

THE INSURANCE FEDERATION OF PENNSYLVANIA, INC.

Public Testimony

prepared for the

HOUSE JUDICIARY COMMITTEE

on

House Bill 2078

July 14, 1998

The Insurance Federation of Pennsylvania, Inc.
1600 Market Street, Suite 1520
Philadelphia, PA 19103
215-665-0500

GOOD AFTERNOON, AND THANK YOU FOR THE OPPORTUNITY TO BE HERE TODAY. MY NAME IS SAM MARSHALL, AND I AM PRESIDENT-ELECT AND GENERAL COUNSEL OF THE INSURANCE FEDERATION OF PENNSYLVANIA. THE FEDERATION IS A NON-PROFIT TRADE ASSOCIATION REPRESENTING ALL TYPES OF INSURERS, INCLUDING THOSE PROVIDING AUTO INSURANCE COVERAGE IN THIS COMMONWEALTH.

I AM HERE TODAY TO RECOMMEND YOUR APPROVAL OF HOUSE BILL 2078. OUR SUPPORT FOR THIS BILL IS FOR SOME VERY SIMPLE REASONS.

AS AUTO INSURERS, WE INSURE THE DRIVERS AND PASSENGERS OF CARS OPERATING IN THIS COMMONWEALTH. WE THEREFORE HAVE A CONCERN WITH KEEPING THE COST OF THAT INSURANCE DOWN AND WITH PROMOTING THE SAFETY OF THOSE DRIVERS AND PASSENGERS. SOMETIMES, THAT HAS PUT US ON THE LOSING SIDE OF VARIOUS BILLS THAT HAVE COME BEFORE YOU. TWO RECENT EXAMPLES: WE WERE AMONG THE FEW WHO OPPOSED RAISING THE SPEED LIMIT TO 65 MILES PER HOUR, AND WE HAVE BEEN UNSUCCESSFUL IN MAKING HEADWAY ON SOME STEPS TO STOP DRUNK DRIVERS, AS WITH THE ADMINISTRATIVE LICENSE SUSPENSION PROPOSAL.

I HOPE WITH THIS BILL WE WILL BE ON THE WINNING SIDE. THIS BILL WON'T COST THE COMMONWEALTH, CONSUMERS OR BUSINESSES MONEY. JUST THE OPPOSITE: IT WILL ACTUALLY SAVE MONEY, AND IT WILL SAVE LIVES. TO ME, THAT SOUNDS LIKE A NO-BRAINER.

THIS WAS HIGHLIGHTED IN HENRY HAGER'S DECEMBER 8, 1997 MEMORANDUM SUPPORTING THE INTRODUCTION OF HOUSE BILL 2078. A COPY OF THAT MEMORANDUM IS ATTACHED, AND THE STUDIES CITED IN IT ARE BEING MADE AVAILABLE. THOSE STUDIES WERE DONE BY SOME PRETTY OBJECTIVE OUTFITS - THE U.S. DEPARTMENT OF TRANSPORTATION AND PENNDOT. THEY ARE CLEAR: USING SEATBELTS SAVES LIVES AND REDUCES THE SEVERITY AND NUMBER OF INJURIES IN AUTO ACCIDENTS.

PENNSYLVANIA ALREADY RECOGNIZES THIS - AT LEAST IN THEORY - BY MANDATING THEIR USE. BUT THE CURRENT LAW DOESN'T DO MUCH IN REALITY. FIRST, THE PENALTY IS A MINIMAL ONE - \$10 - AND IT IS ONLY A SECONDARY OFFENSE. SECOND, THE FAILURE TO USE A SEAT BELT - ESSENTIALLY, THE FAILURE TO OBEY THE LAW - IS MADE AN IRRELEVANCY IN DETERMINING THE DOLLAR AMOUNT THAT SHOULD BE AWARDED TO AN INJURED PARTY: CURRENT LAW PRECLUDES THIS FROM BEING INTRODUCED INTO EVIDENCE IN LITIGATION.

I TESTIFIED ON THE SECOND PART OF THE PROBLEM IN MARCH, 1996 WITH RESPECT TO SENATE BILL 1393. I AM HAPPY TO GO OVER THE POINTS IN THAT TESTIMONY TODAY AND TO PROVIDE IT TO THIS COMMITTEE FOR FURTHER CONSIDERATION. MY UNDERSTANDING, HOWEVER, IS THAT THE COMMITTEE WANTS TO FOCUS ON THE PRIMARY ENFORCEMENT ASPECT OF THE BILL, WHICH WAS NOT A PART OF SENATE BILL 1393.

THE REALITY IS, THE SECONDARY ENFORCEMENT IN THE CURRENT LAW IS "WEAK TEA" IF WE ARE SERIOUS ABOUT GETTING PEOPLE TO USE SEAT BELTS. IT IS A MINIMAL ADD-ON TO PRIMARY DRIVING OFFENSES - OFFENSES THAT, ALTHOUGH MAYBE NOT MORE SERIOUS IN TERMS OF POTENTIAL DANGER, ARE SUBJECT TO MORE SERIOUS ENFORCEMENT.

