windows, at a cost of \$8-12 a window, according to NHTSA's most recent estimates. 80% of vehicles in Europe have auto reverse in their power windows. We think Americans deserve the same level of safety. 2) a system to remind drivers to remove small children when they leave the vehicle, similar to how vehicles now remind us that our keys are in the ignition or our lights are on - NASA engineers have developed just such reminder technology, which they estimate would cost around \$25.00. 3) protect children, the disabled, and other pedestrians by ensuring that drivers have good rearward visibility and an unobstructed view behind their vehicle when backing up; and, 4) ensure the regular collection of death and injury data in non-traffic, non-crash events involving motor vehicles. These are all reasonable and affordable measures that will save the most precious lives of all - our children.

Children are also killed and maimed everyday in the epidemic of motor vehicle crashes that recurs on our nation's highways every year. According to government data, in 2002 motor vehicle crashes were the leading cause of death in the U.S. for children 3 years and older, indeed for all Americans ages 3 to 33. Vehicle crashes were the second leading cause of death among toddlers, ages 1-3. In 2003, 1,198 children under the age of 10 were killed in motor vehicle crashes and 147,000 more suffered injuries, 14,000 of which were incapacitating injuries.³

NHTSA currently projects a total of 42,800 traffic-related deaths in 2004. Fortunately, the Senate-passed version of H.R. 3 contains a number of measures that will substantially improve safety for every family member across the country- mothers, fathers and children. Section 7251 of the Senate amendment to H.R. 3 addresses both rollover prevention and enhanced protection for occupants in rollover crashes.

Over 10,000 people die each year in rollover crashes. Consumers Union began asking NHTSA to address the issue of rollover in 1987. We have a long history of trying to improve the stability of vehicles. After many years of trying to convince NHTSA, unsuccessfully, to develop a dynamic test for rollover for SUVs, it took an Act of Congress in the 2000, to get the agency to develop and implement a driving or dynamic rollover testing protocol. While perhaps not implemented in the way we might have liked, Consumers Union nevertheless believes the rollover test that NHTSA uses today is a rigorous one. Still, there is work to be done on rollover prevention and injury mitigation during rollover.

The popularity of SUVs and pickup trucks - with a higher center of gravity, has exacerbated the rollover problem. Unbelted occupants are often ejected during rollover, injuring heads and limbs. Under Section 7251, NHTSA will issue rollover prevention performance criteria for one of the newer - and most promising - safety technologies, electronic stability control (ESC) systems. This technology has already had clear success in reducing crashes in a

³ *Traffic Safety Facts 2003*, at 86, NHTSA (DOT HS 809-775).

number of large studies in the U.S. and Europe. ESC is particularly effective in preventing SUV rollover crashes. And this technology is already standard equipment in most European-built vehicles and is available as either standard or optional equipment in many U.S. models. But not all ESC systems are created equal. Testing by Consumer Reports, for example, has found that some systems are more effective than others in preventing vehicle rollover. The bill will direct NHTSA to evaluate existing systems and establish minimum performance criteria for those systems.

Many automakers are planning to make ESC standard equipment, by phasing it in over the next several model years. While NHTSA's rulemaking agenda already indicates the agency plans to develop test procedures for ESC and to make a decision on rulemaking this year.⁴ Direction from Congress is necessary to ensure that these actions are carried out.

Occupants stand a much better chance of surviving a crash if they are not ejected from the vehicle. Section 7251 directs NHTSA to develop a standard to reduce full and partial occupant ejection. According to NHTSA, from 1999 to 2003 there was an average of 8,584 deaths (and 39,000 injuries) due to occupant ejection, both partial and full ejection, annually. Two-thirds of these ejections occurred in rollover crashes. We note that in NHTSA's Priorities Plan, reducing occupant ejection is also on the agency's rulemaking agenda. The Senate provision gives the agency until October 2009 to issue a final rule on ejection prevention, and 30 months to complete an already pending rulemaking to ensure that sliding doors on vans remain locked and do not open during a crash.

Finally, Section 7251 addresses the need to update the roof crush standard, which has not been improved since it was first adopted some 34 years ago. The current standard, we believe, fails to provide basic crashworthiness protection during rollovers. The agency has stated it plans to publish a notice of proposed rulemaking on roof crush this year and to issue a final rule in 2006. Because such promises have not been fulfilled in the past, the Senate provision calls for a proposed rule by the end of this year and a final rule by July 2008. Once again a generous timeline is provided.

The Senate legislation addresses rollover, roof crush, and ejection in a single provision because these safety issues are interrelated. In a rollover crash sensors developed for ESC systems can be used to trigger safety belt pre-tensioners and side impact airbags. But roof failure may compromise many other of the safety systems, including the geometry of the safety belt system and side impact air bags. In addition, roof crush will cause the vehicle side windows to break allowing occupants to be fully or partially ejected. NHTSA has historically approached each of these safety problems as separate issues. The Senate bill encourages the agency to take a comprehensive and unified approach to solving these interdependent safety problems.

We also support Section 7252, which is intended to ensure that NHTSA completes its pending side impact rulemaking proceeding. This rulemaking is vitally important because it is expected to assure that side impact air bags for head protection are available as standard equipment. Studies have shown that side impact air bags can make the difference between life or

⁵ *NHTSA Vehicle Safety Rulemaking and Supporting Research Priorities: 2005-2009*, Section II.A. – Preventing Rollovers, NHTSA (Jan. 2005) (Priorities Plan).

death for occupants inside a vehicle struck in the side by an SUV or pickup truck. The Senate deadline is July 1, 2008, for issuance of a final rule. Given that the proposed rule was issued on May 14, 2004, over a year ago, the Senate's allotment of an additional three years for a final rule is quite reasonable.

All of these measures, are necessary for safety. They do not dictate the outcome of any rule – leaving the specific requirements for the agency to determine. In all of these areas, the agency has already issued a proposed a rule or plans to issue one in the near future. To ensure that the NHTSA remains on track and carries through with its plans, it is essential that Congress provide the added incentive and certitude that comes with legislative goals and deadlines. In an editorial entitled Reducing Rollovers, the *Washington Post* strongly urged the House to accept the Senate measures, concluding that under the circumstances “congressional prodding is not interference, it is in order.”⁵

We also support a provision originally sponsored by Senator Olympia Snowe (R-ME) after a terrible accident killed the occupants of a fully-loaded 15- passenger van in Maine several years. The safety of these vehicles is another issue of critical importance for children because of the high percentage of such vans that are used to transport children to and from schools and during and after school to extra-curricular activities. The House should agree in conference to adopt the eminently reasonable requirement that 15-Passenger vans be rated for rollover resistance as part of NHTSA's New Car Assessment Program (NCAP). The House should also support the Senate bill's restrictions on the use of such vans as school buses unless they comply with the safety standards applicable to school buses.

Last year, *Automotive News* (Nov. 2004) the publication that covers the automotive industry, said most eloquently what we at Consumers Union believe about safety equipment in passenger vehicles: “All safety-related devices should become standard equipment on all vehicles. No choice. It's not an economic decision; it's a moral decision. When the choice becomes profit vs. lives, the decision should be simple.”

I urge the Members of the House Energy and Commerce Committee to support enactment of the Senate motor vehicle safety provisions included in H.R. 3 and to quickly pass H.R. 2230 the *Cameron Gulbransen Kids and Cars Safety Act of 2005*.

Sincerely,

Sally Greenberg
Senior Product Safety Counsel

cc: House Energy and Commerce Committee Members

⁵ Reducing Rollovers, Saturday, June 18, 2005, p. A18.