



**Testimony of Janette E. Fennell
Founder and President
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**Hearing On
Reauthorization of the National Highway Traffic Safety Administration**

**Before the
Subcommittee on Commerce, Trade and Consumer Protection
of the House Committee on Energy and Commerce**

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Mr. Chairman, my name is Janette Fennell and I am the founder and president of KIDS AND CARS, an organization dedicated to improving the safety of children in and around motor vehicles. I wish to thank you and the members of the Subcommittee on Commerce, Trade and Consumer Protection of the House Committee on Energy and Commerce for inviting me to appear before you today to testify on the important issue of child safety. I come before you today because there are a number of legislative measures that Congress can enact this summer that will save the lives of thousands of people, especially children, each year. KIDS AND CARS appreciates the opportunity to express our views on the reauthorization of the National Highway Traffic Safety Administration (NHTSA).

Motor vehicle crashes are the leading cause of death for children three years of age and older, and children are often victims of non-traffic, non-crash incidents as well. Children, especially young children, are unaware of the dangers that they can encounter each day in and around motor vehicles, even vehicles that are not moving. While it is the responsibility of parents and other adults to protect our children, many parents are themselves unaware of the risk presented by power windows or the simple act of backing the family car out of the driveway. These type of incidents are within NHTSA's jurisdiction as the agency itself admits, "NHTSA is also responsible for motor vehicle safety when there is not a crash or the event occurs off the public traffic way."¹

¹ Data Collection Study: Deaths and Injuries resulting from certain non-traffic and non-crash events" NHTSA (May 2004).

KIDS AND CARS was founded in 1999 to address the often overlooked problem of nontraffic, noncrash incidents and focuses on dangers encountered by children in and around passenger vehicles. Children can be harmed when they are inside vehicles whether or not the engine is on and the vehicle is moving. We collect data involving children 14 years of age and younger, the majority of cases involve children under the age of 5. The Centers for Disease Control and Prevention (CDC) reported that over 9,100 children were treated in emergency rooms from July 2000 to June, 2001, due to nontraffic noncrash events.² This is a weekly average of 176 injuries per week, each and every week. Although some say that the issue of children being injured and killed in and around motor vehicles is not a serious and significant safety issue, the CDC report refutes this view. KIDS AND CARS has compiled a national database that is recognized as a source for fatality and injury information and is thoroughly documented. We know that our database doesn't capture all such incidents since we do not have the resources to conduct a census. As a result these incidents are vastly underreported to state, local and federal authorities. For over five years, we have urged NHTSA to track on an annual basis child fatalities and injuries. Yet, the NHTSA does not include the reports of these kinds of child fatalities or nonfatal serious injuries in federal traffic safety databases. It seems that we literally need an act of Congress to get NHTSA to begin tracking these incidents.

Power windows are one source of injury for children in motor vehicles. Children can be injured or killed by power windows even when responsible adults are in the vehicle. Last year alone, 8 children died after being strangled by power windows.

Another danger to children is heatstroke. Last year 35 children died from hyperthermia after being left in hot cars, many times by caring, loving parents who inadvertently left the child inside the car. From 1998 through 2004, at least 230 children have perished in this manner.

Children are also in jeopardy due to blind zones that are a result of poor vehicle design. While all passenger vehicles have a blind zone to the rear of the vehicle, the size of the zone increases dramatically in light trucks, especially sport utility vehicles (SUVs) and pickup trucks. I have attached a chart from Consumer Reports depicting the rear blind zones for a popular sedan, minivan, SUV and pickup truck. According to our data at KIDS AND CARS, at least 101 children were backed over and killed in 2004, at least 91 children were backed over and killed in 2003, and at least 58 were killed in 2002. In addition a February 2005 report from the Centers for Disease Control and Prevention (CDC) found that for each of the years 2001 through 2003 an estimated 2,492 children

² Injuries and Deaths Among Children Left Unattended in or Around Motor Vehicles --- United States, July 2000--June 2001, MMWR, 51(26); 570-572 (Jul. 5, 2002). Copy of study attached to testimony.

per year were treated in emergency rooms for nonfatal motor vehicle backover injuries—a total of 7,476 children over a three year period injured in backover incidents.³ Our data indicates that at least 2 children are backed over and killed every week in the US. Furthermore, the CDC data tell us that an additional 48 children are treated in emergency rooms after being backed over each week. These data confirm that backover incidents are a regular and all too frequent occurrence. The tragedy is that they are preventable.

If children were dying by the hundreds in airplane crashes or due to food poisoning this Congress would be racing to enact legislation to correct the problem. Right now, the House of Representatives has two golden opportunities that would improve the safety of children and save lives.

