ional Traffic and Motor Vehicle Safety Act of 1966

Legislative History

Volume II
1985

U.S. Department of Transportation
National Highway Traffic Safety Administration

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Preface

Volume II of this legislative history is a section-by-section analysis of the original National Traffic and Motor Vehicle Safety Act of 1966. It sets forth under each section of the 1966 Act relevant excerpts from the legislative documents which have some bearing on the meaning or intent of the section. For each section, the legislative documents are presented in the following order:

1. The Bill As Enacted
2. Conference Committee Report
3. House Passed Act
4. House Debate (from the bound edition of the *Congressional Record*)
5. House Committee Report
6. Senate Passed Act
7. Senate Debate (from the bound edition of the *Congressional Record*)
8. Senate Committee Report
9. Executive Communications
10. The Bill as Introduced

Three documents are not included in this analysis. The conference committee bill is identical to the bill as enacted and, therefore, is omitted. The bills reported by the House and Senate committees differ only in minor respects from the respective House and Senate-passed Acts and, therefore, they too are omitted. Volume I of this history—the collected documents associated with the 1966 Act—should be consulted for the text of these documents.

The legislative highlights leading to the enactment of the 1966 Act may be briefly summarized as follows:

1. On March 4, 1965, Senator Magnuson introduced S. 1350, an Administration bill to amend an Act relating to the establishment of a register of names in the Department of Commerce of certain motor vehicle drivers. This bill became the basis for Title IV of the 1966 Act, "National Driver Register."
2. On April 1, 1965, Senator Nelson introduced S. 1643 to provide that tires sold or shipped in interstate commerce for use on motor vehicles shall comply with certain safety and labeling regulations. Hearings on S. 1643 were held by the Senate Commerce Committee on May 25, June 7, and August 13, 1965.

3. On October 19, 1965, Senator Magnuson introduced S. 2669, a bill entitled the "Tire Safety Act of 1966." This bill became the basis for Title II of the 1966 Act, "Tire Safety."
4. On March 24, 1966, the Senate Committee on Commerce reported S. 2669. Senate Report No. 1089 accompanied S. 2669 as reported.
5. On March 29, 1966, the Senate passed S. 2669, with amendment, and referred the Senate-passed bill to the House Committee on Interstate and Foreign Commerce on March 30, 1966.
6. On March 2, 1966, Representative Staggers and Senator Magnuson respectively introduced H.R. 13228 and S. 3005, identical Administration bills entitled the "Traffic Safety Act of 1966".
7. On March 15-17, April 26-28, and May 3-5, 10-13, 1966, hearings on H.R. 13228 were held before the House Committee on Interstate and Foreign Commerce.
8. On March 16, 17, 29, 30, and April 4-6, 1966, hearings on S. 3005 were held before the Senate Committee on Commerce.
9. On June 23, 1966, S. 3005 was reported from the Senate Committee on Commerce. Senate Report No. 1301 accompanied S. 3005 as reported.
10. On July 28, 1966, H.R. 13228 was reported from the House Committee on Interstate and Foreign Commerce. House Report No. 1776 accompanied H.R. 13228 as reported.
11. On June 24, 1966, S. 3005 as reported from the Senate Committee on Commerce was considered and passed by the Senate. The Senate-passed bill was referred to the House Committee on Interstate and Foreign Commerce on June 27, 1966.
12. On August 10, 1966, House Resolution 965, to provide for consideration by the House of H.R. 13228, was reported by the House Rules Committee. H. Res. 965 was agreed to by the House on August 17, 1966.
13. On August 17, 1966, H.R. 13228, as reported by the House Committee on Interstate and Foreign Commerce, was considered, amended, and passed by the House. In accordance with the terms of H. Res. 965, the passage of H.R. 13228 was then vacated and S. 3005, as passed by the Senate, was passed by the House in lieu of H.R. 13228, after being amended to contain the House-passed language.
14. On August 18, 1966, the Senate disagreed to the House amendments to S. 3005 and asked for a conference with the House.

15. On August 31, 1966, the Senate and House both agreed to the report of the committee of conference on S. 3005. House Report No. 1919 accompanied the conference bill.
16. On September 9, 1966, the National Traffic and Motor Vehicle Safety Act of 1966 (Public Law 89-563) was approved by President Lyndon B. Johnson.

Volume II

Contents

National Traffic and Motor Vehicle Safety Act of 1966 Public Law 89-563

Section-by-Section Analysis

Section 1

As Enacted

Congress hereby declares that the purpose of this Act is to reduce traffic accidents and deaths and injuries to persons resulting from traffic accidents. Therefore, Congress determines that it is necessary to establish motor vehicle safety standards for motor vehicles and equipment in interstate commerce; to undertake and support necessary safety research and development; and to expand the national driver register.

National Traffic and Motor Vehicle Safety Act of 1966. *1*

Conference Report

Contains nothing helpful.

House Passed Act

Identical to the enacted Act.

House Debate

Contains nothing helpful.

House Committee Report

House Report 1776, Pages 10, 11, 12, 14, and 15

NEED FOR LEGISLATION

It has been reliably estimated that over 50,000 persons will die on our highways in 1966 and unless a broad-scale attack is promptly directed at this problem, it appears just as certain that some 100,000 Americans will die as the result of traffic accidents in 1975. *10*

During the hearings it was stated that since 1961 we have lost about four times as many members of the armed services in traffic accidents as we have in combat in Vietnam.

In addition to the deaths, there are millions who have suffered severe and permanent injuries. The cost in dollars of last year's traffic accidents has been estimated at $8 billion and the cost in terms of grief and suffering is immeasurable.

Passengers riding in vehicles moving at speeds of 60 and 70 miles per hour or even higher speed need to be protected in the event that an accident does occur. The committee is satisfied that such protection can be afforded at least to a degree substantially greater than that which exists at present, if all reasonable steps are taken to minimize the impact which results after an accident occurs between two vehicles or a vehicle and a stationary object. In all cases where

deaths and injuries occur, there are at least two collisions, not only the impact between the vehicles themselves, but the impact of the passengers with the interior of the vehicle, this latter impact has been characterized as the "second collision."

In the course of the hearings, the committee viewed slides and films which demonstrated over and over again that there is vast room for improvement in the "second collision" area, and that the second collision victim invariably comes up second best when he is thrust against a steering wheel, a dashboard, a windshield, or knobs and other protrusions in the interior of his vehicle.

Considerable improvement can be made by the use of safety belts 11
or other restraining devices. However, it is also clear that motor vehicles need not have as many potentially lethal appointments in their interior design as presently exist in many models.

Safety performance standards based on scientific and engineering research can lead to both a reduction of the incidence of accidents and to a reduction of the deaths and injuries which are associated with motor vehicle accidents. Not only is there general agreement that there is a need for Federal legislation at this time but also most of the witnesses who appeared before the committee, including the representatives of the automotive industry, support mandatory safety standards for new motor vehicles.

Standards, of course, cannot be set in a vacuum. They must be based on reliable information and research. One of the facts which was brought to the fore in the course of the committee's hearings was that it is virtually impossible to obtain specific information and data concerning the causes of traffic accidents and the performance of vehicles in accident situations. Much work in this area is being done but is is diffused. Under this bill this work can be augmented and channeled so that it will be more widely disseminated to all interested persons thus leading to improved motor vehicle safety performance with a consequent reduction in deaths and injuries.

This is a nationwide problem which requires forthright guidance and legislation at the national level. Congress and the Nation should accept the challenge to reduce this senseless bloodshed and death on our highways. The legislation which the committee now favorably reports is a needed step toward meeting this challenge.

.....

SUMMARY OF THE REPORTED BILL

Title I—Motor Vehicle Safety Standards

The purpose of the legislation is to reduce traffic accidents and the 12
deaths and injuries which result from traffic accidents. There is a congressional determination (1) that it is necessary to establish Federal safety standards for motor vehicles and motor vehicle equipment, (2) to undertake and support safety research and development, and (3) to expand the national driver register.

.....

EXPLANATION OF THE REPORTED BILL BY SECTION

DECLARATION OF POLICY

The first section of the bill as amended declares the purpose of this act to be the reduction of traffic accidents and the deaths and injuries to persons resulting from traffic accidents. It further makes a congressional determination (1) that is is necessary to establish Federal safety standards applicable to motor vehicle and items of motor vehicle equipment in interstate commerce, (2) to undertake and support necessary safety research and development, and (3) to expand the national driver register.

The declaration of purpose differs substantially from that which was contained in the introduced bill. Essentially, the differences are that the bill as reported contains a determination by Congress that there is a present necessity to establish Federal motor vehicle safety standards. Under the introduced bill, the Secretary would have been given authority to establish standards, but he would have been required to make the determination as to their necessity. The other major difference between the bill as introduced and as reported is the elimination from the latter of all references to property damage as an element to be considered in establishing Federal safety standards. The committee believes that the emphasis of this legislation should be on the protection of persons rather than the protection of property, and to eliminate any possible conflicts restricts the bill to considerations which relate to the safety and protection of persons.

Senate Passed Act

Congressional Record—Senate
June 24, 1966, 14256

STATEMENT OF PURPOSE

SEC. 2. The Congress hereby declares that the purpose of this Act is to reduce accidents involving motor vehicles and to reduce the deaths and injuries occurring in such accidents. To this end, the Secretary of Commerce shall have authority to establish motor vehicle safety standards for motor vehicles and motor vehicle equipment in interstate commerce; and to undertake and support necessary safety research, development and evaluation.

Senate Debate

Contains nothing helpful.

Senate Committee Report

Senate Report 1301, Pages 1-5

PURPOSE AND NEED

The legislation which the Commerce Committee unanimously reports today reflects the conviction of the committee that the soaring rate of death and debilitation on the Nation's highways is not inexorable. This legislation also reflects the committee's judgment that the Federal Government has a major responsibility to meet in assuring safer performance of private passenger cars which it has not yet met. Finally, this legislation reflects the faith that the restrained and responsible exercise of Federal authority can channel the creative energies and vast technology of the automobile industry into a vigorous and competitive effort to improve the safety of vehicles.

It should not be necessary to call again the grim roll of Americans lost and maimed on the Nation's highways. Yet the compelling need for the strong automobile safety legislation which the Commerce Committee is today reporting lies embodied in those statistics: 1.6 million dead since the coming of the automobile; over 50,000 to die this year. And, unless the accelerating spiral of death is arrested, 100,000 Americans will die as a result of their cars in 1975.

On March 2 of this year, President Johnson delivered to Congress his message on transportation and traffic safety, together with the proposed Traffic Safety Act of 1966. In this message, the President urged that the Secretary of Commerce "* * * be given the authority to determine the necessary safety performance criteria for all vehicles and their components." In addition, he called for the dynamic expansion of Federal traffic research programs, including the development of a national highway safety research and test center.

It was the committee's task to determine the extent to which Federal automobile safety standards could contribute to the reduction of traffic deaths and injuries on the highways. To that end, the committee held 7 days of hearings, calling upon distinguished witnesses, encompassing the widest range of expertise in the automotive safety field.

The American automotive industry has been for many years one of the most dynamic factors in the entire national economy. One out of every six Americans is employed in the industry or in the provision of automotive components or the service of automotive vehicles. The industry's growth and productivity have been outstanding. And American cars—whatever their shortcomings—are among the world's safest.

Moreover, the hearings produced evidence that the automobile industry has made commendable progress in many aspects of automotive safety. With respect to such critical components as lights, brakes, and suspension systems, the automobile of 1966 demonstrates marked improvement over its predecessors.

But the committee met with disturbing evidence of the automobile industry's chronic subordination of safe design to promotional styling, and of an overriding stress on power, acceleration, speed, and "ride" to the relative neglect of safe performance or collision protection. The committee cannot judge the truth of the conviction that "safety

doesn't sell," but it is a conviction widely held in industry which has plainly resulted in the inadequate allocation of resources to safety engineering.

Until the industry had been subjected to the prod of heightened public interest and governmental concern, new models showed little improvement in safe design or in the incorporation of safety devices. Such elemental safe design features as safety door latches made their appearance as standard equipment only a decade after their desirability and feasibility had been established.

As late as 1959, in testimony before a committee of Congress, the chairman of the Automotive Manufacturer's Association's Engineering Advisory Committee was still resisting the suggestion that seat belt fittings be made standard equipment on all automobiles.

The committee hearings also documented past laxity in furnishing adequate notification to car owners of latent defects which had crept into the manufacturing process—defects frequently directly related to safety. Equally disturbing was evidence that the manufacturers have not always taken effective steps to insure the speedy and efficient repair of such defects. Although current industry defect-curing practices now appear to be improved, the committee concluded that Federal oversight of defect notification, and correction is essential.

For too many years, the public's proper concern over the safe driving habits and capacity of the driver (the "nut behind the wheel") was permitted to overshadow the role of the car itself. The "second collision"—the impact of the individual within the vehicle against the steering wheel, dashboard, windshield, etc.—has been largely neglected. The committee was greatly impressed by the critical distinction between the causes of the accident itself and causes of the resulting death or injury. Here, the design of the vehicle as well as the public willingness to use safety devices, such as seat belts, are the critical factors. Recessed dashboard instruments and the use of seat belts can mean the difference between a bruised forehead and a fractured skull.

The committee heard compelling testimony that passenger cars can be designed and constructed so as to afford substantial protection against the "second collision" for both driver and passenger; further, that some of these design changes can be achieved at little or no additional manufacturing cost.

Yet the committee was presented with graphic evidence that the interior design of many 1966 model cars reveal interiors bristling with rigid tubes, angles, knobs, sharp instruments, and heavy metal of small radius of curvature. While such objects are sometimes placed and shaped as they are for the convenience of driver and passenger, substantial safety improvement could be achieved without inconvience to the car occupants.

The committee was likewise made aware of the substantial needless hazards to pedestrians presented by external fins, ornamental protrusions, sharp edges, stylistically angled bumpers.

Finally, motor vehicles can also be a source of injury to people when the vehicle is not in use as a vehicle. Thousands of minor injuries, and some major ones, occur in entering and exiting the vehicle, and during the service and maintenance of the vehicle. Many of these injuries can be avoided or diminished in severity by careful design, such as the common "hand caught in the door" accidents,

engine compartment hoods falling, vehicles slipping off jacks, and burns from engine components.

Federal standards for the safety of ships at sea long antedate the Civil War. By the year 1907, the Interstate Commerce Commission was requiring that pullman cars be constructed of steel rather than of wood. Aviation safety regulations were first authorized in the Air Commerce Act of 1926, a year in which domestic airlines carried a total of less than 6,000 passengers.

Yet, with the exception of a handful of State regulations and the Federal seat belt and brake fluid laws, the automobile sold generally in interstate commerce is today subject only to the standards produced by the committees of the Society of Automotive Engineers. These SAE standards are the product of a committee consensus, subject to a single manufacturer's veto, while affording no consumer or user representation: Compliance is voluntary. There exist no procedures to compel their adoption, monitor their use, or evaluate their effectiveness.

While the General Services Administration has the authority to set the safety standards for the vehicles which the Government purchases, and individual States have begun to explore the possibility of uniform State motor vehicle standards, these efforts are necessarily limited because there exists today no significant alternative source of standards to the SAE.

There is in being no systematic research, testing, development, and evaluation program for safety standards capable of assigning priorities or correlating existing standards with accident and injury prevention.

Out of the committee's hearings, there emerged a clear outline of the basic needs to be served by Federal legislation:

1. The promotion of motor vehicle safety through voluntary standards has largely failed. The unconditional imposition of mandatory standards at the earliest practicable date is the only course commensurate with the highway death and injury toll.

2. While the contribution of the several States to automobile safety has been significant, and justifies securing to the States a consultative role in the setting of standards, the primary responsibility for regulating the national automotive manufacturing industry must fall squarely upon the Federal Government.

3. The Federal Government must develop a major independent technical capacity sufficient to perform comprehensive basic research on accident and injury prevention, adequate to test and contribute to the quality of the industry's safety performance; a technical capacity capable of initiating innovation in safety design and engineering and of serving as a yardstick against which the performance of private industry can be measured; and, finally, a technical capacity capable of developing and implementing meaningful standards for automotive safety.

4. While the sharing of safety technology among motor vehicle and motor vehicle equipment manufacturers can facilitate the development of advanced safety design and engineering, vigorous competition in the development and marketing of safety improvements must be maintained.

5. Deficiencies in past industry practices relating to the notification and curing of manufacturing defects necessitate the imposition of mandatory procedures to insure such notification of purchasers and correction of all safety-related defects.

6. The individual in the marketplace, upon whom the free market economy normally relies to choose the superior among competing products, is incapable of evaluating the comparative safety of competing model cars. The public which has lately become increasingly interested in safety still has no means of satisfying that interest. Both industry and Government share the responsibility for supplying adequate consumer information of automobile safety.

It is to the credit of the automotive industry that industry leaders have come to recognize the gravity of the problem and have joined in support of a law establishing binding Federal vehicle safety standards.

The committee also recognizes that the broad powers conferred upon the Secretary, while essential to achieve improved traffic safety, could be abused in such a manner as to have serious adverse effects on the automotive manufacturing industry. The committee is not empowering the Secretary to take over the design and manufacturing functions of private industry. The committee expects that the Secretary will act responsibly and in such a way as to achieve a substantial improvement in the safety characteristics of vehicles.

It is the committee's judgment that enactment of this legislation can further industry efforts to produce motor vehicles which are, in the first instance, not unduly accident prone; and perhaps, even more significantly, vehicles which, when involved in accidents, will prove crash-worthy enough to enable their occupants to survive with minimal injuries. 5

Executive Communications

Contains nothing helpful.

As Introduced

As H.R. 13228 in the House and S. 3005 in the Senate:

SEC. 2. The Congress hereby declares that the purpose of this Act is to reduce traffic accidents and the deaths, injuries, and property damage resulting from traffic accidents. To this end, the Secretary of Transportation shall have authority to establish motor vehicle safety standards for 1.

motor vehicles and equipment in interstate commerce; to undertake and support necessary safety research and development; and to encourage and provide financial assistance in developing State traffic safety programs under effective standards for drivers, motor vehicles, postaccident care, and the traffic environment, including highways.

Section 101

As Enacted

TITLE I—MOTOR VEHICLE SAFETY STANDARDS

SEC. 101. This Act may be cited as the "National Traffic and Motor Vehicle Safety Act of 1966". Short title. 1

Section 102

SEC. 102. As used in this title— Definitions. 1

(1) "Motor vehicle safety" means the performance of motor vehicles or motor vehicle equipment in such a manner that the public is protected against unreasonable risk of accidents occurring as a result of the design, construction or performance of motor vehicles and is also protected against unreasonable risk of death or injury to persons in the event accidents do occur, and includes nonoperational safety of such vehicles.

(2) "Motor vehicle safety standards" means a minimum standard for motor vehicle performance, or motor vehicle equipment performance, which is practicable, which meets the need for motor vehicle safety and which provides objective criteria.

(3) "Motor vehicle" means any vehicle driven or drawn by mechanical power manufactured primarily for use on the public streets, roads, and highways, except any vehicle operated exclusively on a rail or rails.

(4) "Motor vehicle equipment" means any system, part, or component of a motor vehicle as originally manufactured or any similar part or component manufactured or sold for replacement or improvement of such system, part, or component or as an accessory, or addition to the motor vehicle.

(5) "Manufacturer" means any person engaged in the manufacturing or assembling of motor vehicles or motor vehicle equipment, including any person importing motor vehicles or motor vehicle equipment for resale.

(6) "Distributor" means any person primarily engaged in the sale and distribution of motor vehicles or motor vehicle equipment for resale.

(7) "Dealer" means any person who is engaged in the sale and distribution of new motor vehicles or motor vehicle equipment primarily to purchasers who in good faith purchase any such vehicle or equipment for purposes other than resale.

(8) "State" includes each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Canal Zone, and American Samoa.

(9) "Interstate commerce" means commerce between any place in a State and any place in another State, or between places in the same State through another State.

(10) "Secretary" means Secretary of Commerce.

(11) "Defect" includes any defect in performance, construction, components, or materials in motor vehicles or motor vehicle equipment. 2

(12) "United States district courts" means the Federal district courts of the United States and the United States courts of the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Canal Zone, and American Samoa.

(13) "Vehicle Equipment Safety Commission" means the Commission established pursuant to the joint resolution of the Congress relating to highway traffic safety, approved August 20, 1958 (72 Stat. 635), 23 USC 313 note. or as it may be hereafter reconstituted by law.

Conference Report

House Report 1919, Page 15

DEFINITIONS

Paragraph (1) of section 102 of the House amendment defines the term "motor vehicle safety" to mean the performance of motor vehicles or motor vehicle equipment in such a manner that the public is protected against unreasonable risk of accidents occurring as a result of the construction or performance of motor vehicles and is also protected against unreasonable death or injury of persons in the event accidents do occur, and includes nonoperational safety of such vehicles.

Paragraph (1) of section 102 of the proposed conference substitute defines the term "motor vehicle safety" in the same terms as the House amendment with the exception that the definition is expanded to include protection of the public against unreasonable risk of accidents occurring as a result of the "design, construction, or performance" of motor vehicles.

The addition of the word "design" was accepted by the House managers not as an expansion of the authority of the Secretary but merely to clarify that the public is to be protected from inherently dangerous designs which conflict with the concept of motor vehicle safety and the performance standards issued by the Secretary. The Secretary is not to become directly involved in questions of design.

House Passed Act

Same as enacted Act, except that the word "design" in subsection 102(1) was added to the definition of "Motor vehicle safety" as enacted.

House Debate

Congressional Record—House
August 17, 1966, 19664

Mr. MOSS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Moss: On page 30 strike out lines 22 and 23 and renumber succeeding paragraphs and any references thereto accordingly.

Mr. MOSS. Mr. Chairman and Members of the Committee, I do not believe this amendment is controversial. I have discussed it with the distinguished ranking member of the minority and with the chairman of the committee. It would strike the definition of "person" as contained in this proposed statute, and therefore fall back on title I and the definition of "person," broadening it, and I feel in a constructive manner.

I urge adoption of the amendment.

Mr. STAGGERS. Mr. Chairman, we accept the amendment on this side.

Mr. SPRINGER. Mr. Chairman, may I ask whether this is the amendment which we discussed previously?

Mr. STAGGERS. Yes, it is.

Mr. SPRINGER. We have no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California.

The amendment was agreed to.

The part of the House reported bill amended by the amendment offered by Mr. Moss:

22 *(11) "Person" means an individual, partnership, cor-* 30

23 *poration, association, or other form of business enterprise.*

Congressional Record—House
August 17, 1966, 19664 and 19665

Mr. HERLONG. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time in order to make an inquiry of the distinguished chairman of the committee. On page 29 of the bill, on line 18, under the definitions, a motor vehicle is defined as meaning "any vehicle driven or drawn by mechanical power manufactured primarily for use on the public streets,

19665 roads, and highways, except any vehicle operated exclusively on a rail or rails."

Do I understand that this means the provisions of this law do not apply to off highway vehicles or vehicles such as Indianapolis race cars which are towed to and from the race track or modified stock cars which are geared in such a way that they cannot be used on the highways?

Mr. STAGGERS. That is correct. My interpretation would be it does not apply to them.

Congressional Record—House
August 17, 1966, 19666 and 19667

Mr. WAGGONNER. Mr. Chairman, this bill is fraught with danger and as such it establishes a dangerous precedent. I shall vote for it with reluctance and fear for I am fearful the day will come when we will regret this action. It does increase the authority of the Federal Government over private enterprise and it does weaken the free enterprise system. For this reason I have trouble understanding why the automotive industry wants this legislation. But they say they do for the reason it will produce safer cars we are told. Indeed I hope they are right and I am wrong.

19667 Certainly we should build cars as safe as possible but we must realize that prices will be increased. We can build houses that will not burn but who can afford them?

The administration asked for authority to control design but the committee, in its wisdom, deleted this from the bill. They will be back again with this request. Wait and see.

If the Federal Government is to decide what is safe and what is unsafe when will they say you cannot build convertibles and hardtop convertibles because they fail to offer as much protection as sedans when turned over in an accident? Or when will certain colors be outlawed because they are harder to see under certain conditions?

Where and on what basis does the assumption come from that the Government has or can get personnel who know more about building cars than those in industry? Must every spare part be manufactured to a Government standard before it can be sold?

Is the Government to duplicate the research and development facilities of industry? Are, in the end, prices to be subsidized with hidden subsidies in the form of grants for research, test, and development, the cost of which must or will not be recovered in the sale price of the car?

Many more questions can be raised but it is safe to say that this bill rises or falls on whether or not commonsense is employed in its administration. To be sure, more commonsense will be required than has been used in the Beautification Act, for example, to date.

I have always been guided by the rule of "when in doubt—don't." I am in doubt today. The man behind the wheel is the greatest safety factor of all.

Congressional Record—House
August 17, 1966, 19628

Mr. STAGGERS.

The bill we present to the Committee today primarily has to do with the manufacture of cars and their performance. Someone has said it has to do with design, but we do not want to set the design, we want to require the Secretary to set performance standards.

Congressional Record—House
August 17, 1966, 19629

Mr. STAGGERS.

The Committee on Interstate and Foreign Commerce added a number of provisions which do not appear in other versions of the proposed legislation on the subject of traffic safety and which are not in the bill reported by the other body. Your attention is directed to the definition section of H.R. 13228 wherein all motor vehicles driven or drawn by mechanical power and manufactured for use on the highways are covered. As reported by the other body, vehicles subject to part II of the Interstate Commerce Act or the Transportation of Explosives Act, would have been excluded. This would have substantially limited the Secretary's authority to set safety standards for the manufacture of vehicles and, in addition, no one has been able to state with any certainty just what vehicles would have been excluded.

Congressional Record—House
August 17, 1966, 19630

Mr. SPRINGER.

But what does the bill do to make cars safer for you? It directs the Secretary of Commerce to establish standards for new cars which will make them as safe as possible consistent with commonsense and the realities of auto manufacturing. It is not the intention to deprive the public of cars by making them inordinately expensive or outlawing types and models. It is intended to put in them better and better safety features which will make them less apt to be involved in accidents and less apt to injure occupants if and when they are.

Congressional Record—House
August 17, 1966, 19634

Mr. CUNNINGHAM.

I would sum up by saying, yes, we will pass this bill. I will say there has been too much sensationalism surrounding the design of the automobile as far as it concerns traffic safety. There is not a bit of evidence that would indicate that the design of the car is the cause of the accident. In fact, surveys have been made that prove to the contrary. I have evidence of this. I do believe that we have more or less made a mistake in repealing some of the safety requirements we passed in other years which legislation was brought out of our committee. I do hope that when the following bill comes up from the Public Works Committee, all the Members will recognize that it is the one that offers the greater opportunity to meet this problem with which we are all concerned.

Congressional Record—House
August 17, 1966, 19634 and 19635

Mr. TAYLOR. Mr. Chairman, does the bill give the Secretary authority to standardize operation control equipment on different kinds of new automobiles if safety performance is affected?

Mr. MACKAY. Yes, it does. The gentleman from Florida [Mr. ROGERS] presented an excellent amendment to provide an advisory council that will bring in all the interested parties—State and local officials, automotive industry and equipment people—to participate in the formulation of those standards.

Mr. TAYLOR. Mr. Chairman, will the gentleman yield further?

19635 Mr. MACKAY. I yield to the gentleman from North Carolina.

Mr. TAYLOR. For instance, I drive a car made by General Motors. My wife drives a car made by Ford Motor Co. The gearshift on one is just the opposite from the other. It is difficult for me to drive her car in traffic when quick, automatic action is needed. The differences in gearshifts add to the hazards of driving and could cause an accident. I am of the opinion that operating features on new cars, such as gearshifts, should be standardized.

Mr. MACKAY. I thank the gentleman from North Carolina. That is a good illustration of the type of safety hazard we are trying to get at.

Congressional Record—House
August 31, 1966, 21349

Mr. STAGGERS.

DEFINITION OF MOTOR VEHICLE

The House definition covers all vehicles, including trucks and buses. The definition in the Senate version was more restrictive and was interpreted as not including trucks and buses. The managers for the Senate receded.

House Committee Report

House Report 1776, Pages 15 and 16

DEFINITIONS

Section 102 of the reported bill defines for the purposes of title I of the bill the following terms: (1) "motor vehicle safety"; (2) "motor vehicle safety standards"; (3) "motor vehicle"; (4) "motor vehicle equipment"; (5) "manufacturer"; (6) "distributor"; (7) "dealer"; (8) "State"; (9) "interstate commerce"; (10) "Secretary"; (11) "person"; (12) "defect"; (13) "United States district courts"; and (14) "Vehicle Equipment Safety Commission". The introduced bill did not undertake to define all of these terms. In the course of the committee's consideration the definitions of "manufacturer", "distributor", "dealer", "person", "defect", "United States district courts", and "Vehicle Equipment Safety Commission" were added. The most significant change made by the committee in the definition section was the deletion from the definition of motor vehicle of the exemption of those vehicles subject to part II of the Interstate Commerce Act or the Transportation of Explosives Act. Under the original bill, these vehicles would not have been subject to safety standards established by the Secretary. In its consideration of the bill it became clear to the committee that much confusion was created by this exemption. There appeared to be no way to determine with any certainty which vehicles would be subject to the standards and which would be exempt. This exemption was therefore removed. The definition of motor vehicle in the reported bill includes all vehicles driven or drawn by mechanical power. Thus, the Secretary of Commerce will have the authority to issue standards as to the manufacture, sale, and importation of all such vehicles.

In order to insure that there would be the greatest uniformity possible between the standards established under this act and the regulations of the Interstate Commerce Commission as to safety, the committee inserted as subsection (g) of section 103 a requirement that in prescribing safety regulations the Interstate Commerce Commission will not adopt or continue in effect any regulation on safety which is different from a safety standard issued under this title. The Interstate Commerce Commission, however, after manufacture, can impose a higher standard of safety performance on a motor vehicle subject to its jurisdiction. 16

Additionally, in the definition of "distributor" the committee added the word "primarily" to modify the description of those engaged in the sale and distribution of motor vehicles or motor vehicle equipment to make it clear that an occasional sale by one dealer to another on an accommodation basis would not make such a "dealer" a "distributor" for the purposes of this title.

There is no reference anywhere in the definitions to the concept of "design." Rather, the definitions, and this bill have been written in terms of requiring standards of motor vehicle and equipment performance. The Secretary would not become directly involved in questions of design.

Senate Passed Act

Congressional Record—Senate
June 24, 1966, 14256

Definitions

SEC. 101. As used in this title—

(a) "Motor vehicle safety" means the performance of motor vehicles or motor vehicle equipment in such a manner that the public is protected against unreasonable risk of accidents occurring as a result of the design or construction of motor vehicles and is also protected against unreasonable risk of death or injury to persons in the event accidents do occur, and includes nonoperational safety of such vehicles.

(b) "Motor vehicle safety standard" means a minimum standard for motor vehicle performance, or motor vehicle equipment performance, which is practicable, which meets the need for motor vehicle safety and which provides objective criteria.

(c) "Motor vehicle" means any vehicle driven or drawn by mechanical power primarily for use on the public roads, streets, and highways, other than (1) a vehicle subject to safety regulations under part II of the Interstate Commerce Act, as amended (49 U.S.C. 301 et seq.), or under the Transportation of Explosives Act as amended (18 U.S.C. 831–835), and (2) a vehicle or car operated exclusively on a rail or rails.

(d) "Motor vehicle equipment" means any system, part, or component of a motor vehicle as originally manufactured or any similar part or component manufactured or sold for replacement or improvement of such system, part, or component or as an accessory, or addition to the motor vehicle.

(e) "Manufacturer" means any person engaged in the manufacturing or assembling of motor vehicles or motor vehicle equipment, including any person importing motor vehicles or motor vehicle equipment for resale.

(f) "Distributor" means any person engaged in the sale and distribution of motor vehicles or motor vehicle equipment for resale.

(g) "Dealer" means any person who is engaged in the sale and distribution of new motor vehicles or motor vehicle equipment primarily to purchasers who in good faith purchase any such vehicle or equipment for purposes other than resale.

(h) "State" includes each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Canal Zone, and American Samoa.

(i) "Interstate commerce" means commerce between any place in a State and any place in another State, or between places in the same State through another State.

(j) "Secretary" means Secretary of Commerce.

(k) "Person" means an individual, partnership, corporation, association, or other form of business enterprise.

(l) "Defect" includes any defect in design, construction, components, or materials in motor vehicles or motor vehicle equipment.

(m) "United States district courts" means the Federal district courts of the United States and the United States courts of the Commonwealth of Putero Rico, Guam, the Virgin Islands, the Canal Zone, and American Samoa.

(n) "Vehicle Equipment Safety Commission" means the Commission established pursuant to the joint resolution of the Congress relating to highway traffic safety, approved August 20, 1958 (72 Stat. 635), or as it may be hereafter reconstituted by law.

Senate Debate

Congressional Record—Senate
June 24, 1966, 14230

Mr. MAGNUSON.

Then the question of trucks arises—agricultural exempt trucks, common carrier trucks, private carrier trucks, which are now under the ICC. We left the authority for safety standards—which are good in the common carrier field—with the ICC, actually considering the size, weight, and the necessity of the speeds they must make to handle the great transportation system of this country. I guess that, pound for pound, as much as technology can devise, the common carrier is as safe as it can be made.

I know there is no one within the sound of my voice who would not agree with me that probably some of the best drivers on the highways are truckdrivers. They are the most courteous and helpful. They have vehicles which in themselves are great, big, juggernauts which are

capable of creating great destruction and hazards; but, technologically, they are as safe as they can be made by the ICC under its standards.

Let me read from the report:

The act thus covers not only passenger cars but buses, trucks, and motorcycles.

The bill excludes, however, those buses and trucks which are subject to safety regulation by the Interstate Commerce Commission (sec. 101(c)), although it is anticipated that should the proposed new Department be created—

And the proposal provides that—

safety regulation of all trucks and buses will be transferred to the Secretary of Transportation.

Such regulations would be covered by that Department.

When we come to agriculture-exempt trucks, and private carriers, over which the ICC still has jurisdiction as to minimum standards, there has been some question about the Department's having enough inspectors to do the job which we should like it to do. I doubt if it could be done wholly. But the example will be set by this bill so that manufacturers of trucks will themselves establish minimum standards. They are already doing it. Many trucks are custom built. They are built for a purpose. There would be variations in construction.

Congressional Record—Senate June 24, 1966, 14231

Mr. RIBICOFF.

Safety standards prescribed under the terms of this bill would be intended to protect the American public from unreasonable risk of accidents occurring as a result of motor vehicle design or construction and also from unreasonable risk of death and injury should an accident occur. The Commerce Committee rightly saw fit to extend this definition to nonoperational safety aspects of motor vehicles so that it covers such items as a faulty jack that slips and injures a motorist changing a tire, or an improperly designed hood or trunk lid which falls and injures someone.

Congressional Record—Senate June 24, 1966, 14221

Mr. MAGNUSON.

Yet the committee was presented with graphic evidence that the interior design of many 1966 model cars reveal interiors bristling with rigid tubes, angles, knobs, sharp instruments, and heavy metal of small radius of curvature. While such objects are sometimes placed and shaped as they are for the convenience of driver and passenger, substantial safety improvement could be achieved without inconvenience to the car occupants.

The committee was likewise made aware of the substantial needless hazards to pedestrians presented by external fins, ornamental protrusions, sharp edges, stylistically angled bumpers.

Finally, motor vehicles can also be a source of injury to people when the vehicle is not in use as a vehicle. Thousands of minor injuries, and some major ones, occur in entering and exiting the vehicle, and during the service and maintenance of the vehicle. Many of these injuries can be avoided or diminished in severity by careful design, such as the common "hand caught in the door" accidents, engine compartment hoods falling, vehicles slipping off jacks, and burns from engine components.

Congressional Record—Senate
August 31, 1966, 21486 and 21487

Mr. MAGNUSON.

Thus, the conferees adopted the House treatment of trucks and buses, which clarified the Secretary's authority to set standards for all trucks and buses, but preserved the authority of the ICC to require the addition of nonstructural safety features subsequent to manufacture.

I yield to the Senator from Michigan.

The PRESIDING OFFICER. Does the Senator from Maryland yield to the Senator from Michigan?

Mr. TYDINGS. Mr. President, I ask unanimous consent that I may yield to the Senator from Michigan without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Michigan is recognized.

Mr. HART. Mr. President, I have just two points on which I should like to hear the reaction of the able chairman of the committee. The first has to do with the standards that would be applied in the instances of trucks and buses.

Would not the Secretary, in setting the initial standards for trucks and buses, generally have to follow the existing ICC safety regulations?

Mr. MAGNUSON. Presumably the Secretary would have to rely, at least at the beginning, heavily upon the ICC standards. Of course, he is not limited to them. He may use any existing standards applicable to trucks or buses.

Mr. HART. Does the chairman know of any existing safety standards for trucks and buses except the ICC regulations?

Mr. MAGNUSON. No, I do not; and as the Senator knows, the ICC regulations are quite strict. Offhand I do not know of any. GSA regulations might apply to some light trucks that are used by the Government, but they would apply to only that type of vehicle.

Mr. HART. Realizing the shortness of time between now and the end of January of next year, when the initial standards must be issued, and realizing, as the Senator says, that the ICC regulations appear to be, if not the only ones, certainly the most complete existing standards for trucks and buses——

Mr. MAGNUSON. And they are the result of long experience by the ICC in connection with safety regulations.

Mr. HART. Indeed; and, additionally, the fact that manufacturers are now following those regulations in the production of buses and trucks—in view of those facts, is it not to be expected that the Secretary would use the ICC regulations as at least the general basis for his initial set of standards for trucks and buses?

Mr. MAGNUSON. I think that would be a very reasonable expectation. At least to begin with.

Mr. HART. In any event, the Secretary would be under the obligation to insure that they be, as the bill now reads, "reasonable, practicable, and appropriate for the particular vehicle."

Mr. MAGNUSON. Yes; that is correct.

. . . . . .

We were also pleased that the House agreed to the restoration of Senate language for the definition of "motor vehicle safety," recognizing that safety is related to design. Performance standards issued under the act are expected to affect the design of such features, for example, as steering assemblies, instrument panels, seat structures, windshields, seat belts, brakes, and door latch and frame components—all of which will particularly affect the design of these components. *21487*

Senate Committee Report

Senate Report 1301, Pages 2, 3, and 5

Until the industry had been subjected to the prod of heightened public interest and governmental concern, new models showed little improvement in safe design or in the incorporation of safety devices. Such elemental safe design features as safety door latches made their *2*

appearance as standard equipment only a decade after their desirability and feasibility had been established.

As late as 1959, in testimony before a committee of Congress, the chairman of the Automotive Manufacturer's Association's Engineering Advisory Committee was still resisting the suggestion that seat belt fittings be made standard equipment on all automobiles.

For too many years, the public's proper concern over the safe driving habits and capacity of the driver (the "nut behind the wheel") was permitted to overshadow the role of the car itself. The "second collision"—the impact of the individual within the vehicle against the steering wheel, dashboard, windshield, etc.—has been largely neglected. The committee was greatly impressed by the critical distinction between the causes of the accident itself and causes of the resulting death or injury. Here, the design of the vehicle as well as the public willingness to use safety devices, such as seat belts, are the critical factors. Recessed dashboard instruments and the use of seat belts can mean the difference between a bruised forehead and a fractured skull.

The committee heard compelling testimony that passenger cars can be designed and constructed so as to afford substantial protection against the "second collision" for both driver and passenger; further, that some of these design changes can be achieved at little or no additional manufacturing cost.

Yet the committee was presented with graphic evidence that the interior design of many 1966 model cars reveal interiors bristling with rigid tubes, angles, knobs, sharp instruments, and heavy metal of small radius of curvature. While such objects are sometimes placed and shaped as they are for the convenience of driver and passenger, substantial safety improvement could be achieved without inconvience to the car occupants.

The committee was likewise made aware of the substantial needless hazards to pedestrians presented by external fins, ornamental protrusions, sharp edges, stylistically angled bumpers.

Finally, motor vehicles can also be a source of injury to people when the vehicle is not in use as a vehicle. Thousands of minor injuries, and some major ones, occur in entering and exiting the vehicle, and during the service and maintenance of the vehicle. Many of these injuries can be avoided or diminished in severity by careful design, such as the common "hand caught in the door" accidents, engine compartment hoods falling, vehicles slipping off jacks, and burns from engine components.

SCOPE OF THE BILL

The critical definitions which delimit the scope of the bill are those of "motor vehicle" and "motor vehicle safety."

"Motor vehicle" for purposes of coverage of the act is defined as "any vehicle driven or drawn by mechanical power primarily for use on the public roads, streets, and highways * * *" (sec. 101(c)). The act thus covers not only passenger cars but buses, trucks, and motorcycles. The bill excludes, however, those buses and trucks which are subject to safety regulation by the Interstate Commerce Commission (sec.

101(c)), although it is anticipated that should the proposed new Department of Transportation be created, safety regulation of all trucks and buses will be transferred to the Secretary of Transportation. In the interim, to avoid the imposition of dual standards on these vehicles, the bill requires that the Secretary not adopt standards which differ in substance from applicable safety regulations issued by the ICC (sec. 103(g)).

"Motor vehicle safety" is defined as "the performance of motor vehicles or motor vehicle equipment in such a manner that the public is protected against unreasonable risk of accident occurring as the result of the design or construction of motor vehicles; and is also protected against unreasonable risk of death or injury to persons in the event accidents do occur, and includes nonoperational safety of such vehicles" (sec. 101(a)).

Thus the bill is intended to reach not only the safety of driver, passenger, and pedestrian, but the safety of those who must work with or otherwise come in contact with the vehicle while it is not operating.

Executive Communications

Contains nothing helpful.

As Introduced

As H.R. 13228 in the House and S. 3005 in the Senate:

DEFINITIONS 2

SEC. 101. As used in this title—

(a) "Motor vehicle safety" means the performance of motor vehicles or motor vehicle equipment in such a manner that the public is protected against unreasonable risk of accidents occurring as a result of the design of motor vehicles and is also protected against unreasonable risk of death, injury or property damage in the event accidents do occur.

(b) "Motor vehicle safety standard" means a minimum standard for motor vehicle performance, or motor vehicle

equipment performance, which is practicable, which meets the need for motor vehicle safety and which provides objective criteria on which the public may rely in assuring motor vehicle safety.

(c) "Motor vehicle" means any vehicle driven or drawn, by mechanical or other power, primarily for use on the public roads, streets and highways, other than (1) a vehicle subject to safety regulations under part II of the Interstate Commerce Act, as amended (chapter 8, title 49 of the United States Code), or under the Transportation of Explosives Act as amended (sections 831–835 of chapter 39, title 18 of the United States Code), and (2) a vehicle or car operated exclusively on a rail or rails.

(d) "Motor vehicle equipment" means any system, part or component of a motor vehicle as originally manufactured or any similar part or component manufactured or sold for replacement or improvement of such system, part or component or as an accessory or addition to the motor vehicle.

(e) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

(f) "Interstate commerce" means commerce between any place in a State and any place in another State, or be-

tween places in the same State through another State.

(g) "Secretary" means Secretary of Transportation.

Section 103

Subsection 103(a) — As Enacted

SEC. 103. (a) The Secretary shall establish by order appropriate Federal motor vehicle safety standards. Each such Federal motor vehicle safety standard shall be practicable, shall meet the need for motor vehicle safety, and shall be stated in objective terms.

Standards. 2

Conference Report

Contains nothing helpful.

House Passed Act

Same as enacted Act.

House Debate

Congressional Record—House
August 17, 1966, 19634

Mr. CUNNINGHAM.

In fact, this may increase the number of deaths in traffic accidents and injuries. I say that for this reason. As I understand it, and as I stated in my additional views, it is conceivable that the automobile industry, which has done a terrific job in trying to build a safer car—and they have been doing that—will have the Federal Government say to them, "Here are the standards we want you to provide."

The automobile industry will then say, "OK, we will provide them." Then they will no nothing further than that. They may do away with the people who work in their industry who have been trying to do the right type of job on their automobiles as far as safety is concerned. They will say, "OK, we will just follow what the Federal Government says we must do," and this may not be enough.

So these Federal standards may put a ceiling on performance. That is why I say this could actually increase the number of deaths and injuries and traffic accidents as the years go on. I believe we ought to remember that and think carefully about that possibility.

Congressional Record—House
August 17, 1966, 19648, 19649, and 19650

Mr. DINGELL.

19648 ..... Modern cars are complex mechanisms, made up of over 14,000 interrelated parts. This complexity and the tooling and other requirements for high volume mass production necessitate a substantial period between an initial design concept and production. Currently it takes a period of 2 years or so in the industry to accomplish the necessary design, engineering and testing work

to procure the materials and tooling and to lay out the production line. It also takes time to make changes. What seems to be a simple change to accomplish in one part or structure may necessitate a series of difficult changes or adjustments in others, and considerable time can be required for that, ranging from a few months to as much as 2 years or more. Because lead time is so important, it is one of the factors that the bill empowers and requires the Secretary to take into account in establishing standards, and the Secretary has stated that he will do so.

Thus the bill in section 103 requires that standards must be practicable and that the Secretary must consider whether they are reasonable, practicable, and appropriate for the particular type of vehicle or equipment for which they are prescribed. Obviously, a standard is not practicable or reasonable if it cannot be met by the best efforts of manufacturers within the constraints of time and technology. As the committee's report states, "Standards, of course, cannot be set in a vacuum," and the Secretary, in setting standards, is required to give consideration to "all relevant factors, including technological ability to achieve the goal of a particular standard as well as consideration of economic factors." Among those economic factors which the Secretary will have to consider is the matter of adequate lead time. As the Department of Commerce advised in a letter dated June 3, 1966, to the chairman:

> The tests of reasonableness of cost, feasibility and adequate lead time should be included among those factors which the Secretary could consider in making his total judgment.

I will appreciate the chairman's confirmation of this analysis.

Mr. STAGGERS. In response to the gentleman, I will say that section 103 requires the Secretary, as you can see, to establish safety standards, and says that they must be practicable and meet the need for motor vehicle safety and be stated in objective terms.

Mr. Chairman, as the committee report explains on page 16, this would require the consideration of all relevant factors, including technological ability to achieve the goal of a particular standard as well as consideration of economic factors.

And, Mr. Chairman, as to the effective date, section 103(c) of the reported bill provides that the Secretary may set a date earlier or later than the 180-day minimum or 1-year maximum, if he finds that an earlier or later date is in the public interest. This public interest is discussed on page 17 of the report. It is explained that the exception must be based on a finding that an earlier or later effective date may be fixed if it is in the public interest. This was added by the committee to provide the necessary flexibility for unusual situations.

Mr. Chairman, it is true as it should be, that the Secretary has the ultimate responsibility to set the effective date. However, full provision is made in the bill for full consultation and, obviously, he will have to consider among other things the ability of the manufacturers to meet the dates, and the economic impact upon the manufacturers if effective dates are not set with due regard to their leadtime requirements.

Mr. DINGELL. Mr. Chairman, I certainly thank the chairman of the Committee on Interstate and Foreign Commerce, the gentleman from West Virginia [Mr. STAGGERS], and as the chairman has so well stated, it is precisely because of this leadtime problem that the committee amended the original bill to authorize the Secretary to make the standard effective later than 1 year from its issuance if he finds that this is in the public interest—if, for example, a year is too short for compliance or compliance can be achieved only at exorbitant cost or other severe economic dislocation.

The explanation should satisfy any concern of the industry and the workers who depend upon it for their livelihood, many of whom are constitutents of my district. It takes no great knowledge of the industry to be aware that situations will undoubtedly arise where more than a year will have to be allowed for compliance—where it will be a physical or economic impossibility for all manufacturers to comply with a standard for all of their vehicles within one year. There simply may not be enough tooling and technology to do the job, or the cost of compliance on a crash basis may be so great as to price vehicles out of the mass market. Because of these tooling limitations and cost considerations, manufacturers do not make basic changes in all of their models each year. Instead, the general industry practice is for a manufacturer to make basic model changes at intervals of three years or so for each of his vehicle lines, and to do so on a staggered annual basis so that each year he has one or more basic new models while face-lifting the others until their turn comes to be "rolled over" in the basic change cycle. Some changes which standards may require can, of course, be most efficiently and economically made in connection with basic model changes. Others of the "add-on" 19649

type could readily be made at the time of the annual model change, even when it is only of the face-lift variety. It would accordingly seem that, in general, standards should not be made effective earlier than the next model year and that the effective dates should ordinarily coincide with annual model changes, at least in the absence of some overriding considerations. That is the practice which has been followed with the GSA requirements and the exhaust emission standard program—they are timed to coincide with the annual model changes.

As I understand the bill and the chairman's remarks, these problems and practices of the industry are among the things which the Secretary will have to consider, along with safety, in deciding what standards to prescribe and when to make them effective, and that, depending upon the circumstances, they may influence him to allow more than a year for compliance.

The report explains that the requirement that the Secretary consider whether a standard is reasonable, practicable, and appropriate for a particular type of vehicle or equipment will allow the Secretary "to consider the reasonableness and appropriateness of a particular standard in its relationship to the many different types or models of vehicles which are manufactured." Could this mean, for instance, that standards for trucks would not necessarily be the same as standards for passenger cars? I have in mind the example of the GSA requirements which apply to passenger cars and some other vehicles, but do not apply to certain heavy trucks and other types of vehicles.

Mr. STAGGERS. Well, certainly, I believe that is understood.

Mr. DINGELL. And, of course, there would be a possibility of different standards for one type of passenger vehicle, such as a convertible, as opposed to the standards for a standard sedan, for example? Am I correct on that point?

Mr. STAGGERS. Obviously a difference in types of vehicles could require differences in standards.

Mr. DINGELL. However, we are confronted with a proposal which does impose the requirements that the time limitation be met, but for good cause the time limitation may be waived which would be the very obvious and difficult problem with which the manufacturers would be faced with regard to meeting the leadtime requirements when established for orderly and the reasonable economic production of these motor vehicles.

Also that we have established the pattern whereby we could have different standards for vehicles which are obviously directed for a different type of use. Am I correct?

Mr. STAGGERS. Yes. I might repeat for the gentleman's information that it states very plainly in the bill that if it is in the public interest, and he so finds, then he must come up in writing with what these reasons are.

Mr. MOELLER. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman.

Mr. MOELLER. You stated that there might be some differences in the standards set; is this correct?

Suppose, for example, a car manufacturer makes a small, so-called fun car—there is one made in my district. It is a little, one-cylinder outfit. Is it said that this man must follow the same safety standards that the manufacturers of the large cars such as the General Motors, Chrysler, and Ford, follow?

Mr. DINGELL. The gentleman just heard the colloquy between the chairman and me on the difference in standards.

Mr. MOELLER. In other words, there would be a distinction?

Mr. DINGELL. I must say that this still is not going to authorize the manufacturer of the one-cylinder car selling for $750 to market an unsafe automobile any more than it is going to authorize the manufacturer of a large, luxury-type motor vehicle selling for $5,000 or $6,000, to manufacture an unsafe vehicle. But because of the difference in weight and because of the difference in speed and because of the different potential use for that type of vehicle, I would say that the safety standards would not necessarily be as comprehensive, or as onerous, for that type of vehicle as they might be on the larger, heavier weight vehicle.

But this is a matter of judgment that the Secretary will have to exercise. He will still be required by this legislation to market a vehicle that would be safe under any reasonable standards or occasions of use.

The Chairman, the gentleman from West Virginia [Mr. STAGGERS] might wish to comment on that, being the chief officer of the committee.

Mr. STAGGERS. Mr. Chairman, I think the gentleman from Michigan has stated it very thoroughly.

Mr. CUNNINGHAM. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman.

Mr. CUNNINGHAM. Mr. Chairman, I think the gentleman from Michigan brings up a very serious problem that may be involved here. He comes from an area where this problem will present itself.

Mr. DINGELL. I might say to the gentleman that he is correct. I represent one of the largest single areas of automobile manufacture in the country.

Mr. CUNNINGHAM. Mr. Chairman, I do not know anybody in the automobile industry. I have not been in contact with them. But I have read in the papers where under this legislation there is going to be a tremendous problem involved in this so-called leadtime.

Mr. DINGELL. If the gentleman will permit, I would point out that the chairman has already indicated in the colloquy with me that the language in the bill is directed at assuring that the Secretary will take very carefully into consideration the problems of leadtime—and not in an unreasonable or improper fashion, but certainly to see to it that the industry has reasonable opportunity to present their views, and to comply with the requirements in a reasonable fashion.

Mr. CUNNINGHAM. I understand that. I heard the colloquy, and I listened to it very carefully. But what we say here and what the Secretary does after he gets this bill are two different things.

I just wondered whether the gentleman from Michigan who is primarily concerned with this, and as his people are—the people who work for these manufacturers and the manufacturers—I wonder whether he feels that something more definite ought to be done in this regard, and if he would care to offer an amendment to assure that these people are going to have time to make these changes, and produce the automobiles, without serious financial loss?

Mr. DINGELL. I would say to my good friend that I believe the legislation as drawn is reasonable legislation. I recognize that the auto industry, which is the largest single employer in my district, is going to be compelled to conform to good manufacturing practices, and they are simply going to have to manufacture good, safe motor vehicles. I would say they have made a sincere effort over the years to carry out this purpose. I think there is no evidence on record that is in any way persuasive that they have in any way deliberately or willfully or wantonly or negligently or carelessly manufactured unsafe motor vehicles. The only thing they seek is legislation which will afford them reasonable time to comply with the safety standards that the Secretary is going to impose. I am satisfied that he will on the basis of the colloquy with my chairman, and also on the basis of my own reading, that it is fully intended that, where a reasonable man would say that these requirements cannot be complied with within the time, that the Secretary not only has the authority, but that he will use that authority to see it to that adequate time is afforded to the industry to comply.

Mr. CUNNINGHAM. If the gentleman will yield further, I will agree, but I will say that they are not always reasonable.

Mr. DINGELL. I can say to the gentleman that I can conceive of a situation where possibly some Secretary of Transportation or Secretary of Commerce would not behave reasonably and well under the circumstances. But I would rather point out to my good friend that such is going to be a rarity, and we have put into the bill for this very reason a requirement of the Administrative Procedure Act which must be complied with by the Secretary, and a clear authorization for the industry to appeal in the event the Secretary acts arbitrarily or capriciously, or that he overreaches the ordinary and reasonable bounds for good judgment and reasonable behavior.

Mr. CUNNINGHAM. My only interest was to determine, since the gentleman comes from an area that is primarily concerned, whether he is satisfied. If he is satisfied, it is all right with me. *19650*

Mr. DINGELL. As long as the bill is interpreted reasonably, I do not believe I could assert any objection either to the legislation or to the manner in which it happens to be carried out. That, of course, was the principal purpose of my taking the floor.

Mr. MOSS. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from California.

Mr. MOSS. It is clearly not the intent that unreasonable standards be imposed.

Mr. DINGELL. The gentleman is absolutely correct.

Mr. MOSS. It is not intended by the colloquy the gentleman has engaged in with such finite care that we place the stamp of approval upon a dragging of the feet by the industry.

Mr. DINGELL. The gentleman is absolutely correct on that point. I would not look with any kindness, nor would the committee, on a dragging of the feet or any rascality of that kind, and I am satisfied that the industry would not engage in that kind of practice.

Congressional Record—House
August 17, 1966, 19626

Mr. QUILLEN.

The purpose of H.R. 13228 is to reduce traffic accidents and the accompanying deaths and injuries. In order to achieve this end, the legislation: First, provides for the establishment of Federal safety standards for motor vehicles and vehicle equipment; second, safety research and development programs are instituted; and third, an expansion of the national driver register is authorized.

The Secretary is required to establish standards for motor vehicles and their equipment. They are to be practicable, taking into account economic factors and technological ability to achieve the desired result. Standards may be amended or revoked as necessary by the Secretary.

In determining standards the Secretary is required to: First, consider relevant safety data; second, consult with the Vehicle Equipment Safety Commission and such State or interstate agencies as he deems necessary; third, consider whether a proposed standard is reasonable, practicable, and appropriate; and, fourth, consider the extent to which the proposed standard will further the purposes of the act. To secure information upon which to base his orders the Secretary is empowered to conduct research, testing, and to make grants to States and nonprofit institutions qualified to conduct such work.

Congressional Record—House
August 17, 1966, 19629

Mr. STAGGERS.

The Secretary, after thorough consultation with State, industry and other public and private interests will have to set standards which will affect every motor vehicle manufactured and each item of motor vehicle equipment that is manufactured. This should, in the very near future, lead to a marked upgrading of all of the safety aspects of motor vehicles and motor vehicle equipment. This part of the traffic problem—and it is but a part—is covered in detail in title I of the bill.

Congressional Record—House
August 17, 1966, 19630

Mr. SPRINGER.

Knowing the realities of life we also know that no such utopia will be forthcoming and that accidents will continue to happen. That being the case, we need to minimize the damage to life and limb which will be caused by the second collision—that of the occupant with his own vehicle. Obviously, this is where new car standards fit the picture and this is primarily what H.R. 13228, the National Traffic and Motor Vehicle Safety Act of 1966, is meant to provide. By this I mean more adequate standards of performance for new cars.

As rapidly as possible, all known safety devices and features will be incorporated into new automobiles as they come from the assembly lines. Then, as new and better systems and devices are developed, either by the automobile industry itself, the equipment manufacturers, or by research and experiment supported by private or government sources, those devices will become part of the expected standard for later models.

Congressional Record—House
August 17, 1966, 19638

Mr. HARVEY.

Mr. Chairman, many of these workers have written to me, as have the automobile executives themselves. I believe some of this concern from those in the auto industry comes about because of the very vast discretion that is turned over to the Secretary in this particular bill.

Mr. Chairman, this is something that I cannot think of any way to get around. We must empower him with the authority to get out these particular standards. Whether the Secretary truly understands when we talk of the model year—whether he truly understands when we talk of the leadtime necessary in new model production and comprehends these things are tremendously important, not only to the automobile industry but to all of our country. What the Secretary does and what he says in these regulations will affect directly the lives and the earnings of 1 out of every 7 Americans in the 50 States of America.

In my district, I am sure that not only one out of seven but the majority of the people are either directly or indirectly dependent upon the auto industry. So it is very vital to them.

But, Mr. Chairman, I want to say to the chairman that this House in supporting this legislation has to be mindful of the fact that no matter whom we have in the position of Secretary, I believe we must assume that this person is going to act reasonably and that he is going to act wisely.

Mr. Chairman, having these things in mind and in view of these considerations, I expect to support the legislation.

Congressional Record—House
August 17, 1966, 19653 and 19654

Mr. FASCELL. Mr. Chairman, enactment of the National Traffic and Motor Vehicle Safety Act of 1966 will provide for the first time a coordinated national program to reduce traffic accidents. For the first time, national safety standards will be set for both new and used cars.

The motoring public will be able to look forward to the day when motor vehicle safety standards will be taken for granted. We have long known that sharp knobs and other projections inside a car can be lethal to occupants in a collision. We have long known that poor visibility is a cause of accidents. We have long known that tire failure may result in loss of control and head-on crashes. Now, at last, we will be taking positive action toward eliminating these causal factors in our tragic traffic toll by passing this bill.

Surely we must take all possible preventive steps to reduce the unconscionable slaughter on our streets and highways. Since 1960 there has been a 28.5-percent increase in traffic fatalities. This is more than double the rate of our population increase, and it occurred during a period when our highways were being steadily improved. *19654*

Studies have shown that the National System of Interstate and Defense Highways is saving many lives through its engineering standards. But these superior highways are not enough. We must complement improved highway standards with improved vehicle standards. This legislation does just that, and I urge its immediate passage.

Congressional Record—House
August 17, 1966, 19654

Mr. TENZER.

It is obvious that human error plays a great role in the alarming statistics relating to highway deaths but that does not absolve Congress from its responsibility of establishing safety standards at the manufacturer level. A sharp instrument with a useful purpose can be a deadly weapon in the hands of some individuals. Human error does not excuse us from our responsibility to save lives where possible. Other legislation may be necessary at the State and National level to deal with the human factor on our highways.

I am particularly pleased that the House Commerce Committee has strengthened the administration bill by adopting amendments which makes it mandatory rather than discretionary for the Secretary of Commerce to set safety standards for automobiles. This will accelerate the process of establishing, approving and implementing the regulations.

. . . . . .

We must not compromise with safety. The American driver should have the safest car in the world. Nothing less will do. The automobile industry will not suffer economic harm by congressional direction to cause the setting of safety standards. The industry told the committee and Members of Congress that they are ready to manufacture safer cars voluntarily and that legislation will have an adverse impact on automobile sales. Neither argument is valid, especially when weighed against the purpose of the legislation—the saving of human lives. In addition they have had ample time to act voluntarily—but have not done so.

Congressional Record—House
August 17, 1966, 19665 and 19666

Mr. CRALEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CRALEY: On page 34, after line 11, insert the following new subsection:

"(i) As soon as practicable after the date of enactment of this title, the Secretary shall establish Federal motor vehicle safety standards requiring that every motor vehicle used or to be used as a schoolbus shall be equipped at each passenger seat location with a seat belt."

Mr. CRALEY. Mr. Chairman, I shall only take a few minutes on this amendment.

Mr. Chairman, I feel that this amendment is a justifiable one.

Mr. Chairman, there has been much expert testimony and statistics which have been offered to prove that seat belts have been a factor in safety in private vehicles, in Government vehicles, and in any other vehicle.

I think it is foolish for us to write a piece of legislation providing for national safety and not protect the welfare of our children who, in my opinion, are our most important and valuable assets.

We have required many safety features on schoolbuses, and I feel that it is proper and fitting to require in this legislation that schoolbuses be equipped and required to be equipped with seat belts.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. CRALEY. I yield to the gentleman.

Mr. DINGELL. Mr. Chairman, does the gentleman's amendment require all of these schoolbuses to be equipped with seat belts, or just newly manufactured schoolbuses?

Mr. CRALEY. The amendment requires that every motor vehicle used or to be used as a schoolbus be equipped with the seat belts. This would apply to not only new ones, but to those schoolbuses already in use.

Mr. DINGELL. May I ask the gentleman, then, because I can see that the interstate commerce powers of the Federal Government under the Constitution would afford appropriate authority for dealing with the question of these vehicles that are to be sold in interstate

commerce in the future, but I would like to know under what power can the Congress constitutionally legislate the use of seat belts on all schoolbuses, including those which are not sold or operated in interstate commerce?

Mr. CRALEY. I would state to the gentleman that I am not an attorney, and I would have to bow to the gentleman on that question. My feeling is that if the legislation is passed it will be required, and would be mandatory that in order for these motor vehicles to operate, that they would have to have seat belts.

19666 Mr. DINGELL. Mr. Chairman, I think that if the gentleman were to change his amendment to say that it would apply to motor vehicles sold in interstate commerce for service as schoolbuses, and they should be fully equipped with seat belts, that would be one thing. I think it would be constitutional and I personally would support the amendment. But I cannot support the amendment when we go back and deal much more broadly than I feel we should, and the amendment raises this particular problem, but here without that proviso in it there might very well be a broad constitutional question that I, as an attorney, cannot answer.

Mr. CRALEY. Mr. Chairman, I would leave that to the opinion of the courts. My amendment would require this safety feature, and I will let it stand at that.

. . . . . .

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the requisite number of words.

I desire to speak briefly to the subject that is before us. The gentleman suggested an amendment dealing with safety belts in school buses, et cetera. I have been studying that subject for 2 years. Earlier this year I introduced a bill to do that. We discussed it in our committee. But we feel, and I think it is a fact, that the Interstate Commerce Commission has authority to provide safety devices on any vehicle under their jurisdiction, and that includes many schoolbuses, interstate buses, and so forth. They have already announced that they plan, I believe, to go ahead and require that. With that information from the ICC, we did not take it up specifically in this legislation.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from West Virginia.

Mr. STAGGERS. I understand the gentleman did not withdraw the amendment, and it is still before the House. I agree with the gentleman from Nebraska that we are giving the Secretary the right to put these in and to proceed.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. CRALEY].

The amendment was rejected.

House Committee Report

House Report 1776, Pages 10, 11, and 16

NEED FOR LEGISLATION

. . . . . .

Passengers riding in vehicles moving at speeds of 60 and 70 miles per hour or even higher speed need to be protected in the event that an accident does occur. The committee is satisfied that such protection can be afforded at least to a degree substantially greater than that which exists at present, if all reasonable steps are taken to minimize the impact which results after an accident occurs between two vehicles or a vehicle and a stationary object. In all cases where deaths and injuries occur, there are at least two collisions, not only the impact between the vehicles themselves, but the impact of the passengers with the interior of the vehicle, this latter impact has been characterized as the "second collision."

In the course of the hearings, the committee viewed slides and films which demonstrated over and over again that there is vast room for improvement in the "second collision" area, and that the second

collision victim invariably comes up second best when he is thrust against a steering wheel, a dashboard, a windshield, or knobs and other protrusions in the interior of his vehicle.

Considerable improvement can be made by the use of safety belts or other restraining devices. However, it is also clear that motor vehicles need not have as many potentially lethal appointments in their interior design as presently exist in many models.

Safety performance standards based on scientific and engineering research can lead to both a reduction of the incidence of accidents and to a reduction of the deaths and injuries which are associated with motor vehicle accidents. Not only is there general agreement that there is a need for Federal legislation at this time but also most of the witnesses who appeared before the committee, including the representatives of the automotive industry, support mandatory safety standards for new motor vehicles.

Standards, of course, cannot be set in a vacuum. They must be based on reliable information and research. One of the facts which was brought to the fore in the course of the committee's hearings was that it is virtually impossible to obtain specific information and data concerning the causes of traffic accidents and the performance of vehicles in accident situations. Much work in this area is being done but is is diffused. Under this bill this work can be augmented and channeled so that it will be more widely disseminated to all interested persons thus leading to improved motor vehicle safety performance with a consequent reduction in deaths and injuries.

This is a nationwide problem which requires forthright guidance and legislation at the national level. Congress and the Nation should accept the challenge to reduce this senseless bloodshed and death on our highways. The legislation which the committee now favorably reports is a needed step toward meeting this challenge.

ESTABLISHMENT OF STANDARDS

Standards.—Section 103(a) of the reported bill requires the Secretary to establish appropriate Federal motor vehicle safety standards. These standards are to be practicable, meet the need for motor vehicle safety, and be stated in objective terms.

Under this subsection the committee has imposed a mandatory requirement upon the Secretary to establish motor vehicle safety standards. In the introduced bill the Secretary would have issued standards only to the extent that he determined it necessary to do so. In the reported bill this determination is statutorily made by Congress.

In establishing standards the Secretary must conform to the requirement that the standard be practicable. This would require consideration of all relevant factors, including technological ability to achieve the goal of a particular standard as well as consideration of economic factors.

Motor vehicle safety is the paramount purpose of this bill and each standard must be related thereto.

In order to insure that the question of whether there is compliance with the standard can be answered by objective measurement and without recourse to any subjective determination, every standard must be stated in objective terms.

Senate Passed Act

Congressional Record—Senate
June 24, 1966, 14256

Interim Federal motor vehicle safety standards	*Revised Federal motor vehicle safety standards*
SEC. 102.	SEC. 103. . . . .
(c) In prescribing interim standards under this section, the Secretary shall—	(c) In prescribing standards under this section, the Secretary shall—
. . . . .	. . . . .
(2) consider, in the light of available technical information, whether any such proposed standard is reasonable, practicable, and appropriate for the particular type of motor vehicle or item of motor vehicle equipment for which it is prescribed; and	(3) consider whether any such proposed standard is reasonable, practicable and appropriate for the particular type of motor vehicle or item of motor vehicle equipment for which it is prescribed; and
. . . . .	. . . . .

Senate Debate

Congressional Record—Senate
June 24, 1966, 14221-14230

Mr. MAGNUSON.

. . this legislation reflects the faith that the restrained and responsible exercise—and I underline the word "responsible"—exercise of Federal authority can channel the creative energies and vast technology of the automobile industry into a vigorous and competitive—and I underline the word "competitive"—effort to improve the safety of vehicles.

Moreover, the hearings produced evidence that the automobile industry has made commendable progress in many aspects of automotive safety. With respect to such critical components as lights, brakes, and suspension systems, the automobile of 1966 demonstrates marked improvement over its predecessors.

But the committee met with disturbing evidence of the automobile industry's chronic subordination of safe design to promotional styling and of an overriding stress on power, acceleration, speed, and "ride" to the relative neglect of safe performance or collision protection. The committee cannot judge the truth of the conviction that "safety doesn't sell," but it is a conviction widely held in industry which has plainly resulted in the inadequate allocation of resources to safety engineering.

Until the industry had been subjected to the prod of heightened public interest and governmental concern, new models showed little improvement in safe design or in the incorporation of safety devices. Such elemental safe design features as safety door latches made their appearance as standard equipment only a decade after their desirability and feasibility had been established.

As late as 1959, in testimony before a committee of Congress, the chairman of the Automotive Manufacturer's Association's Engineering Advisory Committee was still resisting the suggestion that seat belt fittings be made standard equipment on all automobiles.

The committee hearings also documented past laxity in furnishing adequate notification to car owners of latent defects which had crept into the manufacturing process—defects frequently directly related to safety. Equally disturbing was evidence that the manufacturers have not always taken effective steps to insure the speedy and efficient repair of such defects. Although current industry defect-curing practices now appear to be improved, the committee concluded that Federal oversight of defect notification, and correction is essential.

For too many years, the public's proper concern over the safe driving habits and capacity of the driver—the "nut behind the wheel"—was permitted to overshadow the role of the car itself. The "second collision"—the impact of the individual

within the vehicle against the steering wheel, dashboard, windshield, and other parts of the car—has been largely neglected. The committee was greatly impressed by the critical distinction between the causes of the accident itself and causes of the resulting death or injury. Here, the design of the vehicle as well as the public willingness to use safety devices, such as seat belts, are the critical factors.. Recessed dashboard instruments and the use of seat belts can mean the difference between a bruised forehead and a fractured skull.

The committee heard compelling testimony that passenger cars can be designed and constructed so as to afford substantial protection against the "second collision" for both driver and passenger; further, that some of these design changes can be achieved at little or no additional manufacturing cost.

Yet the committee was presented with graphic evidence that the interior design of many 1966 model cars reveal interiors bristling with rigid tubes, angles, knobs, sharp instruments, and heavy metal of small radius of curvature. While such objects are sometimes placed and shaped as they are for the convenience of driver and passenger, substantial safety improvement could be achieved without inconvenience to the car occupants.

The committee was likewise made aware of the substantial needless hazards to pedestrians presented by external fins, ornamental protrusions, sharp edges, stylistically angled bumpers.

Finally, motor vehicles can also be a source of injury to people when the vehicle is not in use as a vehicle. Thousands of minor injuries, and some major ones, occur in entering and exiting the vehicle, and during the service and maintenance of the vehicle. Many of these injuries can be avoided or diminished in severity by careful design, such as the common "hand caught in the door" accidents, engine compartment hoods falling, vehicles slipping off jacks, and burns from engine components.

Federal standards for the safety of ships at sea long antedate the Civil War. By the year 1907, the Interstate Commerce Commission was requiring that pullman cars be constructed of steel rather than of wood. Aviation safety regulations were first authorized in the Air Commerce Act of 1926, a year in which domestic airlines carried a total of less than 6,000 passengers.

Yet, with the exception of a handful of State regulations and the Federal seat belt and brake fluid laws, the automobile sold generally in interstate commerce is today subject only to the standards produced by the committees of the Society of Automotive Engineers. These SAE standards are the product of a committee consensus, subject to a single manufacturer's veto, while affording no consumer or user representation: Compliance is voluntary. There exist no procedures to compel their adoption, monitor their use, or evaluate their effectiveness.

While the General Services Administration has the authority—given to it 3 or 4 years ago by the Committee on Commerce—to set the safety standards for the vehicles which the Government purchases, and individual States have begun to explore the possibility of uniform State motor vehicle standards, these efforts are necessarily limited because there exists today no significant alternative source of standards to the SAE.

There is in being no systematic research, testing, development, and evaluation program for safety standards capable of assigning priorities or correlating existing standards with accident and injury prevention.

Out of the committee's hearings, there emerged a clear outline of the basic needs to be served by Federal legislation:

First. The promotion of motor vehicle safety through voluntary standards has largely failed. The unconditional imposition of mandatory standards at the earliest practicable date is the only course commensurate with the highway death and injury toll.

Second. While the contribution of the several States to automobile safety has been significant, and justifies securing to the States a consultative role in the setting of standards, the primary responsibility for regulating the national automotive manufacturing industry must fall squarely upon the Federal Government. This is the only manner in which this course could be pursued legally. 14222

Third. The Federal Government must develop a major independent technical capacity sufficient to perform comprehensive basic research on accident and injury prevention, adequate to test and contribute to the quality of the industry's safety performance; a technical capacity capable of initiating innovation in safety design and engineering and of serving as a yardstick against which the performance of private industry can be measured; and, finally, a technical capacity capable of developing and implementing meaningful standards for automotive safety.

Fourth. While the sharing of safety technology among motor vehicle and motor vehicle equipment manufacturers can facilitate the development of advanced safety design and engineering, vigorous competition in the development and

marketing of safety improvements must be maintained.

Fifth. Deficiencies in past industry practices relating to the notification and curing of manufacturing defects necessitate the imposition of mandatory procedures to insure such notification of purchasers and correction of all safety-related defects.

Sixth. The individual in the marketplace, upon whom the free market economy normally relies to choose the superior among competing products, is incapable of evaluating the comparative safety of competing model cars. The public, which has lately become increasingly interested in safety, still has no means of satisfying that interest. Both industry and Government share the responsibility for supplying adequate consumer information of automobile safety.

It is to the credit of the automotive industry that industry leaders have come to recognize the gravity of the problem and have joined in support of a law establishing binding Federal vehicle safety standards.

The committee also recognizes that the broad powers conferred upon the Secretary, while essential to achieve improved traffic safety, could be abused in such a manner as to have serious adverse effects on the automotive manufacturing industry. The committeee is not empowering the Secretary to take over the design and manufacturing functions of private industry. The committee expects that the Secretary will act responsibly and in such a way as to achieve a substantial improvement in the safety characteristics of vehicles.

It is the committee's judgment that enactment of this legislation can further industry efforts to produce motor vehicles which are, in the first instance, not unduly accident prone; and perhaps, even more significantly, vehicles which, when involved in accidents, will prove crashworthy enough to enable their occupants to survive with minimal injuries.

We were faced with the problem of proceeding as rapidly as possible in the hope that we could slow up the carnage on the highways by directing the Secretary to establish interim standards. The committee finally approved of the provision for interim standards to be established by January 31, 1967, and to become effective within 6 months to 1 year thereafter.

It is the hope of the committee, with that provision on interim standards, that the 1968 model cars will comply with these interim safety standards.

We do not tell the Secretary what to do. But it is the committee's hope that he will take into consideration and evaluate the current General Service Administration safety standards for Government purchased vehicles. A copy of these standards is included in the appendix to the report. The list now includes 17 items of safety equipment to be placed on automobiles which the Government buys. There are nine more items that have been proposed by the General Services Administration. The industry needed some time to achieve and work out those nine devices. With the inclusion of the 9 devices, there will be a total of 26 safety devices. They are all included in the appendix to the report.

Mr. President, I ask unanimous consent to have printed in the RECORD the list of 26 items which appears in the report.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

[From Federal Register Appendix, Mar. 8, 1966]

GENERAL SERVICES ADMINISTRATION, FEDERAL SUPPLY SERVICE [41 CFR SUBPART 101-29.3] FEDERAL STANDARD NO. 515—STANDARD SAFETY DEVICES FOR AUTOMOTIVE VEHICLES

NOTICE OF PROPOSED REVISION

Notice is hereby given that a revision is proposed in Federal Standard No. 515 which is prescribed in § 101-29.303 of the Federal Property Management Regulations. The revision as finally published will be issued pursuant to Public Law 88-515, approved August 30, 1964 (78 Stat. 696), and the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended, and will be effective 1 year and 90 days after the date of publication in the FEDERAL REGISTER. Federal Standard No. 515 was published originally in the FEDERAL REGISTER on June 30, 1965 (30 F.R. 8319).

The revision of Federal Standard No. 515 involves the addition of new detailed standards and changes in existing detailed standards and was developed through consultation with the automotive industry, technical societies, trade associations, the medical profession, and Government agencies. Proposed new detailed standards are designated as Federal Standards Nos. 515/18 through 515/26. Proposed changes in existing detailed standards are indicated by the letter "a" following the detailed standard number (e.g., 515/1a indicates the revision of 515/1). The changes in the existing detailed standards are as follows:

No. 515/1a—*Anchorages for Seat Belt Assemblies for Automotive Vehicles.* Made provisions for seat belt anchorages to the seats of school buses. Added anchorages for upper torso restraints for all outboard forward facing seating positions in vehicles other than buses.

No. 515/2a—*Forward Compartment Energy Absorption for Automotive Vehicles.* Title changed from "Padded Instrument Panel and Visors for Automotive Vehicles." Expanded impact area to include extremes of

occupant size and to include 45-degree laterals to each side. Also added knee area protection and header and corner post padding.

No. 515/3a—*Recessed Instrument Panel Instruments and Control Devices for Automotive Vehicles.* Expanded impact areas to include extremes of occupant sizes and to include 45-degree laterals to each side. Added requirement that specified essential controls be in reach of upper torso belted operator.

