

STATEMENT OF BARRY FELRICE
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BEFORE THE SUBCOMMITTEE ON CONSUMER OF THE
SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
REGARDING VEHICLE SAFETY ISSUES AND S. 673

April 5, 1989

Mr. Chairman and Members of the Committee.

I am pleased to appear before you today to discuss current vehicle safety issues and to comment on S. 673, the "National Highway Traffic Safety Administration Authorization Act of 1989." With me at the witness table are George Parker, Associate Administrator for Enforcement, and George Reagle, Associate Administrator for Traffic Safety Programs.

I would like to begin by reporting our latest data about highway safety. I am pleased to report that in 1988 the fatality rate on the nation's highways remained at the all-time low of 2.4 fatalities per hundred million miles travelled. The rate first reached that level in 1987, after declining more than 25 per cent from its 1980 level. If the rate had remained at its 1980 level, we estimate that about 18,000 more people would have died in crashes in 1988 than the 46,900 shown by our

preliminary estimate for 1988. The 1988 data show that we're holding on to our gains, but they also suggest that we'll need to do more to push both the fatality rate and the total number downward. Let me share with you how we plan to do this, both in the short term and over the longer term.

This year is an important year for safety. It marks the concluding year of the four-year phase-in of the occupant protection requirements of Standard No. 208. Beginning on September 1, all new passenger cars will be equipped with automatic protection. Many of these cars will have an air bag for the driver, and the number of air bag installations, both for the driver and for the front passengers, will increase rapidly during the following years. Our current estimate, based on publicly available information from the manufacturers, is that about 2.9 million vehicles will be equipped with air bags during model year 1990. We believe that this number will increase to the range of 5 to 6 million annually by the mid-1990's. For customers who prefer an alternative form of protection, the manufacturers will continue to offer a variety of automatic safety belt designs. Reaching this milestone marks an important advance in safety and concludes a 20-year controversy about the best means to protect occupants in frontal crashes.

Since the phase-in of automatic crash protection is already in its third year, we have had the opportunity to test a number of vehicles with the new systems, in our compliance program as well as in our consumer-oriented New Car Assessment program. I am pleased to report that these tests have shown that the vehicles are complying with the stringent requirements of the standard with room to spare.

To complement the effects of the new occupant protection systems, we are reinforcing our campaign to raise safety belt use. We believe strongly that it is the combination of new technology and higher safety belt use that will produce the greatest increase in safety. It is important to remind owners of new air-bag equipped cars that safety belt use is still needed for overall protection.

The news on safety belt use continues to be encouraging. Last year, safety belt use laws became effective in three new states, increasing the year-end total to 31 states and the District of Columbia. Recently, Wyoming passed a belt use law, bringing the total to 32 states. Our survey of safety belt use in 19 cities showed that drivers have increased their use of belts to 47 per cent--compared to just 14 per cent in 1984. We will continue our efforts to help achieve higher use rates in States with belt laws and to encourage adoption of belt laws in other States.

In addition to our work on air bags and safety belts, we are well along on a number of other vehicle safety measures. Last year, we proposed new requirements for upgraded side impact protection for passenger cars. This is an extremely ambitious rulemaking project, since it involves the development of a sophisticated new test dummy, as well as injury criteria associated with the dummy, and other technical specifications. We are now reviewing the very extensive comments received, and we hope to proceed with the next step in the rulemaking later this year. Last year, we also issued proposals to extend head restraint requirements to light trucks and to require 3-point belts in the rear seats of passenger cars and light trucks. We also issued a proposal to reclassify light trucks, vans, and sport-utility vehicles for

purposes of safety standards. For the somewhat longer term, last October we began a landmark fleet test of heavy trucks equipped with the new generation of antilock brakes that will give us the real-world experience needed to demonstrate reliability and maintainability, which the courts have required for NHTSA to pursue rulemaking in this area. We believe that these measures will result in significant safety improvements.

Our oversight of the safety of the current vehicle fleet has continued to improve. In 1988, we opened 136 new safety defect investigations--the most in 15 years. In our testing program to determine compliance with the vehicle safety standards, we conducted 165 vehicle tests, involving 50 vehicles, and 937 equipment tests, involving 2362 items of motor vehicle equipment. We improved our ability to respond to problems reported through owner complaints or compliance testing, and significantly reduced the average time to complete investigatory actions. During the year the manufacturers conducted 165 safety recalls, resulting in nearly 4.2 million vehicles recalled. We also increased our enforcement efforts in the odometer fraud program, referring 35 large-scale investigations to the Department of Justice for prosecution.

No overview of highway and traffic safety would be complete without mentioning the leading cause of fatal and serious injury crashes--drunk driving. We estimate that the proportion of fatalities involving intoxicated drivers remained at 40 per cent in 1988. This represents a significant improvement over the level in earlier years, but it also shows how far we have to go.