The Senate amendment of the House-passed federal-aid highway reauthorization bill, H.R. 3, the *Transportation Equity Act: A Legacy for Users* (TEA-LU), includes a number of important child-friendly safety provisions. In the Senate version, Section 7254 provides for a study of technologies to prevent backover incidents in which people, especially children, are run over because they are in the blind zone and the driver was unable to see them when backing up. Currently there are no standards whatsoever that regulate what a person should be able to see when backing their vehicle. Section 7255 would have NHTSA collect non-traffic, noncrash incident data at least biennially, a critical step if we are to understand the true size and scope of this problem. In addition, Section 7258 of the Senate amendment would make power window switches less prone to inadvertent use and thus reduce some, although not all, of the danger to children in vehicles with automatic power windows.

Since the House passed bill, H.R. 3, has no comparable provisions to protect the safety of children on these issues, I strongly urge the members of the Committee to support adoption of these Senate child safety provisions as part of the final bill.

The House also has the opportunity to build on the H.R. 3 provisions by moving expeditiously to pass H.R. 2230, the *Cameron Gulbransen Kids and Cars Safety Act of 2005*, which addresses four critical safety issues for children. H.R. 2230 will: 1) provide a more comprehensive improvement in power window protection for children and adults; 2) remind drivers to remove infants when they leave the vehicle; 3) protect children, the disabled, and others by ensuring that drivers have good rearward visibility and an unobstructed view behind their vehicle when backing up; and, 4) ensure the regular collection of death and injury data in non-traffic, non-crash events involving motor vehicles. The American Academy of Pediatrics endorses these life saving measures. I have attached a copy of their letter of support to my testimony. These reasonable measures should be adopted.

³ Nonfatal Motor-Vehicle--Related Backover Injuries Among Children --- United States, 2001—2003, MMWR, 54(06); 144-146 (Feb. 18, 2005). Copy of study attached to testimony.

For many years, parents have been told to transport their children in the back seat of vehicles because they are much safer there. Until recently, voluntary action by auto manufacturers without the benefit of government regulation resulted in most rear center seating position being equipped with only a lap belt. The use of lap belts alone by children is well known to result in serious abdominal and spinal injuries. It took an act of Congress to force NHTSA to require lap/shoulder belts in all rear center seating positions. The issue of nontraffic, noncrash injuries should not be left to chance. Children will continue to die needlessly unless and until Congress directs the agency to regulate in this area.

Children are also killed and maimed every day in the epidemic of motor vehicle crashes that recurs on our nation's highways every year. According to government data, in 2002 motor vehicle crashes were the leading cause of death in the U.S. for children 3 years and older, indeed for all Americans ages 3 to 33. Vehicle crashes were the second leading cause of death among toddlers, ages 1-3. In 2003, 1,198 children under the age of 10 were killed in motor vehicle crashes and 147,000 more suffered injuries, 14,000 of which were incapacitating injuries.⁴ These statistics do not include any of the data that KIDS AND CARS and other organizations have collected about nontraffic, noncrash incidents. Some studies have shown that young children could be in more danger in their own driveways than as passengers of automobiles. In addition, children 10 to 15 years of age suffered 1,372 deaths, as well as 145,000 injuries and 14,000 incapacitating injuries in motor vehicle crashes in the same year.⁵

Adults and teens also suffer the ravages of motor vehicle crashes. Current projections indicate there were a total of 42,800 traffic-related deaths in 2004. In order to protect children and all vehicle occupants, long-overdue safety initiatives must be adopted to stem the rising tide of motor vehicle fatalities. Fortunately, the Senate-passed version of H.R. 3 contains a number of measures that will substantially improve safety for every person and family members across the country.

Over 10,000 people die each year in rollover crashes. Unbelted occupants are often fully ejected, but even belted occupants can be partially ejected, through windows that break, and doors that open. Section 7251 of the Senate amendment to H.R. 3 addresses both rollover prevention and enhanced protection for occupants in rollover crashes.

Under Section 7251, NHTSA will issue rollover prevention performance criteria consistent with stability enhancing technologies. Safety technologies, such as electronic stability control (ESC) systems, have had clear success in reducing crashes in a number of large studies in the U.S. and Europe. ESC is particularly effective in preventing SUV rollover crashes. And this technology is already standard equipment in most European-built vehicles and is available as either standard or optional equipment in many U.S. models. But not all ESC systems are created equal. Testing by Consumer Reports, for example, has found that some systems are more effective than others in preventing

⁴ *Traffic Safety Facts 2003*, at 86, NHTSA (DOT HS 809-775).

⁵ *Id.*

vehicle rollover. The bill will direct NHTSA to evaluate existing systems and establish minimum performance criteria for those systems. Automakers indicated earlier this year that they plan to make ESC standard equipment in most SUVs, to be phased in over the next several model years. NHTSA's rulemaking agenda already indicates the agency plans to develop test procedures for ESC and to make a decision on rulemaking this year.⁶ While adopting ESC technology may be on NHTSA's rulemaking agenda with plans to develop test procedures for ESC and to make a rulemaking decision this year, direction from Congress is necessary to ensure that these actions are carried out.