No. 515/4a—*Energy Absorbing Steering Control System for Automotive Vehicles.* Changed title from "Impact Absorbing Steering Wheel and Column Displacement for Automotive Vehicles." This proposal more clearly permits collapsible steering columns, denies clothes-catching hardware on steering wheel and increases barrier collision test to 30 miles per hour.

No. 515/5a—*Safety Door Latches and Hinges for Automotive Vehicles.* Increased door latch load requirements and added a requirement for a positive locking device or handles not operable by accidental side, rearward or forward force.

No. 515/6a—*Anchorage of Seats for Automotive Vehicles.* Added a requirement for locking devices for folding and pedestal type seats.

No. 515/9a—*Hydraulic Service Brake Systems for Automotive Vehicles.* Title changed from "Dual Operation of Brake System for Automotive Vehicles." Brake performance requirements for sedans, carryalls, and station wagons added. Brake fluid system changed to exclude absorption of moisture. Provisions made to more clearly permit other than hydraulic actuation of emergency back-up system.

No. 515/12a—*Windshield Wipers and Washers for Automotive Vehicles.* Changed to include a specific area to be wiped.

No. 515/13a—*Glare Reduction Surfaces for Automotive Vehicles.* Expanded requirements to include all interior surfaces in the operator's field of view. Title changed from "Glare Reduction Surfaces—Instrument Panel and Windshield Wipers for Automotive Vehicles."

No. 515/14a—*Control of Air Pollution from Automotive Vehicles.* Title changed from "Exhaust Emission Control System for Automotive Vehicles." Incorporated requirements contained in a new standard proposed by Department of Health, Education, and Welfare.

No. 515/17a—*Rearview Mirror(s) for Automotive Vehicles.* Changed title from "Outside Rearview Mirror(s) for Automotive Vehicles." Added breakaway or detachable requirement for the inside rearview mirror and increased outside mirror minimum size to 5 inches.

Comments and suggestion are welcomed and should be submitted, in duplicate, to the Commissioner, Federal Supply Service, General Services Administration, Washington, D.C. 20405, within the period of 30 calendar days from the date of publication of this notice in the FEDERAL REGISTER.

The text of the changes in and additions to the Federal Standard No. 515 are set forth below.

Dated: March 4, 1966.

LAWSON B. KNOTT, JR.,
Administrator of General Services.

Section 101-29.303 is amended as follows:

§ 101-29.303 Federal Standard No. 515—Standard Safety Devices for Automotive Vehicles.

(a) This section prescribes Federal Standard No. 515, covering safety devices for automotive vehicles, as required by Public Law 88-515, August 30, 1964 (78 Stat. 696). Automotive vehicles purchased by the Federal Government for use by the Federal Government shall be equipped with safety devices conforming to Federal Standard No. 515. Copies of this standard my be obtained from the Commissioner, Federal Supply Service, General Services Administration, Washington, D.C. 20405. Since Federal Standard No. 515 was originally prescribed (30 F.R. 8319, June 30, 1965), a number of detailed standards therein have been revised and new standards have been added. Where a standard has been revised the letter "a" appears in the number of the standard, e.g., 515/1a. The new detailed standards which have been added include Standards Nos. 515/18 through 515/26. In the introduction entitled Standard Safety Devices for Automotive Vehicles, paragraphs S3 has been revised. As amended Federal Standard No. 515 is composed of detailed standards which include: 14223

"(1) No. 515/1a—Anchorages for Seat Belt Assemblies for Automotive Vehicles.

"(2) No. 515/2a—Forward Compartment Energy Absorption for Automotive Vehicles.

"(3) No. 515/3a—Recessed Instrument Panel Instruments and Control Devices for Automotive Vehicles.

"(4) No. 515/4a—Energy Absorbing Steering Control System for Automotive Vehicles.

"(5) No. 515/5a—Safety Door Latches and Hinges for Automotive Vehicles.

"(6) No. 515/6a—Anchorage of Seats for Automotive Vehicles.

"(7) No. 515/7—Four Way Flasher for Automotive Vehicles.

"(8) No. 515/8—Safety Glazing Materials for Automotive Vehicles.

"(9) No. 515/9a—Hydraulic Service Brake Systems for Automotive Vehicles.

"(10) No. 515/10—Standard Bumper Heights for Automotive Vehicles.

"(11) No. 515/11—Standard Gear Quadrant (PRNDL) for Automotive Vehicles Equipped with Automatic Transmissions.

"(12) No. 515/12a—Windshield Wipers and Washers for Automotive Vehicles.

"(13) No. 515/13a—Glare Reduction Surfaces for Automotive Vehicles.

"(14) No. 515/14a—Control of Air Pollution from Automotive Vehicles.

"(15) No. 515/15—Tires and Safety Rims for Automotive Vehicles.

"(16) No. 515/16—Backup Lights for Automotive Vehicles.

"(17) No. 515/17a—Rearview Mirror(s) for Automotive Vehicles.

"(18) No. 515/18—Window and Door Controls for Automotive Vehicles.

"(19) No. 515/19—Ash Trays and Lighters for Automotive Vehicles.

"(20) No. 515/20—Arm Rests for Automotive Vehicles.

"(21) No. 515/21—Padding for Automotive Seat Backs.

"(22) No. 515/22—Headrests for Automotive Vehicles.

"(23) No. 515/23—Side Marker Devices for Automotive Vehicles.

"(24) No. 515/24—Rear Window Defogger for Automotive Vehicles.

"(25) No. 515/25—Roll Bars for Automotive Vehicles.

"(26) No. 515/26—Fuel Tanks and Tank Filler Pipes for Automotive Vehicles.

(b) The Standard reads as follows:

"[Federal Standard No. 515]

"STANDARD SAFETY DEVICES FOR AUTOMOTIVE VEHICLES

"• • • • •

"S3. *Safety devices.* Safety devices shall be as specified in the detailed standards (see S4). Publications referenced in the detailed standards form a part of this standard, as applicable. The publications referred to are the issues in effect on the date of the publication of this standard in the FEDERAL REGISTER; in the case of changes in Federal Standard No. 515, reference to publications therein are to the issues in effect on the date of the publication of the respective changes in the FEDERAL REGISTER.

"NOTE: Copies of ASTM Standards may be obtained from the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pa. 19103.

"NOTE: Copies of SAE publications may be obtained from the Society of Automotive Engineers, Inc., 485 Lexington Aevnue, New York, N.Y. 10017.

"• • • • •

"[Federal Standard No. 515/1a]

"ANCHORAGES FOR SEAT BELT ASSEMBLIES FOR AUTOMOTIVE VEHICLES

"S1. *Purpose and scope.* This standard establishes the requirements and test procedures for anchorages for seat belt assemblies for automotive vehicles. This standard does not cover seat belt assemblies.

"S2. *Application.* This standard applies to sedans, station wagons, carryalls, buses (designated as school buses), and to light trucks up to 10,000 pounds G.V.W. Excluded are stand-up, walk-in package delivery vehicles with tilt type drivers' seats. Excluded are folding jump seats that are folded directly behind the front seat.

"S3. *Standard characteristics.*

"S3.1 *Definitions.*

"S3.1.1 *Anchorages.* A seat belt anchorage shall consist of a threaded hole, an eyebolt, or other suitable means of attachment and shall be situated in a suitable structure to receive the seat belt attachments fittings.

"S3.1.2 *Attachment fittings.* Attachment fittings are the parts necessary to attach the seat belt assembly to the vehicle structure.

"S3.1.3 *Seat belt assembly.* A seat belt assembly is any strap, webbing, or similar device designed to secure a person in an automotive vehicle with the intention of mitigating the results of a traffic accident, including all buckles or other fasteners, and all hardware designed for installing the assembly in an automotive vehicle. The seat belt assemblies intended for installation in the anchorages specified hereinafter are described in Fed. Spec. JJ-B-185 and Standards for Seat Belts for Use in Motor Vehicles, 30 F.R. 8432 (July 1, 1965); 15 CFR.

"S3.1.3.1 *Type 1 seat belt assembly.* A type 1 seat belt assembly is a lap belt for pelvic restraint.

"S3.1.3.2 *Type 2 seat belt assembly.* A type 2 seat belt assembly is a combination of pelvic and upper torso restraints.

"S3.1.3.3 *Type 2a seat belt assembly.* A type 2a seat belt assembly is a shoulder belt for upper torso restraint for use only in conjunction with a type 1 lap belt.

"S3.2 *Anchorages.* The SAE Recommended Practice for Motor Vehicle Seat Belt Anchorage, J787, forms a basis, in part, for this Federal Standard.

"S3.2.1 *General.* When eyebolt anchorages are furnished, they shall conform to the applicable requirements of Fed. Spec. JJ-A-530. All threads shall be in accordance with the applicable requirements of the National Bureau of Standards Handbook H28. The location of the anchorages shall be determined with the seat in its rearmost limit of travel.

"S3.2.1.1 *Anchorages for type 1 seat belt assemblies and lap portion of types 2 and 2a seat belt assemblies.* Anchorages for type 1 seat belt assemblies or the lap belt portion of types 2 and 2a seat belt assemblies shall be provided for three sets of seat belts for all bench type seats designed to accommodate three persons. The location of anchorages for type 1 seat belt assemblies or the lap portion of type 2 seat belt assemblies shall be such that a line from the anchorage to the passengers' 'hip' point will make an angle from the horizontal as near as practicable to 45 degrees, as shown in figures 1, 2, and 3. [Not shown in RECORD.] The hip point is the point on the manikin defined as the 'H' point in SAE Standard, Manikins for Use in Defining Vehicle Seating Accommodations, J826. The location of the hip point shall be determined by following the procedures in SAE J826. Anchorages for belts that will be installed over the seat bottom frame rear bar shall be rearward of a vertical line through the point where the belt will enter the seat, as shown in figure 4. [Not shown in RECORD.] All anchorages shall be spaced laterally so that the lap portion of the belt essentially forms a U-shaped loop when in use. The same anchorage shall not be used for both ends of a single type 1 seat belt assembly or the lap portion of a single type 2 seat belt assembly. Type 1 seat belt assemblies used in school buses shall utilize the seat for the anchorage attachment points and shall comply with the above, where applicable. Common anchorages may be used for one end of each of two assemblies provided strength requirements are in accordance with S3.2.2.

"S3.2.1.2 *Anchorages for types 2 and 2a seat belt assemblies.* Except for buses and vinyl or canvas top or bolted-on metal enclosure vehicles and utility vehicles of the three-wheel type, automotive vehicles covered by this standard shall be provided with anchorages for a type 2 or 2a seat belt assembly for at least each outboard front seat

occupant of carryalls and light trucks. Front and rear seat anchorages shall be provided for each outboard occupant of sedans and station wagons (forward facing seats only) for which the vehicle is designed. For buses, only the drivers' seat need be provided with anchorages for types 2 and 2a seat belt assemblies. At least three anchorages shall be provided for each type 2 or 2a seat belt assembly; two anchorages for the lap portion of a type 2 seat belt assembly and at least one anchorage for the upper torso or shoulder portion of a type 2 or 2a seat belt assembly. The upper end of the upper torso or shoulder portion of the type 2 or 2a seat belt assembly may be fastened to either the seat, side anchorage, rear anchorage, roof or floor provided that the seat or other structure over which the belt passes or to which it is fastened has been designed or reinforced to withstand the resulting load. The lower end may be fastened either to the lap portion of the belt or to the existing inboard anchorage for the lap portion of the seat belt assembly.

"S3.2.1.3 *Anchorages for the upper torso or shoulder portion of seat belt assemblies.* Anchorages for the upper torso or shoulder portion of a type 2 or 2a seat belt assembly shall be provided for at least each outboard front seat occupant of carryalls and light trucks, and both front and rear outboard occupants of sedans and station wagons (front facing seats only) for which the vehicle is designed. With the seat in the rearmost limit of travel and the seat back in the nominal design position, these anchorages shall be longitudinally in line with or rearward of the torso line of the SAE 3-dimensional manikin described in the SAE Standard 'Manikins for Use in Defining Vehicle Seating Accommodations,' SAE J826. If there is a downward angle of the belt passing from the point of tangency on the shoulder of the SAE manikin to an anchorage or over suitable structure to an anchorage, this angle shall not be more than 40 degrees from the horizontal.

"S3.2.2 *Strength.* The vehicle structure (excluding school buses) shall sustain the simultaneous pull on each seat of seat belt assemblies for each passenger for which the seat is designed. Permanent deformation of any anchorage or surrounding area is acceptable provided there is no rupture or breakage and the anchorage does not pull loose. Each school bus seat may be tested independently, but must sustain established forces for all attached anchorages. The upper end anchorage for upper torso types 2 and 2a belts may be tested independently provided the anchorages are located in structural members in which no lap belt anchorages are located.

"S3.2.2.1 *Anchorages for types 2 and 2a seat belt assemblies.* The outboard anchorage for the lap belt portion of a type 2 seat belt assembly shall sustain a pull of 2,500 pounds. Outboard anchorages for the upper torso or
14224 shoulder restraint portion of type 2 or 2a seat belts shall sustain a pull of 1,500 pounds for each anchorage. Common anchorages for the inboard ends of types 1 and 2a seat belt combination or the inboard anchorage of a type 2 seat belt assembly shall sustain a pull of 3,000 pounds. Common anchorages for one end of a center lap belt and either the inboard end of a type 1 seat belt or the lap belt portion of a type 2 seat belt and the inboard end of an upper torso or shoulder restraint shall sustain a pull of 5,500 pounds. A common anchorage for the inboard ends of two outboard lap belts and inboard ends of the upper torso or shoulder restraint portion of the types 2 and 2a seat belt assemblies shall sustain a pull of 6,000 pounds.

"S3.2.2.2 *Anchorages for type 1 seat belt assemblies.* Anchorages for type 1 seat belt assemblies shall sustain a pull of 2,500 pounds for each lap belt end attached.

"S3.2.2.2.1 *Anchorages for type 1 seat belt assemblies for school buses.* Anchorages for type 1 seat belt assemblies shall sustain a pull of 2,500 pounds for each lap belt end attached.

"S3.2.2.3 *Anchorages for seat belt assemblies attached to the seat frame.* The seat structure, the seat adjusters, if applicable, and the attachments, shall sustain the load specified in S3.2.2.1, S3.2.2.2, and S32.2.2.1, as applicable, for each seat belt end attached to the seat plus the seat inertia force. The seat inertia force shall be 20 times the seat weight. Floor and seat deformation is acceptable provided there is no structural failure or release of the seat adjuster mechanism.

"S3.2.3 *Test procedure.* The strength test shall be conducted either with the connection from the body block to the anchorages made in a manner in which the belts are installed or a suitable equivalent method. The load shall be applied to the body block at an angle of 10 degrees plus or minum 5 degrees from the horizontal. As applicable, the doors of the vehicle may be closed during the test.

"S3.2.3.1 *Test for types 2 and 2a seat belt anchorages.* The loads specified in S3.2.2.1 shall be applied using either a body block set up similar to that shown in figure 5 [not shown in RECORD] or a suitable equivalent method. The strength test shall be conducted with the seat in place in the vehicle.

"S3.2.3.2 *Test for type 1 seat belt anchorages.* The load specified in S3.2.2.2 or S3.2.2.2.1, as applicable, shall be applied using either a body block similar to that shown in figure 6 [not shown in the RECORD] or a suitable equivalent method. The strength test shall be conducted either with the seat in place in the vehicle or with the seat installed on an applicable vehice floor pan.

"[Federal Standard No. 515/2a]

"FORWARD COMPARTMENT ENERGY ABSORPTION FOR AUTOMOBILE VEHICLES

"S1. *Purpose and scope.* This standard establishes requirements and test procedures for forward compartment energy absorption for automotive vehicles. The forward compartment includes the areas of the instrument panel, sun visors, header, corner A pillars, and under the instrument panel with construction designed to afford a reasonable degree of protection for the front seat occupants wearing type 1 seat belt assemblies.

"S2. *Application.* This standard applies to sedans, carryalls, station wagons, and to light trucks up to 10,000 pounds G.V.W.

"S3. *Requirements.* Injury potential shall be minimized by constructing or locating forward compartment structures to eliminate impact or to reduce the forces generated by front seat occupants wearing type 1 seat belt assemblies when impacting these structures.

"S3.1 *Impact areas.* The head impact areas shall be established through the use of type 1 seat belt assembly restrained manikins or other test devices based upon the equivalent to 'H' point to top-of-head dimensions of 33 inches and 29 inches. Adjustable seats shall be in the extreme forward position for the indicated 33 inch device and in the extreme rearward position for the indicated 29 inch device. The impact areas shall be that included between the arcs formed by the top-of-head point when each device is swung forward and also 45 degrees to each side of the longitudinal axis through each normal seating position. The knee and leg impact areas shall be established by the use of a type 1 seat belt restrained manikin or equivalent of approximately 95th percentile male dimensions and with the front seat in midposition.

"S3.2 *Location and construction.*

"S3.2.1 The structure of the instrument panel shall be such as to minimize injury to the head of an occupant upon impact or to be outside the established impact area. If within the impact area the panel shall be covered with energy absorbing cushioning material applied over a crushable or collapsible metal backing that will deform and expand the areas of contact. There shall be no protruding or sharp rigid edges in the impact area and/or under the cushioning material in the impact area. Tests shall be in accordance with SAE Recommended Practice for Instrument Panel Laboratory Impact Test Procedure, J921, and the deceleration of the head form when impacting the panel at 22 feet per second shall not exceed an effective maximum value of 80 gs in 60 milliseconds excluding all portions of the deceleration time curve of less than 3 milliseconds duration.

"S.3.2.2 The lower portion of the instrument panel shall contain no sharp or protruding edges within the knee and leg impact areas. The impact area structures shall be constructed of material that will deform and expand areas of contact to absorb and minimize injury when struck by the knees or legs of front seat occupants.

"S.3.2.3 The sun visors shall be constructed of or be covered by energy absorbing cushioning material. The sun visor mounting shall be designed and located to provide a reasonable degree of head protection.

"S3.2.4 The roof header impact areas shall contain no sharp or protruding edges. The impact areas shall be covered with 0.5 inch minimum of energy absorbing cushioning material to reduce the likelihood of injury to the occupant's head upon impact.

"S3.2.5 The right and left front corner posts shall not contain any sharp or protruding edges. The corner posts in the impact areas shall be covered with 0.5 inch minimum of enregy absorbing cushioning material to reduce the likelihood of injury to the occupant's head upon impact. Padding shall be designed and placed so as to minimize loss ov visibility.

"[Federal Standard No. 515/3a]

"RECESSED INSTRUMENT PANEL INSTRUMENTS AND CONTROL DEVICES FOR AUTOMOTIVE VEHICLES

"S1. *Purpose and scope.* This standard establishes the location and identification of automotive vehicle instruments and control devices to afford a reasonable degree of protection for front seat occupants wearing type 1 seat belt assemblies in event of a collision.

"S2. *Application.* This standard applies to sedans, carryalls, station wagons and light trucks up to 10,000 pounds G.V.W. Excluded are stand-up walk-in package delivery vehicles with tilt type drivers' seats. Also excluded are utility vehicles of the three-wheel type.

"S3. *Requirements.* Injury potential shall be minimized by constructing, locating, or mounting control devices and instruments bezels in such a manner as to reasonably minimize contact by the heads of occupants wearing type 1 seat belt assemblies. Injury potential shall be minimized by the following means:

"S3.1 *Location, construction, and mounting.*

"S3.1.1 All instrument panel mounted control devices shall be located within reach of the driver wearing a type 2 or 2a seat belt assembly, except controls not essential to controlling a moving vehicle. The essential controls are the steering wheel, transmission selector lever, turn signals lever, ignition switch, headlight switch, and windshield wiper and washer controls. Essential controls shall be readily identified.

"S3.1.2 The impact area shall be established through the use of type 1 seat belt assembly restrained manikins or other test devices having 'H' point to top-of-head dimensions of 33 inches and 29 inches. Adjustable seats shall be in the extreme forward position for the indicated 33 inch device and in the extreme rearward position for the indicated 29 inch device. The impact area shall be that included between the arcs formed by the top-of-head point when each device is swung forward and also 45 degrees to each side of the longitudinal axis through each normal seating position.

"S3.1.3 Control devices and instruments positioned outside the established contact area or which cannot be struck due to steering wheel, column, or shielding are not required to meet the specifications following. All other control devices shall have a contact area of not less than 1.0 square inch of flat surface with an edge radius of not less than 0.125 inch and shall be mounted and constructed of materials which will deflect flush within 0.375 inch of the panel surface or are to be mounted in such a manner as to allow them to be pushed flush with the panel surface or be detached by application of a force not to exceed 90 pounds when struck from any position defined in 3.1.2.

"S3.1.4 Instrument bezels not meeting S3.1.3 and likely to be contacted by the head of a belted occupant shall have an edge

radius of not less than 0.125 inch and shall project not more than 0.250 inch above the surface of the panel or shall be so shielded as to reasonably minimize contact by the head of belted occupant.

"S3.1.5 The tranmission selector lever knob end shall have a relative flat area of at least 1.0 square inch when selector lever is mounted on the steering column within the impact area as defined in S3.1.2. There shall be no permissible complete penetration of the knob by the selector shaft, under a head impact of 80 gs.

"[Federal Standard No. 515/4a]

"ENERGY ABSORBING STEERING CONTROL SYSTEM FOR AUTOMOTIVE VEHICLES

"S1. *Purpose and scope.* This standard establishes requirements for energy absorbing steering control systems installed on automotive vehicles.

"S2. *Application.* This standard applies to sedans and station wagons.

"S3. *Standard characteristics.* The SAE Recommended Practice for Barrier Collision Tests, J850, forms the basis for section S3.4 of this standard.

"S3.1 *Definition.* The steering control system is defined as the basic steering mechanism in combination with its associated horn actuating mechanism, trim hardware, etc., and includes any portion of the steering column assembly that may contain an energy absorber for the purpose of dissipating energy upon impact.

"S3.2 The steering control assembly shall be constructed so that when it is impacted at a relative velocity of 22 feet per second with a torso shaped body block as shown in figure 1 [not shown in RECORD], weighing 75–80 pounds, and having a spring rate load of 600–800 pounds per inch, the force developed during collapse of the system shall not exceed 2,500 pounds. The spring rate is determined by loading the chest of the torso
14225 shaped body block with a 4-inch wide flat contact surface so that it is 90 degrees to the longitudinal axis of the body block, parallel to the backing plate and within 15 to 20 inches from the top of the head form. The load is measured when the flat contact surface has moved down ½ inch, and the spring rate is determined by doubling this load figure.

"S3.2.1 When the steering wheel is the principal energy absorbing element, the load cell recording device shall be equivalent to the type shown in figure 2 and shall be mounted either directly behind the wheel or in the frontal surface of the body block, with its axis of primary sensitivity in the direction of body block travel at the time of impact. The steering wheel shall be mounted to the load cell by means of an appropriate nose piece at the same angle as it is to be installed in the vehicle.

"S3.2.2 When a component or components other than the steering wheel, such as the steering column, is the principal energy absorbing element or contributes substantially to the absorption of energy, the load cell shall be located between the steering wheel and the remainder of the energy absorbing system, preferably immediately under the wheel, or in the forward, impacting surface of the body block.

"S3.3 Other testing methods, such as high capacity acceleration facilities and anthropometric dummies, giving equivalent results, may be utilized in lieu of methods defined in S3.2, S3.2.1, and S3.2.2.

"S3.4 The steering control assembly shall be so designed that when the front structure of the automotive vehicle collapses during the SAE J850 barrier collision test, or equivalent at 30 miles per hour, the upper end of the steering control system shall not be displaced rearward, relative to an undisturbed point to the rear of the steering wheel position, more than 5 inches.

"S3.4.1 The rearward displacement of the steering control assembly shall be determined under dynamic conditions during the barrier collision or equivalent test.

"S3.5 The steering control system shall be so constructed that there shall be no devices or attachments such as horn actuating mechanism, trim hardware, etc., which can catch in the operator's clothing during normal driving maneuvers.

"[Federal Standard No. 515/5a]

"SAFETY DOOR LATCHES AND HINGES FOR AUTOMOBILE VEHICLES

"S1. *Purpose and scope.* This standard establishes uniform test procedures and minimum static load requirements for automotive vehicle side door latches and hinges.

"S2. *Application.* This standard applies to sedans, carryalls, station wagons, and light trucks up to 10,000 pounds G.V.W., except those light trucks with folding or cargo type doors or open body trucks with enclosures made of canvas, aluminum, fiber glass, plastic, and steel. The secondary latch load does not apply to sliding doors.

"S3. *Requirements.* All applicable automotive vehicles shall be equipped with safety door latches and hinges. The hinges shall have ample strength to support the door and to withstand the longitudinal load and transverse load equal to or greater than that specified in S3.1 and S3.2 for the door latch, and striker assembly. All door release handles on each door shall be provided with a single positive locking device not subject to accidental release. Interior or exterior handles need not be locked by this device if not operable by accidental side, rearward or forward force.

"S3.1 *Longitudinal load.* Automotive vehicle door latch and striker assembly, when tested as prescribed under test procedures (S3.3) shall be able to withstand a minimum longitudinal load of 2,500 pounds when in fully latched position, and 1,000 pounds when in the secondary latch position.

"S3.2 *Transverse load.* Automotive vehicle door latch and striker assembly, when tested as prescribed under test procedures (S3.3) must be able to withstand a minimum transverse load of 2,000 pounds when in the fully latched position and 1,000 pounds when in the secondary latched position

"S3.3 *Test procedures.* Test procedures and test fixtures shall be in accordance with section 4 of SAE Recommended Practice for Passenger Car Side Door Latch Systems, J839

and section 4 of SAE Recommended Practice for Vehicle Passenger Door Hinge Systems, J934.

"[Federal Standard No. 515/6a]

"ANCHORAGE OF SEATS FOR AUTOMOTIVE VEHICLES

"S1. *Purpose and scope.* This standard establishes strength requirements for anchorage and construction of automobile vehicle seat assemblies.

"S2. *Application.* This standard applies to sedans, buses, carryalls, station wagons, and light trucks up to 10,000 pounds G.V.W.

"S3. *Standard characteristics.* The SAE Recommended Practice for Passenger Car Front Seat and Front Seat Adjuster, J879, forms a basis for that part of this standard which applies to front seats.

"S3.1 *Definitions.*

"S3.1.1 *Automotive vehicle seat.* A structure provided to seat the driver and/or one or more passengers.

"S3.1.2 *Seat frame.* The structural portion of a seat assembly.

"S3.1.3 *Seat back frame upper crossbar.* The uppermost horizontal member of a seat back frame.

"S3.1.4 *Seat adjuster.* A device suitably anchored to the vehicle structure which supports the seat frame assembly and provides for seat adjustments. This includes any track, link, or power actuating assemblies necessary to adjust the position of the seat.

"S3.2 *Requirements, front seats.*

"S3.2.1 *Seat adjusters and seat frame combinations.* Each combination of seat adjuster and seat frame, together with its attachments, shall be constructed and anchored to the vehicle structure which supports it in such a manner as to sustain a horizontal forward and rearward static load equal to a minimum of 20 times the weight of the fully trimmed seat.

"S3.2.2 *Seat cushion and back frame combination.* Each seat cushion and back frame combination, together with its attachments, shall be constructed and anchored to the vehicle structure which supports it in such a manner as to sustain a rearward moment about the rear attachment of the seat frame to the seat adjuster of 4,250 inch-pounds for each passenger for which the seat back is designed. The load required to obtain this moment shall be applied to the seat back upper crossbar location normal to the seat back.

"NOTE: Some energy absorption under impact can be obtained through deflection of the seat back. Therefore, some deflection and permanent set of the seat back consistent with rigidity requirements and normal occupant accommodations is permissible.

"S3.2.3 *Folding seat back frames.* Each seat back frame designed to fold over the seat shall be equipped with a releasable, self-locking, restraining device or devices. The lock release shall be located so as to be readily accessible to the occupant of the seat and, if applicable, to permit egress to rear seat passengers.

"The release shall be so designed and/or located as to minimize accidental release in collision situations. The restraining device or devices shall be constructed with sufficient strength to prevent the seat back frame assembly from folding forward under a horizontal static load equal to a minimum of 20 times the weight of the fully trimmed seat back frame, and with sufficient strength to sustain a moment about the attachment of the seat back frame to the seat frame of 4,250 inch-pounds in a rearward direction. The load required to attain this moment shall be applied at the seat back frame upper crossbar location normal to the seat with the seat back frame in a locked position. Excluded are tilt type drivers' seats installed in special purpose, stand-up, walk-in package delivery vehicles.

"S3.2.4 *Pedestal seats.* Pedestal mounted drivers' seats designed to pivot forward, installed in special purpose, stand-up, walk-in type delivery vehicles shall be equipped with releasable, self-locking, pedestal restraining devices. The restraining device or devices shall be constructed with sufficient strength to prevent the seat assembly from tilting forward under a horizontal static load equal to a minimum of 20 times the weight of the fully trimmed seat components. The load shall be applied with the seat pedestal in a locked position and at the level of the center of gravity of the seat assembly.

"S3.3 *Requirements, rear seats.*

"S3.3.1 *Rear seat backs and seat cushions.* Each rear seat back and seat cushion designed to provide rear passenger seating in sedans shall be constructed and anchored to the vehicle structure which supports it in such a manner as to sustain a horizontal forward static load equal to a minimum of 20 times the weight of the fully trimmed component.

"S3.4 *Requirements, other seats.*

"S3.41.1 *Seat frames.* Seat frame designed to be fastened to the vehicle floor without adjustment in sedans, buses, carryalls, and station wagons shall be constructed and anchored to the vehicle structure which supports them, either permanently or by detachable fittings, in such a manner as to sustain a forward and rearward static load equal to 20 times the weight of the fully trimmed seat.

"S3.4.2 *Seat back frames.*

"S3.4.2.1 Forward facing seat back frames designed to provide backs for intermediate seating in sedans and buses and intermediate and rear seating in carryalls and station wagons shall be constructed and anchored, either permanently or by detachable fittings as specified, to the seat frame in such a manner as to sustain a rearward (in relation to the seat) moment, about the rear attachments of the seat frame to the vehicle structure which supports it, equal to a minimum of 4,250 inch-pounds for each passenger for which the seat is designed. The load required to obtain this moment shall be applied to the seat back upper crossbar location normal to the seat back (see note in S3.2.2).

"S.3.4.2.2 Rearward facing seat back frames designed to provide backs for rear seating in station wagons shall be constructed and anchored, either permanently or by detachable fittings as specified, to the seat frame in such a manner as to sustain a rearward (in relation to the seat) load equal to a minimum of 4,250 inch-pounds for each

passenger for which the seat is designed. The load required to obtain this moment shall be applied to the seat back upper crossbar location normal to the seat back (see note in S3.2.2).

"S3.4.2.3 Longitudinally mounted seats in station wagons, and when specified for installation in trucks, shall be constructed and anchored, either permanently or by detachable fittings to the vehicle structure which supports them in such a manner as to sustain a forward and rearward (in relation to the vehicle) static load equal to 20 times the weight of the fully trimmed seat.

"S3.4.3 *Folding seats.* Seats designed to pivot forward on their forward attachment to the vehicle structure shall be equipped with a releasable, self-locking, restraining device. The lock release shall be located so as to be readily accessible to the occupant of the seat or, if applicable, to permit egress

14226 to a passenger seated to the rear. The release shall be so designed and/or located as to minimize accidental release in collision situations. The restraining device shall be constructed with sufficient strength to prevent the seat assembly from folding forward under a horizontal static load equal to a minimum of 20 times the weight of the fully trimmed seat assembly.

"S3.4.4 *Folding seat back frames.* Forward facing seat back frames designed to provide backs for intermediate seating in carryalls and station wagons and further designed to fold over the seat shall be equipped with releasable, self-locking, restraining devices. The lock release shall be located so as to be readily accessible to the occupant of the seat or, if applicable, to permit egress to a passenger seated to the rear. The release shall be so located and/or designed as to minimize accidental release in collision situations. The restraining device shall be constructed with sufficient strength to prevent the seat back frame assembly from folding forward under a horizontal static load equal to a minimum of 20 times the weight of the fully trimmed seat back frame, and with sufficient strength to sustain a rearward moment about the attachment of the seat back frame to the seat frame of 4,250 inch-pounds for each passenger for which the seat back is designed. The load required to attain this moment shall be applied to the seat back frame upper crossbar location normal to the seat with the seat back frame in a locked position.

"S3.5 *Seats designed to provide seat belt anchorage.*

"S3.5.1 *Sedans, carryalls, station wagons, and light trucks up to 10,000 pounds G.V.W.* Seat frames and seat back frames designed to provide anchorages for seat belts shall be constructed and anchored to the vehicle structure which supports them in such a manner as to sustain an additional forward static load equal to a minimum of 2,500 pounds for each lap belt end attached or 3,000 pounds for each combination lap and shoulder belt end attached.

"S3.5.2 *Buses.*

"S3.5.2.1 *Driver's seat.* Driver's seat frames and seat back frames designed to provide anchorages for seat belts shall be constructed and anchored to the vehicle structure which supports them in such a manner as to sustain an additional static forward load equal to a minimum of 2,500 pounds for each lap belt end attached, or 3,000 pounds for each combination lap and shoulder belt end attached.

"S3.5.2.2 *Passenger seats.* Passenger seat frames and seat back frames designed to provide anchorages for seat belts shall be constructed and anchored to the vehicle structure which supports them in such a manner as to sustain an additional forward static load equal to a minimum of 2,500 pounds for each type 1 or 1a lap belt end attached.

"S3.6 *Test procedure.* Testing of front seats shall be in accordance with the procedures set forth in SAE Recommended Practice J879. Testing of intermediate and rear seats shall be accomplished by applying similar procedures. Testing of seats designed to provide seat belt anchorage shall be in accordance with applicable procedures set forth in S3.2.3 of Fed. Std. No. 515/1a.

"[Federal Standard No. 515/9a]

"HYDRAULIC SERVICE BRAKE SYSTEMS FOR AUTOMOTIVE VEHICLES

"S1. *Purpose and scope.* This standard establishes requirements for hydraulic service brake systems installed on automotive vehicles.

"S2. *Application.* This standard applies to sedans, buses, carryalls, station wagons, and to light trucks up to 10,000 pounds G.V.W.

"S3. *Standard characteristics.* The National Committee on Uniform Traffic Laws and Ordinances, Uniform Vehicle Code; The Society of Automotive Engineers, Inc., Brake System Road Test Code—Passenger Car, SAE J843a and Service Brake System Performance Requirements—Passenger Car, SAE J937, form the bases for this standard.

"S3.1 *Service brake system performance.* The performance ability of the fully operational service brake system for sedans and station wagons, shall be not less than described in section D of SAE J937, tested in accordance with the requirements of SAE J843a. The performance ability of the fully operational service brake system for carryalls, buses and light trucks up to 10,000 pounds G.V.W. shall be not less than described in section 12-302 of the Uniform Vehicle Code.

"S3.1.1 *Design.* The service brake system shall be of such design that rupture or failure of an actuating-pressure component in the system shall not result in complete loss of function of the service brake system. Actuating-pressure components are defined as, the brake master cylinder or master control unit, wheel brake cylinder, brake line, brake hose or equivalent, as applicable. The hydraulic fluid system shall be sealed in such a manner so as to provide protection of the brake fluid from outside contamination.

"S3.1.2 *Partial system performance.* In the event of rupture or failure to an actuating-pressure component to any single brake, the components of the unaffected portion of the system shall continue to function. Mechanical linkage or other means of brake application may be utilized to meet this requirement provided that continuation of the same

motion on the same brake pedal used to actuate the normal system applies or actuates the braking force.

"S3.2 *System effectiveness indication.* System effectiveness shall be indicated by means of an electrically operated red light mounted on the instrument panel. The light shall have an area of not less than 0.196 square inch. It shall illuminate before or upon application of the brakes when an actuating-pressure component of the system has sustained a loss of fluid or pressure. The indicator light system shall include a means for the vehicle operator to perform a test to assure the light bulb is operable.

"[Federal Standard No. 515/12a]

"WINDSHIELD WIPERS AND WASHERS FOR AUTOMOTIVE VEHICLES

"S1. *Purpose and scope.* This standard establishes minimum requirements for automotive vehicle windshield wiping and washing systems.

"S2. *Application.* This standard applies to sedans, buses, carryalls, station wagons, and light trucks up to 10,000 pounds G.V.W., with windshields of one piece construction of the fixed type. Excluded are utility vehicles of the three-wheel type.

"S3. *Requirements.* The windshield wiper system shall be driven by a motor actuated by a conveniently located control by which the operator of the vehicle may vary the frequency speed of wipers. The windshield wiper system shall be designed to provide two or more frequency speeds and each frequency speed shall be substantially constant regardless of engine load. Windshield wiper systems designed to interrupt at the end of each frequency cycle by means of a timing device will be acceptable if the timing device can be varied to provide continuous operation and two or more frequencies of interrupted operation. All requirements other than those specified herein shall be in accordance with SAE J903, Recommended Practice for Passenger Car Windshield Wiper Systems.

"S3.1 *Wiped area.* The minimum wiped area of the windshield shall include the area of the windshield established by a horizontal dimension, projected as a line from the vertical center line of the eye level of the 95th percentile male with seat in midseat position and extending to within one and one-half inches of each corner post and including the center portion of the windshield. The minimum wiped area shall also include that portion of the windshield measured from the horizontal eye level line in a vertical direction 10 degrees above and 10 degrees below the horizontal eye level line at a point in front of the operator and a point in front of right seat occupant.

"S3.2 *Windshield washers.* The windshield washer system shall be provided with a container with the capacity of at least 48 ounces of fluid. The container shall be made of such material that it will not crack or break in the event the fluid freezes. The fluid shall be applied to the outside of the windshield by vacuum pump or other method. The washer shall be actuated either manually or automatically.

"S3.3 *Tests.* All tests shall be in accordance with SAE Recommended Practice J903.

"[Federal Standard No. 515/13a]

"GLARE REDUCTION SURFACES FOR AUTOMOTIVE VEHICLES

"S1. *Purpose and scope.* This standard establishes glare limits for appearance finishes of vehicle components in and adjacent to the operator's field of view to achieve the most practical reduction of distracting reflectance for automotive vehicles.

"S2. *Application.* This standard applies to sedans, buses, carryalls, station wagons, and light trucks up to 10,000 pounds G.V.W.

"S3. *Standard characteristics.* Standard methods, tentative methods, and tentative recommended practices and the American Society for Testing and Materials, ASTM D 307, D 523, D 791, D 1535, E 97, and the SAE Standard J826, form the basis for this Federal Standard.

"S3.1 *Definitions.*

"S3.1.1 *Field of view.* With the operator's seat in its rearmost position, the operator's field of view is defined as that area forward of a line extending to the sides of the vehicle from the point at which the back pan of the SAE J826 three-dimensional manikin makes contact with the operator's seat back.

"S3.1.2 *Glare.* The visual effect of any dilutes or competes with the central attention signal on which attention is being focused.

"S3.1.3 *Specular gloss.* The luminous fractional reflectance of a specimen at the specular direction.

"S3.1.4 *Luminous directional reflectance (Munsell value).* Ratio of flux reflected to that from a perfect diffuse reflector similarly illuminated and viewed.

"S3.1.5 *Saturation (Munsell chroma).* The attribute of color perception that expresses the degree of departure from gray of the same lightness. All grays have zero saturation.

"S3.2 *Instrument panels.* The specular gloss of the surface of the material used for instrument panel top surfaces and appurtenances thereon which can produce glare in the windshield shall not exceed 30 units maximum, measured by the 85-degree method of ASTM D 523, or equivalent.

"S3.3 *Luminous directional reflectance (Munsell value).* The luminous directional reflectance of the surface of the material used for instrument panel top surfaces shall not exceed 30 percent (which is equivalent to a Munsell value less than 6.0/–), when measured as described by ASTM D 307, D 791, D 1535, E 97, or equivalent.

"S3.4 *Saturation (Munsell chroma).* The Munsell chroma of instrument panel top surfaces shall be no more than /6.

"S3.5 *Windshield wiper arms and blades.* The specular gloss of the surface of the material used for windshield wiper arms and wiper blades in the operator's field of view shall not exceed 40 units maximum, measured by the 20-degree method of ASTM D 523, or equivalent.

"S3.6 The specular gloss of the surface of the material used for instrument bezels, windshield molding, control devices, horn

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ring, rearview mirror mounting hardware, trim hardware, etc., in the operator's field of view shall not exceed 40 units maximum, measured by the 20-degree method of ASTM D 523, or equivalent.

"S3.7 Instruments, control devices, etc., shall be so located so as to present a minimal reflection into the windshield in the operator's field of view under daylight and night driving conditions.

"[Federal Standard No. 515/14a]

"CONTROL OF AIR POLLUTION FROM AUTOMOTIVE VEHICLES

"S1. *Purpose and scope.* This standard establishes requirements for the control of emissions from new motor vehicles and new motor vehicle engines which are likely to cause or contribute to air pollution.

"S2. This standard applies to sedans, carryalls, station wagons, and light trucks up to and including ½-ton pickup or equivalent equipped with engines of 50 cubic inch displacement or over.

"S3. *Standard characteristics.* The proposed regulations of the Department of Health, Education, and Welfare, Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines, published in the FEDERAL REGISTER on December 31, 1965 (30 F.R. 17192), form the basis for this standard.

"S3.1 All automotive vehicles and engines covered by this standard shall be equipped with integral or ancillary control systems to provide control of emissions in accordance with the requirements set forth in the regulations cited in S3.

"[Federal Standard No. 515/17a]

"REARVIEW MIRROR(S) FOR AUTOMOTIVE VEHICLE

"S1. *Purpose and scope.* This standard establishes requirements for rearview mirror(s) for automotive vehicles to provide reasonably unobstructed driver vision to the rear.

"S2. *Application.* This standard applies to sedans, buses, carryalls, station wagons, and to light trucks up to 10,000 pounds G.V.W. Vehicles with bodies designed without rear windows and vehicles that require more than one outside mirror and truck-type vehicles with small rear windows are excepted from the requirement for an inside rearview mirror.

"S3. *Requirements.* The rearview mirrors shall provide the driver with a clear, undistorted view of unit magnification under day and night operating conditions.

"S3.1 *Inside rearview mirrors.*

"S3.1.1 *Size.* The rearview mirror shall have a horizontal dimension which will provide the driver a view to the rear of the vehicle with a horizontal angle of no less than 20 degrees. The vertical angle shall be at least sufficient to provide a view of the road surface from a point not greater than 200 feet to the rear of the vehicle, to the horizon under conditions of a level road and with the vehicle occupied by the driver and four passengers in the case of sedans, carryalls, and station wagons or loaded to gross vehicle weight in the case of buses and light trucks where inside mirrors may be applicable.

"S3.1.2 *Location.* The rearview mirror shall be designed and constructed to be mounted on the inside of the vehicle in such a manner as to provide the driver with a stable, readily distinguishable image under normal road conditions. The mirror shall be located as far forward along the longitudinal axis of the vehicle as the windshield, mount, and adjusting device will permit (buses excepted). The mirror and its supporting brackets shall be located above the forward horizontal line of sight, if possible, of a manikin which measures 33 inches from the 'H' point to the top of the head and occupying the driver's seat set in the mid position, with due regard being given to the requirements of the vertical field of view to the rear (see S3.1.1). Extra large bus mirrors designed to serve an additional purpose of passenger surveillance shall be located with due consideration of the preceding requirements.

"S3.1.3 *Mounting.* The mirror shall be mounted in the vehicle by means of a suitable supporting assembly of sufficient strength to provide a stable support for the mirror and shall be of a design which will minimize injury potential to occupants. The mount, if in the impact area shall be designed to break away or collapse upon the application of a force in excess of 90 pounds, in the direction applied by the head of a belted occupant. The head impact area shall be established through the use of type 1 seat belt assembly restrained manikins or other test devices having 'H' point to top-of-head dimensions of 33 inches and 29 inches. Adjustable seats shall be in the extreme forward position for the indicated 33 inch device and in the extreme rearward position for the indicated 29 inch device. The impact area shall be that included between the arcs formed by the top-of-head point when each device is swung forward and also 45 degrees to each side of the longitudinal axis through each normal seating position. Rigid mounts shall break in such a manner as to leave no protruding residuals. The rim of the mirror or its supporting bezel shall have an edge radius of not less than 0.125 inch. The mount shall provide for universal adjustment of the mirror to accommodate any size driver in any available seat position.

"S3.2 *Outside mirrors.*

"S3.2.1 *Size.* The outside mirror reflecting surface shall have a minimum nominal diameter of 5 inches if of circular design. Rectangular mirrors shall have a minimum nominal horizontal dimension of 5 inches and a vertical dimension sufficient to provide the driver a view of the road surface from a distance of not more than 35 feet to the rear from the eye of the driver of the vehicle and to the horizon on a level road under normal load conditions. The 35 feet shall be measured from the position of the eye of the driver to the reflecting surface, then to the roadway to the rear of the vehicle.

"S3.2.2 *Mounting.* The outside rearview mirror shall be designed and constructed to be mounted on the left outside of the vehicle in such a manner as to provide the driver

with a stable, readily distinguishable image under normal road conditions and shall be so located as to require not more than 60 degrees combined head and eye movement with driver's seat in forward position. The outside mirror shall provide the operator, with seat in full forward position, a view of the side of the vehicle on which mounted. The mirror shall not be obscured by the unwiped portion of the windshield or by the corner pillar. The mirror shall be readily adjustable to accommodate different size drivers, seat positions, and load conditions. The mirror and mount shall be designed, constructed, located, and mounted so as to minimize pedestrian injury potential.

"S3.2.3 *Additional outside rearview mirror.* Station wagons, carryalls, buses, and trucks shall be provided with an additional outside rearview mirror to provide driver vision to the right rear areas adjacent to the vehicle obscured by vehicle design or load conditions. The visual characteristics of the right outside mirror shall conform to the requirements of the left outside mirror except that the restriction on combined head and eye movement may be relaxed to the extent dictated by vehicle design. Design, construction, location, and mounting of the right outside mirror shall be symmetrical to the left outside mirror except that where necessary, consideration may be given to location and mounting problems dictated by vehicle design.

"S3.2.4 *Wide angle mirror.* When specified, an auxiliary wide angle (convex) mirror may be incorporated in the same mount as the standard mirror to provide an additional close-in field of vision required under certain operating conditions. The auxiliary mirror shall be incorporated in such a manner as not to interfere with the visual field of the standard mirror.

"S3.3 *Mirror construction.* The reflective medium shall be of a material which will resist abrasion and erosion incident to accepted cleaning practices. The surfaces of the material shall be so finished as to provide and maintain a distortion free reflected image. Front or second surface reflectance may be used. The reflectance value of the reflective film employed shall be not less than 50 percent. Inside mirrors may be of the selective position prismatic type, in which case the reflectance value in the night driving, high-glare position shall be not less than 4 percent.

"[Federal Standard No. 515/18]

"WINDOW AND DOOR CONTROLS FOR AUTOMOTIVE VEHICLES

"S1. *Purpose and scope.* This standard establishes the requirements for the location and construction of the controls for windows and doors.

"S2. *Application.* This standard applies to sedans, carryalls, station wagons, and light trucks up to 10,000 pounds G.V.W.

"S3. *Requirements.* Injury potential shall be minimized by constructing, locating or mounting of the controls in such a manner as to reduce the likelihood of injury to the head, torso and legs of lap belted occupants of rear and front seats. The occupant protection area shall be established through the use of type 1 seat belt assembly restrained manikins or other test devices based upon the equivalent to 'H' point to top-of-head dimensions of 33 inches and 29 inches. The occupant protection area shall be that included between the arcs formed by the top-of-head point and torso when each device is swung forward and also 90 degrees to each side of the longitudinal axis through each normal seating position and the forward movement of the knees and legs of outside occupants.

"S3.1 The controls shall be located within reach of the seat belted occupant nearest the door. Controls located away from or shielded from the impact area or recessed within the panel or armrest in such a manner to reasonably minimize the likelihood of contact by lap belted occupants shall be considered to provide an acceptable degree of protection.

"S3.2 Door handle controls not meeting S3.1 shall be constructed so that they have a contact area of not less than 2 square inches substantially vertical, with minimum radii of 0.125 inch. Window control knobs not meeting S3.1 shall have a minimum contact area of not less than 1 square inch, with minimum edges radii of 0.125 inch. All controls shall have a maximum extension from the panel of 1 inch.

"S3.3 Controls not meeting S3.1 or S3.2 shall be constructed of material which will deflect within 0.375 inch of the panel or detach by a force of 90 pounds leaving no residual protrusions beyond the panel surface on which mounted.

"[Federal Standard No. 515/19]

"ASH TRAYS AND LIGHTERS FOR AUTOMOTIVE VEHICLES

"S1. *Purpose and scope.* This standard establishes the location and construction of ash trays and lighters when installed in automotive vehicles to afford a reasonable degree of protection for front and rear seated occupants wearing type 1 seat belt assemblies.

"S2. *Application.* This standard applies to sedans, carryalls, and station wagons. 14228

"S3. *Requirements.* Injury potential shall be minimized by locating, constructing, or mounting ash trays and lighters in such a manner as to minimize the likelihood of injury to an occupant's head, torso, or leg upon impact. The impact area for both front and rear seats shall be established through the use of type 1 seat belt assembly restrained manikins or other test devices having the equivalent to 'H' point to top-of-head dimensions of 33 inches and 29 inches. The impact area shall be that included between the arcs formed by the top-of-head point and torso when each device is swung forward and also 90 degrees to each side of the longitudinal axis through each normal seating position and the forward movement of the knees and legs of outside occupants. This area to be determined with front seat in all normal positions.

"S3.1 Ash trays and lighters located away from or shielded from the impact area or

recessed within the panel or armrest in such a manner to minimize the likelihood of contact of the head, torso or leg of lap belted occupants shall be considered to provide a reasonable degree of protection.

"S3.2 Ash trays not meeting S3.1 shall have a contact area of not less than 2.0 square inches with a minimum edge radius of 0.125 inch. Lighters not meeting S3.1 shall have a contact area of not less than 1.0 square inch with a minimum edge radius of 0.125 inch and maximum extension from the panel of not more than 1 inch.

"S3.3 Ash trays and lighters not meeting S3.1 or S3.2 may be constructed of material which will either deflect flush within not more than 0.375 inch of the panel or be pushed flush with the surface or detach from its mounting by the application of a force not to exceed 60 pounds.

"[Federal Standard No. 515/20]

"ARMRESTS FOR AUTOMOTIVE VEHICLES

"S1. *Purpose and scope.* This standard establishes requirements for armrests when installed in automotive vehicles to afford a reasonable degree of protection for front and rear seated occupants wearing type 1 seat belt assemblies.

"S2. *Application.* This standard applies to sedans, carryalls, station wagons, and light trucks up to 10,000 pounds G.V.W.

"S3. *Requirements.* Injury potential shall be minimized by constructing and mounting the arm rests in such a manner as to minimize or spread the area of contact of the body with any rigid elements of the arm rests. Occupant protection area for both lateral and longitudinal impact shall be determined by the use of a type 1 lap belt restrained three dimensional 95th percentile male manikin or other equivalent test device for both rear and front seats with the front seat in all normal positions.

"S3.1 The inside exposed surface of the arm rests shall be substantially vertical. In any normal position of the seat, the substantially vertical surface of the arm rest shall provide an area of broad contact with the pelvic region of not less than 2.0 inches vertically. The top and sides of the arm rests shall be covered with energy absorbing material, if not constructed of such materials. The arm rests shall not have any sharp, narrow, or protruding rigid edges in the contact area exposed or under the energy absorbing material. The top and sides of the mounting bracket shall not have any rigid edges of less than 0.750 inch radius.

"S3.2 Arm rests not meeting S3.1 shall be constructed of flexible material which will deflect toward the panel and provide a resultant contact area of the pelvic region of no less than that specified in the preceding.

"S3.3 Accessories or equipment attached to the arm rests shall meet the safety requirements applicable to such equipment or accessories and shall not nullify the injury reducing intent of any of the preceding.

"[Federal Standard No. 515/21]

"PADDING FOR AUTOMOTIVE SEAT BACKS

"S1. *Purpose and scope.* This standard establishes requirements for seat back frames to be so constructed as to absorb and dissipate energy imparted to top and back by the upper torso, limbs, and head of forward facing passengers restrained by type 1 seat belts seated in rear thereof in the event of collision.

"S2. *Application.* This standard applies to sedans, school buses, carryalls, station wagons, and to light trucks up to 10,000 pounds gross vehicle weight with provisions for forward facing passenger seating within the cab in rear of the front seat. The guardrail behind the driver's seat in school buses shall be considered as a seat back frame for the purpose of this standard.

"S3. *Requirements.*

"S3.1 The top and back of the front seats in sedans, the top of the back of forward facing seats, except the rear-most seat, in carryalls and station wagons, the top and backs of all forward facing seats in school buses, except the driver's seat and the rear-most seats, and the guardrail behind the driver's seat in school buses, shall be so constructed and padded with slow return impact absorbing material as to limit the force buildup on that portion of the human body coming in contact therewith, to a maximum of 80 gs in 60 milliseconds at an impact velocity rate of 22 feet per second, excluding the first 3 milliseconds of the time curve.

"S3.2 The specific areas to be padded shall be determined by the use of type 1 seat belt assembly restrained manikins or other test devices having 'H' point to top-of-head dimensions of 33 inches and 29 inches. These manikins shall be swung through a vertical arc simulating the lap-belted occupant in each seating position, with the front seat in the rear-most position. They shall also be swung through a 45 degree angle to each side of the longitudinal axis of the vehicle. The arc plane so described shall establish the seat top and back areas under consideration in this standard. The headrest shall be considered if applicable. Seat spacing in school buses shall be established at 26 inches for test purposes.

"[Federal Standard No. 515/22]

"HEADRESTS FOR AUTOMOTIVE VEHICLES

"S1. *Purpose and scope.* This standard establishes the requirements for front seat headrests in passenger carrying vehicles to afford a reasonable degree of protection from neck injuries (whiplash) in the event of a rear-end collision.

"S2. *Application.* This standard applies to sedans and station wagons. (Outside seating positions of front seats.)

"S3. *Standard characteristics.* The Society of Automobile Engineers Inc., Manikins For Use in Defining Vehicle Seating Accommodations, SAE J826, forms a basis in part for this Federal Standard.

"S3.1 *Definition.*

"S3.1.1 *Headrest.* A well padded area provided for head support.

"S3.2 *General.* The headrest may be designed as an extension of the seat back or an attachment to the seat back. The headrest may or may not provide for transversely adjustable mounting. If a transversely ad-

justable mounting is not provided, the width specifications in S3.3.1 shall apply.

"S3.3 *Requirements.*

"S3.3.1 The minimum width of the headrest shall be 10 inches and the average width shall be at least 12 inches, both based on the forward facing surface that can be contacted by the head of the occupant. The top of the headrest shall be at least 25 inches above the 'H' point of the three dimensional manikin (SAE J826).

"S3.3.2 The headrest, including any supporting structure that can be contacted by the head of an occupant of the vehicle, shall be constructed of or covered with a material of impact-absorbing qualities on all outer surfaces.

"S3.3.3 Structural deflection of the headrest resulting from contact in rear-end collisions is allowable, except that rebound action shall be minimized. The headrest and its supporting structure shall have sufficient strength to withstand a force no less than 200 pounds in either fore or aft direction without structural failure, although a limited amount of permanent distortion is permissible.

"[Federal Standard No. 515/23]

"SIDE MARKER DEVICES FOR AUTOMOTIVE VEHICLES

"S1. *Purpose and scope.* This standard establishes requirements for side marker systems to assure notice and recognition of vehicles from laterial positions during darkness and inclement weather.

"S2. *Application.* This standard applies to sedans, carryalls, and station wagons.

"S3. *Requirements.* The side marker systems shall consist of either an independent electrical system or an electrical system, in combination with or utilizing head and/or tail lamps, or a reflective system, or a combination of both electrical and reflective systems. The side marker device housings or mounting plates shall be antitrust material, or sufficiently plated or finish coated to be noncorrosive. As applicable, these requirements shall conform to the Uniform Vehicle Code, Chapter 12. The lateral included angles of visibility of the side markers shall be from the lateral angle toward the front of the vehicle when head lamps are no longer visible, to the lateral angle toward the rear of the vehicle when tail lamps become visible.

"S3.1 *Electrical side marker devices.* The electrical side marker system shall be securely mounted. The system lamps shall be a minimum of one at or near the front and one at or near the rear edges on each side of the vehicle. The mounting height shall be not less than 16 inches measured from the center of such lamp to the level ground upon which the vehicle stands without a load. The electric side marker lamp colors shall be white to amber for the front and red for the rear and they shall be steady burning simultaneously with the head and tail lamps and parking lamps. The electric lamps shall be capable of being distinguished under normal atmospheric conditions and at the time lights are required to provide recognition at all distances between 500 and 50 feet from the lateral sides of the vehicle. Minimum photometric candlepower shall be in accordance with table 1, SAE Standard J592.

"S3.2 *Reflective side marker devices.* The reflective side marker devices shall be securely mounted two on each side, one at or near the front and one at or near the rear edge of the fenders or body of the vehicle, as applicable. The reflective devices shall be mounted at a minimum height of 16 inches measured from the center of the device to the level ground upon which the vehicle stands without load. Reflective devices shall be of such size and have such characteristics as to be readily visible at night time from all distances and at the lateral angles specified within 600 feet to 100 feet from the vehicle when illuminated by the beams of head lamps of the observer's vehicle. Minimum candlepower reflectance measurement shall be in accordance with class A, SAE Standard J594c.

"S3.2.1 *Reflective device colors.* The color of the reflective devices shall be white to amber for the front and red for the rear of the vehicle.

"S3.3 *Electrical and reflective side marker devices.* The electrical and reflective type side marker device, when combined, shall conform to the preceding paragraphs. 14229

"[Federal Standard No. 515/24]

"REAR WINDOW DEFOGGER FOR AUTOMOTIVE VEHICLES

"S1. *Purpose and scope.* This standard establishes requirements for rear window defogging, designed to achieve the most practical vision through the rear window.

"S2. *Application.* This standard applies to sedans.

"S3. *Requirements.* The rear window defogger system shall be permanently installed, to provide for the removal of fog from inside the rear window caused by atmospheric conditions and passenger loading conditions, in the vehicle. The system shall be of a capacity to clear a minimum area of 75 percent of the operators viewed area of the rear window as reflected in the rear view mirror.

"S3.1 *Testing.* The defogger system shall remove fogging under any atmospheric condition and with full passenger loading within a 10-minute period.

"[Federal Standard No. 515/25]

"ROLL BARS FOR AUTOMOTIVE VEHICLES

"S1. *Purpose and scope.* This standard establishes requirements and test procedures for roll bars installed on specific automotive vehicles to afford a reasonable degree of occupant protection in a rollover.

"S2. *Application.* This standard applies to light trucks up to 10,000 pounds G.V.W. of the utility type with open bodies, and those with enclosures made of canvas, metal, fiber glass, or plastic.

"S3. *Requirements.* The roll bar shall be designed for each manufacturer's product to establish the width, height, clearances, and proper strengths of the structural members required. The roll bar shall be constructed to guard the operator and passenger compartment, or compartments, within a rigidly attached structural bar unit assembly. The strength and size shall be as required for each

vehicle type and weight with the specified number of occupants for which the vehicle is designed to be used and for their maximum protection without critical deformation or critical encroachment on the operator or passenger compartments. To the extent practical, the roll bar structure shall be located to preclude contact by the heads of belted occupants. If this is not possible, the roll bars shall be covered with energy absorbing cushioning material. The roll bar structure designs shall not impair the vehicle operator's vision or body movements while operating the vehicle. Unless otherwise specified, vehicle manufacturers may eliminate a fold down windshield on the utility truck and incorporate a new designed fixed windshield strengthened to become part of a roll bar structure.

"S3.1 *Testing.* The testing requirements for the area of critical encroachment shall be measured from the 'H' point of a manikin with 'H' point to top-of-head dimension of 33 inches. Performance requires a manikin, seat belt restrained, for each passenger and operator position in the vehicle and with the vehicle tested to the SAE Recommended Practice of SAE J857. For the hill rollover test, specific speed of 50 miles per hour shall be used.

"[Federal Standard No. 515/26]

"FUEL TANKS AND TANK FILLER PIPES FOR AUTOMOTIVE VEHICLES

"S1. *Purpose and scope.* This standard establishes requirements for the integrity and security of fuel tanks and tank filler pipes for automotive vehicles.

"S2. *Application.* This standard applies to sedans, buses, station wagons, carryalls, and light trucks up to 10,000 pounds G.V.W. Excluded are utility vehicles of the three-wheel type.

"S3. *Standard characteristics.* The SAE Recommended Practice for Barrier Collision Tests, SAE J850 forms the basis for section S3.1 of this standard as modified in S3.1.1.

"S3.1 Fuel tanks and tank filler pipes shall be constructed so that they will not rupture, be totally displaced from installed positions, or discharge fuel from the filler pipe, under any condition of tank capacity loading, when subjected to longitudinal and/or lateral acceleration/deceleration forces developed at their installed position, during the SAE J850 barrier collision test at 30 miles per hour.

"S3.1.1 Other testing methods, such as high capacity acceleration facilities, giving equivalent results, may be utilized in lieu of the SAE J850 barrier collision test."

[F.R. Doc. 66-2473; Filed, Mar. 7, 1966; 9:36 a.m.]

Mr. MAGNUSON. I am sure that everyone here, if they do not already know, would be very interested to know what can be done to make a motor vehicle more safe. I presume that the Secretary will rely upon the experience of the Government in setting the interim standards.

On the permanent standards, which will apply to every automobile, we have provided, I believe, a very sensible, fair, and adequate procedure among the manufacturers, the Governors of the States, the highway patrol, people involved in safety, and even appropriate legislative committees if the States that have difficulty in connection with safety standards in their States. There is ample provision for conferences, cooperation, testing, and meetings with the Secretary before he arrives at a decision on a permanent standard over and above these 26 items that would be mandatory once the Secretary issues the standard. It would ordinarily take effect within 6 months to a year after the effective date of the decision.

I believe that all witnesses were unanimous in their agreement that the standard-setting procedures were adequate and fair to everyone concerned.

. . . . . .

The effect on State laws is quite important and is what makes a bill of this kind so difficult. Primarily, in the field of highway traffic safety, the States have important authority and should continue to exercise such authority. They determine the age of drivers, issuing drivers' licenses, inspections, speed laws, those regulations designed to reduce to a minimum the number of bad drivers on the highways.

I guess we will never get rid of bad drivers on the highways, but what we are trying to do here is to insure that, even if a bad or a drunken driver runs into someone who is a good driver, the vehicles themselves will afford some protection for both drivers, and reduce the deaths and the terrible injuries which are inflicted on Americans every day—even at the very moment than I am speaking. 14230

The States have great responsibility in the field of highway traffic itself. There is no intention by the committee or by anyone associated with the bill, to say to the States that they should not continue to do more in this area.

Some States have more stringent laws than others, but concerning the car itself, we must have uniformity. That is why the bill suggests to States that if we set a minimum standard, a car complying with such standard should be admitted to all States. Otherwise, the manufacturers would have to make at least 30 different models to comply. The centralized, mass production and high volume character of the manufacturing industry requires that the safety standards be not only strong and adequately enforced but, as I say, also uniform. I would suspect that the States, if these provisions are going to be what I think

they are going to be, would be thoroughly satisfied with the uniform, mandatory safety standards that would be on the car.

The States would be permitted to set more stringent requirements in matters of their own procurement. In this case, they might set an example such as we set in GSA. Compliance with Federal standards would not necessarily shield any person from broad liability at the common law. The common law on product liability still remains as it was.

Congressional Record—Senate
June 24, 1966, 14245

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. LAUSCHE. Mr. President, the bill states that the Secretary of Commerce, in fixing standards of safety for the manufacture of automobiles, shall consider "whether any such proposed standard is reasonable, practicable, and appropriate for the particular type of motor vehicle or item of motor vehicle equipment for which it is prescribed."

In the committee, an extensive discussion took place concerning the right of the Secretary to consider the costs that would be entailed in promulgating the adoption of certain types of equipment. It was argued by some that the language did not allow the Secretary to consider the cost that would be added to the automobile. Others argued that the language was adequate, and the words that he "shall consider what is practicable" included the right to consider the costs.

It was finally agreed to write into the report a certain understanding which was to be used as a guide in interpreting the language used.

I now ask the manager of the bill, the Senator from Washington [Mr. MAGNUSON], to point out and read the language in the bill that is intended to aid in the interpretation of what was meant by the committee.

Mr. MAGNUSON. The Senator from Ohio is correct. The committee considered this question at some length. Several members of the committee thought that the reasonableness of cost and feasibility would be included in the words "standards shall be reasonable, practical, and appropriate." So we say in the report, to clear up this question once and for all:

In promulgating any standard, the Secretary is required to consider whether such standard is reasonable, practicable and appropriate for the particular type of motor vehicle or item of motor vehicle equipment for which it is prescribed, and consider, also, the extent to which such standard would contribute to carrying out the purposes of the act (secs. 102(c) and 103(c)). The Secretary is not expected to issue a standard covering every component and function of a motor vehicle, but only for those vehicle characteristics that have a significant bearing on safety.

The General Counsel of the Commerce Department stated in a letter to the committee:

"The test of reasonableness of cost, feasibility and adequate lead time"—

Which are important—

"should be included among those factors which the Secretary could consider in making his total judgment."

Mr. LAUSCHE. There is one more paragraph immediately following what the Senator has read.

Mr. MAGNUSON. Yes.

The committee intends that safety shall be the overriding consideration in the issuance of standards under this bill. The committee recognizes, as the Commerce Department letter indicates, that the Secretary will necessarily consider reasonableness of cost, feasibility and adequate leadtime.

Mr. LAUSCHE. The language just read by the chairman of the Committee on Commerce is the language which the committee decided to include in the report as an aid in interpreting the language of the bill.

Mr. MAGNUSON. That is correct.

Mr. LAUSCHE. It interprets the words "reasonableness, practicability, and appropriateness."

I thank the Senator from Washington.

Congressional Record—Senate
June 24, 1966, 14253

Mr. MAGNUSON. Mr. President, I yield myself 1 minute.

As we complete our consideration of the Traffic Safety Act, I think a word of praise for President Johnson is in order.

On March 2, 1966, the President, in his eloquent and forceful transportation message, told the Congress that an all-out attack on the traffic safety problem must be mounted. In the President's words:

The people of America deserve an aggressive highway safety program.

The same day, we received the administration's traffic safety bill—the first comprehensive Federal measure in history dealing with all aspects of the safety problem—the driver, the car, the road, and the research needed to probe deeply and systematically into the causes of accidents.

The President wants to give to the American people the very best, thorough, and complete safety legislation that can be devised. As a sign of his deep concern and interest, he asked the White House to work very closely with members of my committee staff in developing the essentials of the excellent measure we are discussing today.

I particularly want to single out Special Assistant to the President Joe Califano who, together with the committee counsel, worked long and hard to shape and refine this legislation, and to resolve the many complex issues involved. That was the kind of partnership that has resulted in the outstanding measure we have before us today.

As the President told me when the bill was reported out of the Commerce Committee—

He wants strict nationwide, mandatory safety standards.

He wants these standards to prevail over any State standards.

He wants these standards to go into effect just as soon as practicable.

Through the support, encouragement, and leadership of the administration, this traffic safety measure will become a reality. There should be no doubt about this in the minds of anyone. It will fulfill the pledge made by President Johnson in his 1966 state of the Union message to give the American people legislation to "arrest the destruction of life and property on our highways."

Congressional Record—Senate
August 31, 1965, 21488

Mr. MAGNUSON.

Mr. President, one final word, about cost.

. . . . . .

Actual cost data are a carefully guarded secret of the automobile manufacturer. However, a wealth of significant information relative to these costs is available. And from this information some very interesting observations can be made.

First. The 1966 models sold by the Big Four included as standard equipment all but 2—dual brakes and anti-air-pollution control—of the 17 items required by GSA specifications on 1967 models purchased by the Government. This is supported by the testimony of Mr. John Bugas, a Ford Motor Co. vice president, who testified on behalf of the automobile manufacturers in the hearings before the Senate Commerce Committee this April.

Second. Assuming that the substance of the industry's 1967 "safety package," which will be standard on all cars, will include all of the 17 GSA specifications except the air-pollution-control system, the only addition to items already standard on 1966 models will be dual brakes. Our calculations reveal that the manufacturer's cost for dual brakes should not exceed something between $8 and $10. And it should be mentioned that dual brakes were standard equipment on all 1966 American Motors cars and on 1966 Cadillacs.

Senate Report 1301, Page 6

Subsequently, on or before January 31, 1968, and thereafter at least once every 2 years, as Federal safety research and development matures, the Secretary is directed to issue new and revised standards (sec. 103(a)). Unlike the General Services Administration's procurement standards, which are primarily design specifications, both the interim standards and the new and revised standards are expected to be performance standards, specifying the required minimum safe performance of vehicles but not the manner in which the manufacturer is to achieve the specified performance (sec. 101(b)). Manufacturers and parts suppliers will thus be free to compete in developing and selecting devices and structures that can meet or surpass the performance standard.

The Secretary would thus be concerned with the measurable performance of a braking system, but not its design details. Such standards will be analogous to a building code which specifies the minimum load-carrying characteristics of the structural members of a building wall, but leaves the builder free to choose his own materials and design. Such safe performance standards are thus not intended or likely to stifle innovation in automotive design.

In promulgating any standard, the Secretary is required to consider whether such standard is reasonable, practicable and appropriate for the particular type of motor vehicle or item of motor vehicle equipment for which it is prescribed, and consider, also, the extent to which such standard would contribute to carrying out the purposes of the act (secs. 102(c) and 103(c)). The Secretary is not expected to issue a standard covering every component and function of a motor vehicle, but only for those vehicle characteristics that have a significant bearing on safety.

The General Counsel of the Commerce Department stated in a letter to the committee:

> The tests of reasonableness of cost, feasibility and adequate lead time should be included among those factors which the Secretary could consider in making his total judgment.

The committee intends that safety shall be the overriding consideration in the issuance of standards under this bill. The committee recognizes, as the Commerce Department letter indicates, that the Secretary will necessarily consider reasonableness of cost, feasibility and adequate leadtime.

In determining whether any proposed standard is "appropriate" for the particular type of motor-vehicle equipment or item of motor-vehicle equipment for which it is prescribed, the committee intends that the Secretary will consider the desirability of affording consumers continued wide range of choices in the selection of motor vehicles. Thus it is not intended that standards will be set which will eliminate or necessarily be the same for small cars or such widely accepted

models as convertibles and sports cars, so long as all motor vehicles meet basic minimum standards. Such differences, of course, would be based on the type of vehicle rather than its place of origin or any special circumstances of its manufacturer.

Executive Communications

Contains nothing helpful.

As Introduced

As H.R. 13228 in the House and S. 3005 in the Senate:

FEDERAL MOTOR VEHICLE SAFETY STANDARDS

SEC. 102. (a) The Secretary shall, from time to time, review existing public and private motor vehicle safety standards and the degree of effective compliance existing with respect to such standards. If, at any time after two years from the date of the enactment of this Act, he determines that there is a need for a new or revised motor vehicle safety standard and that—

(1) no motor vehicle safety standard exists;

(2) any existing motor vehicle safety standard is inadequate to protect the public against unreasonable risk of accidents or of death, injury, or property damage resulting therefrom, as defined in section 101 (a);

(3) any existing motor vehicle safety standard is not based upon all measurements of performance necessary to the achievement of motor vehicle safety; or

(4) the degree of effective compliance with respect to any existing motor vehicle safety standard is insufficient to achieve adequate motor vehicle safety; then the Secretary is authorized to establish and issue by order, in accordance with section 4 of the Administrative Procedure Act, appropriate Federal motor vehicle safety standards for motor vehicles or motor vehicle equipment.

Subsection 103(b) — As Enacted

(b) The Administrative Procedure Act shall apply to all orders establishing, amending, or revoking a Federal motor vehicle safety standard under this title. 60 Stat. 237. 5 USC 1001 note. 2

Conference Report

Contains nothing helpful.

House Passed Act

Same as enacted Act.

House Debate

Congressional Record—House
August 17, 1966, 19649 and 19650

Mr. DINGELL. If the gentleman will permit, I would point out that the chairman has already indicated in the colloquy with me that the language in the bill is directed at assuring that the Secretary will take very carefully into consideration the problems of leadtime—and not in an unreasonable or improper fashion, but certainly to see to it that the industry has reasonable opportunity to present their views, and to comply with the requirements in a reasonable fashion.

Mr. CUNNINGHAM. I understand that. I heard the colloquy, and I listened to it very carefully. But what we say here and what the Secretary does after he gets this bill are two different things.

I just wondered whether the gentleman from Michigan who is primarily concerned with this, and as his people

are—the people who work for these manufacturers and the manufacturers—I wonder whether he feels that something more definite ought to be done in this regard, and if he would care to offer an amendment to assure that these people are going to have time to make these changes, and produce the automobiles, without serious financial loss?

Mr. DINGELL. I would say to my good friend that I believe the legislation as drawn is reasonable legislation. I recognize that the auto industry, which is the largest single employer in my district, is going to be compelled to conform to good manufacturing practices, and they are simply going to have to manufacture good, safe motor vehicles. I would say they have made a sincere effort over the years to carry out this purpose. I think there is no evidence on record that is in any way persuasive that they have in any way deliberately or willfully or wantonly or negligently or carelessly manufactured unsafe motor vehicles. The only thing they seek is legislation which will afford them reasonable time to comply with the safety standards that the Secretary is going to impose. I am satisfied that he will on the basis of the colloquy with my chairman, and also on the basis of my own reading, that it is fully intended that, where a reasonable man would say that these requirements cannot be complied with within the time, that the Secretary not only has the authority, but that he will use that authority to see it to that adequate time is afforded to the industry to comply.

Mr. CUNNINGHAM. If the gentleman will yield further, I will agree, but I will say that they are not always reasonable.

Mr. DINGELL. I can say to the gentleman that I can conceive of a situation where possibly some Secretary of Transportation or Secretary of Commerce would not behave reasonably and well under the circumstances. But I would rather point out to my good friend that such is going to be a rarity, and we have put into the bill for this very reason a requirement of the Administrative Procedure Act which must be complied with by the Secretary, and a clear authorization for the industry to appeal in the event the Secretary acts arbitrarily or capriciously, or that he overreaches the ordinary and reasonable bounds for good judgment and reasonable behavior.

Mr. CUNNINGHAM. My only interest was to determine, since the gentleman comes from an area that is primarily concerned, whether he is satisfied. If he is satisfied, it is all right with me. *19650*

Mr. DINGELL. As long as the bill is interpreted reasonably, I do not believe I could assert any objection either to the legislation or to the manner in which it happens to be carried out. That, of course, was the principal purpose of my taking the floor.

Mr. MOSS. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from California.

Mr. MOSS. It is clearly not the intent that unreasonable standards be imposed.

Mr. DINGELL. The gentleman is absolutely correct.

Mr. MOSS. It is not intended by the colloquy the gentleman has engaged in with such finite care that we place the stamp of approval upon a dragging of the feet by the industry.

Mr. DINGELL. The gentleman is absolutely correct on that point. I would not look with any kindness, nor would the committee, on a dragging of the feet or any rascality of that kind, and I am satisfied that the industry would not engage in that kind of practice.

House Committee Report

House Report 1776, Page 16

Administrative Procedure Act.—Section 103(b) of the reported bill makes the Administrative Procedure Act applicable to all orders establishing, amending, or revoking a Federal motor vehicle safety standard under this title.

The Secretary may utilize either the informal rulemaking procedures of section 4 of the APA or the more formal and extensive procedures of that act, whichever is more appropriate in a given situation.

He must, however, establish a record which shall be the basis for his actions.

Senate Passed Act

Congressional Record—Senate June 24, 1966, 14256 and 14257

Interim Federal motor vehicle safety standards

SEC. 102. (a) Subject to the provisions of this section, on or before January 31, 1967, the Secretary shall prescribe, by order, and publish in the Federal Register interim motor vehicle safety standards for motor vehicles and motor vehicle equipment, which shall be based upon existing public and private safety standards.

(b) Interim standards prescribed pursuant to this section shall become effective on a date specified by the Secretary which shall be no sooner than one hundred and eighty days nor later than one year from the date on which such standards are published. Such standards shall remain in effect until new and revised Federal motor vehicle safety standards become effective pursuant to section 103.

(c) In prescribing interim standards under this section, the Secretary shall—

(1) consult with the Vehicle Equipment Safety Commission, with other State and interstate agencies (including legislative committees), with motor vehicle and motor vehicle equipment manufacturers, and with scientific, technical, business, and consumer organizations, as he deems appropriate.

(2) consider, in the light of available technical information, whether any such proposed standard is reasonable, practicable, and appropriate for the particular type of motor vehicle or item of motor vehicle equipment for which it is prescribed; and

(3) consider the extent to which such standards will contribute to carrying out the purposes of this Act.

Revised Federal motor vehicle safety standards

SEC. 103. (a) Subject to the provisions of this section, on or before January 31, 1968, the Secretary shall prescribe, by order, in accordance with sections 3, 4, and 6 of the Administrative Procedure Act (5 U.S.C. 1002, 1003, 1005) new and revised motor vehicle safety standards for motor vehicles and motor vehicle equipment.

(b) Standards prescribed pursuant to this section shall become effective on a date specified by the Secretary which shall be no sooner than one hundred eighty days nor later than one year from the date on which such standards are published, except that, for good cause shown, the Secretary may specify a later effective date, and in such event he shall publish his reasons therefor.

