

Safety

& THE LAW

Spring 1993

A Newsletter to live by from the law firm of ROBERTS & ROBERTS

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Is Your Truck Safe?

According to the Center for Auto Safety, more than 10 times as many people have already died in General Motors (GM) pickup truck fires as in Ford Pinto fires. The Institute for Injury Reduction predicts that as many as 200 more people will burn to death in GM pickups involved in side-impact collisions. If you drive a GM full-size pickup manufactured between 1973 and 1987, you may be exposed to an unnecessarily high risk of fire in a side-impact collision.

The problem with these trucks is that the sidesaddle or dual gas tanks are located below the driver's cab and mounted outside the truck's steel frame rails. The gas tanks were placed outside the frame rails to increase fuel capacity. In this location, however, they may split open like a melon or explode when crushed in side collisions with impact speeds as low as 25 to 35 miles per hour.

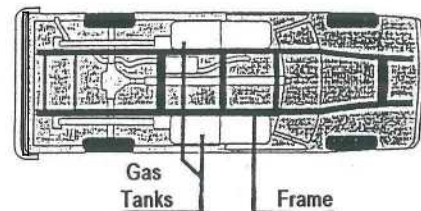
Pickups that have been driven for 33,000 miles or more have a greater risk of catching fire in side collisions because the gas tanks may be corroded and worn.

These dual gas tanks on GM pickups made between 1973 and 1983 were protected only by the sheet metal on the side of

the truck. A plastic shield was added on the 1984 to 1987 models. In the 1988 model year, GM changed its design to a single gas tank mounted inside the frame rails of these pickup trucks. GM continued, however, to place gas tanks outside the frame rails on 136,000 "crew cab" utility trucks made between 1988 and 1991.

There are several million pickups still on the road today with this type of possible safety defect. This hazard does not exist in pickups made by Ford or Chrysler.

Evidence now surfacing in product liability lawsuits filed against GM indicates that in 1978 a GM task force recommended that safety liners be put inside these gas tanks. The liners, at a cost of \$10.00 a vehicle, may have prevented up to half of the burn deaths and injuries that have occurred since then in side-impact collisions.



Underside of GM pickup truck with gas tanks mounted outside the truck's frame

The Center for Auto Safety is campaigning for a recall of these pickup trucks. In the meantime, they recommend that owners of the affected pickups either park them or drive them less frequently. In addition, it recommends not filling the tanks more than half full.

ROBERTS & ROBERTS

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Choosing The Right Bicycle Helmet

Family Safety Update

Each year over 350,000 children are injured in bicycle-related accidents. Fifty thousand of these children (most under 15 years old) suffer head injuries, often killing them or disabling them for life. The greater tragedy is that while

studies have found that wearing safe bike helmets can reduce the risk of head injuries by 85% and the risk of brain injury by almost 90%, only 5% of all bike-riding children wear helmets.

There are many excuses for not wearing a helmet, including that they are uncomfortable, look funny, or unnecessary while riding in a quiet neighborhood. These are simply dangerous myths. Today's newer, lighter helmets can be extremely comfortable and attractive, and since statistics show that most bicycle accidents happen within a few blocks of a child's home, they are necessary even on quiet residential streets.

While there are no mandatory guidelines for manufacturers of children's bicycle helmets to follow, there are two voluntary standards that helmet manufacturers *may* follow. One standard set by the American National Standards Institute (ANSI) is challenged by some safety groups because it is not stringent enough. Moreover, ANSI does not test the helmets itself. It relies upon the manufacturers to test their own helmets and report to ANSI. There are reports of some helmet manufacturers putting stickers on their helmets indicating that the helmets

are approved by and meet ANSI requirements when, in fact, they do not.

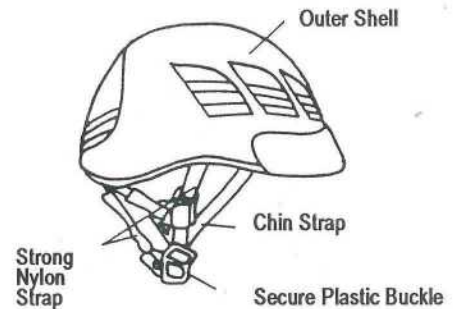
A more stringent standard comes from the Snell Memorial Foundation. This is a non-profit foundation set up to establish strict requirements for the manufacturers of all types of helmets. For a helmet to be approved by the Snell Memorial Foundation, the helmet must be tested by Snell at its own laboratories to ensure that the manufacturer meets all safety requirements set by Snell.

When you select a bicycle helmet for your child, make sure that the helmet contains stickers that indicate that the helmet meets or exceeds ANSI Standard Z90.4 and, more importantly, that it has been approved by the Snell Memorial Foundation. These helmets may be a little more expensive than others, but the difference in cost could be the difference in whether or not your child sustains a serious head injury.

Law Update

The Texas Workers' Compensation Commission has issued new regulations restricting an injured worker's rights to medical care. While an injured worker still has the right to see any doctor of his choice, if the worker is sent to a doctor by his employer or insurance company and the worker continues to see the doctor for 60 days, then that doctor becomes the worker's doctor.

