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House of Representatives
COMMONWEALTH OF PENNSYLVANIA
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**Statement: House Judiciary Committee 7/14/98
For Representative Robert W. Godshall**

Members of the House Judiciary Committee, I apologize for not being able to be with you today in person, but I appreciate having the opportunity to be able to present this testimony through your chief counsel Brian Preski.

Upgrading our seat belt law from secondary enforcement to Standard enforcement is a law ^{whose} ~~who's~~ time has come. We deal in the legislature on a regular basis with issues affecting the lives and safety of our constituents. We establish staffing levels and safety standards for our nursing homes, day care centers and hospitals. For health and safety reasons, we regulate the use of pesticides, drugs and alcohol usage and now we will be addressing the issue of safety in our schools, all through further regulation.

In 1996, twenty-five children were killed in classrooms in the United States. In that same year, approximately 200 children were killed in motor vehicle crashes on Pennsylvania highways. Utilizing PennDOT statistics,



close to 100 children could have survived had standard enforcement of seat belt use been in force. Some may argue that they have a personal right to risk injury by not wearing a seat belt, but the thousands of preventable injuries all cost monies that society, namely taxpayers, must pay. The preventable fatalities, injuries, head trauma cases, etc., etc. are at your and my expense. I recently appeared with Dr. Ricardo Martinez, Administrator for the National Highway Traffic Safety Administration, at a NASCAR Press Conference promoting seat belt use. He said it best, "Your freedom ends, where my wallet begins." The insurance and medical costs for unbelted crash victims amounts to \$14.3 billion a year nationally. PennDOT has estimated, based on their own statistics, that if everyone buckled up the savings would be 400 lives and thousands of injuries. A 15 to 20% increase in seat belt usage is typical following a State's upgrade to standard enforcement. PennDOT estimates that the economic impact on not buckling up in Pennsylvania costs our citizens in excess of \$2.2 billion annually. Eighty-five percent of the injury crash costs are directly borne by society in the way of increased insurance cost, health costs, and welfare benefits, to mention just a few.

Highway deaths in Pennsylvania increased by 6% in 1997 over 1996 figures. Interesting enough is the statistic that speeding was a factor in only two additional fatalities, while fatalities relating to those not buckled

up increased 19% or an additional 113 fatalities over 1996. These figures have lead Transportation Secretary Brad Mallory to indicate that 400 of these lives could have been saved if the seat belt, you paid for when you bought your car, was fully utilized.

I do want to react to a few of the anti-seat belt arguments I have seen and heard. The arguments of a spokesman from the ACLU that the decision of “what you do in your own car should be left up to you” and “We don’t need big brother telling us that we should do something because it is good for us” is ludicrous. The Pennsylvania Consolidated Statutes Title 75 Vehicle Code Book dictates rules and regulations to be followed on our highways and is 2 inches thick. It deals with speed limits, the use of turn signals, highlights, safety inspections, etc., etc. Why not do away with all of these infringements and just turn everybody loose. The ACLU says that the provision in the legislation that would allow the evidence of not wearing a seat belt to entered in any civil action is an attempt to reduce damage awards. The real reason for the inclusion of the provision is to allow a jury of Pennsylvania citizens the opportunity to know all the facts as they debate a crash case. If a person breaks our current seat belt law and does not wear a seat belt, then let the jury decide the damages based on all the facts. By hiding evidence, it is more likely that the person who broke the law will be rewarded with a larger award. That impacts all

motorists and we all pay for those awards through higher insurance premiums.

Lastly, every State that embraces this legislation encounters the argument of police harassment of minority motorists. I support Rep. Harold James for introducing legislation in the House to study police harassment of minority motorists. However, according to the National Safety Council, there have been NO reported incidents of seat belt violation police stops associated with police harassment. This legislation simply saves lives.

If common sense doesn't come into play, legislation eventually will. The trial lawyers have thrown out yet another argument. They contend that an innocent child may have a monetary award reduced in a civil action if the fact were known that the child was not restrained or not properly restrained. They add that the responsibility lies with the driver and not the child. This in fact could be true, but the reality is that standard enforcement will save hundreds of lives and prevent thousands of injuries from ever happening. When the General Assembly passes standard enforcement and the Governor signs the legislation we will have far fewer awards to worry about because there will be far fewer awards handed out.