(c) In prescribing standards under this section, the Secretary shall—

(1) consider relevant available motor vehicle safety data, including the results of research, development, testing and evaluation activities conducted pursuant to this Act;

(2) consult with the Vehicle Equipment Safety Commission, and such other State or interstate agencies (including legislative committees) as he deems appropriate, which consultation shall include (A) informing the Commission and other agencies of all proposed Federal vehicle safety standards and amendments thereto and (B) affording such Commission and other agencies an opportunity to study and comment on such standards and amendments;

(3) consider whether any such proposed standard is reasonable, practicable and appropriate for the particular type of motor vehicle or item of motor vehicle equipment for which it is prescribed; and

(4) consider the extent to which such standards will contribute to carrying out the purposes of this Act.

(d) The order prescribing standards pursuant to this section shall include as part of the concise general statement of the basis and purpose of such standards (required by section 4(b) of the Administrative Procedure Act) the following:

(1) A statement of the principal purpose of any such standard, written in language capable of being understood by the general public;

(2) Wherever appropriate to a particular standard, a statement of the range of operating conditions for which such standard is deemed effective; and

(3) A technical statement which sets forth the data necessary to an evaluation of the standard by persons competent in the particular technical area involved.

(e) For the purposes of this section interested persons afforded an opportunity to participate in the rule-making process to prescribe or amend standards under this section shall include manufacturers, distributors, and dealers of motor vehicles and motor vehicle equipment, public and private organizations and individuals engaged to a significant extent in the promotion or study of motor vehicle safety and automobile insurance underwriters.

(f) Nothing in this title or in the Administrative Procedure Act shall be construed to make sections 7 and 8 of such Act applicable to proceedings under this title.

(g) In prescribing standards under this section for any motor vehicle of substantially

14257 the same type and specifications as a vehicle subject to safety regulations under part II of the Interstate Commerce Act, as amended (19 U.S.C. 301 et seq.), the Secretary shall not adopt standards which differ in substance from the safety regulations issued pursuant to such Act.

(h) The Secretary shall review the motor vehicle safety standards prescribed pursuant to this section at least once every two years, and may, to the extent necessary to carry out the purposes of this Act, by order, amend, such standards in accordance with the procedural requirements set forth in this section. Each such amendment shall become effective on the date specified by the Secretary which shall be no sooner than one hundred and eighty days nor later than one year from the date on which such amendment is published, except that, for good cause shown, the Secretary may specify a later effective date, and in such event he shall publish his reasons therefor.

Senate Debate

Congressional Record—Senate August 31, 1966, 21487

Mr. MAGNUSON.

The Senate bill spelled out in some detail certain of the administrative procedures to be followed in the promulgation of standards; while the House bill made the provisions of the Administrative Procedure Act generally applicable. It was the judgment of the conferees that there were no substantial differences between the procedures in the bills with respect to such matters as the requirements for participation of interested persons in the rulemaking process.

The Senate had specified that issued standards be supported by a technical statement and an explanation of its principal purpose that is capable of being understood by the general public. These specific conditions were deleted by the conferees for simplicity, but it was agreed that they were consistent with the general meaning of section 4(b) of the Administrative Procedure Act.

With respect to sections 7 and 8 of the Administrative Procedure Act, which apply to formal hearings, the Senate bill had expressly provided that these sections would not apply to standard-setting procedures under the act. It was the clear understanding of the conferees, however, that under the language of the House bill, the Secretary will utilize the informal rulemaking procedures of section 4 of the Administrative Procedure Act; and that he need hold a formal hearing under sections 7 and 8 only if he determines that such hearing is desirable.

Senate Committee Report

Senate Report 1301, Pages 7 and 8

PROCEDURES FOR THE PROMULGATION OF SAFETY STANDARDS

In establishing standards, the Secretary is required to comply with the rulemaking procedures of the Administrative Procedure Act (sec. 103(a)). (The bill contemplates a streamlined rulemaking process for the establishment of interim standards (sec. 102).) The Secretary is not required to comply with sections 7 and 8 of APA requiring formal hearing. The APA (sec. 103(f)), must maintain a record of the evidence and comments on which he bases the standards (sec. 118).

The Secretary is directed to consult with the Vehicle Equipment Safety Commission, and such other State and interstate agencies,

including legislative committees, as he deems appropriate (sec. 103(c)), in order to utilize the experience existing in the States and to encourage them to adopt standards which are identical to the Federal ones (sec. 104). The committee is mindful of the contribution which the States have made toward the development of vehicle safety standards over the years and expects this contribution to continue in a consultative role. The Vehicle Equipment Safety Commission is specifically mentioned because 44 States and the District of Columbia are members of this organization, and it is the major existing agency which has authority to propose uniform vehicle safety standards for the member States to consider for adoption. It is, of course, not intended that such consultation should delay or otherwise impede the Secretary's development and promulgation of standards.

The Secretary would be expected to give public notice of any proposed new or revised safety standards and to notify directly the Vehicle Equipment Safety Commission, and such other State or interstate agencies (including legislative committees) as he deems appropriate, and to set a reasonable time for public comment to give the Commission, and other agencies and interested persons opportunity to study and comment on the proposals (sec. 103(c)(2)).

In addition, the bill expressly includes as persons to be afforded an opportunity to participate in the standard-setting process, manufacturers, distributors and dealers of motor vehicles and motor vehicle equipment, public and private organizations, individuals engaged to a significant extent in the promotion or study of motor vehicle safety, and automobile insurance underwriters (sec. 103(e)).

In issuing each standard, the Secretary is expressly required to publish a statement of basis and purpose which provides a nontechnical explanation sufficient to enable the public to understand the purpose and, where appropriate, the limitations of the standard's coverage together with a technical statement setting forth the data necessary to an evaluation of the standard by competent technical personnel (sec. 103(d)). 8

Any person who believes himself to be adversely affected by the promulgation of a standard may obtain judicial review, in accordance with section 10 of the Administrative Procedure Act (sec. 105). The Administrative Procedure Act sets forth the long-established criteria for judicial review of agency action and provides that agency findings shall be upheld if supported by substantial evidence on the record considered as a whole. That act also authorizes the reviewing court to stay the agency action pending review to the extent necessary to prevent irreparable injury.

Executive Communications

Contains nothing helpful.

As Introduced

As H.R. 13228 in the House and S. 3005 in the Senate:

FEDERAL MOTOR VEHICLE SAFETY STANDARDS 4

SEC. 102. (a).....

(4) the degree of effective compliance with respect to any existing motor vehicle safety standard is insufficient to achieve adequate motor vehicle safety; then the Secretary is authorized to establish and issue by order, in accordance with section 4 of the Administrative Procedure Act, appropriate Federal motor vehicle safety standards for motor vehicles or motor vehicle equipment.

(c) The Secretary, from time to time, and subject to 5
section 4 of the Administrative Procedure Act, may by order amend or withdraw Federal motor vehicle safety standards issued under this section.

Subsection 103(c) — As Enacted

(c) Each order establishing a Federal motor vehicle safety standard shall specify the date such standard is to take effect which shall not be sooner than one hundred and eighty days or later than one year from the date such order is issued, unless the Secretary finds, for good cause shown, that an earlier or later effective date is in the public interest, and publishes his reasons for such finding. Effective date. 2

Conference Report

House Report 1919, Pages 15 and 16

EFFECTIVE DATES OF STANDARDS

Subsection (c) of section 103 of the House amendment requires each order establishing a safety standard to specify the date on which it is to take effect which is not to be sooner than 180 days or later than 1 year from the date the order is issued, unless the Secretary finds an earlier or later effective date is in the public interest, and publishes his reasons for such finding.

Subsection (c) of section 103 of the proposed conference substitute is the same as the House amendment with the exception that in order to shorten or lengthen the minimum or maximum dates within which a standard must take effect the Secretary must find "for good cause shown" that such earlier or later date is in the public interest and publish his reasons for this finding.

A conforming change is also required to be made in section 103(e) of the proposed conference substitute which, except for such conforming change, is the same as section 103(e) of the House amendment (relating to effective date of amendments and revocations of standards). 16

The House managers believe the inclusion of the phrase "for good cause shown" demonstrates that any party in interest is free to urge that an earlier or later effective date is in the public interest.

House Passed Act

Congressional Record—House August 17, 1966, 19670

"(c) Each order establishing a Federal motor vehicle safety standard shall specify the date such standard is to take effect which shall not be sooner than one hundred and eighty days or later than one year from the date such order is issued, unless the Secretary finds that an earlier or later effective date is in the public interest, and publishes his reasons for such finding.

House Debate

Congressional Record—House August 17, 1966, 19648-19650

Mr. DINGELL. Mr. Chairman, I want to thank my chairman for his kindness in yielding to me. There are a number of points I want to raise with respect to the contents of this legislation, particularly, I hope, dealing with questions of lead time which is one of vital importance to the industry which is one of the principal employers in the district that I have the honor to represent in Congress.

As the membership of the committee, and anyone else familiar with the industry knows, lead time is a most important matter. Modern cars are complex mechanisms, made up of over 14,000 interrelated parts. This complexity and the tooling and other requirements for high volume mass production necessitate a substantial period between an initial design concept and production. Currently it takes a period of 2 years or so in the industry to accomplish the necessary design, engineering and testing work to procure the materials and tooling and to lay out the production line. It also takes time to make changes. What seems to be a simple change to accomplish in one part or structure may necessitate a series of difficult changes or adjustments in others, and considerable time can be required for that, ranging from a few months to as much as 2 years or more. Because lead time is so important, it is one of the factors that the bill empowers and requires the Secretary to take into account in establishing standards, and the Secretary has stated that he will do so.

Thus the bill in section 103 requires that standards must be practicable and that the Secretary must consider whether they are reasonable, practicable, and appropriate for the particular type of vehicle or equipment for which they are prescribed. Obviously, a standard is not practicable or reasonable if it cannot be met by the best efforts of manufacturers within the constraints of time and technology. As the committee's report states, "Standards, of course, cannot be set in a vacuum," and the Secretary, in setting standards, is required to give consideration to "all relevant factors, including technological ability to achieve the goal of a particular standard as well as consideration of economic factors." Among those economic factors which the Secretary will have to consider is the matter of adequate lead time. As the Department of Commerce advised in a letter dated June 3, 1966, to the chairman:

> The tests of reasonableness of cost, feasibility and adequate lead time should be included among those factors which the Secretary could consider in making his total judgment.

I will appreciate the chairman's confirmation of this analysis.

Mr. STAGGERS. In response to the gentleman, I will say that section 103 requires the Secretary, as you can see, to establish safety standards, and says that they must be practicable and meet the need for motor vehicle safety and be stated in objective terms.

Mr. Chairman, as the committee report explains on page 16, this would require the consideration of all relevant factors, including technological ability to achieve the goal of a particular standard as well as consideration of economic factors.

And, Mr. Chairman, as to the effective date, section 103(c) of the reported bill provides that the Secretary may set a date earlier or later than the 180-day minimum or 1-year maximum, if he finds that an earlier or later date is in the public interest. This public interest is discussed on page 17 of the report. It is explained that the exception must be based on a finding that an earlier or later effective date may be fixed if it is in the public interest. This was added by the committee to provide the necessary flexibility for unusual situations.

Mr. Chairman, it is true as it should be, that the Secretary has the ultimate responsibility to set the effective date. However, full provision is made in the bill for full consultation and, obviously, he will have to consider among other things the ability of the manufacturers to meet the dates, and the economic impact upon the manufacturers if effective dates are not set with due regard to their leadtime requirements.

Mr. DINGELL. Mr. Chairman, I certainly thank the chairman of the Committee on Interstate and Foreign Commerce, the gentleman from West Virginia [Mr. STAGGERS], and as the chairman has so well stated, it is precisely because of this leadtime problem that the committee amended the original bill to authorize the Secretary to make the standard effective later than 1 year from its issuance if he finds that this is in the public interest—if, for example, a year is too short for compliance or compliance can be achieved only at exorbitant cost or other severe economic dislocation.

The explanation should satisfy any concern of the industry and the workers who depend upon it for their livelihood, many of whom are constitutents of my district. It takes no great knowledge of the industry to be aware that situations will undoubtedly arise where more than a year will have to be allowed for compliance—where it will be a physical or economic impossibility for all manufacturers to comply with a standard for all of their vehicles within one year. There simply may not be enough tooling and technology to do the job, or the cost of compliance on a crash basis may be so great as to price vehicles out of the mass market. Because of these tooling limitations and cost considerations, manufacturers do not make basic changes in all of their models each year. Instead.

the general industry practice is for a manufacturer to make basic model changes at intervals of three years or so for each of his vehicle lines, and to do so on a staggered annual basis so that
19649 each year he has one or more basic new models while face-lifting the others until their turn comes to be "rolled over" in the basic change cycle. Some changes which standards may require can, of course, be most efficiently and economically made in connection with basic model changes. Others of the "add-on" type could readily be made at the time of the annual model change, even when it is only of the face-lift variety. It would accordingly seem that, in general, standards should not be made effective earlier than the next model year and that the effective dates should ordinarily coincide with annual model changes, at least in the absence of some overriding considerations. That is the practice which has been followed with the GSA requirements and the exhaust emission standard program—they are timed to coincide with the annual model changes.

As I understand the bill and the chairman's remarks, these problems and practices of the industry are among the things which the Secretary will have to consider, along with safety, in deciding what standards to prescribe and when to make them effective, and that, depending upon the circumstances, they may influence him to allow more than a year for compliance.

The report explains that the requirement that the Secretary consider whether a standard is reasonable, practicable, and appropriate for a particular type of vehicle or equipment will allow the Secretary "to consider the reasonableness and appropriateness of a particular standard in its relationship to the many different types or models of vehicles which are manufactured." Could this mean, for instance, that standards for trucks would not necessarily be the same as standards for passenger cars? I have in mind the example of the GSA requirements which apply to passenger cars and some other vehicles, but do not apply to certain heavy trucks and other types of vehicles.

Mr. STAGGERS. Well, certainly, I believe that is understood.

Mr. DINGELL. And, of course, there would be a possibility of different standards for one type of passenger vehicle, such as a convertible, as opposed to the standards for a standard sedan, for example? Am I correct on that point?

Mr. STAGGERS. Obviously a difference in types of vehicles could require differences in standards.

Mr. DINGELL. However, we are confronted with a proposal which does impose the requirements that the time limitation be met, but for good cause the time limitation may be waived which would be the very obvious and difficult problem with which the manufacturers would be faced with regard to meeting the leadtime requirements when established for orderly and the reasonable economic production of these motor vehicles.

Also that we have established the pattern whereby we could have different standards for vehicles which are obviously directed for a different type of use. Am I correct?

Mr. STAGGERS. Yes. I might repeat for the gentleman's information that it states very plainly in the bill that if it is in the public interest, and he so finds, then he must come up in writing with what these reasons are.

Mr. MOELLER. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman.

Mr. MOELLER. You stated that there might be some differences in the standards set; is this correct?

Suppose, for example, a car manufacturer makes a small, so-called fun car—there is one made in my district. It is a little, one-cylinder outfit. Is it said that this man must follow the same safety standards that the manufacturers of the large cars such as the General Motors, Chrysler, and Ford, follow?

Mr. DINGELL. The gentleman just heard the colloquy between the chairman and me on the difference in standards.

Mr. MOELLER. In other words, there would be a distinction?

Mr. DINGELL. I must say that this still is not going to authorize the manufacturer of the one-cylinder car selling for $750 to market an unsafe automobile any more than it is going to authorize the manufacturer of a large, luxury-type motor vehicle selling for $5,000 or $6,000, to manufacture an unsafe vehicle. But because of the difference in weight and because of the difference in speed and because of the different potential use for that type of vehicle, I would say that the safety standards would not necessarily be as comprehensive, or as onerous, for that type of vehicle as they might be on the larger, heavier weight vehicle.

But this is a matter of judgment that the Secretary will have to exercise. He will still be required by this legislation to market a vehicle that would be safe under any reasonable standards or occasions of use.

The Chairman, the gentleman from West Virginia [Mr. STAGGERS] might wish to comment on that, being the chief officer of the committee.

Mr. STAGGERS. Mr. Chairman, I think the gentleman from Michigan has stated it very thoroughly.

Mr. CUNNINGHAM. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman.

Mr. CUNNINGHAM. Mr. Chairman, I think the gentleman from Michigan brings up a very serious problem that may be involved here. He comes from an area where this problem will present itself.

Mr. DINGELL. I might say to the gentleman that he is correct. I represent one of the largest single areas of automobile manufacture in the country.

Mr. CUNNINGHAM. Mr. Chairman, I do not know anybody in the automobile industry. I have not been in contact with them. But I have read in the papers where under this legislation there is going to be a tremendous problem involved in this so-called leadtime.

Mr. DINGELL. If the gentleman will permit, I would point out that the chairman has already indicated in the colloquy with me that the language in the bill is directed at assuring that the Secretary will take very carefully into consideration the problems of leadtime—and not in an unreasonable or improper fashion, but certainly to see to it that the industry has reasonable opportunity to present their views, and to comply with the requirements in a reasonable fashion.

Mr. CUNNINGHAM. I understand that. I heard the colloquy, and I listened to it very carefully. But what we say here and what the Secretary does after he gets this bill are two different things.

I just wondered whether the gentleman from Michigan who is primarily concerned with this, and as his people are—the people who work for these manufacturers and the manufacturers—I wonder whether he feels that something more definite ought to be done in this regard, and if he would care to offer an amendment to assure that these people are going to have time to make these changes, and produce the automobiles, without serious financial loss?

Mr. DINGELL. I would say to my good friend that I believe the legislation as drawn is reasonable legislation. I recognize that the auto industry, which is the largest single employer in my district, is going to be compelled to conform to good manufacturing practices, and they are simply going to have to manufacture good, safe motor vehicles. I would say they have made a sincere effort over the years to carry out this purpose. I think there is no evidence on record that is in any way persuasive that they have in any way deliberately or willfully or wantonly or negligently or carelessly manufactured unsafe motor vehicles. The only thing they seek is legislation which will afford them reasonable time to comply with the safety standards that the Secretary is going to impose. I am satisfied that he will on the basis of the colloquy with my chairman, and also on the basis of my own reading, that it is fully intended that, where a reasonable man would say that these requirements cannot be complied with within the time, that the Secretary not only has the authority, but that he will use that authority to see it to that adequate time is afforded to the industry to comply.

Mr. CUNNINGHAM. If the gentleman will yield further, I will agree, but I will say that they are not always reasonable.

Mr. DINGELL. I can say to the gentleman that I can conceive of a situation where possibly some Secretary of Transportation or Secretary of Commerce would not behave reasonably and well under the circumstances. But I would rather point out to my good friend that such is going to be a rarity, and we have put into the bill for this very reason a requirement of the Administrative Procedure Act which must be complied with by the Secretary, and a clear authorization for the industry to appeal in the event the Secretary acts arbitrarily or capriciously, or that he overreaches the ordinary and reasonable bounds for good judgment and reasonable behavior.

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Mr. CUNNINGHAM. My only interest was to determine, since the gentleman comes from an area that is primarily concerned, whether he is satisfied. If he is satisfied, it is all right with me.

Mr. DINGELL. As long as the bill is interpreted reasonably, I do not believe I could assert any objection either to the legislation or to the manner in which it happens to be carried out. That, of course, was the principal purpose of my taking the floor.

Mr. MOSS. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from California.

Mr. MOSS. It is clearly not the intent that unreasonable standards be imposed.

Mr. DINGELL. The gentleman is absolutely correct.

Mr. MOSS. It is not intended by the colloquy the gentleman has engaged in with such finite care that we place the stamp of approval upon a dragging of the feet by the industry.

Mr. DINGELL. The gentleman is absolutely correct on that point. I would not look with any kindness, nor would the committee, on a dragging of the feet or any rascality of that kind, and I am satisfied that the industry would not engage in that kind of practice.

House Committee Report

House Report 1776, Page 17

Effective date of orders.—Section 103(c) of the reported bill provides that every order establishing a safety standard shall specify the effective date of that standard. This date is not to be sooner than 180 days or later than 1 year from the date the order is issued except in those cases where the Secretary finds that either an earlier or a later date is in the public interest and publishes his reasons for such finding.

This provision differs from the introduced bill which provided that a safety standard could take effect as late as 2 years after the date of issuance and did not provide for any exception from the statutory limits with respect to effective dates. The committee reduced this outside limit to 1 year because of the urgency for the prompt establishment of standards. The exception based on a finding that an earlier or later effective date may be fixed if it is in the public interest was added by the committee to provide the necessary flexibility for unusual situations.

Senate Passed Act

Congressional Record—Senate June 24, 1966, 14256

Interim Federal motor vehicle safety standards

SEC. 102. . . . . .

(b) Interim standards prescribed pursuant to this section shall become effective on a date specified by the Secretary which shall be no sooner than one hundred and eighty days nor later than one year from the date on which such standards are published. Such standards shall remain in effect until new and revised Federal motor vehicle safety standards become effective pursuant to section 103.

. . . . . .

Revised Federal motor vehicle safety standards

SEC. 103. . . . . .

(b) Standards prescribed pursuant to this section shall become effective on a date specified by the Secretary which shall be no sooner than one hundred eighty days nor later than one year from the date on which such standards are published, except that, for good cause shown, the Secretary may specify a later effective date, and in such event he shall publish his reasons therefor.

Senate Debate

Congressional Record—Senate
August 31, 1966, 21487

Mr. MAGNUSON.

There were several features of the Senate bill which the Senate conferees believed should be retained in the final bill. The House Members were uniformly accommodating in accepting these features.

Thus, the House accepted the Senate language modifying the Secretary's authority to extend the effective date for the implementation of any standard by adding the Senate-imposed requirement that such extensions can only be issued for "good cause shown," thus making it clear that industry must sustain the burden of proof before the Secretary, in order to justify an extension of the normal effective date.

Senate Committee Report

Senate Report 1301, Pages 6 and 7

The bill provides that the new and revised standards shall become effective on a date specified by the Secretary, which shall be no sooner than 180 days nor later than 1 year from the date the standard is finally issued (secs. 102(b) and 103(b)), except that for good cause shown, the Secretary may specify a later effective date, but must publish his reasons therefor (sec. 103(b)). 7

The power to specify a later effective date is needed because it may be a practical economic and engineering impossibility, as well as a source of great hardship and unnecessary additional cost, to require that all vehicle changes required by any new safety standard, whatever its scope or subject matter, be accomplished by all manufacturers for all their new vehicles within 1 year. When changes can reasonably be accomplished in 1 year or less, the Secretary can so require. But when manufacturers satisfy the Secretary that a particular change cannot reasonably be accomplished within 1 year, the bill gives him discretion to extend the period, publishing his reasons therefor (sec. 103(b)).

Executive Communications

Senate Report 1301, Page 18

It is noted that section 102(b) of the bill provides that motor vehicle safety standards would become effective no sooner than 180 days and no later than 2 years after their issuance. In view of the somewhat longer time which may be required for foreign manufacturers to evaluate new safety standards, take such action as they consider appropriate with respect thereto, and ship vehicles to the U.S. market, it

would appear likely that the full period of 2 years would be justified in the case of standards involving any substantial structural changes applicable to production by such manufacturers for the U.S. market.

As Introduced

As H.R. 13228 in the House and S. 3005 in the Senate:

FEDERAL MOTOR VEHICLE SAFETY STANDARDS 3

SEC. 102. .....

(b) A Federal motor vehicle safety standard issued by 4 order pursuant to subsection (a) shall become effective on a date specified by the Secretary in that order, which shall be no sooner than one hundred and eighty days nor later than two years from the date on which the standard is issued.

.....

Subsection 103(d) — As Enacted

(d) Whenever a Federal motor vehicle safety standard established 2 under this title is in effect, no State or political subdivision of a State shall have any authority either to establish, or to continue in effect, with respect to any motor vehicle or item of motor vehicle equipment any safety standard applicable to the same aspect of performance of such vehicle or item of equipment which is not identical to the Federal standard. Nothing in this section shall be construed to prevent the Federal Government or the government of any State or political subdivision thereof from establishing a safety requirement applicable to motor vehicles or motor vehicle equipment procured for its own use if such requirement imposes a higher standard of performance than that required to comply with the otherwise applicable Federal standard.

Conference Report

House Report 1919, Page 16

PREEMPTION

Section 103(d) of the House amendment provides whenever a Federal safety standard is in effect no State or political subdivision shall have any authority either to establish or continue in effect any safety standard applicable to the same aspect of motor vehicle and motor vehicle equipment performance which is not identical with the Federal standard. Nothing in this section shall be construed to prevent the Federal Government or the government of any State or political subdivision from establishing safety requirements for vehicles or equipment procured for its own use which impose a higher standard of performance than that required to comply with the Federal standard.

Section 103(d) of the proposed conference substitute provides that whenever a Federal safety standard is in effect no State or political subdivision shall have authority either to establish or to continue in effect, with respect to any motor vehicle or item of equipment, any safety standard applicable to the same aspect of performance of such vehicle or item of equipment which is not identical to the Federal standard. The proposed conference substitute is identical to the House amendment with respect to the right of governments to establish higher requirements for vehicles and equipment procured for their own use.

The House managers believe the conference substitute will assure that there will not be any inadvertent preemption of a State standard applicable to an older vehicle by the issuance of a standard with respect to the same aspect for performance of a new vehicle.

House Passed Act

Congressional Record—House August 17, 1966, 19670

"(d) Whenever a Federal motor vehicle safety standard established under this title is in effect, no State or political subdivision of a State shall have any authority either to establish, or to continue in effect, any safety standard applicable to the same aspect of motor vehicle and motor vehicle equipment performance which is not identical to the Federal standard. Nothing in this section shall be construed to prevent the Federal Government or the government of any State or political subdivision thereof from establishing a safety requirement applicable to motor vehicles or motor vehicle equipment procured for its own use if such requirement imposes a higher standard of performance than that required to comply with the otherwise applicable Federal standard.

House Debate

Contains nothing helpful.

House Committee Report

House Report 1776, Page 17

Preemption.—Section 103(d) provides that whenever a Federal safety standard is in effect no State or political subdivision thereof shall establish or keep in effect any safety standard applicable to the same aspect of vehicle or equipment performance which is not identical to the Federal standard. It further provides however that the Federal, State, and local governments may establish safety requirements applicable to vehicles or equipment procured for governmental use which impose a higher standard of performance than that required to comply with the otherwise applicable Federal standards.

Basically, this preemption subsection is intended to result in uniformity of standards so that the public as well as industry will be guided by one set of criteria rather than by a multiplicity of diverse standards. The committee recognized that vehicles and equipment procured for governmental use may require higher standards of performance than those generally applicable and this subsection permits such higher standards for vehicles and equipment procured by these governments.

Senate Passed Act

Congressional Record—Senate June 24, 1966, 14257

Preemption

SEC. 104. No State, or political subdivision thereof, shall establish a safety standard for a motor vehicle or item of motor vehicle equipment in interstate commerce which differs from a motor vehicle safety standard issued in conformance with the provisions of this title with respect to such motor vehicle or item of motor vehicle equipment; and any law, regulation, or ordinance purporting to establish such differing safety standard and providing a penalty or punishment for an act of noncompliance therewith shall be null and void. Nothing in this section shall be construed to prevent a State or political subdivision thereof from establishing requirements more stringent than a Federal motor vehicle safety standard for the exclusive purpose of its own procurement.

Senate Debate

Contains nothing helpful.

Senate Committee Report

Senate Report 1301, Pages 4 and 12

2. While the contribution of the several States to automobile safety has been significant, and justifies securing to the States a consultative role in the setting of standards, the primary responsibility for regulating the national automotive manufacturing industry must fall squarely upon the Federal Government.

EFFECT ON STATE LAW 12

The centralized, mass production, high volume character of the motor vehicle manufacturing industry in the United States requires that motor vehicle safety standards be not only strong and adequately enforced, but that they be uniform throughout the country. At the same time, the committee believes that the States should be free to adopt standards identical to the Federal standards, which apply only to the first sale of a new vehicle, so that the States may play a significant role in the vehicle safety field by applying and enforcing standards over the life of the car. Accordingly, State standards are preempted only if they differ from Federal standards applicable to the particular aspect of the vehicle or item of vehicle equipment (sec. 104).

The States are also permitted to set more stringent requirements for purposes of their own procurement. Moreover, the Federal minimum safety standards need not be interpreted as restricting State common law standards of care. Compliance with such standards would thus not necessarily shield any person from product liability at common law.

Executive Communications

Contains nothing helpful.

As Introduced

As H.R. 13228 in the House and S. 3005 in the Senate:

Sec. 102(b) ..... No 4

State or local government law, regulation, or ordinance shall establish a safety standard for a motor vehicle or item of motor vehicle equipment in interstate commerce if a Federal motor vehicle safety standard issued in conformance with the

provisions of this title is in effect with respect to that motor vehicle or item of motor vehicle equipment; and any such law, regulation, or ordinance purporting to establish such safety standards and providing a penalty or punishment for an act of noncompliance therewith shall be null, void, and of no effect. However, nothing herein shall be construed to prevent a State or local government or the Federal Government from establishing requirements more stringent than a Federal motor vehicle safety standard for the exclusive purpose of its own procurement.

Subsection 103(e) — As Enacted

Revocation.

(e) The Secretary may by order amend or revoke any Federal motor vehicle safety standard established under this section. Such order shall specify the date on which such amendment or revocation is to take effect which shall not be sooner than one hundred and eighty days or later than one year from the date the order is issued, unless the Secretary finds, for good cause shown, that an earlier or later effective date is in the public interest, and publishes his reasons for such finding.

Conference Report

House Report 1919, Pages 15 and 16

EFFECTIVE DATES OF STANDARDS

Subsection (c) of section 103 of the House amendment requires each order establishing a safety standard to specify the date on which it is to take effect which is not to be sooner than 180 days or later than 1 year from the date the order is issued, unless the Secretary finds an earlier or later effective date is in the public interest, and publishes his reasons for such finding.

Subsection (c) of section 103 of the proposed conference substitute is the same as the House amendment with the exception that in order to shorten or lengthen the minimum or maximum dates within which a standard must take effect the Secretary must find "for good cause shown" that such earlier or later date is in the public interest and publish his reasons for this finding.

A conforming change is also required to be made in section 103(e) of the proposed conference substitute which, except for such conforming change, is the same as section 103(e) of the House amendment (relating to effective date of amendments and revocations of standards). 16

The House managers believe the inclusion of the phrase "for good cause shown" demonstrates that any party in interest is free to urge that an earlier or later effective date is in the public interest.

House Passed Act

Congressional Record—House August 17, 1966, 19670

"(e) The Secretary may by order amend or revoke any Federal motor vehicle safety standard established under this section. Such order shall specify the date on which such amendment or revocation is to take effect which shall not be sooner than one hundred and eighty days or later than one year from the date the order is issued, unless the Secretary finds that an earlier or later effective date is in the public interest, and publishes his reasons for such finding.

House Debate

Contains nothing helpful.

House Committee Report

House Report 1776, Page 17

Amendments and revocation of standards.—Section 103(e) of the reported bill authorizes the Secretary to amend or revoke safety standards issued under this section. The Secretary's authority with respect to the establishment of the effective date for an amendment or a revocation is the same as that provided for the issuance of an original standard under subsection (c) of this section.

Senate Passed Act

Congressional Record—Senate
June 24, 1966, 14257

(h) The Secretary shall review the motor vehicle safety standards prescribed pursuant to this section at least once every two years, and may, to the extent necessary to carry out the purposes of this Act, by order, amend, such standards in accordance with the procedural requirements set forth in this section. Each such amendment shall become effective on the date specified by the Secretary which shall be no sooner than one hundred and eighty days nor later than one year from the date on which such amendment is published, except that, for good cause shown, the Secretary may specify a later effective date, and in such event he shall publish his reasons therefor.

Senate Debate

Congressional Record—Senate
August 31, 1966, 21487

Mr. MAGNUSON.

There were several features of the Senate bill which the Senate conferees believed should be retained in the final bill. The House Members were uniformly accommodating in accepting these features.

Thus, the House accepted the Senate language modifying the Secretary's authority to extend the effective date for the implementation of any standard by adding the Senate-imposed requirement that such extensions can only be issued for "good cause shown," thus making it clear that industry must sustain the burden of proof before the Secretary, in order to justify an extension of the normal effective date.

Senate Committee Report

Contains nothing helpful.

Executive Communications

Contains nothing helpful.

As Introduced

As H.R. 13228 in the House and S. 3005 in the Senate:

Sec. 102

(c) The Secretary, from time to time, and subject to section 4 of the Administrative Procedure Act, may by order

amend or withdraw Federal motor vehicle safety standards issued under this section. Amendments or withdrawals shall be effective on the date specified by the Secretary in that order, which shall be no sooner than one hundred and eighty days nor later than one year from the date on which the amendment or withdrawal is issued, unless the Secretary finds, publishing his reasons therefor, that an earlier or later date is in the public interest.

Subsection 103(f) — As Enacted

(f) In prescribing standards under this section, the Secretary shall— 2

(1) consider relevant available motor vehicle safety data, including the results of research, development, testing and evaluation activities conducted pursuant to this Act;

(2) consult with the Vehicle Equipment Safety Commission, and such other State or interstate agencies (including legislative committees) as he deems appropriate;

(3) consider whether any such proposed standard is reasonable, practicable and appropriate for the particular type of motor vehicle or item of motor vehicle equipment for which it is prescribed; and

(4) consider the extent to which such standards will contribute to carrying out the purposes of this Act.

Conference Report

House Report 1919, Page 16

CONSULTATION

Section 103(f)(2) of the House amendment and section 103(f)(2) of the proposed conference substitute are identical. In the administration of this provision it is expected that the Secretary will, to the extent consistent with the purposes of this act, inform the VESC and other agencies of proposed standards and amendments thereto and afford them a reasonable opportunity to study and comment thereon.

House Passed Act

Same as enacted Act.

House Debate

Congressional Record—House
August 17, 1966, 19648-19650

Mr. DINGELL. Mr. Chairman, I want to thank my chairman for his kindness in yielding to me. There are a number of points I want to raise with respect to the contents of this legislation, particularly, I hope, dealing with questions of lead time which is one of vital importance to the industry which is one of the principal employers in the district that I have the honor to represent in Congress.

As the membership of the committee, and anyone else familiar with the industry knows, lead time is a most important matter. Modern cars are complex mechanisms, made up of over 14,000 interrelated parts. This complexity and the tooling and other requirements for high volume mass production necessitate a substantial period between an initial design concept and production. Currently it takes a period of 2 years or so in the industry to accomplish the necessary design, engineering and testing work to procure the materials and tooling and to lay out the production line. It also takes time to make changes. What seems to be a simple change to accomplish in one part or structure may necessitate a series of difficult changes or adjustments in others, and considerable time can be required for that, ranging from a few months to as much as 2 years or more. Because lead time is so important, it is one of the factors that the bill empowers and requires the Secretary to take into account in establishing standards, and the Secretary has stated that he will do so.

Thus the bill in section 103 requires that standards must be practicable and that the Secretary must consider whether they are reasonable, practicable, and appropriate for the particular type of vehicle or equipment for which they are prescribed. Obviously, a standard is not practicable or reasonable if it cannot be met by the best efforts of manufacturers within the constraints of time and technology. As the committee's report states, "Standards, of course, cannot be set in a vacuum," and the Secretary, in setting standards, is required to give consideration to "all relevant factors, including technological ability to achieve the goal of a particular standard as well as consideration of economic factors." Among those economic factors which the Secretary will have to consider is the matter of adequate lead time. As the Department of Commerce advised in a letter dated June 3, 1966, to the chairman:

> The tests of reasonableness of cost, feasibility and adequate lead time should be included among those factors which the Secretary could consider in making his total judgment.

I will appreciate the chairman's confirmation of this analysis.

Mr. STAGGERS. In response to the gentleman, I will say that section 103 requires the Secretary, as you can see, to establish safety standards, and says that they must be practicable and meet the need for motor vehicle safety and be stated in objective terms.

Mr. Chairman, as the committee report explains on page 16, this would require the consideration of all relevant factors, including technological ability to achieve the goal of a particular standard as well as consideration of economic factors.

And, Mr. Chairman, as to the effective date, section 103(c) of the reported bill provides that the Secretary may set a date earlier or later than the 180-day minimum or 1-year maximum, if he finds that an earlier or later date is in the public interest. This public interest is discussed on page 17 of the report. It is explained that the exception must be based on a finding that an earlier or later effective date may be fixed if it is in the public interest. This was added by the committee to provide the necessary flexibility for unusual situations.

Mr. Chairman, it is true as it should be, that the Secretary has the ultimate responsibility to set the effective date.

However, full provision is made in the bill for full consultation and, obviously, he will have to consider among other things the ability of the manufacturers to meet the dates, and the economic impact upon the manufacturers if effective dates are not set with due regard to their leadtime requirements.

Mr. DINGELL. Mr. Chairman, I certainly thank the chairman of the Committee on Interstate and Foreign Commerce, the gentleman from West Virginia [Mr. STAGGERS], and as the chairman has so well stated, it is precisely because of this leadtime problem that the committee amended the original bill to authorize the Secretary to make the standard effective later than 1 year from its issuance if he finds that this is in the public interest—if, for example, a year is too short for compliance or compliance can be achieved only at exorbitant cost or other severe economic dislocation.

The explanation should satisfy any concern of the industry and the workers who depend upon it for their livelihood, many of whom are constitutents of my district. It takes no great knowledge of the industry to be aware that situations will undoubtedly arise where more than a year will have to be allowed for compliance—where it will be a physical or economic impossibility for all manufacturers to comply with a standard for all of their vehicles within one year. There simply may not be enough tooling and technology to do the job, or the cost of compliance on a crash basis may be so great as to price vehicles out of the mass market. Because of these tooling limitations and cost considerations, manufacturers do not make basic changes in all of their models each year. Instead, the general industry practice is for a manufacturer to make basic model changes at intervals of three years or so for each of his vehicle lines, and to do so on a staggered annual basis so that

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each year he has one or more basic new models while face-lifting the others until their turn comes to be "rolled over" in the basic change cycle. Some changes which standards may require can, of course, be most efficiently and economically made in connection with basic model changes. Others of the "add-on" type could readily be made at the time of the annual model change, even when it is only of the face-lift variety. It would accordingly seem that, in general, standards should not be made effective earlier than the next model year and that the effective dates should ordinarily coincide with annual model changes, at least in the absence of some overriding considerations. That is the practice which has been followed with the GSA requirements and the exhaust emission standard program—they are timed to coincide with the annual model changes.

As I understand the bill and the chairman's remarks, these problems and practices of the industry are among the things which the Secretary will have to consider, along with safety, in deciding what standards to prescribe and when to make them effective, and that, depending upon the circumstances, they may influence him to allow more than a year for compliance.

The report explains that the requirement that the Secretary consider whether a standard is reasonable, practicable, and appropriate for a particular type of vehicle or equipment will allow the Secretary "to consider the reasonableness and appropriateness of a particular standard in its relationship to the many different types or models of vehicles which are manufactured." Could this mean, for instance, that standards for trucks would not necessarily be the same as standards for passenger cars? I have in mind the example of the GSA requirements which apply to passenger cars and some other vehicles, but do not apply to certain heavy trucks and other types of vehicles.

Mr. STAGGERS. Well, certainly, I believe that is understood.

Mr. DINGELL. And, of course, there would be a possibility of different standards for one type of passenger vehicle, such as a convertible, as opposed to the standards for a standard sedan, for example? Am I correct on that point?

Mr. STAGGERS. Obviously a difference in types of vehicles could require differences in standards.

Mr. DINGELL. However, we are confronted with a proposal which does impose the requirements that the time limitation be met, but for good cause the time limitation may be waived which would be the very obvious and difficult problem with which the manufacturers would be faced with regard to meeting the leadtime requirements when established for orderly and the reasonable economic production of these motor vehicles.

Also that we have established the pattern whereby we could have different standards for vehicles which are obviously directed for a different type of use. Am I correct?

Mr. STAGGERS. Yes. I might repeat for the gentleman's information that it states very plainly in the bill that if it is in the public interest, and he so finds, then he must come up in writing with what these reasons are.

Mr. MOELLER. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman.

Mr. MOELLER. You stated that there might be some differences in the standards set; is this correct?

Suppose, for example, a car manufacturer makes a small, so-called fun car—there is one made in my district. It is a little, one-cylinder outfit. Is it said that this man must follow the same safety standards that the manufacturers of the large cars such as the General Motors, Chrysler, and Ford, follow?

Mr. DINGELL. The gentleman just heard the colloquy between the chairman and me on the difference in standards.

Mr. MOELLER. In other words, there would be a distinction?

Mr. DINGELL. I must say that this still is not going to authorize the manufacturer of the one-cylinder car selling for $750 to market an unsafe automobile any more than it is going to authorize the manufacturer of a large, luxury-type motor vehicle selling for $5,000 or $6,000, to manufacture an unsafe vehicle. But because of the difference in weight and because of the difference in speed and because of the different potential use for that type of vehicle, I would say that the safety standards would not necessarily be as comprehensive, or as onerous, for that type of vehicle as they might be on the larger, heavier weight vehicle.

But this is a matter of judgment that the Secretary will have to exercise. He will still be required by this legislation to market a vehicle that would be safe under any reasonable standards or occasions of use.

The Chairman, the gentleman from West Virginia [Mr. STAGGERS] might wish to comment on that, being the chief officer of the committee.

Mr. STAGGERS. Mr. Chairman, I think the gentleman from Michigan has stated it very thoroughly.

Mr. CUNNINGHAM. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman.

Mr. CUNNINGHAM. Mr. Chairman, I think the gentleman from Michigan brings up a very serious problem that may be involved here. He comes from an area where this problem will present itself.

Mr. DINGELL. I might say to the gentleman that he is correct. I represent one of the largest single areas of automobile manufacture in the country.

Mr. CUNNINGHAM. Mr. Chairman, I do not know anybody in the automobile industry. I have not been in contact with them. But I have read in the papers where under this legislation there is going to be a tremendous problem involved in this so-called leadtime.

Mr. DINGELL. If the gentleman will permit, I would point out that the chairman has already indicated in the colloquy with me that the language in the bill is directed at assuring that the Secretary will take very carefully into consideration the problems of leadtime—and not in an unreasonable or improper fashion, but certainly to see to it that the industry has reasonable opportunity to present their views, and to comply with the requirements in a reasonable fashion.

Mr. CUNNINGHAM. I understand that. I heard the colloquy, and I listened to it very carefully. But what we say here and what the Secretary does after he gets this bill are two different things.

I just wondered whether the gentleman from Michigan who is primarily concerned with this, and as his people are—the people who work for these manufacturers and the manufacturers—I wonder whether he feels that something more definite ought to be done in this regard, and if he would care to offer an amendment to assure that these people are going to have time to make these changes, and produce the automobiles, without serious financial loss?

Mr. DINGELL. I would say to my good friend that I believe the legislation as drawn is reasonable legislation. I recognize that the auto industry, which is the largest single employer in my district, is going to be compelled to conform to good manufacturing practices, and they are simply going to have to manufacture good, safe motor vehicles. I would say they have made a sincere effort over the years to carry out this purpose. I think there is no evidence on record that is in any way persuasive that they have in any way deliberately or willfully or wantonly or negligently or carelessly manufactured unsafe motor vehicles. The only thing they seek is legislation which will afford them reasonable time to comply with the safety standards that the Secretary is going to impose. I am satisfied that he will on the basis of the colloquy with my chairman, and also on the basis of my own reading, that it is fully intended that,

where a reasonable man would say that these requirements cannot be complied with within the time, that the Secretary not only has the authority, but that he will use that authority to see it to that adequate time is afforded to the industry to comply.

Mr. CUNNINGHAM. If the gentleman will yield further, I will agree, but I will say that they are not always reasonable.

Mr. DINGELL. I can say to the gentleman that I can conceive of a situation where possibly some Secretary of Transportation or Secretary of Commerce would not behave reasonably and well under the circumstances. But I would rather point out to my good friend that such is going to be a rarity, and we have put into the bill for this very reason a requirement of the Administrative Procedure Act which must be complied with by the Secretary, and a clear authorization for the industry to appeal in the event the Secretary acts arbitrarily or capriciously, or that he overreaches the ordinary and reasonable bounds for good judgment and reasonable behavior.

19650 Mr. CUNNINGHAM. My only interest was to determine, since the gentleman comes from an area that is primarily concerned, whether he is satisfied. If he is satisfied, it is all right with me.

Mr. DINGELL. As long as the bill is interpreted reasonably, I do not believe I could assert any objection either to the legislation or to the manner in which it happens to be carried out. That, of course, was the principal purpose of my taking the floor.

Mr. MOSS. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from California.

Mr. MOSS. It is clearly not the intent that unreasonable standards be imposed.

Mr. DINGELL. The gentleman is absolutely correct.

Mr. MOSS. It is not intended by the colloquy the gentleman has engaged in with such finite care that we place the stamp of approval upon a dragging of the feet by the industry.

Mr. DINGELL. The gentleman is absolutely correct on that point. I would not look with any kindness, nor would the committee, on a dragging of the feet or any rascality of that kind, and I am satisfied that the industry would not engage in that kind of practice.

Congressional Record—House
August 31, 1966, 21352

Mr. ROGERS of Florida. In setting standards the Secretary shall, as he deems appropriate, consult with the Vehicle Equipment Safety Commission, and such other State or interstate agencies, including legislative committees.

Mr. STAGGERS. Mr. Speaker, will the gentleman yield?

Mr. MOSS. I yield to the chairman.

Mr. STAGGERS. That is the intent of the committee on both sides of the aisle. The Secretary shall consult as he deems advisable.

Mr. ROGERS of Florida. As he deems advisable.

Mr. STAGGERS. Yes.

House Committee Report

House Report 1776, Pages 11, 17, and 18

Safety performance standards based on scientific and engineering research can lead to both a reduction of the incidence of accidents and to a reduction of the deaths and injuries which are associated with motor vehicle accidents. Not only is there general agreement that there is a need for Federal legislation at this time but also most of the witnesses who appeared before the committee, including the represent-

atives of the automotive industry, support mandatory safety standards for new motor vehicles.

Standards, of course, cannot be set in a vacuum. They must be based on reliable information and research. One of the facts which was brought to the fore in the course of the committee's hearings was that it is virtually impossible to obtain specific information and data concerning the causes of traffic accidents and the performance of vehicles in accident situations. Much work in this area is being done but is is diffused. Under this bill this work can be augmented and channeled so that it will be more widely disseminated to all interested persons thus leading to improved motor vehicle safety performance with a consequent reduction in deaths and injuries.

. . . . . .

Consultation and other requirements.—Section 103(f) of the reported bill provides that the Secretary shall in prescribing standards (1) consider relevant safety data (including research, development, testing, and evaluation activities); (2) consult with the Vehicle Equipment Safety Commission and such other State or interstate agencies (including legislative committees) as he deems appropriate; (3) consider whether a proposed standard is reasonable, practicable, and appropriate for the particular type of vehicle or item or equipment for which it is prescribed; and (4) consider the extent to which a standard will contribute to carrying out the purposes of this act. 17

Under this subsection the Secretary before issuing an order establishing, amending, or revoking a safety standard is required to consult with the Vehicle Equipment Safety Commission and, as he deems appropriate, with other State or interstate agencies (including legislative committees). It is expected that the Vehicle Equipment Safety Commission and interested State and interstate agencies will actively participate, through consultation, in the formulation of safety standards. 18

The Secretary must also give consideration to relevant available safety data and the results of research, development, testing, and evaluation conducted pursuant to this act. In this connection it is expected that not only will the Secretary consider data and results derived from Federal activities in this area but also that he will avail himself of information derived from those State governments and educational institutions which are pursuing improvements in vehicle and equipment safety.

The Secretary must also consider whether a proposed standard is reasonable, practicable, and appropriate for a particular type of vehicle or equipment for which it is prescribed. This provision allows the Secretary in prescribing standards to consider the reasonableness and appropriateness of a particular standard in its relationship to the many different types and models of vehicles which are manufactured.

This subsection also contains a general provision which requires the Secretary to consider the extent to which any prescribed standard contributes to the achievement of the purposes of the act.

Senate Passed Act

Congressional Record—Senate
June 24, 1966, 14256 and 14257

Interim Federal motor vehicle safety standards

SEC. 102. (a) . . . . . .

(c) In prescribing interim standards under this section, the Secretary shall—

(1) consult with the Vehicle Equipment Safety Commission, with other State and interstate agencies (including legislative committees), with motor vehicle and motor vehicle equipment manufacturers, and with scientific, technical, business, and consumer organizations, as he deems appropriate.

(2) consider, in the light of available technical information, whether any such proposed standard is reasonable, practicable, and appropriate for the particular type of motor vehicle or item of motor vehicle equipment for which it is prescribed; and

(3) consider the extent to which such standards will contribute to carrying out the purposes of this Act.

Revised Federal motor vehicle safety standards

SEC. 103. . . . . .

(c) In prescribing standards under this section, the Secretary shall—

(1) consider relevant available motor vehicle safety data, including the results of research, development, testing and evaluation activities conducted pursuant to this Act;

(2) consult with the Vehicle Equipment Safety Commission, and such other State or interstate agencies (including legislative committees) as he deems appropriate, which consultation shall include (A) informing the Commission and other agencies of all proposed Federal vehicle safety standards and amendments thereto and (B) affording such Commission and other agencies an opportunity to study and comment on such standards and amendments;

(3) consider whether any such proposed standard is reasonable, practicable and appropriate for the particular type of motor vehicle or item of motor vehicle equipment for which it is prescribed; and

(4) consider the extent to which such standards will contribute to carrying out the purposes of this Act.

. . . . . .

(e) For the purposes of this section interested persons afforded an opportunity to participate in the rule-making process to prescribe or amend standards under this section shall include manufacturers, distributors, and dealers of motor vehicles and motor vehicle equipment, public and private organizations and individuals engaged to a significant extent in the promotion or study of motor vehicle safety and automobile insurance underwriters. *14257*

Senate Debate

Congressional Record—Senate
June 24, 1966, 14245

Mr. LAUSCHE. Mr. President, the bill states that the Secretary of Commerce, in fixing standards of safety for the manufacture of automobiles, shall consider "whether any such proposed standard is reasonable, practicable, and appropriate for the particular type of motor vehicle or item of motor vehicle equipment for which it is prescribed."

In the committee, an extensive discussion took place concerning the right of the Secretary to consider the costs that would be entailed in promulgating the adoption of certain types of equipment. It was argued by some that the language did not allow the Secretary to consider the cost that would be added to the automobile. Others argued that the language was adequate, and the words that he "shall consider what is practicable" included the right to consider the costs.

It was finally agreed to write into the report a certain understanding which was to be used as a guide in interpreting the language used.

I now ask the manager of the bill, the Senator from Washington [Mr. MAGNUSON], to point out and read the language in the bill that is intended to aid in the interpretation of what was meant by the committee.

Mr. MAGNUSON. The Senator from Ohio is correct. The committee considered this question at some length. Several members of the committee thought that the reasonableness of cost and feasibility would be included in the words "standards shall be reasonable, practical,

and appropriate." So we say in the report, to clear up this question once and for all:

In promulgating any standard, the Secretary is required to consider whether such standard is reasonable, practicable and appropriate for the particular type of motor vehicle or item of motor vehicle equipment for which it is prescribed, and consider, also, the extent to which such standard would contribute to carrying out the purposes of the act (secs. 102(c) and 103(c)). The Secretary is not expected to issue a standard covering every component and function of a motor vehicle, but only for those vehicle characteristics that have a significant bearing on safety.

The General Counsel of the Commerce Department stated in a letter to the committee:

"The test of reasonableness of cost, feasibility and adequate lead time"—

Which are important—

"should be included among those factors which the Secretary could consider in making his total judgment."

Mr. LAUSCHE. There is one more paragraph immediately following what the Senator has read.

Mr. MAGNUSON. Yes.

The committee intends that safety shall be the overriding consideration in the issuance of standards under this bill. The committee recognizes, as the Commerce Department letter indicates, that the Secretary will necessarily consider reasonableness of cost, feasibility and adequate leadtime.

Mr. LAUSCHE. The language just read by the chairman of the Committee on Commerce is the language which the committee decided to include in the report as an aid in interpreting the language of the bill.

Mr. MAGNUSON. That is correct.

Mr. LAUSCHE. It interprets the words "reasonableness, practicability, and appropriateness."

I thank the Senator from Washington.

Congressional Record—Senate August 31, 1966, 21491

Mr. RIBICOFF.

The Commerce Committee report acknowledged the auto industry's recommendation that the Secretary be advised to consider, among other factors, the factor of cost in setting safety standards. I would like to urge the automobile companies to utilize the fruits of their mass production techniques and increases in productivity to keep the cost of safety down. The Senate hearings contained examples of many safety improvements which would cost no more or merely a few cents more than would be the case without them. Reducing glare and flattening out instrument panel shapes were two illustrations of no added cost, just added care. The lower costs are kept, the more safety can be incorporated in automobiles. And the more lives can be spared.

Congressional Record—Senate August 31, 1966, 21487

Mr. MAGNUSON.

The Senate accepted the House's deletion of the Senate language defining the nature of the Secretary's required consultation with the Vehicle Equipment Safety Commission as unnecessary. As the statement of the House managers states:

In the administration of this provision it is expected that the Secretary will, to the extent consistent with the purposes of this Act, inform the VESC and other agencies of proposed standards and amendments thereto and afford them a reasonable opportunity to study and comment thereon.

The Senate conferees accepted the House version of the cooperation provision—authorizing the Secretary to cooperate with interested public and private agencies in the planning and development of standards—because there was no substantive difference between it and the more detailed Senate provision. The

term "private agencies" as used in the House language covers, of course, the universities, institutions, and interested businesses such as manufacturers, distributors, and dealers of motor vehicles and motor vehicle equipment which were specifically mentioned in the Senate provision.

Senate Committee Report

Senate Report 1301, Pages 4, 5, 6, and 7

The committee also recognizes that the broad powers conferred upon the Secretary, while essential to achieve improved traffic safety, could be abused in such a manner as to have serious adverse effects on the automotive manufacturing industry. The committee is not empowering the Secretary to take over the design and manufacturing functions of private industry. The committee expects that the Secretary will act responsibly and in such a way as to achieve a substantial improvement in the safety characteristics of vehicles.

It is the committee's judgment that enactment of this legislation can further industry efforts to produce motor vehicles which are, in the first instance, not unduly accident prone; and perhaps, even more significantly, vehicles which, when involved in accidents, will prove crash-worthy enough to enable their occupants to survive with minimal injuries. 5

The Secretary would thus be concerned with the measurable performance of a braking system, but not its design details. Such standards will be analogous to a building code which specifies the minimum load-carrying characteristics of the structural members of a building wall, but leaves the builder free to choose his own materials and design. Such safe performance standards are thus not intended or likely to stifle innovation in automotive design. 6

In promulgating any standard, the Secretary is required to consider whether such standard is reasonable, practicable and appropriate for the particular type of motor vehicle or item of motor vehicle equipment for which it is prescribed, and consider, also, the extent to which such standard would contribute to carrying out the purposes of the act (secs. 102(c) and 103(c)). The Secretary is not expected to issue a standard covering every component and function of a motor vehicle, but only for those vehicle characteristics that have a significant bearing on safety.

The General Counsel of the Commerce Department stated in a letter to the committee:

> The tests of reasonableness of cost, feasibility and adequate lead time should be included among those factors which the Secretary could consider in making his total judgment.

The committee intends that safety shall be the overriding consideration in the issuance of standards under this bill. The committee recognizes, as the Commerce Department letter indicates, that the Secretary will necessarily consider reasonableness of cost, feasibility and adequate leadtime.

In determining whether any proposed standard is "appropriate" for the particular type of motor-vehicle equipment or item of motor-vehicle equipment for which it is prescribed, the committee intends that the Secretary will consider the desirability of affording consumers continued wide range of choices in the selection of motor vehicles. Thus it is not intended that standards will be set which will eliminate or necessarily be the same for small cars or such widely accepted models as convertibles and sports cars, so long as all motor vehicles meet basic minimum standards. Such differences, of course, would be based on the type of vehicle rather than its place of origin or any special circumstances of its manufacturer.

The bill provides that the new and revised standards shall become effective on a date specified by the Secretary, which shall be no sooner than 180 days nor later than 1 year from the date the standard is finally issued (secs. 102(b) and 103(b)), except that for good cause shown, the Secretary may specify a later effective date, but must publish his reasons therefor (sec. 103(b)).

The Secretary is directed to consult with the Vehicle Equipment Safety Commission, and such other State and interstate agencies, including legislative committees, as he deems appropriate (sec. 103(c)), in order to utilize the experience existing in the States and to encourage them to adopt standards which are identical to the Federal ones (sec. 104). The committee is mindful of the contribution which the States have made toward the development of vehicle safety standards over the years and expects this contribution to continue in a consultative role. The Vehicle Equipment Safety Commission is specifically mentioned because 44 States and the District of Columbia are members of this organization, and it is the major existing agency which has authority to propose uniform vehicle safety standards for the member States to consider for adoption. It is, of course, not intended that such consultation should delay or otherwise impede the Secretary's development and promulgation of standards.

The Secretary would be expected to give public notice of any proposed new or revised safety standards and to notify directly the Vehicle Equipment Safety Commission, and such other State or interstate agencies (including legislative committees) as he deems appropriate, and to set a reasonable time for public comment to give the Commission, and other agencies and interested persons opportunity to study and comment on the proposals (sec. 103(c)(2)).

In addition, the bill expressly includes as persons to be afforded an opportunity to participate in the standard-setting process, manufacturers, distributors and dealers of motor vehicles and motor vehicle equipment, public and private organizations, individuals engaged to a significant extent in the promotion or study of motor vehicle safety, and automobile insurance underwriters (sec. 103(e)).

Executive Communications

Contains nothing helpful.

As Introduced

As H.R. 13228 in the House and S. 3005 in the Senate: contains no comparable provision.

Subsection 103(g) — As Enacted

(g) In prescribing safety regulations covering motor vehicles subject to part II of the Interstate Commerce Act, as amended (49 U.S.C. 301 et seq.), or the Transportation of Explosives Act, as amended (18 U.S.C. 831–835), the Interstate Commerce Commission shall not adopt or continue in effect any safety regulation which differs from a motor vehicle safety standard issued by the Secretary under this title, except that nothing in this subsection shall be deemed to prohibit the Interstate Commerce Commission from prescribing for any motor vehicle operated by a carrier subject to regulation under either or both of such Acts, a safety regulation which imposes a higher standard of performance subsequent to its manufacture than that required to comply with the applicable Federal standard at the time of manufacture.

Dual standards, prohibition. 49 Stat. 543; 54 Stat. 919. 74 Stat. 808.

3

Conference Report

House Report 1919, Page 16

ICC PERFORMANCE STANDARDS

Section 103(g) of the House amendment and section 103(g) of the proposed conference substitute are identical. In the administration of this provision it is intended that higher ICC performance standards will relate to things which can be accomplished subsequent to manufacture, not to things which must be done during manufacture.

House Passed Act

Same as enacted Act.

House Debate

Congressional Record—House
August 17, 1966, 19630

Mr. SPRINGER.

In H.R. 13228 and H.R. 16515—the bill introduced by me—all motor vehicles, including passenger cars, trucks of all kinds and buses, would be included in the standards as rapidly as possible. This is a difference from the bill passed by the other body and a significant one. The other bill would exempt all vehicles subject to regulation by the Interstate Commerce Commission. Here we have uniformity in manufacturing, and the ICC can require other devices as it finds necessary for trucks and buses engaged in specific roles of interstate commerce.

Congressional Record—House
August 17, 1966, 19665 and 19666

Mr. CRALEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CRALEY: On page 34, after line 11, insert the following new subsection:

"(i) As soon as practicable after the date of enactment of this title, the Secretary shall establish Federal motor vehicle safety standards requiring that every motor vehicle used or to be used as a schoolbus shall be equipped at each passenger seat location with a seat belt."

Mr. CRALEY. Mr. Chairman, I shall only take a few minutes on this amendment.

Mr. Chairman, I feel that this amendment is a justifiable one.

Mr. Chairman, there has been much expert testimony and statistics which have been offered to prove that seat belts have been a factor in safety in private vehicles, in Government vehicles, and in any other vehicle.

I think it is foolish for us to write a piece of legislation providing for national safety and not protect the welfare of our children who, in my opinion, are our most important and valuable assets.

We have required many safety features on schoolbuses, and I feel that it is proper and fitting to require in this legislation that schoolbuses be equipped and required to be equipped with seat belts.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. CRALEY. I yield to the gentleman.

Mr. DINGELL. Mr. Chairman, does the gentleman's amendment require all of these schoolbuses to be equipped with seat belts, or just newly manufactured schoolbuses?

Mr. CRALEY. The amendment requires that every motor vehicle used or to be used as a schoolbus be equipped with the seat belts. This would apply to not only new ones, but to those schoolbuses already in use.

Mr. DINGELL. May I ask the gentleman, then, because I can see that the interstate commerce powers of the Federal Government under the Constitution would afford appropriate authority for dealing with the question of these vehicles that are to be sold in interstate commerce in the future, but I would like to know under what power can the Congress constitutionally legislate the use of seat belts on all schoolbuses, including those which are not sold or operated in interstate commerce?

Mr. CRALEY. I would state to the gentleman that I am not an attorney, and I would have to bow to the gentleman on that question. My feeling is that if the legislation is passed it will be required, and would be mandatory that in order for these motor vehicles to operate, that they would have to have seat belts.

Mr. DINGELL. Mr. Chairman, I think that if the gentleman were to change his amendment to say that it would apply to motor vehicles sold in interstate commerce for service as schoolbuses, and they should be fully equipped with seat belts, that would be one thing. I think it would be constitutional and I personally would support the amendment. But I cannot support the amend-

ment when we go back and deal much more broadly than I feel we should, and the amendment raises this particular problem, but here without that proviso in it there might very well be a broad constitutional question that I, as an attorney, cannot answer.

Mr. CRALEY. Mr. Chairman, I would leave that to the opinion of the courts. My amendment would require this safety feature, and I will let it stand at that.

. . . . . .

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the requisite number of words.

I desire to speak briefly to the subject that is before us. The gentleman suggested an amendment dealing with safety belts in school buses, et cetera. I have been studying that subject for 2 years. Earlier this year I introduced a bill to do that. We discussed it in our committee. But we feel, and I think it is a fact, that the Interstate Commerce Commission has authority to provide safety devices on any vehicle under their jurisdiction, and that includes many schoolbuses, interstate buses, and so forth. They have already announced that they plan, I believe, to go ahead and require that. With that information from the ICC, we did not take it up specifically in this legislation.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from West Virginia.

Mr. STAGGERS. I understand the gentleman did not withdraw the amendment, and it is still before the House. I agree with the gentleman from Nebraska that we are giving the Secretary the right to put these in and to proceed.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. CRALEY].

The amendment was rejected.

House Committee Report

House Report 1776, Pages 15, 16, and 18

The most significant change made by the committee in the definition section was the deletion from the definition of motor vehicle of the exemption of those vehicles subject to part II of the Interstate Commerce Act or the Transportation of Explosives Act. Under the original bill, these vehicles would not have been subject to safety standards established by the Secretary. In its consideration of the bill it became clear to the committee that much confusion was created by this exemption. There appeared to be no way to determine with any certainty which vehicles would be subject to the standards and which would be exempt. This exemption was therefore removed. The definition of motor vehicle in the reported bill includes all vehicles driven or drawn by mechanical power. Thus, the Secretary of Commerce will have the authority to issue standards as to the manufacture, sale, and importation of all such vehicles.

In order to insure that there would be the greatest uniformity possible between the standards established under this act and the regulations of the Interstate Commerce Commission as to safety, the committee inserted as subsection (g) of section 103 a requirement that in prescribing safety regulations the Interstate Commerce Commission will not adopt or continue in effect any regulation on safety which is different from a safety standard issued under this title. The Interstate Commerce Commission, however, after manufacture, can impose a higher standard of safety performance on a motor vehicle subject to its jurisdiction. 16

Uniformity of standards and ICC regulations.—Section 103(g) of the reported bill requires the Interstate Commerce Commission not to adopt or continue in effect any safety regulation covering a motor vehicle subject to part II of the Interstate Commerce Act or the Transportation of Explosives Act which differs from a safety standard issued by the Secretary under this title. This subsection, however, is not to be construed to prohibit the Interstate Commerce Commission from prescribing for any motor vehicle operated by a carrier subject to regulation under either or both of these acts a safety regulation imposing a higher standard of performance after the manufacture of such a vehicle than that required to comply with the Federal safety standard at the time of manufacture. 18

Since the definition of motor vehicle under this title encompasses all those vehicles driven or drawn by mechanical power and manufactured primarily for use on the public streets, roads, and highways, other than those operated exclusively on rails, it is necessary to insure that there be no conflict between the safety standards issued by the Secretary and the safety regulations issued by the Interstate Commerce Commission. This subsection provides that the Interstate Commerce Commission's regulations shall not differ from the safety standards issued by the Secretary. However, the Interstate Commerce Commission may impose on a motor vehicle operated by a carrier subject to its jurisdiction safety regulations requiring a higher standard of performance than that required at the time of manufacture of such vehicle.

The committee found the problem of uniformity of regulations to be extremely complicated and gave the subject full consideration. It is the belief of the committee that the definition of motor vehicle in this reported bill together with this subsection eliminates the ambiguities in this area which were present in the introduced bill. It is expected by the committee that the Secretary will consult with the Interstate Commerce Commission to the fullest extent necessary in order to insure that there will be the maximum uniformity, compatible with safety, between the standards issued by the Secretary and the regulations issued by the Interstate Commerce Commission.

Senate Passed Act

Congressional Record—Senate
June 24, 1966, 14256 and 14257

Revised Federal motor vehicle safety standards

. . . . . .

14257 (g) In prescribing standards under this section for any motor vehicle of substantially the same type and specifications as a vehicle subject to safety regulations under part II of the Interstate Commerce Act, as amended (19 U.S.C. 301 et seq.), the Secretary shall not adopt standards which differ in substance from the safety regulations issued pursuant to such Act.

Senate Debate

Congressional Record—Senate
June 24, 1966, 14230

Mr. MAGNUSON.

Then the question of trucks arises—agricultural exempt trucks, common carrier trucks, private carrier trucks, which are now under the ICC. We left the authority for safety standards—which are good in the common carrier field—with the ICC, actually considering the size, weight, and the necessity of the speeds they must make to handle the great transportation system of this country. I guess that, pound for pound, as much as technology can devise, the common carrier is as safe as it can be made.

I know there is no one within the sound of my voice who would not agree with me that probably some of the best drivers on the highways are truckdrivers. They are the most courteous and helpful. They have vehicles which in themselves are great, big, juggernauts which are capable of creating great destruction and hazards; but, technologically, they are as safe as they can be made by the ICC under its standards.

Let me read from the report:

The act thus covers not only passenger cars but buses, trucks, and motorcycles.

The bill excludes, however, those buses and trucks which are subject to safety regulation by the Interstate Commerce Commission (sec. 101(c)), although it is anticipated that should the proposed new Department be created—

And the proposal provides that—

safety regulation of all trucks and buses will be transferred to the Secretary of Transportation.

Such regulations would be covered by that Department.

When we come to agriculture-exempt trucks, and private carriers, over which the ICC still has jurisdiction as to minimum standards, there has been some question about the Department's having enough inspectors to do the job which we should like it to do. I doubt if it could be done wholly. But the example will be set by this bill so that manufacturers of trucks will themselves establish minimum standards. They are already doing it. Many trucks are custom built. They are built for a purpose. There would be variations in construction.

Congressional Record—Senate
August 31, 1966, 21486

Mr. MAGNUSON.

Thus, the conferees adopted the House treatment of trucks and buses, which clarified the Secretary's authority to set standards for all trucks and buses, but preserved the authority of the ICC to require the addition of nonstructural safety features subsequent to manufacture.

I yield to the Senator from Michigan.

The PRESIDING OFFICER. Does the Senator from Maryland yield to the Senator from Michigan?

Mr. TYDINGS. Mr. President, I ask unanimous consent that I may yield to the Senator from Michigan without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Michigan is recognized.

Mr. HART. Mr. President, I have just two points on which I should like to hear the reaction of the able chairman of the committee. The first has to do with the standards that would be applied in the instances of trucks and buses.

Would not the Secretary, in setting the initial standards for trucks and buses, generally have to follow the existing ICC safety regulations?

Mr. MAGNUSON. Presumably the Secretary would have to rely, at least at the beginning, heavily upon the ICC standards. Of course, he is not limited to them. He may use any existing standards applicable to trucks or buses.

Mr. HART. Does the chairman know of any existing safety standards for trucks and buses except the ICC regulations?

Mr. MAGNUSON. No, I do not; and as the Senator knows, the ICC regulations are quite strict. Offhand I do not know of any. GSA regulations might apply to some light trucks that are used by the Government, but they would apply to only that type of vehicle.

Mr. HART. Realizing the shortness of time between now and the end of January of next year, when the initial standards must be issued, and realizing, as the Senator says, that the ICC regulations appear to be, if not the only ones, certainly the most complete existing standards for trucks and buses——

Mr. MAGNUSON. And they are the result of long experience by the ICC in connection with safety regulations.

Mr. HART. Indeed; and, additionally, the fact that manufacturers are now following those regulations in the production of buses and trucks—in view of those facts, is it not to be expected that the Secretary would use the ICC regulations as at least the general basis for his initial set of standards for trucks and buses?

Mr. MAGNUSON. I think that would be a very reasonable expectation. At least to begin with.

Mr. HART. In any event, the Secretary would be under the obligation to insure that they be, as the bill now reads, "reasonable, practicable, and appropriate for the particular vehicle."

Mr. MAGNUSON. Yes; that is correct.

Senate Committee Report

Senate Report 1301, Page 5

SCOPE OF THE BILL

The critical definitions which delimit the scope of the bill are those of "motor vehicle" and "motor vehicle safety."

"Motor vehicle" for purposes of coverage of the act is defined as "any vehicle driven or drawn by mechanical power primarily for use on the public roads, streets, and highways * * *" (sec. 101(c)). The act thus covers not only passenger cars but buses, trucks, and motorcycles. The bill excludes, however, those buses and trucks which are subject to safety regulation by the Interstate Commerce Commission (sec. 101(c)), although it is anticipated that should the proposed new Department of Transportation be created, safety regulation of all trucks and buses will be transferred to the Secretary of Transportation. In the interim, to avoid the imposition of dual standards on these vehicles, the bill requires that the Secretary not adopt standards which differ in substance from applicable safety regulations issued by the ICC (sec. 103(g)).

"Motor vehicle safety" is defined as "the performance of motor vehicles or motor vehicle equipment in such a manner that the public is protected against unreasonable risk of accident occurring as the result of the design or construction of motor vehicles; and is also protected against unreasonable risk of death or injury to persons in the event accidents do occur, and includes nonoperational safety of such vehicles" (sec. 101(a)).

Thus the bill is intended to reach not only the safety of driver, passenger, and pedestrian, but the safety of those who must work with or otherwise come in contact with the vehicle while it is not operating.

Executive Communications

Contains nothing helpful.

As Introduced

As H.R. 13228 in the House and S. 3005 in the Senate:

DEFINITIONS 2

SEC. 101. As used in this title—

.....

(c) "Motor vehicle" means any vehicle driven or drawn, 3 by mechanical or other power, primarily for use on the public roads, streets and highways, other than (1) a vehicle subject to safety regulations under part II of the Interstate Commerce Act, as amended (chapter 8, title 49 of the United States Code), or under the Transportation of Explosives Act as amended (sections 831–835 of chapter 39, title 18 of the United States Code), and (2) a vehicle or car operated exclusively on a rail or rails.

Subsection 130(h) — As Enacted

(h) The Secretary shall issue initial Federal motor vehicle safety standards based upon existing safety standards on or before January 31, 1967. On or before January 31, 1968, the Secretary shall issue new and revised Federal motor vehicle safety standards under this title. 3

Conference Report

House Report 1919, Page 17

INITIAL FEDERAL STANDARDS

Section 103(h) of the House amendment requires the Secretary to issue initial Federal safety standards based upon existing public safety standards on or before January 31, 1967. On or before January 31, 1968, the Secretary is required to issue new and revised standards.

Section 103(h) of the proposed conference substitute is the same as the House provisions with the exception of the deletion of the word "public", thus requiring the initial standards to be based upon existing safety standards.

The House managers agreed to this deletion in order to permit the Secretary to consider *all* existing safety standards, not just public standards.

House Passed Act

Congressional Record—House August 17, 1966, 19670

(h) The Secretary shall issue initial Federal motor vehicle safety standards based upon existing public safety standards on or before January 31, 1967. On or before January 31, 1968, The Secretary shall issue new and revised Federal motor vehicle safety standards under this title.

House Debate

Contains nothing helpful.

House Committee Report

House Report 1776, Page 19

Initial standards.—Section 103(h) of the reported bill requires the Secretary to issue initial Federal safety standards based upon existing public safety standards on or before January 31, 1967. It further requires that on or before January 31, 1968, that the Secretary shall issue new and revised safety standards.

The committee considers that prompt issuance of safety standards is necessary in the public interest. Therefore, the Secretary is required to issue safety standards based on existing public standards no later than January 31, 1967. The existing public safety standards on which the Secretary would base these standards would necessarily include those that have been promulgated by the General Services Administrator as well as those of other Federal departments and agencies and those of States and other public bodies. No later than January 31, 1968, the Secretary is required to issue new and revised standards to extend the initial standards as well as to cover aspects of performance not theretofore dealt with by previous standards.

Senate Passed Act

Congressional Record—Senate June 24, 1966, 14256

Interim Federal motor vehicle safety standards

SEC. 102. (a) Subject to the provisions of this section, on or before January 31, 1967, the Secretary shall prescribe, by order, and publish in the Federal Register interim motor vehicle safety standards for motor vehicles and motor vehicle equipment, which shall be based upon existing public and private safety standards.

Revised Federal motor vehicle safety standards

SEC. 103. (a) Subject to the provisions of this section, on or before January 31, 1968, the Secretary shall prescribe, by order, in accordance with sections 3, 4, and 6 of the Administrative Procedure Act (5 U.S.C. 1002, 1003, 1005) new and revised motor vehicle safety standards for motor vehicles and motor vehicle equipment.

Senate Debate

Contains nothing helpful.

Senate Committee Report

Senate Report 1301, Pages 5, 6, and 7

INTERIM AND REVISED STANDARDS

The bill, as amended by the committee, assigns responsibility for the administration of safety standards and research to the Secretary of Commerce (sec. 101(j)). In order that the congressional mandate be made unequivocal and certain and that safety standards be established at the earliest practicable time, the bill directs the Secretary of Commerce to prescribe interim motor vehicle safety standards by January 31, 1967 (sec. 102). These standards are to be effective within 6 months to 1 year thereafter. Such interim standards, which will be promulgated before the Secretary is able to derive substantial benefit from the new research and development activities also author-

ized by the act, will necessarily be based upon existing public and private standards, evaluated in the light of available technical information.

Thus it is anticipated that in selecting interim standards, the Secretary will consider and evaluate the current GSA safety standards for Government-purchased vehicles (a copy of the current standards is included in the appendix to this report). The Secretary will also be expected to review existing State motor vehicle standards as well as voluntary SAE standards to determine which may appropriately be used as a basis for interim national standards. 6

Subsequently, on or before January 31, 1968, and thereafter at least once every 2 years, as Federal safety research and development matures, the Secretary is directed to issue new and revised standards (sec. 103(a)). Unlike the General Services Administration's procurement standards, which are primarily design specifications, both the interim standards and the new and revised standards are expected to be performance standards, specifying the required minimum safe performance of vehicles but not the manner in which the manufacturer is to achieve the specified performance (sec. 101(b)). Manufacturers and parts suppliers will thus be free to compete in developing and selecting devices and structures that can meet or surpass the performance standard.

The Secretary would thus be concerned with the measurable performance of a braking system, but not its design details. Such standards will be analogous to a building code which specifies the minimum load-carrying characteristics of the structural members of a building wall, but leaves the builder free to choose his own materials and design. Such safe performance standards are thus not intended or likely to stifle innovation in automotive design.

In promulgating any standard, the Secretary is required to consider whether such standard is reasonable, practicable and appropriate for the particular type of motor vehicle or item of motor vehicle equipment for which it is prescribed, and consider, also, the extent to which such standard would contribute to carrying out the purposes of the act (secs. 102(c) and 103(c)). The Secretary is not expected to issue a standard covering every component and function of a motor vehicle, but only for those vehicle characteristics that have a significant bearing on safety.

The General Counsel of the Commerce Department stated in a letter to the committee: (June 3, 1966)

> The tests of reasonableness of cost, feasibility and adequate lead time should be included among those factors which the Secretary could consider in making his total judgment.

The committee intends that safety shall be the overriding consideration in the issuance of standards under this bill. The committee recognizes, as the Commerce Department letter indicates, that the Secretary will necessarily consider reasonableness of cost, feasibility and adequate leadtime.

In determining whether any proposed standard is "appropriate" for the particular type of motor-vehicle equipment or item of motor-vehicle equipment for which it is prescribed, the committee intends

that the Secretary will consider the desirability of affording consumers continued wide range of choices in the selection of motor vehicles. Thus it is not intended that standards will be set which will eliminate or necessarily be the same for small cars or such widely accepted models as convertibles and sports cars, so long as all motor vehicles meet basic minimum standards. Such differences, of course, would be based on the type of vehicle rather than its place of origin or any special circumstances of its manufacturer.

