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CONSUMER NEWS

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Child Safety Measures Upgraded With Automobile Restraint Systems

On March 5, 1999 the National Highway Traffic Safety Administration ("NHTSA") created a new means for installing child restraints in motor vehicles. "Child restraint" as used in the Code of Federal Regulations may be understood by laypeople more commonly as child safety seats. *See* 49 C.F.R. Parts 571 and 596. The new regulations of child restraints is a response to a global trend of the increasing use of child restraints in motor vehicles. The International Organization for Standardization, ("ISO"), has been working on a standard for child restraints in vehicles since the early 1990's. Even though the ISO has not adopted a final standard, the NHTSA issued its rule to increase safety for this country's children in the short term. The NHTSA considered technical specifications from an ISO draft to develop the present rule. Motor vehicle manufacturers will need to install child restraint fastening devices that are standardized and separate from present passenger seat belts.

Under the rule, all new vehicles with rear seats sold in the United States must have at least two anchoring systems behind the front seat. There will be two lower anchorages and one upper anchoring device. Each of the lower anchorages is to have a "bar" (6 millimeters in diameter) unto which a connector can be fastened. These bars are found at the union of the seat cushion and the seat back and will not interfere other seated passengers. The upper anchoring device is ring-like and allows for fastening to the child restraint system. Vehicles without room for a rear facing infant seat, that have original equipment of an air bag cutoff switch to deactivate the air bag for the front passenger seat, need to have a fastening system for that front seat and also have another fastening system that adapts for a forward-facing child restraint in the back seat. Vehicles without rear seats, which can deactivate the air bag via an original equipment air bag cutoff switch, must have a fastening system for that front seat.

Even though specific requirements are not established for how child restraints will be fastened at the top position, the distance of how far a child's head seated in the restraint is permitted to move forward during a simulated front vehicle crash is outlined. To comply with this

limitation, child restraint manufacturers will probably attach some type of top fastening strap. In addition, new child restraints still need to be able to be fastened in older vehicles and also aircrafts. This requires that the new child restraints contain some method of attachment to a vehicle's existing belt system or to an aircraft's seat.

The NHTSA does not require the lower anchoring system to be phased in gradually. Child restraint manufacturers opposed an extended phase-in period. Manufacturers argued that such a requirement would impact their production and sales. If manufacturers were required to produce old child restraints and new restraints simultaneously, their distributors and retailers would order current restraints for sales as consumers would be more interested in the model that is cheaper. In addition, the NHTSA does not initially foresee that new vehicles equipped with the lower anchoring system will comprise the majority of the total vehicle population through the phase-in period. It is foreseeable that manufacturers of child restraints will offer the new designs as the market demand increases.

The final requirement for these new child restraint anchoring systems will be introduced over a three year period. Since the top anchoring system requires less advance notification, this anchoring system is required in eighty percent of vehicle manufacturer's production by September 1, 1999. The other twenty percent have until September 1, 2000 to comply. Other vehicles such as light trucks and multipurpose passenger vehicles have until September 1, 2000 to meet this requirement. The lower anchoring systems have to be in place within three years. Vehicle manufacturers need to begin installing these lower anchoring systems by September 1, 2000 and have until September 1, 2002 for all new vehicles (new vehicles, trucks and multipurpose passenger vehicles 8500 pounds or less, and buses 10,000 pounds or less) to have lower anchoring systems in place.

This new rule makes it easier for motorists to install child restraints, as motorists will not have to rely upon existing seat belts to fasten the child safety seat. Seat belts are designed to protect automobile occupants such as older children or adult passengers. They are intended only secondarily to secure child restraints. When vehicle manufacturers redesigned their rear seat belts by replacing lap belts with a combined lap/shoulder belt, securing a child restraint became more difficult. The new rule of requiring a standard anchoring system will challenge vehicle manufacturers to come up with a design that can serve the purpose of restraining both larger passengers and also child restraints.

Requiring a separate anchoring system also further helps promote greater safety with the use of child restraints. The redesign of child restraints along with the redesign of rear seats and seat belt usage will be complementary. If these individual

components are more complementary, motorists also will more properly install child restraints. Previously, motorists had to weave a seat belt through and around a child restraint.

If by chance the final ISO draft is different from the NHTSA's final rule, the NHTSA will determine if the differences are significant enough to require a change to this final rule. If a change does need to be made, the NHTSA is governed by statute and a rulemaking process will begin which determines if and how an amendment will be made.

