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July 3, 2001

To: National Highway Traffic Safety Administration**From:** Stephanie M. Tombrello, LCSW,
Executive Director, SafetyBeltSafe U.S.A.**Docket Number:** NHTSA-01-9785**Re:** Testimony concerning a national plan to protect children ages 4 to 8 from fatal or serious injury in motor vehicles through the use of appropriate child restraint systems**Foreword**

As some of you may be aware, I have worked in the field of child passenger safety since 1970 and have had the opportunity to see this area of endeavor expand from a very minor voice to

- legal requirements for appropriate occupant protection for at least the youngest children in every state;
- a sector with \$450 million annual sales of child restraints;
- categories of professional activity designated as child passenger safety instructors and technicians; and perhaps most important,
- an area so accepted by the majority of the population that those not intimately involved question the need for ongoing education and legislative action.

This level of social integration of the basic message of buckling up on every ride was thought to be impossible in 1970. It has taken the concerted effort of all sectors of the broad coalition now engaged in delivering at least a piece of the critical information to prospective parents and families with children.

However, since this is a field that involves children, it is one that must be maintained actively on an indefinite basis. A new parent is born daily; the details of achieving proper protection are not usually absorbed until there is an immediate need to do so. For a variety of reasons, the message about HOW to protect children has been complicated to the degree that in safety seat checkups like the ones we conducted on June 29 and 30 in two sites in California, only a single seat was properly installed.

With that as background, on behalf of SafetyBeltSafe U.S.A., the national non-profit organization promoting child passenger safety since 1980, I wish to share four basic comments on the issue of proper protection of children not currently included in child passenger safety laws under the category of required to use “child restraint systems”.

Since this testimony is being addressed to NHTSA, it is important to acknowledge that the agency has responsibility for setting regulations for child restraints and thus, must take that role as primary within the mix of possible responses to this challenge. No other entity can do this, unless the Congress and President choose to pass laws affecting this role. Therefore, although NHTSA can provide leadership in many areas, primacy must focus on the tasks that cannot be accomplished by other players.

The second major area of responsibility is to assure that adequate funding is available at the state and local levels to achieve this goal. If states that have made good progress toward these ends are not rewarded so that they can continue their services, progress toward these goals will be impeded.

1. An immediate program of family education about how to determine if a child requires a child restraint system for comfortable, correct transport in a motor vehicle should be instituted. This effort should be
 - a. simple enough to be transmitted by a person not trained in child passenger safety;
 - b. specific enough so that parents can understand intuitively if their child is at risk;
 - c. inexpensive enough so that virtually any facility can participate;
 - d. designed to include parameters that convey the information so that the outcomes fit with known data on the range of sizes of children in the United States;
 - e. comprehensive enough to include back up resources for those unable to comply with proposed enhanced child passenger safety laws that would cover youngsters more than 40 lbs. in weight.

2. An immediate project, headed by NHTSA, to rectify the sequelae of previous regulatory decisions by the agency, which have led to significant gaps in protection for those with older vehicles. At a minimum, this project should include:

- a. evaluation of the resources available to protect young children in vehicles lacking combination shoulder and lap belts in all positions in the rear seats where children are to ride for at least the first twelve years of life, according to NHTSA recommendations;
 - b. funding sources to support provision of access to such restraint systems, either by subsidies or incentives for those who produce such systems which meet FMVSS 213 or to those who purchase them for distribution. This funding/incentive project should be limited to a three-year period with re-evaluation of its effectiveness and the need for renewal, based on the market circumstances at the time.
 - c. outreach to motor vehicle manufacturers to provide readily available retrofits of their vehicles for their customers, with highly publicized accolades for companies complying in a timely manner. [SBS USA understands that NHTSA cannot regulate vehicles manufactured to meet federal safety standards of their production period; however, government leadership to encourage compliance with various recognized needs has been exerted in the past.] An example of this in the vehicle field has been the awarding of stars for vehicles that crash-tested well for safety performance at a higher speed than required.
 - d. outreach to other federal agencies to develop a national access program for child restraints for families whose income profile entitles them to assistance for income support and/or medical care, regardless of the state in which they reside. Although data collected by SafetyBeltSafe U.S.A. in conjunction with a violator education program indicate that only 1.7% reported financial limitations as the reason for their child's lack of protection, the needs of this group should be addressed. A program, including education in child passenger safety and access to at least partial assistance in obtaining appropriate child restraints, should be a routine part of assistance to families in need.
3. Enactment by NHTSA of the following regulatory steps in a timely manner:
- a. immediate review of the petition concerning the use of tethers to extend use of combination child seat/boosters with harness in place to 60 lbs.;
 - b. support for "orphan" child restraint devices and the hardware to install them in current motor vehicles, so that those with physically challenged youngsters can provide equivalent protection for them as is afforded to those meeting the average profiles for age and size;
 - c. requirements for combination shoulder and lap belts in all rear seating positions within two years of the regulatory action;