The bill provides that the new and revised standards shall become effective on a date specified by the Secretary, which shall be no sooner than 180 days nor later than 1 year from the date the standard is finally issued (secs. 102(b) and 103(b)), except that for good cause shown, the Secretary may specify a later effective date, but must publish his reasons therefor (sec. 103(b)).

The power to specify a later effective date is needed because it may be a practical economic and engineering impossibility, as well as a source of great hardship and unnecessary additional cost, to require that all vehicle changes required by any new safety standard, whatever its scope or subject matter, be accomplished by all manufacturers for all their new vehicles within 1 year. When changes can reasonably be accomplished in 1 year or less, the Secretary can so require. But when manufacturers satisfy the Secretary that a particular change cannot reasonably be accomplished within 1 year, the bill gives him discretion to extend the period, publishing his reasons therefor (sec. 103(b)).

Executive Communications

Contains nothing helpful.

As Introduced

As H.R. 13228 in the House and S. 3005 in the Senate

FEDERAL MOTOR VEHICLE SAFETY STANDARDS

SEC. 102. (a) The Secretary shall, from time to time, review existing public and private motor vehicle safety standards and the degree of effective compliance existing with respect to such standards. If, at any time after two years from the date of the enactment of this Act, he deter-

mines that there is a need for a new or revised motor vehicle safety standard and that—

. . . . . .

Section 104

As Enacted

Sec. 104. (a) The Secretary shall establish a National Motor Vehicle Safety Advisory Council, a majority of which shall be representatives of the general public, including representatives of State and local governments, and the remainder shall include representatives of motor vehicle manufacturers, motor vehicle equipment manufacturers, and motor vehicle dealers. National Motor Vehicle Safety Advisory Council, establishment. 3

(b) The Secretary shall consult with the Advisory Council on motor vehicle safety standards under this Act.

(c) Members of the National Motor Vehicle Safety Advisory Council may be compensated at a rate not to exceed $100 per diem (including travel time) when engaged in the actual duties of the Advisory Council. Such members, while away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence as authorized by section 5 of the Administrative Expenses Act of 1946 (5 U.S.C. 73b–2), for persons in the Government service employed intermittently. Payments under this section shall not render members of the Advisory Council employees or officials of the United States for any purpose. Compensation of members. 60 Stat. 808; 75 Stat. 339, 340.

Conference Report

House Report 1919, Page 17

ADVISORY COUNCIL

Section 104(a) of the House bill establishes a National Motor Vehicle Safety Advisory Council composed of 13 members appointed by the Secretary, one of whom he shall designate as chairman. Three of the members are to be representatives of manufacturers of motor vehicles, two representatives of manufactures of motor vehicle equipment, three representatives of State and local governments and five public representatives. Seven members constitute a quorum and their terms of office are for 4 years except the initial appointees will be appointed so as to provide staggered terms of office. A vacancy in the Council is to be filled in the same manner as an original appointment.

Section 104(b) of the House amendment requires the Secretary to seek the advice and recommendation of the Council before establishing, amending, or revoking any motor vehicle safety standard under this act.

Section 104(c) of the House amendment provides for per diem compensation for members of the Council as well as travel expenses, and provides that the acceptance of payment under this section shall not make a member of the Council an employee or officer of the United States for any purpose.

Section 104(a) of the conference substitute requires the Secretary to establish a National Motor Vehicle Safety Council. The majority of the members are to be representatives of the general public, including representatives of State and local governments, the remainder to include representatives of motor vehicle manufacturers, motor vehicle equipment manufacturers, and motor vehicle dealers.

Section 104(b) of the proposed conference substitute requires the Secretary to consult the Council on motor vehicle safety standards under this Act.

Section 104(c) of the proposed conference substitute is the same as the House amendment.

The conference substitute will provide the Secretary authority to obtain a sound cross section of consultants from the public, State and local governments, manufacturers, and dealers since he will have full discretion in determining the makeup of the Council, subject to the overall requirement that a majority of its members must represent the general public.

House Passed Act

Congressional Record—House
August 17, 1966, 19670

"SEC. 104. (a) There is hereby established a National Motor Vehicle Safety Advisory Council which shall be composed of thirteen members appointed by the Secretary, one of whom shall be designated Chairman. Members of the Advisory Council shall be appointed from among persons outside the Federal Government and the members shall be representative of industry, State and local governments, and the public. Three of the members shall be representatives of those engaged in the manufacture of motor vehicles, two shall be representatives of those engaged in the manufacture of motor vehicle equipment, three shall be representatives of State and local governments, and five shall be representatives of the general public. Seven members of the Council shall constitute a quorum. The members of the Council shall be appointed for terms of four years, except that three of the members first appointed shall hold office for two years, five shall hold office for three years, and five shall hold office for four years, and any member appointed to fill a vacancy occurring prior to the expiration of the term to which his predecessor was appointed shall be appointed only for the remainder of such term. Any vacancy in the Council shall be filled in the same manner in which the original appointment was made.

"(b) The Secretary shall seek the advice and recommendations of the Advisory Council before establishing, amending, or revoking any motor vehicle safety standard under this Act.

"(c) Members of the National Motor Vehicle Safety Advisory Council may be compensated at a rate not to exceed $100 per diem (including travel time) when engaged in the actual duties of the Advisory Council. Such members, while away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence as authorized by section 5 of the Administrative Expenses Act of 1946 (5 U.S.C. 73b-2), for persons in the Government service employed intermittently. Payments under this section shall not render members of the Advisory Council employees or officials of the United States for any purpose.

House Debate

Congressional Record—House
August 17, 1966, 19628

Mr. QUILLEN.

A National Motor Vehicle Safety Advisory Council is established, consisting of five members from the general public, five members from the industry, and three members of State and local government to advise and consult with the Secretary of Commerce on the mandatory standards required by the bill.

Eight members have signed additional views opposing the present structure of

the Advisory Council. They point out that last minute changes in the bill regarding the Council were approved 13 to 13 to accommodate the Secretary of Commerce by the removal of Senate confirmation of Advisory Council members. They believe that this removal will negate much of the independent thinking and judgment on motor vehicle safety problems which would otherwise be available to the Secretary.

One member has filed individual views warning that the bill is no curcall; that accidents are caused by many factors, car design being only a small part. He supports the bill but fears that Federal standards may actually inhibit the development of safer cars.

Congressional Record—House
August 17, 1966, 19629

Mr. STAGGERS.

Other important additions which do not appear in the legislation referred to by the other body, appear in section 104 where a National Motor Vehicle Safety Advisory Council is created. This will be made up of 13 members drawn from industry, State and local governments, and from the public. The Secretary is required to seek the advice and recommendations of the Council before establishing safety standards. This assures not only a method for expert consultation but also a method for active participation in the program by State, local, and other persons interested in traffic safety.

Congressional Record—House
August 17, 1966, 19631 and 19632

Mr. ROGERS.

The committee adopted the amendment which I introduced to create a National Motor Vehicle Safety Advisory Council, consisting of 13 members. I strongly feel that this Council is essential to the effective operation and administration of this act. During the hearings, it was brought out before the committee that the Federal Government does not now have the technical expertise necessary to establish Federal safety standards for motor vehicles. It is clear that while there have been voices in remote corners of the Federal Government echoing concern for auto safety for some time now, efforts at the Federal level to stem auto accidents have been less than decisive. The first real significant Federal action concerning auto safety came during the 87th Congress, when Public Law 87–637 was enacted and during the 88th Congress, when Public Law 88–201 was enacted. It will be recalled that those statutes provide for brake fluid and seat belts meeting Federal safety standards.

. . . . . .

The Motor Vehicle Safety Advisory Council included in section 104 is intended to provide the Secretary of Commerce with advice vital in evaluating and establishing safety standards. In the bill as presently written, the members of the Council are to be chosen as follows: Three representing motor vehicle manufacturers; two representing motor vehicle safety equipment manufacturers; three representing State or local governments, and five representing the general public. As the members of the Council are to be appointed for 4-year terms on a staggered basis, the Council would be above any partisan viewpoint. The Council would be consulted for its views prior to the establishing, amending, or revoking of any motor vehicle safety standard.

The business of establishing safety standards is a delicate one. In many respects, these standards involve engineering, a matter of concern to vehicle manufacturers and equipment suppliers, as well as economics, a matter of concern to the consumer and motoring public. The

inclusion of the Council will guarantee a free flow of information between Federal authorities, State, and local bodies concerned with the bulk of the safety effort envisioned in this act and supplemented by H.R. 13290, through driver licensing and vehicle inspection procedures, the industries affected, and the ultimate consumer of the vehicle—the general public. With the Council, industry can advise the Federal Government and other interested parties of the safety innovations it has made in automotive design, thus guaranteeing against any established Federal standards becoming a ceiling on performance, rather than a minimum of performance. This advice will guarantee against a status quo in engineering progress. Also, public members can advise on needs and demands of safety.

The establishment of an Advisory Council has precedence in the executive branch of the Government. For example, the Defense Department has a number of industry advisory councils to work with departmental officials even in such delicate questions as procurement and materiel specifications, as well as research and engineering development. The Surgeon General of the United States has and is effectively utilizing advisory councils in matters such as the awarding of contract grants for medical research.

The Secretary of Commerce has stated that the Department intends to consult with the appropriate parties, including the automotive industry, in his standards-setting process. With this admission, the committee stated its preference that such consultations be provided for by law.

The committee has treated the problem of safety standards for used cars by including in section 108 a mandate that at the end of 1 year from the date of enactment of this act, the Secretary shall complete a study of the problems relating to the safety standards for used vehicles, and make recommendations to the Congress for any additional legislation he feels necessary. It is the intent of my amendment that no later than 1 year from the date of the submission of the Secretary's report, the Secretary, after consultation with the Council and other interested public or private agencies, shall establish Federal vehicle safety inspection standards applicable to used motor vehicles. These inspection standards, expressed in terms of vehicle performance, may be revised by the Secretary from time to time after advice from the Council. In this mandate to the Secretary, such used car safety inspection standards would become effective upon issue by the Secretary or within a reasonable time thereafter. The full effect of these used car inspection standards lies in the enforcement provisions seen in H.R. 13290, which offers grant incentives and withholds Federal road construction funds to hasten adoption of vehicle inspections by the States. *19632*

Congressional Record—House
August 17, 1966, 19633

Mr. YOUNGER.

Mr. Chairman, I am in favor of the bill. I voted for it in committee and I hope we can change the appointment of the Advisory Council to a Presidential appointment, confirmed by the other body.

Mr. Chairman, I believe it is wrong to have the Secretary appoint an Advisory Council which he himself chooses. We had better abolish the Advisory Council rather than to have a self-serving Advisory Council.

Mr. Chairman, I am in favor of the bill and I hope that it passes.

Congressional Record—House
August 17, 1966, 19638 and 19639

Mr. GROSS. Will it be within the scope of the Advisory Council to do something about driving while intoxicated? As previous speakers have stated this is one of the worst contributions to automobile accidents.

Mr. WATSON. As far as the Advisory Council is concerned, they are to work with the Secretary, the Secretary having the ultimate authority, in the promulgation of safety standards for the automobile itself—and not for the operation or not for the operator. Production is one part of it, but the operation is the most important factor.

Mr. STAGGERS. Mr. Chairman, I yield to the gentleman from Texas [Mr. PICKLE] whatever time he might require.

Mr. PICKLE. Mr. Chairman, I recommend passage of this measure because the principles are sound and they are needed in the public interest.

I found in the discussion of this legislation that the manufacturing industry
19639 has welcomed the opportunity to help establish fair and reasonable motor vehicle standards. I have found that the Governors of the States welcome the opportunity to establish fair and reasonable standards with respect to the operation of highway safety programs.

One provision that we have established in this legislation and in the legislation that follows (H.R. 13290) is the medium of the Advisory Committee. I should like to point out to this House that this is one time that this kind of committee must be made to work in an effective manner. There has been a feeling down the street over the years that an advisory committee provided in legislation is just something to be suffered with. We are trying to provide in this legislation that we give these people—the industry, the States, and the public—a voice in establishing the standards, and then the public interest will be helped, as it should be.

I would like to recommend passage of the motor vehicle and traffic safety legislation that is before us today, and especially call to the attention of my colleagues a provision of this legislation and a provision in H.R. 13290 that I feel is of paramount importance.

I am making reference to the establishment of the National Highway Safety Advisory Committee—H.R. 13290—and the Motor Vehicle Safety Advisory Committee—H.R. 13228.

As recommended in the highway safety bill, the "Committee shall advise, consult with and make recommendations to, the Secretary on matters relating to his activities and functions in the field of highway safety." As established under the motor vehicle safety bill, the Secretary "shall seek the advise and recommendations of the Advisory Committee before establishing, amending, or revoking any motor vehicle safety standards."

Since the effects of this legislation will bring the control of at least minimum Federal standards down into the very heart of State and local powers, I feel that the proposed Advisory Committee must be more than a paper organization. If I could have my way, I would make it much stronger.

This is one advisory committee that must be made to function, and I am hopeful that, with the establishment of the Committee, it will not only serve a useful purpose, but that a proper State-Federal relationship will be established and maintained.

Traditionally, such functions as motor vehicle registration, driver licensing, vehicle inspection, and traffic enforcement have been left to the individual States. If we allow the Federal Government to have control of this responsibility, then the lure or appeal of grant money—without their full approval—could lead to a Federal police system, which I am sure no one wants.

It has been under the States' leadership, direction, and financing that many of the highway safety programs were established and carried out. Whatever programs we have made over the years have been through State leadership, not Federal leadership.

In my home State, for example, an effective annual vehicle inspection law has been on the books for many years. Our highways are reportedly the best of any State, and our department of public safety has long been recognized as perhaps the most effective in the Nation.

I insist that the establishment of the National Highway Safety Committee and the Motor Vehicle Safety Advisory Committee will mean a continuation of the progressive State efforts in the field of highway safety.

It seems to me that it would be logical and proper to call on the State experts, such as Col. Homer Garrison, director of the Texas Department of Public Safety,

to help formulate highway safety plans. Not to take proper advantage of the knowledge and experience of such men as Colonel Garrison—or the various States—would appear to be wasteful.

The increasing number of deaths on our highways has given birth to this legislation. I strongly assert that even though such laws are necessary to curb this death toll, I trust that they would not lead to only minimum participation by our States.

Somehow, the feeling has developed throughout these hearings that "since the States have failed to take proper steps by establishing uniform safety standards, the Federal Government must now step in and do it for them." This simply is not the case. It is better to say that neither has done a sufficient job, but the plain truth is that the States have done the only job. By and large the States have done a good job. I do admit that we have reached a point where we must have a clear delineation of authority between the Federal and State Governments if we are to establish much needed minimum standards, but I do not subscribe to the position that each State has done a poor job in this field of traffic safety. Indeed the number of deaths and injuries per million miles traveled during the past 5 years in my State—and I believe most States—has declined percentagewise most substantially. This credit should be given the States. If we are to have a meaningful highway safety program or motor vehicle safety standards in the years to come, it must be with the continued leadership of the States.

Congressional Record—House
August 17, 1966, 19660-19662

AMENDMENT OFFERED BY MR. SPRINGER

Mr. SPRINGER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SPRINGER: On page 34, line 14, strike out "Secretary," and insert in lieu thereof the following: "President with the advice and consent of the Senate,".

Mr. SPRINGER. Mr. Chairman, in view of this being, I think, only one of two amendments, I would like to ask unanimous consent that I be allowed to proceed for 3 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. SPRINGER. Mr. Chairman, this has to do with the Advisory Council. We feel that the formation of the Advisory Council was one of the real important parts of this legislation. This Council is composed of 13 members, of which one is the chairman. Now, at the beginning the original legislation had the provision as I want it in it. May I say this is a rather unique situation. The gentleman from Florida [Mr. ROGERS] offered the first amendment and we adopted it. Under that amendment the bill then read that it, the Council, would be appointed by the President with the advice and consent of the Senate. Now, within a very few days after this the Secretary of Commerce strenuously objected to the language "by the President with the advice and consent of the Senate."

Now, if I were the Secretary of Commerce, I might want it that way. The Advisory Council as we set it up appointed by the President with the advice and consent of the Senate is a pretty independent body, because it receives the final approval of the Senate. It was our feeling that a body as important as this, which is going to make up standards for this country in consultation with the Secretary of Commerce, ought not to be under the immediate domination of the Secretary. So the Secretary began to exert pressure on everybody, including me, to see if he could get this changed back from the way that the gentleman from Florida, [Mr. ROGERS] has put it into the bill finally. That amendment carried in the committee 13 to 12. Thirteen for making the change to give all of the power to the Secretary with no hearings on the appointment of the members of the Advisory Council. I am sure if the Secretary of Commerce had not intervened, this bill would have remained exactly as it was. It was only because of the pressure of the Secretary of Commerce that the change was made.

Why is this not in the public interest? I think that is pretty important to know. Under the language now in the bill, the Secretary of Commerce can appoint those 13 people this afternoon and they

go to work tomorrow morning and the first time anybody would know about it is when those men were on the job, or you read about it in the newspaper. There is no intervening time for anybody to make any objection. You would not even know who the candidates were.

Mr. Chairman, this Council of 13 people is going to advise the Secretary on automobile safety standards for 93 million automobiles of which there will roughly be 160 million people driving.

Mr. Chairman, if there is anything that can affect every home in this country more, I do not know what it is.

Now, Mr. Chairman, the amendment which I have offered would strike out "Secretary" and insert "President with the advice and consent of the Senate."

Mr. Chairman, why is it important to put this provision in here? In the first place, everyone of these 13 members should be publicly exposed by a hearing in the Senate. I do not mean held up to ridicule; of course not. What I mean is that when the President nominates them, within 30 days they will come down to the Senate for confirmation and there will be a hearing on each one of these 13 people.

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Mr. Chairman, there should be questions put to each of these appointees as to their qualifications.

Therefore, Mr. Chairman, you would have an opportunity to examine those people. If they are not qualified, then they should not be accepted in the public interest—if their record indicates in the past that they were not capable of acting in the public interest.

Mr. Chairman, there is a second reason why we wanted the Council to be relatively independent. In other words, Mr. Chairman, they should be standing up for the public interest and they should not be under the domination of the Secretary. I know that Members on both sides of the aisle were for the Advisory Council but said that the Advisory Council ought to be making its recommendations in writing so that there would be no doubt that the Council was acting in the public interest.

In other words, Mr. Chairman, we have made it impossible for the Secretary to consult with two or three of these people and put these standards into operation tomorrow and say that they had been consulted.

Mr. Chairman, we made it mandatory that the Secretary had to consult with the Advisory Council.

Mr. Chairman, this is the reason why this Council should be independent.

The members of the Committee may well say that the President and the Secretary are probably acting together. Perhaps, they are. Perhaps, the President is going to make the appointments that the Secretary wants to have made. But the important thing is that when these recommended appointments get to the Senate, you will have a right to question these men individually.

Mr. Chairman, this is a very simple amendment. I have tried to explain it in language which everyone can understand. I believe it is important to separate this Advisory Council from being under the immediate instructions of the Secretary, and that is the reason for the amendment.

Mr. Chairman, in the committee it lost by only a vote of 13 to 12. This will give to the members of the Committee an idea as to how close the vote was, and may I say that the vote was bipartisan.

Mr. STAGGERS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I shall not take the full 5 minutes, I just want to call upon the author of the amendment, because he is the one who sponsored it, the gentleman from Florida [Mr. ROGERS].

Mr. ROGERS of Florida. Mr. Chairman, I thank the chairman of the Committee on Interstate and Commerce for yielding to me at this time.

Mr. Chairman, I likewise rise in opposition to the amendment.

Actually, as has been explained, when I first offered this amendment I did have the Advisory Safety Council appointed by the President and its members to be confirmed by the Senate.

Without any pressure, if I may say to the gentleman from Illinois, but simply as a result of discussions I had with representatives of the Department of Commerce, I changed my mind as to the advisability of having the President appoint the Council. The Commerce Department tried to point out to me what it felt were the deficiencies in the amendment as it was first offered. I agreed with the Department and offered an amendment to change the provision from having the President appoint the Council to having the Secretary appoint the members.

First of all, the purpose of this Council is to advise the Secretary. It is not to advise the President. It is not to advise the Cabinet. It is to advise the Secretary of Commerce, on trying to set standards.

Where do we place the responsibility in this bill for the setting of standards? We do not place it in the President—we place it in the Secretary of Commerce,

and it is his full responsibility. It is only right that he should appoint this group to help advise him. That is all it is. He does not have to accept their advice—or he may accept their advice if he so desires. It is simply an advisory committee for the Secretary.

Furthermore, I think we are protected under the terms of office in that we have certain set terms, and independence enough for any advisory committee. We give them set terms that the members will serve. We have precedent for that.

That is the same way it is done in the Public Health Service, the Surgeon General appoints the advisory committee to advise him. In the Department of Defense we have the same sort of setup. The advisory committees there are appointed by the Secretary, and not by the President.

I think that an overall view of the purpose of the Safety Advisory Council as set out in the proposed bill to advise the Secretary, who has the full responsibility, is exactly as the committee should be appointed and set up.

I would urge very vigorously the defeat of the amendment as proposed by the gentleman from Illinois.

Mr. WATSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, my friend from Florida knows full well the high esteem that I have for him, and certainly I for one would never impugn his motives.

But I well recall, as I am sure the other members of the committee will recall, the persuasiveness and the eloquence of the gentleman from Florida when he first proposed this Advisory Council. It was his idea that it be appointed by the President, with the advice and consent of the Senate. He did an excellent job. He convinced us on it.

It was not until the last day that they came back with the idea that the Council must be appointed by the Secretary.

Now, let me say why I can support the amendment of the gentleman from Illinois. We have a serious problem confronting us. I want this Advisory Council to have as much prestige and respect as possible. I firmly believe that if it goes through the process of recommendation by the President, plus the advice and consent of the Senate, that this Council indeed will have national prestige, and we will get the best possible members on this Council.

Bear in mind this: Whether you have it by the method suggested by the gentleman from Illinois, or whether you will leave it as it is presently in the bill, you are not diminishing one iota the authority or the power of the Secretary of Commerce.

The gentleman from Florida knows full well that the final authority is vested in the Secretary. But I believe it will be more meaningful to have this Advisory Council appointed by the same method as my friend from Florida originally suggested.

I fail thus far to see the deficiencies that suddenly manifested themselves between the original proposal and the last-minute suggestion which just passed by the skin of its teeth with a 13-to-12 vote.

I would urge the Committee to adopt the amendment of the gentleman from Illinois. It will give us a stronger bill. It will not diminish the authority of the Secretary of Commerce at all. I believe it will add immeasurably to the prestige of this Advisory Council as they try to wrestle with this tremendously important problem with which we are confronted.

Mr. ROGERS of Florida. Mr. Chairman, will the gentleman yield?

Mr. WATSON. I yield to my friend, the gentleman from Florida.

Mr. ROGERS of Florida. I thank my friend, the gentleman from South Carolina. I would say that it was not just at the last day. Of course, the substitute was put in the last day, but there were discussions before that.

Mr. WATSON. I am sure the gentleman knows there was later discussion after your original proposal.

Mr. ROGERS of Florida. Yes.

Mr. WATSON. And then it was voted down on that occasion. It was denied.

Mr. ROGERS of Florida. Yes.

Mr. WATSON. And it was narrowly passed on the last day.

Mr. ROGERS of Florida. All I wanted to say was that at that time I had made the change. But, no matter, the fact that I first proposed it, as you say, I did have the President appoint them.

In further consideration of that question I felt it would not be wise. If we would give this Council the right to set the standards themselves and the responsibility to do that, then I would agree with the gentleman that it should be a presidentially appointed body.

However, in a situation where we will have given the authority to and will hold the Secretary responsible, surely it is only proper that the advisory body should be appointed by him.

Mr. WATSON. I refuse to yield further. If I might make this statement in reply, I am sure the gentleman from Florida will agree with me that an advisory council appointed by the Presi-

dent with the advice and consent of the Senate would certainly be more of a prestige council than one which is appointed by the Secretary of Commerce.

19662 I believe it is more in the public interest that we have this particular procedure followed, as indeed was the one which you suggested initially. Neither method of appointment would not diminish the authority of the Secretary of Commerce. Indeed, I believe we would strengthen his hand as he tries to wrestle with this tremendously important problem.

Actually we are having much ado about nothing. I hope my colleagues over on the other side will go along with us and show your confidence in the President of the United States and the Senate on this matter.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. SPRINGER].

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 49, noes 66.

Mr. SPRINGER. Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. SPRINGER and Mr. ROGERS of Florida.

The Committee again divided, and the tellers reported that there were—ayes, 80; noes, 77.

So the amendment was agreed to.

Congressional Record—House
August 17, 1966, 19668 and 19669

The SPEAKER. The Clerk will report the amendment on which a separate vote has been demanded.

The Clerk read as follows:

Page 34, line 14, strike out "Secretary" and insert in lieu thereof the following: "President with the advice and consent of the Senate".

The SPEAKER. The question is on the amendment.

The question was taken; and on a division (demanded by Mr. SPRINGER) there were—ayes 75, noes 98.

Mr. SPRINGER. Mr. Chairman, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 168, nays 205, not voting 59, as follows:

. . . . . .

So the amendment was rejected. 19669

. . . . . .

The SPEAKER. The question is on the committee substitute.

The committee substitute was agreed to.

Congressional Record—House
August 31, 1966, 21349-21352

Mr. STAGGERS.

NATIONAL MOTOR VEHICLE SAFETY ADVISORY COUNCIL

The House version requires appointment of an Advisory Council to be made up of representatives of those industries concerned, State and local governments, and the general public. The Senate version has no comparable provision. The managers for the Senate, with some modifications, accepted the inclusion of an Advisory Council.

. . . . . .

Mr. PICKLE. I thank the gentleman for yielding.

I believe the gentleman said in his statement with reference to the National Advisory Council "some changes had been made," primarily by the other body, and this was agreed to by the conference.

Mr. STAGGERS. No.

Mr. PICKLE. At least, some changes were made with respect to this Advisory Council.

Mr. STAGGERS. That is correct.

Mr. PICKLE. I am trying to determine what these changes were. If I read from the correct section of the conference report, section 104(a) states:

The Secretary shall establish a National Motor Vehicle Safety Advisory Council, a majority of which shall be representatives of the general public, including representatives of State and local governments, and the remainder shall include representatives of motor vehicle manufacturers, motor vehicle equipment manufacturers, and motor vehicle dealers.

Thus, the statement is made:

A majority of which shall be representatives.

A majority of how many?

Mr. STAGGERS. Of 19. The committee was expanded.

Mr. PICKLE. I do not see where this reference to 19 is made. Originally it was 13.

Mr. STAGGERS. I am sorry; that was incorrect. The figure of 19 was discussed at some length. We leave this discretionary with the Secretary. We do insist that the public have the majority.

Mr. PICKLE. The measure which affects highway safety, which was brought to the floor by another committee, had a provision of 29 members.

Mr. STAGGERS. Yes.

Mr. PICKLE. A specific number.

Mr. STAGGERS. Yes.

Mr. PICKLE. To be appointed by the President. It is a committee of some considerable standing, and I think that is fine. It seems to me that we ought to have a definite number here. This could be a majority of three or four. It says "a majority of which" and therefore you could have any number. This leaves it mighty wide open, it seems to me, Mr. Speaker.

Mr. STAGGERS. Certainly we could have a much larger group than three.

Mr. PICKLE. But it does not say that.

Mr. ROGERS of Florida. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I shall be glad to yield to the gentleman.

Mr. ROGERS of Florida. Actually, what we have said here is that there will be a council appointed by the Secretary. We have not set a specific number, but we have said that the majority must be public members. This does leave in the discretion of the Secretary as to whether it shall be a 13-man, a 19-man, or a 26-man committee, but what we have insisted upon is the fact that the majority shall be public members. We have suggested in the legislation the other areas from which the appointments will come, as the gentleman will notice. Therefore we have set up the basis of the commission but left it to the discretion of the Secretary since it is an advisory committee. We have not specified that it must be 12. It may be that he will want to put various industry people on this council. He may want to put some automobile dealers on it, because they do have an interest in it. He may want to put a used-car dealer on it. However, if he puts these people on, then he must put a like number of public members on it so that there will be a majority of public members. 21950

Mr. PICKLE. The same argument could be made with respect to the highway safety measure in which they say 19 members. On the basis of this language, you probably would have at least five members.

Mr. ROGERS of Florida. Yes.

Mr. PICKLE. I think it would be the intent of this Congress that you will have more than five members, because this is supposed to cut across the board in a broad field. Five is a limitation. Would you not say that it was your intent to have at least 15 members?

Mr. ROGERS of Florida. I think it was the intent of the Congress that we have more than five, because we have listed some people that certainly ought to be considered for membership, but we have not tied the hands of the Secretary as to how many he should have on it. It is certainly the intent that it be a reasonable membership to accomplish and make up a proper advisory committee. That is the intent of the whole Advisory Council. It is to make it a useful tool for the Secretary in setting standards.

Mr. PICKLE. I will say to the gentleman that this seems to me to be a glaring weakness in the report in that you do not specify the number of the advisory committee, which is something fundamental.

Mr. ROGERS of Florida. If the gentleman will permit me to say so, I will disagree with him very definitely, because if we were to say that there should be only 13, as we originally intended, then you will have groups coming in that want to be mentioned and represented and perhaps should be. What we have done is to take a reasonable course, listing people who ought to be considered for membership, and leaving at the discretion of the Secretary the right to expand on it.

Mr. PICKLE. It seems to me that the gentleman is making an argument which is just the opposite of the point he is trying to make. If you put a specific limitation on it, then he will appoint that many and no more.

Mr. ROGERS of Florida. It may be that the Secretary feels he wants certain ones on it, and we do not want to do anything that will restrict him. He may want a number of automobile men on it and some used-car people on it and some truck equipment manufacturers. We do not know yet who will be helpful to him in this advisory capacity. This allows him the flexibility of doing whatever is necessary and appropriate for an advisory committee.

Mr. PICKLE. Mr. Speaker, I think this is a deficiency and it ought to be definitely stated as to the number that should be on this Advisory Council.

. . . . . .

Mr. SPRINGER.

The other major difference involves the Advisory Council which was worked out in the Commerce Committee and accepted by the House. No similar provision had been considered by the other body. I know that the Members of this House are fully aware that I advocated an Advisory Council appointed by the President of the United States with the advice and counsel of the Senate.

The House did not see fit to accept my recommendation in this regard. It did, however, provide an Advisory Council which in its main provisions was adequate and highly useful. The Advisory Council provided in the conference report is not what I would want it to be. It leaves entirely too much to the discretion of the Secretary as to its makeup and its functions. I do not feel, however, that legislation as important and far-reaching as this National Traffic and Motor Vehicle Safety Act should be jeopardized because of the relative weakness of this one feature.

To oppose it because of this one weakness would be a disservice to the country.

21351 I am hopeful that the Secretary of Commerce or the Secretary of Transportation, as the case may be, will read carefully the hearings and other legislative history and will make every effort to create an Advisory Council which is strong, independent, realistic, and truly constructive to the purposes of this act.

With this slight reservation and this admonition I endorse and support the acceptance of this conference report.

Mr. ROGERS of Florida. Mr. Speaker, will the gentleman yield on that point?

Mr. SPRINGER. Yes. I yield to the gentleman.

Mr. ROGERS of Florida. I would like to join with the gentleman from Illinois in making it very clear that we certainly did agree and insisted that this is a mandatory provision that he must consult with this advisory council before he does issue any standards at all.

Mr. SPRINGER. I think the gentleman from Florida was quite insistent on this when we had it up in our committee. It is one of the better features of the bill, because this does not give discretion to the Secretary to consult but it is mandatory. He also should receive any report from the council that they wish to make in order that he may have the advise of that council.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. SPRINGER. Yes. I yield to the gentleman.

Mr. GROSS. Earlier this afternoon the gentleman from Texas [Mr. PICKLE], made a very good point that there ought to have been a limitation on the number of members on the Advisory Council. I, for one, am surprised and disappointed that the conferees came back with a report that provides an unlimited number and without any specification as to whom they may be. It may be 26 political castoffs appointed to this Council. Who knows?

Mr. SPRINGER. May I say in answer to the gentleman that I am just as disappointed as he is. We had just one alternative offered to the conference from the other body, and that was no council at all. We either had to have this kind of council or no council at all.

And that was the only alternative which was presented to us. The reason that we took it in this form is only because we believed that a Safety Council was necessary, and if we were going to have this thing function properly we simply had to have a concern about it.

May I say in further reply to the distinguished gentleman from Iowa that even under the other plan that even if they desired to do so, we cannot keep him from doing that. This is the reason I wanted this Council appointed by the President and confirmed by the Senate, because we would have an opportunity over here to do something about it. However, this was adopted in our committee and we want to do this.

Mr. Speaker, may I say that we came back with the best compromise which we could obtain, and that is the reason this is written in this form.

Mr. Speaker, I am just as unhappy about it as the gentleman from Iowa [Mr. Gross], but I wanted to explain to the gentleman the practical situation with which we were confronted.

Mr. GROSS. Mr. Speaker, will the gentleman yield further?

Mr. SPRINGER. I yield further to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, I appreciate the explanation of the gentleman from Illinois. I appreciate it very much for I know he has fought on this issue. Am I correct in saying that if there were 26 of them, each could be paid $100 a day?

Mr. SPRINGER. I would doubt that the Secretary would want 26. That would be a rather unwieldy number. I have been thinking that the Secretary, with the limitation we have in here—I do not see how it could be less than 9, with the various categories involved and the fact that he must appoint some and the public must be in the majority—but I would think 9 would be the fewest but I think it would still be in the neighborhood of the figure of 9 to 15.

Mr. Speaker, I was thinking that the Secretary, with the limitation which we have in here—I do not see how it could be less than nine with the various categories involved—and the public must be in the majority—but I would think nine would be the fewest. However, I would further think that the number would still be in the neighborhood of 9 to 15.

Mr. GROSS. But, Mr. Speaker, if the gentleman will yield further, they could be paid $100 a day; is that correct?

Mr. SPRINGER. That is correct.

Mr. PICKLE. Mr. Speaker, will the gentleman yield?

Mr. SPRINGER. I yield to the gentleman from Texas.

Mr. PICKLE. Mr. Speaker, I ask for this time for the purpose of propounding to the chairman of the committee and to the gentleman representing the minority the following question:

Were there individual ideas about the number that should compose the membership of this group? The purpose under the provisions of this bill is to define the bounds within which we must operate. I do not want the committee to be so small that it would represent a small, select, closed-corporation, hip pocket type of committee, to be operated by the Secretary of Commerce solely and which would have no real meaningful effect.

Mr. Speaker, neither do I want the committee to be composed of a group so large, as I am sure the balance of the Members would not want, that it would be unwieldy, and/or that it would cost the taxpayers too much per day.

Mr. Speaker, the gentleman in the well offered an amendment in the committee which would call for the composition of the committee to consist of 13 members. This was passed by the House but was not agreed to by the other body.

Mr. Speaker, if the gentleman is talking in terms of 13 or 15 or 19, would it be the gentleman's feeling that the advisory committee should consist of between 13 and 20 members, approximately?

Mr. STAGGERS. Mr. Speaker, will the gentleman from Illinois yield to me at this point?

Mr. SPRINGER. I yield to the gentleman from West Virginia for the purpose of responding to the question.

Mr. STAGGERS. Mr. Speaker, I would like to say to the gentleman from Texas that the language of the report is to the effect that the membership should be composed of a number of between 13 and 19, or some number in between. A number of other Members thought that in order to get the bill out, we should agree to this figure.

Mr. Speaker, the word "representative" means two. We have 6 different groups represented and that would mean 12. We would like for each group to have two. We discussed the numbers between 13 and 19, and that would be my understanding, if the Secretary does not add to these members with reference to the figure of somewhere in between, with which I believe we are working.

Mr. PICKLE. Mr. Speaker, I thank the gentleman from West Virginia for his comments. And, is this also the feeling and intent of the gentleman representing the minority?

Mr. SPRINGER. Does the gentleman from Texas mean insofar as this compromise is concerned?

Mr. PICKLE. I mean insofar as the practical number that the Secretary should appoint should be somewhere in the neighborhood of 15?

Mr. SPRINGER. That is correct; I think in the neighborhood of 13 to 17, and I think it might be 19. I think the restriction should be put in here to the effect that you should not have more than 17 or less than 9.

Mr. PICKLE. Mr. Speaker, if the gentleman will yield further, if the gentleman will read the language, it is clearly open to interpretation as to whether it should be four or six. I believe there should be a representative group. And, if the gentleman thinks in terms of 13, or 19, as the chairman does, I will not offer motion to recommit the bill.

Mr. SPRINGER. I think the gentleman has made a good contribution. At least the Secretary is going to read the RECORD about what number we think it ought to be and I think that is about right.

Mr. PICKLE. I thank the gentleman.

Mr. STAGGERS. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. Moss].

Mr. MOSS. Mr. Speaker, this is a very significant piece of legislation. I

think that the final product brought here for consideration today should lay to rest any allegations or charges that the House labored less vigorously or with less good faith than the other body.

Throughout the hearings on this legislation and the lengthy process of markup, I believe that every member of the committee represented in his judgment the public interest and the interest of his district—and that is the appropriate role to fulfill.

I think that there was at all times in the conference an overriding concern on the part of every member of the conference from both Houses on both sides of the aisle to improve and strengthen the legislation in order that it better 21352 serve the purposes of the American motoring public.

We were mindful of the sensitive nature of a very important basic industry. I believe a fine balance was achieved in that conference committee.

We had a considerable amount of discussion over the numbers of persons who should constitute an advisory committee. This was a very difficult subject for the committee, with the other body not favoring any kind of an advisory committee, and I believe the balance here again achieved is very much in the public interest.

Clearly, they do not want the Secretary to appoint a body so large as to be unwieldy or so small as to be unrepresentative.

House Committee Report

House Report 1776, Pages 19, 20, 46, and 47

NATIONAL MOTOR VEHICLE SAFETY ADVISORY COUNCIL

Section 104 of the reported bill creates a National Motor Vehicle Safety Advisory Council consisting of 13 members. The members are to be appointed by the Secretary, and he shall designate the chairman. Members of the Council are to be chosen as follows: Three representing motor vehicle manufacturers, two representing motor vehicle safety equipment manufacturers, three representing State or local governments, and five representing the general public. Members are to be appointed for 4-year terms on a staggered basis. The duties of the Council shall be to advise and make recommendations to the Secretary with respect to motor vehicle safety standards under this act. The Secretary is required to seek such advice and recommendations before establishing, amending, or revoking a safety standard. Members of the Council may be paid up to $100 a day wher engaged in their actual duties. They will also receive travel expenses Receiving payment for services does not render a member of the Council an employee or officer of the United States for any purpose.

The introduced bill did not contain any provision similar to section 104 of the reported bill. The committee decided that it would be desirable to create an Advisory Council to insure that the Secretary have available to him the advice and recommendations of a cross section of those principally interested in his formulation of safety standards. The Council will be comprised of a balance between the industries concerned and the public and State and local governments.

The committee intends that participation in the activities of the 20 Council as a member, and receipt of payment therefor, shall not be construed to be participation as a Government officer or employee within the meaning of section 208 of title 18 of the United States Code

or any other provision of law of the United States relating to conflicts of interest.

ADDITIONAL VIEWS ON H.R. 13228

H.R. 13228, as it comes from this committee is a good, well considered and workable bill. It has had the very careful attention of the committee, unhurried and unaffected by any sensationalism which may have originally colored the thinking of the public and even the Congress on the subject of automobile safety and the steps necessary and desirable to eventually eliminate, so far as humanly possible, the slaughter on our Nation's highways.

In the course of deliberating this measure the committee discussed at length the desirability of creating an advisory body bringing together the experience and the views of the various private and public elements concerned with the subject of safety standards for new cars. After thorough discussion it was decided that a group appointed by the President with the advice and consent of the Senate would be in the best interests of the public. Such a group, disconnected from the responsibility of administering the act could bring forth all points of view, all complexion of ideas, suggestions, and technical possibilities. Once it became known that such a provision had been agreed upon, the pressure to undo and reverse the decision was intense. Obviously the Commerce Department considers such an advisory body as a hindrance and danger to its own ideas of the proper methods to be used in the very important business of setting automotive safety standards. The very ferocity of the effort should indicate to a casual observer that there must be a good reason to have such an independent deliberative group to assist the Department and make recommendations which are open to the public.

In the course of the hearings on this bill it was readily admitted by those agencies of Government concerned that they had no extensive expertise in this field. The real knowledge and experience lay in the industries involved and in the private and public agencies, particularly the State and local governmental agencies directly concerned with auto safety over the years. The relatively independent and autonomous Presidential board provided in the original version as accepted by the committee brings this experience into play in a meaningful way. It gives the various interested elements, including the public members, a forum for working out tough problems and coming to some reasonable solution. The Secretary may not always accept its recommendations but he will be better informed. And because of its activity so will industry and so will the State and local governments.

The very requirement that prospective members of the safety council be confirmed by the Senate, with open hearings on the background of each, should assure that it will be made up of the highest qualified representatives of the groups set out in the law to participate. Its very makeup should engender confidence in the public that auto safety has been placed above mere bureaucratic procedure and above politics. It is our intention to make every effort to amend the bill to provide for the Presidential advisory body.

Our objection to the present advisory council provisions is directed at both the procedures by which they were inserted into the bill and the merits. The latter we have discussed. 47

The former should be of interest to those outside the committee considering the bill. The committee having carefully devised the provisions for a presidentially appointed council making written recommendations, the first attempt to scuttle them was rebuffed. At the very last meeting of the committee, called to report out the bill, a substitute bill was offered changing only this portion to accommodate the Secretary of Commerce, and the substitute carried by one vote, 13 to 12. This manner of undoing the careful work of the committee should not be accepted by the House of Representatives, and we urge the return to the earlier concept.

WILLIAM L. SPRINGER,
J. ARTHUR YOUNGER,
SAMUEL L. DEVINE,
ANCHER NELSEN,
WILLARD CURTIN,
JAMES T. BROYHILL,
ALBERT W. WATSON,
TIM LEE CARTER.

Senate Passed Act

Contains no comparable provision.

Senate Debate

Congressional Record—Senate August 31, 1966, 21487

Mr. MAGNUSON.

The House bill established a National Motor Vehicle Safety Advisory Council. After considerable discussion, a revised Council provision was adopted by the conferees. The specific representation of motor vehicle manufacturers, motor vehicle equipment manufacturers, and motor vehicle dealers was left to the determination of the Secretary of Commerce, who will appoint the Council, except that the bill expressly requires that a majority of the Council represent the general public. In addition, the requirement in the House bill that the Secretary must seek the advice and recommendations of the Advisory Council before establishing, amending, or revoking any standard was modified to require that the Secretary generally consult with the Advisory Council on motor vehicle safety standards.

Mr. HARTKE. Chrysler put heavy emphasis on safety. I think the rest of the industry will do likewise. This legislation is something that will not be harmful to industry, and will be very helpful to the public. I hope it will contribute to reducing the death toll on the highways. With respect to the matter of an advisory council, I think we ought to consolidate the matter as provided in this bill and in the Public Works bill. I do not think we need two advisory councils.

Mr. MAGNUSON. This was one of the sectors of the bill about which we had a great deal of discussion. We had to take some of the House views. The House provided for the council in its bill. We did not have it in our bill. In particular, the Senator from New Hampshire and I insisted that, if there was to be such a council, the public should have the majority representation on that council.

I think we were also practical in that we wanted to have the manufacturers, both of automobiles and equipment, represented on that council. The Senator from New Hampshire [Mr. COTTON] did yeoman work in also getting representation for the retail automobile dealers. Also, State and local governments are to be represented. They may consist of a representative of the safety council of a State, or a safety commissioner appointed by a Governor, or it may be a member of a State highway patrol, or an independent expert in automotive safety. None of these laws will work without a conscientious highway patrol.

So we agreed that the council should have on it a majority of public members. The thought also was that there should not be any chance of having any one group dominate. When we say that a majority of the council are to be public members, it may be that the designation "public" may indicate unanimity of opinion, but we know they will have individual ideas of their own. They are going to be independent in their approach, and have their own independent ideas. This is one matter on which we had problems.

Mr. HARTKE. I am glad to see the traffic council concept in the bill. I thank the chairman for his efforts in that respect.

Senate Committee Report

Contains nothing helpful.

Executive Communications

Contains nothing helpful.

As Introduced

As H.R. 13228 in the House and S. 3005 in the Senate: contains no comparable provision.

Section 105

As Enacted

SEC. 105. (a)(1) In a case of actual controversy as to the validity of any order under section 103, any person who will be adversely affected by such order when it is effective may at any time prior to the sixtieth day after such order is issued file a petition with the United States court of appeals for the circuit wherein such person resides or has his principal place of business, for a judicial review of such order. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary or other officer designated by him for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based his order, as provided in section 2112 of title 28 of the United States Code. 72 Stat. 941.

Judicial review. 3

(2) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Secretary, and to be adduced upon the hearing, in such manner and upon such terms and conditions as to the court may seem proper. The Secretary may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original order, with the return of such additional evidence.

Modification of findings.

(3) Upon the filing of the petition referred to in paragraph (1) of this subsection, the court shall have jurisdiction to review the order in accordance with section 10 of the Administrative Procedure Act (5 U.S.C. 1009) and to grant appropriate relief as provided in such section. 60 Stat. 243.

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(4) The judgment of the court affirming or setting aside, in whole or in part, any such order of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28 of the United States Code. 62 Stat. 928.

(5) Any action instituted under this subsection shall survive, notwithstanding any change in the person occupying the office of Secretary of any vacancy in such office.

(6) The remedies provided for in this subsection shall be in addition to and not in substitution for any other remedies provided by law.

(b) A certified copy of the transcript of the record and proceedings under this section shall be furnished by the Secretary to any interested party at his request, and payment of the costs thereof, and shall be admissible in any criminal, exclusion of imports, or other proceeding arising under or in respect of this title, irrespective of whether proceedings with respect to the order have previously been initiated or become final under subsection (a).

Conference Report

Contains nothing helpful.

House Passed Act

Same as enacted Act.

House Debate

Congressional Record—House August 17, 1966, 19629

Mr. STAGGERS.

The judicial review provisions of the bill should afford protection to any interested party if he wishes to challenge orders of the Secretary. Essentially the judicial review provisions are those of the Food and Drug Act and the Administrative Procedure Act—section 105.

Congressional Record—House August 17, 1966, 19647

Mr. SMITH of Iowa. Mr. Chairman, I first want to congratulate the gentleman from West Virginia and his committee because since the gentleman has been chairman of this committee he has worked through some difficult legislation and has shown some real leadership in doing so.

Mr. Chairman, I do expect to support this bill. However, there has been a question that has been raised as to who can appeal under section 105(a)(1). I would like to ask the gentleman, Is the attorney general of a State, a person who could be adversely affected and have a right to appeal under section 105 (a)(1)?

Mr. STAGGERS. The answer would be yes, he could be.

Mr. SMITH of Iowa. If the State government purchases several dozen or several hundred motor vehicles per year, the price of those automobiles or vehicles naturally is affected by the standards adopted. If the attorney general made a showing that the total cost of these vehicles that the State purchases would be increased several hundred or several thousand dollars without commensurate increase in safety, would that attorney general be representing a party "adversely affected" within the meaning of section 105(a)(1)?

Mr. STAGGERS. In my opinion, yes.

Mr. SMITH of Iowa. If the attorney general made a showing that safety standards are actually reduced by the safety standards adopted, would he be a person adversely affected who could appeal under section 105(a)(1)?

Mr. STAGGERS. The answer in my opinion would be "Yes."

Congressional Record—House August 17, 1966, 19649 and 19650

Mr. DINGELL. I can say to the gentleman that I can conceive of a situation where possibly some Secretary of Transportation or Secretary of Commerce would not behave reasonably and well under the circumstances. But I would rather point out to my good friend that such is going to be a rarity, and we have put into the bill for this very reason a requirement of the Administrative Procedure Act which must be complied with by the Secretary, and a clear au-

thorization for the industry to appeal in the event the Secretary acts arbitrarily or capriciously, or that he overreaches the ordinary and reasonable bounds for good judgment and reasonable behavior.

19650 Mr. CUNNINGHAM. My only interest was to determine, since the gentleman comes from an area that is primarily concerned, whether he is satisfied. If he is satisfied, it is all right with me.

Mr. DINGELL. As long as the bill is interpreted reasonably, I do not believe I could assert any objection either to the legislation or to the manner in which it happens to be carried out. That, of course, was the principal purpose of my taking the floor.

Mr. MOSS. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from California.

Mr. MOSS. It is clearly not the intent that unreasonable standards be imposed.

Mr. DINGELL. The gentleman is absolutely correct.

Congressional Record—House
August 17, 1966, 19650 and 19651

Mr. MACDONALD. I thank the chairman.

First of all, I would like to commend the chairman for the way in which these hearings were held. On such a controversial subject, both sides were able to give the testimony they wanted to.

There is still one question that remains in my mind, and I would hope the RECORD would try to make this clear. It goes to section 105(a)(1), which talks about the controversy about the validity of any order given by whoever will issue the order. I ask the chairman whether or not this would include any individual who would be adversely affected, and by that I mean anybody who drives a car, or a defective car and has an accident, or has reason to suppose he will have an accident by virtue of the fact that the car was not properly turned out, who would obviously in my judgment be adversely affected. But it does not seem clear to me in either the report or the bill itself that this is spelled out. I ask my chairman, would any individual have the right to bring such an order for petition in the U.S./Court of Appeals?

Mr. STAGGERS. In my opinion that if he is adversely affected, he would have. I quote from the report:

> The courts generally have construed this term to permit many diverse individuals and groups and associations of individuals to have judicial review of administrative actions. The committee believes it would be unwise at the outset of this new and far-reaching traffic safety program to attempt to delineate more precisely than this those persons who will have standing to seek judicial review.

Mr. MACDONALD. In other words, Mr. Chairman, this section does not specifically hold that the people who can make appeals from a ruling or whoever makes the rule are confined to the industry or to people who manufacture cars. Is that correct?

Mr. STAGGERS. That is my interpretation. 19651

Congressional Record—House
August 31, 1966, 21349

Mr. STAGGERS.

COMMON LAW LIABILITY

The House version contains a provision which specifically provides that compliance with Federal motor vehicle safety standards does not exempt any person from any liability under common law. The Senate version had no comparable provision. The managers for the Senate accepted the House version.

House Committee Report

House Report 1776, Pages 12, 20, and 21

4. Judicial review

Section 105 sets forth a procedure for judicial review based on comparable provisions in the Food and Drug Act.

JUDICIAL REVIEW 20

Section 105 of the reported bill establishes the detailed procedure for judicial review of any order issued under section 103 of this title. In a case of actual controversy as to the validity of such an order any person who will be adversely affected by the order when it is effective may before the 60th day after the order is issued petition the U.S. court of appeals where he resides or has his principal place of business for judicial review of the order. The court is to transmit a copy of the petition to the Secretary and the Secretary thereupon to file a record of the proceedings on which he based his order. The court is granted authority to order additional evidence where it is shown that such additional evidence is material and there were reasonable grounds for failing to produce it in the proceeding before the Secretary. The Secretary may thereupon modify his findings or make new findings by reason of such additional evidence and shall file such modified or new findings and his recommendations—if any—modifying or setting aside his original order, with the return to the court of such additional evidence.

The court is given jurisdiction to review any order in accordance with section 10 of the Administrative Procedure Act and to grant appropriate relief as provided in that section.

The judgment of the court with respect to any order of the Secretary is final subject to review by the Supreme Court. The remedies provided for in subsection (a) of section 105 are to be in addition to and not in substitution for any remedies otherwise provided by law.

Subsection (b) of this section provides that a certified copy of the transcript of the records and proceedings under this section shall be furnished by the Secretary to any interested party upon his request and payment for cost thereof, and shall be admissible in any proceeding—criminal, exclusion of imports, or otherwise—arising under or in respect of this title, whether or not proceedings with respect to the order have been previously initiated or become final under subsection (a) of this section.

The provisions of this section are comparable to the general judicial review provisions in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371(f)). The term "person adversely affected" which is contained in this bill as well as the Food and Drug Act and a number of other statutes has been subject to judicial interpretation in many cases. The courts generally have construed this term to permit many diverse individuals and groups and associations of individuals to have judicial review of administrative actions. The committee believes that it would be unwise at the outset of this new

and far-reaching traffic safety program to attempt to delineate more precisely than this those persons who will have standing to seek judicial review.

Except for two changes the reported bill is substantially unchanged from the introduced bill. The introduced bill provided that the petition for review must be filed within 45 days after the date the order was issued; this was extended by the committee to a 60-day period. The other change from the introduced bill is the committee revision of paragraph (3) of subsection (a) to provide that the court shall have jurisdiction to review an order in accordance with section 10 of the Administrative Procedure Act and to grant relief as provided therein. This inclusion means (1) that a reviewing court will consider the entire record before it and (2) that the findings of the Secretary will be sustained when supported by substantial evidence on the basis of the entire record. 21

Senate Passed Act

Congressional Record—Senate June 24, 1966, 14257

Judicial review of orders

SEC. 105. (a) (1) In a case of actual controversy as to the validity of any order under section 102 or section 103, any person who will be adversely affected by such order when it is effective may at any time prior to the sixtieth day after such order is issued file a petition with the United States court of appeals for the circuit wherein such person resides or has his principal place of business, for a judicial review of such order. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary or other officer designated by him for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based his order, as provided in section 2112 of title 28 of the United States Code.

(2) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Secretary, and to be adduced upon the hearing, in such manner and upon such terms and conditions as to the court may seem proper. The Secretary may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original order, with the return of such additional evidence.

(3) Upon the filing of the petition referred to in paragraph (1) of this subsection, the court shall have jurisdiction to review the order in accordance with section 10 of the Administrative Procedure Act (5 U.S.C. 1009) and to grant appropriate relief as provided in such section.

(4) The judgment of the court affirming or setting aside, in whole or in part, any such order of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28 of the United States Code.

(5) Any action instituted under this subsection shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.

(6) The remedies provided for in this subsection shall be in addition to and not in substitution for any other remedies provide by law.

(b) A certified copy of the transcript of the record and proceedings under this section shall be furnished by the Secretary to any interested party at his request, and on payment of the costs thereof, and shall be admissible in any proceeding arising under or in respect to this title, irrespective of whether proceedings with respect to the order have previously been instituted or become final under subsection (a).

Senate Debate

Congressional Record—Senate
August 31, 1966, 21487

Mr. MAGNUSON.

The Senate conferees accepted the House provision that compliance with Federal standards does not exempt any person from common law liability. This provision makes explicit, in the bill, a principle developed in the Senate report. This provision does not prevent any person from introducing in a lawsuit evidence of compliance or noncompliance with Federal standards. No court rules of evidence are intended to be altered by this provision.

Senate Committee Report

Senate Report 1301, Page 8

Any person who believes himself to be adversely affected by the promulgation of a standard may obtain judicial review, in accordance with section 10 of the Administrative Procedure Act (sec. 105). The Administrative Procedure Act sets forth the long-established criteria for judicial review of agency action and provides that agency findings shall be upheld if supported by substantial evidence on the record considered as a whole. That act also authorizes the reviewing court to stay the agency action pending review to the extent necessary to prevent irreparable injury.

Executive Communications

Contains nothing helpful.

As Introduced

As H.R. 13228 in the House and S. 3005 in the Senate:

5 20 JUDICIAL REVIEW OF ORDERS

21 SEC. 103. (a) (1) In a case of actual controversy as to

22 the validity of any order under section 102, any person who

23 will be adversely affected by such order when it is effective

may at any time prior to the forty-fifth day after such order is issued file a petition with the United States court of appeals for the circuit wherein such person resides or has his principal place of business, for a judicial review of such order. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary or other officer designated by him for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based his order, as provided in section 2112 of title 28 of the United States Code.

(2) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Secretary, and to be adduced upon the hearing, in such manner and upon such terms and conditions as to the court may seem proper. The Secretary may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside

of his original order, with the return of such additional evidence.

(3) Upon the filing of the petition referred to in paragraph (1) of this subsection, the court shall have jurisdiction to affirm the order, or to set it aside in whole or in part, temporarily or permanently. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive.

(4) The judgment of the court affirming or setting aside, in whole or in part, any such order of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28 of the United States Code.

(5) Any action instituted under this subsection shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.

(6) The remedies provided for in this subsection shall be in addition to and not in substitution for any other remedies provided by law.

(b) A certified copy of the transcript of the record and proceedings under this section shall be furnished by the Secretary to any interested party at his request, and payment of the costs thereof, and shall be admissible in any

criminal, libel for condemnation, exclusion of imports, or other proceeding arising under or in respect to this title, irrespective of whether proceedings with respect to the order have previously been instituted or become final under subsection (a).

Section 106

As Enacted

SEC. 106. (a) The Secretary shall conduct research, testing, development, and training necessary to carry out the purposes of this title, including, but not limited to— Research and training, etc. 4

(1) collecting data from any source for the purpose of determining the relationship between motor vehicle or motor vehicle equipment performance characteristics and (A) accidents involving motor vehicles, and (B) the occurrence of death, or personal injury resulting from such accidents;

(2) procuring (by negotiation or otherwise) experimental and other motor vehicles or motor vehicle equipment for research and testing purposes;

(3) selling or otherwise disposing of test motor vehicles and motor vehicle equipment and reimbursing the proceeds of such sale or disposal into the current appropriation available for the purpose of carrying out this title.

(b) The Secretary is authorized to conduct research, testing, development, and training as authorized to be carried out by subsection (a) of this section by making grants for the conduct of such research, testing, development, and training to States, interstate agencies, and nonprofit institutions. Grants.

(c) Whenever the Federal contribution for any research or development activity authorized by this Act encouraging motor vehicle safety is more than minimal, the Secretary shall include in any contract, grant, or other arrangement for such research or development activity, provisions effective to insure that all information, uses, processes, patents, and other developments resulting from that activity will be made freely and fully available to the general public. Nothing herein shall be construed to deprive the owner of any background patent of any right which he may have thereunder.

Conference Report

House Report 1919, Page 18

PATENTS

Section 106(c) of the Senate bill provides that whenever Federal contribution for any research or development authorized by this act encouraging motor vehicle safety is more than minimal, the Secretary shall include in any contract, grant, or other arrangement for such research or development activity, provisions effective to insure that all information, uses, processes, patents and other developments resulting from that activity will be made freely and fully available to the general public, and that nothing therein shall be construed to deprive the owner of any background patent of any right which he may have thereunder.

The House amendment did not contain such a provision.

Section 106(c) of the proposed conference substitute is the same as the Senate bill.

Based on a rollcall vote on this provision the Senate managers insisted on its retention in the conference substitute. The House managers accepted this provision.

House Passed Act

Congressional Record—House
August 17, 1966, 19671

"SEC. 106. (a) The Secretary shall conduct research, testing, development, and training necessary to carry out the purposes of this title, including, but not limited to—.

"(1) collecting data from any source for the purpose of determining the relationship between motor vehicle or motor vehicle equipment performance characteristics and (A) accidents involving motor vehicles, and (B) the occurrence of death, or personal injury resulting from such accidents;

"(2) procuring (by negotiation or otherwise) experimental and other motor vehicles or motor vehicle equipment for research and testing purposes;

"(3) selling or otherwise disposing of test motor vehicles and motor vehicle equipment and reimbursing the proceeds of such sale or disposal into the current appropriation available for the purpose of carrying out this title.

"(b) The Secretary is authorized to conduct research, testing, development, and training as authorized to be carried out by subsection (a) of this section by making grants for the conduct of such research, testing, development, and training to States, interstate agencies, and nonprofit institutions.

House Debate

Congressional Record—House
August 17, 1966, 19639

Mr. O'BRIEN. Mr. Chairman, I rise in support of H.R. 13228.

Mr. Chairman, I call the attention of the Committee to a section of H.R. 13228 which is, simultaneously, a major safety proposal and a tribute to people in my State of New York and in other States who have been striving to develop a prototype safety car.

The language to which I refer is in section 106 which directs the Secretary of Commerce to procure, by negotiation or otherwise, experimental and other motor vehicles or motor vehicle equipment for research and testing purposes.

The committee report makes crystal clear, despite the considerable latitude given the Secretary, that we expect and strongly desire that the utilization of experimental vehicles and equipment will be well underway within a year and that the Secretary will "coordinate his actions to the fullest extent possible with appropriate State programs."

Our committee was greatly impressed by what my own State of New York, under the able leadership of Senator Edward Speno, has already done in developing plans for a prototype safety car.

It would be wasteful, indeed, if the Federal Government turned its back on what New York has and is accomplishing in this field.

Senator Speno and able legislators from several other States testified eloquently on this subject.

I was impressed, particularly, by the Speno argument that in the field of automobile safety, the future must be explored.

The best span to the future is development of and continuous experiment with an actual vehicle or vehicles. That is the most effective way of determining the best bold new ventures into the safety of tomorrow.

I hope that the Secretary, when he undertakes the great new responsibilities given him under this bill will cooperate with New York and other States in this area and consult with Senator Speno and other pioneers in the safety car field.

Congressional Record—House
August 17, 1966, 19646

Mr. ROBISON.

I should like to commend this committee for its success in getting nearly all the "bugs" out of this bill so that it is one that all of us can support. But, now we have to move forward—through this legislation—to see what can be done to get the "bugs" out of the cars we drive so that they will be safer vehicles for our use and for the use of those who share the Nation's highways with us.

It is in this latter connection that I have noticed, with interest, the provision—in H.R. 13228—authorizing the Secretary of Commerce to conduct programs of research, testing, development, and training necessary to carry out the intent of the bill. In reading the committee report—on page 21, having reference to such research—I have noted, however, that the report states, and I quote:

The reported bill requires the Secretary to conduct all research.

And so forth.

The use of the word "all"—at that point—did not seem to jibe with the further reference, in that same paragraph from which I was quoting, to the additional authorization to the Secretary to arrange to conduct such research, and so forth, through grants to States, interstate agencies, and nonprofit institutions.

However, after referring to the language of the bill itself, I note that the limiting word "all"—if it was intended to be a limitation—does not appear in section 106(a). I have asked the gentleman from Illinois [Mr. SPRINGER], about this and he assures me that the use of the word "all" in the report, in the context in which I have quoted it, is not intended to be a limitation of any kind and that the Secretary may, as section 106(a) clearly states, conduct such part of such research programs, or testing programs and so forth, as he desires through grants—as described in subsection (b) of the same section—to States, interstate agencies, and nonprofit institutions.

My interest in this point, Mr. Chairman, arises in turn from my continuing interest in the fine work—research work—that has been done in this field of automobile safety by the Cornell Aeronautical Laboratory, at Buffalo, N.Y., which was started some 20 years ago by Cornell University—situated in my district—but which facility is now operated, or so I understand, by the Cornell Aeronautical Laboratory, Inc., as a separate nonprofit institution but wholly owned by the university.

Through the years, working in conjunction with the Cornell Medical School in New York City, this laboratory—and the dedicated people who have been assigned to it—has done some of the most outstanding and, in fact, pioneering work accomplished so far in the field of auto safety. I would hope that this fine institution could continue, Mr. Chairman, to play a prominent role in whatever additional research work is carried forward now by virtue of the enactment of this bill—and I am confident that, based on its record of service and its demonstrated ability, the Secretary of Commerce will give it every opportunity to do so.

Congressional Record—House
August 31, 1966, 21349

Mr. STAGGERS.

In the House version, the research and development provisions are mandatory rather than discretionary and they are also broader in scope than the Senate version. The managers for the Senate receded.

. . . . . .

Of course, a conference requires give and take, but in my review of this conference, the only item of any significance where the managers for the House accepted the Senate version is in section 106(c) which provides information, uses, processes, patents, and other developments which

result from research which is supported by Federal funds will be made freely and fully available to the general public.

Mr. GROSS. What was the one area in disagreement?

Mr. STAGGERS. The one area we had to give in on, and we did, was with respect to patents. The Senate was quite adamant on it.

Mr. GROSS. Patents?

Mr. STAGGERS. Yes. The Senate had taken a rollcall vote on this separate feature. They gave in to us on many things, and we were trying to get our bill. We did, almost in its entirety. We believe it is even a stronger bill than the one we had to start with.

House Committee Report

House Report 1776, Pages 19 and 21

Patent problem.—In considering this legislation and specifically the safety standards which will result therefrom the committee was aware of the complexities which may arise from standards requiring the use of patented processes or equipment. The committee determined that rather than report a provision which would directly affect patent law it would be more appropriate to leave this problem to a case-by-case determination. In a particular case the courts can and no doubt will consider the various equities of the parties and the public prior to enjoining the infringement of a patent. If infringement of a patent is required to meet a Federal safety standard, the court may well limit the patentee to damages. See *City of Milwaukee* v. *Activated Sludge, Inc.*, 69 F. 2d 577 (C.A. 7, 1934).

RESEARCH, TESTING, AND TRAINING 21

Section 106 of the reported bill requires the Secretary to conduct all research, testing, development, and training necessary to carry out this title including specifically (1) the collection of data for the purpose of determining the relationship between vehicle or equipment performance and (A) accidents and (B) deaths and personal injuries resulting from accidents; (2) procuring experimental vehicles and equipment whether by negotiation or otherwise; and (3) selling or otherwise disposing of test vehicles and equipment. The Secretary is further authorized to conduct any of this research, testing, development, or training by making grants to State, interstate agencies, and nonprofit institutions.

This section requires the Secretary to undertake a broad-scale research, testing, development, and training program for the purpose of acquiring information and knowledge necessary to relate directly motor vehicle and equipment performance characteristics to accidents involving vehicles and the resultant deaths and injuries. Testimony established the necessity to distinguish between accidents and the injuries and deaths which result from accidents. This difference has been described in terms of a "first collision" and a "second collision." Two of the principal goals sought by this legislation are (1) to reduce

the number of accidents through improvement in vehicle and equipment performance and (2) to minimize the consequences of the impact of a driver or passenger in a vehicle with the interior of the vehicle or with some other object in the case of ejection from the vehicle as the result of an accident.

The Secretary is directed to obtain experimental and other vehicles and equipment for research and testing purposes. He is given considerable latitude in this regard and he may obtain experimental vehicles or experimental equipment through negotiation, contract, direct grant, or in any other appropriate manner. The committee expects that the utilization of experimental vehicles and equipment would be well underway within a year from the date of enactment of this title and that in establishing and carrying out research and development programs, the Secretary will coordinate his actions to the fullest extent possible with appropriate State programs.

The Secretary is authorized to sell or otherwise dispose of experimental vehicles and equipment after they have served the purpose for which they were acquired and to credit the proceeds to the current appropriations available for this title.

Senate Passed Act

Congressional Record—Senate June 24, 1966, 14257

Research, development, testing and evaluation

SEC. 106. (a) The Secretary, in cooperation with other departments and agencies of the Federal Government, is authorized to undertake appropriate research, development, testing and evaluation for motor vehicle safety and motor vehicle safety standards to accomplish the purposes of this Act and, in exercising this authority, may perform the following functions:

(1) gathering or collecting existing data from any source for the purpose of determining the relationship between motor vehicle or motor vehicle equipment performance characteristics and (A) accidents involving motor vehicles, and (B) the occurrence of death or personal injury resulting from such accidents;

(2) purchasing, notwithstanding any other provision of law, commercially available models of motor vehicles or items of motor vehicle equipment, and contracting for the fabrication of motor vehicle equipment, for research and testing purposes, including the testing of motor vehicles and motor vehicle equipment to accomplish the purposes of this Act even though such tests may damage or destroy the vehicles or equipment being tested;

(3) selling or otherwise disposing of motor vehicles or motor vehicle equipment tested pursuant to subsection (2), notwithstanding any other provision of law, and reimbursing the proceeds of such sale or disposal into the appropriation or fund current and available for the purpose of carrying out this title: *Provided*, That motor vehicles and motor equipment which have been rendered irreparably unsafe for use on the highways, by testing pursuant to subsection (2), shall be sold or disposed of in a manner insuring that they shall not be used on the highways or on vehicles for use on the highways;

(4) performing or having performed all research, development, evaluation and information gathering and disseminating activities necessary and appropriate for motor vehicle safety and motor vehicle safety standards, and purchasing or acquiring equipment and facilities related thereto, or fabricating needed motor vehicle equipment to accomplish the purposes of this title, including—

(A) relating motor vehicle and motor vehicle equipment performance characteristics to motor vehicle safety;

(B) determining the effects of wear and use of motor vehicles and motor vehicle equipment upon motor vehicle safety;

(C) evaluating and developing methods and equipment for testing, inspecting, and determining safety of motor vehicles and motor vehicle equipment;

(D) evaluating and developing methods and equipment for determining adequacy of motor vehicle safety standards, and compliance of motor vehicles with motor vehicle standards; and

(E) developing appropriate motor vehicle safety standards; and

(5) awarding grants to State or interstate agencies and nonprofit institutions for performance of activities authorized in this section.

(b) The Secretary may, by means of grant or contract, design, construct and test operational passenger motor vehicles and items of motor vehicle equipment in demonstration quantities, embodying such features as the Secretary determines will assist in carrying out the purposes of this Act. Such vehicles or equipment are to serve as demonstrations for the development of safety features applicable to commercially manufactured motor vehicles or items of motor vehicle equipment, and for the development of Federal motor vehicle safety standards under section 103. Such demonstration vehicles or equipment shall not be sold or leased for private use. Such demonstration vehicles shall not be limited to traditional methods of automobile design, styling, testing, or production.

(c) Whenever the Federal contribution for any research or development activity authorized by this Act encouraging motor vehicle safety is more than minimal, the Secretary shall include in any contract, grant, or other arrangement for such research or development activity, provisions effective to insure that all information, uses, processes, patents, and other developments resulting from that activity will be made freely and fully available to the general public. Nothing herein shall be construed to deprive the owner of any background patent of any right which he may have thereunder.

Senate Debate

Congressional Record—Senate June 24, 1966, 14237-14244

Mr. COTTON. I join the chairman of the committee, the Senator from Washington, in saying to the Senator from New Jersey, that this amendment makes a distinct improvement to the bill.

Mr. President, other Senators may wish to speak later about the pending patent amendment. However, having offered the amendment on behalf of the Senator from Pennsylvania [Mr. SCOTT] and other Senators, I should like to make a brief statement.

At the eleventh hour, the committee tacked onto the bill, as section 106(c), a restrictive patent provision which may curtail the safety research that is so vital to the campaign against traffic accidents and injuries.

We opposed this amendment when it was offered in the committee. I am referring to the Senators who signed the minority views—namely, the Senator from New Hampshire [Mr. COTTON], the Senator from Kentucky [Mr. MORTON], the Senator from Pennsylvania [Mr. SCOTT], the Senator from Vermont [Mr. PROUTY], the Senator from Kansas [Mr. PEARSON], and the Senator from Colorado [Mr. DOMINICK]. We shall oppose it on the floor, and feel so strongly about it that we have been impelled to file our individual views, despite our overall support of the bill.

The subsection requires that any patent developed with the aid of a Federal contribution must be made freely and fully available to the general public—unless the Federal contribution is minimal—whatever that might mean.

Plausible as this might seem at first glance, its real effect is liable to defeat the main purpose of the bill. Consider, for instance, the position of a firm or an individual with highly promising ideas for a safety development who needs additional research funds to complete his research and development work. Federal assistance might hasten the work and bring the invention to public usefulness sooner. But the developer, who would lose all his rights to the invention under the committee amendment, could hardly afford to accept Federal aid. The public safety will be the clear loser—and no one the gainer—under the amendment. 14238

Mr. LONG of Louisiana. Mr. President, will the Senator yield for a question?

Mr. COTTON. I yield.

Mr. LONG of Louisiana. Under the approach advocated by the Senator from New Hampshire and his group, would it be possible to ask that public money be spent, then to develop the article with public funds, and then en-

able the inventor to secure a patent and charge $100 for a better seat belt that would cost only $10 to manufacture, or in some cases deny it to the public entirely?

Mr. COTTON. I certainly do not believe so. The bill not only empowers but also enjoins the Secretary of Commerce—to undertake safety research on his own. It is adequately safeguarded against the situation mentioned.

I should like to finish my reference to the minority views; then I shall respond to the question of the Senator from Louisiana more fully.

The fundamental aim of the bill is safety, yet the amendment throws a new, unforeseen roadblock in the path of safety research.

Furthermore, the provision is another attempt at a patchwork, piecemeal approach to the problem of patent policies and federally supported research.

Twice last year the Senate rejected similar provisions because it felt the problem should be dealt with through comprehensive, general legislation. Such a bill, S. 1809, has now been approved by the Senate Patents Subcommittee and is actively being marked up by the full Judiciary Committee. There is no justification for further complicating the matter by yet another separate amendment.

We believe section 106(c) should be deleted. The Senate should be given the opportunity to consider the comprehensive bill now before the Judiciary Committee. In the meantime, the public interest will be adequately and soundly protected because research authorized by this bill will be subject to the general Government patent policies prescribed by President Kennedy in 1963.

Mr. President, I find a remarkable statement in the report of the committee, which I assume was prepared by the majority staff, with perhaps some suggestions from the minority staff.

I refer to the bottom of page 14, the portion which discusses section 106(c), the section that our amendment seeks to delete:

> Section 106(c), by denying contractors exclusive rights in the performance of research activities where the Federal contribution is "more than minimal," will help curtail unnecessary industry pleas for Government financial support where the companies can do the research themselves. By doing their own research and securing patents on inventions which they discover, the companies in the auto industry can make substantial progress toward increasing auto safety—without having to make substantial use of public funds.

Now, knowing all the bright young men who serve on the staff of the Committee on Commerce, I cannot, for the life of me, imagine which member of the staff could possibly be the author of such an utterly assinine statement as that. Let me explain why I characterize it so strongly.

The Committee on Commerce did not legislate in a vacuum. The Committee on Commerce heard evidence from the automobile industry. They heard evidence from all interested parties. They heard evidence from Mr. Nader. They heard evidence from the representatives of various associations and organizations, State, and National, interested in automobile safety. The committee knows exactly what the position of the industry is on various matters.

There is one thing that is absolutely certain. The automobile industry in this country is one industry that does not and will not seek financial aid, and does not want financial aid or participation from the Government in designing, engineering, researching, and building automobiles.

They are perfectly capable of financing their own engineering and designing, and their own safety devices. They displayed a good deal of feeling that they wanted to be permitted to do it.

Now, instead of this provision protecting the Treasury from being raided by these poor, impoverished automobile manufacturers, the biggest manufacturing industry in this country, and to get the Government to help them make research and to help them engineer their cars, what does this provision do, as a matter of fact?

It does not strike at the industry. It strikes at the Secretary of Commerce or a Secretary of Transportation, whichever may be charged with administering the program of automobile safety under the bill. It strikes at them for this reason: The Government needs the experience, needs the advice, needs the know-how, and needs the facts from the automotive industry on safety devices if the Secretary is to be able and prepared to carry out the admonition in the bill that he shall engage in research and safety in automobile construction.

Mr. PASTORE. Mr. President, will the Senator yield at that point?

Mr. COTTON. I yield.

Mr. PASTORE. Does not the Senator feel that way because these are the giants in our industry? Certainly I have no antipathy against the Big Three or Big Four. I am one of those who feels the bill should be passed exactly as re-

ported from committee. I shall go so far as to vote against the restoration of the criminal penalty because I do not think it necessary.

We are trying to promote safety in the public interest. I believe this bill does that—and does it effectively. I do not believe we ought to hit anybody over the head with a club. I do not think we ought to keep hitting them until the Big Four cry out "Uncle"—"Uncle Sam." This should not be a punitive attempt on our part. This should be a crusade to improve the quality character of the automobiles on the highways so that public safety will be promoted.

But I say this to my distinguished friend. It is contemplated here that the Secretary of Commerce shall enter into certain contracts in order to conduct research and in order to promote safety. Public funds are to be expended for that purpose, and certainly those funds are going to be given to these automotive giants.

Does not the Senator think that once industry makes a discovery with public money that it should be shared with all of the giants? It will not do me any good, or the Senator from Washington [Mr. MAGNUSON] any good, or the Senator from New Hampshire [Mr. COTTON] any good, once they make the discovery. But all the discoveries will be available to all automobile manufacturers rather than becoming exclusive to the one concern making a discovery and this is proper because the discovery was with advanced public money. I understand that industry is not opposed to this provision.

Mr. COTTON. If the Senator had waited until I had completed a few more sentences I would have emphasized, as I am emphasizing, that he is 100 percent right. They are not opposed to it.

The automobile industry, I am informed—and I believe every member of the committee, I am informed—do not give a hoot about whether this provision remains in the bill or not because it is their policy and they are well equipped to do their own designing, engineering, and building of cars.

What I was about to emphasize was the fact that when the Secretary, who is administering this safety program, comes around to seek the cooperation—if he has a suggestion, perhaps, on how the structure of an automobile may be strengthened to protect the occupants, or a suggestion as to some device for safety, and he wants to have the expertise of the automotive builders and manufacturers of parts or any others in exploring this possibility, they will not dare to help him. Why? I do not know what the word "minimal" means, but the moment they enter into any program whatsoever with the Secretary of Commerce they must forego any patent rights and whatever they might develop themselves they would have to turn over to the world at large. That is not the way businessmen work when they are putting investments into developing devices.

