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## **Testimony of**

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## **Hearing before the**

**Senate Committee on the Judiciary  
Subcommittee on Oversight, Federal Rights, and Agency  
Action**

## **On**

**“Justice Delayed: The Human Cost of Regulatory Paralysis”**

**Thursday, August 1, 2003**

My name is Janette Fennell and I am the founder and president of KidsAndCars.org. In 1996, after my family had been kidnapped at gunpoint and locked in the trunk of our vehicle, we were able to use this traumatic experience to help guide the Federal Regulatory process to ensure that no one else had to end up in the trunk of a vehicle without a way to escape. Now, all vehicles, 2002 or newer, come with a glow-in-the-dark internal trunk release as standard equipment. Though we are proud of that accomplishment, the most important lesson we continue to learn every day is that these simple changes to vehicles save lives. In fact, not one person has died in a vehicle equipped with an internal trunk release mechanism. Not one.

After our success with internal trunk releases, we were constantly being asked to assist others with issues that were important to them. Calls came from people who were trying to prevent children from being strangled by an over-powered power window. Families called because their child was killed when a vehicle was inadvertently set into motion. The common element in all of these situations was that these incidents took place off public roads and highways; yet no government agency collected data about these vehicle related injuries and deaths. It was then when I decided to form KidsAndCars.org, a national nonprofit organization dedicated to preventing injury and death to children. We are the only national children safety organization with an in-depth specialty regarding events that take place off public roads and highways. We work solely on these issues and they are most commonly referred to as nontraffic incidents.

KidsAndCars.org promotes awareness among parents, caregivers and the general public about the dangers to children, including backover and frontover incidents, and heat stroke from being inadvertently left in a vehicle. The organization works to prevent tragedies through data collection, education and public awareness, policy change, product redesign and survivor advocacy.

Because we were the only organization collecting data about the many different ways children were being injured or killed on private property, we were the first agency to learn about children being hurt in this manner and coined the term 'backover.' During the 2000-2003 time-frame, we noticed a huge jump in the number of children who were being seriously injured or killed because drivers could not see them behind their vehicles. KidsAndCars.org is the organization that brought this issue to the national agenda as we continue to work to prevent such unthinkable tragedies.

I find it just as amazing today as I did the first day that I learned our country does not have a regulation about what a driver should be able to see when backing up their vehicle. We have been manufacturing vehicles in this country for over 100 years, yet a regulation has never been written that defines what you should be able to see when backing your vehicle. I'm quite sure that no one would purchase a vehicle if they could not see 20-30 feet in front of them; yet we have all been purchasing defective vehicles that do not provide you with the ability to see what is behind you when backing.

It made no sense to us that drivers are behind the wheel of a 3000-pound lethal weapon, and cannot see what is behind them when backing their vehicle. We then partnered with Consumers Union, the publisher of Consumer Reports, after we realized that consumers are literally backing up blindly. Consumers Union then began measuring the area behind a vehicle where a driver could not see even when they had their side and rearview mirror set perfectly. Drivers 5' 4" and 5' 8" were both tested because even how tall you are can determine what you can see behind your vehicle. Attached to this testimony is a chart with their findings.

EVERY vehicle has a blindzone, the term we coined to describe the area behind a vehicle that cannot be seen by a driver. We do not refer to that area as a 'blind spot' because not only has that term already been associated with the area a driver cannot see when they are changing lanes, but when the area behind a typical vehicle where you cannot see a child is approximately 8 feet wide and from 8-60 feet long, we knew that large of an area could never be referred to as a 'spot.'

We simply must not allow drivers in this country to backup blindly from this day forward. Children and older adults are being killed in unprecedented numbers. It is impossible to avoid hitting something you literally cannot see.

When the National Highway Traffic Safety Administration (NHTSA) were tasked with writing a rule so people could see what was behind them while backing their vehicle, they could have taken many different avenues to accomplish this. The most obvious one would be that auto manufacturers must redesign all of their vehicles so when you are backing up, the driver can see what is behind them. That would be a prohibitively expensive rule to issue.