While the rule does suggest an increased ease of use for child restraint systems by the public, the new rule only puts a higher demand upon manufacturers to make an end product which may result in greater safety. This rule obviously will add costs to both the manufacturers of motor vehicles and those who manufacture child restraints. It is not likely these manufacturers will absorb these costs. The likely result will be an increased cost that will be added into the cost of each respective item.

Issues of Safety Continue for Sport Utility Vehicles

Beginning September 1, 1999, sport utility vehicles with a wheelbase of less than 110 inches will have to have labels warning of the risk of rollovers. Similar labels already in place previously only contained text, but new ones will include graphics, and new bright colors, along with a short text message. *See* 49 C.F.R. Parts 571, 575. The National Highway Traffic Safety Administration ("NHTSA"), the federal body which regulates the safety of automobiles, is focusing on the safety of these vehicles because purchases of sport utility vehicles ("SUV"s) are on the rise. Data further shows that SUVs are more likely to flip over than smaller, lower, passenger cars, especially when travelling at increased speeds in turns.

The new rollover warning labels include a heading and two graphics which surround the text of the label. The first graphic is of a tilting vehicle that is on a horizontal plane of the road. The other graphic is of a three-point belt over a seated individual, instead of a simpler, and possibly confusing, buckle graphic. The label's header will also need to have an alert symbol, such as a triangle containing an exclamation point. Also within the header needs to be the following: "WARNING: Higher Rollover Risk." This header is to be in a yellow background and the text is to be in black lettering. Centered between the two graphics, three statements must appear; "Avoid Abrupt Maneuvers and Excessive Speed," "Always Buckle Up," and "See Owner's Manual For Further Information." This text and the two graphics are to be in black on a white background.

In a slight modification of the previous standard, which required the labels to be located in a place "prominent and visible to the driver," the new labels must be permenantly affixed to either the driver's sun visor or the driver's side window. If the label is placed on the back of the sun visor, then a label alerting the driver to read the information on the back of the visor is also required. In addition, the owner's manuals of these vehicles must have more information on rollovers.

These rules are a little more complicated because of the NHTSA's current regulation of warning labels for air bags. Concern existed that if an air bag label and a rollover label were both present side by side on the sun visor, a user may not be able to sort out all the information. The solution was to allow placement of the rollover label either on the backside of the sun visor or on the driver's side window. However, if both the airbag label and the rollover label are on the same side of the sun visor, the final rule requires that the pictograms of the two labels not lie too close to one another. To prevent this from happening, the air bag label which contains a pictogram on its left side must be placed on the left side of the sun visor.

Previously no requirements existed on the size of the label or the size of the lettering, only that the typeface and color be "clear and conspicuous." The color of the new labels has been changed to bring attention, which may help inform consumers about the potential dangers of driving a sport utility vehicle recklessly. The new labels will have a yellow background in the header, and a white background in the lower portion of the label. The use of the color yellow does not follow the standard established by the American National Standard Institute ("ANSI") when using a header such as "warning" on a label. *See* ANSI Z535.4 ANSI's standard calls for an orange background with black text when issuing a warning. NHTSA decided upon use of yellow, not orange, to be more congruous with the colors used for air bag warning labels. The NHTSA felt if the air bag label was yellow and the rollover label was orange, there would be too much confusion for consumers. Use of a focus group (a group of individuals used to give preference and meaning to colors used within a design) helped determine that yellow was an appropriate color.

While the new regulations will require vehicle manufacturers to create new labels this Fall, the regulations did not receive much opposition. One proposed label, which was defeated before the final regulations, depicted a utility vehicle tilted up on two side wheels with a passenger hanging out of the window. Representatives of the auto industry felt that this misrepresented the cause of occupants being thrown from a vehicle. Auto makers clearly expressed their opinion that the sport utility vehicle is not the cause of the occupant being ejected; rather it is the failure of the occupant to wear their

seat belt.

While the concern for safety accompanies the requirement of new rollover warning labels, only time will tell if these labels can truly be effective in decreasing rollover accidents. Consumers are not likely to want a bright yellow sticker on their driver's side window, and so manufacturers are more likely to place these stickers on the sun visor. The basic premis that warning labels can make safer drivers is itself questionable. Consumers need to be aware that a vehicle with a higher center of gravity traveling at higher speeds in turns, or being struck by another vehicle, is more likely to be tipped over due to a displacement of this higher center of gravity. Learning through personal experience at what point this displacement takes place may be too late for some drivers. CLR