That is why I say with respect to this particular paragraph in the bill, I am surprised that the Secretary of Commerce has not been lobbying against it because it handicaps him. It is not going to affect the major carmakers at all but it is going to make it infinitely more difficult and more expensive—not less expensive as this statement in the report indicates—more expensive to the Federal Government.

The Federal Government will probably, as a result, not through intentional boycotting by the industry, but as a result of industries' desire to develop their own engineering, spend more funds and not less on research. 14239

(At this point, Mr. PROXMIRE assumed the chair.)

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. COTTON. I yield to the Senator from Louisiana.

Mr. LONG of Louisiana. Is the Senator aware of the fact that we have had testimony from all of these agencies, the Atomic Energy Commission and others, which are not permitted to grant private patents on their research, to the effect that they never had the problem of finding enough contractors to do the research for them? The problem has been that they did not have enough contracts to go around.

Can the Senator explain to me why the Secretary ought to permit under his contract on highway automobile safety a result wherein a contractor would be guaranteed a profit on the research, but could be in a position to charge perhaps $100 for a $15 seat belt, or even deny the public completely the benefit for that which the public paid?

Mr. COTTON. Yes, I can explain that to the distinguished Senator in a very few words. This whole bill, page after page after page, and the President's message—

and it is an able message—reflects again and again the aim that there shall be cooperation between the Government and the automobile industry in working out and building safer automobiles. In the bill can be found the carrot method of incentive, and the admonition can also be found. This is the situation. After building up this bill for weeks and weeks and weeks with the devoted attention of the committee on both sides of the aisle and the able staff, all on the theory that we want to put everything possible into the bill which will advance the pooling of knowledge between the industry and the Government, and result in every possible, reasonable, safe improvement in automobiles, at the last minute the committee reversed itself and adopted the provision.

I would be the first to commend my friend from Louisiana who has, with great sincerity and dedication, fought the fight on this patent business between Government and industry through the years. I understand that the problem will be brought to a head in another bill shortly. But this bill is not the place for it. In this bill, under section 106(c) we raise the specter of an industry losing its exclusive rights of patent when it pools its knowledge with the Government. We make it more difficult for the workshop of the Secretary and the workshop of industry to cooperate fully to advance the cause of auto safety. Furthermore, it is pretty hard to see what is minimal and what is not.

I do not care what other companies the Senator refers to, the automotive industry has openly and without arrogance asserted again and again that it is perfectly capable of financing its own research. We are asking them to pool their efforts with the Government, then we write this thing in the bill which injects a serious element of doubt. If they are not entirely sincere in their desires, this gives them an excuse, if we please, to not put their cards on the table working with the Secretary. That is my answer.

Mr. LONG of Louisiana. Will the Senator concede—as I gather from his reply—to strike this provision from the bill if he does not have the support of the automobile manufacturer?

Mr. COTTON. No, I do not believe they are interested in this. I want it stricken from the bill, because I believe it would impair the safety of the bill.

Mr. LONG of Louisiana. Congress has passed many laws. It is the rule rather than the exception that in dealing with public health and safety, as long as I have been a Senator, and even before that, Congress has repeatedly insisted on putting provisions in its bills relating to health and safety to assure that the fruits of research will be freely available to all.

For example, on Department of Agriculture legislation, TVA, the National Science Foundation, the Atomic Energy Commission, NASA, Helium Research Act, the Water Pollution Act, Water Resources Act, Solid Waste Disposal Act, it was the rule rather than the exception that in these areas of health and safety, the committees originating these bills have had a way of saying that the research programs would be made freely available to all.

Even the bill that is being suggested by the majority of the Subcommittee on Patents of the Judiciary Committee, headed by the Senator from Arkansas [Mr. MCCLELLAN], suggests that in this area they should not be private patents, except in exceptional cases. The whole record of legislation in regard to the fruits of Government-financed research has been that committees originating that kind of legislation have suggested what should be done with the fruits of that legislation.

In this instance, the manufacturers feel that this gives them no problem. As a practical matter with their own private research, paid for out of their own funds, the manufacturers make their research freely and fully available to one another, anyway. They take advantage of a situation, in a new model sometimes, on which there will be new devices, or something new to offer. The industry releases all kinds of permits to all competitors who are using the things developed. Thus, to a large extent, what has been developed, even with their private funds, is being made available to all—and I know that the Senator knows that to be the case.

Mr. HICKENLOOPER. Mr. President, will the Senator from New Hampshire yield?

Mr. COTTON. I should like to make one point first. One thing I should like to emphasize and impress upon my good friend from Louisiana is that when he asks, do I have the support of the automobile industry, I should like to inform him that I am not representing the automobile industry in any way, shape, or manner. So far as I knew, the automobile industry did not care about this, whether it stays in the bill or not. Thus, I want to make that crystal clear to the Senator, that if he has any doubt about my being sustained by the automobile industry, I want to dissipate that doubt.

Mr. LONG of Louisiana. I am happy that we can understand that. I went to the trouble of inquiring of the automobile manufacturers concerning the amendment which I believe to be appropriate, and which I believe the majority on the committee believes to be appropriate. "Does this give you any problem?" The answer I got back was "No, it does not."

Mr. COTTON. I think probably that was the correct answer, but it may give the Government problems.

Mr. MAGNUSON. Mr. President, will the Senator from New Hampshire yield?

Mr. COTTON. I am happy to yield to the Senator from Washington.

Mr. MAGNUSON. I was a little bit disturbed that the Senator jumped on some staff people about this language. It is true that the staff inserts the language but they do not always compose it. This language was placed in the bill at the request of two or three Senators on the committee. If the Senator wants me to produce anything further on this, I shall be glad to do so.

Mr. COTTON. I thank the Senator.

Mr. MAGNUSON. Second, this is an amendment which was discussed—the Senator from New Hampshire is right—by the committee toward the end of the session. Finally, we agreed on adopting the amendment as written, and then we agreed that we would put statements on patents in the report, and we agreed to let those vitally interested in the committee at that time submit the language, and the staff did that.

Mr. COTTON. Mr. President, incidentally, let me take this opportunity to ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. HICKENLOOPER. Mr. President, will the Senator yield?

Mr. COTTON. I yield.

Mr. HICKENLOOPER. As I understand, this is an automotive bill. As I understand also, and have understood for many years, the policy of the automotive industry or manufacturers has been that if they make a discovery of some kind, they try to use it on the first model, more as an advertising gadget, but that after that, all the rest of the companies may use it. That has been the general practice. So, as I see it, there is not the slightest need for the patent legislation that is proposed in this automotive bill. The practice has become so well established that I doubt whether any automobile company would break it. Therefore, I see no need for including such a proposal in the bill.

Going a step further, I wonder whether the Senator from New Hampshire would agree with me that such a proposal is probably not aimed at the automobile manufacturers, but is aimed at the whole philosophy of the protection of patent rights to the individual who makes something and who happens to have received the right to purchase from the Government some discarded material for some purpose. The Government may not contribute very much, but it will take over the patent and give its benefits to the public—in other words, destroy or strike at the very heart of patent protection in this country. Such an attempt has been made repeatedly in the past. I wonder if this proposal is not merely an attempt to come in by another door for that main, basic purpose. 14240

Mr. COTTON. I thank the Senator from Iowa for his observation regarding cross-licensing in industry. I think it is highly pertinent as to what the amendment in the bill is aimed at.

I have too high a regard for the distinguished Senator from Louisiana [Mr. LONG], for whom I have the deepest respect, and for other Senators who may well be interested to try to analyze what they may be aiming at.

I merely wish to say that if this proposal is intended as an entering wedge in advance for the consideration of the bill which I assume and understand will be ultimately presented by the distinguished Senator from Arkansas [Mr. MCCLELLAN] in behalf of the Subcommittee on Patents, Trademarks, and Copyrights of the Committee on the Judiciary, this is not the place for it.

I do not want to stir up any more debate on this point. I want to give up the floor. The only observation I want to make to my friend from Louisiana is with reference to his remark that in matters of health and safety this system of throwing up patent rights has been the policy. It has been my observation that the opposite is the fact.

When we are dealing with a product, when we are dealing with a commercial situation, it may be one thing, but I have a vivid recollection, and it is contained in our individual views in the report:

> On June 29, 1965, by a vote of 59-to-36, the Senate adopted a Pastore motion to table LONG's [Louisiana] amendment on patents developed in connection with the regional heart disease, cancer and stroke programs.

I have a quite clear recollection of that debate, and it is my understanding that it was not tabled necessarily on the

merits of the proposal of the distinguished Senator from Louisiana, but was tabled because it was prejudging, launching into a program in advance of a matter that was being thrashed out and which was to be reported by the Subcommittee on Patents, Trademarks, and Copyrights of the Committee on the Judiciary, charged with that duty.

It is my understanding that is precisely the situation today. Because of that fact, in the first place, and, in the second place, because, as the Senator from Iowa [Mr. HICKENLOOPER] has so well said, the policy of the industry makes it unnecessary, and, in the third place, because, if it has any effect at all, it will handicap the Secretary in running his own shop and getting information from suppliers and makers of parts in the various segments of the automobile industry, the provision has no place in the bill and endangers and detracts from the effectiveness of the whole purpose of the bill.

Mr LONG of Louisiana. Mr. President, will the Senator yield?

Mr. COTTON. I yield.

Mr. LONG of Louisiana. May I point out to the Senator from New Hampshire and ask him if it is not correct that the record of this Congress and the record of the two previous Congresses with respect to the patent policy has been this: Whenever a committee had brought forth a bill creating research and authorizing a research program, Congress has sustained that committee in what it has recommended in respect to patent rights?

When the Senator from Louisiana has sought to change the law or amend the law to require some agency to be more careful about giving away patent rights, the amendment has been tabled. That was done with respect to the Pastore motion and also the Dodd motion with respect to the National Aeronautics and Space Administration.

It has been true that for the last 18 years the Senate has consistently sustained what the committee said should be done with the fruits of the research authorized by that committee's research program.

Mr. COTTON. I thank the Senator.

Mr. President, I am prepared to yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Pennsylvania [Mr. SCOTT].

Mr. MAGNUSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCOTT. Mr. President, I appreciate the fact that the distinguished Senator from Arkansas [Mr. MCCLELLAN], the distinguished Senator from New Hampshire [Mr. COTTON], the distinguished Senator from Kentucky [Mr. MORTON], and the distinguished Senator from Massachusetts [Mr. SALTONSTALL] have joined me in sponsoring this amendment.

My amendment is to delete a provision from the bill similar to other provisions which have been rejected by the Senate in earlier legislation—the so-called Long amendments on patents. On June 2, 1965, by a vote of 59 to 26, the Senate tabled the Long amendment on patents developed in connection with NASA contracts; and on June 29, 1965, by a vote of 55 to 36, the Senate agreed to a motion to table the Long amendment on patents developed in connection with regional heart disease, cancer, and stroke programs.

I invite the attention of the Senate to the statement in the committee report on S. 3005 by the six Republican members of the committee in opposition to section 106(c) of the bill. This provision was tacked onto the bill at the last minute Tuesday, without previous opportunity for mature consideration, and after much time had been expended in preparing the bill for report under circumstances which would enable us to be unanimous, or as nearly so as possible, in bringing out a very strong motor vehicle safety bill.

My amendment would delete section 106(c), under this provision, the Federal Government would acquire ownership of inventions emerging from the motor vehicle safety research authorized by this bill in all cases where its financial share of the funding of such research is more than minimal.

Mr. President, I am bound to say that none of us know what "minimal" means. It has the usual built-in caveat, for me at least, that an uncertain word which is not necessarily or fully a word of art may be construed by one agency administrator one way and by another another; so that no genuine guideline is really presented.

I think that section 106(c) should be deleted for three reasons:

First, it is ill-timed, since legislation to establish a Government patent policy in the disposition of rights under its research and development contracts is in a stage of advanced consideration by the Senate Judiciary Committee.

I attended a session of the full Committee on the Judiciary this morning. The general overall patents policy bill, S. 1809, was under discussion. All members of the committee desire to dispose of S. 1809 at the earliest practicable moment.

To continue the futile attempt to prescribe Government patent policy in a piecemeal fashion would not only run counter to the intent of those of us on the Judiciary Committee who have been considering this measure over quite a long period of time, but would also essentially run counter in many ways to the Kennedy policy, to which I shall refer later, which is presently the Federal policy absent specific congressional declaration.

Second, this section is unnecessary as an interim measure until such time that patent policy legislation is adopted into law. There is, at present, an equitable, logical, and workable policy currently in effect under the "President's Statement on Government Patent Policy," promulgated in October 1963.

Mr. President, I ask unanimous consent that a memorandum of the late President Kennedy, under date of October 10, 1963, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SCOTT. The memorandum to which I just referred establishes Government policy pending the enactment of general patent policy legislation.

I read a part of one paragraph:

> This statement of policy seeks to protect the public interest by encouraging the Government to acquire the principal rights to inventions in situations where the nature of the work to be undertaken or the Government's past investment in the field of work favors full public access to resulting inventions. On the other hand, the policy recognizes that the public interest might also be served by according exclusive commercial rights to the contractor in situations where the contractor has an established non-governmental commercial position and where there is greater likelihood that the invention would be worked and put into civilian use than would be the case if the invention were made more freely available.

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My third reason for urging deletion of section 106(c) is that it may serve as a limitation to effective, coordinated research between the Government and private industry with resultant damage to the public welfare.

I believe that this is not the proper time, nor is the bill under consideration the appropriate vehicle for discussing the merits of a suitable patent policy under Government research and development contracts. The Senate has recognized that this subject involves extremely complex considerations which justify detailed analysis prior to the adoption of any Government patent policy. A number of bills have been introduced in the Senate on this subject. They are receiving detailed, careful consideration by the Judiciary Committee. Extensive hearings were held last year. S. 1809, a bill on Government patent policy has been reported out of the Subcommittee on Patents, Trademarks, and Copyrights on which I serve as ranking minority member, to the full Judiciary Committee. It is not only logical but appropriate that the Senate await the advice of this committee. Let us then deal with this subpect in the normal, proper, procedural manner considering Government patent policy in its full context, not in a piecemeal manner such as is the case with section 106(c) of this bill.

I believe that section 106(c) can severely inhibit full and beneficial research activity in behalf of automotive safety. The purpose of this important legislation is to establish a national safety program as well as safety standards for motor vehicles in interstate commerce to reduce traffic accidents and the resultant harm occasioned by such accidents. This purpose should be complemented by the best research facilities and talent available. Any inhibition thereto can serve to obstruct this goal. This being so, I do not believe that this would serve the public welfare.

Notwithstanding this practical limitation to the propriety of section 106(c) its adoption would, in my opinion, be inequitable. The wording of this section, in effect, would deny to a research contractor in virtually all cases, proprietary rights to inventions resulting from work performed in the area of automotive safety.

Section 106(c) is misleading. It appears to qualify the right of the Government under all circumstances to deny proprietary rights to a contractor. This is to occur through inclusion of the word "minimal" as a limitation upon exercise of this right by the Government. The Webster Dictionary definition of the word "minimal" is: "Constituted as a minim; hence, or at least attainable, pos-

sible, usual, etc." and the application of the word "minimal" in this case would be "a very minute, a jot." I see that the word "tittle" has been left out, but the next edition of the dictionary will take care of that omission.

It defies my imagination to conceive of a situation thereunder where the contractor's contribution would enable him to obtain proprietary rights under this section.

Adoption of section 106(c) would be a step backward in developing a reasonable and proper approach to the disposition of patent rights under Government research and development contracts. We are asked to return to a piecemeal approach to establish such a policy through the adoption of amendments offered to unrelated legislation. We are asked to ignore the deliberations of the appropriate committee of the Senate which is presently considering such legislation. We are asked to ignore the President's statement on Government patent policy in spite of the extensive study and analysis which led to its promulgation and to its proven value in the negotiation of research and development contracts. To do so is completely unwarranted.

Mr. President, deletion of section 106 (c) would be consistent with action taken twice by the Senate last year on similar proposals. Retention of the provision, on the other hand, would greatly complicate the work of the Government itself in solving the problem of what to do if future patent policy contemplated in legislation pending in the Judiciary Committee should differ in major import from the policy established in section 106(c).

For all these reasons, I express the hope that my amendment will meet with the approval of the Senate.

I thank the Senator for yielding.

EXHIBIT 1

MEMORANDUM FROM THE PRESIDENT ADDRESSED TO THE HEADS OF THE EXECUTIVE DEPARTMENTS AND AGENCIES ON GOVERNMENT PATENT POLICY WITH STATEMENT ATTACHED—OCTOBER 10, 1963

Over the years, through Executive and Legislative actions, a variety of practices has developed within the Executive Branch affecting the disposition of rights to inventions made under contracts with outside organizations. It is not feasible to have complete uniformity of practice throughout the Government in view of the differing missions and statutory responsibilities of the several departments and agencies engaged in research and development. Nevertheless, there is need for greater consistency in agency practices in order to further the governmental and public interests in promoting the utilization of Federally financed inventions and to avoid difficulties caused by different approaches by the agencies when dealing with the same class of organizations in comparable patent situations.

From the extensive and fruitful national discussions of government patent practices, significant common ground has come into view. First, a single presumption of ownership does not provide a satisfactory basis for government-wide policy on the allocation of rights to inventions. Another common ground of understanding is that the Government has a responsibility to foster the fullest exploitation of the inventions for the public benefit.

Attached for your guidance is a statement of government patent policy, which I have approved, identifying common objectives and criteria and setting forth the minimum rights that government agencies should acquire with regard to inventions made under their grants and contracts. This statement of policy seeks to protect the public interest by encouraging the Government to acquire the principal rights to inventions in situations where the nature of the work to be undertaken or the Government's past investment in the field of work favors full public access to resulting inventions. On the other hand, the policy recognizes that the public interest might also be served by according exclusive commercial rights to the contractor in situations where the contractor has an established non-governmental commercial position and where there is greater likelihood that the invention would be worked and put into civilian use than would be the case if the invention were made more freely available.

Wherever the contractor retains more than a non-exclusive license, the policy would guard against failure to practice the invention by requiring that the contractor take effective steps within three years after the patent issues to bring the invention to the point of practical application or to make it available for licensing on reasonable terms. The Government would also have the right to insist on the granting of a license to others to the extent that the invention is required for public use by governmental regulations or to fulfill a health need, irrespective of the purpose of the contract.

The attached statement of policy will be reviewed after a reasonable period of trial in the light of the facts and experience accumulated. Accordingly, there should be continuing efforts to monitor, record, and evaluate the practices of the agencies pursuant to the policy guidelines.

This memorandum and the statement of policy shall be published in the Federal Register.

STATEMENT OF GOVERNMENT PATENT POLICY

Basic considerations

A. The government expends large sums for the conduct of research and development which results in a considerable number of inventions and discoveries.

B. The inventions in scientific and technological fields resulting from work performed under government contracts constitute a valuable national resource.

C. The use and practice of these inventions and discoveries should stimulate inventors, meet the needs of the government, recognize the equities of the contractor, and serve the public interest.

D. The public interest in a dynamic and efficient economy requires that efforts be made to encourage the expeditious development and civilian use of these inventions. Both the need for incentives to draw forth private initiatives to this end, and the need to promote healthy competition in industry must be weighed in the disposition of patent rights under government contracts. Where exclusive rights are acquired by the contractor, he remains subject to the provisions of the antitrust laws.

E. The public interest is also served by sharing of benefits of government-financed research and development with foreign countries to a degree consistent with our international programs and with the objectives of U.S. foreign policy.

F. There is growing importance attaching to the acquisition of foreign patent rights in furtherance of the interests of U.S. industry and the government.

G. The prudent administration of government research and development calls for a government-wide policy on the disposition of inventions made under government contracts reflecting common principles and objectives, to the extent consistent with the missions of the respective agencies. The policy must recognize the need for flexibility to accommodate special situations.

Policy

Section 1. The following basic policy is established for all government agencies with respect to inventions or discoveries made in the course of or under any contract of any government agency, subject to specific statutes governing the disposition of patent rights of certain government agencies.

(a) Where—

(1) a principal purpose of the contract is to create, develop or improve products, processes, or methods which are intended for commercial use (or which are otherwise intended to be made available for use) by the general public at home or abroad, or which will be required for such use by governmental regulations; or

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(2) a principal purpose of the contract is for exploration into fields which directly concern the public health or public welfare; or

(3) the contract is in a field of science or technology in which there has been little significant experience outside of work funded by the government, or where the government has been the principal developer of the field, and the acquisition of exclusive rights at the time of contracting might confer on the contractor a preferred or dominant position; or

(4) the services of the contractor are—

(i) for the operation of a government-owned research or production facility; or

(ii) for coordinating and directing the work of others,

the government shall normally acquire or reserve the right to acquire the principal or exclusive rights throughout the world in and to any inventions made in the course of or under the contract. In exceptional circumstances the contractor may acquire greater rights than a non-exclusive license at the time of contracting, where the head of the department or agency certifies that such action will best serve the public interest. Greater rights may also be acquired by the contractor after the invention has been identified, where the invention when made in the course of or under the contract is not a primary object of the contract, *provided* the acquisition of such greater rights is consistent with the intent of this Section 1(a) and is a necessary incentive to call forth private risk capital and expense to bring the invention to the point of practical application.

(b) In other situations, where the purpose of the contract is to build upon existing knowledge or technology to develop information, products, processes, or methods for use by the government, and the work called for by the contract is in a field of technology in which the contractor has acquired technical competence (demonstrated by factors such as know-how, experience, and patent position) directly related to an area in which the contractor has an established non-governmental commercial position, the contractor shall normally acquire the principal or exclusive rights throughout the world in and to any resulting inventions, subject to the government acquiring at least an irrevocable non-exclusive royalty free license throughout the world for governmental purposes.

(c) Where the commercial interests of the contrtactor are not sufficiently established to be covered by the criteria specified in Section 1(b), above, the determination of rights shall be made by the agency after the invention has been identified, in a manner deemed most likely to serve the public interest as expressed in this policy statement, taking particularly into account the intentions of the contractor to bring the invention to the point of commercial application and the guidelines of Section 1(a) hereof, *provided* that the agency may prescribe by regulation special situations where the public interest in the availability of the inventions would best be served by permitting the contractor to acquire at the time of contracting greater rights than a non-exclusive license. In any case the government shall acquire at least a non-exclusive royalty free license throughout the world for governmental purposes.

(d) In the situations specified in Sections 1(b) and 1(c), when two or more potential contractors are judged to have presented proposals of equivalent merit, willingness to grant the government principal or exclusive rights in resulting inventions will be an additional factor in the evaluation of the proposals.

(e) Where the principal or exclusive (except as against the government) rights in an invention remain in the contractor, he should agree to provide written reports at reasonable intervals, when requested by the government, on the commercial use that is

being made or is intended to be made of inventions made under government contracts.

(f) Where the principal or exclusive (except as against the government) rights in an invention remain in the contractor, unless the contractor, his licensee, or his assignee has taken effective steps within three years after a patent issues on the invention to bring the invention to the point of practical application or has made the invention available for licensing royalty free or on terms that are reasonable in the circumstances, or can show cause why he should retain the principal or exclusive rights for a further period of time, the government shall have the right to require the granting of a license to an applicant on a non-exclusive royalty free basis.

(g) Where the principal or exclusive (except as against the government) rights to an invention are acquired by the contractor, the government shall have the right to require the granting of a license to an applicant royalty free or on terms that are reasonable in the circumstances to the extent that the invention is required for public use by governmental regulations or as may be necessary to fulfill health needs, or for other public purposes stipulated in the contract.

(h) Where the government may acquire the principal rights and does not elect to secure a patent in a foreign country, the contractor may file and retain the principal or exclusive foreign rights subject to retention by the government of at least a royalty free license for governmental purposes and on behalf of any foreign government pursuant to any existing or future treaty or agreement with the United States.

Section 2. Government-owned patents shall be made available and the technological advances covered thereby brought into being in the shortest time possible through dedication or licensing and shall be listed in official government publications or otherwise.

Section 3. The Federal Council for Science and Technology in consultation with the Department of Justice shall prepare at least annually a report concerning the effectiveness of this policy, including recommendations for revision or modification as necessary in light of the practices and determinations of the agencies in the disposition of patent rights under their contracts. A patent advisory panel is to be established under the Federal Council for Science and Technology to—

(a) develop by mutual consultation and coordination with the agencies common guidelines for the implementation of this policy, consistent with existing statutes, and to provide over-all guidance as to disposition of inventions and patents in which the government has any right or interest; and

(b) encourage the acquisition of data by government agencies on the disposition of patent rights to inventions resulting from federally-financed research and development and on the use and practice of such inventions, to serve as basis for policy review and development; and

(c) make recommendations for advancing the use and exploitation of government-owned domestic and foreign patents.

Section 4. *Definitions:* As used in this policy statement, the stated terms in singular and plural are defined as follows for the purposes hereof:

(a) Government agency—includes any Executive department, independent commission, board, office, agency, administration, authority, or other government establishment of the Executive Branch of the Government of the United States of America.

(b) "Invention" or "Invention or discovery" includes any art, machine, manufacture, design, or composition of matter, or any new and useful improvement thereof, or any variety of plant, which is or may be patentable under the Patent Laws of the United States of America or any foreign country.

(c) Contractor means any individual, partnership, public or private corporation, association, institution, or other entity which is a party to the contract.

(d) Contract means any actual or proposed contract, agreement, grant, or other arrangement, or sub-contract entered into with or for the benefit of the government where a purpose of the contract is the conduct of experimental, developmental, or research work.

(e) "Made" when used in relation to any invention or discovery means the conception or first actual reduction to practice of such invention in the course of or under the contract.

(f) Governmental purpose means the right of the Government of the United States (including any agency thereof, state, or domestic municipal government) to practice and have practiced (made or have made, used or have used, sold or have sold) throughout the world by or on behalf of the Government of the United States.

(g) "To the point of practical application" means to manufacture in the case of a composition or product, to practice in the case of a process, or to operate in the case of a machine and under such conditions as to establish that the invention is being worked and that its benefits are reasonably accessible to the public.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Pennsylvania.

Mr. McCLELLAN. Mr. President, I want to make a very brief statement which is not directed to the merits of the pending amendment.

The Subcommittee on Patents of the Committee on the Judiciary has undertaken to carry out the assurances that I gave the Senate last year when these issues were being considered.

I said then that bills were pending and that we would undertake to process the bills with due deliberation and speed. We have done that.

In that connection, unless one has served on the committee, heard the testimony, and studied the matter, he would most likely not become fully advised and

informed as to the complexities involved in trying to write a patent policy and give the subject matter the attention that we have given it.

The subcommittee reported a bill to the Committee on the Judiciary by a divided vote.

The report of the subcommittee was made on April 11 of this year. The subcommittee was trying to get the bill reported so that it could be considered at this session of Congress.

I believe that the measure was scheduled to come before the full committee on four occasions. As I recall, on two occasions there was not a quorum present. However, there was a quorum on two occasions, the last one being today.

The committee discussed the bill. I had hoped that the bill would be reported today, or that a substitute would be reported for the bill if the committee
14243 should adopt a substitute in order to get the measure on the calendar in order to make sure that we would act on the bill in this session of Congress.

There were members of the Committee on the Judiciary who felt that they would like to have more time in which to study the issue and would like the matter to go over without a vote today. Their wishes were acceded to.

I want the RECORD to show that there was no disposition to use any dilatory tactics and none are being used. We have a very complicated and difficult issue that Congress should resolve.

We are trying to present the issues to the Senate in the nature of a bill reported by the Committee on the Judiciary in accord with the due process procedures of the Senate so that the Senate can definitely work its will and determine what the policy shall be.

That is the status of the matter, and none of us desires to delay it unduly.

Mr. HART. Mr. President, the Senator from Arkansas has reported precisely and accurately the evolution of the patent bill, first in the subcommittee, and in the full committee as of today. I have not been present in the Chamber during all the discussion, but I have not heard any suggestion that the chairman of the Patent Subcommittee is responsible for delaying the action by the Committee on the Judiciary in this area.

As one who has served on the subcommittee, and who finds himself in disagreement with the chairman as to the more prudent way to respond to this basic problem, I should like the RECORD to indicate that the efforts of the Senator from Arkansas throughout have been, first, to develop a record that will permit the Senate to make a sound judgment, and second, to urge, consistent with prudent consideration, the promptest possible action by the subcommittee and then by the full committee.

The Senator from Michigan this morning offered a substitute for the McClellan bill. If any Senator should believe that the failure of the Committee on the Judiciary this morning to report a patent bill on this basic problem is the fault of any member of the committee, the fault would lie with the Senator from Michigan, not with the Senator from Arkansas.

In committee, I supported the Senator from Louisiana on the amendment in the bill, and I hope that Congress will reject the pending amendment. Until the basic question is resolved as to the wisest method of handling discoveries made in connection with research financed by all the people, I believe it should be made very clear in the bill that such discoveries shall be retained for the benefit of the people. That is the reach of the amendment which the committee has added, and which is now sought to be stricken. I hope that the Senate will not strike the amendment, but that it will be retained.

Mr. LONG of Louisiana. Mr. President, I shall make my statement on the pending amendment now, because other Senators have spoken to a relatively small Senate attendance; and I do not wish to take advantage of the situation by waiting for more Senators to come to the Chamber before I state my views on the subject. I hope that the Senate will be able to vote after the quorum call.

There is great doubt about what Congress will do with regard to the proposal for an overall, one-patent policy. When the executive branch attempted to establish a one-patent policy to apply to all agencies that were not bound by law—I believe the majority of them were bound by law, under their patent policies, to give private patents only in isolated circumstances—nevertheless, the policy that evolved would permit private patents in some cases and not in others.

Those were agencies that were not bound by law. I know of no agency that does not grant private patents because of a law that firmly binds it not to grant patents on Government research, which disagrees with the language of the act under which it is operating, and those acts were all proposed by the committees that brought that legislation before the Senate.

An effort to write general legislation on those matters has resulted in a bill

sponsored by the Senator from Arkansas [Mr. McCLELLAN] which recognizes that in one area a patent would be appropriate, in another area it would not.

In another area it would ordinarily be appropriate for the Government to take title. But even that could be subject to exception, based on various considerations of economy and equity that might be involved in the particular circumstances.

When this problem is separated from the others, no problem exists, unless someone wishes to read into the bill something that is not there. In other words, in my judgment, the opposition to the committee action and to the judgment of the committee derives from the thought that this might be used as a precedent in some other area.

I inquired of responsible officers of the Ford Motor Co., General Motors Corp., and Chrysler Corp., whether the judgment of the committee in this field causes them any problem. The answer I received was, "No, it does not." They do not oppose what the committee recommends.

Only in instances where the Secretary of Commerce were to employ a contractor to do research in the safety field, where the Government investment would be small compared with that of private industry, or when the Government contribution is not substantial, would it be subject to private patents. That situation would be appropriate for this industry. This industry, perhaps more than any other, does its own private research. When it does that research, each manufacturer makes practically all of his research freely available to the other manufacturers, for use in producing better automobiles. And that will continue to be so.

In preponderant measure, even the private research done by this industry is in effect in the public domain, available to all manufacturers. This makes sense when we consider the Government policy to be that if the Government spends money on something, everyone should be permitted to use it, with no incentive to withhold it.

A parts manufacturer may contemplate manufacturing and charging $100 for a better safety belt that costs $15 to produce. If he wishes to do that, he should do it with his own money. But if the Government wishes to develop something, it should be available for everyone to put on his automobile on a competitive basis.

I asked the Senator from New Hampshire [Mr. COTTON] his opinion about a situation in which someone uses Government money to develop a fine safety device and then, under his patent rights, denies it entirely to the public or charges an outrageous price for it. The Senator from New Hampshire did not respond to the question.

Frankly, the answer is that under the pending bill without the committee amendment such a result could occur. The committee does not wish to see that happen.

Mr. President, reference has been made to the tabling of two amendments which I have offered to existing patent laws or to laws that do not provide what happens to patents, as the case may be. The Senate has been consistent in this respect: So long as I have been a Member of the Senate, for 17 years, and prior to that time, as far back as I have been able to research the matter, the Senate has accepted the judgment of a committee that has initiated a research program as to what should happen to the fruit of that research. That is the way most Senators have voted consistently through the years, and I hope the Senate will accept the judgment of the committee in this instance. I notice that the distinguished chairman himself has voted that way consistently.

Mr. AIKEN. I would like the Senator from Louisiana to interpret the language of paragraph (c), on page 42, which reads as follows:

> (c) Whenever the federal contribution for any research or development activity authorized by this Act encouraging motor vehicle safety is more than minimal, the Secretary shall include in any contract, grant, or other arrangements.

Does the Senator from Louisiana have a definition for "more than minimal"?

Mr. LONG of Louisiana. That language was discussed, and it was agreed that the matter should depend on the circumstances. That is an area in which the Secretary would have latitude in determining what he would regard to be a minimal expenditure and what he would regard as substantial.

Actually, I do not recall at this time precisely who suggested the language. Two phrases were discussed. It was suggested that rather than have a straitjacket amendment, some latitude should be left for the Secretary. The chairman felt that there should be latitude in instances where the Federal Government made a small contribution compared with the contribution which private industry makes. So two terms were discussed. One was the word "minimal"; the other was "substantial."

To me, as a lawyer, "minimal" relates to the Latin phrase "de minimis." If
14244 the contribution is minor and of no great consequence, an exception might be made.

So we more or less agreed that we would write into the bill the word "minimal," and would say in the committee report that by "minimal" we meant "not substantial."

That could be perhaps 10 percent or more than 10 percent of the overall investment.

Mr. AIKEN. Or less than 10 percent.

Mr. LONG of Louisiana. That would be discretionary with the Secretary. I wish to say to the Senator that without that the Secretary would be permitted simply to grant the private patent rights in all cases. But he would have this discretion, and I believe that the committee has spelled out what we meant.

The Government expenditure relative to that of industry might go as high as 20 percent, but that is in the judgment of the Secretary.

Mr. AIKEN. The Secretary of Commerce?

Mr. LONG of Louisiana. The Senator is correct.

Mr. AIKEN. I am sure it is the purpose of the amendment that if the Federal Government contributes a very substantial part of the cost, any result therefrom should be made available to the general public.

However, if the Federal Government contributes, for instance, 10 percent of the cost, and the owner of the research establishment contributes the other 90 percent of the cost, I would think——

Mr. LONG of Louisiana. The Secretary could enforce patent rights.

Mr. AIKEN. Whoever contributes the majority of the cost.

Mr. LONG of Louisiana. The Senator is familiar with the problem.

The Secretary can deny making a contract with anybody for any reason. If he is going to make a contract I would be willing to concede now that it would be in his discretion, on a 10-percent contribution, as to whether or not it is substantial.

If he wanted to go beyond that on the circumstances of the case, that would be in his discretion. I believe that is the reason the chairman of the committee did not want us to spell out any particular percentage, but rather permit it to vary. He could, perhaps, negotiate, but the Senator realizes that the contractor must pay for most of the research himself.

The words "minimal" and "substantial" are used in the bill and the report and protect a research organization from inadvertency where someone is using Federal facilities to some extent, although he intended to have patent rights himself and the Federal Government had thereby made an indirect contribution.

Mr. AIKEN. I believe that the discussion of the Senator from Louisiana is very helpful. I understand if this legislation is adopted, including paragraph (c), then in the future arrangements depend on the judgment and integrity of the Secretary.

Mr. LONG of Louisiana. To a very considerable extent.

I am sure the Senator realizes that he could not enter into a contract granting private patent rights where the Government is going to pay 50 percent or even 40 percent of the overall cost and waive the Government's interest in the matter.

Mr. AIKEN. I think it is helpful to mention 40 percent or 10 percent, or whatever the Senator mentioned. He mentioned those various percentages.

Mr. LONG of Louisiana. The Secretary is not bound by that. But this legislative history, I think, will give him some idea as to his general area of discretion.

Mr. AIKEN. If he were to go too far, he would be subject to censure.

Mr. LONG of Louisiana. The Senator is correct.

Mr. COTTON. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. COTTON. The Senator indicated that the response by the Senator from New Hampshire to a question he asked was not responsive.

I wish to make it clear that in the contingency to which the Senator refers—and I must say in view of the cross licensing by the automobile companies it is rather remote—the contingency of having someone overcharged for safety devices, we rely on competition to prevent that.

The Senator from New Hampshire thought one of the most discouraging pieces of testimony that the committee heard was when an automobile company executive testified that safety could not be sold to the public; that you could sell speed; that you could sell power; that you could sell style, but that you could not sell safety.

In the first place, I do not agree with that and I hope that that will not prove to be the case. I hope that the splendid work which has been done by the chairman of the committee and the committee and the Congress will make the public safety minded.

I cannot imagine a more favorable situation than to have keen competition between the automobile manufacturers in the field of safety, to have them advertise their brands of safety, and to have them vie with each other.

If there is any harm that the patent feature in the bill could do, it could do the harm of handicapping the kind of competition we desire among automobile manufacturers to show the public that they are the safest and best in the field of safety.

Mr. LONG of Louisiana. One of the best ways to promote automobile safety would be to get all of the automobile companies doing research in the field, making available to one another the information they know, so that we need not waste a great amount of technical talent trying to overcome technical problems which have already been solved in one shop or another.

Insofar as the amendment applies, it would be effective. I am somewhat hopeful.

The time between the discovery and the patent application is about 4 years. That is the period from the time of the discovery until the patent is applied for, because people desire to fence the patent in so that someone cannot get around the patent.

The study by the General Accounting Office indicated that in the Department of Defense and other areas this had become a practice of contractors, holding out information for as long as 5 years, presumably in the hope of obtaining private patents on research they had done.

That incentive to hold out safety information would be removed when the information is freely available to everybody.

Congressional Record—Senate June 24, 1966, 14252 and 14253

Mr. JAVITS. Mr. President, I should like to propound an inquiry to the Senator from Washington, the manager of the bill.

There was very important testimony, which I think most Members will recall, to the effect that New York State had worked out, with an appropriation of $100,000 from the State legislature, the plans for the prototype of a safe car.

It will be recalled that witnesses from New York State, led by Senator Edward J. Speno, one of our State senators, testified to the fact that, with an appropriation of $100,000 from the New York State Legislature, the plans for the prototype of a safe car had been worked out with the cooperation of the State authorities and private industry, as represented by Republic Aviation, one of our New York State companies.

I submitted amendment No. 506 to the bill. The amendment proposed that $5 million be authorized on a 50–50 matching basis.

It would be possible with the use of this money to procure a contract for the building of such a prototype under the auspices of the safety plan of the bill.

Pursuant to this display of initiative, much progress has been made. I am delighted to see the Senator from Connecticut [Mr. RIBICOFF] present in the Chamber. He also was greatly impressed with this initiative.

Would the provision contained in the bill, in section 106(a) paragraph 2, relating to "contracting for the fabrication of motor vehicle equipment for research and testing purposes" be sufficient authority for such a contract as I have in mind, or are there any other provisions in the bill concerning which the Senator can key me?

Second, would there be any inhibition against the making of a contract with a State or State agency?

Mr. MAGNUSON. I ask the Senator from New York to turn, please, to page 42, section 106(b). The committee thought it had taken care of this problem.

Before I answer the Senator's question, I may say that the testimony of the New York witnesses was most impressive. What New York State was trying to do was impressive. But obviously one State cannot accomplish the purpose alone. So to get away from the suggestion of the Senator from New York that money be appropriated for a specific purpose, and that it could not be known to which State, if any, the money would be given, because each one seeks to take the lead—in this case, New York has—the committee provided:

The Secretary may, by means of grant or contract, design, construct and test operational passenger motor vehicles and items of motor vehicle equipment in demonstration quantities, embodying such features as the Secretary determines will assist in carrying out the purposes of this act.

If that had not been made clear, it has been made clear now that this section is intended to cover the situation.

Mr. JAVITS. And to include such possible contractees as the State of New York?

Mr. MAGNUSON. Yes. It may be that a group of States might need to get together to carry out their efforts.

The PRESIDING OFFICER. The time yielded to the Senator from New York has expired.

Mr. MAGNUSON. Mr. President, I ask that the Senator from New York be yielded 2 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. I submitted amendments on this subject, also. I read this language with great care. There is a question in my mind whether a grant could be made to or a contract made with the State of New York; but I think a grant could be made by the Secretary to Republic Aviation or any other manufacturer in the country, and he would coordinate it with a contract to the State of New York. I think there is a question whether the grant could be made to the State of New York. It is more likely that in procedure a grant would have to be made to Republic Aviation and a matching grant to the State of New York.

Mr. MAGNUSON. I hope there will be no confusion. It is our intention that the Secretary could do either.

Mr. JAVITS. That is correct.

Mr. RIBICOFF. The Senator from Wisconsin [Mr. NELSON] is deeply concerned with this problem. He is not here because he is abroad on official business.

Mr. MAGNUSON. Section 107 emphasizes the necessity of cooperative agreements between States, Federal agencies, and others.

Mr. RIBICOFF. I hope that the Secretary, in his research, would definitely undertake such a contract to continue the work that is being done by the State of New York. I believe the State of New York deserves great credit, because it had the foresight, the imagination, and the courage to proceed when no one else was proceeding. The State of New York has made great advances.

While I believe that the automobile industry should proceed on its own to make its prototypes, either individually or together, I believe it would be a spur to traffic safety if an independent agency were to make its own prototype, in order to determine what can be accomplished in this field.

The senior Senator from New York, the junior Senator from New York, and I have been interested in this matter. Great praise is due the New York legislative authorities and the New York safety group for proceeding as they have.

Mr. JAVITS. I am grateful to the Senator from Connecticut for his comments. The Senator from Connecticut, the junior Senator from New York, and I have discussed this matter.

I am grateful to the manager of the bill.

Mr. KENNEDY of New York. Mr. President, Senator JAVITS has mentioned the pioneer work of New York State in studying prototype safety car designs and has asked whether under this legislation, Federal support can be provided for the continuation of this work.

As I understand the legislation before the Senate, it permits the Traffic Safety Agency to use research and development funds for projects of the type sponsored by New York State and Republic Aviation.

As Senator RIBICOFF has just pointed out, the Traffic Safety Agency will undoubtedly consider the project sponsored by New York State as well as other projects having promise.

I believe that New York State has done an excellent job in its prototype research and I believe that it will receive appropriate Federal recognition.

The PRESIDING OFFICER. Is all time yielded back on the two amendments?

Mr. MAGNUSON. I yield back the remainder of my time.

Mr. COTTON. I yield back my time.

The PRESIDING OFFICER. All time is yielded back on the amendments offered by the Senator from Washington. The question is on agreeing to the amendments.

The amendments were agreed to.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

Congressional Record—Senate
June 24, 1966, 14221 and 14222

Mr. MAGNUSON.

There is in being no systematic research, testing, development, and evaluation program for safety standards capable of assigning priorities or correlating existing standards with accident and injury prevention.

Out of the committee's hearings, there emerged a clear outline of the basic needs to be served by Federal legislation:

14222 Third. The Federal Government must develop a major independent technical capacity sufficient to perform comprehensive basic research on accident and injury prevention, adequate to test and contribute to the quality of the industry's safety performance; a technical capacity capable of initiating innovation in safety design and engineering and of serving as a yardstick against which the performance of private industry can be measured; and, finally, a technical capacity capable of developing and implementing meaningful standards for automotive safety.

Congressional Record—Senate
June 24, 1966, 14231

Mr. RIBICOFF.

I am particularly pleased that the Commerce Committee saw fit to provide the Secretary with authority to develop prototype safe cars through grants or contracts. Although no funds are specifically authorized for such projects, ample money will be available to develop and test demonstration vehicles that can significantly advance our knowledge of what constitutes safe motor vehicle design.

The Secretary would also be authorized to assist and cooperate with State agencies and other public bodies in the development of safety standards, inspection and testing methods, and testing equipment. In addition, he could undertake a variety of training programs designed to create cadres of professionally qualified experts who are equipped to interpret and apply safety standards. This trained manpower will play a vital role in administering a comprehensive and balanced traffic safety program.

Congressional Record—Senate
August 31, 1966, 21487

Mr. MAGNUSON.

The Senate accepted the House provision, similar to the Senate's, requiring the Secretary to develop and test experimental and demonstration motor vehicles and motor vehicle systems and equipment. This program is designed to advance scientific and engineering applications to commercially manufactured motor vehicles and equipment, and should not be limited to traditional methods of automobile design, styling, testing, or production.

Senate Committee Report

Senate Report 1301, Pages 9, 10, 14, and 15

RESEARCH, DEVELOPMENT, TESTING, AND EVALUATION

The Secretary is given broad authority to initiate and conduct research, testing, development, and evaluation in cooperation with other Federal departments and agencies. The bill expressly authorizes data collection, grants to States, interstate agencies, and nonprofit institutions; authorizes the acquisition of equipment and facilities and the fabrication of motor vehicle equipment for research and development purposes (§ 106(a)).

In particular, the bill authorizes the Secretary to develop, through grant or contract, experimental safety vehicles in limited but sufficient quantities to serve as demonstrations for the testing and development of safety features applicable to commercially manufactured motor vehicles. These demonstration vehicles are not to be limited to traditional methods of automobile design, styling, testing or production (§ 106(b)). Although this authority is discretionary, the committee expects the Secretary to initiate such development and the Department of Commerce has indicated that "work on experimental cars of this nature will start as soon as possible, both on a total systems basis as well as on selected systems components." 10

While the bill reported by the committee authorizes the Secretary to make grants or award contracts for research in certain cases, a principal aim is to encourage the auto industry itself to engage in greater auto safety and safety-related research. In recent years the firms comprising the industry have spent substantial sums for research, but they are capable of doing more. In the area of auto safety, expenditures have been relatively small.

COOPERATION AND TRAINING

The Secretary is authorized to cooperate with and enter into cooperative agreements with other Federal agencies, State or other public agencies, manufacturers of motor vehicles and motor vehicle equipment and other businesses, universities, or other institutions in the planning and development of safety standards, methods for inspecting or testing under safety standards, and methods and equipment for testing motor vehicles and motor vehicle equipment (§ 107).

The Secretary is also authorized to establish training programs for Federal, State, and private personnel for testing, inspection, and other purposes (§ 108).

In order to protect the public investment in research and development activities under the act, the bill provides (§ 106 (c)) that when the Federal contribution for any research or development activity authorized by the act is substantial, the Secretary must include in the contract or grant providing for such research or development provisions effective to insure that all information, uses, processes, patents, and other developments resulting from that activity will be made fully and freely available to the general public.

It was the committee's judgment that when the Government finances safety research, the public is entitled to the fruits, including the right to any inventions discovered in the performance of that research. In dealings with their employees and subcontractors private business firms typically retain the right to any inventions discovered, on the understandable ground that the one who has provided financial support is entitled to the resulting product. Such a policy is especially applicable where taxpayer funds are involved and where the research is intimately associated with the public health and safety. On several occasions, running back more than a decade, Congress has provided for public retention of rights in inventions made in the course of Government-supported research. This policy is incorporated in the Atomic Energy Act of 1954, the Coal Research and Development Act of 1960, the Saline Water Conversion Act of 1961, the Arms Control and Disarmament Act of 1961, the Water Resources Research Act of 1964, and the Appalachian Regional Development Act of 1965.

Consistent with this approach the committee sought to secure to the public the benefits, accruing from research sponsored by the Secretary in accordance with section 106, that might help reduce accidents involving motor vehicles and reduce accompanying deaths and injuries. As set forth in section 106(c), the bill provides that the Secretary shall include, in any contract, grant, or other arrangement, provisions effective to insure that all resulting information, uses, processes, patents, and other developments will be made freely and fully available to the general public, wherever the Federal contribution to that activity is substantial. Of necessity, this condition must be satisfied on a case-by-case basis; but it deserves emphasis that it is the particular activity from which the information, uses, processes, patents, and other developments "result" which is the basis for the determination whether the Federal contribution is "more than minimal."

Section 106(c), by denying contractors exclusive rights in the performance of research activities where the Federal contribution is "more than minimal," will help curtail unnecessary industry pleas for Government financial support where the companies can do the 15
research themselves. By doing their own research and securing patents on inventions which they discover, the companies in the auto industry can make substantial progress toward increasing auto safety—without having to make substantial use of public funds.

The committee considered a problem presented by automotive manufacturers relating to the dilemma that would be created if the

Secretary issued a Federal motor vehicle safety standard that could be met only by using a patented device, structure, or method and if the patent holder unreasonably refused to license the use of his patent or was willing to supply the item or permit its use only on unreasonable terms.

The automotive manufacturers therefore proposed an amendment that would bar patent holders from enjoining the use of any patent that is necessary to meet a Federal motor vehicle safety standard, and would limit the patent holder to a suit for damages in the form of a reasonable royalty.

The committee concluded that any legislative solution presents great complexities, since a balancing of equities as between the manufacturer and the patent holder is bound to vary from one case to another. The committee decided it would therefore be preferable to leave the matter for resolution by the courts on a case-by-case basis. In this connection, it is the committee's understanding that under established patent case law the Federal courts, in performing their traditional role of balancing the equities before issuing an injunction, will decline to enjoin the use of a patent when its use is required in the public interest. (See *City of Milwaukee* v. *Activated Sludge*, 69 F. 2d 577 (7th Cir. 1934).) The committee therefore assumes that the courts are unlikely to enjoin the use of any patent when an automotive manufacturer can show that use is necessary to comply with a Federal motor vehicle safety standard and that the patent holder is refusing to supply the item or otherwise permit such use on reasonable terms. The committee also assumes that the Secretary is not likely to adopt a standard which can be met only by using a single patented device, and that the Secretary would, before doing so, take steps to obtain an understanding from the patent holder that he would supply the item or grant licenses on reasonable terms

Executive Communications

Contains nothing helpful.

As Introduced

As H.R. 13228 in the House and S. 3005 in the Senate:

RESEARCH, TESTING, AND DEVELOPMENT

SEC. 104. The Secretary, in cooperation with other departments and agencies as provided in section 113, is au-

thorized to undertake appropriate research, testing, and development for motor vehicle safety and motor vehicle safety standards to accomplish the purposes of this title and, in exercising this authority, may perform the following functions:

(a) gathering or collecting existing data from any source for the purpose of determining the relationship between motor vehicle or motor vehicle equipment performance characteristics and (1) accidents involving motor vehicles, and (2) the occurrence of death, personal injury, or property damage resulting from such accidents;

(b) contracting for the fabrication of or directly purchasing, notwithstanding any other provision of law, motor vehicles or motor vehicle equipment for research and testing purposes, and the testing of motor vehicles and motor vehicle equipment to accomplish the purposes of this title, even though such tests may damage or destroy the vehicles or equipment being tested;

(c) selling or otherwise disposing of motor vehicles or motor vehicle equipment tested pursuant to subsection (b), notwithstanding any other provision of law,

and reimbursing the proceeds of such sale or disposal into the appropriation or fund current and available for the purpose of carrying out this title: *Provided*, That motor vehicles and motor vehicle equipment which have been rendered irreparably unsafe for use on the highways, by testing pursuant to subsection (b), shall be sold or disposed of in a manner insuring that they shall not be used on the highways or on vehicles for use on the highways;

(d) performing or having performed all research, development, and information gathering and disseminating activities necessary and appropriate for motor vehicle safety and motor vehicle safety standards, and purchasing or acquiring equipment and facilities related thereto, or fabricating needed motor vehicle equipment to accomplish the purposes of this title, including—

(1) relating motor vehicle and motor vehicle equipment performance characteristics to motor vehicle safety;

(2) determining the effects of wear and use of motor vehicles and motor vehicle equipment upon motor vehicle safety;

(3) evaluating and developing methods and

equipment for testing. inspecting. and determining safety of motor vehicles and motor vehicle equipment;

(4) evaluating and developing methods and equipment for determining adequacy of motor vehicle safety standards. and compliance of motor vehicles with motor vehicle safety standards; and

(5) developing appropriate motor vehicle safety standards.

(e) awarding grants to State or interstate agencies and nonprofit institutions for performance of activities authorized in this section.

TRAINING 11

SEC. 106. (a) The Secretary is authorized to train, or establish training programs for, personnel of Federal agencies. State or other public agencies or institutions, private firms and private institutions by grants to or contracts with such agencies. firms, or institutions for the purpose of achieving motor vehicle safety as provided in this title. He may receive and expend funds made available under a cooperative agreement or utilize motor vehicles or motor vehicle equipment furnished thereunder for training purposes.

Such training may include—

(1) interpreting and applying motor vehicle safety standards;

(2) using test methods and test equipment:

(3) testing and inspecting motor vehicles and motor vehicle equipment to determine motor vehicle safety: or

(4) such other training as may be necessary to carry out this title.

(b) The Secretary may purchase, use, and dispose of motor vehicles or motor vehicle equipment for use, other than for purposes of transportation, in the training authorized by subsection (a), under the same authority, and subject to the same conditions, as provided in section 104. 12

Section 107

As Enacted

SEC. 107. The Secretary is authorized to advise, assist, and cooperate with, other Federal departments and agencies, and State and other interested public and private agencies, in the planning and development of— Cooperation. 4

(1) motor vehicle safety standards;
(2) methods for inspecting and testing to determine compliance with motor vehicle safety standards.

Conference Report

Contains nothing helpful.

House Passed Act

Same as enacted Act.

House Debate

Contains nothing helpful.

House Committee Report

House Report 1776, Page 22

COOPERATION WITH OTHER AGENCIES

Section 107 of the reported bill authorizes the Secretary to advise, assist, and cooperate with other departments and agencies of the Federal Government as well as States and other interested public and private agencies in the planning and development of safety standards and methods for inspecting and testing to determine compliance therewith.

This section was included to make certain that the Secretary would have full authority to consult with the entire spectrum of agencies, public and private, in the planning and development of standards and methods for inspecting and testing to determine compliance with such standards. For example, this would permit the Secretary to advise and consult with other concerned Federal departments and agencies such as the Department of Defense, the Department of Health, Education, and Welfare, the General Services Administration,

the Federal Aviation Agency, as well as the many State, public, and private organizations concerned with the various aspects of problems relating to motor vehicle and equipment safety. This would include educational institutions which are participating in the search for safety as well as such other private agencies as the Secretary determines appropriate.

Senate Passed Act

Congressional Record—Senate
June 24, 1966, 14257

Cooperation

SEC. 107. In addition to such advisory authority as the Secretary otherwise may exercise, he is authorized to advise, assist, cooperate with, or enter into cooperative agreements with and receive and expend funds made available thereunder by Federal agencies, State or other public agencies, businesses (including manufacturers, distributors, and dealers of motor vehicles and motor vehicle equipment), universities, or other institutions in the planning or development of—

(a) motor vehicle safety standards;

(b) method for inspecting or testing under motor vehicle safety standards;

(c) motor vehicle and motor vehicle equipment test methods and test equipment.

Senate Debate

Congressional Record—Senate
August 31, 1966, 21487

Mr. MAGNUSON.

The Senate conferees accepted the House version of the cooperation provision—authorizing the Secretary to cooperate with interested public and private agencies in the planning and development of standards—because there was no substantive difference between it and the more detailed Senate provision. The term "private agencies" as used in the House language covers, of course, the universities, institutions, and interested businesses such as manufacturers, distributors, and dealers of motor vehicles and motor vehicle equipment which were specifically mentioned in the Senate provision.

Senate Committee Report

Senate Report 1301, Page 10

COOPERATION AND TRAINING

The Secretary is authorized to cooperate with and enter into cooperative agreements with other Federal agencies, State or other public agencies, manufacturers of motor vehicles and motor vehicle

equipment and other businesses, universities, or other institutions in the planning and development of safety standards, methods for inspecting or testing under safety standards, and methods and equipment for testing motor vehicles and motor vehicle equipment (§ 107).

The Secretary is also authorized to establish training programs for Federal, State, and private personnel for testing, inspection, and other purposes (§ 108).

Executive Communications

Contains nothing helpful.

As Introduced

As H.R. 13228 in the House and S. 3005 in the Senate:

COOPERATION 10

SEC. 105. In addition to such advisory authority as the Secretary otherwise may exercise, he is authorized to advise, assist, cooperate with, or enter into cooperative agreements with and receive and expend funds made available thereunder by Federal agencies, State or other public agencies, businesses, universities or other institutions in the planning or development of:

(a) motor vehicle safety standards;

(b) method for inspecting or testing under motor vehicle safety standards;

(c) motor vehicle and motor vehicle equipment test methods and test equipment.

Section 108

Subsection 108(a) — As Enacted

SEC. 108. (a) No person shall— 4

(1) manufacture for sale, sell, offer for sale, or introduce or deliver for introduction in interstate commerce, or import into the United States, any motor vehicle or item of motor vehicle equipment manufactured on or after the date any applicable Federal motor vehicle safety standard takes effect under this title unless it is in conformity with such standard except as provided in subsection (b) of this section;

(2) fail or refuse access to or copying of records, or fail to make reports or provide information, or fail or refuse to permit entry or inspection, as required under section 112;

(3) fail to issue a certificate required by section 114, or issue a certificate to the effect that a motor vehicle or item of motor vehicle equipment conforms to all applicable Federal motor vehicle safety standards, if such person in the exercise of due care has reason to know that such certificate is false or misleading in a material respect;

(4) fail to furnish notification of any defect as required by section 113.

Conference Report

House Report 1919, Page 18

EXEMPTIONS

Section 108(a)(3) of the House amendment makes it a prohibited act to fail to issue a certificate required by section 114 that the vehicle or item of equipment conforms to all applicable Federal safety standards or to issue such a certificate that the vehicle or item of equipment conforms if the person issuing the certificate in the exercise of due care knows or has reason to know that the certificate is false or misleading in a material respect.

Section 108(b)(2) of the House amendment exempts from paragraph (1) of subsection (a) (the prohibition against manufacturing for sale, selling, offering for sale, or introducing or delivering for introduction in interstate commerce or importing into the United States a vehicle or item of equipment which does not meet the Federal safety standards) (A) any person who establishes that he did not know or have reason to know in the exercise of due care that the vehicle or item of equipment is not in conformity with the Federal safety standards, and (B) any person who prior to the first purchase in good faith for purposes other than resale, holds a certificate of conformance issued by the manufacturer or importer unless such person knows that the vehicle or item of equipment does not in fact conform.

Sections 108(a)(3) and 108(b)(2) of the proposed conference substitute are the same as the House amendment except that in each provision the words "know or" have been deleted so that a person must establish that he did not have reason to know in the exercise of due

care either that the certificate was false or misleading or that the vehicle or item of equipment was not in conformity with the Federal safety standards.

Both the House and Senate managers agree that by this deletion it becomes clear that actual knowledge will remove the defense the provisions give. Thus to avail himself of this defense a person would be required to prove both that he had no knowledge of these facts and that he had no reason to know of these facts in the exercise of due care.

House Passed Act

Congressional Record—House August 17, 1966, 19671

"SEC. 108. (a) No person shall—

"(1) manufacture for sale, sell, offer for sale, or introduce or deliver for introduction in interstate commerce, or import into the United States, any motor vehicle or item of motor vehicle equipment manufactured on or after the date any applicable Federal motor vehicle safety standard takes effect under this title unless it is in conformity with such standard except as provided in subsection (b) of this section;

"(2) fail or refuse access to or copying of records, or fail to make reports or provide information, or fail or refuse to permit entry or inspection, as required under section 112;

"(3) fail to issue a certificate required by section 114, or issue a certificate to the effect that a motor vehicle or item of motor vehicle equipment conforms to all applicable Federal motor vehicle safety standards, if such person in the exercise of due care knows or has reason to know that such certificate is false or misleading in a material respect;

"(4) fail to furnish notification of any defect as required by section 113.

House Debate

Congressional Record—House August 17, 1966, 19630 and 19631

Mr. SPRINGER.

And what about those who actually build the new cars—what must they do under this bill? Taking the steps in sequence, the first thing they will do is cooperate and assist the Secretary of Commerce in his deliberations and decisions about sensible, practical safety standards. They will not dominate this activity, but they will contribute. Then, of course, they must adhere to the standards when actually building production models. Having built one, the manufacturer must place a certificate in a permanent fashion which indicates that the vehicle does in fact measure up to the standards in effect when it was built. Records must be kept which can be inspected to determine compliance.

If, after all precaution and surveillance, cars do get by and are delivered which have defects, the manufacturer must notify the owner and dealer, if they are not still the same. Such notice must also be given to a later owner if he has taken over a warranty still in effect. Then the car builder must remedy the defect. In the case of autos still in the dealer's inventory, they may be returned or fixed by the dealer at the expense of the manufacturer. Those in the hands of owners will be fixed promptly by a dealer. Should the manufacturer fail or refuse to carry out his responsibilities under these sections, it can be assessed penalties of $1,000 per car, and the Secretary may also seek the help of the courts by

19631

way of injunction to force compliance and stop the violation.

Because an automobile is no more reliable than the equipment built into it or added to it, the bill provides for standards in this area also. Things like seat belts and brake fluid which already have standards will continue, and other things will be included.

House Committee Report

House Report 1776, Page 22

PROHIBITED ACTS AND EXEMPTIONS

Prohibited acts.—Section 108(a) of the reported bill prohibits every person from manufacturing for sale, selling, offering for sale, or introducing or delivering for introduction in interstate commerce, or importing into the United States, any vehicle or item of equipment manufactured on or after the date a Federal safety standard applicable thereto takes effect unless it conforms with that standard, except as otherwise provided in subsection (b) of this section. This subsection also prohibits any person to fail to keep records, or refuse access to records, or to refuse to permit the copying of such records, or to fail to make reports, or to provide information required in section 112(b) and (c) of this title. It is further prohibited for any person to issue any certificate that a vehicle or item of equipment conforms to all of the Federal safety standards applicable to it if that person in the exercise of due care either knows or has reason to know that the certificate is false or misleading in any material respect. The purpose of this section is to prohibit the manufacture, sale, or importation into this country of vehicles or items of equipment that fail to meet the Federal safety standards. Sections 109 and 110 provide methods for enforcing these prohibitions, civil penalties, and injunctions. The principal addition made by the committee to this subsection is the provision prohibiting the issuance of a false or misleading certificate. (Section 114 imposes an affirmative duty on certain persons to issue these certificates.)

Senate Passed Act

Congressional Record—Senate
June 24, 1966, 14258

Prohibited acts

SEC. 109. (a) No person shall—

(1) manufacture for sale, sell, offer for sale, or introduce or deliver for introduction, in interstate commerce, or import into the United States, any motor vehicle or item of motor vehicle equipment manufactured on or after the date any applicable Federal motor vehicle safety standard takes effect under this title unless it is in conformity with such standard as prescribed or amended by the Secretary pursuant to this title except

as provided in subsection (b) of this section;

(2) fail or refuse access to or copying of records, fail to make reports or provide information, or fail or refuse to permit entry or inspection, as required under section 114;

(3) fail or refuse to furnish a certification as required by section 115, or furnish a certification as required by such section 115 which is false; or

(4) fail or refuse to furnish notification as required by section 116.

Senate Debate

Congressional Record—Senate June 24, 1966, 14231 and 14232

Mr. MAGNUSON.

I should like the Senator from Connecticut to respond to this thought. I share his view of the impact that this legislation might have, not only on the United States but worldwide. I failed to mention that we have provided in the bill for foreign cars, that they must comply with the standards; and we have even allowed them to come in under something like a free-port arrangement, where, if they are not in compliance, dealers can bring them up to standard.

The Senator from Connecticut and I have discussed the fact that we have world conferences on safety at sea, world conferences on safety in the air, and world conferences on safety of explosives and hazardous substances, and I mentioned that I hope the day will come soon when we will have a world conference on automobile safety. Millions of lives could be saved if that were done.

Mr. RIBICOFF. There is no question that what the Senator says is absolutely true. I can tell from my mail, as I am sure the Senator can from his mail, the deep concern and the impact that this legislation has had on foreign manufacturers, because they want a portion of the American market, and they know that they will not be able to retain a portion of the American market unless they build safer cars. So unquestionably the work of the Senator and his committee has had a worldwide impact. *14232*

Senate Committee Report

Senate Report 1301, Page 11

PROHIBITED ACTS

The bill makes it a prohibited act to manufacture, sell, or introduce in interstate commerce any motor vehicle or component which fails to conform to applicable Federal safety standard (§ 109(a)(1)). Similarly, the failure to furnish the certification of compliance and the furnishing of a false certification are made prohibited acts (§ 109(a)(3)).

It is also a prohibited act to obstruct enforcement of the act by failing to make reports or refusing access to or copying of records, or entry or inspection, or failing or refusing to furnish notification of defects, as required by other sections of the act (§ 109(a) (2) and (4)).

The prohibitions against the manufacture, shipment, or sale of substandard vehicles or equipment or issuance of a false certification of compliance do not apply—

(1) To any sale or shipment after the first sale for purposes other than resale; or

(2) To any person who relies upon the certificate of compliance from the manufacturer or distributor and does not actually know of any failure to conform to standards; or

(3) To a manufacturer or other person who establishes that he did not know and did not have reason to know in the exercise of due care that such vehicle or item of motor vehicle equipment was not in conformity with such standards (sec. 109(b)). For example, a manufacturer could be relieved from liability upon a showing that he did not know of the failure to conform and that due care had been exercised in manufacturing, inspecting, and shipping the vehicle or item of equipment, in accordance with the manufacturer's obligation to produce vehicles conforming to the standards.

Executive Communications

Contains nothing helpful.

As Introduced

As H.R. 13228 in the House and S. 3005 in the Senate:

PROHIBITED ACTS 12

SEC. 107. (a) No person shall—

(1) manufacture for sale, sell, offer for sale, or introduce or deliver for introduction in interstate commerce, or import into the United States, any motor vehicle or item of motor vehicle equipment manufactured on or after the date any applicable Federal motor vehicle safety standard takes effect under this title unless it is in conformity with such standard as prescribed or amended by the Secretary pursuant to section 102

except as provided in subsection (b) of this section; or

(2) fail or refuse access to or copying of records, or fail to make reports or provide information, as required under section 111(b).

Subsection 108(b) — As Enacted

(b)(1) Paragraph (1) of subsection (a) shall not apply to the sale, the offer for sale, or the introduction or delivery for introduction in interstate commerce of any motor vehicle or motor vehicle equipment after the first purchase of it in good faith for purposes other than resale. In order to assure a continuing and effective national traffic safety program, it is the policy of Congress to encourage and strengthen the enforcement of State inspection of used motor vehicles. Therefore to that end the Secretary shall conduct a thorough study and investigation to determine the adequacy of motor vehicle safety standards and motor vehicle inspection requirements and procedures applicable to used motor vehicles in each State, and the effect of programs authorized by this title upon such standards, requirements, and procedures for used motor vehicles, and report to Congress as soon as practicable but not later than one year after the date of enactment of this title, the results of such study, and recommendations for such additional legislation as he deems necessary to carry out the purposes of this Act. As soon as practicable after the submission of such report, but no later than one year from the date of submission of such report, the Secretary, after consultation with the Council and such interested public and private agencies and groups as he deems advisable, shall establish uniform Federal motor vehicle safety standards applicable to all used motor vehicles. Such standards shall be expressed in terms of motor vehicle safety performance. The Secretary is authorized to amend or revoke such standards pursuant to this Act.

Used motor vehicles, state inspection.

Report to Congress.

(2) Paragraph (1) of subsection (a) shall not apply to any person who establishes that he did not have reason to know in the exercise of due care that such vehicle or item of motor vehicle equipment is not in conformity with applicable Federal motor vehicle safety standards, or to any person who, prior to such first purchase, holds a certificate issued by the manufacturer or importer of such motor vehicle or motor vehicle equipment, to the effect that such vehicle or equipment conforms to all applicable Federal motor vehicle safety standards, unless such person knows that such vehicle or equipment does not so conform.

(3) A motor vehicle or item of motor vehicle equipment offered for importation in violation of paragraph (1) of subsection (a) shall be refused admission into the United States under joint regulations issued by the Secretary of the Treasury and the Secretary; except that the Secretary of the Treasury and the Secretary may, by such regulations, provide for authorizing the importation of such motor vehicle or item of motor vehicle equipment into the United States upon such terms and conditions (including the furnishing of a bond) as may appear to them appropriate to insure that any such motor vehicle or item of motor vehicle equipment will be brought into conformity with any applicable Federal motor vehicle safety standard prescribed under this title, or will be exported or abandoned to the United States.

Importation.

(4) The Secretary of the Treasury and the Secretary may, by joint regulations, permit the temporary importation of any motor vehicle or item of motor vehicle equipment after the first purchase of it in good faith for purposes other than resale.

(5) Paragraph (1) of subsection (a) shall not apply in the case of a motor vehicle or item of motor vehicle equipment intended solely for export, and so labeled or tagged on the vehicle or item itself and on the outside of the container, if any, which is exported.

Conference Report

House Report 1919, Page 18

EXEMPTIONS

Section 108(a)(3) of the House amendment makes it a prohibited act to fail to issue a certificate required by section 114 that the vehicle or item of equipment conforms to all applicable Federal safety standards or to issue such a certificate that the vehicle or item of equipment conforms if the person issuing the certificate in the exercise of due care knows or has reason to know that the certificate is false or misleading in a material respect.

Section 108(b)(2) of the House amendment exempts from paragraph (1) of subsection (a) (the prohibition against manufacturing for sale, selling, offering for sale, or introducing or delivering for introduction in interstate commerce or importing into the United States a vehicle or item of equipment which does not meet the Federal safety standards) (A) any person who establishes that he did not know or have reason to know in the exercise of due care that the vehicle or item of equipment is not in conformity with the Federal safety standards, and (B) any person who prior to the first purchase in good faith for purposes other than resale, holds a certificate of conformance issued by the manufacturer or importer unless such person knows that the vehicle or item of equipment does not in fact conform.

Sections 108(a)(3) and 108(b)(2) of the proposed conference substitute are the same as the House amendment except that in each provision the words "know or" have been deleted so that a person must establish that he did not have reason to know in the exercise of due care either that the certificate was false or misleading or that the vehicle or item of equipment was not in conformity with the Federal safety standards.

Both the House and Senate managers agree that by this deletion it becomes clear that actual knowledge will remove the defense the provisions give. Thus to avail himself of this defense a person would be required to prove both that he had no knowledge of these facts and that he had no reason to know of these facts in the exercise of due care.

House Passed Act

Congressional Record—House
August 17, 1966, 19671

"(b)(1) Paragraph (1) of subsection (a) shall not apply to the sale, the offer for sale, or the introduction or delivery for introduction in interstate commerce of any motor vehicle or motor vehicle equipment after the first purchase of it in good faith for purposes other than resale. In order to assure a continuing and effective national traffic safety program, it is the policy of Congress to encourage and strengthen the enforcement of State inspection of used motor vehicles. Therefore to that end the Secretary shall conduct a thorough study and investigation to determine the adequacy of motor vehicle safety standards and motor vehicle inspection requirements and procedures applicable to used motor vehicles in each State, and the effect of programs authorized by this title upon such standards, requirements, and procedures for used motor vehicles, and report to Congress as soon as practicable but not later than one year after the date of enactment of this title, the results of such study, and recommendations for such additional legislation as he deems necessary to carry out the purposes of this Act. As soon as practicable after the submission of such report, but no later than one year from the date of submission of such report, the Secretary, after consultation with the Council and such interested public and private agencies and groups as he deems advisable, shall establish uniform Federal motor vehicle safety standards applicable to all used motor vehicles. Such standards shall be expressed in terms of motor vehicle safety performance. The Secretary is authorized to amend or revoke such standards pursuant to this Act.

"(2) Paragraph (1) of subsection (a) shall not apply to any person who establishes that he did not know or have reason to know in the exercise of due care that such vehicle or item of motor vehicle equipment is not in conformity with applicable Federal motor vehicle safety standards, or to any person who, prior to such first purchase, holds a certificate issued by the manufacturer or importer of such motor vehicle or motor vehicle equipment, to the effect that such vehicle or equipment conforms to all applicable Federal motor vehicle safety standards, unless such person knows that such vehicle or equipment does not so conform.

"(3) A motor vehicle or item of motor vehicle equipment offered for importation in violation of paragraph (1) of subsection (a) shall be refused admission into the United States under joint regulations issued by the Secretary of the Treasury and the Secretary; except that the Secretary of the Treasury and the Secretary may, by such regulations, provide for authorizing the importation of such motor vehicle or item of motor vehicle equipment into the United States upon such terms and conditions (including the furnishing of a bond) as may appear to them appropriate to insure that any such motor vehicle or item of motor vehicle equipment will be brought into conformity with any applicable Federal motor vehicle safety standard prescribed under this title, or will be exported or abandoned to the United States.

"(4) The Secretary of the Treasury and the Secretary may, by joint regulations, permit the temporary importation of any motor vehicle or item of motor vehicle equipment after the first purchase of it in good faith for purposes other than resale.

"(5) Paragraph (1) of subsection (a) shall not apply in the case of a motor vehicle or item of motor vehicle equipment intended solely for export, and so labeled or tagged on the vehicle or item itself and on the outside of the container, if any, which is exported.

House Debate

Congressional Record—House
August 17, 1966, 19626

Mr. QUILLEN.

The bill prohibits the manufacture, importation, or sale of vehicles which fail to meet issued standards. These provisions do not apply to resale of used cars. The bill does provide some control over used car resales. The Secretary is authorized to make a study of safety standards for such vehicles, as well as inspection requirements in each State, and to report his findings to Congress within 1 year of enactment. Within the next year, safety standards are to be issued covering used cars.

Congressional Record—House
August 17, 1966, 19631 and 19632

Mr. ROGERS of Florida.

The committee in this legislation is therefore continuing its activity concerning motor vehicle safety. It is also appropriate to mention at this point that the House Commerce Committee also adopted an amendment I offered as set forth in section 108, relative to separate safety inspection standards being issued applicable to used cars. After careful consideration of the practical problems involving safety of used cars, it became clear that the most effective approach to the safety problem concerning used cars could be accomplished through Federal standards incorporated with State inspection procedures.

. . . . . .

The committee has treated the problem of safety standards for used cars by including in section 108 a mandate that at the end of 1 year from the date of
19632 enactment of this act, the Secretary shall complete a study of the problems relating to the safety standards for used vehicles, and make recommendations to the Congress for any additional legislation he feels necessary. It is the intent of my amendment that no later than 1 year from the date of the submission of the Secretary's report, the Secretary, after consultation with the Council and other interested public or private agencies, shall establish Federal vehicle safety inspection standards applicable to used motor vehicles. These inspection standards, expressed in terms of vehicle performance, may be revised by the Secretary from time to time after advice from the Council. In this mandate to the Secretary, such used car safety inspection standards would become effective upon issue by the Secretary or within a reasonable time thereafter. The full effect of these used car inspection standards lies in the enforcement provisions seen in H.R. 13290, which offers grant incentives and withholds Federal road construction funds to hasten adoption of vehicle inspections by the States.

There are 90 million motor vehicles on American roads today. Each year, approximately 9 million new cars are sold. The basis for congressional action in the auto safety field rests with the annual loss of 50,000 lives due to highway accidents. With this basis in mind, a new Federal program of safety standards for new cars was initiated. However, due to their condition, new cars are presumably safer than old cars. If the Congress is going to act on the auto safety problem, then to make the approach through standards for new cars alone seems to touch only 10 percent of the basic matter of auto safety standards. There are 30 million used cars sold in America each year. These sales represent one-third of all the vehicles on the road. If the Congress is going to do something about safety by issuing Federal standards, such standards must deal with the question of used cars as well as new ones. The used car provisions of section 108 will enable the Secretary of Commerce to proceed within the existing framework of State inspection laws. Section 108, as written, will minimize Federal preemption of a question traditionally left to the States, yet will allow the thrust of Federal safety efforts to be felt through 90 percent of the vehicles annually once the auto safety program is set in motion.

The importance of motor vehicle inspections can be seen in the experience of the State of Texas, for example, which reports that prior to its inspection program in 1951, some 19 percent of vehicles involved in fatal accidents had unsafe conditions. In 1963, the percentage had been reduced to 4 percent. Virginia reports similar findings. The vehicle inspection provisions of title III, spelled out in H.R. 13290 as reported by the House Public Works Committee, are designed to ultimately reach every vehicle on the road. The House Commerce Committee has addressed itself to the two specific areas of safety standards: new and used cars.

Congressional Record—House
August 31, 1966, 21349

Mr. STAGGERS.

USED VEHICLES

The House provided for the development of used-car standards. The Senate version contained no comparable provisions. The managers for the Senate accepted the House version.

Congressional Record—House
August 31, 1966, 21350

Mr. SPRINGER.

In my personal opinion the third difference constituted the greatest change made by this House in the substantive provisions of S. 3005. It had been my conviction from the beginning, and the conviction likewise of many of the members of the Interstate and Foreign Commerce Committee that it was our duty to make some provision for used-car standards.

Even though the eventual implementation and enforcement of used-car standards must be accomplished at the State and local level and under the provisions of the bill emanating from the Public Works Committee, it nevertheless was not only desirable but imperative that a provision be made for the imposition of minimum standards for those 80 million cars untouched by the other provisions of this bill. It could not be left to chance or speculation that other legislation might be adequate.

For these reasons our House bill required the Secretary to create and impose standards for used automobiles after certain preliminary research and studies were completed. The conferees agreed to accept this portion of the House bill, and in my opinion this alone would make the conference version worthy of acceptance by this body.