But NHTSA did not choose that route. They examined and tested other ways to make sure drivers could see what is behind them. NHTSA discovered that a good quality rearview camera system was not only effective, but it was a relatively simple and cost-effective method for providing drivers with the ability to see behind their vehicle while backing.

Yet, the pending rule we need to have issued is not really about cameras. If an auto company can provide visibility behind a vehicle by using mirrors or any other method, they should do it. We are simply asking that NHTSA be allowed to issue a regulation that is ***100 years overdue***. Maybe auto makers will want to redesign their entire vehicle fleet, but I seriously doubt that. But, we cannot allow children to be injured and killed...AND the auto industry knows we are backing up blindly.

Unfortunately, our parents and others are learning that you cannot see a child behind their vehicle the hard way...after they have backed over and killed someone they love more than life itself- their child.

### **Please, RELEASE THE REAR VISIBILITY STANDARD.**

Since 2008, when the Cameron Gulbransen Kids Transportation Safety Act was passed and signed by President George W. Bush, more than 1,100 needless deaths and over 85,000 injuries have occurred due to a predictable and preventable backover tragedy. The Rear Visibility Rule is over two years overdue

### **THE PROBLEM:**

**Every week** in the United States at least 50 children are backed over by a vehicle; 48 are treated in hospital emergency rooms and at least 2 children die. There are approximately 228 fatalities and 17,000 injuries per year in backover incidents according to the National Highway Traffic Safety Administration (NHTSA). The predominant age group of victims of this tragic epidemic is most commonly 1-year-old children, specifically between 12 and 23 months old. Another age group that is disproportionately affected by a backover crash is seniors over the age of 70. **In over 70% of these incidents, the person behind the wheel of the car is a parent or close relative.**

## **THE SOLUTION:**

### ***Law Passed in 2008 Requiring Rule by 2011***

In response to this growing and preventable public health problem, in February of 2008, Congress passed, and President George W. Bush, signed the Cameron Gulbransen Kids Transportation Safety Act (Pub. L. 110-189). Former Senators Hillary Clinton (D-NY) and John Sununu (R-NH) and current Representatives Jan Schakowsky (D-IL) and Peter King (R-NY) were the primary sponsors of the legislation, which garnered strong bi-partisan support in both the House and Senate, having over 80 co-sponsors. There was also support from the auto industry, parents and families affected by backover incidents, and the safety community including KidsAndCars.org, Advocates for Highway and Auto Safety, the American Academy of Pediatrics, Public Citizen, Consumers Union, Center for Auto Safety, Trauma Foundation and others.

### ***The Proposed Rule is now over 2 Years Past Due***

The law requires the National Highway Traffic Safety Administration (NHTSA) to expand the driver's rearward field of view in order to allow drivers to detect pedestrians who are in, or who may be entering, the area behind the vehicle and avoid striking them. A crash in which a vehicle, moving in reverse, strikes a non-occupant, that is a child, pedestrian or cyclist, is called a backover crash.

***The final rule required by this law has yet to be issued and is now over two years overdue.*** The bill was signed into law on February 28, 2008, and it required the Department of Transportation (DOT) to issue a rule by February 28, 2011. This delay is unacceptable and has contributed to a continued tragic and unnecessary loss of life. Since the law was passed, NHTSA reports that there have been over 1,100 deaths and 85,000 injuries in backover crashes.

### ***Technology is Available and Inexpensive***

The technology to prevent these deadly crashes is readily available and affordable. Seventy percent (70%) of 2012 model year vehicles are already offering a rear view camera system as an option on one or more trim levels, according to data from Edmunds.com. The cost of these cameras is well-below agency predictions. The cost estimates for rearview cameras from NHTSA in 2010 of \$159 to \$203 are now inflated and do not account for the dramatic decline in the cost of associated technologies. For example, the Audiovox ACA250 wireless (after-market) rearview video camera and monitor is available for less than \$100, which is 37% less than the minimum cost estimate used by NHTSA. Furthermore, there is an increased use of screens in many vehicles compared to when the NHTSA analysis was completed. For every vehicle with a screen available, the cost of installation is reduced by between 53% and 64% according to NHTSA.

