

# FACTS ABOUT STATE MANDATORY SEAT BELT HARNESS LAWS

by William J. Holdorf

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This information is not being provided to debate the value of wearing or not wearing a seat belt harness, nor to oppose or discredit voluntary seat belt use. Its main purpose is to oppose seat belt laws and to protect our right to choose our own individual personal safety and health care standards without government interference or coercion as guaranteed in the Bill of Rights.

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1. While the use of a seat belt has saved some people in certain kinds of traffic accidents, there is ample proof that in other kinds, some people have been more seriously injured and even killed only because of seat belt use. In the latter case, such injuries and deaths are not given the same degree of publicity, if any, as given when people are saved by seat belt use. Such bias in compiling traffic accident data exaggerates the so-called benefit of seat belt laws which misleads the public into thinking seat belt use automatically means safety; non-use automatically means death in all kinds of accidents, which is false.
2. In spite of the fact the government is forcing the use of a device that can be injurious and even lethal in certain situations, the government refuses to be held financially responsible for such injuries or deaths. Instead, the government expects the injured or survivors of those killed to obtain financial satisfaction from their own savings, or insurance, or by suing the auto makers.
3. Some people in certain kinds of traffic accidents have survived only because a seat belt was not used – injured, perhaps, but not dead. Such persons, by law, are subject to a citation and a fine for not dying in the accident using a so-called safety device arbitrarily chosen by politicians. Traffic accident data on such traffic accidents only reflect one more injury without using a seat belt, which, again, exaggerate the so-called benefit of seat belt laws.
4. If a person is killed while using a seat belt, law supporters claim the accident was so severe not even a seat belt could save the person. That might be true in some cases, but the severity of an accident is never mentioned in compiling a list of persons killed while not using a seat belt, which adds to the bias in compiling traffic accident data in favor of seat belt laws.
5. Evidence of seat belt use increasing injuries or causing a person's death in certain kinds of traffic accidents is well documented in the hundreds of successful lawsuits filed against the auto makers since the advent of seat belt laws in 1985. Court ordered settlements and punitive damage awards forced the auto makers to pay hundreds of millions of dollars to the injured or survivors of those killed as a result of the failure of the seat belt to save as promised. Some lawsuits were settled out of court which sealed the evidence of seat belt design defects from the public, including other lawyers with similar cases.
6. Hundreds of thousands of autos, vans and light trucks have been recalled as a result of discovering defects in certain seat belt designs after the fact, which means the motoring public has been forced by law to become unwilling guinea pigs, unlike how all other products in the marketplace are treated. In a letter published in the September/October 1990 edition of *AAA World*, a publication of the Chicago Motor Club, Jerry Curry, NHTSA Administrator, said: *We opened 213 new defect investigations in 1989, the highest one-year figure in the agency's history. A total of 6.8 million vehicles were recalled that year, a million more than the national average.* While Mr. Curry did not say how many such recalls involved seat belt defects, such recalls, again, reflect how the public is being used as guinea pigs for automotive products.
7. There is a body of law that states a person has the right to refuse any personal health care device, drug, treatment, or surgery, even if such refusal might result in an earlier death or an increase in medical expenses. All seat belt laws violate that right, that is, to freely choose to use or not to use a "health care" seat belt. Any medical professional attempting to do the same would be prosecuted, yet politicians claim they can ignore the law while demanding strict compliance from the private sector.
8. In 1991 the U.S. Supreme Court confirmed the right to determine one's personal health care standard in the Johnson Controls case. Also, a federal appeals court upheld a \$100,000 award in 1993 to a 320 pound woman who sued the state of Rhode Island for refusing to hire her back to work unless she lost weight. The federal Equal Opportunity Commission had earlier ruled obesity a

protected right under the Act, and the court agreed even though obesity is a self-inflicted health hazard and causes more premature deaths each year than highway fatalities.

9. While there is extensive publicity always given those who support seat belt laws, research published by independent professionals, that is, those not on the federal payroll, which challenges the so-called benefit of seat belt laws, is never printed in the national news media, thus the public is denied the right to know there is a legitimate contrary side to the seat belt law controversy.

10. At one time, it was the same with air bags until one investigative reporter decided to start printing the truth about air bag dangers in certain kinds of traffic accidents. The bureaucrats in the U.S. Dept. of Transportation were so adamant against telling the public about such dangers, which the public had a right to know, the reporter had to use the Freedom of Information Act to force the government to release its own records of air bag injuries and deaths.