House Committee Report

House Report 1776, Pages 22, 23, and 24

PROHIBITED ACTS AND EXEMPTIONS

Prohibited acts.—Section 108(a) of the reported bill prohibits every person from manufacturing for sale, selling, offering for sale, or introducing or delivering for introduction in interstate commerce, or importing into the United States, any vehicle or item of equipment manufactured on or after the date a Federal safety standard applicable thereto takes effect unless it conforms with that standard, except as otherwise provided in subsection (b) of this section. This subsection also prohibits any person to fail to keep records, or refuse access to records, or to refuse to permit the copying of such records, or to fail to make reports, or to provide information required in section 112(b) and (c) of this title. It is further prohibited for any person to issue any certificate that a vehicle or item of equipment conforms to all

of the Federal safety standards applicable to it if that person in the exercise of due care either knows or has reason to know that the certificate is false or misleading in any material respect. The purpose of this section is to prohibit the manufacture, sale, or importation into this country of vehicles or items of equipment that fail to meet the Federal safety standards. Sections 109 and 110 provide methods for enforcing these prohibitions, civil penalties, and injunctions. The principal addition made by the committee to this subsection is the provision prohibiting the issuance of a false or misleading certificate. (Section 114 imposes an affirmative duty on certain persons to issue these certificates.)

Limitation—used car standards.—Section 108(b)(1) provides that the prohibited acts enumerated in paragraph (1) of subsection (a) of this section (that is, the manufacture, sale, and importation of vehicles or equipment which do not meet safety standards) shall not apply to any sale, offer for sale, or introduction or delivery for introduction in interstate commerce after the first purchase of the motor vehicle or item of equipment in good faith for purposes other than resale. 23

This means that the safety standards would be enforced only up through the first purchase of the vehicle or equipment by the first person who acquires it for purposes other than resale.

Section 108(b)(1) further contains a declaration of congressional policy to encourage and strengthen the enforcement of State inspection of used vehicles. In order to carry out this policy the Secretary is required to conduct a thorough study of safety standards and inspection requirements and procedures applicable to used vehicles in each State and the effect of various programs authorized by this title thereon, and report to Congress not later than 1 year after the date of enactment of this title the results of the study and his recommendations for additional legislation. As soon as practicable thereafter, but not later than 1 year from the date this report is submitted, the Secretary after consultation with the Council and such other interested public and private agencies as he deems advisable shall establish uniform Federal safety standards to apply to all used motor vehicles. These standards have to be expressed in terms of performance and he is authorized to amend or revoke them.

The committee realized that the manufacture of vehicles and equipment is but one part of the larger vehicle and equipment story. If efforts are made to improve only new motor vehicles and equipment through establishing safety standards only a small portion of the total problem will be dealt with. These provisions relating to used vehicles were added to encourage State action to inaugurate inspection of all motor vehicles where such inspection does not exist and to improve existing State inspections, by providing uniform inspection standards for vehicles in use.

Exemptions.—Section 108(b)(2) of the reported bill provides that paragraph (1) of subsection (a) of this section (prohibiting the manufacture, sale, or importation of vehicles or equipment not meeting safety standards) shall not apply to any person who establishes that he did not know or have reason to know in the exercise of due care that such vehicle or item of equipment is not in conformity with an

applicable Federal safety standard nor shall it apply to any person who before the first purchase for purposes other than resale holds a certificate issued by either the manufacturer or importer of the vehicle or equipment to the effect that such vehicle or equipment conforms to all applicable safety standards unless that person knows that such vehicle or equipment does not so conform.

This exemption from the prohibitions contained in paragraph (1) of subsection (a) of this section applies if a person proves that, in the exercise of due care, he did not know or have reason to know that the vehicle or item of equipment failed to meet the Federal standard. This exemption also applies to any person who has a certificate issued by the manufacturer or importer that the vehicle conforms to all applicable or Federal standards unless that person does in fact know that the vehicle or equipment does not so conform. Thus, under this exemption there is no imposition of absolute liability; however, the burden of proof is placed upon the person who claims this exemption and once a failure to comply becomes known any continued failure could be stopped by injunction and would be subject to the assessment of a civil penalty in accordance with section 109.

Importation.—Section 108(b)(3) prohibits the admission into the United States of any vehicle or equipment offered for importation in violation of paragraph (1) of subsection (a) of this section. This refusal of admission shall be under joint regulations issued by the Secretary of the Treasury and the Secretary of Commerce. However, the Secretary of the Treasury and the Secretary of Commerce may permit the importation of a vehicle or item of equipment which does not conform to the Federal safety standards upon such terms and conditions as they determine appropriate to insure that it will either be brought into conformity, or exported, or abandoned to the United States. 24

This paragraph provides the necessary administrative flexibility to permit the importation of vehicles where it is demonstrated to the satisfaction of the Secretary of the Treasury and the Secretary of Commerce that such vehicles or equipment will be brought into conformity with applicable Federal safety standards or will be exported, or abandoned to the United States.

Temporary importation.—Section 108(b)(4) of the reported bill authorizes the Secretary of the Treasury and the Secretary of Commerce by joint regulation to permit temporary importation of used motor vehicles or items of motor vehicle equipment into the United States.

The provisions of this paragraph are designed to accommodate foreign tourists who may bring their vehicles with them on visits to this country and also to permit importation of certain vehicles for diplomatic use. It is emphasized that the authority granted in this paragraph is to be exercised only for the importation of vehicles and equipment for temporary periods.

Export.—Section 108(b)(5) provides that paragraph (1) of subsection (a) does not apply in the case of a vehicle or item of equipment which is intended solely for export, which is so labeled or tagged, and which is in fact exported.

This legislation does not purport to establish standards for motor vehicles or motor vehicle equipment to be used entirely outside the United States.

Senate Passed Act

Congressional Record—Senate June 24, 1966, 14258

(b)(1) Paragraph (1) of subsection (a) shall not apply to the sale, the offer for sale, or the introduction or delivery for introduction, in interstate commerce, or importation into the United States, of any motor vehicle or item of motor vehicle equipment after the first purchase of it in good faith for purposes other than resale, or to any person who establishes that he did not know and did not have reason to know in the exercise of due care that such vehicle or item of motor vehicle equipment was not in conformity with such standard, or to any person, who, prior to such first purchase, holds a certificate issued by the manufacturer or importer of such motor vehicle or motor vehicle equipment, to the effect that such vehicle or equipment conforms to all applicable Federal motor vehicle standards, unless such person knows that such vehicle or equipment does not so conform. Paragraph (3) of subsection (a) shall not apply to any person who establishes that he did not know and did not have reason to know in the exercise of due care that such vehicle or item of motor vehicle equipment was not in conformity with such standard.

(2) A motor vehicle or item of motor vehicle equipment offered for importation in violation of paragraph (1) of subsection (a) shall be refused admission into the United States under joint regulations issued by the Secretary of the Treasury and the Secretary; except that the Secretary of the Treasury and the Secretary may, by such regulations, provide for authorizing the importation of such motor vehicle or item of motor vehicle equipment into the United States upon such terms and conditions (including the furnishing of a bond) as may appear to them appropriate to insure that any such motor vehicle or item of motor vehicle equipment will be brought into conformity with any applicable Federal motor vehicle safety standard prescribed under this title, or will be exported or abandoned to the United States.

(3) The Secretary of the Treasury and the Secretary may, by joint regulations, permit the temporary importation of any motor vehicle or item of motor vehicle equipment, after the first purchase of it in good faith for purposes other than resale, notwithstanding paragraph (2) of this subsection.

(4) Paragraph (1) of subsection (a) shall not apply in the case of a motor vehicle or item of motor vehicle equipment that is intended solely for export, and so labeled or tagged on the vehicle or item itself and on the outside of the container, if any, and is exported.

Senate Debate

Congressional Record—Senate June 24, 1966, 14230

Mr. MAGNUSON.

What do we do about used cars?

We thought for a while that we might require a used car dealer, or the seller of a used car, to put a stamp on the windshield of the car for the buyer to look at, which would state that the car had complied with State safety regulations at its last inspection, but we found that here we were getting into the complex field of States rights.

We decided that the Secretary should immediately proceed to discuss with the States this matter of used cars, and when they are sold, to see if they cannot come up with some uniform laws, so that the buyer of a used car will at least know

that the car, even though it may be older and not so inherently safe as a new one, did comply at least with the stringent laws of the State itself.

I know that some cars are sold that should not be allowed on the highways, but the States must devise means, with the cooperation of the Federal Government, to see to it that once they are on the highway, they do comply.

Congressional Record—Senate
June 24, 1966, 14231 and 14232

Mr. MAGNUSON.

I should like the Senator from Connecticut to respond to this thought. I share his view of the impact that this legislation might have, not only on the United States but worldwide. I failed to mention that we have provided in the bill for foreign cars, that they must comply with the standards; and we have even allowed them to come in under something like a free-port arrangement, where, if they are not in compliance, dealers can bring them up to standard.

The Senator from Connecticut and I have discussed the fact that we have world conferences on safety at sea, world conferences on safety in the air, and world conferences on safety of explosives and hazardous substances, and I mentioned that I hope the day will come soon when we will have a world conference on automobile safety. Millions of lives could be saved if that were done.

Mr. RIBICOFF. There is no question that what the Senator says is absolutely true. I can tell from my mail, as I am sure the Senator can from his mail, the deep concern and the impact that this legislation has had on foreign manufacturers, because they want a portion of the American market, and they know that they will not be able to retain a portion of the American market unless they build safer cars. So unquestionably the work of the Senator and his committee has had a worldwide impact. 14232

Congressional Record—Senate
June 24, 1966, 14251

Mr. HART.

In this business of auto safety, we should also see that new car design is not the only factor. The competence of the driver is important. The design of the highway is important. The quality of law enforcement is important.

But so is the mechanical condition of the car after it has been on the road a few years.

Consequently, there is one strengthening feature of the bill that I have pushed for in committee and am glad is included.

It is the used-car inspection clause. This bill directs the Secretary of Commerce to report to Congress within a year how we can insure that used cars operated and sold are up to safety standards.

Used-car inspection is not something the Federal Government can or should embark on directly. It is a matter best handled by strong State inspection programs.

In the fervent and justifiable drive to gain new car safety design, let us not neglect the fact that safety is also endangered by brakes without linings and tires without tread, by faulty wheel alinements and cracked headlights.

This too, I think, would importantly increase the motorist's chances of survival.

If we are at last ready to concern ourselves with the problems of highway safety, then let us commit ourselves on every front where there is a chance of success.

Congressional Record—Senate
August 18, 1966, 19863

Mr. MAGNUSON. Yes. Let me say to the Senator from New Hampshire, who did so much in working on the bill in the Commerce Committee, I think that we will have to take a good, long, hard look at both provisions relating to used cars. The House has a used car feature, and as the Senator knows, we decided not to abandon, it, but because of the practicalities involved, we directed the Secretary to guide us on used car standards. He would be required to report after 1 year. The two versions are not necessarily at variance, but both committees in the House and Senate are looking for a practical solution to the used car situation.

Congressional Record—Senate
August 31, 1966, 21487

Mr. MAGNUSON.

The conferees adopted the House provision directing the Secretary to establish standards for used cars, as an aid to State officials in applying meaningful motor vehicle inspection throughout the life of the car on the road.

Senate Committee Report

Senate Report 1301, Page 12

USED MOTOR VEHICLE INSPECTION

In recognition of the fact that the setting of new car standards is a partial solution to the problem of motor vehicle safety, the bill expresses a congressional policy "to encourage and strengthen the enforcement of State inspection of used motor vehicles" (sec. 117(a)).

In addition, the Secretary is directed to conduct a thorough study and investigation to determine the adequacy of motor vehicle safety standards and motor vehicle inspection requirements and procedures in each State and the effect of programs authorized by this bill upon such used car standards, requirements, and procedures (sec. 117(b)). The Secretary is directed to report to Congress not later than 1 year after enactment of the bill the results of such study, together with such legislative recommendations as he may deem necessary in the interests of traffic safety (sec. 117(b)).

Executive Communications

Contains nothing helpful.

(b) (1) Paragraph (1) of subsection (a) shall not 12
apply to the sale, the offer for sale, or the introduction or delivery for introduction in interstate commerce of any motor vehicle or motor vehicle equipment after the first purchase of it in good faith for purposes other than resale.

(2) A motor vehicle or item of motor vehicle equipment offered for importation in violation of paragraph (1) of subsection (a) shall be refused admission into the United States under joint regulations issued by the Secretary of the Treasury and the Secretary; except that the Secretary of the Treasury and the Secretary may, by such regulations, provide for authorizing the importation of such motor vehicle 13
or item of motor vehicle equipment into the United States upon such terms and conditions (including the furnishing of a bond) as may appear to them appropriate to insure that any such motor vehicle or item of motor vehicle equipment will be brought into conformity with any applicable Federal motor vehicle safety standard prescribed under this title, or will be exported or abandoned to the United States.

(3) The Secretary of the Treasury and the Secretary

may, by joint regulations, permit the temporary importation of any motor vehicle or item of motor vehicle equipment, after the first purchase of it in good faith for purposes other than resale, notwithstanding paragraph (2) of this subsection.

(4) Paragraph (1) of subsection (a) shall not apply in the case of a motor vehicle or item of motor vehicle equipment intended solely for export, and so labeled or tagged on the vehicle or item itself and on the outside of the container, if any.

Subsection 108(c) — As Enacted

(c) Compliance with any Federal motor vehicle safety standard issued under this title does not exempt any person from any liability under common law.

Conference Report

Contains nothing helpful.

House Passed Act

Same as enacted Act.

House Debate

Congressional Record—Senate
August 31, 1966, 21349

Mr. STAGGERS.

COMMON LAW LIABILITY

The House version contains a provision which specifically provides that compliance with Federal motor vehicle safety standards does not exempt any person from any liability under common law. The Senate version had no comparable provision. The managers for the Senate accepted the House version.

House Committee Report

House Report 1776, Page 24

Common law liability.—Section 108(c) of the reported bill provides that compliance with any Federal motor vehicle safety standard does not exempt a person from any liability under common law.

It is intended, and this subsection specifically establishes, that compliance with safety standards is not to be a defense or otherwise to affect the rights of parties under common law particularly those relating to warranty, contract, and tort liability. It follows that noncompliance even though exempt under paragraph (2) of subsection (b) of this section will not excuse any person from otherwise applicable legal liability.

Senate Passed Act

Contains no comparable provision.

Senate Debate

Congressional Record—Senate
June 24, 1966, 14230

Mr. MAGNUSON.

The States would be permitted to set more stringent requirements in matters of their own procurement. In this case, they might set an example such as we set in GSA. Compliance with Federal standards would not necessarily shield any person from broad liability at the common law. The common law on product liability still remains as it was.

Congressional Record—Senate
August 31, 1966, 21487

Mr. MAGNUSON.

The Senate conferees accepted the House provision that compliance with Federal standards does not exempt any person from common law liability. This provision makes explicit, in the bill, a principle developed in the Senate report. This provision does not prevent any person from introducing in a lawsuit evidence of compliance or noncompliance with Federal standards. No court rules of evidence are intended to be altered by this provision.

Congressional Record—Senate
August 31, 1966, 21490

Mr. COTTON.

The Senate conferees also yielded on a provision, inserted by the House, declaring that compliance with any Federal standard does not exempt any person from liability under common law. Nevertheless, it seems clear and was, I believe, the consensus of the conferees on both sides, that proof of compliance with Federal standards may be offered in any proceeding for such relevance and weight as courts and juries may give it.

Senate Committee Report

Senate Report 1301, Page 12

EFFECT ON STATE LAW

The centralized, mass production, high volume character of the motor vehicle manufacturing industry in the United States requires that motor vehicle safety standards be not only strong and adequately enforced, but that they be uniform throughout the country. At the same time, the committee believes that the States should be free to adopt standards identical to the Federal standards, which apply only to the first sale of a new vehicle, so that the States may play a significant role in the vehicle safety field by applying and enforcing standards over the life of the car. Accordingly, State standards are preempted only if they differ from Federal standards applicable to the particular aspect of the vehicle or item of vehicle equipment (sec. 104).

The States are also permitted to set more stringent requirements for purposes of their own procurement. Moreover, the Federal minimum safety standards need not be interpreted as restricting State common law standards of care. Compliance with such standards would thus not necessarily shield any person from product liability at common law.

Executive Communications

Contains nothing helpful.

As Introduced

As H.R. 13228 in the House and S. 3005 in the Senate: contains no comparable provision.

Section 109

As Enacted

Violations. 6

Sec. 109. (a) Whoever violates any provision of section 108, or any regulation issued thereunder, shall be subject to a civil penalty of not to exceed $1,000 for each such violation. Such violation of a provision of section 108, or regulations issued thereunder, shall constitute a separate violation with respect to each motor vehicle or item of motor vehicle equipment or with respect to each failure or refusal to allow or perform an act required thereby, except that the maximum civil penalty shall not exceed $400,000 for any related series of violations.

(b) Any such civil penalty may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the person charged.

Conference Report

House Report 1919, Page 19

CIVIL PENALTY

Section 109(b) of the House amendment permits the Secretary to compromise any civil penalty imposed for violations of this act.

Section 109(b) of the proposed conference substitute is the same as the House amendment with the addition of a sentence from section 110(b) of the Senate bill making it explicit that in determining the amount of any civil penalty or the amount agreed on in compromise the Secretary shall consider both the size of the business of the person charged and the gravity of the violation.

House Passed Act

Congressional Record—House August 17, 1966, 19671

"Sec. 109. (a) Whoever violates any provision of section 108, or any regulation issued thereunder, shall be subject to a civil penalty of not to exceed $1,000 for each such violation. Such violation of a provision of section 108, or regulations issued thereunder, shall constitute a separate violation with respect to each motor vehicle or item of motor vehicle equipment or with respect to each failure or refusal to allow or perform an act required thereby, except that the maximum civil penalty shall not exceed $400,000 for any related series of violations.

"(b) Any such civil penalty may be compromised by the Secretary. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the person charged.

House Debate

Congressional Record—House
August 17, 1966, 19645

Mr. HALPERN.

H.R. 13228 is an excellent piece of legislation as it now stands. It significantly strengthens the Senate version of the traffic safety bill by covering trucks and buses currently regulated by the Interstate Commerce Commission and by authorizing the establishment of Federal standards for used vehicles within 2 years after enactment of the bill. I believe, however, that it is unnecessarily weaker than the Senate bill in the area of enforcement. It does not include several enforcement and investigatory measures appearing in the Senate version, such as civil penalties for manufacturers failing to notify owners and dealers of safety defects, and provisions for on-site inspection of manufacturer's premises by the Secretary with penalties for any noncompliance discovered during the inspections. I believe we should carefully consider amending H.R. 13228 to bring it into conformity with the Senate bill in these matters.

Congressional Record—House
August 17, 1966, 19662-19664

AMENDMENT OFFERED BY MR. O'NEILL OF MASSACHUSETTS

Mr. O'NEILL of Massachusetts. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. O'NEILL of Massachusetts: On page 43, after line 3, on line 4, a new section 109(c) to follow section 109(b):

"CRIMINAL PENALTY

"SEC. 109(c). Any person who knowingly and willfully violates any provision of section 108, or any regulation issued thereunder, shall upon conviction be fined not more than $50,000 or imprisoned not more than two years, or both."

Mr. O'NEILL of Massachusetts. Mr. Chairman, I, too, want to congratulate the chairman and the committee for having hearings and reporting this legislation. But I also want to make reference to a fellow by the name of Ralph Nader who lighted a bomb under the people of America, and he deserves a great amount of credit. I know that I received probably 100 letters from my constituency with regard to automobile safety; there is no question that Ralph Nader was responsible. I want to congratulate the committee for bringing out this bill. On the whole, I believe it is a good bill. But, of course, from my amendment you may infer that I do not believe the bill goes far enough. Let me read to you in part from an editorial that appeared in the Washington Post the other morning:

According to the Commerce Committee report Sections 109 and 110 of the bill, the civil penalties and injunctions provisions, "should constitute sufficient enforcement authority to assure full adherence to Federal safety standards." This is not the case. It is ludicrous to think that the Secretary of Commerce, armed only with the threat of injunction, could force an unwilling auto manufacturer to toe the line without an impossible amount of litigation. The membership of the House has an obligation to strengthen the bill on the floor; and the Administration, which so warmly embraced the Senate bill, should lend its support to this effort.

My amendment is a simple one, rooted in relevant history and legislation dealing with other areas of the public safety. The amendment simply provides that any person who knowingly and willfully violates this act be subject to criminal penalties. It is inconceivable to me how there can be any valid objections to such a provision in an act that deals with the safety of millions on the highways of our country. Why should the auto industry be placed in a privileged position here, when a host of other industries over whom safety legislation has been enacted are subjected to criminal penalties upon conviction for knowingly and wilfully violating the law? To ask the question is to answer it. A double standard—one for individuals and other industries and one for the automotive industry—is unjust and unnecessary. Let a few examples do for many.

The Congress has passed laws dealing with safety and standards setting that have provided for criminal penalties in the area of household refrigerators, labeling of hazardous substances, brake fluids, seat belts, motor carriers under the Interstate Commerce Commission, aircraft—concerning airworthiness certificates, interference with navigation, explosives and so forth—steam boilers on vessels, coal mines, and food, drugs and cosmetics. Even the brake fluid and seat belt legislation, which was initiated by the House Interstate and Foreign Commerce Committee, provided for criminal fines and imprisonment. I recall no objection at that time to these criminal provisions; they were drafted into the legislation from the very beginning by committee staff. Yet, by the present act before us, these two laws will be repealed and incorporated into the present act's purposes. Knowing and willful violation of the seat belt and brake fluid acts now would incur a criminal penalty; when this act is passed, such violation would only incur a civil penalty. Does this mean that the public safety is not in need of the most effective deterrent from now on? Have the frightening disclosures and news in recent months about automobile safety provided any basis for a weakening of the deterrent impact that flows from a strong enforcement section? I think not.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

Mr. O'NEILL of Massachusetts. Mr. Chairman, I ask unanimous consent to proceed for an additional 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

Mr. DINGELL. Mr. Chairman, reserving the right to object, I hope the gentleman from Massachusetts will not object if some other Member asks for additional time.

Mr. O'NEILL of Massachusetts. Oh, I never object.

Mr. DINGELL. Mr. Chairman, I withdraw my reservation.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. O'NEILL of Massachusetts. Mr. Chairman, the Congress has decided many times before that the main deterrent to illegal behavior by corporations is the deterrent that is aimed to pierce the corporate veil and attach to the culpable individual. That deterrent is the criminal provision. The Congress has applied this deterrent to illegal behavior far removed from hazards that can result in the death or injury of innocent people. For example, violations involving economic matters, such as antitrust, securities selling or income tax have long established criminal penalties applicable to them. These economic activities involve small and large business organizations. If there are criminal provisions in these acts that deal primary with monetary matters; why should there not be criminal provisions that deal with matters of human life, and cover large business organizations situated in this country and in foreign countries that come within this act? Why should a negligent driver be exposed to criminal fine or imprisonment, as is presently the case, and a knowing and willful manufacturer be exempted from such judgment?

The inclusion of criminal provisions in this act indicts no one. It does say that anyone who knowingly and willfully violates this act, that could result in serious harm or death, will be brought within the rule of the criminal law. It serves notice to all concerned that safety is serious business and that those responsible must exert close care and scrutiny over their decisions and supervision. Thus, as is true of all effective deterrents, the chief impact of a criminal provision will be preventive. It will further the climate of rigorous care that must pervade the automotive industry for the protection of our people. The administration of this act to achieve the maximum safety will not be easy. It will be even more difficult if the Secretary has inadequate enforcement tools. One thing is certain. The Secretary bears a heavy responsibility and the public will expect him to bear it well. To permit this bill to pass without enforcement provisions suited and necessary to his task will invite the delays and the wishy-washy regulatory performance that has caused so much public disillusionment with the processes of Government. There is nothing more calculated to erode public confidence in Government than Congress giving a department heavy responsibility without commensurate authority. We are raising the public's expectations for greater safety; let us move forward as we have in the past, to provide a more solid base for their fulfillment.

Mr. STAGGERS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman and Members of the Committee, I hope I do not take the 5 minutes allotted to me, but first I would like to say that the administration when they sent up this bill did not ask for

criminal penalties. When the Department of Justice was asked for a recommendation on this they did not ask for criminal penalties. The Justice Department said that they did not favor it. It is in the RECORD as it was given in the other body. I would like to know who the gentleman would single out to charge with a crime. You cannot put a corporation in jail. Are you going to take one of the men down on the line, the foreman, or which one? The Department of Justice said that the bill would have to be narrowed if criminal penalties are included.

Mr. O'NEILL of Massachusetts. Will the gentleman yield?

Mr. STAGGERS. Yes. I yield to the gentleman.

Mr. O'NEILL of Massachusetts. All I want to say is this: The record of the automobile industry is this: They have cut corners. They have cut corners when the safety of the American public has been in question. They have cut corners in order to save money. I think those who make decisions to cut corners on matters of safety should pay the penalty.

Mr. STAGGERS. Who are you going to put in jail?

Mr. O'NEILL of Massachusetts. The same as any other act you have on the books with regard to public safety.

Mr. STAGGERS. No one could be readily identifiable.

Mr. O'NEILL of Massachusetts. Just like every other act with regard to public safety.

Mr. STAGGERS. But you do not know who you are going to put in jail, and it would have to be determined. This would take a long time. We have civil penalties which come to eight times the proposed criminal penalties. Tell me, do you know of any safety standards statute in this land where we have both civil and criminal penalties? You cannot point to one. I would say also that the Senate debated this at quite some length. They came up with a vote of 62 to 14 against it.

Mr. O'NEILL of Massachusetts. You asked me to name one. Will the gentleman yield further?

Mr. STAGGERS. I yield.

Mr. O'NEILL of Massachusetts. How about your present penalties with regard to seat belts?

Mr. STAGGERS. No, they do not. They do not have any civil penalties whatsoever.

I can answer that very quickly, because I was in the committee. You cannot come up with one.

Mr. Chairman, I would like to say to you now that the FAA which runs the airlines of this country do not have any criminal penalties in theirs and they can take as many as 150 or more on one aircraft, and I would add that one is certainly interested when one gets on an airplane as to whether he is going to be safe or not.

Mr. Chairman, there are many other factors which are involved. However, we have criminal, but not civil penalties in the seat belt and brake fluid laws. We repealed them in this because we believe in civil penalties which we feel are far more effective and much easier to apply.

Mr. Chairman, I believe this amendment should be voted down overwhelmingly.

There are a lot of people who would like to make this a punitive measure. However, we are trying to make this an effective measure. I do not believe the intent of this bill is to punish people. It is to save lives and reduce injuries. We have injunctive procedures in this measure, and many other procedures that can be brought to bear. For that reason I believe the amendment should be voted down.

Mr. DINGELL. Mr. Chairman, I move to strike out the last word, and I rise in opposition to the amendment.

Mr. Chairman, it should be pointed out very clearly first of all that the function of this amendment is to narrow the effect of this statute. It is well known to students of the law that criminal statutes are very narrowly construed. This is one of the reasons that the committee in its wisdom did not insert criminal penalties.

Furthermore, the gentleman's amendment would require that the violation of this statute be committed "knowingly and willfully." This imposes an almost impossible burden of proof on any prosecution.

This is one of the most difficult things in jurisprudence to prove. I would point out as a former assistant prosecutor it is oftentimes well nigh impossible to prove.

Let us look further at this matter. We are told by the good gentleman from Massachusetts, who is my dear friend, that this legislation is not strong enough. A look at the bill, at what the committee has brought to the floor, disproves this:

First of all, for any violations of this statute, or for marketing an unsafe vehicle, or for failure to exercise adequate standards of care in the manufacture of vehicles, the bill provides for all civil penalties amounting to $1,000 per vehicle

or $1,000 per tire, or $1,000 per part of a vehicle which is unsafe—up to a total of $400,000, certainly a most vigorous penalty almost to the point of being confiscatory.

Second, we have preserved every single common-law remedy that exists against a manufacturer for the benefit of a motor vehicle purchaser. This means that all of the warranties and all of the other devices of common law which are afforded to the purchaser, remain in the buyer, and they can be exercised against the manufacturer.

Lastly, we have expressly authorized use in the courts of the Federal Government the full powers of equity to enforce the bill at the request of the Secretary. This means that where there is either production of or the threat of production of an unsafe motor vehicle the Secretary may go to a court of equity and may enjoin production of the automobile, or may seek such other relief as is necessary to protect the American people from having an unsafe motor vehicle placed upon the highways.

This power could include affirmative injunctions, to require the manufacturer to take corrective action. It could include prohibitory injunctions to prevent unsafe motor vehicles from going on the roads. It could include judicially leveled penalties for violations of court orders, much larger than the $400,000 civil penalty authorized in the bill. It could include criminal contempt action, by which violation of a court order would place the violator in jail for so long as the court chose. It could include civil contempt, which would mean placing the individual under restrictions of the court until such time as he had purged himself of the contempt and until he had complied with the requirements of the court.

In addition, it would afford the possibility to the court and allow, where so necessary, the levying of civil penalties by the courts up to $1,000 per vehicle or part up to $400,000, as were necessary to assure the protection of the American people and to punish the manufacture of unsafe motor vehicles and parts.

I would point out that the average civil penalty asserted by the committee in lieu of a fine could go up to a total of $400,000, I would point out that the standard of proof which must be borne under the committee bill is much different and much better, if you are interested in enforcement, because a civil penalty is leveled by the courts upon a finding supported by only a fair preponderance of the evidence. It takes much less to sustain the case of the Government. In a criminal prosecution the Federal Government must prove beyond a reasonable doubt, a much heavier burden of proof.

The chairman of the committee pointed out something that should not be lost upon this House. Who is going to be charged with a criminal violation under this statute if it is amended the way the gentleman from Massachusetts would have it amended? Is it going to be the president of the corporation? Are we going to be able to say that he willfully and knowingly did this? The answer is most probably not. Is it going to be leveled against any production official or engineer of the company? It is going to be leveled against a production line employee of the company? Indeed, it could be, under the language of the gentleman from Massachusetts, leveled against any person who happens to be in the employ of the company, from the highest official to the lowest paid janitorial or custodial employee, including sweepers as well as those who work upon the assembly lines.

It is well known that the standard of proof required—that is, that a person knowingly and willfully violated the law—would impose such a burden on the Federal Government that it is highly doubtful that any prosecution of this kind would ever be successfully carried out.

Mr. MOSS. Mr. Chairman, I rise in support of the amendment.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I would be very pleased to yield to my distinguished chairman.

Mr. STAGGERS. I wonder if we could set a time limit on this debate. I wonder if a limit of 5 minutes or 10 minutes from now could be set. 19664

Mr. MOSS. If this debate on the subject of time is going to continue, I do not yield further until I am given compensating time.

Mr. STAGGERS. Could we say 5 minutes after 5 debate on the amendment and all amendments thereto will be concluded?

Mr. SPRINGER. Mr. Chairman——

Mr. MOSS. I refuse to yield further unless I am afforded additional time to give me my full 5 minutes.

The CHAIRMAN. The gentleman from California has refused to yield further.

Mr. MOSS. Mr. Chairman and gentlemen, I find myself in the same

dilemma as the distinguished gentleman from Massachusetts. I cannot understand why there is such vigorous opposition to providing a criminal penalty for willfully and knowingly violating the provisions of this act. We are not talking of repealing the administrative or civil penalties that are provided. Remember that in this act we are not dealing only with the large automobile manufacturers or assemblers. We are dealing with many people who are real fly-by-night artists—accessory shops.

We had testimony just a few years ago in the committee, and we finally had to report out a bill fixing standards for brake fluids, because we found people were knowingly and willfully selling in interstate commerce, brake fluids that would break down under normal operating temperature. Yes, we also provided criminal penalties for seat belts which failed to meet any reasonable tests of strength.

Let us not kid ourselves that we are dealing with this very complex industry, composed only of totally responsible individuals. The record is too complete with instances to disprove that theory.

No damage is done by adding this second gun to the arsenal to deal with those who willfully and knowingly violate—it deals with the matter of those who import, those who offer in interstate commerce, and not just necessarily the very few manufacturers of automobiles. Let us stop considering this legislation only in context with the more responsible segment. Remember, there are many who are not in that category.

I urge the adoption of the amendment.

Mr. HARVEY of Michigan. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment. Mr. Chairman, no one here has complained that the present penalties in this bill are by any means inadequate. It has been stated that we should add another gun. But let me ask this: Is the possible fine of $400,000 not enough of a civil penalty?

I can think of a good many auto industries—after all, they are not all Ford, and they are not all General Motors; there are a good many small ones as well, who make trucks and parts—for whom the $400,000 fine would be disastrous and immediately put them in bankruptcy. Is not the power of injunction, the power of restraint that goes with injunction enough? It has been said that, no, instead we should add another gun. Let me say this, that we are not adding another gun. Instead we are doing just as the gentleman from Michigan [Mr. DINGELL], who proceeded me, said, we are narrowing the construction.

Let me read to you from a letter from the Deputy Attorney General in this regard, to the chairman of the committee in the other body. He said:

> We would not generally favor imposition of criminal penalties for violation of the act. Were criminal sanctions created, the statute might have to be narrowed in the respects we have noted, and it would undoubtedly receive a narrower judicial construction.

This is the point the gentleman from Michigan made so effectively a minute ago. My point to you is that by doing what this amendment suggests, instead of adding another gun, we are in effect making a weaker bill, because we are making a provision that is going to be construed more narrowly and is going to affect a more limited number of people. The provision as it is drafted at the present time is a broader bill and will affect more people and will bring about more in the field of safety and compulsory standards.

I point out, as I said earlier, this is a new field of legislation for the Congress. For more than 30 years the auto industry has been turning out vehicles and, by all statistics, safe vehicles.

This is a tremendously important industry not only in the State of Michigan, which I happen to represent but across America. It is tremendously important to our economy.

One out of seven Americans directly gains his livelihood from this particular industry. In the district I represent more than a majority are directly or indirectly affected by it.

This Congress should in its wisdom go slow in this regard and should not jump into something hastily, when we do not know what we are doing and do not even know the man in the plant whom we will level criminal penalties against.

We are not dealing with thugs and hoodlums. We are dealing with a responsible industry. I am proud of them, both the automobile executive and the man on the line assembling vehicles or making parts.

What this amendment would do is disrupt a major industry. It would make the executive afraid to make decisions. It would make the worker afraid to do his job.

I wholeheartedly oppose the amendment.

Mr. O'NEILL of Massachusetts. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentleman from Massachusetts already has been recognized under the 5-minute rule, and is not entitled to further recognition.

The question is on the amendment offered by the gentleman from Massachusetts [Mr. O'NEILL].

The question was taken; and on a division (demanded by Mr. O'NEILL of Massachusetts) there were—ayes 15, noes 120.

So the amendment was rejected.

House Committee Report

House Report 1776, Pages 22, 24, and 25

PROHIBITED ACTS AND EXEMPTIONS

Prohibited acts.—Section 108(a) of the reported bill prohibits every person from manufacturing for sale, selling, offering for sale, or introducing or delivering for introduction in interstate commerce, or importing into the United States, any vehicle or item of equipment manufactured on or after the date a Federal safety standard applicable thereto takes effect unless it conforms with that standard, except as otherwise provided in subsection (b) of this section. This subsection also prohibits any person to fail to keep records, or refuse access to records, or to refuse to permit the copying of such records, or to fail to make reports, or to provide information required in section 112(b) and (c) of this title. It is further prohibited for any person to issue any certificate that a vehicle or item of equipment conforms to all of the Federal safety standards applicable to it if that person in the exercise of due care either knows or has reason to know that the certificate is false or misleading in any material respect. The purpose of this section is to prohibit the manufacture, sale, or importation into this country of vehicles or items of equipment that fail to meet the Federal safety standards. Sections 109 and 110 provide methods for enforcing these prohibitions, civil penalties, and injunctions. The principal addition made by the committee to this subsection is the provision prohibiting the issuance of a false or misleading certificate. (Section 114 imposes an affirmative duty on certain persons to issue these certificates.)

CIVIL PENALTIES

Section 109 of the reported bill provides that whoever violates any provision of section 108, or regulation issued thereunder, will be subject to a civil penalty of up to $1,000 for each violation. Each violation is a separate one with respect to each vehicle or item of equipment or failure or refusal to allow or perform a required act. However, the maximum civil penalty for any related series of violations shall not exceed $400,000. The Secretary is authorized to compromise these civil penalties and in the case where the United States may owe moneys to the person charged, the amount of such penalty may be deducted from the sums owed.

After considering other possible amounts, the committee determined that a penalty of not more than $1,000 would be most appropriate for an individual violation of any provision of section 108. As to a series of violations—that is, a violation which is repeated in terms of numbers of units but which is essentially the result of a single de-

ficiency—the committee established a maximum penalty of $400,000. It should be understood that $1,000 and $400,000 are maximums, and within these maximums the Secretary has discretion to compromise.

Senate Passed Act

Congressional Record—Senate June 24, 1966, 14258

Civil penalty

SEC. 110. (a) Any person who violates any provision of section 109, or any regulation issued thereunder, shall be subject to a civil penalty which may be recoverable in a civil action brought by the Attorney General in a United States district court in the name of the United States, of not to exceed $1,000 for each such violation except that for each such person the maximum civil penalty shall not exceed $400,000 for any related series of violations. Such violation of a provision of section 109, or such regulations issued thereunder, shall constitute a separate violation with respect to each motor vehicle or item of motor vehicle equipment or with respect to each failure or refusal to allow or perform an act required thereby.

(b) Any such civil penalty may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the person charged.

Senate Debate

Congressional Record—Senate June 24, 1966, 14229

Mr. MAGNUSON.

We looked into the matter of penalties. A revised bill, as the Senator from Washington [Mr. MAGNUSON] and others wrote it, contained the civil penalty which we think is quite strong. It also contained a criminal penalty. But the criminal penalty was directed only to those who would willfully and knowingly violate the standards set or the rules and regulations of the Secretary.

Right now, I cannot conceive, and believe it would be a rare instance, that someone would willfully and knowingly, after the standards have been set, try to put a car on the highways, or sell it, so that someone might be killed or injured. But we thought we needed this section. The committee discussed it at great length.

There is also a provision which provides for an injunction procedure, so that the Attorney General can go into court to obtain an injunction against a manufacturer for failure to comply with the standards. Of course, if that injunction were violated, the court could hold the persons or the corporation in contempt and could establish a criminal penalty, a civil penalty, or both. But there were three penalties in the bill. There was much argument in the committee—and I guess there will be on the floor, because I understand that an amendment will be offered to restore the criminal penalty section. It is true that we have had few Federal laws which imposed both a civil penalty and a criminal penalty as well.

The question was raised: Why was it put in the bill? Because we are dealing with human lives. We are dealing with the possibility that someone might willfully, knowingly, and deliberately violate the act and should therefore, be subject to criminal penalty. In the past, numerous laws have been passed by Congress which have dealt with safety and

standard settings. Most of these laws have provided a criminal penalty for knowing and willful violations. Many of these laws came out of the Committee on Commerce. I am the author of some of them. We provided a criminal penalty in the safety field just 2 or 3 years ago when we passed the bill on the Hazardous Substances Labeling Act, the Truth in Fabric Act, the Drug Amendments of 1962, steam boilers on vessels, interference with navigation, and the brake fluid and seatbelt acts. Thus, there is precedent for criminal penalties. But the committee, after long deliberation on this matter, voted to retain the civil penalty, and take out the criminal penalty for willful and knowing violations, leaving in the injunction, which in itself can result in a criminal penalty. I do not believe that any of us are reluctant about expressing our views on it. I hope the criminal penalty will be put back in. I shall vote to restore it. Other members of the committee will doubtless have good reasons to vote not to do so when the amendment is presented.

Congressional Record—Senate
June 24, 1966, 14248-14252

Mr. HARTKE. Mr. President, I send an amendment to the desk, and ask that it be reported.

The PRESIDING OFFICER. The amendment offered by the Senator from Indiana will be stated.

The legislative clerk read the amendment, as follows:

New Section 111, to follow Section 110, Criminal Penalty, inserted following line 6, page 48, with following sections renumbered accordingly:

"CRIMINAL PENALTY

"SEC. 111. Whoever knowingly and willfully violates any provision of section 109, or any regulation issued thereunder, or whenever any corporation violates any provision of section 109, or any regulation thereunder, any individual director, officer or agent of such corporation who knowingly or willfully authorized, ordered, or performed any of the acts constituting in whole or in part such violation, shall be fined not more than $50,000, or imprisoned not more than one year, or both."

Mr. HARTKE. Mr. President, I ask that I may be yielded 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARTKE. Mr. President, my amendment is a simple one. It was offered in the committee, and was rejected by the committee. However, it was in the original bill that I introduced in the Senate, which was cosponsored by a number of Senators, and it was also offered in the House of Representatives by Representative MACKAY of Georgia.

The simple question before us is whether or not we are going to subject a person who knowingly and willfully violates this act to criminal penalties. To ask this question is to answer it. The position that such a person be exempted from criminal penalties is indefensible in law, reason or morality. In this country, a reckless driver, convicted on a manslaughter charge, can be fined and imprisoned. So can a person convicted of stealing a car. Yet we are being asked to pass a bill which exempts persons who knowingly and willfully violate one or more of its provisions from any statutory criminal penalties.

Such violations may involve hazards or defects which can result in the death or injury of innocent people. By comparison, violations involving economic matters, such as antitrust, securities selling or income tax, have long established criminal sanctions attached to them. These sanctions are considered effective deterrents. Now, when human life is at stake, we are asked to restrict this bill to civil penalties. I cannot agree.

This legislation applies not just to the automobile manufacturers but to thousands of parts producers and suppliers. It is basically unfair to raise these companies and their personnel to a privileged pedestal of exemption from criminal penalties for intentional violations. It is a poor precedent to set a policy that smacks of favoritism. Criminal behavior is criminal behavior whether done on a dark road or behind a corporate organization. I see no reason whatever for permitting such unequal penalties under the law.

In the past, there have been numerous laws passed by Congress which have dealt with safety and standards-setting. Most of these laws have provided for criminal penalties for knowing and willful violations. These laws include those dealing with the safety of household re-

frigerators, labeling of hazardous substances, brake fluids, seat belts, motor carriers under the Interstate Commerce Commission, aircraft—concerning airworthiness certificates, interference with navigation, explosives, and so forth—steam boilers on vessels, coal mines, and food, drugs, and cosmetics. It should be noted that the brake fluid and seat belt acts provide for criminal fines and imprisonment. These acts would be repealed by the present legislation which, in its present form, would render behavior now under the scope of criminal sanctions, exempt from such penalties.

It is argued that no safety statutes include both a civil and criminal penalty. If this is so, I would reply that the inadequacy of the past should never be a blueprint for the future. The administrator of this legislation should be given a broad range of enforcement options from civil to criminal in order to carry out his responsibilities flexibly and justly. Such options are necessary to permit him to tailor the most appropriate enforcement action to the particular gravity of violation. To place before us an "either/or" choice between criminal and civil penalties obscures the necessity and desirability of having both types of provisions in this bill.

The other argument against criminal penalties is that it would be difficult to determine which person is engaging in criminal behavior. It is a bizarre plea, indeed, to say that because the culprit is difficult to identify, we should throw out the criminal provision under which he could be apprehended and brought to justice.

I would not welcome seeing the day when knowing and willful violations of this act, that could result in death and injury, cannot be brought under the rule of criminal law. As long as the possibility of such outrageous behavior can be envisioned on the part of a few of the thousands of persons under the provisions of this bill, the enforcement tools must be there and ready for use. The automotive industry is no sacred cow to escape from legal accountability that is expected of other industries and persons engaged in producing products that could be hazardous to life and limb.

I understand that the chairman of the committee, the Senator from Washington [Mr. MAGNUSON], has expressed himself on this matter. I appreciate the statement which he has made.

I have also discussed with the distinguished Senator from Connecticut [Mr. RIBICOFF] the amendment as well as certain publications which are being circulated indicating that he did not favor criminal sanctions. The Senator from Connecticut [Mr. RIBICOFF] assures me that he intends to support my amendment; that it was not necessarily misleading, but certainly it is not the fact that he intends to oppose the amendment.

Mr. RIBICOFF. Mr. President, will the Senator yield?

Mr. HARTKE. I am happy to yield to the Senator from Connecticut.

Mr. RIBICOFF. I think the difference is that my objection to the original penalties was that they made no distinction between willful acts of violation and simple mistakes. I did not think there should be harsh penalties—even if they were civil—in the absence of willfulness and intentional acts. But to say from that, that I oppose criminal sanctions for willful violation is not correct.

Am I correct in understanding the amendment of the Senator from Indiana [Mr. HARTKE] that it is intended to apply criminal penalties only if there is a willful and intentional violation?

Mr. HARTKE. The Senator is correct, as far as this amendment is concerned and its intention.

It says and does, as is provided in the criminal law where a man willfully and intentionally causes injury to another or performs an act causing injury to another and is subject to a fine.

Mr. RIBICOFF. I wish to say to the distinguished Senator that I am confident there will not be a willful or intentional violation of the act by the automobile manufacturers. I am satisfied that all of them realize their responsibility. I am confident that they are going to comply with the law wholeheartedly and will even voluntarily go beyond it.

The present leaders of the auto industry need not fear these criminal sanctions. My dealings with them convince me of their deep desire to produce safer cars and work within the regulations. But the amendment says to any and all—present and future—that the United States is ready to use its ultimate authority to help insure auto safety to the American people.

Mr. HARTKE. I do not see a situation where any one of the Big Four would willfully and knowingly violate any provision of the act.

This does not cover negligence. There is no criminal penalty for anyone guilty of negligence. It is a simple definition that anyone, who beyond any question of doubt, beyond all doubt, intentionally and willfully does something prohibited in the law, and the result of which would cause injury, according to the act, will 14249

be subject to something more than civil penalty.

Mr. RIBICOFF. Mr. President, will the Senator yield further?

Mr. HARTKE. I yield.

Mr. RIBICOFF. I think it should be pointed out—because I had this colloquy with the Senator from Washington [Mr. MAGNUSON] earlier in the discussion of the bill—that the bill does apply to not only automobiles manufactured and distributed in the United States, but also to automobiles from foreign countries which are imported to the United States and distributed.

Basically this penalty would apply to any distributor of a foreign car who willfully violated the law. It could be any of the automobiles that are manufactured abroad, many of which do not have these safety features.

I am sure the distributor of imported cars will try in most instances to make sure all of the requirements of this act are in their automobiles. So we are not only dealing with manufacturers and distributors of American-made automobiles, but automobiles manufactured in every industrial country in the world today and sent to the United States.

Is that correct?

Mr. HARTKE. The Senator is correct. That is the point which should not be lost sight of.

Mr. LAUSCHE. Mr. President, will the Senator yield?

Mr. HARTKE. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. LAUSCHE. Mr. President, will the Senator yield?

Mr. HARTKE. I am happy to yield to the Senator from Ohio.

Mr. LAUSCHE. Am I correct in understanding that the bill as now written provides a civil penalty for violation of the act in an amount of $1,000 for each violation and a limitation in the aggregate of $400,000 upon the violator?

Mr. HARTKE. That is a civil penalty maximum.

Mr. LAUSCHE. Am I correct in understanding that the bill also provides that any person who has been offended by the acts of a manufacturer has a relief through a court of equity in the obtaining of injunctive relief against the violator?

Mr. HARTKE. The Senator is correct.

Mr. LAUSCHE. The amendment of the Senator from Indiana [Mr. HARTKE], in addition to these two reliefs, would provide a third relief, making it a criminal offense to willfully and knowingly violate the act.

Mr. HARTKE. That is correct.

Mr. LAUSCHE. Does the Senator from Indiana feel that the two remedies here provided will be adequate?

Mr. HARTKE. I do not. If a man adulterates brake fluid, say, puts water in it—half water and half fluid—does this knowingly and willfully and puts it in a car, the net result of which would make the brake fluid ineffective in an automobile going down the highway, does the Senator mean to say that this is not a culpable act and that such a man should not be subject to a criminal penalty? That would be ridiculous.

Mr. LAUSCHE. The Senators who have just spoken destroy their own objective when they state they do not expect that there will be any violations. I believe that the two remedies provided for are adequate.

Mr. HARTKE. Let me say to the Senator from Ohio that I would hope any person would not expect other persons to violate the law but, nonetheless, we do have the situation where there are many criminal laws on the books. We may not expect anyone to violate the law, but we still have criminal laws for those who will not abide by the common and ordinary decencies of man.

Mr. PASTORE. Mr. President, this matter of the insertion of criminal penalties into this bill was discussed and studied exhaustively by the committee. The committee decided to remove them from the statute and I believe it was absolutely correct in doing so. I believe it was a very wise decision.

Mr. President, we are not dealing with mobsters and gangsters. We are dealing with an industry which is the industrial pride of America, the envy of the industrial community of the world. It provides millions and millions of jobs for Americans at respectable pay.

I realize that this safety law is necessary. What we are trying to do is sensibly and realistically to promote safety for the benefit of the public. We are not trying to pass a law that will be punitive. We are not reaching down to eliminate gangsterism by this bill. We are trying to promote safety.

We intend to pass a bill which will accomplish exactly that. We have civil penalties for violations that will go up to $400,000—the greatest ever enacted by Congress. Furthermore, there is injunctive power under the statute.

But this amendment intends to give the industry a third shot over the bow so to speak, and would write in the words

"knowingly and willfully."

No one ever said anything about acting "willfully." We realize and the industry admits there has been a slowness in bringing about the reforms necessary to guarantee safety to the American people. We recognize that. Because of the tardiness, this bill is now before the Senate. The law will be complete as written.

I urge upon my colleagues in this Chamber: let us not make this a punitive law then we will be destroying at the outset all the objectives we are trying to accomplish.

Mr. HART. Mr. President, will the Senator from Rhode Island yield?

Mr. PASTORE. I am happy to yield to the Senator from Michigan.

Mr. HART. Does the Senator believe that insuring compliance with this would be a persuasive reason for providing this heavy civil penalty?

Mr. PASTORE. By treating these people with decency and with respectability, not as so many mobsters—because mobsters they are not. They provide jobs for millions of Americans in this country. Our automobile industry is the envy of the world.

All one has to do is travel throughout the world to find out where the best automobiles are being made. They are being made in America. Yet some Senators stand in this Chamber and assert that the industry should be punished for this and punished for that. All we want the industry to do is carry out the standards which will be promulgated by the Department of Commerce. If they do not do so, then there is power provided under the bill to make them do it. If they will not do it, then they will be held responsible. There are the massive civil penalties.

Let us be fair and frank. Let us be practical. Who will be paying for these safeguards in the end? The consumer, of course.

The industry will not be reluctant to do what needs to be done because, in the final analysis, the cost of compliance will be added to the price of the automobile to the consumer.

Up to now, Americans have involved themselves in the razzle dazzle and glamour of the automobile. Some people like a lot of chrome. Some people like their cars painted pink, others blue. Thus, we have gone into fashion and styling. Now we are saying, let us cut out some of the frills and let us go more into safety. I believe that if we pass this bill as reported by the committee, we will be doing exactly that.

Mr. MONRONEY. The Senator also knows that it is going to be difficult for any person who might violate the provisions of section 109, or any regulations issued thereunder, to be able to prove that he did not have access to knowledge that the action was improper. I think that doubling the civil penalty from $200,000 to $400,000 will have the greatest influence on preventing any such action. A criminal penalty might even freeze the designs to prevent any exporter from possible violation of regulations issued under section 109.

Mr. PASTORE. Absolutely. Mr. President, I am not talking for Studebaker, but I can say for General Motors, for Chrysler, and I can say for the Ford Motor Co., that they are not willfully and deliberately going to refuse to put a safety device on an automobile which device has been decreed by the Secretary of Commerce. They are not going willfully to refuse to do it.

Are we schoolboys, or grown men?

Or have we lived in vain for 59 years?

I do not believe that I have.

That is all I have to say.

Mr. HARTKE. Mr. President, will the Senator from Rhode Island yield for one question?

Mr. PASTORE. I am happy to yield to the Senator from Indiana for two questions if he wishes.

Mr. COTTON. Mr. President, how much time remains to both sides? Who has charge of the time in opposition to this amendment?

Mr. PASTORE. Perhaps the Senator has. I have already used up half of the time.

14250

The PRESIDING OFFICER. Under the unanimous-consent agreement, the proponent of the amendment, the Senator from Indiana [Mr. HARTKE], has 4 minutes remaining, and the Senator from Washington [Mr. MAGNUSON] has 7 minutes remaining.

Mr. MAGNUSON. Mr. President, I delegate my time to the Senator from New Hampshire [Mr. COTTON].

Mr. COTTON. I thank the Senator for giving me such a generous "remnant" of it.

Mr. President, I yield 5 minutes to the distinguished Senator from Michigan [Mr. GRIFFIN].

The PRESIDING OFFICER. The Senator from Michigan is recognized for 5 minutes.

Mr. GRIFFIN. Mr. President, I rise to associate myself with the eloquent statement just made by the distinguished Senator from Rhode Island [Mr. PASTORE] and to commend him for his stand on this legislation.

It should be kept in mind that the Congress is plowing new ground. We are

plowing new ground in an area which can affect the jobs of one out of every seven Americans now working. This is so because the automobile industry, directly or indirectly, provides work for one out of seven Americans.

I should like to propound a question to the distinguished Senator from Indiana [Mr. HARTKE] who is the author of the pending amendment: Is it not true that if the Senator's amendment should be adopted, this would be the first Federal statute in the area of safety or standards setting which would provide for both criminal and civil penalties?

Mr. HARTKE. I do not want to say that that is true, because I have not had an opportunity to research that. I had to fly back to Washington after attending a State convention which is held every 2 years. I had asked for this bill to go over, but I was not given that privilege, and I therefore had to return to Washington and have not had a chance to research that problem.

However, let me say that I do not care, because I think it is important we realize, as a matter of principle, two points: One is neglect, and the other is the culpable act of knowingly and willfully violating the law. I do know this, as a student of the law, that most of the acts adopted by State legislative bodies provide for both civil and criminal penalties.

One can drive an automobile down the highway, and be arrested and sent to jail for as small a violation as making a left-hand turn in the wrong place. The Senator is not going to say that in a situation where a man can install a steel rod in an automobile which he knows will not hold the steering mechanism under certain pressures, and knowingly and willfully installs it against the standards set, and knows the steel rod to be defective yet goes ahead and does it—which could mean that the Senator's family or mine could be killed—that that man would still not have to bear any punishment if caught. I am sure the Senator does not mean to say that all that man would have to do would be to take $400,000 out of the company's profits and be clear.

They were not civil penalty cases. The civil penalties will come out of the pockets of those who do not have to worry about paying $400,000.

Mr. GRIFFIN. If I may propound another question, on which I hope the Senator from Indiana may answer much more briefly, Is it true that the administration, and the Justice Department, have both said they were against the inclusion of criminal penalties?

Mr. HARTKE. No; that is not true.

Mr. GRIFFIN. That is my understanding.

Mr. HARTKE. That may be the Senator's understanding, but it is not true. I happen to have a letter from them. It has been circulated as being the truth; but it is not true.

Mr. GRIFFIN. Has the administration indicated that it is in favor of the Senator's amendment?

Mr. HARTKE. They have said they had no objection to it. I do not know what that means. They have said that so long as civil penalties are adequate, they do not think they are needed, but that they have no objection to criminal penalties in the bill.

Mr. MORTON. Mr. President, will the Senator yield?

Mr. GRIFFIN. I yield.

Mr. MORTON. As I understand it, the Deputy Attorney General formally advised the committee:

> We would generally not favor imposition of criminal penalties for violation of the Act. Were criminal sanctions created, the statute might have to be narrowed in the respects we have noted, and it would also undoubtedly receive a narrower judicial construction. There would also be some difficulty in determining on which individuals criminal penalties should be imposed. Under the antitrust laws criminal sanctions are imposed on individuals who have been participating in conspiratorial activity. The individuals responsible for noncompliance with safety standards, however, would not be as readily identifiable.

Mr. GRIFFIN. Would the Senator from Kentucky agree with me, in light of statement just read, that if the amendment of the Senator from Indiana were adopted, the scope and breadth of this statute would be narrowed, because it is the practice of the courts, where criminal penalties are involved, to interpret statutes very narrowly; that protection for the public would actually be less than without the provision?

Mr. MORTON. Yes. That was the opinion of the Deputy Attorney General, as I read the language.

Mr. HARTKE. Let me point out that this bill would not be the only bill under which criminal and civil sanctions are provided under Federal law. Is the Senator interested in hearing them?

The PRESIDING OFFICER. Who yields time?

Mr. MAGNUSON. Mr. President, how much time do I have left on the bill?

The PRESIDING OFFICER. The Senator from Washington has 27 minutes remaining on the bill.

Mr. MAGNUSON. How much time has the Senator from Indiana on his amendment?

The PRESIDING OFFICER. Four minutes.

Mr. HARTKE. Let me give examples of statutes incorporating both civil and criminal penalties:

The Civil Rights Act has subsection 1 (a) and (b), which concern tabulation of votes, and intimidation, threats, or coercion.

Subsection 1 (c) and (d) impose criminal penalties for false information in registering or voting, providing penalties of fines not more than $10,000, or imprisonment not more than 5 years, or both.

These criminal penalties apply to violations of people's rights to vote. Senators can talk about pink and blue automobiles, but I have not seen anyone who likes blood.

That same subsection provides criminal penalties for falsification or concealment of material facts or giving false statements in matters within the jurisdiction of examiners or hearing officers.

Subsection j(d) concerns civil action by the Attorney General for preventive relief; injunctive and other relief and (a) provides for criminal penalties for violation of (a) or (b) of subsection 1.

Under the "bomb hoax" bill, as amended July 7, 1965, subsection a provides civil penalties for importing or conveying false information.

Subsection b provides criminal penalties of up to $5,000 or imprisonment for not more than 5 years, or both, for the same violation, providing such violation is willful and malicious.

The Securities and Exchange Act of 1933 provides both criminal and civil penalties.

The Food and Drug Act provides both civil and criminal penalties.

I think it is rather peculiar to talk about the industry in this way. I agree that I do not think General Motors, Chrysler, American Motors, or Ford will be willful in violating the law, but if they are not going to willfully violate the provisions of the act, why is there such a fuss?

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. HARTKE. I yield.

Mr. PASTORE. Because the very spirit of the amendment is obnoxious.

Mr. HARTKE. Why is it obnoxious?

Mr. PASTORE. Because by inference the Senator is impugning the industry. There is absolutely no need for that provision in the law. The mere fact that it is written in the law, psychologically or otherwise, infers that the Senate is dealing with mobsters. The Senate is not dealing with mobsters. We are dealing with an industry which gives a splendid living to hundreds of thousands of families.

Mr. HARTKE. I know arguments are made and will be made by people who do not want a safety bill. In other words, the argument can be made, why pass criminal laws, because we hope nobody will violate them? But there are thousands of manufacturers, some of them in my State, who I imagine will be unhappy about Congress passing any law in this field. But if any company in my State, or in any other State, knowingly participates in such violations, it is increasing the death toll on the highways, and should go to jail. If they do it intentionally, why should they not go to jail? 14251

People are being put in jail for other criminal violations. We do not impugn anybody by enacting such laws. We enact criminal laws for the unlawful, not for the law abiding.

Mr. COTTON. Mr. President, have I any time left?

The PRESIDING OFFICER. The time of the Senator from Indiana has expired. The Senator from New Hampshire has 2 minutes.

Mr. COTTON. I yield those 2 minutes to the Senator from Oklahoma. Then I shall yield time on the bill to the Senator from Michigan [Mr. HART].

Mr. MONRONEY. Mr. President, I think we would be making a great mistake to adopt the criminal penalty provisions sought by the Senator from Indiana without trying to define its limitations. There are no limits. It would apply not only to section 109, but to any regulation issued thereunder.

The bill has been carefully written up to this point. Adequate civil penalties have been provided. We feel that to subject the giant automobile industry to any liability for criminal penalties will result in an invitation to the industry to stand still and not move forward with safety standards, because it will be afraid to move. I do not know how many people or companies this provision would affect. Certainly it would affect the manufacturing companies and its officers. I do not know whether it would affect the foremen. There are 30,000 dealers handling automobiles. Whether it affects their salesmen or not we are not clear.

So before we rush into this matter, we might take a page from other legislation. In the Federal Aviation Act, there are

no criminal penalties for failure to comply with standards for the manufacture and approval of aircraft. Certainly, a plane that will carry 150 people is a lethal weapon if it is not properly constructed. Yet we have the highest standard of aircraft safety performance of any country in the world.

I believe we have an opportunity here to enact a sensible law that will encourage and win the support of the manufacturing industry. They recognize their past mistakes in not being enthusiastic for safety regulation. They are trying to assist in the passage of decent legislation. I think that to imply that everyone is suspected of violating the Criminal Code will act as a deterrent rather than a help in obtaining the safety standards we so badly need.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. COTTON. I yield 4 minutes on the bill to the Senator from Michigan.

Mr. HART. Mr. President, the truth of the matter is that the Senate has before it and I hope is going to pass a strong, effective auto safety bill.

In fact, we probably should have had one years ago—and probably would have if enough had cared. Impressive auto death statistics have been published for more years than many of us can remember but until recently there has been no great public or legislative concern. It was just sort of accepted as one of the inescapable dangers of living in a modern age.

In that sense, we have all been guilty, each of us who has ever read the highway casualty lists and shrugged and put the paper down for another sip of iced tea. Perhaps those of us in positions of leadership have been guiltiest of all.

Now, belatedly and suddenly, the public—and the Congress—is concerned, and there is nothing more forceful than fresh concern and anger.

A cold fact of life is that legislation—like fist fights—develops most quickly in an atmosphere of exaggerated drama, urgency, and anger.

Other men—Michigan's Secretary of State, James Hare, for example—had been concerned about the same problem for years, but voices that are reasonable and balanced often have a way of leaving society unmoved.

The one man who has provided most of the drama and anger—Ralph Nader—might be justifiably criticized for a lack of balance and an overabundance of anger, but no one can deny his very real contribution as a catalytic agent.

His effectiveness was not diminished in those early days by the performance of the auto companies who were slow to size up the situation and then came up with proposals that were clearly not workable answers.

This, coupled with public relations errors, did nothing to generate sympathy for the companies or contribute to an atmosphere of reason and thoughtfulness.

The companies—greatly to their credit—did recover and did and do now agree to stronger, more effective measures.

As I see my role, it has been to see that autos become as safe as possible as soon as possible without allowing the white heat of fresh concern to result in a bill so harsh it would damage the economy.

The bill should allow careful judgment so that no desirable safety feature should be delayed—but also to see that deadlines are not so restrictive and immediate that plant shutdowns become necessary. The bill now pending does this.

I think everyone will agree that Congress should be careful not to legislate unemployment for any period of time. The industry does have lead times that are mechanically impossible to alter and recognition of this is reflected in the bill and our committee's report.

In this business of auto safety, we should also see that new car design is not the only factor. The competence of the driver is important. The design of the highway is important. The quality of law enforcement is important.

But so is the mechanical condition of the car after it has been on the road a few years.

Consequently, there is one strengthening feature of the bill that I have pushed for in committee and am glad is included.

It is the used-car inspection clause. This bill directs the Secretary of Commerce to report to Congress within a year how we can insure that used cars operated and sold are up to safety standards.

Used-car inspection is not something the Federal Government can or should embark on directly. It is a matter best handled by strong State inspection programs.

In the fervent and justifiable drive to gain new car safety design, let us not neglect the fact that safety is also endangered by brakes without linings and tires without tread, by faulty wheel alinements and cracked headlights.

This too, I think, would importantly increase the motorist's chances of survival.

If we are at last ready to concern ourselves with the problems of highway safety, then let us commit ourselves on every front where there is a chance of success.

This is why I have argued that the States and the Vehicle Equipment Safety Commission should be consulted and given a sense of involvement in the setting of standards—not because their involvement would weaken safety proposals, but because it would strengthen them. This the bill does.

Mr. President, to the question of the pending amendment, I was not here when the Senate enacted the SEC Act. I was not here when they enacted the Food and Drug Act. I was here when we enacted the Civil Rights Act about which the Senator from Indiana has just spoken. In that case, there was ample reason to persuade Congress to include criminal sanctions, considering the practices that the record showed had occurred in this country.

But with respect to automotive safety, there is not a line in the record of the hearings of our committee that points to wanton and willful conduct on the part of any manufacturer. Mistakes, surely. And tragically, there will be more to come. But no demonstration of need, for the first time, to point a finger at any major industry and say, "We are going to hit you with both."

The sad thing is that we are either kidding ourselves or the public. Because, as lawyers, I think most of us will agree that we are engaged in a great shadowboxing operation when we talk about proving wanton and willful conduct on an assembly line. Everyone who has been a prosecutor knows he would be wasting the taxpayers' time and money to go to a grand jury with that.

The PRESIDING OFFICER. All time on the amendment has expired. The question is on agreeing to the amendment of the Senator from Indiana. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LONG of Louisiana. I announce that the Senator from Tennessee [Mr. BASS], the Senator from Indiana [Mr. BAYH], the Senator from Tennessee [Mr. GORE], the Senator from New Mexico [Mr. MONTOYA], the Senator from Maine [Mr. MUSKIE], and the Senator from Wisconsin [Mr. NELSON] are absent on official business.

14252 I also announce that the Senator from Illinois [Mr. DOUGLAS], the Senator from Oklahoma [Mr. HARRIS], the Senator from Alabama [Mr. HILL], the Senator from South Carolina [Mr. RUSSELL], the Senator from Georgia [Mr. RUSSELL], the Senator from Florida [Mr. SMATHERS], and the Senator from Alabama [Mr. SPARKMAN] are necessarily absent.

On this vote, the Senator from Tennessee [Mr. GORE] is paired with the Senator from Oklahoma [Mr. HARRIS].

If present and voting, the Senator from Tennessee would vote "yea" and the Senator from Oklahoma would vote "nay."

I further announce that, if present and voting, the Senator from New Mexico [Mr. MONTOYA] and the Senator from Illinois [Mr. DOUGLAS] would each vote "nay."

Mr. KUCHEL. I announce that the Senator from Delaware [Mr. BOGGS], the Senator from Nebraska [Mr. CURTIS], the Senator from Iowa [Mr. MILLER], the Senator from California [Mr. MURPHY], the Senator from Massachusetts [Mr. SALTONSTALL], the Senator from Wyoming [Mr. SIMPSON], the Senator from Texas [Mr. TOWER] and the Senator from South Carolina [Mr. THURMOND] are necessarily absent.

The Senator from Illinois [Mr. DOUGLAS] is detained on official business and his pair has been previously announced.

If present and voting, the Senator from Delaware [Mr. BOGGS], the Senator from Nebraska [Mr. CURTIS], the Senator from Iowa [Mr. MILLER], the Senator from California [Mr. MURPHY], the Senator from Massachusetts [Mr. SALTONSTALL], the Senator from Wyoming [Mr. SIMPSON], the Senator from Texas [Mr. TOWER], and the Senator from South Carolina [Mr. THURMOND] would each vote "nay."

Mr. INOUYE (when his name was called). On this vote, I have a pair with the Senator from Wisconsin [Mr. NELSON]. If he were present and voting, he would vote "yea"; if I were at liberty to vote, I would vote "nay." I withhold my vote.

Mr. MANSFIELD (when his name was called). On this vote, I have a pair with the Senator from Illinois [Mr. DIRKSEN]. If he were present and voting, he would vote "nay"; if I were at liberty to vote, I would vote "yea." I therefore withhold my vote.

The rollcall was concluded.

The result was announced—yeas 14, nays 62, as follows:

[No. 114 Leg.]

YEAS—14

Brewster	Long, La.	Neuberger
Church	Magnuson	Ribicoff
Dodd	McCarthy	Yarborough
Gruening	Metcalf	Young, Ohio
Hartke	Morse	

NAYS—62

Aiken	Carlson	Fong
Allott	Case	Fulbright
Anderson	Clark	Griffin
Bartlett	Cooper	Hart
Bennett	Cotton	Hayden
Bible	Dominick	Hickenlooper
Burdick	Eastland	Holland
Byrd, Va.	Ellender	Hruska
Byrd, W. Va.	Ervin	Jackson
Cannon	Fannin	Javits
Jordan, N.C.	Mondale	Robertson
Jordan, Idaho	Monroney	Scott
Kennedy, Mass.	Morton	Smith
Kennedy, N.Y.	Moss	Stennis
Kuchel	Mundt	Symington
Lausche	Pastore	Talmadge
Long, Mo.	Pearson	Tydings
McClellan	Pell	Williams, N.J.
McGee	Prouty	Williams, Del.
McGovern	Proxmire	Young, N. Dak.
McIntyre	Randolph	

NOT VOTING—24

Bass	Hill	Russell, S.C.
Bayh	Inouye	Russell, Ga.
Boggs	Mansfield	Saltonstall
Curtis	Miller	Simpson
Dirksen	Montoya	Smathers
Douglas	Murphy	Sparkman
Gore	Muskie	Thurmond
Harris	Nelson	Tower

So Mr. HARTKE's amendment was rejected.

Mr. PASTORE. Mr. President, I move that the vote by which the amendment was rejected be reconsidered.

Mr. SYMINGTON and Mr. COTTON moved to lay the motion on the table.

The motion to lay on the table was agreed to.

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PENALTIES AND INJUNCTION

The bill imposes a civil penalty not to exceed $1,000 for each prohibited act (sec. 110(a)). The maximum civil penalty is limited to $400,000 for any related series of violations (sec. 110(a)). For example, if a manufacturer produces several thousand substandard vehicles or items of equipment as the result of the same error in design or construction, or the use of the same defective component, the maximum penalty to be imposed upon any one person for those violations would be limited to $400,000.

The Secretary is authorized to compromise any civil penalty and, in determining the amount of the penalty, the Secretary or court is directed to consider the appropriateness of the proposed penalty to the size of the business of the person charged and the gravity of the violation (sec. 110(b)).

The Attorney General is also authorized to seek injunctions against the performance of any prohibited act and to enjoin the sale of any vehicle which fails to conform to applicable standards under the act (sec. 111).

Executive Communications

Contains nothing helpful.

As H.R. 13228 in the House and S. 3005 in the Senate:

CIVIL PENALTY

SEC. 108. (a) Whoever violates any provision of section 107, or any regulation issued thereunder, shall be subject to a civil penalty of not to exceed $1,000 for each such violation. Such violation of a provision of section 107 or regulations issued thereunder, shall constitute a separate violation with respect to each motor vehicle or item of motor vehicle equipment or with respect to each failure or refusal to allow or perform an act required thereby.

(b) Any such civil penalty may be compromised by the Secretary. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the person charged.

Section 110

SEC. 110. (a) The United States district courts shall have jurisdiction, for cause shown and subject to the provisions of rule 65 (a) and (b) of the Federal Rules of Civil Procedure, to restrain violations of this title, or to restrain the sale, offer for sale, or the introduction or delivery for introduction, in interstate commerce, or the importation into the United States, of any motor vehicle or item of motor vehicle equipment which is determined, prior to the first purchase of such vehicle in good faith for purposes other than resale, not to conform to applicable Federal motor vehicle safety standards prescribed pursuant to this title, upon petition by the appropriate United States attorney or the Attorney General on behalf of the United States. Whenever practicable, the Secretary shall give notice to any person against whom an action for injunctive relief is contemplated and afford him an opportunity to present his views, and, except in the case of a knowing and willful violation, shall afford him reasonable opportunity to achieve compliance. The failure to give such notice and afford such opportunity shall not preclude the granting of appropriate relief.

U.S. District courts, jurisdiction. 28 USC app. 6

(b) In any proceeding for criminal contempt for violation of an injunction or restraining order issued under this section, which violation also constitutes a violation of this title, trial shall be by the court or, upon demand of the accused, by a jury. Such trial shall be conducted in accordance with the practice and procedure applicable in the case of proceedings subject to the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.

18 USC app.

(c) Actions under subsection (a) of this section and section 109(a) of this title may be brought in the district wherein any act or transaction constituting the violation occurred, or in the district wherein the defendant is found or is an inhabitant or transacts business, and process in such cases may be served in any other district of which the defendant is an inhabitant or wherever the defendant may be found. 7

(d) In any actions brought under subsection (a) of this section and section 109(a) of this title, subpoenas for witnesses who are required to attend a United States district court may run into any other district.

Motor vehicle importation. Service of process; designation of agent.

(e) It shall be the duty of every manufacturer offering a motor vehicle or item of motor vehicle equipment for importation into the United States to designate in writing an agent upon whom service of all administrative and judicial processes, notices, orders, decisions and requirements may be made for and on behalf of said manufacturer, and to file such designation with the Secretary, which designation may from time to time be changed by like writing, similarly filed. Service of all administrative and judicial processes, notices, orders, decisions and requirements may be made upon said manufacturer by service upon such designated agent at his office or usual place of residence with like effect as if made personally upon said manufacturer, and in default of such designation of such agent, service of process, notice, order, requirement or decision in any proceeding before the Secretary or in any judicial proceeding for enforcement of this title or any standards prescribed pursuant to this title may be made by posting such process, notice, order, requirement or decision in the Office of the Secretary.

Conference Report

House Report 1919, Page 19

INJUNCTIONS

Section 110(a) of the House amendment gives the U.S. district courts jurisdiction to enjoin violations of this title and requires a reasonable opportunity be given any person to comply before the Secretary seeks an injunction.

Section 110(a) of the proposed conference substitute is the same as the House provision except that the U.S. district courts are also given the authority granted them in section 111(a) of the Senate bill to restrain the sale, offer for sale or introduction or delivery for introduction into interstate commerce, or importation into the United States of any vehicle or item of equipment which it is determined prior to the first purchase in good faith for purposes other than resale does not conform to Federal safety standards.

The House managers believe the addition of this language from the Senate bill will positively insure that an injunction can be obtained to restrain the sale, offer for sale, delivery into commerce or importation of a substandard vehicle or item of equipment in those cases where there is otherwise a defense to these acts so that no civil penalty can be imposed.

House Passed Act

Congressional Record—House
August 17, 1966, 19671 and 19672

"SEC. 110. (a) The United States district courts shall have jurisdiction, for cause shown and subject to the provisions of rule 65 (a) and (b) of the Federal Rules of Civil Procedure, to restrain violations of this title upon petition by the appropriate United States attorney or the Attorney General on behalf of the United States. Whenever practicable, the Secretary shall give notice to any person against whom an action for injunctive relief is contemplated and afford him an opportunity to present his views, and, except in the case of a knowing and willful violation, shall afford him reasonable opportunity to achieve compliance. The failure to give such notice and afford such opportunity shall not preclude the granting of appropriate relief.

"(b) In any proceeding for criminal contempt for violation of an injunction or restraining order issued under this section, which violation also constitutes a violation of this title, trial shall be by the court or, upon demand of the accused, by a jury. Such trial shall be conducted in accordance with the practice and procedure applicable in the case of proceedings subject to the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.

"(c) In all criminal or injunction proceedings for the enforcement or to restrain violations of this title, subpenas for witnesses who are required to attend a court of the United States in any district may run into any other district in any such proceeding. *19672*

House Debate

Contains nothing helpful.

House Committee Report

House Report 1776, Page 25

INJUNCTIONS

Section 110 of the reported bill provides that the U.S. district courts shall have jurisdiction, for cause shown and subject to the applicable Federal Rules of Civil Procedure, to restrain violations of this title upon petition by an appropriate U.S. attorney or the Attorney General of the United States. The Secretary is directed to give notice to any person against whom an action for an injunction is contemplated, whenever practicable, and afford him an opportunity to present his views. Except in the case of a knowing and willful violation, such person shall also be afforded a reasonable opportunity to achieve compliance. Failure on the part of the Secretary to give notice and afford such an opportunity for compliance shall not preclude the granting of appropriate relief. In any proceeding for criminal contempt for violation of an injunction or restraining order, which violation also constitutes a violation of this title, trial shall be by the court or, upon demand of the accused, by jury, and rule 42(b) of the Federal Rules of Criminal Procedure shall be applicable.

In all criminal or injunction proceedings for enforcement or to restrain violations of this title, subpenas for witnesses requiring attendance in a court of the United States in any district may run into any other district.

This section sets the guidelines for injunctive relief to restrain any violations of this title. This relief may be initiated by a U.S. attorney or the Attorney General of the United States. The Secretary is directed to give notice to any person against whom injunctive relief is contemplated and to receive his views, and except in the case of a knowing and willful violation, the Secretary is required to afford an opportunity for compliance. However, these requirements obtain only when practicable and failure to give notice and afford an opportunity for compliance does not preclude the granting of appropriate relief. In any proceeding for criminal contempt for violation of an injunction under this section, a defendant may elect trial by the court or trial by a jury. A subpena issued in one district court may be transferrable to any other district court in the same proceeding. This section, together with the civil penalties provided in section 109, should constitute sufficient enforcement authority to assure full adherence to Federal safety standards. The committee did not feel it necessary to provide authority to seize vehicles and equipment, and therefore deleted this provision which was contained in the introduced bill.

Senate Passed Act

Congressional Record—Senate
June 24, 1966, 14258

Injunction

SEC. 111. (a) The United States district courts shall have jurisdiction, for cause shown and subject to the provisions of rule 65 (a) and (b) of the Federal Rules of Civil Procedure, to restrain violations of this title, or to restrain the sale, offer for sale, or the introduction or delivery for introduction, in interstate commerce, or the importation into the United States, of any motor vehicle or item of motor vehicle equipment which is determined, prior to the first purchase of such vehicle in good faith for purposes other than resale, not to conform to applicable Federal motor vehicle safety standards prescribed pursuant to this title, upon petition by the Attorney General on behalf of the United States. Whenever practicable, the Secretary shall give notice to the contemplated defendant and afford him an opportunity to present his views, and, except in the case of a knowing and willful violation, shall afford him opportunity to achieve compliance. The failure to give such notice and afford such opportunity shall not preclude the granting of appropriate relief.