- d. incentive awards for states that initiate the “immediate family education program” by mid-2002 and/or enact enhanced child passenger safety laws, which initially cover children under age 6 and include a correct-usage phrase in all occupant protection laws in the state;
 - e. an escalator clause for the top age to be covered with mandatory child restraint use so that gradual expansion of protective legislation will be in place within 5 years;
 - f. research to develop standards to assess all devices recommended for use by children and adults in conjunction with occupant protection safety equipment in motor vehicles. [Immediate focus would be on products labeled for use by those in the group to be included in the enhanced legislation in the states to improve the likelihood that families will not be offered inappropriate devices for meeting the enhanced legislation.];
 - g. research toward requiring motor vehicle manufacturers to provide proper restraint modes for children as part of vehicle design. [In the long run, it is essential that the problems of 95% misuse of safety restraints for children are addressed by an engineering approach that accomplishes passive protection. No problem that affects 95% of users can be addressed with education alone. LATCH is one attempt in this direction; other aspects of automotive design must be reviewed with this requirement in mind.]
4. Encouragement of enactment of appropriate enhanced legislation through the development by NHTSA of a model law. The model law should take into account
- a. the data collected by the Centers for Disease and Injury Control on the size of children by age, so that the fiftieth percentile child should fit safely into the child restraint equipment readily available for use in motor vehicles. An example of the issues that impede this is that, although most boosters are now labeled for use up to at least 80 lbs., the product places older, taller children, even under 80 lbs., too close to the roof of minivans and other tall vehicles. The fiftieth percentile 5 year old is 40 lbs.; 8 year old, 56 lbs.
 - b. the composition of the vehicle fleet in the United States; currently, 34% are reckoned to be older than 1989-91 when shoulder and lap belts were required for outboard locations of motor vehicles;
 - c. ease of enforcement to encourage rigorous application in every state. Complex features of such a law can lead to enforcement gaps.

SafetyBeltSafe U.S.A. has attached the characteristics we recommend for a model law in this area. It is based on long involvement in the development, improvement, and enforcement of child passenger safety laws and the development and maintenance of an education program for violators, in operation since 1991 and the recipient of a major national award for excellence. (See Attachment #1.)

The above comments do not detract from the very vigorous efforts, at the national, state, and local levels, that have been going forward in increasing the protection of all children and adults. However, once the national agenda includes legislative action, particular social and practical issues must be addressed in a timely manner. Otherwise, there is the risk of backlash.

Examples of this are reflected in defeats of well-intentioned legislative efforts, which cannot be enforced in a reasonable fashion because

- a) social support for the legislation has not been generated due to lack of knowledge of the risks to children and practical impediments, such as the need to carpool;
- b) problems left over from previous regulatory decisions which make it extremely difficult to comply with the law; and
- c) disappearing product lines.

Another major problem is reflected in lags in addressing known misuse issues in relation to previous regulatory decisions. For instance, despite the known level of misuse of safety seats, there was no national campaign to deflect families from placing children in the front seat of vehicles, especially those with passenger air bags, until after the highly publicized air bag-interaction deaths of children occurred. Another area in which this is surfacing is the initial process in enactment of LATCH. Many problems of misuse have been shared, but changes and education of the public have been slow to come. As more families attempt to use the LATCH attachments in future, these problems will multiply.

Historically, one can reflect that in the early eighties, excellent belt-positioning boosters, both with removable backs and backless, were on the market. They failed to be used correctly because most American vehicles had no combination shoulder and lap belts and tethering the included harnesses was too difficult for most families. This time, we want to be prepared to move forward in protection with legislative designs that take into account the reality issues in meeting the ideal of best protection for children.

To address the 11 questions posed in the Federal Register, SafetyBeltSafe U.S.A. shares the following brief information and opinions.

