

## **Statement of Senator Tom Coburn, M.D.**

Hearing: "Passenger Vehicle Roof Strength"

Subcommittee on Consumer Protection, Insurance, and Automotive Safety  
United States Senate Committee on Commerce, Science, and Transportation

June 4, 2008

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I would like to thank Senator Pryor and your staff for holding this timely oversight hearing. Unlike the many other people on this panel I am not an expert on automobile manufacturing or safety, but like everyone here I am very interested in seeing a reduction in rollover accident fatalities. A few months ago I met with one of my constituents from Oklahoma, Kevin Moody, who has been a tireless advocate for calling for an increased vehicle roof strength standard. In 2003, Kevin's son Tyler was killed when the SUV he was driving rolled over causing the vehicle's roof to crush down on him. Unfortunately Kevin couldn't be here today to testify, but I hope that my testimony and this hearing will honor his efforts and the life of his son Tyler.

There are many different factors that lead to vehicle occupant fatalities and serious injuries in rollover accidents, but today we are here to discuss the vehicle roof strength safety standard known as FMVSS 216. In 2005, Congress passed the SAFETEA-LU surface transportation reauthorization bill which included language requiring the National Highway Traffic Safety Administration (NHTSA) to update to FMVSS 216 by July 1, 2008. The update to FMVSS 216 will be the first substantial change to this vehicle safety standard since its inception in 1973. Since the early 1970s, advancing technology has created many vehicle safety improvements, such as anti-lock brakes, air bags, and electronic stability control. Technology has also resulted in better materials and design engineering that can be used to produce stronger vehicle roofs. While many automobile manufactures have used these technologies to increase the roof strength of their vehicles well above the federal standard, there are many vehicles that have roofs that will easily crush in the event of a rollover. Congress initiated the rulemaking process through SAFETEA-LU because NHTSA was still using the same test and performance criteria that they used when the roof strength standard was originally introduced in 1973. It is hard to find anyone in the private or public sector that is doing things today the same way they did things in the early 1970s. Although the NHTSA's notice of proposed rule making has acknowledged new testing methods and the improved roof strength in today's technology embodied vehicles, it does not appear that NHTSA is ready to make the leap from 20th century to the 21st century.

I also want to touch on the public health problem that is caused by vehicle rollovers. Ten thousand people are killed each year in rollover crashes, which is one third of all automobile accident fatalities.<sup>1</sup> Automobile accidents are the number one killer of people age one to thirty four. In addition to the losses of life, twenty-four thousand people a year are seriously injured in rollovers leading to millions of dollars of health care expenses and reduced quality of life. Spinal chord injuries are very common in rollover crashes as the occupant's head makes contact with the roof or the ground. Of the twelve thousand spinal chord injuries that occur each year, over five thousand occur in automobile accidents.<sup>2</sup> Although exact numbers are not kept, the number of spinal chord injuries that result from rollover accidents can be conservatively estimated to be twenty-six hundred a year. As a physician, I see having vehicles with stronger roofs as an effective health care prevention measure to reduce the number of quadriplegic, paraplegic, and other serious injuries result from roof crush.

I am not here today to offer a policy solution to address roof crush, but after studying this issue I believe that the following three things will translate into safer cars and a more informed public.

**1) Greater transparency into the NHTSA rule making process.** The notice of proposed rule making introduced by the NHTSA in August of 2005 examines the cost and benefits of increasing the roof strength-to-weight ratio requirement from 1.5 to 2.5. However, NHTSA did not provide information as to why the 2.5 strength-to-weight ratio was chosen as opposed to a 3.0, 3.5, or 4.0 strength-to-weight ratio. In January 2008, in a supplemental notice of proposed rule making, NHTSA does discuss these stronger strength-to-weight ratios, but they limit their analysis to the cost and weight each standard would add to vehicles and largely ignore the safety benefits. NHTSA also mentions that if every single rollover death resulting from roof crush were prevented the total lives saved would be 476. However they provide no evidence for how they came up with that figure, which most automobile safety experts say is very difficult to quantify.

