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**SEATBELT SAFETY: NHTSA OVERSIGHT**

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**HEARING**  
BEFORE A  
SUBCOMMITTEE OF THE  
COMMITTEE ON  
GOVERNMENT OPERATIONS  
HOUSE OF REPRESENTATIVES  
ONE HUNDREDTH CONGRESS  
SECOND SESSION

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**JUNE 23, 1988**

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## SEATBELT SAFETY: NHTSA OVERSIGHT

THURSDAY, JUNE 23, 1988

HOUSE OF REPRESENTATIVES,  
GOVERNMENT ACTIVITIES AND  
TRANSPORTATION SUBCOMMITTEE  
OF THE COMMITTEE ON GOVERNMENT OPERATIONS,  
*Washington, DC.*

The subcommittee met, pursuant to notice, at 10:05 a.m., in room 2203, Rayburn House Office Building, Hon. Cardiss Collins (chairwoman of the subcommittee) presiding.

Present: Representatives Cardiss Collins, Gerald D. Kleczka, and Howard C. Nielson.

Also present: John Galloway, staff director; Michael Skrak, professional staff member; Cecelia Morton, clerk; and Ken Salaets, minority professional staff, Committee on Government Operations.

### OPENING STATEMENT OF CHAIRWOMAN COLLINS

Mrs. COLLINS. Good morning. This hearing of the Government Activities and Transportation Subcommittee will come to order. Although most consumers are not aware of it, all cars manufactured since 1973 are equipped with anchor points to permit the installation of rear seat shoulder belts.

Also, unknown to most consumers, shoulder belts in combination with lapbelts offer twice the protection of lapbelts alone. Annually almost 2,000 rear seat automobile passengers are killed and 200,000 are injured in this country. Many of those deaths and injuries could have been prevented through the use of rear seat lap and shoulder belts.

Federal regulations on rear seat safety are ambiguous. They do not require manufacturers to install shoulder belts. Simple lapbelts in both new and old cars are sufficient. On the other hand, fittings are required on all cars manufactured since 1973 to permit the installation of rear seat shoulder straps to supplement federally required lapbelts.

Those regulations do not, however, require manufacturers to provide nor install such shoulder straps. That, in turn, has rendered it all but impossible for consumers in many cases to purchase and have installed that life-saving feature. To further compound matters, the shoulder strap fittings are frequently placed behind the car's molding and trim which contributes to the high cost of installing rear seat shoulder straps, assuming their availability. On the brighter side, during the past year, most car companies have announced that they will voluntarily install rear seat shoulder belts in new cars.

Clearly, the superiority of shoulder straps over lap-only type belts is no longer at issue. Our hearing today has been called to consider means to encourage the greater availability of rear seat shoulder belts for cars already on the road. In particular, we will consider: (1) The failure of car companies to educate consumers on the need for rear seat shoulder belts; (2) the failure of certain car companies, such as Volkswagen and Ford, to provide rear seat shoulder straps for certain models; and (3) the refusal of new car dealers throughout the country to install back seat shoulder belts when available.

To help assess these issues we will receive testimony from the Center for Automobile Safety, the Institute for Injury Reduction and Mr. Harold Sakayan, an attorney familiar with the rear seat, lapbelt injury cases.

Following that testimony, we will hear from the Motor Vehicle Manufacturer Association and DOT's National Highway Traffic Safety Administration.

Mr. Nielson.

Mr. NIELSON. Thank you, Madam Chairwoman. Good morning. After reviewing the materials for this hearing, I am concerned that we may unintentionally be sending out the wrong message regarding seatbelt use. I have a little scar right here on my forehead which I sustained during an accident when not wearing a seatbelt. So I for one want to go on record in support of seatbelt usage. Back seat lapbelts may not be ideal and may even present problems of their own, as we will hear, but in the majority of cases, they're certainly better than nothing and are very effective in preventing a passenger from being thrown from a car during a collision.

No one can question the potential severity of injuries a person could sustain if thrown through a windshield. With that said, I welcome our witnesses and thank them for coming. I'm very interested in hearing your testimony.