1. To complement the four major steps listed above, SafetyBeltSafe U.S.A. offers the “5-Step Test” as the initial tool for a blitz in education of the families of the United States. (Attachment #2 is the 5-Step Test in English and Spanish.) Simple enough to be followed by most readers, it places in the hands of families a strategy to identify the need for additional restraints beyond safety belts already in place in the vehicle. It has been translated into Spanish and has been adopted by and publicized by a variety of states, national and local mass media, and voluntary organizations. A safety seat manufacturer in Canada has adopted this as part of the instructions for their booster seat.

The most recent uses of the information presented to the national community are in the July, 2001 issue of *Consumer Reports* and the current issue of *Viewpoints on Parenting*, the newsletter distributed by Toys R Us to 500,000 across the United States through a network of 703 retail outlets. Part of an experiential educational curriculum for grades kindergarten through third, it is available now. A video, which includes a 3-minute segment for children and a 4-minute component for adults, in either English or Spanish, encourages the use of boosters and shows the 5-Step Test. Developed with the aid of Allstate Foundation, these program components are immediately available with the full experiential curriculum, "Boosters Are For Big Kids," to be completed by the fall. [Attachment #3 is a presentation on the curriculum and summary of data collected for presentation at the International Center for Injury Prevention Child Passenger Safety Technical Conference, June 2001, and the April, 2001, conference of the Association for the Advancement of Automotive Medicine.]

There are two major ideas that inform this curriculum. First, it is preferred that this curriculum involve the parent organization of the school and thus, be straightforward enough to be used by someone not trained in child passenger safety. This method of transmission is meant to engage peer leaders in adopting the new recommended behavior. It is focused on the age group most likely to be able to use boosters, rather than other types of child restraints, so that the curriculum users will not need to become diagnosticians or Technicians.

Second, the full curriculum, just like the 5-Step Test itself, is meant to be experiential so that both children and parents can comprehend the improvement in travel comfort as well as safety that a booster can offer. By working in a peer environment, both children and parents will have the group support of their fellows. And if the sponsoring agency wants to use booster seat sales as a fundraiser for the school, a mechanism for doing this is to be included.

In addition to the prospect of sponsorship by NHTSA or other federal entities, the curriculum can be sponsored by a state, corporation, local agency, or the school setting itself. The products of the homework lend themselves to recognizing the participants since the artwork engendered can be laminated for locally used posters, for instance, as a complement to calling upon transient fashions in the mass media.

2. Since the "Boosters Are For Big Kids" curriculum is very new, its direct effect on behavioral change cannot yet be ascertained. However, having watched this field develop over the past 30 years, it has been my observation that support for laws has come from social networks in communities approving of the behavior called for under the law. The law itself then can address those who are not early-adopters of safety-oriented behavior. The law will encourage the establishment of more products and greater availability of initial products by engendering a bigger market.

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That pattern has been repeated for the initial change from crash-tested safety seat use being the province of a small group of well-educated parents to a behavior that the vast majority of parents espouse, even if they comply somewhat inconsistently. This happened

again when the recommendation to keep children rear facing beyond 20 lbs. and a few months of age was changed to lengthen the time to a year or more. With the gradual adoption of this safety message by parents, manufacturers were encouraged to overcome technical difficulties in meeting the need for product. This enabled the less knowledgeable to comply when informed. The process is already underway for booster use; we see more booster use by families with older children in California, for instance. Even though the California law specifically calling for child restraint use to age 6 or 60 lbs. is not yet in effect.

3. The biggest challenge in education for now is not reaching those with vehicles made after 1991 but in providing for proper protection for those with older vehicles. The parent community worries also about providing for proper protection for others' children in their vehicles and for their own children when traveling with others. It will take some social education to establish the boosters-go-with-kids lifestyle. It can be done; meanwhile, it is likely that new products will be developed that can be used to address this need.
4. In our opinion, the group to be addressed initially is the early elementary school group. There are three major reasons for this:
 - a. These children are at risk of injury out of proportion to that expected, based on research published in *Pediatrics* by Carden Johnston, MD, Frederick P. Rivara, MD, and Robert Soderberg, BS in 1994 and therefore, there is a defined need.
 - b. This group, regardless of income or demographic characteristics, is easily reached because the members are in the school systems throughout the United States.
 - c. This group can provide role models for the younger children who are already in safety seats. There will be less need to tout boosters for the preschoolers. Many of the preschoolers are still in need of conventional safety seats so that early childhood programs in this setting have to address more detailed analyses of the appropriate form of child restraint.
5. Mass media, classroom education, health care providers, Internet sites, car dealerships, and retailers will generate community education. Employers through paycheck stuffers would be an excellent transmission system, as would DMV renewal mailings. The most effective sources of behavioral change in future will be the laws requiring compliance and the institution of built-in improvements in vehicles to make it easier for all children to be properly secured.

