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INDEPENDENT REGULATORY REVIEW COMMISSION
333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

December 15, 2004

Honorable Allen D. Biehler, P.E., Secretary
Department of Transportation
Keystone Building, 8th Floor
400 North Street
Harrisburg, PA 17120

Re: Regulation #18-393 (IRRC #2439)
Department of Transportation
Child Passenger Protection

Dear Secretary Biehler:

Enclosed are the Commission's comments for consideration when you prepare the final version of this regulation. These comments are not a formal approval or disapproval of the regulation. However, they specify the regulatory review criteria that have not been met.

The comments will be available on our website at www.irrc.state.pa.us. If you would like to discuss them, please contact my office at 783-5417.

Sincerely,

Robert E. Nyce
Executive Director
evp
Enclosure

cc: Honorable Richard A. Geist, Majority Chairman, House Transportation Committee
Honorable Keith R. McCall, Democratic Chairman, House Transportation Committee
Honorable Roger A. Madigan, Chairman, Senate Transportation Committee
Honorable J. Barry Stout, Minority Chairman, Senate Transportation Committee

Comments of the Independent Regulatory Review Commission

on

Department of Transportation Regulation #18-393 (IRRC #2439)

Child Passenger Protection

December 15, 2004

We submit for your consideration the following comments that include references to the criteria in the Regulatory Review Act (71 P.S. § 745.5b) which have not been met. The Department of Transportation (Department) must respond to these comments when it submits the final-form regulation. The public comment period for this regulation closed on November 15, 2004. If the final-form regulation is not delivered within two years of the close of the public comment period, the regulation will be deemed withdrawn.

1. Scope of the regulation. – Fiscal impact; Clarity.

Scope

The Preamble states that this regulation applies to all vehicle operators transporting children under eight years of age. The statute (75 Pa.C.S.A. §§ 4581(a)(1) and (1.1)) states that any person operating certain vehicles shall fasten children in either a child passenger restraint system or a child booster seat. Commentators are not clear on whether school buses, taxi-cabs, limousines and other forms of public and private transportation fall under the regulation. Therefore, the Department should add a scope section or definitions to explain to whom this regulation applies.

Fiscal impact

A commentator representing common carriers that provide call and demand service raised concerns related to the potential fiscal impact of the regulation. They note the impracticality of having to provide a “nearly unlimited number of child passenger restraint systems” because they cannot anticipate the number, size or age of children who will need transportation. The Department has indicated that child booster seats cost between \$25 and \$130. In the Preamble to the final-form regulation, the Department should identify the number of vehicles that provide call and demand service and quantify the costs associated with compliance for these common carriers.

2. Section 102.102. Physical criteria for use of child passenger restraint system. – Reasonableness; Feasibility.

This section establishes specific requirements based on the age, height and weight of children. It also uses the phrase “in accordance with the recommendations of the manufacturer” to satisfy the

requirements of this chapter. Failure to comply can result in the operator being fined under 75 Pa.C.S.A. § 4581(b). How can the operator of a vehicle demonstrate compliance with the regulation in regard to the age, height and weight of a child? How can the operator of a vehicle demonstrate that they have acted in accordance with the recommendations of the manufacturer?

3. Section 102.103. Medical exemption from use of child passenger restraint system. – Consistency with statute; Reasonableness.

Applicability

Under 75 Pa.C.S.A. § 4581(g), the Department can provide exemptions for the use of child passenger restraint systems and child booster seats. Under this section, exemptions only exist for child passenger restraint systems. Why aren't exemptions included for the use of child booster seats?

4. Miscellaneous clarity.

Section 102.102(c) uses the terms "child restraint system" and "booster seat." The final-form regulation should use the defined terms "child passenger restraint system" and "child booster seat."

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Facsimile Cover Sheet

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INDEPENDENT REGULATORY REVIEW COMMISSION
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To: Stephen Martin
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Phone: 7-5079
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Date: December 15, 2004
Pages: 4

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REVIEW COMMISSION

Comments: We are submitting the Independent Regulatory Review Commission's comments on the Department of Transportation's regulation #18-393 (IRRC #2439). Upon receipt, please sign below and return to me immediately at our fax number 783-2664. We have sent the original through interdepartmental mail. You should expect delivery in a few days. Thank you.

Accepted by: Nicole Stroy **Date:** 12/15/04