Mrs. COLLINS. Thank you, Mr. Nielson. Our first panel this morning will be Mr. A. Benjamin Kelley, Mr. Larry Coben, and Mr. Harold A. Sakayan, all from the Institute for Injury Reduction and Mr. Robert Dewey who is from the Center for Automobile Safety. Why don't we begin with you, Mr. Kelley?

**STATEMENT OF A. BENJAMIN KELLEY, PRESIDENT, INSTITUTE FOR INJURY REDUCTION**

Mr. KELLEY. Thank you, Madame Chairwoman. I'm Albert Benjamin Kelley, president of the Institute for Injury Reduction. As you said, with me today is Larry Coben, our chairman, and Harold Sakayan, a founding member of the Institute. Mr. Coben will make an opening remark and then I will describe for you the test and research results we wish to present today to the subcommittee.

**STATEMENT OF LARRY COBEN, CHAIRMAN, INSTITUTE FOR INJURY REDUCTION**

Mr. COBEN. Good morning, Madam Chairman, members. I am Larry Coben. I'm a trial attorney from Philadelphia and the chairman of the Institute for Injury Reduction. I'm appearing here today at your invitation to discuss the issue of rear seatbelt sys-

tems in American automobiles, an issue which presently involves needless exposure to harm for millions of American consumers.

The Institute for Injury Reduction was organized to carry out research, investigation and public education involving the product design, performance and use which contributes needlessly to deaths and injuries. Product related injuries including those sustained in highway crashes are a wide, leading cause of death and serious injury. Unfortunately though, most consumers and most folks that ride in cars are unaware of those risks.

It is the job of the Government regulatory agencies such as the National Highway Traffic Safety Administration which you are oversighting today, to promulgate and enforce vehicle performance regulations which will assist in developing minimum basic performance standards to assure a minimum level of safety in all motor vehicles.

The institute is committed to reducing the mayhem on the highways that may be indirectly caused by product design. It is our thought that better product design can reduce injury and lessen the need for the costs imposed upon society by these injuries and deaths.

In a moment, Mr. Kelley will describe to you our work involving rear seat lap-only performance as compared to shoulder harness performance in the rear seat of automobiles. Also today we will present to you the testimony of Mr. Sakayan dealing with some very real incidents to demonstrate the effectiveness or lack of effectiveness of the safety systems provided in automobiles in America.

The immediate need to take steps to rectify a very serious safety design flaw in vehicles manufactured and sold in this country was highlighted by the report of the NTSB in 1986 which accounted for a number of lapbelt-only serious injuries and deaths in cars being used in this country.

A review of the history of automobile safety technology and regulation clearly shows that Americans are exposed to an unnecessary risk which we all take when we buckle up for safety with only lapbelts.

While it is true, as Mr. Nielson mentioned, that wearing a lapbelt is better than none at all in most occasions, and it is clearly a correct statement in the front seats of automobiles to prevent running into the windshield in a crash, the dynamics of what occurs in the rear seat of automobiles is different and the injuries that we're seeing are not a result of being ejected and not a result of striking a windshield, but are a result of people in those cars wearing lapbelts and being injured by the lapbelt system that they're wearing.

From the outset of its regulatory activity in the late sixties, NHTSA intended that its standards would require lap/shoulder belt protection for rear seat outboard occupants as well as front seat outboard occupants. This initial thought had its foundation in research that goes back to at least 1964. In some attachments that I've included with the statement today, there is a report from Dr. Horace Campbell who was associated with the Cornell Institute in which he pleaded in 1964 that manufacturers include lap and shoulder harness belt systems in all automobiles, in the front as well as the back of those vehicles.

Not surprisingly, the manufacturers have known about the value of those systems at least since the midsixties. Also attached to the material are some internal documents from some Ford engineers responsible for studying injury in crashes and their conclusion, obvious as it is to us sitting here today, is that wearing a lap and shoulder harness system provides superior protection to lap only, and it was recommended by the Ford engineers that lap and shoulder harness systems be included in all outboard positions.