I SUSPECT EACH OF US NEED LOOK NO FURTHER THAN HIS OWN USE OF SEAT BELTS TO SEE THE WEAKNESS OF SECONDARY ENFORCEMENT. MY OWN USE OF SEAT BELTS IS PROBABLY PRETTY TYPICAL: IT IS SPOTTY, AND IT IS USUALLY MY KIDS OR THE WEATHER THAT MAKE ME USE THEM. I CAN TELL YOU, IT IS NEVER THE FEAR - OR INSPIRATION - OF SECONDARY ENFORCEMENT. I CAN ALSO TELL YOU THAT PRIMARY ENFORCEMENT WOULD BE FAR MORE EFFECTIVE IN CREATING THAT FEAR OR INSPIRATION.

THE REAL QUESTION IS, WHY NOT MAKE THE FAILURE TO USE SEAT BELTS A PRIMARY OFFENSE? IT ISN'T AN ISSUE OF PERSONAL FREEDOM; WHATEVER THE MERITS OF THAT ARGUMENT, IT WAS DECIDED WHEN THE GENERAL ASSEMBLY MADE SEAT BELT USE MANDATORY. IT ISN'T AN ISSUE OF LIMITING ONE'S POTENTIAL RECOVERY; PRIMARY VERSUS SECONDARY ENFORCEMENT HAS NOTHING TO DO WITH THAT, AND PRIMARY ENFORCEMENT WILL FURTHER THE GOAL OF LIMITING THE INJURIES THAT LEAD TO RECOVERY.

ONE ARGUMENT I HAVE HEARD IS THAT THIS MAY UPSET OTHERWISE LAW-
ABIDING MOTORISTS. THE KEY WORD HERE IS "OTHERWISE." THE FACT
IS, THOSE THAT DO NOT USE SEAT BELTS ARE NOT OBEYING THE LAW,
AND THE DANGER AND COST THEY CREATE - FOR THEMSELVES AND OTHERS
- ARE JUST AS GREAT AS A NUMBER OF OTHER DRIVING OFFENSES. IT
IS TIME TO MAKE THE PENALTY FOR THAT FAILURE TO OBEY THE LAW
JUST AS MEANINGFUL.

THE OTHER ARGUMENT I HAVE HEARD IS THAT FAILURE TO USE SEAT
BELTS REALLY ISN'T THAT BIG A DEAL. I HOPE THE RECORD MADE HERE
TODAY PROVES OTHERWISE: THE REALITY IS, USING A SEAT BELT ISN'T
THAT BIG A DEAL, BUT THE SAVINGS - IN TERMS OF LIVES AND DOLLARS
- ARE. PRIMARY ENFORCEMENT WILL GO A LONG WAY TOWARD REALIZING
THOSE SAVINGS, AND I HOPE YOU TAKE QUICK ACTION TO GET THIS
DONE.

AGAIN, THANK YOU FOR THE OPPORTUNITY TO TESTIFY. I AM HAPPY TO
ANSWER ANY QUESTIONS.

The Insurance Federation of Pennsylvania, Inc.

1600 Market Street
Suite 1520
Philadelphia, PA 19103
Tel. (215) 665-0500 Fax: (215) 665-0540

Gerald A. Isom

Chairman

Robert E. Chappell

Vice Chairman

Henry G. Hager

President &

Chief Executive Officer

Samuel R. Marshall

Vice President &

General Counsel

John R. Doubman

Secretary & Counsel

Marybeth H. Dob

Treasurer

Birchard T. Clothier

Investment Officer &

Assistant Treasurer

Jeffrey D. Sharp

Director of

Government Affairs

December 8, 1997

Re: The merits of wearing seat belts

From: Henry G. Hager

Representative Robert Godshall (R-Montgomery) is introducing legislation that will increase the use of seat belts - by making failure to wear a belt a primary offense (right now, it is only secondary), and by allowing the failure to wear a belt into evidence in any court action for damages (right now, this cannot be admitted).

We endorse Representative Godshall's efforts. The use of seat belts saves the lives of those who wear them and saves money for all motorists. The facts proving this are clear and non-partisan:

- Last year, the U.S. Department of Transportation released a study showing that those who do not wear seat belts have hospital costs arising from auto accidents that are \$5,000 higher than the costs for those who use seat belts. That study included Pennsylvania.

That is why the U.S. Department of Transportation wants primary enforcement laws: Buckling up reduces health-care costs, which all of us must pay.

- Last year, the Pennsylvania Department of Transportation released a study showing that seat belt use would have saved 366 lives and greatly reduced injuries arising from auto accidents.