(b) In any proceeding for criminal contempt for violation of an order, injunction, or restraining order issued under this section, which violation also constitutes a violation of this title, trial shall be by the court or, upon demand of the accused, by a jury. Such trial shall be conducted in accordance with the practice and procedure applicable in the case of proceedings subject to the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.

Jurisdiction and venue

SEC. 112. (a) Actions under sections 110(a) and 111(a) may be brought in the district wherein any act or transaction constituting the violation occurred, or in the district wherein the defendant is found or is an inhabitant or transacts business, and process in such cases may be served in any other district of which the defendant is an inhabitant or wherever the defendant may be found.

(b) In any action brought under section 110(a) or section 111(a), subpoenas for witnesses who are required to attend a United States district court may run into any other district.

(c) It shall be the duty of every manufacturer offering a motor vehicle or item of motor vehicle equipment for importation into the United States to designate in writing an agent upon whom service of all administrative and judicial processes, notices, orders, decisions and requirements may be made for and on behalf of said importer, and to file such designation with the Secretary, which designation may from time to time be changed by like writing, similarly filed. Service of all administrative and judicial processes, notices, orders, decisions and requirements may be made upon said importer by service upon such designated agent at his office or usual place of residence with like effect as if made personally upon said importer, and in default of such designation of such agent, service of process, notice, order, requirement or decision in any proceeding before the Secretary or in any judicial proceeding for enforcement of this title or any standards prescribed pursuant to this title may be made by posting such process, notice, order, requirement or decision in the Office of the Secretary.

Senate Debate

Congressional Record—Senate
June 24, 1966, 14229

Mr. MAGNUSON.

There is also a provision which provides for an injunction procedure, so that the Attorney General can go into court to obtain an injunction against a manufacturer for failure to comply with the standards. Of course, if that injunction were violated, the court could hold the persons or the corporation in contempt and could establish a criminal penalty, a civil penalty, or both. But there were three penalties in the bill. There was much argument in the committee—and I guess there will be on the floor, because I understand that an amendment will be offered to restore the criminal penalty section. It is true that we have had few

Federal laws which imposed both a civil penalty and a criminal penalty as well.

The question was raised: Why was it put in the bill? Because we are dealing with human lives. We are dealing with the possibility that someone might willfully, knowingly, and deliberately violate the act and should therefore, be subject to criminal penalty. In the past, numerous laws have been passed by Congress which have dealt with safety and standard settings. Most of these laws have provided a criminal penalty for knowing and willful violations. Many of these laws came out of the Committee on Commerce. I am the author of some of them. We provided a criminal penalty in the safety field just 2 or 3 years ago when we passed the bill on the Hazardous Substances Labeling Act, the Truth in Fabric Act, the Drug Amendments of 1962, steam boilers on vessels, interference with navigation, and the brake fluid and seatbelt acts. Thus, there is precedent for criminal penalties. But the committee, after long deliberation on this matter, voted to retain the civil penalty, and take out the criminal penalty for willful and knowing violations, leaving in the injunction, which in itself can result in a criminal penalty. I do not believe that any of us are reluctant about expressing our views on it. I hope the criminal penalty will be put back in. I shall vote to restore it. Other members of the committee will doubtless have good reasons to vote not to do so when the amendment is presented.

Congressional Record—Senate
June 24, 1966, 14249

Mr. LAUSCHE. Am I correct in understanding that the bill also provides that any person who has been offended by the acts of a manufacturer has a relief through a court of equity in the obtaining of injunctive relief against the violator?

Mr. HARTKE. The Senator is correct.

Mr. LAUSCHE. The amendment of the Senator from Indiana [Mr. HARTKE], in addition to these two reliefs, would provide a third relief, making it a criminal offense to willfully and knowingly violate the act.

Mr. HARTKE. That is correct.

Mr. LAUSCHE. Does the Senator from Indiana feel that the two remedies here provided will be adequate?

Mr. HARTKE. I do not. If a man adulterates brake fluid, say, puts water in it—half water and half fluid—does this knowingly and willfully and puts it in a car, the net result of which would make the brake fluid ineffective in an automobile going down the highway, does the Senator mean to say that this is not a culpable act and that such a man should not be subject to a criminal penalty? That would be ridiculous.

Mr. LAUSCHE. The Senators who have just spoken destroy their own objective when they state they do not expect that there will be any violations. I believe that the two remedies provided for are adequate.

Senate Committee Report

Senate Report 1301, Page 11

The Attorney General is also authorized to seek injunctions against the performance of any prohibited act and to enjoin the sale of any vehicle which fails to conform to applicable standards under the act (sec. 111).

Executive Communications

Contains nothing helpful.

As Introduced

As H.R. 13228 in the House and S. 3005 in the Senate:

JURISDICTION; INJUNCTION 14

SEC. 109. (a) The United States district courts and the United States courts of the Commonwealth of Puerto Rico and the territories and possessions shall have jurisdiction, for cause shown and subject to the provisions of rule 65 (a) and (b) of the Federal Rules of Civil Procedure, to restrain violations of this title upon petition by the appropriate United States Attorney or the Attorney General on behalf of the United States.

(b) In any proceeding for criminal contempt for violation of an order, injunction or restraining order issued under this section, which violation also constitutes a violation of this title, trial shall be by the court or, upon demand of the accused, by a jury. Such trial shall be conducted in accordance with the practice and procedure applicable in the case of proceedings subject to the provisions of rule 42 (b) of the 15 Federal Rules of Criminal Procedure.

(c) In all libel or injunction proceedings for the enforce-

ment or to restrain violations of this title, subpenas for witnesses who are required to attend a court of the United States in any district may run into any other district in any such proceeding.

SEIZURE

SEC. 110. (a) Any motor vehicle or motor vehicle equipment that has been manufactured or introduced into commerce in violation of section 107 shall be liable to be proceeded against by the United States while in interstate commerce, or while held for any sale after shipment in interstate commerce until the occurrence of the first purchase of it in good faith for purposes other than resale, or libel of information and condemned in any district court of the United States and in any United States court for the Commonwealth of Puerto Rico or the territories and possessions.

(b) Such motor vehicle or item of motor vehicle equipment shall be liable to seizure by process pursuant to the libel, and the procedure in cases under this section shall conform, as nearly as may be, to the procedure in admiralty; except that on demand of either party any issue of fact joined in any such case shall be tried by jury. When libels for condemnation proceedings under this section, involving the same claimant, are pending in two or more jurisdictions, such

pending proceedings, upon application of the United States or the claimant seasonably made to the court of one such jurisdiction, shall be consolidated for trial by order of such court, and tried in (1) any district selected by the applicant where one of such proceedings is pending; or (2) a district agreed upon by stipulation between the parties. If no order for consolidation is so made within a reasonable time, the United States or the claimant may apply to the court of one such jurisdiction, and such court (after giving the other party, the claimant, or the United States attorney for such district, reasonable notice and opportunity to be heard) shall by order, unless good cause to the contrary is shown, specify a district of reasonable proximity to the claimant's principal place of business, in which all such pending proceedings shall be consolidated for trial and tried. Such order of consolidation shall not apply so as to require the removal of any case the date for trial of which has been fixed. The court granting such order shall give prompt notification thereof to the other courts having jurisdiction of the case covered thereby.

(c) Any motor vehicle or item of motor vehicle equipment condemned under this section shall, after entry of the decree, be disposed of by destruction or sale as the court may, in accordance with the provisions of this section, direct

and the proceeds thereof, if sold, less the legal costs and 17
charges, shall be paid into the Treasury of the United States, but such motor vehicle or item of motor vehicle equipment shall not be sold under such decree contrary to the provisions of this Act or the laws of the jurisdiction in which sold: *Provided*, That, after entry of the decree and upon the payment of the costs of such proceedings and the execution of a good and sufficient bond conditioned that such motor vehicle or item of motor vehicle equipment shall not be sold or disposed of contrary to the provisions of this Act or the laws of any State or territory in which sold, the court may by order direct that such motor vehicle or item of motor vehicle equipment be delivered to the owner thereof to be destroyed or brought into compliance with the provisions of this Act under the supervision of an officer or employee duly designated by the Secretary, and the expenses of such supervision shall be paid by the person obtaining release of the motor vehicle or item of motor vehicle equipment under bond.

(d) When a decree of condemnation is entered against the motor vehicle or item of motor vehicle equipment, court costs and fees, and storage and other proper expenses, shall be awarded against the person, if any, intervening as claim-

ant of the motor vehicle or item of motor vehicle equipment.

(e) In the case of removal for trial of any case as provided by subsection (b) of this section— 18

(1) the clerk of the court from which removal is made shall promptly transmit to the court in which the case is to be tried all records in the case necessary in order that such court may exercise jurisdiction;

(2) the court to which such case is removed shall have the powers and be subject to the duties, for purposes of such case, which the court from which removal was made would have had, or to which such court would have been subject, if such case had not been removed.

Section 111

As Enacted

SEC. 111. (a) If any motor vehicle or item of motor vehicle equipment is determined not to conform to applicable Federal motor vehicle safety standards, or contains a defect which relates to motor vehicle safety, after the sale of such vehicle or item of equipment by a manufacturer or a distributor to a distributor or a dealer and prior to the sale of such vehicle or item of equipment by such distributor or dealer: Noncompliance. 7

(1) The manufacturer or distributor, as the case may be, shall immediately repurchase such vehicle or item of motor vehicle equipment from such distributor or dealer at the price paid by such distributor or dealer, plus all transportation charges involved and a reasonable reimbursement of not less than 1 per centum per month of such price paid prorated from the date of notice of such nonconformance to the date of repurchase by the manufacturer or distributor; or

(2) In the case of motor vehicles, the manufacturer or distributor, as the case may be, at his own expense, shall immediately furnish the purchasing distributor or dealer the required conforming part or parts or equipment for installation by the distributor or dealer on or in such vehicle and for the installation involved the manufacturer shall reimburse such distributor or dealer for the reasonable value of such installation plus a reasonable reimbursement of not less than 1 per centum per month of the manufacturer's or distributor's selling price prorated from the date of notice of such nonconformance to the date such vehicle is brought into conformance with applicable Federal standards: *Provided, however*, That the distributor or dealer proceeds with reasonable diligence with the installation after the required part, parts or equipment are received.

(b) In the event any manufacturer or distributor shall refuse to comply with the requirements of paragraphs (1) and (2) of subsection (a), then the distributor or dealer, as the case may be, to whom such nonconforming vehicle or equipment has been sold may bring suit against such manufacturer or distributor in any district court of the United States in the district in which said manufacturer or distributor resides, or is found, or has an agent, without respect to the amount in controversy, and shall recover the damage by him sustained, as well as all court costs plus reasonable attorneys' fees. Any action brought pursuant to this section shall be forever barred unless commenced within three years after the cause of action shall have accrued. 8

(c) The value of such installations and such reasonable reimbursements as specified in subsection (a) of this section shall be fixed by mutual agreement of the parties, or failing such agreement, by the court pursuant to the provisions of subsection (b) of this section.

Conference Report

Contains nothing helpful.

House Passed Act

Same as enacted Act.

House Debate

Congressional Record—House
August 17, 1966, 19647

Mr. RYAN.

Mr. Chairman, it is regrettable that the bill does not include a provision for a corrective callback, as suggested by Congressman MACKAY'S amendment offered before the Committee on Interstate and Foreign Commerce. This would have required manufacturers to recall for the repair of defects motor vehicles, in the hands of consumers. The bill, as reported, requires recall from the dealers only. As far as the purchaser is concerned, it only provides for notification of defects. I am afraid this will leave the consumer still a victim of the tragic apathy which characterized our past attitude toward motor vehicle safety.

House Committee Report

House Report 1776, Page 26

REIMBURSEMENT TO DISTRIBUTORS OR DEALERS

Section 111(a) requires that if any motor vehicle or item of equipment is determined not to conform to Federal safety standards, or contains a defect which relates to vehicle safety, after the sale of such vehicle or item of equipment by a manufacturer to a distributor or dealer and prior to resale, the manufacturer or distributor shall repurchase such vehicle or item of equipment at the price paid by the affected distributor or dealer plus transportation charges and a reasonable reimbursement of not less than 1 percent per month of the price paid, prorated from the date of notice of nonconformance to the date of repurchase by the manufacturer or distributor, or in the case of motor vehicles, the manufacturer or distributor at his expense shall furnish the purchasing distributor or dealer the required conforming part or parts of equipment for installation and the manufacturer shall reimburse the distributor or dealer for the reasonable value of the installation plus reimbursement of not less than 1 percent per month of the manufacturer's or distributor's selling price prorated from the date of notice of nonconformance to the date such vehicle is brought into conformance with applicable safety standards. However, the distributor or dealer affected is required to proceed with reasonable diligence with the installation of the required part, parts, or equipment.

Section 111(b) provides that in the event the manufacturer or distributor refuses to comply with the requirements of subsection (a) of this section, then the distributor or dealer to whom such nonconforming vehicle or equipment has been sold may sue the manufacturer or distributor in any district court of the United States in which said manufacturer or distributor resides, is found, or has an agent, without regard to the amount in controversy and he shall recover the damage sustained as well as court costs and reasonable attorneys' fees. Any action brought pursuant to this section shall be barred unless commenced within 3 years after the cause of action accrues.

Subsection 111(c) provides that the value of installations and such reasonable reimbursements as specified in subsection (a) of this section shall be fixed by agreement of the parties or, failing such agreement, by the court pursuant to subsection (b) of this section.

Section 111 of the reported bill was included by the committee to place the financial responsibility for noncompliance upon the person or persons who failed to achieve conformance with Federal safety standards rather than upon a distributor or dealer who purchases a vehicle or item of equipment under a presumption and certification that conformance had been achieved.

Senate Passed Act

Congressional Record—Senate June 24, 1966, 14259

Obligation for noncomplying motor vehicles and motor vehicle equipment

SEC. 119. (a) If any motor vehicle or item of motor vehicle equipment is determined not to conform to applicable Federal motor vehicle safety standards, or contains a defect which relates to motor vehicle safety, after the sale of such vehicle or item of equipment by a manufacturer or a distributor to a distributor or a dealer and prior to the sale of such vehicle or item of equipment by such distributor or dealer:

(1) The manufacturer or distributor, as the case may be, shall immediately repurchase such vehicle or item of motor vehicle equipment from such distributor or dealer at the price paid by such distributor or dealer, plus all transportation charges involved and a reasonable reimbursement of not less than 1 per centum per month of such price paid prorated from the date of notice of such nonconformance to the date of repurchase by the manufacturer or distributor; or

(2) In the case of motor vehicles, the manufacturer or distributor, as the case may be, at his own expense, shall immediately furnish the purchasing distributor or dealer the required conforming part or parts or equipment for installation by the distributor or dealer on or in such vehicle and for the installation involved the manufacturer shall reimburse such distributor or dealer for the reasonable value of such installation plus a reasonable reimbursement of not less than 1 per centum per month of the manufacturer's or distributor's selling price prorated from the date of notice of such nonconformance to the date such vehicle is brought into conformance with applicable Federal standards: *Provided, however,* That the distributor or dealer proceeds with reasonable diligence with the installation after the required part, parts or equipment are received.

(b) In the event any manufacturer or distributor shall refuse to comply with the requirements of paragraphs (1) and (2) of subsection (a), then the distributor or dealer, as the case may be, to whom such nonconforming vehicle or equipment has been sold may bring suit against such manufacturer or distributor in any district court of the United States in the district in which said manufacturer or distributor resides, or is found, or has an agent, without respect to the amount in controversy, and shall recover the damage by him sustained, as well as all court costs plus reasonable attorneys' fees. Any action brought pursuant to this section shall be forever barred unless commenced within three years after the cause of action shall have accrued.

(c) The value of such installations and such reasonable reimbursements as specified in subsection (a) of this section shall be fixed by mutual agreement of the parties, or failing such agreement, by the court pursuant to the provisions of subsection (b) of this section.

Senate Debate

Congressional Record—Senate
June 24, 1966, 14247 and 14248

Mr. MONRONEY. Mr. President, I send an amendment to the desk, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read the amendment, as follows:

On page 58, line 17, strike out "reasonable".

On page 58, line 17, insert "and such reasonable reimbursements immediately after "installations".

On page 58, line 18, strike out "(2)".

On page 57, lines 7 and 8, strike out "an increment of 2" and insert in lieu thereof "a reasonable reimbursement of not less than 1".

On page 57, lines 19 and 20, strike out "an increment of 2" and insert in lieu thereof "a reasonable reimbursement of not less than 1".

Mr. MONRONEY. Mr. President, I have a small amendment, which I feel is not controversial. The bill provides that in the event a vehicle shall be found to be not in compliance with applicable safety standards, the manufacturer or distributor shall repair the equipment in order to protect the dealer, who would not be responsible for this condition.

The bill provides that the manufacturer shall reimburse the dealer or distributor all transportation charges, plus an increment of 2 percent a month of such price paid prorated from the date of notice of such nonconformance to the date of repurchase by the manufacturer or distributor. Also, in the event that the automobile is to be repaired and made safe, the manufacturer shall provide the parts, and the dealer shall receive 2 percent per month until the repairs have been made.

We asked the dealers and the manufacturers to check the cost carefully. They have agreed that they should have a reasonable charge of not less than 1 percent. In some instances this will not be sufficient to make the dealer whole. Then they must negotiate the reasonableness of this amount. If that is not possible, my amendment provides that the reasonable value shall be fixed by the courts.

I believe that the committee will accept the amendment, because there is no objection to it on the part of the manufacturers or of the dealers, and it has no effect whatever on the safety features of the bill.

Mr. COTTON. Mr. President, will the Senator yield?

Mr. MONRONEY. I yield.

Mr. COTTON. I understand from the remarks of the Senator from Oklahoma that this provision, which deals so intimately with the relation between the manufacturers and the dealers, has been worked out and is reasonably satisfactory to both groups at this time, and it still adequately protects the public. *14248*

Mr. MONRONEY. I am informed that the dealers and the manufacturers are satisfied with the provision of not less than 1 percent at the present time. Some doubt exists as to the reasonableness of the 2-percent amount fixed by the committee when the bill was before it, and both groups are willing to agree to this amendment.

Mr. COTTON. I hope the amendment will be accepted.

The PRESIDING OFFICER (Mr. BREWSTER in the chair). Is all time yielded back?

Mr. MONRONEY. I yield back the remainder of my time.

Mr. MAGNUSON. I yield back the time under my control.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment was agreed to.

Senate Committee Report

Senate Report 1301, Pages 10 and 11

OBLIGATION FOR NONCOMPLYING MOTOR VEHICLES AND MOTOR VEHICLE EQUIPMENT

If a motor vehicle or item of motor vehicle equipment fails to meet the standards prescribed by the Secretary or contains a safety-related defect, the manufacturer must either repurchase from the dealer the defective vehicle or item of equipment, or if the manufacturer chooses, instead promptly deliver corrective parts to the dealer and reimburse the dealer for making corrections (§ 119(a)). Dealers may bring court actions to recover damages for the breach of this obligation (§ 119(b)).

These obligations apply only between the manufacturer and the dealer or distributor who purchases a vehicle or item of equipment from the manufacturer, and only during the period before such distributor or dealer has sold such vehicle or item of equipment to a customer (§ 119(a)). 11

Executive Communications

Contains nothing helpful.

As Introduced

As H.R. 13228 in the House and S. 3005 in the Senate:
contains no comparable provision.

Section 112

SEC. 112. (a) The Secretary is authorized to conduct such inspection and investigation as may be necessary to enforce Federal vehicle safety standards established under this title. He shall furnish the Attorney General and, when appropriate, the Secretary of the Treasury any information obtained indicating noncompliance with such standards, for appropriate action. Inspection. 8

(b) For purposes of enforcement of this title, officers or employees duly designated by the Secretary, upon presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, are authorized (1) to enter, at reasonable times, any factory, warehouse, or establishment in which motor vehicles or items of motor vehicle equipment are manufactured, or held for introduction into interstate commerce or are held for sale after such introduction; and (2) to inspect, at reasonable times and within reasonable limits and in a reasonable manner, such factory, warehouse, or establishment. Each such inspection shall be commenced and completed with reasonable promptness.

(c) Every manufacturer of motor vehicles and motor vehicle equipment shall establish and maintain such records, make such reports, and provide such information as the Secretary may reasonably require to enable him to determine whether such manufacturer has acted or is acting in compliance with this title and motor vehicle safety standards prescribed pursuant to this title and shall, upon request of an officer or employee duly designated by the Secretary, permit such officer or employee to inspect appropriate books, papers, records, and documents relevant to determining whether such manufacturer has acted or is acting in compliance with this title and motor vehicle safety standards prescribed pursuant to this title. Recordkeeping requirements.

(d) Every manufacturer of motor vehicles and motor vehicle equipment shall provide to the Secretary such performance data and other technical data related to performance and safety as may be required to carry out the purposes of this Act. The Secretary is authorized to require the manufacturer to give such notification of such performance and technical data at the time of original purchase to the first person who purchases a motor vehicle or item of equipment for purposes other than resale, as he determines necessary to carry out the purposes of this Act.

(e) All information reported to or otherwise obtained by the Secretary or his representative pursuant to subsection (b) or (c) which information contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code, shall be considered confidential for the purpose of that section, except that such information may be disclosed to other officers or employees concerned with carrying out this title or when relevant in any proceeding under this title. Nothing in this section shall authorize the withholding of information by the Secretary or any officer or employee under his control, from the duly authorized committees of the Congress. 62 Stat. 791.

Conference Report

Senate Report 1919, Page 20

INSPECTION AND INVESTIGATION

Section 114(a) of the Senate bill authorizes the Secretary to conduct such testing, inspection, and investigation as he deems necessary to aid in the enforcement of Federal safety standards.

Section 112(a) of the House amendment authorizes the Secretary to conduct such inspection as may be necessary to carry out the Federal safety standards.

Section 112(a) of the proposed conference substitute is the same as the House bill except that the Secretary is also given authority to conduct such investigations as may be necessary to enforce Federal safety standards.

PERFORMANCE DATA

Section 112(d) of the House amendment and section 112(d) of the proposed conference substitute are identical. It is understood that in the administration of this provision the Secretary is required to treat as confidential performance and technical data which include trade secrets which he obtains unless and until notification of such data is required in the interests of safety as provided in this subsection.

House Passed Act

Congressional Record—House August 17, 1966, 19672

"SEC. 112. (a) The Secretary is authorized to conduct such inspection as may be necessary to enforce Federal vehicle safety standards established under this title. He shall furnish the Attorney General and, when appropriate, the Secretary of the Treasury any information obtained indicating noncompliance with such standards, for appropriate action.

"(b) For purposes of enforcement of this title, officers or employees duly designated by the Secretary, upon presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, are authorized (1) to enter, at reasonable times, any factory, warehouse, or establishment in which motor vehicles or items of motor vehicle equipment are manufactured, or held for introduction into interstate commerce or are held for sale after such introduction; and (2) to inspect, at reasonable times and within reasonable limits and in a reasonable manner, such factory, warehouse, or establishment. Each such inspection shall be commenced and completed with reasonable promptness.

"(c) Every manufacturer of motor vehicles and motor vehicle equipment shall establish and maintain such records, make such reports, and provide such information as the Secretary may reasonably require to enable him to determine whether such manufacturer has acted or is acting in compliance with this title and motor vehicle safety standards prescribed pursuant to this title and shall, upon request of an officer or employee duly designated by the Secretary, permit such officer or employee to inspect appropriate books, papers, records, and documents relevant to determining whether such manufacturer has acted or is acting in compliance with this title and motor vehicle safety standards prescribed pursuant to this title.

"(d) Every manufacturer of motor vehicles and motor vehicle equipment shall provide to the Secretary such performance data and other technical data related to performance and safety as may be required to carry out the purposes of this Act. The Secretary is authorized to require the manufacturer to give such notification of such

performance and technical data at the time of original purchase to the first person who purchases a motor vehicle or item of equipment for purposes other than resale, as he determines necessary to carry out the purposes of this Act.

"(e) All information reported to or otherwise obtained by the Secretary or his representative pursuant to subsection (b) or (c) which information contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code, shall be considered confidential for the purpose of that section, except that such information may be disclosed to other officers or employees concerned with carrying out this title or when relevant in any proceeding under this title. Nothing in this section shall authorize the withholding of information by the Secretary or any officer or employee under his control, from the duly authorized committees of the Congress.

House Debate

Congressional Record—House August 17, 1966, 19645

Mr. HALPERN.

H.R. 13228 is an excellent piece of legislation as it now stands. It significantly strengthens the Senate version of the traffic safety bill by covering trucks and buses currently regulated by the Interstate Commerce Commission and by authorizing the establishment of Federal standards for used vehicles within 2 years after enactment of the bill. I believe, however, that it is unnecessarily weaker than the Senate bill in the area of enforcement. It does not include several enforcement and investigatory measures appearing in the Senate version, such as civil penalties for manufacturers failing to notify owners and dealers of safety defects, and provisions for on-site inspection of manufacturer's premises by the Secretary with penalties for any noncompliance discovered during the inspections. I believe we should carefully consider amending H.R. 13228 to bring it into conformity with the Senate bill in these matters.

Congressional Record—House August 17, 1966, 19654

Mr. COHELAN.

The bill also could be appropriately strengthened if the Secretary of Commerce were given the authority to inspect auto-assembly plants. How else, as the New York Times has asked, is he to investigate failures to comply with the safety regulations he sets forth?

Congressional Record—House August 17, 1966, 19660

The CHAIRMAN. The Clerk will report the next committee amendments.

The Clerk read as follows:

Amendments offered by Mr. STAGGERS: On page 39, lines 14 and 15, strike out "as required under section 112(b) and (c);" and insert in lieu thereof the following: "or fail or refuse to permit entry or inspection, as required under section 112;"

On page 46, strike out line 15 and all that follows down through and including line 6 on page 47 and insert in lieu thereof the following:

"(b) For purposes of enforcement of this title, officers or employees duly designated by the Secretary, upon presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, are authorized (1) to enter, at reasonable times, any factory, warehouse, or establishment in which motor vehicles or items of motor vehicle equipment are manufactured, or held for introduction into interstate commerce or are held for sale after such introduction; and (2) to inspect, at reasonable times and within reasonable limits and in a reasonable manner, such factory, warehouse, or establishment. Each such inspection shall be commenced and completed with reasonable promptness.

"(c) Every manufacturer of motor vehicles and motor vehicle equipment shall establish and maintain such records, make such reports, and provide such information as the Secretary may reasonably require to enable him to determine whether such manufacturer has acted or is acting in compliance with this title and motor vehicle safety standards prescribed pursuant to this title and shall, upon request of an officer or employee duly designated by the Secretary, permit such officer or employee to inspect appropriate books, papers, records, and documents relevant to determining whether such manufacturer has acted or is acting in compliance with this title and motor vehicle safety standards prescribed pursuant to this title."

On page 47, line 7, strike out "(c)" and insert "(d)"

On page 47, line 17, strike out "(d)" and insert "(e)"

On page 47, line 19, after "(b)" insert "or (c)"

Mr. SPRINGER. Mr. Chairman, is the chairman of the committee going to make an explanation of these amendments?

Mr. STAGGERS. Mr. Chairman, I intended to say that this language is contained in the bill which passed the other body. We believe perhaps it will strengthen the bill to some degree. For that reason we have asked for it to be inserted.

Mr. SPRINGER. Mr. Chairman, it is my understanding—and I think I have read it before, but I want to be sure that this is what we are talking about—this is the Senate language completely and no more. Is that correct?

Mr. STAGGERS. Identical.

Mr. SPRINGER. We have no objection to it.

The CHAIRMAN. The question is on the committee amendments.

The committee amendments were agreed to.

The CHAIRMAN. The Clerk will read the next committee amendment.

The Clerk read as follows:

Amendments offered by Mr. STAGGERS: On page 56, line 23, after "shall" insert a comma and the following: "through standards established under title I of this Act,".

On page 56, line 1, strike out "Such" and all that follows down through the period on line 2 of page 57 and insert in lieu thereof: "Such order shall specify the date such system is to take effect which shall not be sooner than 180 days or later than 1 year from the date such order is issued."

The amendments were agreed to.

House Committee Report

House Report 1776, Pages 26 and 27

INSPECTION AND RECORDKEEPING REQUIREMENTS

Section 112(a) of the reported bill authorizes the Secretary to conduct any inspections which are necessary to enforce safety standards. Further, he is authorized to furnish the Attorney General and, when appropriate, the Secretary of the Treasury, with any information indicating noncompliance with such standards, for appropriate action.

Section 112(b) of the reported bill requires every manufacturer of vehicles and every manufacturer of equipment to establish and maintain for a reasonable period of time such records as may reasonably be necessary to enable the Secretary to determine whether such 27
manufacturer has complied or is complying with this title and the safety standards prescribed thereunder. Such manufacturer is

required, upon the request of an officer or employee designated by the Secretary, to make appropriate reports and permit inspection of appropriate books, papers, records, and documents, but only to the extent that such reports, books, papers, records, and documents relate to design, engineering, quality control, and shipping and receiving data relevant to determining whether the standards are complied with in the production of vehicles or equipment which have been or are being produced for sale.

Section 112(c) of the reported bill requires every manufacturer of vehicles and every manufacturer of equipment to provide the Secretary with such performance data and other technical data related to performance and safety as may be required to carry out the purposes of this act. The Secretary is authorized to require the manufacturer to give such performance data and technical data to the first person who purchases such vehicle or equipment for purposes other than for resale, as the Secretary determines necessary to carry out this act.

Section 112(d) of the reported bill provides that any information obtained by the Secretary or his representative pursuant to subsection (b) of this section which contains or relates to a trade secret or other matter referred to in 18 U.S.C. 1905 shall be considered as confidential for the purposes of that section, except that such information may be disclosed to other officers and employees concerned with carrying out this title or when relevant to any proceeding under this title. Nothing in this section authorizes the Secretary or any such officer or employee to withhold information from committees of Congress.

The committee's intention, in this section, is to afford to the Secretary the necessary authority to inspect records and to require the furnishing of information from manufacturers to assist him in achieving the purposes of the bill. At the same time the bill would afford protection to the manufacturers against unnecessarily onerous "bookkeeping," and further afford protection to those trade secrets of a manufacturer which may become known to the Secretary and others in carrying out this title. Subsection (c) of this section was added by the committee for the purpose of authorizing the Secretary to obtain all necessary performance and related technical data and to require that purchasers of new vehicles be furnished more information on performance and safety than may heretofore have been true.

Senate Passed Act

Congressional Record—Senate June 24, 1966, 14258 and 14259

Inspection and testing for compliance; records and reports

SEC. 114. (a) The Secretary is authorized to conduct such testing, inspection, and investigation as he deems necessary to aid in the enforcement of Federal vehicle safety standards prescribed and in effect under this title and shall furnish the Attorney General and, when appropriate, the Secretary of the Treasury any information obtained and test results indicating noncompliance with such standards, for appropriate enforcement or customs action.

(b) For purposes of enforcement of this title, officers or employees duly designated by the Secretary, upon presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, are authorized (1) to enter, at reasonable times, any factory, warehouse, or establishment in which motor vehicles or items of motor vehicle equipment are manufactured, or held for introduction into interstate commerce or are held for sale after such introduction; and (2) to inspect, at reasonable times and within reasonable limits and in a reasonable manner, such factory, warehouse, or establishment. Each such inspection shall be commenced and completed with reasonable promptness.

(c) Every manufacturer of motor vehicles and motor vehicle equipment shall establish and maintain such records, make such reports, and provide such information as the Secretary may reasonably require to enable him to determine whether such manufacturer has acted or is acting in compliance with this title and motor vehicle safety standards prescribed pursuant to this title and shall, upon request of an officer or employee duly designated by the Secretary, permit such officer or employee to inspect appropriate books, papers, records, and documents relevant to determining whether such manufacturer has acted or is acting in compliance with this title and motor vehicle safety standards prescribed pursuant to this title.

(d) All information reported to or otherwise obtained by the Secretary or his representative pursuant to subsection (b) or (c) which information contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code, shall be considered confidential for the purpose of that section, except that such information may be disclosed to other officers or employees concerned with carrying out this Act or when relevant in any proceeding under this Act. *14259*

Senate Debate

Congressional Record—Senate August 31, 1966, 21487

Mr. MAGNUSON.

The Senate conferees accepted, as a most constructive addition, the House provision authorizing the Secretary to require manufacturers to disclose safety performance and technical data on their products to new car purchasers. For that purpose, the Secretary is authorized to require manufacturers to furnish him with such data so that he can determine what should be disclosed to purchasers. In so doing, the Secretary is not expected to divulge manufacturers' trade secrets, except to the extent that he determines such information should be in the hands of prospective purchasers.

Senate Committee Report

Senate Report 1301, Pages 11 and 12

INSPECTION, RECORDS, AND REPORTS

The Secretary is authorized to conduct such testing, inspection, and investigations as he deems necessary to aid in the enforcement of standards prescribed under the act (§ 114(a)). He is given express authority to conduct on-site inspection in factories, warehouses, or sales offices (§ 114(b)). Manufacturers are required to maintain records, make reports, and provide the information reasonably required by the Secretary (§ 114(c)). *12*

The committee bill provides that the records, reports, and information the Secretary may reasonably require shall be limited to those

relevant to determining whether the manufacturer has acted or is acting in compliance with title I and motor vehicle safety standards issued thereunder (§ 114(c)). For example, the relevant records, reports, and information would include data relating to design, manufacturing procedures, quality control, and shipping records for currently manufactured vehicles, and would not include such closely held competitive trade secrets as financial, price, or cost data (§ 114(d)).

Executive Communications

Contains nothing helpful.

As Introduced

As H.R. 13228 in the House and S. 3005 in the Senate:

INSPECTION AND TESTING FOR COMPLIANCE; RECORDS AND REPORTS

SEC. 111. (a) The Secretary is authorized to conduct such testing and inspection as he deems necessary to aid in the enforcement of Federal vehicle safety standards issued and in effect under this title and shall furnish the Attorney General and, when appropriated, the Secretary of the Treasury any information obtained and test results indicating noncompliance with such standards, for appropriate enforcement or customs action.

(b) Every manufacturer of motor vehicles and motor vehicle equipment shall establish and maintain such records, make such reports, and provide such information as the

Secretary may reasonably require to enable him to determine whether such manufacturer has acted or is acting in compliance with this title and motor vehicle safety standards prescribed pursuant to this title and shall, upon request of an officer or employee duly designated by the Secretary, permit such officer or employee to inspect appropriate books, papers, records, and documents. 19

(c) All information reported to or otherwise obtained by the Secretary or his representative pursuant to subsection (b) which information contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code, shall be considered confidential for the purpose of that section, except that such information may be disclosed to other officers or employees concerned with carrying out this Act or when relevant in any proceeding under this Act.

Section 113

SEC. 113. (a) Every manufacturer of motor vehicles shall furnish notification of any defect in any motor vehicle or motor vehicle equipment produced by such manufacturer which he determines, in good faith, relates to motor vehicle safety, to the purchaser (where known to the manufacturer) of such motor vehicle or motor vehicle equipment, within a reasonable time after such manufacturer has discovered such defect. Notification of defect. 8 9

(b) The notification required by subsection (a) shall be accomplished— Notification by certified mail.

(1) by certified mail to the first purchaser (not including any dealer of such manufacturer) of the motor vehicle or motor vehicle equipment containing such a defect, and to any subsequent purchaser to whom has been transferred any warranty on such motor vehicle or motor vehicle equipment; and

(2) by certified mail or other more expeditious means to the dealer or dealers of such manufacturer to whom such motor vehicle or equipment was delivered.

(c) The notification required by subsection (a) shall contain a clear description of such defect, an evaluation of the risk to traffic safety reasonably related to such defect, and a statement of the measures to be taken to repair such defect.

(d) Every manufacturer of motor vehicles shall furnish to the Secretary a true or representative copy of all notices, bulletins, and other communications to the dealers of such manufacturer or purchasers of motor vehicles or motor vehicle equipment of such manufacturer regarding any defect in such vehicle or equipment sold or serviced by such dealer. The Secretary shall disclose so much of the information contained in such notice or other information obtained under section 112(a) to the public as he deems will assist in carrying out the purposes of this Act, but he shall not disclose any information which contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code unless he determines that it is necessary to carry out the purposes of this Act. 62 Stat. 791.

(e) If through testing, inspection, investigation, or research carried out pursuant to this title, or examination of reports pursuant to subsection (d) of this section, or otherwise, the Secretary determines that any motor vehicle or item of motor vehicle equipment—

(1) does not comply with an applicable Federal motor vehicle safety standard prescribed pursuant to section 103; or

(2) contains a defect which relates to motor vehicle safety;

then he shall immediately notify the manufacturer of such motor vehicle or item of motor vehicle equipment of such defect or failure to comply. The notice shall contain the findings of the Secretary and shall include all information upon which the findings are based. The Secretary shall afford such manufacturer an opportunity to present his views and evidence in support thereof, to establish that there is no failure of compliance or that the alleged defect does not affect motor vehicle safety. If after such presentation by the manufacturer the Secretary determines that such vehicle or item of equipment does not comply with applicable Federal motor vehicle safety standards, or contains a defect which relates to motor vehicle safety, the Secretary shall direct the manufacturer to furnish the notification specified in subsection (c) of this section to the purchaser of such motor vehicle or item of motor vehicle equipment as provided in subsections (a) and (b) of this section.

Conference Report

Senate Report 1919, Pages 20 and 21

NOTIFICATION

Sections 116 (a), (b), and (c) of the Senate bill require the manufacturer of motor vehicles to furnish notification of any defect in any vehicle or equipment produced by him which he determines relates to motor vehicle safety to the purchaser (where known) within a reasonable time after discovery of such defect by the manufacturer. This notification is required to be accomplished by certified mail to the first purchaser and to the dealer or dealers to whom such vehicle or equipment was delivered. The notification shall contain a clear description of the defect and evaluation of the risk of traffic safety related thereto and a statement of the measures to be taken to repair the defect.

Sections 113 (a), (b), and (c) of the House amendment are the same as the Senate bill with the exception that notification is required to be accomplished by certified mail not only to the first purchaser but to any subsequent purchaser to whom has been transferred any warranty on such vehicle or equipment.

Sections 113 (a), (b), and (c) of the proposed conference substitute are the same as the House amendment.

Subsection (d) of section 116 of the Senate bill requires the manufacturer of motor vehicles to furnish the Secretary a true or representative copy of all notices, bulletins, and other communications to the dealers or purchasers of such vehicles or equipment regarding any defect therein. The Secretary shall disclose so much of the information contained in such notice or other information obtained under section 114(a) (his authority to conduct independent inspection and investigation) to the public as he deems will assist in carrying out the purposes of this act. He is required not to disclose any information which contains or relates to a trade secret unless he determines that it is necessary to carry out the purposes of this act.

Section 113(d) of the House amendment requires every manufacturer of motor vehicles to furnish the Secretary promptly a true and representative copy of any notice, bulletin, or like written communication to the dealers of such manufacturer or purchasers and users of such manufacturer's products regarding the existence or correction of any defect in vehicles or equipment as delivered by that manufacturer. If the Secretary determines the defect is a safety defect he is required to review with the manufacturer the action taken and proposed to be taken to accomplish effective notification to purchasers and users. If the manufacturer's action is inadequate to accomplish effective notification the Secretary shall order him to take further measures that are reasonable and necessary to accomplish such notice. If the manufacturer fails to promptly comply, an injunction to compel compliance may be sought. The Secretary, if he determines after review that publication by him will result in effecting a substantial additional number of corrections, shall disclose to the public so much of the information contained in the notice or other information obtained under section 112(a) (his authority to conduct independent inspection) 21

as he deems necessary for this purpose. The Secretary is precluded from disclosing information which contains or relates to a trade secret unless he determines that this disclosure is necessary to carry out this act.

Subsection (d) of section 113 of the proposed conference substitute is the same as subsection (d) of section 116 of the Senate bill, with the exception of a minor conforming change.

Subsection (e) of section 116 of the Senate bill provides that if the Secretary determines that any vehicle or item of equipment does not comply with the Federal safety standards or contains a defect relating to motor vehicle safety as a result either of testing, inspections, investigations, or research carried out by him pursuant to this title or through an examination of the reports which manufacturers are required to file with him under subsection (d) of this section (relating to notification of defects to dealers) he is required to notify the manufacturer of such defect or failure to comply. The notice is required to contain the Secretary's findings and all information on which such findings are based. He then is required to afford the manufacturer an opportunity to be heard and to establish that there is no failure to comply or that the alleged defect does not affect motor vehicle safety. Thereafter, if the Secretary determines there is not compliance or there is a defect relating to motor vehicle safety he is required to direct the manufacturer to furnish the notification specified in subsection (c) of this section to the purchaser as provided in subsections (a) and (b) of this section.

The House amendment contains no corresponding provision.

Subsection (e) of section 113 of the proposed conference substitute is the same as section 116(e) of the Senate bill with the exception of a minor conforming change.

House Passed Act

Congressional Record—House August 17, 1966, 19672

"SEC. 113. (a) Every manufacturer of motor vehicles shall furnish notification of any defect in any motor vehicle or motor vehicle equipment produced by such manufacturer which he determines, in good faith, relates to motor vehicle safety, to the purchaser (where known to the manufacturer) of such motor vehicle or motor vehicle equipment, within a reasonable time after such manufacturer has discovered such defect.

"(b) The notification required by subsection (a) shall be accomplished—

"(1) by certified mail to the first purchaser (not including any dealer of such manufacturer) of the motor vehicle or motor vehicle equipment containing such a defect, and to any subsequent purchaser to whom has been transferred any warranty on such motor vehicle or motor vehicle equipment; and

"(2) by certified mail or other more expeditious means to the dealer or dealers of such manufacturer to whom such motor vehicle or equipment was delivered.

"(c) The notification required by subsection (a) shall contain a clear description of such defect, an evaluation of the risk to traffic safety reasonably related to such defect, and a statement of the measures to be taken to repair such defect.

"(d) Every manufacturer of motor vehicles shall furnish to the Secretary promptly a true and representative copy of any notice, bulletin, or like written communications to the dealers of such manufacturer or purchasers and users of such manufacturer's products regarding the existence or correction of any defect in motor vehicles or items of motor vehicle equipment as de-

livered by such manufacturer. If the Secretary determines that such defect is a safety defect he shall review with the manufacturer the action taken and proposed to be taken to accomplish effective notification of purchasers and users. If the action taken and proposed to be taken by the manufacturer with respect to a safety defect is inadequate to accomplish effective notification of purchasers and users, the Secretary shall order the manufacturer to take such further measures as are reasonable and necessary to accomplish such notice and, if the manufacturer does not comply promptly with such order, an injunction to compel compliance may be sought in accordance with the provisions of section 110(a). The Secretary may determine after such review whether publication by him of the information contained in such notices, bulletins, communications relating to a safety defect will result in effecting a substantial additional number of corrections, and if the Secretary so determines, he shall disclose to the public so much of the information contained in such notices or other information obtained under section 112(a) as he considers necessary for such purpose. The Secretary shall not disclose any information which contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code unless he determines that such disclosure is necessary for such purposes.

House Debate

Congressional Record—House
August 17, 1966, 19630 and 19631

Mr. SPRINGER.

And what about those who actually build the new cars—what must they do under this bill? Taking the steps in sequence, the first thing they will do is cooperate and assist the Secretary of Commerce in his deliberations and decisions about sensible, practical safety standards. They will not dominate this activity, but they will contribute. Then, of course, they must adhere to the standards when actually building production models. Having built one, the manufacturer must place a certificate in a permanent fashion which indicates that the vehicle does in fact measure up to the standards in effect when it was built. Records must be kept which can be inspected to determine compliance.

If, after all precaution and surveillance, cars do get by and are delivered which have defects, the manufacturer must notify the owner and dealer, if they are not still the same. Such notice must also be given to a later owner if he has taken over a warranty still in effect. Then the car builder must remedy the defect. In the case of autos still in the dealer's inventory, they may be returned or fixed by the dealer at the expense of the manufacturer. Those in the hands of owners will be fixed promptly by a dealer. Should the manufacturer fail or refuse to carry out his responsibilities under these sections, it can be assessed penalties of $1,000 per car, and the Secretary may also seek the help of the courts by way of injunction to force compliance and stop the violation. *19631*

Congressional Record—House
August 17, 1966, 19654

Mr. COHELAN.

This legislation should be passed, but it also should be improved. The bill now authorizes the Secretary of Commerce to order manufacturers to notify owners of any defects that are discovered, but it fails to provide penalties if the manufacturers do not comply. Civil penalties are certainly in order if this reasonable requirement is to have any real meaning.

House Committee Report

House Report 1776, Pages 27 and 28

NOTIFICATION OF DEFECTS

Section 113(a) requires every vehicle manufacturer to give notice of any defect in any vehicle or equipment produced by him which he determines relates to safety to the purchaser (where known to him) within a reasonable time after the manufacturer discovers such defect.

Section 113(b) provides that the notification will be accomplished by certified mail to the first purchaser (other than a dealer) and to any subsequent purchaser to whom has been transferred any warranty upon such vehicle or equipment and by certified mail or other expeditious means to the dealer to whom such vehicle or equipment was delivered.

Section 113(c) requires the notification to contain a clear description of the defect and the evaluation of the risk to traffic safety reasonably related to the defect and a statement of the measures to be taken to repair the defect. 28

Section 113(d) requires each manufacturer of motor vehicles to furnish the Secretary promptly a copy of any notice, bulletin, or other written notification to his dealers, to purchasers, and to users of his products regarding the existence or correction of any defect. If the Secretary determines the defect is a safety defect, he reviews with the manufacturer the action taken or proposed to be taken with the accompanying notification to purchasers and dealers. If the action taken or proposed to be taken is inadequate to accomplish effective notification, the Secretary is required to order the manufacturer to take such further measures as are reasonable and necessary to give notice and if he fails to promptly comply, an injunction to compel compliance may be sought in accordance with section 109(a). If the Secretary determines after a review by him that publication by him of the information contained in the notice, bulletin, and communication issued by the manufacturer under this section will result in effecting a substantial additional number of corrections, he is required to disclose to the public so much of the information contained in the notice or other information obtained under section 112(a) as he considers necessary to effect a substantial additional number of corrections. The Secretary shall not disclose any information which contains or relates to a trade secret or other matter referred to in 18 U.S.C. 1905 unless such disclosure is necessary to effect a substantial number of corrections.

This section was included to afford a means for uniform and prompt notification to vehicle owners of the discovery of any defects related to safety. "Defect" is a defined term which includes any defect in performance, construction, components, or materials in motor vehicles or motor vehicle equipment. The provisions of this section do not alter other courses available to the Secretary, with respect to the deficiencies which necessitate notification, such as the imposition of a civil penalty or the seeking of injunctive relief. It is the committee's intention that the Secretary will exercise his authority

under this section to publish notices and information concerning defects in those situations where so doing will bring about a higher level of safety. In this connection, the committee is confident that the manufacturers will be active in notifying purchasers and users so that defects will be corrected as quickly as possible.

Senate Passed Act

Congressional Record—Senate June 24, 1966, 14259

Notification

SEC. 116. (a) Every manufacturer of motor vehicles shall furnish notification of any defect in any motor vehicle or motor vehicle equipment produced by such manufacturer which he determines, in good faith, relates to motor vehicle safety, to the purchaser (where known to the manufacturer) of such motor vehicle or motor vehicle equipment, within a reasonable time after such manufacturer has discovered such defect.

(b) The notification required by subsection (a) shall be accomplished—

(1) by certified mail to the first purchaser (not including any dealer of such manufacturer) of the motor vehicle or motor vehicle equipment containing a defect; and

(2) by certified mail or other more expeditious means to the dealer or dealers of such manufacturer to whom such motor vehicle or equipment was delivered.

(c) The notification required by subsection (a) shall contain a clear description of the defect, an evaluation of the risk to traffic safety reasonably related to the defect, and a statement of the measures to be taken to repair the defect.

(d) Every manufacturer of motor vehicles shall furnish to the Secretary a true or representative copy of all notices, bulletins, and other communications to the dealers of such manufacturer or purchasers of motor vehicles or motor vehicle equipment of such manufacturer regarding any defect in such vehicle or equipment sold or serviced by such dealer. The Secretary shall disclose so much of the information contained in such notice or other information obtained under subsection 114(a) to the public as he deems will assist in carying out the purposes of this Act, but he shall not disclose any information which contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code unless he determines that it is necessary to carry out the purposes of this Act.

(e) If through testing, inspection, investigation, or research carried out pursuant to this title, or examination of reports pursuant to subsection (d) of this section, or otherwise, the Secretary determines that any motor vehicle or item of motor vehicle equipment—

(1) does not comply with an applicable Federal motor vehicle safety standard prescribed pursuant to sections 102 and 103; or

(2) contains a defect which relates to motor vehicle safety;

then he shall immediately notify the manufacturer of such motor vehicle or item of motor vehicle equipment of such defect or failure to comply. The notice shall contain the findings of the Secretary and shall include all information upon which the findings are based. The Secretary shall afford such manufacturer an opportunity to present his views and evidence in suport thereof, to establish that there is no failure of compliance or that the alleged defect does not affect motor vehicle safety. If after such presentation by the manufacturer the Secretary determines that such vehicle or item of equipment does not comply with applicable Federal motor vehicle safety standards, or contains a defect which relates to motor vehicle safety, the Secretary shall direct the manufacturer to furnish the notification specified in subsection (c) of this section to the purchaser of such motor vehicle or item of motor vehicle equipment as provided in subsections (a) and (b) of this section.

Senate Debate

Congressional Record—Senate
June 24, 1966, 14247

Mr. MONDALE.

I am particularly pleased to see included in this bill the fair warning amendment I proposed several months ago. This provision requires every manufacturer of motor vehicles to notify the purchaser of any defect which the manufacturer determines in good faith relates to safety. The manufacturer would have to furnish such notification within a reasonable time after discovery. No time limit is included in the legislative language because of the probability that such a limit would be unduly restrictive and subject the manufacturer to a civil penalty. My original amendment set a time to furnish notification, and I would hope that the Secretary would attempt to use this as a guideline.

The bill also requires the manufacturer to send the safety defect notification by certified mail to the purchaser and by certified mail or more expeditious means to the dealer or dealers of the vehicle or equipment in which there is a safety defect. The notification must contain a clear description of the defect, an evaluation of the safety risk involved in the defect, and a statement of the measures to be taken to repair the defect.

I have always considered this latter requirement an essential part of any type of fair warning to the consumer, but my resolve on this matter was greatly strengthened the other day when a recent letter addressed to Ralph Nader from a gentleman in Falls Church, Va., came to my attention. Enclosed was a letter from his Buick service manager which I ask unanimous consent to have printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEAR BUICK OWNER: It has been called to our attention by Buick Motor Division that a bolt installation on the brake mechanism of your particular Buick LeSabre, Serial or Vehicle No. ———, which we delivered to you might prove to be troublesome some time in the future.

In order to forestall this possibility, it would be appreciated if you would bring your car into our Service Department in the immediate future in order that we may check this installation and make any necessary corrections.

When you bring your Buick in, this matter will receive prompt attention; however, you may prefer to call us at ——— for a definite appointment, which will allow us to give you preferred service.

Very truly yours,

———, ———.

Please call our Service Department at 534–8500 for appointment. For your convenience we will be open Saturday, June 11th, & 18th, especially for this modification.

Thank you.

BRUCE LEISTER,
Service Manager.

Mr. MONDALE. Mr. President, the recipient of this letter states:

This letter is unique in that the concern of General Motors, or Buick Motor Division, or the dealer or the somebody who did not sign the undated letter (except as a post script)—this sudden concern over the brake mechanism which "might prove to be troublesome some time in the future"—comes some 18 months and 11,000 miles after the car was delivered in January of 1965!

Fortunately, the braking system, up to now, is one of the things that has not caused trouble or inconvenience. Nonetheless, I am moved to sympathize with those other owners of 1965 LeSabre Convertibles who, belatedly, may have found "a bolt installation . . . troublesome . . ." some time in the past 18 months. One cannot help but wonder about the seriousness of the trouble that may have been experienced by such owners and their families. Also, I am inclined to speculate as to whether or not Buick and/or GM, at this late date, would have incurred the expense involved in the modification of early 1965 models had it not been for the pressure of public opinion generated by your excellent research and tireless determination.

The letter from the Buick service manager, although it suggests corrective action as soon as possible, makes no mention of the fact that the problem may endanger the life and limb of the occupants of the car. On inquiry yesterday, the service manager stated that the problem involved the bolts on the brake locking plate which he said were not self-locking and might work loose. If they did work loose, he said, the wheel could fall off without warning. I do not consider it necessary to speculate whether a wheel falling off without warning is a safety hazard. Obviously, it is.

Yet, the letter to the owner did not make clear either the problem or the great risk involved. Rather, it attempted, with clever wording, to conceal the nature of the problem and the danger involved.

It is my view that the fair-warning provision is essential to make sure that the automobile consumer is warned of hazards such as this.

It is only fair, in view of the vast organizations established for the sale and service of these automobiles, to notify the owner in clear and unmistakable terms, once a safety defect is known that a safety hazard is involved, what it is, and what corrective steps can be taken.

I compliment the members of the committee for accepting my fair-warning amendment, so that this long overdue inadequacy in notifying owners can be corrected, as required by the provisions of the bill.

I was pleased that the Commerce Committee adopted other measures concerning defects, such as the requirements that the manufacturer furnish the Secretary with representative copies of all notices, bulletins, and other communications to dealers of any defect, and authority for the Secretary to make public the information contained in such notices. Also, in the same section of the bill is another fine addition. If the Secretary determines, after allowing the manufacturer chance for rebuttal, that a vehicle or item of equipment does not comply with Federal safety standards or contains a safety defect, he must direct the manufacturer to notify the purchaser of this noncompliance or safety defect, as provided in my fair warning amendment.

These provisions, the fair-warning amendment, and other defect amendments which were adopted in committee on the recommendation of several Senators combine to make a neat package which recognizes the consumer's right to know about the hazards of the product he purchases and the manufacturer's obligation to inform him.

Congressional Record—Senate
June 24, 1966, 14254

Mr. BARTLETT.

Another aspect of this legislation, Mr. President, involves the important matter of driver notification. The hearings indicated that the industry had been seriously remiss in notifying car purchasers of safety defects discovered in certain models after they had been distributed to dealers. One of the many ways in which the committee strengthened the administration's original proposal was through the inclusion of Senator MONDALE's amendment, which I was pleased to cosponsor, which would require car manufacturers promptly to notify the purchaser of any vehicle which has been discovered to contain a safety-related defect.

Congressional Record—Senate
June 24, 1966, 14255

Mr. YARBOROUGH.

We are helping the driving public in another way—by assuring that he will be kept informed of faults in his car. Manufacturers will, under this legislation, have to inform the Secretary of safety defects, and, as proposed by Senator MONDALE in the amendment on which I joined him, new-car buyers must be notified by manufacturers of safety defects. The manufacturer is also to be required to repair any new equipment with defects affecting safety.

Mr. President, this legislation has been needed for some time. The facts which have been produced in the course of hearings on the legislation, both here

and in the other body, show even more strongly the need for this legislation. The need for mandatory standards has been shown. The need for the requirement that manufacturers notify purchasers of cars of defects has been shown.

We need this legislation. We need its mandatory provisions. The whole country will be thankful to us if we pass this bill.

Congressional Record—Senate
August 31, 1966, 21487

Mr. MAGNUSON.

The Senate conferees accepted, as a most constructive addition, the House provision authorizing the Secretary to require manufacturers to disclose safety performance and technical data on their products to new car purchasers. For that purpose, the Secretary is authorized to require manufacturers to furnish him with such data so that he can determine what should be disclosed to purchasers. In so doing, the Secretary is not expected to divulge manufacturers' trade secrets, except to the extent that he determines such information should be in the hands of prospective purchasers.

. . . . . .

The House managers also accepted the Senate defect notification procedures to require that the manufacturer furnish the Secretary with the substances of oral as well as written defect communications to their dealers. While the manufacturer will not be required to advise the Secretary of every isolated telephone communication with a dealer concerning a possible defect in a car, the Secretary will be expected to adopt regulations to insure that he is informed of the substance of all communications relating to significant defects.

In addition, the Senate notification procedure makes it clear that the Secretary can make public information concerning safety-related defects or noncompliance with standards where necessary for the public safety. As was stated in the Senate report explaining this procedure, the Secretary will be expected to avoid premature publicity, to check with the manufacturer, and to afford him an opportunity, wherever practicable, to accomplish the required notification and correction through the manufacturers' own procedures.

Senate Committee Report

Senate Report 1301, Pages 8 and 9

NOTIFICATION

In order to insure the uniform notification of car owners as to any safety-related defects and to facilitate the prompt curing of such defects, the bill provides that every manufacturer of motor vehicles notify the purchaser of any vehicle which the manufacturer determines, in good faith, contains a safety-related defect (sec. 116).

A "defect" is defined to include any defect in design, construction, components or materials in motor vehicles or motor vehicle equip-

ment (sec. 101(l)). The term "defect" is used in the sense of an error or mistake in design, manufacture or assembly.

Such notification must be accomplished within a reasonable time (sec. 116(a)) after the manufacturer has discovered the defect and formulated the corrective procedure (sec. 116(c)) and must be made by certified mail to the first purchaser and by certified mail or more expeditious means to the manufacturer's dealer (sec. 116(b)). Moreover, the notification must contain a clear disclosure of the defect, an evaluation of the risks to traffic safety reasonably related to the defect and a statement of the measures to be taken to repair the defect (sec. 116(c)). 9

In addition, every manufacturer is required to furnish the Secretary copies of all communications with his dealers relating to any defect, whether or not safety-related (sec. 116(d)).

The Secretary is directed to notify the manufacturer of any failure to conform to safety standards or any other safety-related defect which he determines to exist on the basis of evidence that comes to his attention through reports from manufacturers, Government research and testing, complaints or other sources, and to require that the manufacturer furnish the purchaser and dealer appropriate notification (sec. 116(e)).

This process would be in addition to and not in place of, nor a condition upon, taking any other enforcement action under the provisions of the act. The Secretary could elect to impose a civil penalty (sec. 110) for a violation and require notification of defects of noncompliance with a safety standard (sec. 116). The Attorney General could also seek an injunction to stop the sale of a noncomplying vehicle (sec. 111). These and all alternative enforcement techniques should be exercised within the administrative discretion of the responsible officials.

The Secretary is also authorized to make public information concerning safety-related defects or noncompliance with standards where necessary for the public safety (sec. 116(d)).

The committee expects that the Secretary would use this power to publish defect information as a last resport. It is the committee's expectation that the Secretary would promptly review the matter with the manufacturer and give the manufacturer an opportunity to accomplish the required notification and correction through the manufacturer's own procedures. Publicity would be invoked only if the Secretary concluded that the manufacturer's own actions would fail or had failed to provide car owners with adequate and prompt notice on the existence and safety significance of the defect and the procedure for correction.

The committee also expects that the Secretary will act with extreme caution to avoid premature publicity of unevaluated reports as to suspected defects, before the suspicions have been evaluated. Premature publicity of this type, of course, can cause undue public alarm, with a damaging and unwarranted effect on vehicle sales even though the suspicions may ultimately prove to be without foundation.

Executive Communications

Contains nothing helpful.

As Introduced

As H.R. 13228 in the House and S. 3005 in the Senate: contains no comparable provision.

Section 114

As Enacted

Sec. 114. Every manufacturer or distributor of a motor vehicle or motor vehicle equipment shall furnish to the distributor or dealer at the time of delivery of such vehicle or equipment by such manufacturer or distributor the certification that each such vehicle or item of motor vehicle equipment conforms to all applicable Federal motor vehicle safety standards. In the case of an item of motor vehicle equipment such certification may be in the form of a label or tag on such item or on the outside of a container in which such item is delivered. In the case of a motor vehicle such certification shall be in the form of a label or tag permanently affixed to such motor vehicle.

Certification of vehicle or equipment.

Conference Report

House Report 1919, Page 21

CERTIFICATION

Section 114 of the House amendment and section 114 of the proposed conference substitute are identical. It is intended that the permanent certification of a motor vehicle required under this section will be expressed as compliance with all applicable Federal safety standards at the time of manufacture of such vehicle.

House Passed Act

Same as enacted Act.

House Debate

Contains nothing helpful.

House Committee Report

House Report 1776, Pages 28 and 29

CERTIFICATION

Section 114 of the reported bill requires a manufacturer or distributor of a vehicle or vehicle equipment to furnish to the distributor or dealer at the time of delivery a certification that such vehicle or item of equipment conforms to all applicable Federal safety standards. In the case of an item of equipment the certification may be a label or tag either on the item or on the outside of the container in which it was delivered. In the case of a vehicle this certification must be in

the form of a label or tag permanently affixed to the vehicle.

The committee believes that the manufacturer or distributor responsible for conforming to the Federal safety standards should have an affirmative duty to certify that such conformity has been achieved. As to a motor vehicle it is the committee's intention that this certification shall be made in such manner as to be readily identifiable throughout the life of the vehicle. 29

Senate Passed Act

Congressional Record—Senate June 24, 1966, 14259

Certification

SEC. 115. Every manufacturer or distributor of motor vehicles or motor vehicle equipment shall furnish to the distributor or dealer at the time of delivery of such vehicle or equipment of such manufacturer or distributor a certification that each such vehicle or item of motor vehicle equipment conforms to all applicable Federal motor vehicle safety standards. Such certification may be in the form of a label or tag on such vehicle or item of equipment or on the outside of a container, if any, in which such items of equipment are delivered.

Congressional Record—Senate June 24, 1966, 14259

Regulations

SEC. 122. The Secretary is authorized to issue and amend such rules and regulations as he may find necessary or appropriate to carrying out the provisions of this Act.

Senate Debate

Contains nothing helpful.

Senate Committee Report

Senate Report 1301, Page 8

CERTIFICATION

Every manufacturer or distributor is required to furnish the person to whom he supplies any vehicles or item of motor vehicle equipment certification that such vehicle or item of equipment "conforms to all applicable Federal motor vehicle safety standards" (sec. 115).

The committee bill provides that the required certification may be in the form of a label or tag on the vehicle or item of equipment or on the outside of the container. The certification may also take some other form in appropriate cases: for example, those involving small

items or small containers not suitable for tagging or labelling (sec. 115). In such cases, the certification could be provided in a seller's invoice or in such other form as the Secretary might by regulation authorize (sec. 122).

Executive Communications

Contains nothing helpful.

As Introduced

As H.R. 13228 in the House and S. 3005 in the Senate: contains no comparable provision.

Section 115

As Enacted

SEC. 115. The Secretary shall carry out the provisions of this Act through a National Traffic Safety Agency (hereinafter referred to as the "Agency"), which he shall establish in the Department of Commerce. The Agency shall be headed by a Traffic Safety Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate prescribed for level V of the Federal Executive Salary Schedule established by the Federal Executive Salary Act of 1964. The Administrator shall be a citizen of the United States, and shall be appointed with due regard for his fitness to discharge efficiently the powers and the duties delegated to him pursuant to this Act. The Administrator shall perform such duties as are delegated to him by the Secretary.

National Traffic Safety Agency, establishment. 10

78 Stat. 419. 5 USC 2211.

Conference Report

House Report 1919, Page 22

NATIONAL TRAFFIC SAFETY AGENCY

Section 115 of the House amendment requires the Secretary to carry out this act through a National Traffic Safety Agency which he is required to establish in the Department of Commerce. This agency is to be headed by a Traffic Safety Administrator appointed by the President, by and with the advice and consent of the Senate, who will be paid at the rate of level V of the Federal executive salary schedule. He is to be a citizen of the United States, appointed with due regard to his fitness to carry out his duties and powers delegated to him, and he is required to have no pecuniary interest in or to own any stock in or bonds of any enterprise involved in manufacturing motor vehicles or motor vehicle equipment, or constructing highways, nor is he to engage in any other business, vocation, or employment. The Administrator is to perform such duties as are delegated to him by the Secretary.

Section 115 of the proposed conference substitute is the same as the House amendment except for the deletion of the prohibition with respect to pecuniary interest in businesses manufacturing vehicles or equipment or constructing highways.

The deletion of this specific prohibition results in the Administrator being subject to the general provisions of law applicable to all other Federal officers with respect to conflict of interest.

House Passed Act

Congressional Record—House
August 17, 1966, 19672

"SEC. 115. The Secretary shall carry out the provisions of this Act through a National Traffic Safety Agency (hereinafter referred to as the "Agency"), which he shall establish in the Department of Commerce. The Agency shall be headed by a Traffic Safety Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate prescribed for level V of the Federal Executive Salary Schedule established by the Federal Executive Salary Act of 1964. The Administrator shall be a citizen of the United States, and shall be appointed with due regard for his fitness to discharge efficiently the powers and the duties delegated to him pursuant to this Act. The Administrator shall have no pecuniary interest in or own any stock in or bonds of any enterprise involved in (1) manufacturing motor vehicles or motor vehicle equipment, or (2) constructing highways, nor shall he engage in any other business, vocation, or employment. The Administrator shall perform such duties as are delegated to him by the Secretary.

House Debate

Congressional Record—House
August 17, 1966, 19629

Mr. STAGGERS.

A National Traffic Safety Agency will be established and headed by a Presidentially appointed administrator. This would define and identify the Federal Government's interest in and responsibility for traffic safety.

In section 115, the Secretary is required to establish in the Department of Commerce a National Traffic Safety Agency which will be administered by an Administrator appointed by the President. This should go a long way to unify the now scattered traffic safety responsibility. The Administrator will be primarily responsible for carrying out this traffic safety program.

These are some of the improvements that the committee has made since the bill was introduced.

Congressional Record—House
August 17, 1966, 19634 and 19635

Mr. MACKAY. Mr. Chairman, I rise to speak in behalf of the Staggers bill, H.R. 13228, and urge its adoption. I also urge passage of its companion measure, the Fallon bill, H.R. 13290. I believe we ought to consider why these bills are before us. They are before us because of the force of American public opinion.

. . . . . .

19635 Both bills provide for agencies and administrators.

Last March 2 the President said in his message on transportation, that he, by Executive order, would under existing law coordinate all safety activities in the Department of Commerce. Now, 16,000 deaths later, the executive department has not moved. Nothing meaningful has been done about which we have any knowledge.

I believe it is the duty of this Congress, therefore, to see to it that we assign specific responsibility. When we fly on an aircraft we know that the FAA and the FAA Administrator are watching over the total environment for the safety of every air traveler. We must, by analogy, assign responsibility for an agency to watch over the total traffic environment and consider every element in it.

I predict that unless the Congress assigns explicit responsibility to an agency and administrator under this bill, or under the Department of Transportation, this fine legislation will not be implemented and executed.

I believe that what we should do, today and tomorrow, is pass these bills, and then follow through on our responsibility, which is to make effective legislative assignment of responsibility to administer these traffic safety measures in the executive department.

Congressional Record—House
August 17, 1966, 19647

Mr. RYAN.

In view of these facts, I introduced in the 89th Congress H.R. 13488, a bill to establish a National Traffic Safety Agency under the Department of Commerce which would have responsibility for administering both motor vehicle safety and highway safety standards. The pending bill, in section 115, calls for the creation of a National Traffic Safety Agency under the direction of a Traffic Safety Administrator appointed by the President which would deal with motor vehicle safety standards. By placing the responsibility for the administration of this act under a single administrator, it is hoped that the most effective execution of the program will be assured.

Congressional Record—House
August 17, 1966, 19653

Mr. GIBBONS.

The establishment in the U.S. Department of Commerce of a National Highway Safety Agency will go a long way toward the establishment of a coordinated national program of highway safety. Efforts to accomplish this have been largely too fragmented and ineffectual.

Congressional Record—House
August 17, 1966, 19667 and 19668

Mr. HENDERSON. Mr. Chairman, I thank the gentleman from Iowa.

I would like to make a brief statement to the House and pose a question to the chairman or to a member of the committee.

Mr. Chairman, the bill before us today creates a new agency and a new function. I have looked through the report accompanying the bill, and I cannot find any reference to the compliance with Public Law 801. I would point out to the committee that this law, originating from the Manpower Subcommittee that I have the honor to chair, requires the executive department to furnish with its report to the committees of Congress the manpower implications of legislation proposed by the executive, that would require new functions or create new agencies.

I am most hopeful that the chairman or some member of the committee can inform the committee at this time how many new Federal employees this new agency will require and give us some idea of the payroll or manpower cost if the bill is enacted.

I yield to the distinguished chairman from West Virginia for a reply.

Mr. STAGGERS. I might say to the gentleman that the agency was added in executive session and without consultation with the executive department, so we do not have the number.

Mr. HENDERSON. May I ask the further question: Does the committee have in its file any information for the members of the committee as to the manpower cost of the new agency?

Mr. STAGGERS. The cost of the new agency? No. I do not believe that the cost would be too much more.

Mr. HENDERSON. I would like to put the chairman of this committee and other committee chairmen on notice again, that Public Law 801 is an act of Congress which should be complied with.

I recognize that the chairman in this instance makes the point that the new agency was created by the committee, and was not a recommendation of the executive, but I believe by the enactment of Public Law 801, Congress indicated that it wants this information on hand in every committee as it considers a bill.

We are going to do our best to see that Public Law 801 is complied with.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. HENDERSON. I am glad to yield to the gentleman from Iowa.

Mr. GROSS. I believe this is a strange situation, when no member of the committee can tell us what this bill will cost in terms of additional manpower. There is not one, but two agencies are being created under the terms of this bill.

As the gentleman from North Carolina has well pointed out, this committee has completely ignored Public Law 801, which is mandatory with respect to the creation of a new agency or the expansion of an old agency. I am surprised—I am shocked to learn we can get no figures, not even an estimate, of the manpower cost of this legislation.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. HENDERSON. I yield to the gentleman from West Virginia.

Mr. STAGGERS. I might say that specific monetary authorizations are in the bill before us. The bill sets forth the authorized appropriations in dollar amounts.

Mr. GROSS. If the gentleman will yield, can the gentleman tell me how many additional employees there will be?

Mr. STAGGERS. I do not know, but we have set up the monetary limit and it cannot go beyond that. We can give you a breakdown of the totals. Does the gentleman want me to say what they are?

Mr. GROSS. That is scarcely an answer to the question. Public Law 801 requires the information.

. . . . . .

Mr. DINGELL. I will be happy to yield in just a moment, but I would point out to my good friend I expect that the departments downtown in staffing to carry out the functions required by this legislation will exercise great prudence. It is the expectation of this committee and every member on it that these matters will be conducted with great care and circumspection.

Now I yield to the gentleman from North Carolina.

Mr. HENDERSON. Mr. Chairman, I thank the gentleman for yielding. I would like to point out that Public Law 801 requires the executive department to report to the Congress, and I hope that the gentleman will join us in insisting that the executive department comply with laws enacted by the Congress. 19668

. . . . . .

Mr. STAGGERS. Mr. Chairman, I would like to have the attention of the two gentlemen who questioned the cost of this. It is embodied in the bill. The cost of this title is embodied here, and it tells you very plainly what it is and it will not exceed that. It is $51 million over a 3-year period.

Congressional Record—House
August 18, 1966, 19931

Mr. DOWDY. Mr. Chairman, I have some questions regarding this bill. This will not take very long. I realize that you are familiar with the bill and the report on the bill that was passed yesterday.

Mr. CRAMER. Yes, that is correct.

Mr. DOWDY. But separate and apart from the bill and the committee

report of yesterday, there are certain duplications in this bill that I wonder whether they might be pretty expensive. I do not believe the gentleman would be wishing to promote certainly the proliferation of agencies which seems to be going on in the Government.

Mr. Chairman, each of these bills—the one we passed yesterday and the one we are discussing today—create an agency. The one yesterday created a National Traffic Safety Agency and it is to be administered by an Administrator who will be appointed by the President, with the advice and consent of the Senate, at salary level V. The bill sets out his qualifications and what he has to do.

Mr. CRAMER. Yes.

Mr. DOWDY. This one creates an agency similar to the National Traffic Safety Council, a National Highway Safety Agency, to be headed by an Administrator to be appointed by the Secretary at a level V with identical qualifications.

Mr. CRAMER. I appreciate the gentleman's question which, if he wishes me to answer as to how it came about and how I contemplate that it will be administered, I will be glad to so indicate.

Mr. DOWDY. In other words, I think this is a good bill and I am glad it came out but I would like at least to have this question answered and one further question, if I may.

Mr. CRAMER. The gentleman's point is well taken.

Mr. Chairman, I would contemplate that the Highway Safety Council in this bill as well as the Council in the automobile safety bill that if the administration wants to do so, the same person could act as the Administrator for both.

May I say secondly that the bill to create a Department of Transportation, which I understand we are going to consider, specifically provides for a safety Administrator who will probably take over the functions of both of these Administrators.

Mr. Chairman, I therefore say to the gentleman that when we consider the transportation bill, I understand proper amendments will be offered at that time to coordinate this legislation with the automobile safety legislation and with the safety division within the Department of Transportation.

Mr. DOWDY. Mr. Chairman, will the gentleman yield further?

Mr. CRAMER. I yield to the gentleman for one other question.

Mr. DOWDY. I think you see my point relating to highway and automobile safety, there seems to be a duplication.

Mr. CRAMER. I do not contemplate a duplication.

. . . . . .

Mr. SWEENEY. The gentleman raises a very interesting question in his first question about the necessity of having a provision in the bill, and it does appear that it might be a duplicate of the effort to appoint a safety agency. I would like to point out, in supplementing what the gentleman pointed out earlier, that neither the Senate traffic safety bill nor the Senate highway bill contain provisions for a safety agency, and a safety administration, and we in the House have no assurance that in taking these two bills to conference, an agency and an administrator would be included in the legislation finally adopted. So we feel it would be wise to maintain the provisions so that we can take it to conference.

I quite agree with the statement made by the gentleman in the well that it would be in order that the Highway Administration be under a single agency for both the Traffic Highway Safety Act and the Highway Safety Act.

Congressional Record—House
August 31, 1966, 21349

Mr. STAGGERS.

NATIONAL TRAFFIC SAFETY AGENCY

The House version contains provisions creating a National Traffic Safety Agency, and requiring the appointment of an Administrator for that Agency by the President. The Senate version had no comparable provisions. The managers for the Senate accepted the House version.

Congressional Record—House
August 31, 1966, 21350

Mr. SPRINGER. Mr. Speaker, there were four substantive differences between the Senate version of auto safety and that which was considered by our committee and passed by this House. Of those four differences three were accepted almost entirely intact by the Senate conferees.

. . . . . .

The second difference of consequence in the House bill was that section which created a Traffic Safety Agency in the Department of Commerce or the Department of Transportation as the case may be. It seems highly desirable to concentrate in one place under a high-level administrator all of these activities dealing with automobile and traffic safety. This provision was acceptable to all of the conferees, and we feel that it greatly strengthens the conference version which, if accepted, will shortly become law.

House Committee Report

House Report 1776, Page 29

NATIONAL TRAFFIC SAFETY AGENCY

Section 115 of the bill requires the Secretary to establish in the Department of Commerce a National Traffic Safety Agency and to carry out this act through such Agency. A Traffic Safety Administrator shall head the Agency, shall be appointed by the President with the advice and consent of the Senate, and be compensated at level V of the Federal Executive Salary Act of 1964. The Administrator shall not have a pecuniary interest in or own any stocks or bonds of any enterprise involved in manufacturing vehicles or equipment or constructing highways. He is prohibited from engaging in any other business, vocation, or employment. The Administrator shall perform such duties as are delegated to him by the Secretary.

The committee decided that in order to achieve the necessary unification in traffic safety responsibilities that an agency should be created to administer this act, under an identifiable official who, though subordinate to the Secretary, would be primarily responsible for carrying out this Federal traffic safety program. The establishment of a National Traffic Safety Agency should help bring about a solution to what has been a frustrating and confusing problem in the past, that is, the difficult and often impossible problem of getting answers to traffic safety questions, or even accurate statistics related thereto. Although there have been many worthwhile and commendable private and public efforts looking toward improved traffic safety, there has been little or no coordination of these many programs. Now, with this Agency, under the direction of a Presidentially appointed Administrator, the Federal Government can serve as a catalyst and clearing house to bring order to the search for safety and thereby to lead to a marked reduction of highway deaths and injuries.

Senate Passed Act

Contains no comparable provision.

Senate Debate

Congressional Record—Senate
August 31, 1966, 21487

Mr. MAGNUSON.

The Senate Members accepted the House provisions creating a Presidentially appointed Traffic Safety Administrator, operating through a National Traffic Safety Agency, sharing the belief of the House conferees that responsibility for so significant a program as traffic safety should be focused upon a statutory administrator and a statutory agency.

Congressional Record—Senate
August 31, 1966, 21487 and 21488

Mr. MAGNUSON.

The responsibility for the success of the ambitious program embodied in this legislation shifts to the Traffic Safety Administrator. It will be his task to recruit sufficient competent, trained, and experienced technical personnel and administrators to enable this act to be vigorously and imaginatively implemented. I would hope that the full resources and commitment of civil service procedures, including provision for an *21488* adequate number of supergrade positions, will be applied to the staffing of the National Traffic Safety Agency.

