

STATEMENT OF FRANK BERNDT, CHIEF COUNSEL, NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION, BEFORE THE SUBCOMMITTEE ON TELECOMMUNICATIONS, CONSUMER PROTECTION AND FINANCE, HOUSE COMMITTEE ON ENERGY AND COMMERCE, AUGUST 5, 1983.

Mr. Chairman and Members of the Subcommittee:

Thank you for your invitation to testify on the case of the brakes in General Motors X-cars for model year 1980. My testimony this morning will be necessarily limited in scope.

I understand that the hearing is prompted both by the General Accounting Office's draft report on the early stages of NHTSA's investigation into this matter and by the complaint filed on August 3 by the Department of Justice. Because your staff had requested that GAO's report be withheld from us until late Wednesday, the agency has been unable to complete its review for today's hearing. GAO has referred a portion of its investigation to the Inspector General for the Department of Transportation. In addition, the agency had earlier referred the entire matter to the Inspector General. It would therefore be inappropriate for me to comment until that investigation is completed.

The lawsuit filed by the Department of Justice against General Motors, in the District Court for the District of Columbia, alleges that the design of the braking system of X-cars manufactured during model year 1980 contains a defect that, under a variety of conditions, causes the rear wheels of the car to lock prematurely in medium to hard braking conditions.

The defect can result in loss of control of the car and thus poses a high risk of accidents and injuries. NHTSA has received more than 1,740 complaints of premature rear wheel lock, with 71 complaints involving personal injury, including 15 fatalities.

The complaint alleges that General Motors began production of the X-car even though it was fully aware that the brake system was defective and that it later intentionally made numerous false statements to NHTSA in an effort to conceal the extent of the defect. The complaint also alleges that the company undertook recall campaigns for some of these cars, knowing that the proposed repairs would be inadequate to repair the defect.

The complaint requests the recall of 1.1 million X-body cars and civil penalties in the amount of \$4,027,000.

Mr. Chairman, this complaint arises from an enforcement action that has been in preparation for several months. I believe that any discussion of the evidentiary basis for this lawsuit, beyond the bare outline I have just given, would be inappropriate. However, I am pleased to provide you with a copy of the complaint so that you will know the breadth of the complaint and the basis for the relief that we request.

This concludes my prepared statement. If the Subcommittee wishes, we will respond to written questions for the record. However, the scope of our answers will be governed by the concerns I have just described.