Occupants stand a much better chance of surviving a crash if they are not ejected from the vehicle. Section 7251 directs NHTSA to develop a standard to reduce full and partial occupant ejection because while ESC looks like it will prevent many rollover crashes that lead to ejection, it will not eliminate them all. According to the agency, from 1999 to 2003 there was an average of 8,584 deaths (and 39,000 injuries) due to occupant ejection, both partial and full ejection, annually. Two-thirds of these ejections occurred in rollover crashes. According to NHTSA's Priorities Plan, reducing occupant ejection is also on the agency's rulemaking agenda. The Senate provision gives the agency until October 2009 to issue a final rule on ejection prevention, and 30 months to complete an already pending rulemaking to ensure that sliding doors on vans remain locked and do not open during a crash. These timelines are considerably beyond NHTSA's own schedule for action.

Finally, Section 7251 addresses the need to update the roof strength standard. This standard has not been improved since it was first adopted some 34 years ago and is widely recognized as failing to provide basic crashworthiness protection during rollovers. The agency has stated it plans to publish a notice of proposed rulemaking on roof crush this year and to issue a final rule in 2006. Because such promises have not been fulfilled in the past, the Senate provision calls for a proposed rule by the end of this year and a final rule by July 2008. Once again a generous timeline is provided.

The Senate legislation addresses rollover, roof crush, and ejection in a single provision because these safety issues are interrelated. In a rollover crash sensors developed for ESC systems can be used to trigger safety belt pre-tensioners and side impact airbags. If the roof fails, however, not only is there intrusion into the passenger compartment but other safety systems will not function properly. Roof failure can affect the geometry of the safety belt system and result in the side impact air bags not providing effective protection. In addition, roof crush will cause the vehicle side windows to break allowing occupants to be fully or partially ejected. NHTSA has historically approached each of these safety problems as separate issues. The Senate bill encourages the agency to take a comprehensive and unified approach to solving these interdependent safety problems.

Another important safety provision, Section 7252, is intended to ensure that NHTSA completes its pending side impact rulemaking proceeding. This rulemaking is

⁵ *NHTSA Vehicle Safety Rulemaking and Supporting Research Priorities: 2005-2009*, Section II.A. – Preventing Rollovers, NHTSA (Jan. 2005) (Priorities Plan).

vitaly important because it is expected to assure that side impact air bags for head protection are available as standard equipment. Studies have shown that side impact air bags can make the difference between living and dying for occupants inside a vehicle struck in the side by an SUV or pickup truck. The Senate deadline is July 1, 2008, for issuance of a final rule. Given that the proposed rule was issued on May 14, 2004, over a year ago, the Senate's allotment of an additional three years for a final rule is quite reasonable.

The modest measures included in Sections 7251 and 7252 are necessary for safety. They do not dictate the outcome of any rule – leaving the specific requirements for the agency to determine. Furthermore, the provisions address only issues that NHTSA has itself identified as core safety priorities. In all of these areas, the agency has already issued a proposed a rule or plans to issue one in the near future. However, as we all know, the attention and even the good intentions of federal agencies do not necessarily result in the accomplishment of internal plans and policies. To ensure that the NHTSA remains on track and carries through with its plans, it is essential that Congress provide the added incentive and certitude that comes with legislative goals and deadlines. In an editorial entitled Reducing Rollovers, the *Washington Post* strongly urged the House to accept the Senate measures, concluding that under the circumstances “congressional prodding is not interference, it is in order.”⁷

Also significant is the section on 15-passenger van safety improvements. The safety of these vehicles is another issue of critical importance for children because of the high percentage of such vans that are used to transport children to and from schools and during and after school to extra-curricular activities. The House should agree in conference to adopt the eminently reasonable requirement that 15-Passenger vans be rated for rollover resistance as part of NHTSA's New Car Assessment Program (NCAP). The House should also support the Senate bill's restrictions on the use of such vans as school buses unless they comply with the safety standards applicable to school buses.

We cannot wait any longer or continue to stand by while families needlessly suffer the death or serious injury of a loved one. Every day, I work with parents who have had to bury a child and who cannot understand why feasible and affordable safety systems are not standard equipment on every car sold in the United States. When we develop vaccines to protect children from deadly diseases, we make them available to everyone. Now is the time to make these motor vehicle safety vaccines available to every family. I can think of no more eloquent statement on the need for basic safety features in all vehicles than the one from Automotive News, the publication that covers the automotive industry, “All safety-related devices should become standard equipment on all vehicles. No choice. It's not an economic decision; it's a moral decision. When the choice becomes profit vs. lives, the decision should be simple.”⁸

⁷ Reducing Rollovers, *Washington Post*, Saturday, June 18, 2005, p. A18.

⁸ Automotive News (Nov. 2004).

You have the power to help prevent the tragic injuries and fatalities that families are suffering everyday from the death or serious injury of a loved one in a motor vehicle related tragedy.

I urge the Members of the House Energy and Commerce Committee to support enactment of the Senate motor vehicle safety provisions included in H.R. 3 and to quickly pass H.R. 2230 the *Cameron Gulbransen Kids and Cars Safety Act of 2005*.