

Statement of

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SUBCOMMITTEE ON COMMERCE AND FINANCE  
HOUSE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE  
HOUSE OF REPRESENTATIVES

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Mr. Chairman and Members of the Subcommittee:

I appreciate the opportunity to appear before this Subcommittee today to discuss our school bus safety activities and a related bill, H.R. 4187.

The sponsors of H.R. 4187, the Chairman and Mr. Aspin, have done much to draw public attention to the problems of school bus safety. I wish to commend them for this valuable contribution to the public interest. Their work played a part in the creation last year of a school bus safety task force within the NHTSA. A report on the results of the task force's deliberations will be published within approximately 60 days.

Before discussing our position on this bill, I would like to discuss the problems of school bus safety and our efforts to meet them.

Our figures on how children are injured or killed in school bus accidents are extremely revealing in assessing the usefulness of various approaches to school bus safety. Approximately 5,000 are injured annually. We estimate that about 90 children lose their lives in school bus accidents annually. Sixty of the children, or 66 percent of the total, are pedestrians at the time that they are killed. Thirty are struck by the school bus itself, while the other 30 are struck by another vehicle. The remaining 30 children are killed while riding in the school buses.

This information tells us that, with respect to the death of children in school bus accidents, the primary problem is what happens outside the school bus. To help meet the pupil pedestrian problem, we used our authority under the Highway Safety Act to issue Highway Safety Program Standard No. 17, Pupil Transportation Safety, in May 1972. The standard is designed to improve State programs for transporting school children safely in urban and rural areas by setting requirements

for safe routing; proper and safe school bus equipment; maintenance and inspection of school buses; and selection, training, and supervision of school bus drivers and maintenance personnel. Included are requirements specially intended to protect pupil pedestrians by requiring off-road loading and unloading where possible and special marking of school buses, and regulating the movement of other motorists in the vicinity of school buses.

Available data are equally useful in identifying which measures are most appropriate for reducing the death and injury of school bus occupants. Death most commonly occurs when the children are knocked out of their immediate seating area and ejected from the school bus either through the windows or through a breach in the school bus body. The largest single cause of injury is the striking of the children's heads against the metal bars which typically run across the top of each seat back.

Thus, the death and injury data clearly point, in the first instance, to the need for providing each school bus occupant with a safe, protective seating area and with a means for keeping the occupant within that area. To meet that need, we used our authority under the National Traffic and Motor Vehicle Safety Act in February of this year to issue a

notice of proposed rulemaking on bus seating requirements. The proposed effective date is September 1, 1974. The standard proposes requirements relating to items (2) and (4) in paragraph (5) of the bill, interior protection of occupants and seating systems. The standard would require bus occupants be protected by the use of seats that are stronger, higher, and less hostile on impact than present seats. The standard would also require stronger seat anchorage and eliminate stanchions almost entirely. As an alternative method for keeping passengers within their seating areas, the standard would modify slightly some of the seat performance requirements if safety belts were installed for each seating position. The failure of any seated passenger to use a safety belt would activate a reminder buzzer.

We have already issued a standard relating to items (1) and (7) in paragraph 5, emergency exits and windows. In May 1972, we promulgated Vehicle Safety Standard 217 that will, effective September 1973, require that bus windows be strengthened. Thus, the standard will meet the problem of passenger ejection through bus windows. The standard also specifies minimum requirements for emergency exit size and release mechanisms.

We are also planning to initiate rulemaking this year on the other aspect of the ejection problem, breaches which occur in school bus bodies during crashes. We will be proposing a standard to improve the strength of school bus body joints. We will begin a School Bus Structural Improvement Program this year. The one year research program will attempt to determine the extent to which modified prototype school buses are superior to existing production type school buses. The results will aid in upgrading our initial structural integrity standard and issuing future school bus safety standards. We believe that this rulemaking and research effort will meet the need for action on items (3) and (5), floor strength and crashworthiness.

The rulemaking under the Vehicle Safety Act that I have mentioned thus far relates either to vehicle crashworthiness or to egress from a crashed vehicle. We have also been active in meeting the problems of the operating system, brakes, that has figured most frequently in the causation of school bus crashes. New school buses equipped with air brakes are covered by Vehicle Safety Standard 121 which becomes effective September 1, 1974. Effective September 1, 1975, Vehicle Safety Standard 105 will require all new buses equipped with hydraulic braking systems to meet various performance requirements. Both standards include requirements on stopping distance and fade recovery.

In addition, we have issued other standards on less important aspects of school bus safety performance.