States that have standard enforcement average about 80% usage. Today, fourteen States and the District of Columbia have standard enforcement. New York and Maryland have standard enforcement of seat belts use. New Jersey is half way there, awaiting Senate action. The Governor of Delaware has recently called for standard enforcement after a series of accidents resulted in the violent deaths of a number of young people, all ejected from their vehicles. Pennsylvania's seat belt usage has decreased from 71% to 65%. Standard enforcement would almost automatically increase the numbers to between 80% and 90%.

The National Highway Traffic Safety Administration and NASCAR have just kicked-off a seat belt awareness campaign to capture the attention of the 31% of the motorists who still don't buckle up. Unless you've been in a crash, no one knows better than a NASCAR driver the value of a seat belt.

There is no question that the carnage on our highways will have to be addressed. The question is, as a mother who lost a daughter ejected from a car recently asked me, "How many more Pennsylvanians will die or must die before you will act." The mother felt very strongly that with standard enforcement her daughter would have been in a seat belt and alive today.

Statistics for this testimony were taken from the Pennsylvania Department of Transportation and the National Highway Safety Council reports.

**TESTIMONY BEFORE THE HOUSE
JUDICIARY COMMITTEE**

**TIMOTHY A. SHOLLENBERGER, ESQUIRE
VICE - PRESIDENT
PENNSYLVANIA TRIAL LAWYERS ASSOCIATION**

TUESDAY, JULY 14, 1998

GOOD MORNING, CHAIRMAN GANNON, AND MEMBERS OF THE HOUSE JUDICIARY COMMITTEE. THANK YOU FOR GIVING THE PENNSYLVANIA TRIAL LAWYERS ASSOCIATION THE OPPORTUNITY TO TESTIFY ON HOUSE BILL 2078. MY NAME IS TIM SHOLLENBERGER, AND I AM VICE - PRESIDENT OF THE PENNSYLVANIA TRIAL LAWYERS ASSOCIATION.

THE PENNSYLVANIA TRIAL LAWYERS ASSOCIATION UNALTERABLY OPPOSES HOUSE BILL 2078. WE BELIEVE THAT CHANGING THE LAW IN THIS AREA WILL INSERT SIGNIFICANT ADDITIONAL COST IN THE RESOLUTION OF THIS TYPE OF CASE. JURORS WILL NOT BE ABLE TO ASSESS THE DIFFERENCE WITHOUT EXPERT TESTIMONY. BIOMECHANICAL ENGINEERS ARE EXTREMELY EXPENSIVE. THE EFFECT OF THIS LANGUAGE WILL BE TO CREATE A SCIENTIFIC DEBATE ON WHAT PERCENTAGE OF AN INJURY CAUSED BY A NEGLIGENT DEFENDANT MIGHT HAVE BEEN PREVENTED BY A SEATBELT OR CHILD RESTRAINT SYSTEM. THIS CONFLICTING TESTIMONY WOULD RAISE THE TRANSACTION COSTS RELATED TO RESOLUTION OF CLAIMS, THEREBY INCREASING THE COST OF PREMIUMS TO CONSUMERS AND REDUCING THE AMOUNT OF RECOVERY FOR INJURED PARTIES. THIS LANGUAGE WOULD ALSO PROVOKE DEBATE AT THE CLAIMS LEVEL WHERE THE THREAT OF RAISING THIS DEFENSE WILL BE USED, SO THAT CLAIMS WHICH ORDINARILY ARE RESOLVED EFFICIENTLY WILL BECOME EMBROILED IN LITIGATION.

THE RESOLUTION OF CLAIMS WOULD ALSO BE IMPACTED AS INSURERS DEBATE WHETHER THE TREATMENT IS CAUSALLY RELATED TO THE COLLISION ITSELF OR THE NON-USE OF THE RESTRAINT SYSTEM. PRIVATE HEALTH PLANS OR WORKERS' COMPENSATION CARRIERS ASSERTING SUBROGATION CLAIMS AGAINST AUTO TORT RECOVERIES WOULD BE LESS LIKELY TO RECOVER AMOUNTS PAID FOR COLLISION - RELATED MEDICAL TREATMENT WHICH IS LATER ATTRIBUTED TO THE NON - USE OF A RESTRAINT SYSTEM TO THE DETRIMENT OF ITS POLICY HOLDERS.