In the late sixties in Europe, Governments passed regulations requiring that manufacturers install lap and shoulder harness systems in the rear as well as the front seats of automobiles. Attached to the material are regulations from the Swedish Government from 1968 dealing with that very issue. Also attached and interestingly, are the design standards of the Ford Motor Co. which manufactured and sold automobiles in Europe with lap and shoulder harness systems because the Government required those systems.

For those reasons, the institute recommends the following: That initially and immediately, a statement be made to the public dealing with the danger imposed upon the users of lap-only systems in the rear of automobiles. Second, that automobile manufacturers specifically send to their consumers warnings dealing with the risk of harm resulting from wearing lap-only systems in the rear of automobiles. Third, that manufacturers immediately notify all consumers directly that retrofit kits will be made available, and are available, and will be installed in vehicles at no cost to the consumer.

Fourth, that NHTSA immediately issue a regulation requiring retrofit kits be made readily available, and I emphasize "readily available." Fifth, that a three-point rear seatbelt system regulation be immediately imposed upon manufacturers for the rear seats of automobiles. While automobile manufacturers have said they will voluntarily install these systems, they are slow to do so. As of this year, perhaps four or five model cars out of perhaps 200 sold in the United States have rear lap and shoulder systems.

We implore the committee to make these recommendations to NHTSA to in turn make these recommendations and these regulations to the industry immediately.

Mr. COBEN. Thank you.

Mr. KLECZKA [presiding]. Thank you, Mr. Coben, for your testimony.

[The prepared statement of Mr. Coben follows:]

TESTIMONY OF LARRY E. COBEN  
CHAIRMAN, INSTITUTE FOR INJURY REDUCTION  
BEFORE A HEARING OF THE  
GOVERNMENT ACTIVITIES AND TRANSPORTATION SUBCOMMITTEE,  
HOUSE GOVERNMENT OPERATIONS COMMITTEE  
INTO  
'SEAT BELT SAFETY: NHTSA OVERSIGHT'  
JUNE 23, 1988

Madam Chairwoman, Members:

I am Larry E. Coben, a trial attorney from Philadelphia, Pennsylvania, and the chairman of the Institute for Injury Reduction. I am appearing today at your invitation to discuss the issue of rear-seat belt systems in American automobiles -- an issue which presently involves needless exposure to harm for millions of Americans.

The Institute for Injury Reduction was formed early this year to carry out research, investigation and public education involving product design, performance and use which may contribute needlessly to deaths and injuries.

Product-related injuries, including those sustained in highway crashes, are a leading cause of death in the United States -- a fact which is not widely understood by the public. It is the job of government regulatory agencies, such as the National Highway Traffic Safety Administration, which you are overseeing today, to promulgate and enforce vehicle performance standards which will, at least, provide minimum basic protection for vehicle users, and thereby effectively reduce the high number of injuries and deaths on our highways.

IIR seeks to build an improved base of knowledge and public awareness of product failures and needed improvements in support of this safety mission. Our founders are trial attorneys who through their practices have learned the extent to which defective products, inadequate user instructions and lack of warnings hurt and kill people. They are committed to seeing the mayhem reduced. The integrity of our common law products liability system must be preserved, because it constitutes one of the few remaining individual liberties in this complex society, and allows for the fair compensation of persons injured by product design. Our common law system and the federal regulation of product safety have complemented each other when each has functioned as intended. However, we at the Institute realize that a more aggressive approach to safety can reduce this national epidemic. In reality, therefore, the IIR was created with the thought that better product design can reduce injury and lessen the need for product liability claims. IIR membership is open to everyone -- attorneys, engineers, students, and the general public -- who supports our public-health objective. Our information and research results are available to any organization or person who requests them. (Attachment "A" to my testimony is a detailed description of IIR's structure and mission.)