As to dollars: PennDOT concluded that 100% use of seat belts would save over \$2.2 billion for Pennsylvania - or about \$190 for every man, woman and child.

A bill that saves lives and money sounds almost too good to be true - but that is the case here. Representative Godshall has taken the initiative to get this done, and the General Assembly should follow through.

New York Report

NE 2

SUNDAY, JULY 12, 19

The New York Times

No Seat Belts Worn in Crash That Killed 2 Children, Police Say

By DAVID M. HERSZENTHORN

The van that crashed Friday evening on a Pennsylvania highway, killing two Brooklyn girls on their way home from a day-camp outing, was overcrowded and none of its occupants were wearing seat belts when the driver fell asleep and lost control, camp counselors who were in the van and state troopers investigating the accident said yesterday.

The accident, on Interstate 80 in Jackson Township, Pa., about 80 miles northwest of New York City, killed two girls, age 6 and 7, who had been crowded with 18 other children and 4 adults into a van designed to carry only 15 people, the Pennsylvania State Police said. Most of the occupants were asleep and many were thrown from the van when it crashed about 5:25 P.M., witnesses said. Only one person in the van, Najjer Matthews, a 6-year-old girl, was uninjured.

As the state police continued their investigation, parents, including the father of one of the dead girls, questioned whether proper safety precau-

tions had been taken. "Grieving is going to take a long time," said the father, Michael Channell, describing the loss of his daughter Michael Marie Channell. "But after we are done grieving, we are going to address whether there was overcrowding on the van and if there was a lack of seat belts."

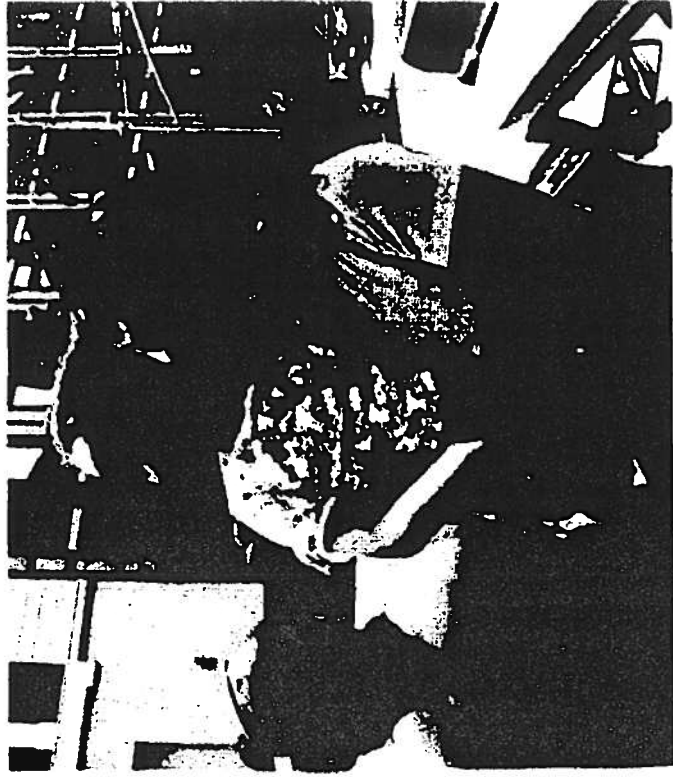
The other girl who died was Janine Ocean, 7, the Pennsylvania State Police said. The state police identified the driver of the van as Gary R. Huggins, 24, and officials at the Bedford-Stuyvesant Restoration Corporation in Brooklyn, which operates the day camp that the children attended, described him as an employee on the corporation's security and transportation staff. Mr. Huggins, who was not injured, had returned home to Brooklyn and, distressed by the accident, was placed under heavy sedation, they said.

Seven children and two counselors remained hospitalized in Pennsylvania yesterday, said Roderick Mitchell, the president of the restoration corporation, a community develop-

ment group. All nine were expected to recover, he said. Hospital officials said one child remained in critical condition while the others who remained under care were in stable or satisfactory condition. The other passengers were treated and released and they returned to Brooklyn yesterday afternoon.

Among them was Nickida Amsterdam, 7, whose left arm was broken in the crash and was put in a cast. Her mother, Fiona, traveled to Pennsylvania Friday night with other parents to be with their injured children. "I went out last night and after seeing what happened, I believe my daughter is lucky to be alive," Ms. Amsterdam said. "Right now she is in shock. She hardly says anything."

One camp counselor, Patricia D. Parrish, 22, said that the adult supervisors had given little consideration to the number of children in the van and that it had not appeared to be overcrowded. The van held the youngest campers, most between the ages of 5 and 8, she said, while older



Michelle V. Agost/The New York Times

Najjer Matthews, 6, the only person uninjured in the crash of a van Friday evening, was reunited with her mother in Brooklyn yesterday

Continued on Page 25