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6. NHTSA should work with the many agencies/organizations that already are deeply involved in meeting this challenge. It is unthinkable that the agency would not inquire of all its present partners as to how this message is going to be included in present programs. Although the concept of booster use is already reaching many, many parents, it is critical

that the multi-agency approach continue since multiple message sites are most likely to convince the average parent that this is a new social norm to be explored and adopted.

7. Although I have addressed the roles of many in the private sector in the previous comments, I believe that NHTSA can provide incentives for all of these components by praising those who participate and setting regulatory goals for those who lag. However, it is my impression that there is major enthusiasm for booster use. The bigger challenges will come in the areas addressing gaps in resources for those with older vehicles.
8. Funding sources will be as various as they have been in the past. However, there is legislation in Congress to reward states that move forward in an expeditious manner. This legislation also would require federal leadership in setting regulatory boundaries to protect families from products labeled for use by children over 50 lbs. that do not meet suitable standards for protection. [If the model laws cover children up to age 6 initially, a large percentage of those children will be under 50 lbs., based on CDC data. The age at which fiftieth percentile children reach 56 lbs. is 8 years.] Moreover, the educational thrust can include reference to products meeting FMVSS 213, which is required for all those that are labeled for use under 50 lbs.
9. To date, parents who knew about boosters tended to believe that highback boosters were preferred to the backless type. However, with more publicity about evidence of excellence of design of the backless booster for those with vehicles with high back seats, parents have been very excited by that type of product. They can see immediately that
 - these products will be more acceptable to children who have not been in child restraints in recent years,
 - they will be easier to move among vehicles, and
 - they are less expensive.

Others are intrigued with the possibilities of boosters with removable backs that allow them flexibility of use and ease of transport. For instance, for airplane trips, the base can be stored in the cabin and the back, in luggage, affording the best likelihood of having the booster available as needed at both ends of the trip.

Finally, although there is some evidence that combination child seat/boosters may not provide the best protection in either mode, studies focused on the public health outcomes of usage of this type of product should be commenced in a timely manner. It is important to determine if these combination seats increase the likelihood of booster use overall because parents do not need to obtain yet another safety restraint.

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It might be that improved designs for these products could be generated if NHTSA were to explore the alleged deficiencies, such as the shoulder belt adjusters that can prevent the elimination of slack in the shoulder belt if the child moves in the belt system and the lack of contact between belt and child that occurs with some other designs, thus potentially leading to submarining. It is the opinion of SBS USA that it is a critical area of exploration for NHTSA to lead.

10. To date, boosters fitting with present standards have come with

- removable shields and no backs;
- bases and shoulder belt adjusters;
- permanent or removable backs as well as bases; and
- harness systems that enable their use for younger children as child seats.

Newly arrived on the scene are other products that can fill some of the gaps in coverage afforded by these product categories. The new Britax Laptop, based on the Vario by Romer, long used in Europe, is an energy absorber; this type of product could provide assistance in protecting children whose parents do not have combination rear shoulder and lap belts. It is likely to be an essential tool for after-school and Head Start programs, for instance, that are required to transport children. Vans often have many locations without shoulder belts.

Finally, the need for safety seats with full harness systems certified to 60-80 lbs. is critical for protecting the large two year old, not yet ready to handle the relative “freedom” of the belt-positioning booster or the child whose vehicle either lacks shoulder and lap belts entirely in the rear seat or whose vehicle has lap belts only in center positions, a result of a decision in 1989 to exempt those locations from the federal mandate.

So far, two products have arisen. The Fisher-Price Futura 20/60 will disappear since Fisher-Price is leaving the child restraint field. This is unfortunate since this product does not require tether installation in order to meet the 28-inch head excursion requirement. Many of the vehicles that lack shoulder and lap combination belts also are missing pre-drilled tether holes. The Britax Super Elite will be the only product in this category. No doubt an excellent entrant, it does require tether use for children over 50 lbs. Meanwhile, the E-Z-On Vest and 86 Y harness are two products that have been available to fill the gap. Both require extra strong tether attachments. Any product, which requires additional installation steps, is less likely to be used by those with the greatest need for specialized products.