In a moment Mr. Kelley will describe in detail our work involving rear-seat, lap-only belt performance -- work that reflects our concern at the extent to which these belt systems, unlike properly designed lap-shoulder belt systems, present a potential for serious or fatal injury to their wearers in crashes. Since the vast majority of American cars on the roads and in the dealer showrooms today do not have rear-seat lap shoulder belts, that potential already has become a grim reality for many rear-seat occupants -- including children wearing

lap-only belts. Several tragic examples of injury and death to our children will be described by Mr. Sakayan this morning.

The initial research project undertaken by the Institute was borne out of frustration emanating from the failure of the American Automobile Industry to voluntarily design and sell their products with necessary rear seat 3 Point seat belt systems. This frustration has been compounded by the National Highway Traffic Safety Administration's refusal to promulgate regulations making 3 Point seat belt systems mandatory in the rear seats of motor vehicles sold in the United States. The immediate need to take steps to rectify a very serious safety design flaw was highlighted by the July 28, 1986 report of the National Transportation Safety Board, in which it reviewed the dilemma motorists face today because all American-made vehicles include lap belts without shoulder harnesses in the rear seats.

A review of the history of automobile safety belt technology and regulation makes clear a number of basic points that bear directly on the concern of this hearing, and which are covered in detail in Attachment "B":

-- Automotive engineers and physicians have long recognized the hazards associated with lap-belt-only systems and the superior protection afforded by lap-shoulder belt systems. As early as the mid-1960's the car companies were being put on notice of the need for lap-shoulder belt systems in all outboard seating positions, both front and rear.

-- From the outset of its regulatory activity in the late 1960's, NHTSA intended that its standards would require lap-shoulder belt protection for rear-seat outboard occupants, as well as front-seat outboard occupants.

In July, 1969, a position paper prepared by the agency stressed that even if air bags were introduced to protect front-seat occupants, "both lap and shoulder belts will be required in rear seat positions for the foreseeable future." Proposed rulemaking of the period reflected the same intention. Yet, because of manufacturer resistance, agency indifference, or a combination of the two, the final rule was never put into place. The resistance offered by the industry is difficult to understand in light of certain internal documents which prove that the manufacturers were well aware of the need for 3 Point belt systems. As Attachment "C" reveals, as early as 1967, Ford Motor Company's top engineers recommended properly designed 3 Point seat belt systems to replace lap belts.

In 1968, the National Swedish Road Safety Board announced safety belt regulations which required the installation of 3 Point belts in all positions except the middle seat position. [An example of the Ford Motor Company's compliance with this regulation, along with the regulation itself is appended as Attachment "D".]

American manufacturers have told NHTSA that in the future they will voluntarily provide standard-equipment rear lap-shoulder belts in an increasing share of their new-car production, and some already have begun to do so in a few cars. Yet the agency, despite decades of research showing the hazards of lap-only belt systems and despite the demonstrated ability of the companies to install them, still has not proceeded to set a Federal Motor Vehicle Safety Standard requiring rear-seat lap-shoulder belt systems. Its only move in that direction has been noncommittal "advance notice of proposed rulemaking" issued more than a year ago. (Attachment "E")

Until NHTSA puts a standard in place, of course, Americans will have to rely solely on the good faith of the car companies for adequate rear-seat restraint protection in crashes. If the companies decide to discontinue plans for putting rear-seat lap-shoulder belts in new cars tomorrow morning, they will be entirely free to do so -- just as General Motors and Ford discontinued their promised air bag programs in the 1970's because NHTSA had not put a "passive restraint" standard in place.

Thus the industry, not the regulatory agency, has effectively taken control of providing or denying adequate crash protection to rear-seat occupants. This defies the intent of the National Traffic and Motor Vehicle Safety Act of 1966 since in effect it turns the regulatory reins over to the manufacturer.