Congressional Record—Senate
August 31, 1966, 21489

Mr. HARTKE. Mr. President, the responsibilities which this act gives to the administrators of the forthcoming traffic safety agency are large and far reaching in their consequences for the safety of the motoring public. These responsibilities—the issuance of motor vehicle safety standards and the research and development programs—must be assumed almost immediately. Crucial to the quality and expeditiousness of the agency's performance is the recruitment of scientific, engineering, and administrative personnel at levels of compensation which will minimize the material sacrifice which these specialists will ordinarily have to make in return for entering upon one of the greatest lifesaving programs this Nation has ever undertaken.

Civil service regulations provide for just such needs by allotting a number of supergrades so that such specialists without previous Government service can be retained at a level up to two grades higher than the usual grade. Indeed, for some new programs, Congress has specifically written into the law a quota of supergrades. One such law was the National Aeronautics and Space Administration Act, which provided for 450 supergrades so that our new space pro-

gram could attract the highly proficient personnel needed to initiate it as quickly as possible. This same need exists with respect to the traffic safety program this Congress has just authorized.

The need exists because for the Government this is essentially a new field of endeavor. There is an acute shortage of trained engineers, scientists, information systems specialists, lawyers, psychologists, economists, physicians, and human factors specialists as well as other professionals in the field of traffic safety.

It exists because this law requires the new agency to promptly set complicated and technical performance standards for new automobiles. The steady toll of 1,000 dead and nearly 100,000 injured every week permits no delays and no deficiencies in necessary skills, creativity, and determination.

Such demands cannot adequately be met within the time limits set if the agency is not able to attract competent and highly trained personnel.

It is my understanding that there are practically no automotive engineers employed in that capacity in the Government today. Thus, it would not be possible for the new agency to borrow such talent from other agencies on a temporary basis or to entice them away on a permanent basis.

The remaining potential alternatives are for the agency to hire needed people now working in industry or at universities. But this is not likely to occur. The automotive engineers and scientists in industry earn salaries far above those usually paid by Government, and, to compound the problem, they are in short supply. This is a seller's market.

The same generally is true in the universities, because the professors' and researchers' base salaries are usually supplemented by outside consultant fees. A number of the universities recently have received grants for expanded research and testing in the field of traffic safety, or they have expanded their own program. Indeed, one of the purposes of this act is to encourage such expansions. Examples include UCLA, Michigan, North Carolina, Ohio State, Cornell, and Northwestern. With expanding programs, the universities resist releasing their experts, and in fact many are trying to attract new talent.

It is true that safety-oriented specialists generally are public service oriented as well. Perhaps some would be willing to help inaugurate this new program even at a loss of income and other fringe benefits. But there is a limit below which trained, experienced specialists cannot be expected to sacrifice in salary in return for worthwhile public service.

Mr. President, there is no doubt that with the passage of this bill there will be intense competition for automotive engineers, scientists, and other traffic safety specialists and even experts from other areas of science and technology whose skills can be readily adapted to motor vehicle safety. I urge most strongly that the Secretary give a high priority to allocate adequate supergrades for this new agency whose work will affect the public safety of millions.

Congressional Record—Senate
August 31, 1966, 21491 and 21492

Mr. RIBICOFF.

Mr. President, we began with the question, What is the Federal role in traffic safety? The question has now been answered in the form of this bill about to become law. The Federal role—which did not exist 17 months ago—today has form and substance and a statutory base. The question that remains is whether this program will be properly and effectively administered in an administrative framework which measures up to the massive job ahead. With that in mind I ask unanimous consent to insert in the RECORD at the end of my remarks a letter I have received from Congressman JAMES A. MACKAY, of Georgia, who has from the beginning worked in behalf of traffic safety legislation in the other body. Congressman MACKAY's proposal to establish a single National Traffic Safety Agency in the executive branch deserves careful consideration and attention.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., August 23, 1966.

HON. ABRAHAM RIBICOFF,
Old Senate Office Building.

DEAR SENATOR RIBICOFF: There are compelling arguments in favor of the establishment of a single National Traffic Safety Agency headed by a Traffic Safety Administrator appointed by the President with the advice and consent of the Senate.

We have a Bureau of Public Roads charged with the construction of our federal aid highway system and it has an Administrator appointed by the President. It has worked well.

We have a Federal Aviation Agency charged with the safety of air travelers with an Administrator appointed by the President. It has worked well.

We have failed to fix responsibility and provide leadership for a national traffic safety program and we have paid a price. For the first time in the history of the automobile more than fifty thousand American citizens were killed in a twelve consecutive month period (July 1, 1965 to July 1, 1966). The costs are well known to all of us.

Students of the federal role all agree that we have lacked a focus of leadership at the national level. The Secretary of Commerce in his March 3rd, 1959, letter to the House Committee on Public Works said, "Most notable among the deficiencies is the near total lack of working liaison among agencies engaged on closely related endeavors" (p. 120). And, further he diagnosed lack of coordinated effort between federal, state and local governments by saying "Lack of an official working focus in the Federal Government may well have been a contributing factor" (p. 149).

And President Johnson said in his Transportation message on March 2nd of this year that the reason we are failing in traffic safety is, "Existing safety programs are widely dispersed. . . . There is no clear assignment of responsibility at the Federal level."

In the same address the President stated that under existing law to strengthen the Federal role he had set in motion a number of steps: "I am assigning responsibility for coordinating Federal Highway Safety programs to the Secretary of Commerce. I am directing the Secretary to establish a major highway safety unit within his Department. This unit will ultimately be transferred to the Department of Transportation."

Today some four and one-half months and some 16,000 deaths later this has not been done.

As further evidence of the lack of coordination in the executive branch the Secretary of Health, Education, and Welfare announced last week that he had appointed a "top-level advisory committee to chart out an aggressive new look for the Department in Traffic Safety." 21492

It has become increasingly apparent that the gravity of the extent of losses from traffic accidents requires explicit Congressional assignment of responsibility.

This can be done by choosing one of two alternatives.

First, if a Department of Transportation is established then Congress can direct that under the Highway Section in addition to a Bureau of Public Roads, there shall be a National Traffic Safety Agency and Administrator and Congress can charge the Secretary of Transportation with administering all traffic safety laws through the agency. To do less would make it appear that we value human safety on our roads less than the building of the roads.

Second, if the Department of Transportation fails, then the establishment of the Agency and the appointment of the Administrator may be of even greater importance in view of past performance of the Department of Commerce.

Therefore, I sincerely hope that the Agency-Administrator arrangement will be approved and adopted by this Congress and I respectfully solicit your leadership in attaining this goal.

Sincerely yours,

JAMES A. MACKAY,
Member of Congress.

Senate Committee Report

Contains nothing helpful.

Executive Communications

Contains nothing helpful.

As Introduced

As H.R. 13228 in the House and S. 3005 in the Senate: contains no comparable provision.

Section 116

As Enacted

SEC. 116. Nothing contained herein shall be deemed to exempt from the antitrust laws of the United States any conduct that would otherwise be unlawful under such laws, or to prohibit under the antitrust laws of the United States any conduct that would be lawful under such laws. *10*

Conference Report

Contains nothing helpful.

House Passed Act

Same as enacted Act.

House Debate

Congressional Record—House August 17, 1966, 19640

Mr. DINGELL. Mr. Chairman, I support this bill. It is an excellent one. It would provide adequate protection to the American public, and yet it would not do undue violence to an industry which is so important to the district that I have the honor to represent.

Mr. Chairman, I want to add a brief background explanation about section 116 of the bill which I proposed and which, as the report states, the committee adopted out of an abundance of caution to make sure that the antitrust laws will not be affected by this act.

In our hearings the automobile manufacturers requested the inclusion in the bill of a provision explicitly recognizing the need for manufacturers to cooperate reasonably within the framework of the antitrust laws for limited and specified purposes in the areas of safety and standards. However, the Department of Justice advised in letters dated April 6 and June 2, 1966, which I request be printed at the end of these remarks, that such a provision was unnecessary because the antitrust laws do not prohibit cooperative efforts to develop safety devices or to exchange information concerning standards where such efforts seem necessary and constructive and are not accompanied by unduly restrictive collateral agreements—that is, such efforts are to be judged under the "rule of reason" and do not constitute per se violations of the antitrust laws—and, also, because under the Noerr doctrine the antitrust laws do not prevent manufacturers from consulting and cooperating for the purposes of presenting industry positions on standards to governmental agencies.

The extent of permissible cooperative activities under the antitrust laws as thus interpreted by the Department gives sufficient latitude for industry cooperation to play a significant role in safety development. Accordingly, and since manufacturers are entitled to rely on this interpretation by the Department as to what cooperative activities are permissible, there is no need for including in this bill a provision spelling out what cooperative activities industry may engage in in the safety and standards field under the antitrust laws. I therefore offered, and the committee adopted, section 116, which is the same as section 113

of the bill passed by the Senate, to make sure that nothing in this bill changes the antitrust laws and that manufacturers can rely on the Department's advice as to the meaning of those laws.

House Committee Report

House Report 1776, Pages 29, 39, and 40

ANTITRUST LAWS

Section 116 of the reported bill provides that nothing contained herein shall be deemed to exempt from the antitrust laws of the United States any conduct that would otherwise be unlawful under such laws, or to prohibit under the antitrust laws of the United States any conduct that would be lawful under such laws.

This section was included in the reported bill by the committee out of an abudance of caution. It is the committee's intention that nothing in this act is to be deemed to change any antitrust law whether statutory law or case law. The antitrust laws are to remain absolutely unaffected as a result of the enactment of this act.

OFFICE OF THE DEPUTY ATTORNEY GENERAL, *Washington, D.C., June 22, 1966.* 39

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on H.R. 13228, the Traffic Safety Act of 1966.

The bill would centralize responsibility for promoting national automobile and highway safety in the proposed Secretary of Transportation. Authority under existing statutes relating to highway safety, revoked motor vehicle operator permits, and brake fluid and seat belt standards would be transferred from the Secretary of Commerce to the Secretary of Transportation, and the statutes themselves repealed and reenacted in codified form. Existing regulations under such statutes would, however, be continued under the new act, until modified or terminated by the Secretary of Transportation.

New authority conferred by the bill relates to the imposition of safety standards for motor vehicles. It would authorize the Secretary of Transportation to undertake programs for research and development in motor vehicle safety, and provide for appropriations and contracting authority relating thereto. After 2 years from enactment of this bill, the Secretary would be authorized to promulgate Federal motor vehicle safety standards if, in his view, then-existing public and private standards were inadequate or ineffective. After the effective date of such standards, the bill would prohibit manufacture, import, sale or delivery of any vehicle not conforming thereto, other than sale by an owner who did not originally purchase the vehicle for resale, or sale for export. Remedies prescribed for violation include a civil

penalty of $1,000 for each violation, civil action to enjoin violation, with provision for criminal contempt proceedings for violation of such an injunction, and proceedings on libel of information for seizure of vehicles or equipment in interstate commerce which are in violation of such standards.

From the point of view of the Department of Justice, the objectives of H.R. 13228 appear to be meritorious an we recommend enactment of this proposed legislation which is designed to achieve these objectives. As the bill is now written, definitive action by the Secretary in promulgating standards requires as a condition precedent that existing standards, whether public or private, be found by him to be inadequate. We join in the recommendation of the Department of Commerce that the proposed bill be amended to state that the Secretary is required to promulgate standards since we believe that this is essential to achieve the uniform, nationwide standards contemplated by the bill.

We believe that H.R. 13228 should clearly state that the Secretary has power to undertake research and development of experimental automobiles. In view of the highly concentrated structure of the industry, this additional source of research and innovation would be valuable. 40

Section 105 of the bill provides broad authority in the Secretary of Transportation to obtain advice and cooperation from other Federal and State agencies, academic institutions and private businesses, in the development of safety standards and testing equipment. Particularly, the section authorizes the Secretary to—

> * * * enter into cooperative agreements with * * * businesses * * *

for such development.

We note that Executive Order No. 11007 (Feb. 26, 1962, 3 CFR, 1962 Supp.) applies to the formation and use of such industry advisory and other groups by departments and agencies of the executive branch. We also note that the proposed legislation does not purport, directly or indirectly, to offer immunity for any activity violating the antitrust laws and any such violation would be subject to enforcement proceedings under those laws. We agree that no such immunity is warranted.

With respect to certain details of the bill, we attach some suggested perfecting amendments for the committee's consideration.

The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely,

RAMSEY CLARK,
Deputy Attorney General.

Senate Passed Act

Section 113: Same as enacted Act.

Senate Debate

Congressional Record—Senate
August 31, 1966, 21486 and 21487

Mr. HART. I thank the Senator. My second question has to do with a feature of the bill which I shall not say gave the committee trouble, but which involved problems that we spent considerable time identifying and resolving—the section that deals with the applicability of the antitrust laws.

The Senate committee approved the section of the bill that deals with the application of the antitrust laws to cooperative activities in the field of safety, which was passed by the Senate as section 113 and was passed, in identical language, by the House as section 116, and has now been accepted, of course, by the conferees.

I have the clear impression that when this section was approved by our Committee on Commerce—and was approved unanimously—we did it on the basis of the understanding that our committee report would contain an explanatory statement. A statement is made at page 13 of the committee report; but it had been my understanding that that statement would make clear that manufacturers could rely on the interpretation of the antitrust laws that was given to us, as contained in the Department of Justice letters that are a part of our record. I thought our conclusion was that the report would go on to say that a more detailed amendment incorporating this interpretation was not necessary. The report, however, states only that since the more detailed amendment would be merely declaratory of existing law, the amendment was not necessary.

I assume, and I should like to have the RECORD clearly show—if I am wrong, I can be corrected—there was no intention on the part of the distinguished chairman of the committee to infer that manufacturers could not rely on the interpretations contained in the letters of the Department of Justice.

I noted some time ago that in the discussion in the House the explanation was given that reliance could be had on the interpretation of the Department.

Without further delaying the adoption of the report, I inquire of our able chairman whether this is solely reflective of the purpose and intention.

Mr. MAGNUSON. I think that I can answer that question for the Senator.

It is the clear understanding of the committee that the manufacturers can rely on the interpretation of antitrust laws contained in the letters of the Department of Justice. As the Senator recalls, the committee went over that matter very carefully. That is the reason why we did not add any more specific language embodying these interpretations in the bill itself.

I think I can speak for the conferees that this was the intention of the conferees and the intention of the Members of the House when they adopted similar language.

Mr. HART. I thank the chairman very much. *21487*

Senate Committee Report

Senate Report 1301, Pages 13, 14, and 32

APPLICATION OF ANTITRUST LAWS

For the reasons set forth below, the committee included a provision in the act providing that "nothing contained herein shall be deemed to exempt from the antitrust laws of the United States any conduct that would otherwise be unlawful under such laws or to prohibit any conduct that would be lawful under such laws" (§ 113).

Although the committee firmly believes that competition among automobile manufacturers in the development of safety improvements is essential for the achievement of rapid progress in automotive safety, the committee is aware that cooperation in research and testing among manufacturers can also play a significant role in safety development. To this end, the bill authorizes the Secretary to advise, assist, and cooperate with manufacturers of motor vehicles and motor vehicle equipment, among others, in the development of motor vehicle safety standards and the testing of motor vehicles and motor vehicle equipment (§ 107).

The committee considered including a provision in the bill to the effect that cooperation among manufacturers in developing safety devices or in exchanging information about safety standards is not illegal per se, but may be justified under the "rule of reason" to the extent consistent with the antitrust laws and without creating any exemption from the antitrust laws.

However, the committee was advised by the Department of Justice that such a provision was unnecessary, since cooperation in the development of safety devices and in exchanging information about safety standards would not be unlawful per se under the antitrust laws but would be permissible under the "rule of reason" where joint efforts seem necessary and constructive and are not accompained by any unduly restrictive collateral agreements. Since the provision under consideration would have done no more than confirm this interpretation, the committee decided that that amendment was unnecessary.

The committee by this indication of its views in no way intends to change the application of existing antitrust laws with respect to cooperative activities among automobile manufacturers in the field of safety development.

The advice received from the Department of Justice, as summarized above, is contained in a letter from Assistant Attorney General Donald F. Turner to the chairman of the committee dated April 6, 1966, and a further letter from Deputy Attorney General Ramsey Clark to the chairman dated June 2, 1966. An extract from the letter of April 6 follows:

> Nor is there anything persuasive in the general argument that the vagueness of the antitrust laws prevents the formation of any cooperative effort to develop safety devices or to exchange information concerning standards. The antitrust

laws do not prohibit such arrangements where joint efforts seem necessary and constructive and are not accompanied by unduly restrictive collateral agreements. Moreover, clarification of the applicability of the antitrust laws to any particular proposal has always been readily available by consultation with the Department of Justice and submission of a proposal under the Business Review Procedure or for other review. (As an example, the major networks and press associations requested the Division to review a proposal for industrywide cooperative efforts in the compilation of returns in the forthcoming national elections. After consultation and revision, the industry was advised the Division did not intend to take action under the antitrust laws against the arrangement.) 14

APPLICATION OF ANTITRUST LAWS

SEC. 113. Nothing contained herein shall be deemed to exempt 22
from the antitrust laws of the United States any conduct that would otherwise be unlawful under such laws or to prohibit under the antitrust laws of the United States any conduct that would be lawful under such laws.

Executive Communications

Contains nothing helpful.

As Introduced

As H.R. 13228 in the House and S. 3005 in the Senate: contains no comparable provision.

Section 117

As Enacted

SEC. 117. (a) The Act entitled "An Act to provide that hydraulic brake fluid sold or shipped in commerce for use in motor vehicles shall meet certain specifications prescribed by the Secretary of Commerce", approved September 5, 1962 (76 Stat. 437; Public Law 87-637), and the Act entitled "An Act to provide that seat belts sold or shipped in interstate commerce for use in motor vehicles shall meet certain safety standards", approved December 13, 1963 (77 Stat. 361; Public Law 88-201), are hereby repealed. *10*

Repeals. Brake fluid.

15 USC 1301-1303.

Seat belts. 15 USC 1321-1323.

(b) Whoever, prior to the date of enactment of this section, knowingly and willfully violates any provision of law repealed by subsection (a) of this section, shall be punished in accordance with the provisions of such laws as in effect on the date such violation occurred.

(c) All standards issued under authority of the laws repealed by subsection (a) of this section which are in effect at the time this section takes effect, shall continue in effect as if they had been effectively issued under section 103 until amended or revoked by the Secretary, or a court of competent jurisdiction by operation of law.

(d) Any proceeding relating to any provision of law repealed by subsection (a) of this section which is pending at the time this section takes effect shall be continued by the Secretary as if this section had not been enacted, and orders issued in any such proceeding shall continue in effect as if they had been effectively issued under section 103 until amended or revoked by the Secretary in accordance with this title, or by operation of law.

(e) The repeals made by subsection (a) of this section shall not affect any suit, action, or other proceeding lawfully commenced prior to the date this section takes effect, and all such suits, actions, and proceedings, shall be continued, proceedings therein had, appeals therein taken, and judgments therein rendered, in the same manner and with the same effect as if this section had not been enacted. No suit, action, or other proceeding lawfully commenced by or against any agency or officer of the United States in relation to the discharge of official duties under any provision of law repealed by subsection (a) of this section shall abate by reason of such repeal, but the court, upon motion or supplemental petition filed at any time within 12 months after the date of enactment of this section showing the necessity for the survival of such suit, action, or other proceeding to obtain a settlement of the questions involved, may allow the same to be maintained. *11*

Savings provision.

Conference Report

Contains nothing helpful.

House Passed Act

Same as enacted Act.

House Debate

Contains nothing helpful.

House Committee Report

House Report 1776, Pages 29 and 30

REPEALS

Section 117 repeals the act of September 5, 1962 (Public Law 87–637) and the act of December 13, 1963 (Public Law 88–201). The former statute relates to standards for hydraulic brake fluid and the latter relates to standards for seat belts in motor vehicles. By operation of subsection (c) of this section all of the existing standards which have been issued under authority of these laws are 30
continued in effect as if they had been effectively issued under section 103 until amended or revoked by the Secretary or a court. The remaining portions of this section are designed to insure that existing administrative proceedings and suits and actions and other judicial proceedings will be continued without change despite the repeal of these provisions, and that prior violations will be punishable in accordance with the laws being repealed.

Since under this bill the Secretary has authority to set standards on the manufacture of all motor vehicles and motor vehicle equipment his authority includes full power to establish standards for brake fluids and seat belts. Therefore the continuation of these two specific statutes becomes unnecessary. However, in order that there be no break in continuity of responsibility in these areas, present standards and any legal responsibilities related thereto are continued in being until amended or repealed by the Secretary or a court.

Motor vehicles of carriers subject to safety regulations under part II of the Interstate Commerce Act are exempt from the existing law on seat belt standards. Under this bill such vehicles would be subject to safety standards established by the Secretary. For example, in the case of buses, the Secretary would have full authority to require that they be equipped with seat belts at the time of manufacture, and it is expected that careful and prompt consideration will be given to this question. In this connection the Secretary will have the benefit of the recent study of the Interstate Commerce Commission on this subject.

Senate Passed Act

Congressional Record—Senate June 24, 1966, 14259

Brake fluid and seat belt standards

SEC. 120. (a) Public Law 87–637 (Act of September 5, 1962, 76 Stat. 437, 15 U.S.C. 1301–1303), and Public Law 88–201 (Act of December 13, 1963, 77 Stat. 361, 15 U.S.C. 1321–1323) are hereby repealed.

(b) Whoever, prior to the date of enactment of this section, knowingly and willfully violates any provision of law repealed by subsection (a) of this section, shall be punished in accordance with the provisions

of such laws as in effect on the date such violation occurred.

(c) Standards issued pursuant to any law repealed by subsection (a) of this section shall continue in full effect and may be amended as if they had been effectively issued pursuant to this title. Such standards shall, after enactment of this Act, be subject to the enforcement and all other provisions of this title.

(d) All orders, rules, regulations, or privileges made, issued, or granted by any officer or agency in connection with any law repealed by subsection (a) of this section, and in effect at the time of such repeal, shall continue in effect to the same extent as if this section had not been enacted, until modified, superseded, or repealed. No suit, action, or other proceeding lawfully commenced by or against any agency or officer of the United States acting in his official capacity shall abate by reason of any repeal made by this section, but the court, on motion or supplemental petition filed at any time within twelve months after such transfer takes effect, showing a necessity for a survival of such suit, action, or other proceeding to obtain a settlement of the questions involved, may allow the same to be maintained.

Senate Debate

Contains nothing helpful.

Senate Committee Report

Senate Report 1301, Pages 12 and 13

EXISTING FEDERAL LAWS ON VEHICLE STANDARDS

The bill repeals the Brake Fluid and Seat Belt Standard Acts (Public Laws 87–637 and 88–201), since these subjects are among those covered by the present bill (sec. 120). The Automobile Pollution Control Act (Public Law 89–272) is not repealed, since air pollution devices on automobiles are considered to relate to public health and safety generally. 13

Executive Communications

Contains nothing helpful.

As Introduced

As H.R. 13228 in the House and S. 3005 in the Senate:

BRAKE FLUID AND SEAT BELT STANDARDS 19

SEC. 112. (a) Public Law 87–637 (Act of September 5, 1962, 76 Stat. 437, 15 U.S.C. 1301–1303), and

Public Law 88–201 (Act of December 13, 1963, 77 Stat. 361, 15 U.S.C. 1321–1323) are hereby repealed. Any rights or liabilities now existing under Public Laws 87–637 and 88–201 shall not be affected by this repeal.

(b) Standards issued under the laws repealed in this section shall continue in full effect and may be amended as if they had been effectively issued pursuant to section 102. Such standards shall, after enactment of this Act, be subject to the enforcement and all other provisions of this title.

Section 118

As Enacted

Sec. 118. The Secretary, in exercising the authority under this title, shall utilize the services, research and testing facilities of public agencies to the maximum extent practicable in order to avoid duplication. 11

Conference Report

House Report 1919, Page 22

AVOIDANCE OF DUPLICATION

Section 118 of the House amendment requires the Secretary to utilize the services, research and testing facilities of other Federal departments and agencies in carrying out his duties under this title to the maximum extent practicable in order to avoid duplication.

Section 118 of the proposed conference substitute is the same as the House amendment except that the Secretary is required to utilize the services, research and testing facilities of public agencies generally in order to avoid duplication. This change would permit the utilization of facilities of State and local governments as well as those of the Federal Government.

House Passed Act

Congressional Record—House August 17, 1966, 19673

"Sec. 118. The Secretary, in exercising the authority under this title, shall utilize the services, research and testing facilities of other Federal departments and agencies to the maximum extent practicable in order to avoid duplication.

House Debate

Contains nothing helpful.

House Committee Report

House Report 1776, Page 30

AVOIDANCE OF DUPLICATION

Section 118 of the reported bill requires the Secretary to utilize, to the maximum extent practicable in order to avoid duplication, the

services and the research and testing facilities of other Federal departments and agencies.

The committee would make it clear both in the context of this section and of title III of this bill that in using services, carrying out research and planning, and constructing testing facilities, the Secretary is not unnecessarily to duplicate services and facilities which may be available to him in carrying out his duties under this bill.

Senate Passed Act

Congressional Record—Senate June 24, 1966, 14259

Avoidance of duplication

SEC. 121. The Secretary, in exercising the authority under this Act, shall utilize the services, research and testing facilities of public agencies to the maximum extent practicable in order to avoid duplication in such facilities and services.

Senate Debate

Contains nothing helpful.

Senate Committee Report

Senate Report 1301, Page 10

AVOIDANCE OF DUPLICATION

In avoiding duplication among the facilities and services of other Federal departments and agencies, as required in section 121, the Secretary would be expected to use the existing facilities of the National Bureau of Standards and of the Public Health Service, and Bureau of Public Roads in addition to such facilities as he may establish.

Executive Communications

Contains nothing helpful.

As Introduced

As H.R. 13228 in the House and S. 3005 in the Senate:

AVOIDANCE OF DUPLICATION

SEC. 113. The Secretary, in exercising the authority under this Act, shall utilize the services, research and testing facilities of other departments and agencies to the maximum extent practicable in order to avoid duplication in facilities and services operated by the departments and agencies.

Section 119

As Enacted

SEC. 119. The Secretary is authorized to issue, amend, and revoke such rules and regulations as he deems necessary to carry out this title. Regulations. 11

Conference Report

Contains nothing helpful.

House Passed Act

Same as enacted Act.

House Debate

Contains nothing helpful.

House Committee Report

House Report 1776, Page 30

RULES AND REGULATIONS

Section 119 of the reported bill grants the Secretary the usual authority to issue, amend, and revoke such rules and regulations as he determines necessary to carry out this title.

Senate Passed Act

Congressional Record—Senate June 24, 1966, 14259

Regulations

SEC. 122. The Secretary is authorized to issue and amend such rules and regulations as he may find necessary or appropriate to carrying out the provisions of this Act.

Senate Debate

Contains nothing helpful.

Senate Committee Report

Contains nothing helpful.

Executive Communications

Contains nothing helpful.

As Introduced

As H.R. 13228 in the House and S. 3005 in the Senate:
Section 114—Same as Senate passed Act.

Section 120

As Enacted

SEC. 120. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress on March 1 of each year a comprehensive report on the administration of this Act for the preceding calendar year. Such report shall include but not be restricted to (1) a thorough statistical compilation of the accidents and injuries occurring in such year; (2) a list of Federal motor vehicle safety standards prescribed or in effect in such year; (3) the degree of observance of applicable Federal motor vehicle standards; (4) a summary of all current research grants and contracts together with a description of the problems to be considered by such grants and contracts; (5) an analysis and evaluation, including relevant policy recommendations, of research activities completed and technological progress achieved during such year; and (6) the extent to which technical information was disseminated to the scientific community and consumer-oriented information was made available to the motoring public.

Report to Congress.

(b) The report required by subsection (a) of this section shall contain such recommendations for additional legislation as the Secretary deems necessary to promote cooperation among the several States in the improvement of traffic safety and to strengthen the national traffic safety program.

11

Conference Report

Contains nothing helpful.

House Passed Act

Same as enacted Act.

House Debate

Congressional Record—House
August 18, 1966, 19932

Mr. DOWDY. Section 202 in this bill and section 120 in the one we passed yesterday provides for a report from the Secretary that is almost identical—well, I believe this bill has almost every item in it in this report as is in the one we passed yesterday.

For instance, one thing—and I am reading: "a thorough statistical compilation of the accidents and injuries occurring in such year; second, a list of Federal motor vehicle safety standards prescribed or in effect in such year; third, the degree of observance of applicable Federal motor vehicle standards—these are almost identical to the ones in this bill that we are considering today.

Mr. CRAMER. I would say to the gentleman that I do not see a duplication there in that this relates to highway safety and the other relates to automobile safety. Admittedly, there are certain aspects, one relating to automobiles and the other to highways that have similar descriptions, but I do not think there is a duplication there.

Mr. DOWDY. But there is much of it that is identical.

Mr. CRAMER. I understand that, but this only relates to highway safety and that relates to automobile safety.

House Committee Report

House Report 1776, Pages 30 and 31

REPORT TO CONGRESS

Section 120 of the reported bill requires the Secretary to make an annual report on the administration of the act on March 1 of each year. The report shall include, but is not restricted to (1) accident and injury statistics; (2) a list of Federal standards; (3) the degree of observance of the standards; (4) a summary of current research grants and contracts; (5) a review of research activities completed and technological progress achieved during the year; and (6) the extent to which technical information was disseminated to the scientific community and consumer-oriented information was made available to the motoring public. 31

In addition, the report shall contain recommendations on additional legislation to promote cooperation among the States and to strengthen the national traffic safety program.

This legislation establishes an entirely new program and the committee feels that Congress should have a continuing report as to the administration of this program as it proceeds, particularly during its formative years. We have emphasized elsewhere in this report that it is necessary to reduce drastically the deaths and injuries occurring on the Nation's highways. This section should provide Congress with more complete information on the specifics of traffic safety than is presently available. This section also requires that the Secretary submit recommendations for additional legislation. This information and these recommendations will provide the basis for future improvements in various Federal traffic safety programs.

Senate Passed Act

Same as enacted Act.

Senate Debate

Contains nothing helpful.

Senate Committee Report

Senate Report 1301, Pages 15 and 16

REPORTS AND RECOMMENDATIONS

The Secretary is required to make an annual report on the administration of the act on March 2 of each year. The report shall include, but is not restricted to—

(1) Accident and injury statistics;
(2) A list of Federal standards;
(3) The degree of observance of the standards;
(4) A summary of current research grants and contracts;
(5) A review of research activities completed and technological progress achieved during the year;
(6) The extent to which technical information was disseminated to the scientific community and consumer-oriented information was made available to the motoring public (sec. 123(a)).

In addition, the report shall contain recommendations on additional legislation to promote cooperation among the States and to strengthen the national traffic safety program (sec. 123(b)). *16*

Executive Communications

Contains nothing helpful.

As Introduced

As H.R. 13228 in the House and S. 3005 in the Senate:
Contains no comparable provision.

Section 121

As Enacted

SEC. 121. (a) There is authorized to be appropriated for the purpose of carrying out the provisions of this title, other than those related to tire safety, not to exceed $11,000,000 for fiscal year 1967, $17,000,000 for fiscal year 1968, and $23,000,000 for the fiscal year 1969. Appropriations. 11

(b) There is authorized to be appropriated for the purpose of carrying out the provisions of this title related to tire safety and title II, not to exceed $2,900,000 for fiscal year 1967, and $1,450,000 per fiscal year for the fiscal years 1968 and 1969.

Conference Report

House Report 1919, Page 22

AUTHORIZATION OF APPROPRIATIONS

Section 121(a) of the House amendment authorizes appropriations for carrying out this title (other than provisions relating to tire safety) of not to exceed $11 million for fiscal 1967, $17 million for fiscal 1968, and $23 million for fiscal 1969, and provides that funds appropriated shall remain available until expended.

Section 121(a) of the proposed conference substitute is the same as the House amendment except for the deletion of the provision that "funds appropriated under this authority shall remain available until expended".

House Passed Act

Congressional Record—House August 17, 1966, 19673

"SEC. 121. (a) There is authorized to be appropriated for the purpose of carrying out the provisions of this title, other than those related to tire safety, not to exceed $11,000,000 for fiscal year 1967, $17,000,000 for fiscal year 1968, and $23,000,000 for the fiscal year 1969, and funds appropriated under this authority shall remain available until expended.

"(b) There is authorized to be appropriated for the purpose of carrying out the provisions of this title related to tire safety and title II, not to exceed $2,900,000 for fiscal year 1967, and $1,450,000 per fiscal year for the fiscal years 1968 and 1969.

House Debate

Contains nothing helpful.

House Committee Report

House Report 1776, Page 31

AUTHORIZATION OF APPROPRIATIONS

Section 121(a) of the reported bill authorizes the appropriations to carry out this title (other than those related to tire safety). These authorizations are not to exceed $11 million for fiscal year 1967, $17 million for fiscal year 1968, and $23 million for the fiscal year 1969.

Section 121(b) of the reported bill authorizes not to exceed $2,900,000 for fiscal year 1967, and $1,450,000 for each of the fiscal years 1968 and 1969 to carry out the tire safety provisions in this title, including the requirements of title II of this bill.

The committee has increased the amounts authorized to carry out this bill over those originally requested in the introduced bill. These increases are necessary in large part because the legislation as reported now requires mandatory standards, covers all motor vehicles rather than exempting trucks, buses, and certain commercial vehicles, and will, in the not too distant future, require uniform Federal standards as to used cars. These amounts are maximum authorizations and the Secretary will have to justify his requests for funds to the appropriation committees. The committee has included a title in the reported bill specifically related to tire standards. Tires are deemed to be a significant element in the total traffic safety problem. Although they are a part of the larger problem, special study and attention will be required. Therefore the committee provides, at least for the first 3 years of the program, separate authorizations to carry out the provisions of this bill relating to tires.

Senate Passed Act

Congressional Record—Senate June 24, 1966, 14260

Appropriations authorized

SEC. 124. There is authorized to be appropriated for the purpose of carrying out the provisions of this title, not to exceed $11,000,000 for fiscal year 1967, $17,000,000 for fiscal year 1968, and $23,000,000 for the fiscal year 1969.

Senate Debate

Contains nothing helpful.

Senate Committee Report

Senate Report 1301, Page 17

The authorization for programs to be carried out under title I (sec. 124) provides for $11 million for fiscal year 1967, $17 million for fiscal year 1968 and $23 million for fiscal year 1969.

Executive Communications

Contains nothing helpful.

As Introduced

As H.R. 13228 in the House and S. 3005 in the Senate:

APPROPRIATIONS

SEC. 115. There is authorized to be appropriated, from the highway trust fund, for the purpose of carrying out the provisions of this title, not to exceed $3,000,000 for fiscal year 1967, $6,000,000 for fiscal year 1968, and $9,000,000 for each of the fiscal years 1969, 1970, 1971, and 1972 and funds appropriated under this authority shall remain available until expended.

Section 122

As Enacted

SEC. 122. The provisions of this title for certification of motor vehicles and items of motor vehicle equipment shall take effect on the effective date of the first standard actually issued under section 103 of this title. Effective date. 11

Conference Report

Contains nothing helpful.

House Passed Act

Same as enacted Act.

House Debate

Contains nothing helpful.

House Committee Report

House Report 1776, Pages 31 and 32

EFFECTIVE DATE OF CERTIFICATION

Section 122 of the reported bill provides that those provisions relating to certification of vehicles and equipment shall take effect on the effective date of the first standard actually issued under section 103.

By reason of subsection (c) of section 117 of this bill the existing standards on seat belts and hydraulic brake fluid will continue in effect as if they had been issued under section 103. Thus the provisions of the bill relating to certification would require immediate issuance of certificates on all vehicles and equipment as to these two aspects of motor vehicle safety. The committee determined that it would be impossible for manufacturers, distributors, and dealers to immediately issue these certificates and, therefore, included this section to insure that requirements of certification would take effect only when the first new standard is actually issued by the Secretary under section 103. The postponement of these certification requirements does not affect the basic requirement that these vehicles and items of equipment conform to safety standards. 32

Senate Passed Act

Contains no comparable provision.

Senate Debate

Contains nothing helpful.

Senate Committee Report

Contains nothing helpful.

Executive Communications

Contains nothing helpful.

As Introduced

As H.R. 13228 in the House and S. 3005 in the Senate: contains no comparable provision.

Sections 201—205

As Enacted

TITLE II—TIRE SAFETY

Labeling. 11

SEC. 201. In all standards for pneumatic tires established under title I of this Act, the Secretary shall require that tires subject thereto be permanently and conspicuously labeled with such safety information as he determines to be necessary to carry out the purposes of this Act. Such labeling shall include—

(1) suitable identification of the manufacturer, or in the case of a retreaded tire suitable identification of the retreader, unless the tire contains a brand name other than the name of the manufacturer in which case it shall also contain a code mark which would permit the seller of such tire to identify the manufacturer thereof to the purchaser upon his request.

(2) the composition of the material used in the ply of the tire.

(3) the actual number of plies in the tire.

(4) the maximum permissible load for the tire.

(5) a recital that the tire conforms to Federal minimum safe performance standards, except that in lieu of such recital the Secretary may prescribe an appropriate mark or symbol for use by those manufacturers or retreaders who comply with such standards.

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The Secretary may require that additional safety related information be disclosed to the purchaser of a tire at the time of sale of the tire.

SEC. 202. In standards established under title I of this Act the Secretary shall require that each motor vehicle be equipped by the manufacturer or by the purchaser thereof at the time of the first purchase thereof in good faith for purposes other than resale with tires which meet the maximum permissible load standards when such vehicle is fully loaded with the maximum number of passengers it is designed to carry and a reasonable amount of luggage.

Tire standards.

SEC. 203. In order to assist the consumer to make an informed choice in the purchase of motor vehicle tires, within two years after the enactment of this title, the Secretary shall, through standards established under title I of this Act, prescribe by order, and publish in the Federal Register, a uniform quality grading system for motor vehicle tires. Such order shall specify the date such system is to take effect which shall not be sooner than one hundred and eighty days or later than one year from the date such order is issued, unless the Secretary finds, for good cause shown, that an earlier or later effective date is in the public interest, and publishes his reasons for such finding. The Secretary shall also cooperate with industry and the Federal Trade Commission to the maximum extent practicable in efforts to eliminate deceptive and confusing tire nomenclature and marketing practices.

Publication in Federal Register.

SEC. 204. (a) No person shall sell, offer for sale, or introduce for sale or deliver for introduction in interstate commerce, any tire or motor vehicle equipped with any tire which has been regrooved, except that the Secretary may by order permit the sale of regrooved tires and motor vehicles equipped with regrooved tires which he finds are designed and constructed in a manner consistent with the purposes of this Act.

(b) Violations of this section shall be subject to civil penalties and injunction in accordance with sections 109 and 110 of this Act.

"Regrooved tire."

(c) For the purposes of this section the term "regrooved tire" means a tire on which a new tread has been produced by cutting into the tread of a worn tire.

SEC. 205. In the event of any conflict between the requirements of orders or regulations issued by the Secretary under this title and title I of this Act applicable to motor vehicle tires and orders or adminis-

trative interpretations issued by the Federal Trade Commission, the provisions of orders or regulations issued by the Secretary shall prevail.

Conference Report

House Report 1919, Pages 22 and 23

GRADING SYSTEM FOR TIRES

Section 203 of the House amendment requires the Secretary, through standards established under title I, to prescribe a uniform quality grading system for motor vehicle tires. This system is to take effect no sooner than 180 days nor later than one year from the date the order is issued. The Secretary is required to cooperate with industry and the Federal Trade Commission to the maximum extent practicable in efforts to eliminate deceptive and confusing tire 23
nomenclature and marketing practices.

Section 203 of the proposed conference substitute is the same as the House amendment with the exception that the minimum and maximum effective dates are permitted to be lengthened or shortened in the same manner as provided in section 103(c) for all other safety standards.

REGROOVED TIRES

Section 204 of the proposed conference substitute prohibits any person from selling, offering for sale, or introducing for sale or delivering for introduction in interstate commerce any tire, or any motor vehicle equipped with any tire, which has been regrooved. The Secretary may, by order, however, permit the sale of regrooved tires and vehicles equipped with such tires if he finds they are designed and constructed in a manner consistent with the purposes of this act. Violations of this section are to be subject to the same civil penalties and injunction procedures as are provided in sections 109 and 110 of this act. The term "regrooved tire" is defined to mean one on which a new tread has been produced by cutting into the tread of a worn tire.

The House amendment contains no comparable provision.

AGENCY CONFLICTS

Section 205 of the proposed conference substitute provides that in the event of any conflict between orders or regulations issued by the Secretary under this act which are applicable to motor vehicle tires, and orders or administrative interpretations issued by the Federal Trade Commission, the provisions of the orders or regulations issued by the Secretary shall prevail.

The House amendment contained no comparable provision.

House Passed Act

Congressional Record—House
August 17, 1966, 19673

"TITLE II—TIRE SAFETY

"SEC. 201. In all standards for pneumatic tires established under title I of this Act, the Secretary shall require that tires subject thereto be permanently and conspicuously labeled with such safety information as he determines to be necessary to carry out the purposes of this Act. Such labeling shall include—

"(1) suitable identification of the manufacturer, or in the case of a retreaded tire suitable identification of the retreader, unless the tire contains a brand name other than the name of the manufacturer in which case it shall also contain a code mark which would permit the seller of such tire to identify the manufacturer thereof to the purchaser upon his request.

"(2) the composition of the material used in the ply of the tire.

"(3) the actual number of plies in the tire.

"(4) the maximum permissible load for the tire.

"(5) a recital that the tire conforms to Federal minimum safe performance standards, except that in lieu of such recital the Secretary may prescribe an appropriate mark or symbol for use by those manufacturers or retreaders who comply with such standards. The Secretary may require that additional safety related information be disclosed to the purchaser of a tire at the time of sale of the tire.

"SEC. 202. In standards established under title I of this Act the Secretary shall require that each motor vehicle be equipped by the manufacturer or by the purchaser thereof at the time of the first purchase thereof in good faith for purposes other than resale with tires which meet the maximum permissible load standards when such vehicle is fully loaded with the maximum number of passengers it is designed to carry and a reasonable amount of luggage.

"SEC. 203. In order to assist the consumer to make an informed choice in the purchase of motor vehicle tires, within two years after the enactment of this title, the Secretary shall, through standards established under title I of this Act, prescribe by order, and publish in the Federal Register, a uniform quality grading system for motor vehicle tires. Such order shall specify the date such system is to take effect which shall not be sooner than one hundred and eighty days or later than one year from the date such order is issued. The Secretary shall also cooperate with industry and the Federal Trade Commission to the maximum extent practicable in efforts to eliminate deceptive and confusing tire nomenclature and marketing practices.

House Debate

Congressional Record—House
August 17, 1966, 19626

Mr. QUILLEN.

Tire safety is dealt with in title II of the bill. A safety label is required for each tire giving pertinent information. Standards are to be established, under the authority granted the Secretary in title I. This title will require that "original equipment tires, or deluxe tires," et cetera, mean the same thing for each manufacturer so that the customer can more readily determine comparative values.

Congressional Record—House
August 17, 1966, 19631

Mr. SPRINGER.

Obviously, the most important piece of equipment which comes to mind is the tire. The other body treated this subject in separate legislation, but it seems to me, and it did to our committee, that tire standards must be part and parcel of any legislation which seeks to impose standards of safety for the cars on the highway. Consequently, a portion of the bill was devoted specifically to this subject. It requires minimum standards for all tires, and then sees to it that the buyer will have all the information he needs to make a decision as to the tire he needs. He will know who makes the tire, the number of plies and the maximum load it should carry. Also, there will be a uniform grading system established.

Equally important to informing the buyer of replacement tires, is the requirement that the original equipment tires be adequate for the purposes the vehicle is designed to be used for. For example, a manufacturer must put strong enough tires on a nine passenger station wagon to hold the weight of nine passengers plus a reasonable amount of luggage. If all of the standards for the vehicle, plus adequate tires, make such a wagon ride like a truck, then there has been something terribly wrong with wagons up to now. Probably this will not happen. In any event, this bill should afford great additional protection to the car buyer when he makes the purchase and when he replaces the original tires with new ones.

Congressional Record—House
August 17, 1966, 19639

Mr. MOSS. I should like to ask the chairman a question. Because tire manufacturing and retreading processes involve different techniques, I should like to ask the chairman whether the Secretary would have authority under this bill to establish safety standards for retreaded tires in the form of minimum safe procedures for retreading tires?

Mr. STAGGERS. I would like to call the gentleman's attention to the language on page 32 of the report, which states that in establishing standards for tires, the Secretary will have to consider the distinction between new tires and retreads. The National Bureau of Standards has informed the committee that it is not now feasible to test retread tires for performance in the manner in which the performance of new tires is tested. The committee report recognizes the existence of these technical problems. The usefulness of retread tires has been well established for various purposes, and standards can be developed which will insure safety to the public. The Secretary certainly would be empowered to do so under the bill.

Congressional Record—House
August 17, 1966, 19647

Mr. GIAIMO. Mr. Chairman, I rise in support of this legislation. I should like to commend the chairman of the committee and the committee for presenting it to the House. I believe it is legislation which is much needed and necessary.

I take this time to ask a question of the chairman or of the committee concerning section 201, which deals with tire safety. In my district we have a major tire manufacturer which manufactures tires and, in addition, makes brand name

tires for a major distributor and merchandiser. Actually, it makes tires for Sears. These tires are sold under the Sears name.

As I understand the legislation, section 201 provides:

Suitable identification of the manufacturer, * * * unless the tire contains a brand name other than the name of the manufacturer in which case it shall also contain a code mark which would permit the seller of such tire to identify the manufacturer thereof to the purchaser upon his request.

Do I correctly understand that under this legislation the manufacturer of the tire could still manufacture the tire, which would carry the Sears trade name, and in addition to that would have some sort of identifying mark of the manufacturer?

Mr. STAGGERS. You are correct.

Mr. GIAIMO. But that it will not have the manufacturer's name on it. Is that correct?

Mr. STAGGERS. That is correct.

Mr. GIAIMO. So in this case such manufacturers will be protected?

Mr. STAGGERS. That is true.

Congressional Record—House August 17, 1966, 19651

Mr. HORTON.

As one who introduced the Tire Safety Act, H.R. 11891, on the first day of this session of Congress, I am proud that the major provisions of this bill have been incorporated into the measure now before us as title II. During my testimony before the House Committee on Interstate and Foreign Commerce, I said:

With ever more traffic on our high speed Interstate Highway System and other major arterial roads, the need becomes more urgent by the hour for standards which will assure every motorist that his tires will in fact be safe under all driving conditions.

I have brought the need for tire and auto safety legislation before my constituents on many occasions. On March 2, the day President Johnson sent his traffic safety message to Congress, I shared his message with my constituents in the following statement:

[From the office of Congressman FRANK HORTON, Mar. 2, 1966]

PRESIDENT'S TRANSPORTATION MESSAGE TO CONGRESS SUPPORTS HORTON BILL ON TIRE SAFETY

I am pleased to report that in today's White House Message on Transportation, the President specifically endorsed part of my own legislative program, the Tire Safety Act of 1966. My bill would establish Federal safety standards for all motor vehicle tires sold or shipped in interstate commerce.

The President's Message said, in part, that "Most tires sold to American drivers are produced and properly tested by reputable companies. Nevertheless, evidence has shown that increasing numbers of inferior tires are being sold to unwitting customers throughout the country. The dangers such tires hold for high-speed automobiles and their occupants is obvious." The White House endorsement includes a plea for prompt passage of this legislation.

In addition to the important support of the Administration for the Tire Safety Act, my bill has also received enthusiastic support from the American Automobile Association and the American Trial Lawyers Association. With such widespread recognition of the need for tire safety standards, I hope that I can soon report the enactment of this bill by Congress.

On April 22, after our spring recess, I again sought constituent support for tire safety legislation in the following message:

[From the office of Congressman FRANK HORTON]

TEXT OF REMARKS PREPARED FOR BROADCAST OVER TOM DECKER'S NEWS PROGRAM ON WROC-TV (CHANNEL 8) ROCHESTER, N.Y., FRIDAY, APRIL 22, 1966

Thanks, Tom.

Congress came back into session this week, following its Easter recess, and the calendar of legislation still to be considered is crowded. Many major items await debate and decision before the 89th Congress can adjourn.

The newsletter that now is in the mail to all my 36th District constituents will highlight both what has been done this year and what remains.

There is one item that I hope the House of Representatives will soon take up and pass. It is the Tire Safety Act. Already

passed unanimously by the Senate, this measure will set national tire standards for the protection of all tire buyers.

Tom, I am proud to be the sponsor of a tire safety bill and happy to note that my bill already has been endorsed by the Rochester Auto Club as well as the national Triple-A.

Auto safety legislation could be one of the hallmarks of this Congress, and I am doing all possible to speed the passage of the Horton Tire Safety bill as a major part of this safety package.

Congressional Record—House
August 31, 1966, 21349

Mr. STAGGERS.

TIRE SAFETY

The House version contained a separate and specific title directed to tire safety standards. The Senate version made no mention of tires although passenger car and station wagon tires had been dealt with in a separate bill. The managers for the Senate accepted the House version.

Congressional Record—House
August 31, 1966, 21350

Mr. SPRINGER. Mr. Speaker, there were four substantive differences between the Senate version of auto safety and that which was considered by our committee and passed by this House. Of those four differences three were accepted almost entirely intact by the Senate conferees.

The first of these was the incorporation in the auto safety bill of provisions dealing with tire safety and including a uniform grading system. While it is true that S. 2669 dealt with the problems of tire safety and in general terms covered the same ground as the House amendments, it was the conviction of our committee, as confirmed by this body, that tire safety legislation belonged properly as part and parcel of auto safety. We felt then, and still do, that the tire safety provisions of H.R. 13228 were particularly well considered and worthy of adoption, and I am happy to report that they were accepted.

House Committee Report

House Report 1776, Pages 32 and 33

Title II—Tire Safety

SAFETY INFORMATION

Section 201 of the reported bill requires the Secretary in establishing his standards for pneumatic tires under title I to require that tires subject thereto be permanently and conspicuously labeled with such safety information as he determines necessary to carry out the purposes of the act. This labeling is to include—

(1) Suitable identification of the manufacturer or retreader (unless the tire contains a brand name other than the name of the manufacturer) in which case the tire is required to contain

a code mark which would permit the seller of the tire to identify to the purchaser, upon his request, the manufacturer of the tire;

(2) Composition of the material used in the ply;

(3) The actual number of plies;

(4) The maximum permissible load for the tire; and

(5) A recital that the tire conforms to Federal safety standards, except that in lieu thereof the Secretary may prescribe a mark or symbol to be used indicating such conformance.

The section also permits the Secretary to require additional safety information be disclosed to the purchaser of the tire at the time he buys it.

In a number of bills which have been introduced in both Houses as well as in a bill which has passed the Senate (S. 2669) the necessity for standards for tires was considered as an independent problem and without reference to its relationship to the total traffic safety problem. S. 2669 is confined only to the improvement of tires for passenger cars and station wagons. The committee decided that although tires are a highly important part of the total traffic safety problem they are, nevertheless, an integral part of it and should be dealt with in the context of the total problem and not in a piecemeal fashion. Therefore it is neither necessary nor desirable to grant separate authority for the establishment of standards for this one item of motor vehicle equipment when the Secretary has full authority to issue standards as to tires (as well as any other item of motor vehicle equipment) under title I of the reported bill. However the committee did feel that it was necessary to emphasize this aspect of the safety problem and to establish certain specific requirements which should be contained in the Secretary's standards on tires. These requirements are set forth in section 201, and deal only with information to be given to consumers. The Secretary's authority to establish standards as to tire performance is contained in title I, and in establishing these standards he will have to consider distinctions between new tires and retreads.

TIRES ON NEW VEHICLES

Section 202 of the reported bill requires the Secretary to establish standards under title I to require that each motor vehicle be equipped (either by the manufacturer or the purchaser) at the time of the first 33
purchase for purposes other than resale, with tires which will meet the maximum permissible load standards when the vehicle is fully loaded with the maximum number of passengers it is designed to carry and a reasonable amount of luggage.

The committee was advised that a number of new vehicles, particularly station wagons, have been equipped with tires which were less than adequate to meet the loads which such vehicles are designed and expected to carry. This section prevents that practice. At present, it is possible to purchase vehicles from manufacturers without tires or with the type and size of tire specified by the purchaser. The committee does not intend that the Secretary alter this possibility, except that the standards of the Secretary should insure that tires on a particular vehicle be adequate to safely carry the weight of the vehicle

together with the maximum number of passengers that the vehicle is designed to carry, together with a reasonable amount of luggage. Therefore, section 202 requires either the manufacturer or the purchaser to equip the vehicle with tires which at their recommended pressures meet such maximum permissible load standards.

UNIFORM QUALITY GRADING SYSTEM

Section 203 of the reported bill requires the Secretary to prescribe a uniform quality grading system for motor vehicle tires within 2 years of the date of enactment of this title. The order establishing this system is to take effect 180 days after the date of its publication. The Secretary is further required to cooperate with industry and the Federal Trade Commission to eliminate deceptive and confusing tire nomenclature and marketing practices.

In the course of the hearings and in discussions in executive session it became clear to the committee that the user's and consumer's confusion as to the quality of tires is a problem of great magnitude. Although some have argued that quality grading is solely an economic problem, the committee is satisfied this is not so and that it has a direct relationship to safety. Standards as to grading are necessary to assure safety. Grading standards, as well as any other tire standards related to safety, are within the scope of the authority of the Secretary under title I of the bill. The Secretary has a maximum of 2 years to establish a uniform quality grading system. With the cooperation of industry it is hoped that the formulation of this grading system will be undertaken immediately and that it will be established promptly.

Senate Passed Act

Contains no comparable provision.

Senate Debate

Contains nothing helpful.

Senate Committee Report

Contains nothing helpful.

Executive Communications

Contains nothing helpful.

As Introduced

As H.R. 13228 in the House and S. 3005 in the Senate: contains no comparable provision.

Sections 301—303

As Enacted

TITLE III—ACCIDENT AND INJURY RESEARCH AND TEST FACILITY

SEC. 301. The Secretary of Commerce is hereby authorized to make a complete investigation and study of the need for a facility or facilities to conduct research, development, and testing in traffic safety (including but not limited to motor vehicle and highway safety) authorized by law, and research, development, and testing relating to the safety of machinery used on highways or in connection with the maintenance of highways (with particular emphasis on tractor safety) as he deems appropriate and necessary.

SEC. 302. The Secretary shall report the results of his investigation and study to Congress not later than December 31, 1967. Such report shall include but not be limited to (1) an inventory of existing capabilities, equipment, and facilities, either publicly or privately owned or operated, which could be made available for use by the Secretary in carrying out the safety research, development, and testing referred to in section 301, (2) recommendations as to the site or sites for any recommended facility or facilities, (3) preliminary plans, specifications, and drawings for such recommended facility or facilities (including major research, development, and testing equipment), and (4) the estimated cost of the recommended sites, facilities, and equipment.

Report to Congress.

SEC. 303. There is hereby authorized to be appropriated not to exceed $3,000,000 for the investigation, study, and report authorized by this title. Any funds so appropriated shall remain available until expended.

Appropriation.

Conference Report

House Report 1919, Page 23

RESEARCH AND TEST FACILITY

Section 301 of the House amendment authorizes the Secretary of Commerce to make a complete investigation and study of the need for a facility or facilities to conduct research, development, and testing (A) in traffic safety and (B) relating to the safety of agricultural machinery used on highways or in connection with the maintenance of highways (with particular emphasis on tractor safety) as he deems appropriate and necessary.

Section 301 of the proposed conference substitute is the same as the House amendment except for the deletion of the word "agricultural". Thus, *all* machinery used on highways or in connection with the maintenance of highways may be subject to research, development, and testing.

House Passed Act

Congressional Record—House
August 17, 1966, 19673

"TITLE III—ACCIDENT AND INJURY RESEARCH AND TEST FACILITY

"SEC. 301. The Secretary of Commerce is hereby authorized to make a complete investigation and study of the need for a facility or facilities to conduct research, development, and testing in traffic safety (including but not limited to motor vehicle and highway safety) authorized by law, and research, development, and testing relating to the safety of agricultural machinery used on highways or in connection with the maintenance of highways (with particular emphasis on tractor safety) as he deems appropriate and necessary.

"SEC. 302. The Secretary shall report the results of his investigation and study to Congress not later than December 31, 1967. Such report shall include but not be limited to (1) an inventory of existing capabilities, equipment, and facilities, either publicly or privately owned or operated, which could be made available for use by the Secretary in carrying out the safety research, development, and testing referred to in section 301, (2) recommendations as to the site or sites for any recommended facility or facilities, (3) preliminary plans, specifications, and drawings for such recommended facility or facilities (including major research, development, and testing equipment), and (4) the estimated cost of the recommended sites, facilities, and equipment.

"SEC. 303. There is hereby authorized to be appropriated not to exceed $3,000,000 for the investigation, study, and report authorized by this title. Any funds so appropriated shall remain available until expended.

House Debate

Congressional Record—House
August 17, 1966, 19634 and 19635

Mr. TAYLOR. Mr. Chairman, does the bill give the Secretary authority to standardize operation control equipment on different kinds of new automobiles if safety performance is affected?

Mr. MACKAY. Yes, it does. The gentleman from Florida [Mr. ROGERS] presented an excellent amendment to provide an advisory council that will bring in all the interested parties—State and local officials, automotive industry and equipment people—to participate in the formulation of those standards.

Mr. TAYLOR. Mr. Chairman, will the gentleman yield further?

19635 Mr. MACKAY. I yield to the gentleman from North Carolina.

Mr. TAYLOR. For instance, I drive a car made by General Motors. My wife drives a car made by Ford Motor Co. The gearshift on one is just the opposite from the other. It is difficult for me to drive her car in traffic when quick, automatic action is needed. The differences in gearshifts add to the hazards of driving and could cause an accident. I am of the opinion that operating features on new cars, such as gearshifts, should be standardized.

Mr. MACKAY. I thank the gentleman from North Carolina. That is a good illustration of the type of safety hazard we are trying to get at.

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Mr. MACKAY. I thank the gentleman from California. Recognition is also due Senator Speno of New York and former Congressman Kenneth Roberts of Alabama for their contributions.

I believe we can see that the argument has been won that the time has arrived when national safety performance standards should be established and enforced. No one is seriously contending that in respect to standards for motor vehicle safety that we can function at any level effectively other than the national level.

Second, a new Federal role is our provision for comprehensive research. The great scandal revealed by our committee is that the Government has failed to collect the data needed and on which

we can base judgments as to the causes of deaths, accidents, and injuries. Congress shares the blame because we have not heretofore explicitly assigned this responsibility to any department.

We know that one of the first results will be this: We are going to begin vigorous comprehensive research so that we can make our counterattack at the right points.

House Committee Report

House Report 1776, Pages 33 and 34

Title III—Accident and Injury Research and Test Facility

Section 301 of the reported bill authorizes the Secretary of Commerce to make a complete investigation and study of the need for a facility or facilities to conduct research, development, and testing in traffic safety, including but not limited to motor vehicle and highway safety, authorized by law, and research, development, and testing relating to the safety of agricultural machinery used on highways or in connection with the maintenance of highways (with particular emphasis on tractor safety) as he deems appropriate and necessary.

Section 302 requires the Secretary to report the results of this study to Congress by December 31, 1967. This report is required to include (1) an inventory of existing capabilities, equipment, and facilities which could be used by the Secretary in carrying out this research, development, and testing; (2) recommendations for sites; (3) preliminary plans, specifications, and drawings; and (4) estimated cost of the recommended sites, facilities, and equipment. 34

Section 303 authorizes the appropriation of not to exceed $3 million for this investigation, study, and report.

The introduced bill included both an authorization of $3 million for planning and unlimited authorization for the construction of research and test facilities. The committee has limited this title to a planning program. It does not question that facilities in addition to those in existence may be needed but it does believe that both public and private existing facilities should first be considered. The provisions of this title will allow a full investigation and report and evaluation by both the Secretary and Congress before entering into a new construction program.

Senate Passed Act

Congressional Record—Senate
June 24, 1966, 14260

TITLE II—TRAFFIC ACCIDENT AND INJURY RESEARCH AND TEST FACILITY

Authorization for research and testing facility

SEC. 201. The Secretary of Commerce is hereby authorized, acting independently or in cooperation with other Federal departments or agencies, to plan, design, construct, acquire, maintain, and operate a facility or facilities, within the District of Columbia or elsewhere, in which to conduct so much of the research, development, testing and evaluation provided for by this Act, and other research, development, and testing in traffic safety authorized by law, as he may deem appropriate and necessary.

Planning appropriations authorized

SEC. 202. There is hereby authorized to be appropriated not to exceed $2,000,000 for the planning of the facility or facilities authorized by section 201 of this Act, including necessary feasibility studies.

Limitations on appropriations for construction

SEC. 203. (a) No appropriation shall be made to construct, acquire, or alter any facility pursuant to section 201 involving an expenditure in excess of $100,000 if such construction, acquisition, or alteration has not been approved by resolutions adopted by the Committee on Commerce of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives, and such approval has not been rescinded as provided in subsection (c) of this section. For the purpose of securing consideration of such approval, the Secretary shall transmit to Congress a prospectus of the proposed project, including (but not limited to)—

(1) a brief description of the building or facility to be constructed, acquired, or altered under this title;

(2) the location of the project, and an estimate of the maximum cost of the project;

(3) statement by the Secretary that suitable space owned by the Government is not available and that suitable facilities are not available for acquisition or on a fee or rental basis at a price commensurate with that to be afforded through the proposed action; and

(4) a statement by the Secretary of the number of persons expected to be employed at the building or facility and an estimate of its annual operating cost.

(b) The estimated maximum cost of any project approved under this section as set forth in any prospectus may be increased by an amount equal to the percentage increase, if any, as determined by the Secretary in consultation with the Administrator of the General Services Administration, in construction, production, or alteration costs, as the case may be, from the date of transmittal of such prospectus to Congress, but in no event shall the increase authorized by this subsection exceed 10 per centum of such estimated maximum costs.

(c) In the case of any project approved for construction, acquisition, or alteration by the Committee on Commerce of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives, in accordance with subsection (a) of this section, for which an appropriation has not been made within one year after the date of such approval, either the Committee on Commerce of the Senate or the Committee on Interstate and Foreign Commerce of the House of Representatives may rescind, by resolution, its approval of such project at any time thereafter before such an appropriation has been made.

Senate Debate

Contains nothing helpful.

Senate Committee Report

Senate Report 1301, Pages 16, 17 and 18

TRAFFIC ACCIDENT AND INJURY RESEARCH AND TEST FACILITY

The Federal Government does not presently have an adequate research capability to meet the responsibilities which it would assume under this act. Its capability is inadequate both with respect to research facilities capable of single types of tests or test on single components, as in the National Bureau of Standards, or Department of Defense test tracks for military purposes, there is no test track where Federal scientists and engineers can make even the most elementary operational tests on vehicles, let alone conduct full-scale research on motor vehicles and the highway from a safety point of view. The Bureau of Public Roads has been forced to resort to testing on sections of highways and airport landing strips before these were open for public use.

In testing automobile odometers recently, the National Bureau of Standards had to use the public highways. There is no Federal facility or laboratory equipped and capable of testing the interaction of the vehicle interior and interior equipment with the occupants or a vehicle in the investigation of the "second collision," the impact of the occupant with the vehicle.

Test facilities in industry are considerable, but are used primarily in connection with product development in which vehicle and passenger safety is only one of the elements considered. Results are proprietary and, for competitive reasons, are not generally available. Furthermore, manufacturers' facilities hardly seem the appropriate place for the Government to conduct its research and testing on vehicle safety performance standards as well as other aspects of highway safety.

Laboratory facilities are needed where the Government itself can conduct systematic scientific research and evaluation of all safety performance characteristics of motor vehicles and motor vehicle components. The facilities must be suitably equipped and staffed to evaluate standards already in effect, as well as proposed deletions, changes, or additions of wholly new standards. Facilities are required to carry out these responsibilities.

In addition to research, development, and testing related to motor vehicle performance standards, these laboratory facilities are needed for studying improved geometric design of highways for increased safety, improved paving materials that reduce dangerous skidding especially in winter driving, better traffic control devices that reduce the chance of accident-producing driver errors, improved highway lighting for increasing night visibility, and finally the wide range of problems associated with driver performance and skills. Clearly, proper performance standards for vehicles and design criteria for the highway network can only be realized by taking into account the physical and psychological capabilities of drivers.

In short, some type of Federal facility is needed where the Government can conduct systematic controlled research, development, and test activities related to all aspects of traffic safety. Title II would authorize a study of the needed facility or facilities and the planning, designing, and construction of such facilities. It would authorize appropriations of $3 million from the highway trust fund for planning and feasibility studies, and so much as is needed for construction subject to later congressional approval of appropriations requested. 17

For the traffic accident and injury research and test facility authorized by title II, the committee bill would authorize $2 million for planning, including necessary feasibility studies. Before any appropriation can be made for construction of the facility in excess of $100,000, the Secretary must submit a prospectus of the proposed project to Congress and obtain approving resolutions from the Committee on Commerce of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives. 18

Executive Communications

Contains nothing helpful.

As Introduced

As H.R. 13228 in the House and S. 3005 in the Senate:

TITLE II—TRAFFIC ACCIDENT AND INJURY RESEARCH AND TEST FACILITY 21

SEC. 201. The Secretary of Transportation is hereby authorized, acting independently or in cooperation with other Federal departments or agencies, to plan, design, construct, maintain, and operate a facility or facilities, within the District of Columbia or elsewhere, in which to conduct so much of the research, development, and testing provided for by this Act, and other research, development, and testing in traffic safety authorized by law, as he may deem appropriate

and necessary.

SEC. 202. There is hereby authorized to be appropriated, out of the highway trust fund, not to exceed $3,000,000 for the planning of the facility or facilities authorized by section 201 of this Act, including necessary feasibility studies. Any funds so appropriated shall remain available until expended.

SEC. 203. There is hereby authorized to be appropriated, out of the highway trust fund, so much as may be necessary for the construction of the facility or facilities authorized by section 201 of this Act. Any funds so appropriated shall remain available until expended.

Section 401

As Enacted

TITLE IV—NATIONAL DRIVER REGISTER 13

SEC. 401. The Act entitled "An Act to provide for a register in the Department of Commerce in which shall be listed the names of certain persons who have had their motor vehicle operator's licenses revoked", approved July 14, 1960, as amended (74 Stat. 526; 23 U.S.C. 313 note), is hereby amended to read as follows: "That the Secretary of Commerce shall establish and maintain a register identifying each individual reported to him by a State, or political subdivision thereof, as an individual with respect to whom such State or political subdivision has denied, terminated, or temporarily withdrawn (except a withdrawal for less thn six months based on a series of nonmoving violations) an individual's license or privilege to operate a motor vehicle.

"SEC. 2. Only at the request of a State, a political subdivision thereof, or a Federal department or agency, shall the Secretary furnish information contained in the register established under the first section of this Act, and such information shall be furnished only to the requesting party and only with respect to an individual applicant for a motor vehicle operator's license or permit.

"SEC. 3. As used in this Act, the term 'State' includes each of the several States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Virgin Islands, the Canal Zone, and American Samoa."

Conference Report

Contains nothing helpful.

House Passed Act

Same as enacted Act.

House Debate

Congressional Record—House
August 17, 1966, 19653

Mr. GIBBONS.

In addition, the National Traffic and Motor Vehicle Safety Act of 1966 will greatly expand the existing National Drivers Register. It will include the names of all those anywhere in the country who have been denied, for one reason or another, a license or had his license revoked or suspended. It is too easy for those who should not have the privilege of driving to obtain a license in another jurisdiction once they have been denied that privilege in their own.

This legislation does a great deal more. It is a logical step following other acts taken by the Congress of the United States to increase the safety of Americans on the highway.

I strongly support passage of the National Traffic and Motor Vehicle Safety Act of 1966. It is needed now.

Mr. SICKLES.

Another feature of the Traffic Safety Act sets safety standards for automobile tires to insure that they will be capable of performing under the demands that will be placed on them. Finally, the legislation establishes a National Driver Register as an aid to more effective enforcement of bans against unqualified drivers. Anyone who has had his license revoked or been refused a license will have his name so recorded in this register. This will make it easier for any jurisdiction to check the background of a driver applying for a license.

Congressional Record—House
August 17, 1966, 19664

AMENDMENT OFFERED BY MR. MOSS

Mr. MOSS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Moss: On page 59, line 1, after "State" insert "a political subdivision thereof".

Mr. MOSS. Mr. Chairman, again I do not believe this is controversial. It makes it quite clear that a district attorney or a city prosecutor could seek information from the drivers license registry maintained by the Department of Commerce. The present language is rather confused. It states "at the request of a State." It does not say who in the State makes the request. It is not clear at all whether a district attorney, a county or, as I say, a city prosecutor could forward a request and have it responded to. I have discussed this also with the distinguished gentleman from Illinois and with the chairman of the committee, and I believe it is also noncontroversial.

Mr. SPRINGER. Mr. Chairman, we have no objection.

Mr. STAGGERS. We have no objection to it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. Moss].

The amendment was agreed to.

House Committee Report

House Report 1776, Page 34

Title IV—National Driver Register

Section 401 of the reported bill is a complete revision of the act of July 14, 1960 (23 U.S.C. 313 note).

The first section of this revision authorizes the Secretary of Commerce to establish and maintain a register identifying each individual reported to him by a State or political subdivision thereof as one with respect to whom such State or political subdivision has denied, terminated, or temporarily withdrawn (except a withdrawal for less than six months based on a series of nonmoving violations) an individual's license or privilege to operate a motor vehicle.

Section 2 of the revision requires the Secretary, but only at the request of the State or Federal department or agency, to furnish information contained in the register, except that such information is to be furnished only to the requesting party and only with respect to an individual applicant for a motor vehicle operator's license or permit.

The third section of the revision is a definition of the term "State" to include not only the States, but the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Virgin Islands, the Canal Zone, and American Samoa.

The revision of the driver register service in this title will strengthen and expand it to include identification of any individual whose license has been denied, revoked, or suspended, except for suspensions for less than 6 months based on nonmoving violations. The Secretary is given the authority to include in the register any class of denials, revocations, or suspension that is sufficiently common among the States to make the information mutually useful. The committee has been informed that the present driver register service processes some 45,000 daily inquiries. No doubt under the revision proposed these inquiries will increase. The committee considered the question of whether or not political subdivisions of States and officials thereof should be free to make inquiries to gain information from the national driver register and determine that this provision should not be so extended because in the first instance an official in a political subdivision can consult his own State department of motor vehicles and if appropriate the information requested could be transmitted on to the Federal Government by the State.

Senate Passed Act

Congressional Record—Senate June 24, 1966. 14260

TITLE III—HIGHWAY SAFETY

National driver register

SEC. 301. Title 23, United States Code, is hereby amended by adding at the end thereof a new section:

"§ 321. National driver register service

"(a) The Secretary shall establish and maintain a register containing the name of each individual reported to him by a State, or political subdivision thereof, as an individual with respect to whom such State or political subdivision has denied, terminated, or temporarily withdrawn (except a withdrawal for less than ninety days based on habitual violation) an individual's license or privilege to operate a motor vehicle. Such register shall also contain such other information as the Secretary may deem appropriate to carry out the purposes of this section.

"(b) The Secretary shall, at the request of any State, or political subdivision thereof, or at the request of any Federal department or agency, furnish such information as may be contained in the register established under subsection (a) with respect to any individual applicant for a motor vehicle operator's license or permit.

"(c) As used in this section, the term 'State' includes each of the several States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Virgin Islands, the Canal Zone and American Samoa."

Technical amendments

SEC. 302. (a) The Act of July 14, 1960 (74 Stat. 526), as amended by the Act of October 4, 1961 (75 Stat. 779), is hereby repealed.

(b) The analysis of chapter 3 of title 23, United States Code, is amended by adding at the end thereof:

"321. National Driver Register Service."

Senate Debate

Congressional Record—Senate
June 24, 1966, 14237

Mr. CASE. Mr. President, I appreciate deeply the courtesy accorded me by the Senator from New Hampshire and the Senator from Washington.

I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 64, line 14, strike out "six months" and insert "ninety days."

Mr. CASE. Under the bill, the Driver Register Service would be broadened to permit the Register to list the names of additional categories of problem drivers whose licenses have been either revoked or suspended. However, there would be one exception. The exception would exempt from coverage those motorists who are deprived of their driving privileges for 6 months or less because of habitual violation. The bulk of those in this category, I am told, would be individuals whose licenses would be taken away under a State point system.

My amendment is designed to bring more of these bad drivers within the coverage of the Register, and thereby help improve highway safety. It would accomplish this by reducing the 6-month exception in S. 3005 to 90 days.

While I would have preferred a 30-day limitation, and previously introduced a bill to this effect, I believe 90 days—as opposed to 6 months—is a step in the right direction, and will make more effective the new role we are carving out for the National Driver Register Service.

Mr. MAGNUSON. Mr. President, if the Senator from New Hampshire will agree with me, I believe we can accept the amendment.

The committee decided upon a period of 6 months because it felt that that was a proper time. However, the State of New Jersey should be complimented. The State of New Jersey has some good, stringent traffic laws, including a 3-month provision. I do not believe the bill will be harmed by containing a 3-month provision. Such a provision might encourage some States to follow suit.

This is another part of the traffic safety problem that the Committee on Commerce dealt with about 2 years ago. The committee began a driver registration clearinghouse in Washington, D.C.,—a sort of traffic FBI for drivers who move from one State to another. The States were asked to take advantage of this, and 50 States did so. At the present time, 40,000 inquiries a day are being received.

The desire is to make the bill more workable, and the 3-month provision will not hurt it at all. It might make the bill better.

I am glad to accept the amendment.

Mr. CASE. I thank the Senator from Washington. He is the parent and I am the coparent of this Driver Registration Service, in a sense; and I believe the joint paternity in this case is working well.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Jersey.

The amendment was agreed to.

Mr. COTTON. I join the chairman of the committee, the Senator from Washington, in saying to the Senator from New Jersey, that this amendment makes a distinct improvement to the bill.

Senate Committee Report

Senate Report 1301, Page 17

THE NATIONAL DRIVER REGISTER SERVICE

The proposed section 404 of title 23, United States Code, would codify and amend the National Driver Register legislation. The National Driver Register Service is now maintained in the Department

of Commerce as a voluntary driver records exchange program participated in by all States, the District of Columbia, and four territories.

The service permits the States to report to the Secretary on drivers who have had their driving privileges suspended or revoked because of a conviction involving a fatal accident or drunken driving, and to have access to such information centrally filed by all of the States.

This service permits the States to prevent drivers who have lost their licenses in one State from nullifying the effectiveness of a State's laws by securing a license in another State without revealing their driving records.

Since 1961, this State-Federal voluntary driver records exchange program has developed to the point where today, on the average, over 44,000 inquiries are sent to the Register by the States each day. The Register mails positive replies to these inquiries within 24 hours of receipt of the inquiries.

Over 19 million searches have been made of the Register's computer file since 1961. This has resulted in over 111,000 reports of potential problem drivers being sent back to the States.

While the Driver Register Service is now a valuable aid to the States in their efforts to supervise effectively the licensing of drivers, its effectiveness is limited since it covers only summary reports of license suspensions or revocations where there is drunken driving or fatal accident involvement.

The proposed legislation would remove this limitation on the effectiveness of the Driver Register Service by authorizing the filing of reports on license denials as well as withdrawals of licenses, for whatever cause, except for withdrawals of less than 6 months based on accumulation of minor violations.

Section 404 also would make it clear that Federal agencies can participate in the Driver Register Service as part of their employee driver safety programs.

The amendment of the existing Driver Register Service legislation as proposed in section 404 should double the productivity of the driver register program within a short period with negligible, if any, increased costs.

Executive Communications

Contains nothing helpful.

As Introduced

As H.R. 13228 in the House and S. 3005 in the Senate:

2 SEC. 301. Title 23, United States Code, is hereby
3 amended by adding at the end thereof a new chapter:

"CHAPTER 4—HIGHWAY SAFETY

"Sec.
"401. Authority of the Secretary.
"402. Highway safety programs.
"403. Highway safety research and development.
"404. National driver register.

. . . . . .

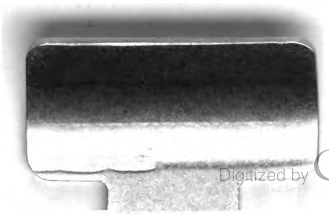
1 **"§ 404. National Driver Register service** 25

2 "(a) The Secretary shall establish and maintain a reg-
3 ister containing the name of each individual reported to him
4 by a State, or political subdivision thereof, as an individual
5 with respect to whom such State or political subdivision has
6 denied, terminated, or temporarily withdrawn (except a
7 withdrawal for less than six months based on habitual viola-
8 tion) an individual's license or privilege to operate a motor
9 vehicle. Such register shall also contain such other infor-
10 mation as the Secretary may deem appropriate to carry out
11 the purposes of this section.

12 "(b) The Secretary shall, at the request of any State,
13 or political subdivision thereof, or at the request of any Fed-
14 eral department or agency, furnish such information as may
15 be contained in the register established under subsection (a)
16 with respect to any individual applicant for a motor vehicle
17 operator's license or permit.

"(c) As used in this section, the term "State" includes each of the several States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Virgin Islands, the Canal Zone, and American Samoa."

SEC. 302. (a) The Act of July 14, 1960 (74 Stat. 526), as amended by the Act of October 4, 1961 (75 Stat. 779), is hereby repealed.



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September 1985