### ***Number of Lives Which Could be Saved is Underestimated and Undervalued***

The benefit-cost analysis performed by NHTSA undercounts the number of lives that have the potential to be saved by the technology. The databases on which the agency relies to estimate the number of individuals injured or killed in backover crashes may not be accurately capturing all events. Previous agency analysis of heart stroke deaths using the same databases used in the backover analysis were found to have missed 33% of fatalities when compared with a database of incidents gathered from victims' families, news and police reports.

Additionally, NHTSA recently released an updated estimate of the Value of a Statistical Life (VSL) of \$9.1 million. This figure is 50% greater than the VSL NHTSA used in the Preliminary Regulatory Impact Analysis (PRIA) of \$6.1 million. Moreover, children under the age of 5 account for 44% of those killed in backover incidents. NHTSA has acknowledged that the strict benefit-cost

analysis does not account for the difficult to quantify premium the public places on preventing the injury or death of a child.

***Cameras Already in Many Cars and Consumers are Willing to Pay for Safety***

NHTSA predicted that only approximately 20% of vehicles would have a rearview camera in 2010. However, according to Edmunds.com data, 70% of 2012 model year vehicles have backup cameras available on one or more trim levels. For example, the Honda Civic, which was the fifth most sold vehicle in the U.S. in 2012, now comes with a rearview camera as standard equipment. (The MSRP for the 2013 Honda Civic is \$17,965). Moreover, history has proven that safety sells. One only has to look at the development of airbags, seatbelts and the coveted IIHS Top Pick safety ratings to see that safety has become a large part of the automobile purchasing decision. A \$100 rearview camera system could prevent a driver from backing into something and causing expensive and extensive damage to your bumper, or, more importantly, save the life of a child.

***Parents and safety advocates can no longer be drained emotionally and financially***

Parents of children killed in backover tragedies and safety groups have come to Capitol Hill countless times to participate in press events, urge members of Congress to support a rear visibility standard, and plead with the Obama Administration to release a rear visibility rule for motor vehicles. Every hurdle that has been put before this dedicated yet completely unselfish group has been met. Nothing the parent advocates have done and continue to do will ever bring back their beloved child. This citizenry has spent over 8 years doing everything possible to protect another family from having to live with the unending grief they deal with on a daily basis.

After the bill was passed, and after the Notice of Proposed Rule-Making was issued, a March 23, 2011 public meeting was held at the media center at the Department of Transportation (DOT) in Washington, DC. This type of 'additional scrutiny' is not usually part of the rulemaking process. Yet, from 9:00am until 3:00pm, parents, family members and safety groups like Advocates for Highway and Auto Safety, Consumers Union, the Consumer Federation and others spoke to the leaders at NHTSA about the utmost importance of ensuring this rulemaking is finalized. At this public meeting, not one negative comment was heard and there certainly weren't any protestors marching outside against the rear visibility rule. At that point, the rule was only delayed by about one month, but no one could have ever predicted after such a strong and positive showing that now, over 2 years later, we would still be begging for this standard to be issued.

Strong bipartisan support from Congress required this safety rule in the Cameron Gulbransen Kids Transportation Safety Act. It is the law. So many other actions that President Obama has taken indicates that the safety of our children is a top priority. In fact President Obama was a co-sponsor of the legislation while serving in the Senate and now as our leader he needs to issue the required rule. It is imperative that the Office of Management and Budget along with the President take one simple step and issue the rear visibility rule immediately.

These unacceptable and unnecessary deaths and injuries from backover tragedies must stop.

**Please, RELEASE THE REAR VISIBILITY STANDARD.**