The only recourse available to people injured in crashes due to hazardous rear-seat lap-only belts is common-law action against the derelict manufacturer. But, here too, the manufacturers have made legal maneuvers to thwart these claims on the basis that their only obligation is to meet the minimum standard set by NHTSA -- in this instance, the rear-seat lap-belt-only standard. This ignores the Act's crystal-clear injunction that compliance with a minimum standard does not protect a manufacturer from common-law action when the manufacturer could have prevented or lessened the severity of a crash injury by providing a better alternative safety system. In fact, a central purpose of the Act and the standards is to encourage manufacturers to exceed the minimums with improved technologies whenever possible. (See Attachment "F" for a full discussion of this issue.)

There is no excuse for NHTSA's continued failure to set a Federal Motor Vehicle Safety Standard requiring that at a minimum, rear-seat outboard occupants of future new cars be given lap-shoulder belt systems to protect them in crashes. Anything less makes a mockery of the Act's intentions and NHTSA's mission.

The NHTSA should issue regulations regarding the manufacture and sale of retrofit 3 Point rear seat belt systems, and the installation of factory-built, 3 Point belt systems in all new vehicles.



**INSTITUTE FOR INJURY REDUCTION****POST OFFICE BOX 375  
DUNKIRK, MARYLAND 20754**

Attachment A

(301) 855-9474

3/20/88

**QUESTIONS AND ANSWERS ABOUT  
THE INSTITUTE FOR INJURY REDUCTION**

The Institute for Injury Reduction was established in March, 1988 to carry out and support research and educational programs dealing with product-related injuries.

Its underlying premise is that if Americans are better informed about the nature of deaths and injuries involving product hazards, they will be better able to make judgments and decisions that lead to reducing or eliminating those hazards.

The following "questions and answers" about IIR are to assist prospective members and supporters in understanding the organization's purposes, programs and structure.

**Why Is IIR Needed?**

Accidents involving products account for the vast majority of deaths and seriously disabling injuries to Americans from birth to retirement age. The design, manufacture and use of products play a pervasive role in generating severe and fatal damage to human health - a role larger than illnesses for most age groups.

Yet the public is largely uneducated about that role, and unaware that product-related trauma would be much less frequent and much less severe if product design and manufacturing defects were reduced and adequate instructions and warnings were provided to product users.

IIR's mission is to design and carry out programs of information, education, research and notification that will improve society's knowledge of product-injury interactions and countermeasures. Its goal is to help reduce product-related trauma in America; its premise is that better, more widely available information about such injuries and their causes will contribute to achieving that goal.

**Aren't Other Groups Doing This Already?**

No. A number of organizations in government and the private sector are involved in aspects of injury reduction, but none works to carry out or support programs of education and research specifically involving product-related injuries.

**INSTITUTE FOR INJURY REDUCTION**POST OFFICE BOX 378  
DUNKIRK, MARYLAND 20754

Attachment A

(301) 855-8474

3/20/88

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**Aren't Other Groups Doing This Already?**

No. A number of organizations in government and the private sector are involved in aspects of injury reduction, but none works to carry out or support programs of education and research specifically involving product-related injuries.

IIR will make the results of its programs available to all agencies and groups whose activities involve injury causation and control, and is prepared to collaborate with such organizations on specific projects where appropriate.

#### Who Started IIR?

IIR has been formed by a group of leading plaintiff's attorneys experienced in litigation involving injuries stemming from the design, manufacture and use of products.

Their concern is that not enough has been done to inform the public, government policymakers, manufacturers, and the research community as to the nature, causes, extent and severity of deaths and injuries involving or generated by products of all kinds, or to promote research in those areas.

Their commitment is to encourage attorneys, research scientists, engineers, health professionals, and injured people themselves to become active in contributing both information and support toward that end.

#### Is Membership Confined to Attorneys?

Not at all. Membership is open to all individuals and organizations committed to IIR's goals, whether professionals, laypeople or students.

#### How May I Join?

Applications for membership are approved by the Board of Directors. Anyone may apply simply by writing to: IIR, P.O. Box 375, Dunkirk, Maryland, 20754. A brief letter or postcard or the completed form below is all that is needed.