I would like now to discuss our views on H.R. 4187. The bill has four main provisions. First, it would require the promulgation of certain school bus safety standards within six months after the enactment of the bill. We agree with the need to issue standards on most of the areas listed in the bill since they play a role in school bus deaths and injuries. As I have already indicated, we have either issued or are in the process of developing standards in 7 of the 8 areas. However, we question whether death and injury statistics warrant rulemaking at this time concerning 8th area, fuel systems. Further, we strongly believe that the six month deadline would be impracticable. It would provide time neither for study nor analysis necessary for prudent rulemaking. It might also preclude adequate opportunity for public comment.

The first provision would also eliminate, with respect to school buses, the general statutory requirement that Vehicle Safety Standards be stated in objective terms and contain only performance requirements. We believe that the elimination of the requirement for objectivity would be unwise since a nonobjective or subjective standard could not be easily enforced. As a practical matter, therefore, our standards must be objective.

The elimination of the requirement that school bus standards contain performance requirements is presumably intended to permit the issuance of design standards. By a design standard, I mean a standard that contains a detailed description of every significant aspect of a product, including materials and processes used. We believe that this amendment is unnecessary since we understand the Vehicle Safety Act as presently conferring authority to set performance standards that affect design so long as they are stated in objective terms and regulate only those features of vehicles and equipment that bear upon their safety performance.

We also believe that this amendment is undesirable. Performance standards provide a manufacturer with latitude in his choice of a compliance method. In addition, they permit him to innovate and adopt superior compliance methods without gaining our prior approval.

Conversely, design standards would unduly inhibit innovation. A manufacturer subject to a design standard could not take advantage of the development of a new, more effective or less expensive compliance method until a new design standard was issued. As a result, the adoption of superior safety features would be delayed.

The second provision of H.R. 4187 would require procurement of an experimental or prototype school bus within 18 months after enactment of this bill. As I have already mentioned, our

school bus structural research program calls for the procurement of at least one prototype school bus during the coming year. Consequently, we agree with the purpose of this section.

The third provision would require school bus manufacturers and distributors to inspect and test drive each new school bus to determine if due care was used in producing the bus. The additional certification procedures in this provision are unnecessary. School bus manufacturers and distributors are already required by section 114 of the Vehicle Safety Act and implementing regulations to certify the conformity of each new school bus with all applicable standards. The manufacture or sale of a new school bus that does not comply with all applicable standards as well as the failure to issue a certification for each new school bus are both violations of section 108 of the Act. Consequently, both acts are subject to a civil penalty of up to \$1,000 per violation.

Further, we believe that this amendment may dilute the due care provision in section 108 of the Act. Manufacturers and distributors are not held absolutely responsible for the noncompliance of a vehicle under the Act. However, if one of their vehicles fails to comply, they will be subject to a civil penalty unless they can establish that they exercised due care in attempting to achieve compliance. The precise type of conduct that would satisfy the due care provision varies from case to case. The best method is to test a vehicle in

accordance with the test procedures specified in the applicable standards. Of course, it is not possible to do this with each vehicle since some standards include destructive test procedures.

However, it is extremely unlikely that taking no other action than individually inspecting and test driving each new school bus would satisfy the existing due care provision. The manufacturer must also have taken other action to ensure compliance with applicable standards. The additional action might be testing one or more vehicles by the test procedure specified in the standard or by a comparable procedure. Other action that might be sufficient would be mathematical modeling to simulate use of the specified procedure or a comparable one. Thus, the danger of this amendment is that instead of establishing an indispensable element of the total effort necessary to establish due care, it might be interpreted as specifying the only acts necessary for that effort.

The third provision would also require dealers of new school buses to test drive each new vehicle. We are uncertain as to the purpose of this amendment since it is unclear precisely what the dealer is intended to establish or learn through the test driving.

The fourth provision of H.R. 4187 would require the National Transportation Safety Board to investigate all fatal school bus accidents. The Secretary of Transportation would

then be required to promulgate safety standards to prevent the recurrence of such accidents.

We agree with the necessity for examining school bus accidents to determine the desirability of new or improved school bus standards. Pursuant to the Act, we have established crash investigation teams around the country to gather data on actual vehicle crashes.

Our policy is to investigate each accident in which three or more children riding in school buses are killed. So long as the number of such accidents remains small, we will be able to continue this practice. However, if the number were to increase substantially, we might be compelled to become selective and investigate only those multiple-fatality school bus accidents likely to yield significant new knowledge.

In addition, we will soon be requesting the States to begin providing us with information on each school bus accident in which a pupil was injured. This information will aid in developing new standards.

We have no objection to the Board's participation in our accident investigations. We have worked closely with them in the past and expect to continue to do so.

The foregoing amply demonstrates, I believe, that we have completed or initiated efforts in the most important aspects of school bus rulemaking, research and investigation listed in H.R. 4187. If accident data establish the need for

additional measures, we have the authority under the Vehicle Safety Act to implement them. This bill does not appear necessary, therefore, for the attainment of our common goals.

This completes my formal statement. My associates and I would be pleased to attempt to answer any questions you have.