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<sup>1</sup> NHTSA  
<http://www.safercar.gov/portal/site/safercar/menuitem.13dd5c887c7e1358fefe0a2f35a67789/?vgnextoid=6539e66ac0e35110VgnVC M1000002fd17898RCRD>

<sup>2</sup> National Spinal Chord injury Database. <http://www.spinalcord.uab.edu/show.asp?durki=116979>

Another provision lacking proper rationale in the proposed rule is one that would give the new roof strength standard preemption from any common law or tort law. Twenty-six state attorney general's wrote to NHTSA expressing that this would be a major set back to vehicle safety, yet NHTSA has not offered any explanation for why the rights of a vehicle purchaser to seek a common law remedy for harm done to them should be taken away.

When the final rule is released, NHTSA needs to provide the public with transparency into why they believe these regulations are to be adopted. With a budget over \$830 million there is no excuse for NHTSA to not provide clear and precise evidence for how vehicle safety standards were decided.

**2) Increase efforts to inform consumers about the safety of vehicles in rollovers.** In my almost 10 years of experience as a Member of Congress, I have found that the best way to connect the government to people is through an open and transparent government. In 2006 I co-authored the Government Accountability and Transparency Act with Senator Obama, which led to the creation of [usaspending.gov](http://usaspending.gov), a website that enables the public to find out information on all government expenditures, including contracts, grants, and loans. When taxpayers have better knowledge about how their tax dollars are being spent they are better able to hold their elected officials accountable. I believe the same holds true with the federal government's automobile safety testing and safety data.

The 2005 highway bill contained a provision known as "stars on cars" that requires all new cars to post NHTSA's five-star safety rating system results on car stickers. This was a great policy for Congress to adopt because it takes critical safety information that might not be accessible to consumers, especially those without Internet access, and clearly displays it for the consumer to consider. The three five star rating categories are a 35-mph frontal crash test, an offset side-impact test, and a rollover resistance test. I believe that as a part of NHTSA's comprehensive plan to address rollover safety, they should create a five star rating system for roof strength that would also appear on car stickers. Automobile consumers need to know that there are significant differences in vehicle roof strengths among cars and trucks in the same class. For example, the Volvo XC-90 has the strongest roof in the mid-sized sport utility class with a 4.6 strength-to-weight ratio. That is twice the roof strength of the Jeep Grand Cherokee, which has a vehicle roof strength-to-weight ratio of 2.3.

**3) Finally, Congress should challenge the NHTSA to produce results through reduced deaths and serious injuries caused by rollovers. In their notice of proposed rule making, NHTSA states that roof crush is only one factor in rollover fatalities and that their comprehensive plan to address rollovers looks at all the factors involved. However, a performance goal for the comprehensive rollover plan is never mentioned. As part of Congress' oversight of NHTSA we should be setting performance measures that translate into real world results, like a reduction in the deaths caused by rollover accidents. After the creation of NHTSA in the late 1960s, the number of automobile deaths began to decrease. From 1975 to 1992 the number of vehicle occupant deaths per 100,000 people declined by 23 percent. Since 1992 the number of vehicle occupant deaths per 100,000 people has only decreases by 1.5 percent.<sup>3</sup> Congress should be asking NHTSA's to get the decline of fatalities back at a similar rate that was achieved in the 70s and 80s. With one third of all vehicle deaths occurring in rollovers accidents, if NHTSA's comprehensive plan to address the rollovers is at all successful, we should see a substantial decrease in rollover deaths. In 2008 we will spend \$830 million of taxpayer money to fund operations, research, and grants within NHTSA. That substantial investment should be tied to results in terms of a reduction in accidents and accident deaths. Specifically, in regards to vehicle roof strength, if NHTSA can not conduct a transparent and effective rule making process, I believe Congress should consider legislation that will set an adequate roof strength standard without going through an ineffective rule making process.**

**Thank you very much for your time and I again thank the chairman for holding this important oversight hearing.**

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<sup>3</sup> Department of Transportation, <http://www-fars.nhtsa.dot.gov/Main/index.aspx>