#### How Much Does Membership Cost?

Annual dues vary by class of membership, as follows:

- Founding Member, \$5,000.
- Organizational Member, \$5,000
- Sustaining Member, \$1,000
- Regular Member, \$100
- Associate (Students and Retired) Member, \$25

All members receive IIR's quarterly newsletter summarizing its activities and research results. In addition, Founding, Sustaining and Organizational members receive copies of all reports, studies and films published by IIR without separate charge.

#### How Is IIR Run?

IIR's policymaking body is its Board of Directors. Board members are elected annually by members with voting rights, which include all Founding, Sustaining and Regular members, on an annual basis. Current board chairman is Larry E. Cohen. Other members include Wayne Fisher, Bertram M. Goldstein, John R. Overchuck and David L. Perry.

The day-to-day management of IIR is carried out under the direction of its president, A. Benjamin Kelley, a leading authority on motor vehicle-related injury causation and prevention. Mr. Kelley, formerly senior vice president of the Insurance Institute for Highway Safety and an official of the U.S. Department of Transportation, has been active in the injury control field for more than two decades.

#### Describe IIR's Program.

In general, IIR's concern extends to products in the automotive, aviation, medical, occupational, farm, home and all other categories in which product-injury relationships are found. Its developing emphasis in each of these is in the following areas of work:

--Collecting, analyzing and distributing data concerning the nature, severity, and frequency of product-related injuries, and relating them to design, manufacture and use causation.

Sources for such information will include research published by government, private-sector and academic groups; completed product-injury litigation; regulatory and legislative proceedings concerned with product injury issues, and special research and fact-finding projects undertaken or sponsored by IIR.

--Providing notice to manufacturers, the medical community, government regulatory agencies and the general public of product hazard and injury-causation information.

--Conducting or sponsoring special research, testing, demonstration and analytical projects to examine specific types and patterns of injury generated by the design, manufacture and use of products.

--Supporting outside research to increase knowledge of product hazard-injury relationships.

Who Determines The Direction Of IIR Research?

A Technical Advisory Committee, appointed by the Board of Directors, evaluates and approves proposals for IIR research, testing and data analysis. Members must be accredited experts in scientific or engineering fields related to injury causation and control.

How Can I Advance IIR's Work?

By applying for membership or contributing now!

If you are able, apply to become a Founding, Organizational or Sustaining member. Your dues will go far toward helping IIR to bring about important improvements in the public's awareness of product-related injuries, as well as in the breadth and quality of research, analysis and notification concerned with product hazards that result in injuries.

Or, you may wish to make a substantial one-time contribution toward IIR's start-up effort while joining at a lower dues level.

Whether you are interested in Founding, Organizational, Sustaining, Regular or Associate membership, with or without a separate contribution, it takes only a moment to apply using the attached form or a letter or card to: IIR, P.O. Box 375, Dunkirk, Md. You'll receive a prompt response and be billed for your first-year dues at that time.

(The Institute for Injury Reduction is a non-profit organization incorporated in the State of Maryland to meet the objectives described above. IIR is in the process of applying for an advance determination of its compliance with provisions of the Internal Revenue code and regulations that permit "charitable" tax deductions for membership dues and contributions to the organization. That determination, if favorable, will apply to all membership dues and contributions received from the time of the organization's

incorporation. However, until it is received, prospective members and contributors are cautioned that no guarantee may be made as to the deductibility of dues and contributions received at this time.)

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TO: Institute for Injury Reduction  
Post Office Box 375  
Dunkirk, Maryland 20754

1. This is my/our application to become a (Founding) (Organizational) (Sustaining) (Regular) (Associate) member of the Institute for Injury Reduction. Please notify me of approval of this application and bill me for my first-year dues.

2. I wish to make a contribution to IIR's start-up effort in the amount of \$\_\_\_\_\_. (It is enclosed.) (Bill me, please.)

Name \_\_\_\_\_

Address \_\_\_\_\_

Phone \_\_\_\_\_

\_\_\_\_\_  
(signature) Date: \_\_\_\_\_

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Attachment B Excerpted From: National Transportation Safety Board, "Performance of Lap Belts in 26 Frontal Crashes", July 26, 1986.

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