There will likely be additional entrants into this field as laws requiring protection for older children are introduced. However, it is essential that NHTSA produce clear regulatory guidelines so that families will not be confronted by non-certified choices that may deflect them from the appropriate products and so inventors can comply with the important characteristics to achieve the goals of child protection.

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11. Ease of use is greatest with backless boosters with arms that place shoulder and lap belts in the best position for children and with simple shoulder belt guides for use with children with shorter torsos. Boosters with removable backs and/or the energy absorber will provide the best alternatives for many families as booster use expands from a single vehicle (the parent’s) to all vehicles in which children ride, from after-school vans to grandparents’ vehicles to the vehicles in which children travel for school carpools and their ubiquitous “play dates”. It is very likely that new designs will be stimulated by the prospect of new markets. Cost is still relatively high,

except for a few backless boosters. However, once families learn that boosters are available for less than \$25, the resistance reduces quickly. Boosters as school fundraisers will be a potentially popular item, once laws go into effect across the U.S.

Thank you for the opportunity to contribute to the national dialogue on the subject of increasing occupant protection for a critical segment of our population. These are children who are no longer protected adequately by a conventional child restraint or who have reached an age at which political leaders no longer believe mandated protection is required. The latter group is left at the mercy of parental awareness of the importance of appropriate protection. Therefore, it is important to have a national policy that offers guidance about safety matters to all of the states.

Attachment #1: Model Law

Attachment #2: The 5-Step Test, English and Spanish

Attachment #3: Power Point Panel Presentation, "Creating A Culture of Correct Restraint Use"
by Stephanie M. Tombrello, L.C.S.W., Executive Director, SafetyBeltSafe U.S.A.

Attachment #1 (SafetyBeltSafe U.S.A.)

Recommended Provisions of a Model Child Restraint Law

These provisions are recommended:

- ❖ All children under age 16 are covered by the child restraint law rather than the adult safety belt law
- ❖ Proper use of a child restraint system is required for children under age 6
- ❖ Proper use of a child restraint system or safety belt is required for children age 6-15
- ❖ Primary enforcement
- ❖ Minimum fine equivalent to speeding or red light violation
- ❖ Fine reduced only for economic disadvantage; fine cannot be waived
- ❖ All convictions reported to DMV
- ❖ Violators required to participate in education program and have child restraint inspected
- ❖ Fine money allocated to local health departments to be used for programs that provide education and distribution of low-cost seats to low-income families

These exemptions are recommended:

- ❖ Lap belt may be used in emergency vehicles or in life-threatening emergency
- ❖ Lap belt may be used for child over 40 lbs. riding in vehicle with no shoulder belts in back seat
- ❖ Vehicle belt may be used if necessary due to physical unfitness, medical condition, or size; exemption applies only if an appropriate restraint system for children with special needs is not available
- ❖ Vehicle belt may be used for child over 60 lbs. if it fits properly

No exemption for:

- ❖ Additional passengers when all available belts are in use
- ❖ Attending to personal needs of child
- ❖ Out-of-state driver or vehicle
- ❖ Cargo area of station wagons, hatchbacks, or pickup trucks

Rationale for requiring child restraint use up to only age 6:

- ❖ At age 7 or 8, some children fit in belts; some are too tall or too wide in the hips to use a booster
- ❖ More difficult to pass laws if perceived as unreasonable (booster laws in Hawaii and Florida recently vetoed)
- ❖ Traffic enforcement depends on voluntary compliance by average, law-abiding public; hard to convince parents to start using a booster when the child has been using a vehicle belt for 5 years
- ❖ Focus efforts on smallest, most vulnerable children; more cost effective and better support from law enforcement
- ❖ Possibly raise age limit later

Why the law should not have a minimum weight:

- ❖ Fit of belts and vehicle seat cushion depend on height of child, varies car to car; child's weight does NOT determine fit
- ❖ NHTSA booster study did NOT conclude minimum weight of 80 lbs. to fit in belts
- ❖ Weight limits are much more difficult to enforce
- ❖ Tall, thin child may be LESS safe in a booster (refer to photo of 71-lb. child in a booster whose head is almost touching the ceiling of a mini-van; he fits very well in a lap and shoulder belt)

Why the word "booster" should not be used in child restraint laws:

- ❖ Approximately one-third of the vehicles in the U.S. do not have shoulder belts in the rear; boosters can't be used in those cars unless shoulder belts are retrofitted
- ❖ Other categories of child restraints are available, and more will be created