We took several steps during 1988 to strengthen our drunk and drugged driving programs. We streamlined the regulations of the alcohol safety incentive grant program under section 408, enabling five additional states to qualify for grants to further improve their alcohol countermeasure programs; we sponsored workshops involving more than 30 states to examine trends in countermeasures and alcohol-related fatalities in each state; we supported regional workshops by Mothers Against Drunk Driving to help activist groups focus their efforts, including development of support for administrative license suspension; we trained police officers in 6 sites on drug evaluation and classification (DEC) techniques to improve capabilities to detect and prosecute drugged drivers; and we made great strides with the TEAM program, including new national campaigns by Major League Baseball and the National Basketball Association. The TEAM program continues to be a model for coordinated projects between the public and private sectors to encourage responsible drinking behavior at sporting events. We will continue those efforts this year, with an expansion of DEC training to four more sites, and with timely issuance of regulations to implement the new section 410 drunk driving prevention incentive grant program.

I will turn now to a short statement of our views on S. 673. As you noted in your introductory statement, Mr. Chairman, the bill derives most of its provisions from S. 853, the NHTSA authorization bill passed by the Senate in the last Congress. At that time the Department of Transportation opposed some of the provisions of S. 853.

Even though we have begun many of the regulatory actions specified in the bill, such as side impact protection for passenger cars and head restraints for light trucks, the provisions in the new bill requiring us to initiate or complete these actions within prescriptive time frames are overly restrictive. These time frames could interfere with our full consideration of public comments and the proper resolution of complex technical issues. Since these directives are in conflict with the statutory criteria for rulemaking under the Vehicle Safety Act, they may lead to protracted litigation - which could ultimately delay the effective date of new standards. The rulemaking requirement on handicapped parking is probably unnecessary. A similar rulemaking requirement, without funding sanctions or linkage to the section 402 program, was enacted in the last Congress, and accomplishes much the same thing.

New rulemaking provisions in S. 673 include a requirement for rulemaking on rollover protection for multipurpose passenger vehicles and a rulemaking requirement to increase the safety of child booster seats. Each of these areas is a current focus of agency research, but the bill seems to have us begin rulemaking before we complete the research. Therefore, we must respectfully oppose each of these provisions as we do the rulemaking provisions carried over from S. 853.

We must also object to the proposed reinstatement of the 5 mph bumper standard, a feature which we amended by careful rulemaking in 1982, in a decision upheld by the courts in 1985 and further validated by a rigorous evaluation in 1987. Evidence does not suggest that there is any safety or net economic benefit in reviving the earlier standard.

The studies by the National Academy of Sciences on vehicle crashworthiness ratings and periodic state motor vehicle inspection programs are both costly and time consuming. Our experimental New Car Assessment Program already provides useful information on frontal crashworthiness to consumers, and we are nearly finished with the report on motor vehicle inspection programs required by our appropriations act for FY 1988. We are concerned that further mandatory study measures will divert our limited research funds into non-productive uses.

The new bill adds a provision for the judicial review of denials of defect and non-compliance petitions. In response to your request for comments, I want to express our strong objections to this provision because it is an invitation to litigation and judicial intervention in matters of prosecutorial discretion. Such a statutory right to judicial review of an enforcement matter is exceedingly rare. The agency reviews a defect petition or non-compliance petition in the context of other pending enforcement matters, all of which have a claim on our limited investigative resources. If NHTSA is compelled to "grant" an enforcement petition in one case, it will necessarily be unable to open or pursue some other investigatory action. A court would not have the information necessary to make such resource determinations and should not be given such a role in the investigative process. Of equal concern, that type of judicial review will divert agency resources (lawyers and engineers) into litigation - thus further reducing our ability to investigate real safety problems. The petition process has worked well without the availability of judicial review, and we believe it will continue to serve the interests of vehicle safety as it is presently structured.

The bill also contains measures designed to promote occupant protection by requiring the purchase of air bag-equipped cars for the Federal fleet, and through the establishment of a new incentive grant program for States that enact safety belt use laws and achieve specified usage levels. Although we support the widespread introduction of air bags and devote a large amount of our time and energy to helping the States increase safety belt use, we believe the goal of increased occupant protection can be achieved without the expenditure of additional Federal funds. As the manufacturers produce increasing numbers of cars with air bags as standard equipment, the air bags will decline in price and become available in a larger selection of vehicles. This will achieve the objective of the proposed Federal purchases. With respect to safety belt use, we believe that coordinated efforts now being undertaken at the Federal, State and local levels have already produced substantial increases in safety belt use, and will continue to do so, without the need for the further expenditure of dedicated Federal funds. We also note that section 402 grant funds are already available to be used by the States for safety belt promotional activities.

Mr. Chairman, this completes my prepared statement. My colleagues and I will be glad to try to answer any questions you may have.