

DEPARTMENT OF TRANSPORTATION**National Highway Traffic Safety Administration****49 CFR Part 571****Federal Motor Vehicle Safety Standards; Child Restraint Systems; Denial of Petition for Rulemaking**

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Denial of petition for rulemaking.

SUMMARY: This document denies a petition for rulemaking from Xportation Safety Concepts, Incorporated, requesting that NHTSA amend an air bag warning label requirement in the Federal motor vehicle safety standard for child restraints. The standard requires that each child restraint that can be used rear-facing bear a label directing caregivers not to place the child restraint on the front seat with an air bag, and provides other related warnings. The petitioner suggests that if a rear-facing child restraint is able to limit forces imposed on a test dummy by a deploying air bag, the child restraint should be excluded from the warning label requirement. The petitioner believes that its rear-facing child restraint is such a restraint.

NHTSA is denying the petition because the petitioner's suggested

methodology for testing the capability of rear-facing child restraints to protect against air bag forces does not adequately assess the safety risks that air bags pose to children. Further, there is no other available test that assures that a child restraint will perform well with the myriad of air bag systems in current and future vehicles. The agency reaffirms the merits of urging parents to place infants in a rear-facing child restraint in a rear seating position because a child is safer there than in a front passenger seating position. This document also presents other reasons for denying the petition.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, you may call Mike Huntley of the NHTSA Office of Crashworthiness Standards, at 202-366-0029.

For legal issues, you may call Deirdre Fujita of the NHTSA Office of Chief Counsel at 202-366-2992.

You may send mail to both of these officials at the National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC., 20590.

SUPPLEMENTARY INFORMATION:**Background**

To prevent or mitigate the effects of a crash, Federal Motor Vehicle Safety Standard No. 208 requires that vehicles be equipped with seat belts and, for front seat occupants, air bags that provide protection in frontal crashes.

Lap/shoulder belts, when used properly, are highly effective in reducing the risk of fatal and moderate-to-critical injury. Frontal air bags are also highly effective in reducing fatalities. Between 1986 and July 1, 2002, air bags saved an estimated 9,325 front seat occupants (7,786 drivers: 2,180 belted and 5,606 unbelted; and 1,539 front-right passengers: 431 belted and 1,108 unbelted). The number of lives saved annually by air bags is continuing to increase as the percentage of air bag-equipped vehicles on the road increases.

However, while air bags are saving an increasing number of people each year in moderate and high speed crashes, some air bags, particularly those installed in vehicles manufactured prior to model year (MY) 1998, have also caused fatalities, especially to unrestrained, out-of-position children, in relatively low speed crashes. As of October 1, 2002, NHTSA's Special Crash Investigation (SCI) program has confirmed a total of 221 fatalities induced by the deployment of an air bag. Of that total, 137 were children, 74 were adult drivers, and 10 were adult passengers. The number of air bag-related fatalities generally increased from 1990 (1) to 1997 (53), and decreased from 1997 to 2001 (6 confirmed¹) and 2002 (2 confirmed). The following table sets forth the number of confirmed air bag-related fatalities by crash year.

COUNTS FOR CONFIRMED* AIR BAG RELATED FATALITIES BY CRASH YEAR

[Through 10/01/02]

| Fatals by Year | Children in rear-facing child safety seat (RFCSS) | Children not in RFCSS | Adult drivers | Adult passengers | Totals by year (confirmed) | Females 62" or less (confirmed) |
|--------------------|---|-----------------------|---------------|------------------|----------------------------|---------------------------------|
| 1990 | 0 | 0 | 1 | 0 | 1 | 1 |
| 1991 | 0 | 0 | 4 | 0 | 4 | 1 |
| 1992 | 0 | 0 | 3 | 0 | 3 | 2 |
| 1993 | 0 | 1 | 4 | 0 | 5 | 2 |
| 1994 | 0 | 5 | 8 | 0 | 13 | 1 |
| 1995 | 3 | 5 | 5 | 0 | 13 | 4 |
| 1996 | 6 | 19 | 7 | 2 | 34 | 2 |
| 1997 | 4 | 27 | 18 | 4 | 53 | 4 |
| 1998 | 5 | 27 | 13 | 2 | 47 | 6 |
| 1999 | 3 | 18 | 3 | 0 | 24 | 2 |
| 2000 | 0 | 8 | 6 | 2 | 16 | 3 |
| 2001 | 1 | 3 | 2 | 0 | 6 | 0 |
| 2002 | 0 | 2 | 0 | 0 | 2 | 0 |
| 2003 | 0 | 0 | 0 | 0 | 0 | 0 |
| Total | 22 | 115 | 74 | 10 | 221 | 28 |

*Confirmed cases are those where the air bag has been confirmed to be the injury mechanism.

Infants in rear-facing child restraints have been killed by air bags primarily

because their riding position places them close to the air bag. A rear-facing

infant seat that is installed in the front seat of a vehicle with a passenger air bag

¹ Confirmed means that the Special Crash Investigation has been completed.