

Docket (/docket/NHTSA-2023-0012) / Document (NHTSA-2023-0012-0003) (/document/NHTSA-2023-0012-0003)
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PUBLIC SUBMISSION

Comment from JERRY KARTH

Posted by the **National Highway Traffic Safety Administration** on Jul 18, 2023

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The law is clear on reckless endangerment of human life as quoted below

https://spectrum.pch.com/Path/YourDreamHomeAdqLG_B23BB73AA5EC40CDBBFBDD196761F277/CEINTDec.aspx

RECKLESS ENDANGERMENT IN THE FIRST DEGREE

(Depraved Indifference)

Penal Law § 120.25

(Committed on or after Sept. 1, 1967)

(Revised December 12, 2006 1 and June 5, 2012 2)

The (specify) count is Reckless Endangerment in the First Degree.

Under our law, a person is guilty of Reckless Endangerment in the First Degree when, under circumstances evincing a depraved indifference to human life, that person recklessly engages in conduct which creates a grave risk of death to another person.

The trailer manufacturers and trucking industry has acknowledged that the present trailer design for “dry van” and refrigerated trailers is a dangerous design. This has been proven in court numerous times most notably the Hein case versus Utility Trailer. In which Utility now offers a “SUG” as an option on their trailers.

It must be noted that the Department of Transportation (DOT) is quoted in the Federal registry in 1969 that side guards’ regulations and standards would be forth coming. It is also noted that within the DOT an agency NTSB has supported and recommended that SUG be installed on these trailers.

It must also be noted that the Trailer Manufacturers have numerous patents and prototypes of these guards which they have displayed at various trade shows. The Trailer Manufacturers have stated they would welcome a regulation in order to provide a “level playing field”.

If the trailer manufacturers are unable to provide “voluntary” standards for the SUG I am more than happy to provide such a document for them.

The unintended consequences of the lack of side guards are the death or catastrophic injury of a human being in this unfortunate situation, whereas the Trucking industry as represented by Owner Operators Independent

Drivers Association (OOIDA) mention the unintended consequences in an accident they fail to accept the advance technology built into the modern automobiles such as crump zones, air bags, seat belts will provide protection to any other vehicle that may or may not be involved. It also must be noted that OOIDA is a for profit insurance provider to the Trucking Industry.

It must be noted that the “FARS” database has been acknowledge as being incomplete and inaccurate which the agency NTHSA has utilized for its analysis and cost benefit application. NTHSA has constructed that analysis in a predetermined designed fashion as to have a predicted outcome of adding the guards are too expensive. This is a direct reflection upon the “state of mind” listed above of having no consideration as to the value of human life, it represents a mindset if not is a criminal act as listed above, that NTHSA places no value on human life. NTHSA has done little or nothing in the last 50 plus years to correct the inadequate and incomplete data collection practices of the FARS data.

DOT cannot state that it supports “vision zero” (no highway deaths) and the present lack of regulations on SUG. The other areas of concerned raised by OOIDA have been addressed such as the Railroad crossing issue and loading docks have been shown and documented as disinformation and misinformation.

Congress has requested and directed NTHSA to get this done on numerous occasions and the agency has ignored the requests of Congress and the people they represent. It is now past time for Congressional oversight of this agency and corrective actions and measures to take place. I also request that the Inspector General investigate the recent rearguard rule and the analysis presented in this ANPRM on SUG.

NTHSA is requesting 1.3 Billion in FY2024 the question one has to ask is the agency worth receiving the tax payers dollars if they are unwilling to protect the tax payers.

As I close these comments I refer once again to the opening sections of this information that NTHSA which is charged with the safety of the people has documented and demonstrated that the agency conducts and actions clearly show

Depraved indifference to human life reflects a wicked, evil or inhuman state of mind, as manifested by brutal, heinous and despicable acts. It is evinced by conduct that is wanton, deficient in a moral sense of concern, and devoid of regard for the life or lives of others.

Attachments

1



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