PROPONENTS OF THIS CHANGE MAY ARGUE, FOR EXAMPLE, THAT AN INDIVIDUAL WHO STRIKES A WINDSHIELD IN AN ACCIDENT WOULD BE SUBJECT TO THIS SECTION AND THE DIFFERENCE COULD BE EASILY PROVEN. HOWEVER, IT WOULD BE DIFFICULT OR IMPOSSIBLE TO SAY WHAT OTHER INJURIES WOULD HAVE BEEN CAUSED BY A FORCE VIOLENT ENOUGH TO THROW THE INDIVIDUAL THROUGH A WINDSHIELD HAD THE RESTRAINT SYSTEM BEEN IN USE. BELTS THEMSELVES, OF COURSE, CAN CAUSE SERIOUS INJURY. IN ADDITION, THE VIOLENT FORCE CAUSING SUDDEN ACCELERATION AND DEACCELERATION CAN RESULT IN CRUSHED VERTEBRAE AND RUPTURED CERVICAL DISC. SUCH A DISCUSSION WOULD EXTEND THE ARGUMENT FROM A BASIC TORT CLAIMS SUCH AS "WHAT INJURIES WERE CAUSED BY THE DEFENDANT'S NEGLIGENCE" TO "WHAT INJURIES WERE CAUSED BY THE DEFENDANT'S NEGLIGENCE, THEN SUBTRACT THE PORTION OF THOSE INJURIES THAT MIGHT NOT HAVE BEEN CAUSED HAD THE PLAINTIFF BEEN WEARING THE SEATBELT," FURTHER, TO "WHAT INJURIES WERE CAUSED BY THE DEFENDANT'S NEGLIGENCE, SUBTRACTING THOSE INJURIES

WHICH WERE CAUSED BY THE PLAINTIFF'S FAILURE TO WEAR A SEATBELT, BUT ADD THE INJURIES THE PLAINTIFF WOULD HAVE SUFFERED IF HE OR SHE HAD BEEN WEARING A SEATBELT." *which I'm not sure I even follow*

ANY EVIDENCE THAT WOULD BE ASSOCIATED WITH DETERMINING IN A GIVEN CASE WHETHER CERTAIN INJURIES WOULD OR WOULD NOT HAVE BEEN CAUSED BY A SEATBELT AND OTHER INJURIES MIGHT HAVE BEEN PREVENTED BY USE OF THE SEATBELT, IS HIGHLY SPECULATIVE AT BEST.

CLEARLY, IT WILL INCREASE TRANSACTION COSTS, TO THE DETRIMENT OF BOTH THE INJURED CONSUMER AND THE INSURANCE COMPANY.

SUCH A BILL IS ALSO UNFAIR TO THE INNOCENT CHILD WHO MAY OR MAY NOT BE BELTED INTO A RESTRAINING SEAT. SHOULD SUCH AN INDIVIDUAL HAVE REDUCED RIGHTS BECAUSE OF THIS LEGISLATION AND BECAUSE HIS PARENT WAS IN A HURRY AND/OR HAD NOT PURCHASED THE NECESSARY SEAT?

FINALLY, THERE IS ABSOLUTELY NO STATISTICAL INFORMATION THAT WE ARE AWARE OF THAT WOULD SUGGEST THAT PEOPLE WOULD MORE LIKELY WEAR THEIR SEATBELT IF THEY KNEW THAT THEIR CLAIM FOR DAMAGES WOULD BE LIMITED IF THEY WERE NOT WEARING A SEATBELT. WHETHER OR NOT TO WEAR A SEATBELT IS MORE A MATTER OF PUBLIC EDUCATION AND HABIT. THERE IS ABSOLUTELY NO INCENTIVE PROVIDED BY THIS LANGUAGE. WE BELIEVE IT IS ESSENTIALLY LANGUAGE WHICH WILL INCREASE THE COST OF LITIGATION, REDUCE THE RECOVER OF INJURED CONSUMERS, INCLUDING INNOCENT CHILDREN, AND BENEFIT ONLY INSURANCE COMPANIES WRITING AUTOMOBILE INSURANCE POLICIES AND THOSE AUTO MANUFACTURERS WHO ARE LOBBYING THIS LEGISLATION.