The right to change doctors is also restricted. A worker must now submit a written form to the Commission and obtain the Commission's approval to change doctors.



This Helmet meets
ANSI Z90.4
Standard.



Unguarded Factory Machines: Who's liable for the accident?

A laborer is killed when he falls or is pulled into an unguarded machine while working in a factory. The employer blames the manufacturer of the machine for not supplying adequate guards for the machine. The manufacturer blames the employer for not installing adequate railings or barricades to protect people working around the machinery. They both blame the dead worker for not following the plant's safety rules for working around machinery -- and the victim's family is denied adequate compensation.

This is a common scenario for the families of people who are injured or killed in large plants or factories. In such situations, our law firm is often called upon to help.

Under Texas product safety laws, a manufacturer cannot excuse itself by relying on the employer to furnish an adequate guarding system. The manufacturer is expected to know all the potential hazards in using its machine and to provide adequate guards if it cannot redesign the machine to avoid the hazard.

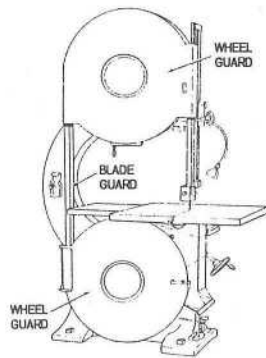
Texas workplace safety laws, however, place ultimate responsibility for providing a safe workplace upon the employer. This includes placing railings or barricades around dangerous machinery and otherwise furnishing guards for equipment where it is needed. The employer's liability for damages, however, may be limited to workers' compensation benefits if the employer carries workers' compensation

insurance and the employee is not killed in the accident.

A worker's accidental failure to follow the safety rules does not automatically bar a claim for damages against either the manufacturer or the employer, although it may reduce the damages recovered in court.

Juries often understand that industrial safety experts have long known that relying upon humans to always follow safety procedures -- in essence, to never make a mistake -- is the least effective method of preventing accidents. In 1959, the National Safety Council reported: "The experience of 50 years of organized accident prevention has demonstrated that it is unwise to place principal reliance on cooperation, training, or constant attention on the part of the operator."

By subjecting both to potential liability, our personal injury or tort laws encourage manufacturers *and* employers to provide the proper safeguards in the workplace.



Fixed
Guards
on a
Bandsaw

A manufacturer and employer jointly paid a settlement to one of our clients recently for an accident arising out of an unguarded machine. The amount of the settlement was 27,000 times more than the cost of the guard that should have been on the machine.

The Occupational Safety and Health Administration's hotline for emergency reporting of major workplace hazards is 1-800-321-OSHA.

Workplace Safety Update

ROBERTS & ROBERTS

Roberts & Roberts is an East Texas law firm with a history of helping people injured by unsafe practices and products. Randell C. Roberts and Bruce L. Roberts are certified by their state and national professional boards as specialists in Personal Injury Trial Law and Civil Trial Advocacy. They also hold memberships in the:

- Institute for Injury Reduction
- Institute for Product Safety
- National Safe Workplace Institute
- National Safety Council
- Texas Safety Association
- American Society of Safety Engineers
- National Head Injury Foundation
- National Spinal Cord Injury Association

If you know of someone who is injured, Roberts & Roberts wants to help.





Consumer Product Warnings & Recalls

You may obtain more information about product recalls by calling the Consumer Product Safety Commission at 1-800-638-2772, the National Highway Traffic Safety Administration at 1-800-424-9393, or the Food and Drug Administration at 301-295-8060 for drugs, 301-427-1122 for medical devices, or 202-485-0197 for foods and cosmetics.

Creative Products, Inc. is recalling over 4,000 "Lovely Sonny" 6-inch vinyl dolls because of a potential choking hazard. During testing, the doll's arms separated from the arm sockets and a small plastic piece from inside the doll fell out. Young children can choke on the small piece.

General Motors is recalling over 100,000 "N" model vehicles because fires can occur under the hood when the front fuel feed hose assemblies crack and allow fuel to leak out. The models are the 1988 and 1989 Buick Skylark, Pontiac Grand Am, and Oldsmobile Cutlass Calais with Quad 4 engines.

10,000 Baby Beanie motorcycle safety helmets manufactured by E&R Fiberglass, Inc. are recalled. The helmets made in 1991 and 1992 may not provide adequate protection in a crash.

130,000 Clairol Salon Power and Pazazz hair dryers are recalled. The prongs in the plugs can break off and remain in the outlet. Touching the prongs could cause electrocution. The hair dryers were sold in 1992 with the serial number HGW0351 on the back of the plug.

65,000 Benjamin-Sheridan CO2 and pneumatic airguns are recalled. The guns could accidentally discharge while the safety is being disengaged. The guns were sold through hunting and sporting-goods catalogs and by specialty stores in 1992.

Chevrolet is recalling over 211,000 GEO Storms manufactured with a driver's side airbag between 1989 and 1992. The center hub of the steering wheel could crack during a crash, possibly reducing driver control and airbag protection.