## PRIMARY ENFORCEMENT STATES

The insidious nature of seat belt laws is shown even further in states with primary enforcement of the law. The following is what can happen in states with primary enforcement:

1 Your vehicle can be stopped anytime, day or night, by the police merely under suspicion a seat belt is not being used. And even if mistaken, once the vehicle is stopped the officer can begin routine interrogation and testing – force occupants to exit – visually check out the contents of the inside of the vehicle looking for any kind of a violation of the law, all without the right of legal counsel; all under the pretense of not using a seat belt.

2 Primary enforcement encourages the use of random roadblocks. In a 1994 statewide campaign, North Carolina conducted 2,038 roadblocks in two weeks under the pretext of checking for seat belt use. In spite of further use of random roadblocks that year, which the governor boasted increased seat belt use to 80%, total highway fatalities actually increased in the state for 1994 over the record of each of the preceding 3 years.

3. If not using a seat belt, you could be stopped for a minor traffic violation that otherwise would be ignored if using a seat belt. You may also be targeted because of a bumper sticker, your license plate, your age, race, or gender. Primary enforcement opens the door for police harassment, intimidation and profiling. Young people, women, and minorities are vulnerable, especially when traveling alone and at night, or in certain neighborhoods.

4. You are subject to an officer's misinterpretation of your answers, your attitude, or what the officer sees in your vehicle. You could become the victim of a corrupt act, such as planting drugs in your vehicle by an officer. You could be accused of using drugs because the cash in your possession has the odor of drugs. Officers can confiscate your cash and vehicle if there is some drug residue without proving you knew about or caused the residue to be there. Courts have recognized most currency in circulation has some discernible drug residue. It is reported that 80% of the assets confiscated by law enforcement do not lead to a criminal charge, but only a small percent is ever returned. Confiscation of assets has become a lucrative business for some police agencies and offers big incentives to increase roadblocks and speed traps.

5. Some states issue a seat belt violation fine against the driver even if the driver is using a seat belt but a passenger is not, and even if the driver did not know about it. Drivers, therefore, could easily become distracted while driving by a constant watch of passengers, both adults and children in the rear seat.

6. Primary enforcement is an easy way to enhance state revenue through fines. Also, additional income comes from the federal government in the form of grants (bribes) to pay the police to enforce the seat belt law. Such grants are used by the police as overtime pay while enforcing the seat belt law, which is why the police support primary enforcement laws. Such lucrative overtime pay helps relieve pressure for a police salary increase. And in some areas where job performance standards include a citation quota, seat belt violations offers easy compliance.

7. Some insurance companies target seat belt law violations as an excuse to increase rates even for drivers without an accident or moving violation record. In fact, even if you habitually use a seat belt but forget just once, that might be the time an officer stops your vehicle, thus your driving record is unjustly marred.

8. Some states level points against a driver's license for not using a seat belt in addition to a fine, which means a person is being punished twice for the same offense. Also, it means a driver's license could eventually be suspended for repeated offenses even if

the driver has been a careful driver for years with no accident or moving traffic violation.

9. If you are medically exempted from seat belt use, your vehicle could still be stopped since an officer cannot know until you are stopped. This applies to drivers who are using a seat belt but a passenger not using one because of an exemption. Even with a medical exemption, once the vehicle is stopped, the officer can begin routine interrogation, testing and visually looking for any kind of a violation of the law. Persons with medical exemptions are also subject to being stopped repeatedly during any travel route by other officers along the way. Also, providing an officer with your confidential medical records and exemption is a violation of your right of privacy.

10. It should be noted, the National Highway Traffic Safety Administration, a federal agency, in a 1995 study: *Safety Belt Use Law – An Evaluation of Primary Enforcement and Other Provisions*, stated "The analysis suggests that belt use among fatally injured occupants was at least 15 percent higher in states with primary enforcement laws."

11. Primary enforcement is promoted as saving lives, however, stopping vehicles for non-seat belt use is only an excuse to arbitrarily and capriciously accuse people of traffic violations of one kind or another, thus issuing citations as a means of easily increasing revenue, as well as providing easy lucrative overtime income for the police. Primary enforcement has nothing to do with saving lives; has all to do with revenue enhancement at the expense of fleecing the motoring public.

## CONCLUSION

Politicians have no authority to willingly and knowingly force some people to maim and kill themselves in certain kinds of traffic accidents using a so-called safety device, a seat belt harness, just because they hope others will be saved in other kinds of accidents merely by chance. The Constitution forbids the government from taking chances with a person's body, the ultimate private property. The government has no right to play Russian roulette with a person's life.

Also, seat belts are an after-the-fact device. As such, not one penny of the millions of tax dollars spent in support of seat belt laws has ever prevented one accident. Conversely, because we feel safer wearing our seat belts, studies have shown that we tend to drive more recklessly. This is known as "risk compensation," which is covered in more details in the 1995 book, "Risk" by Dr. Johan Adams, University College London, England.

In a free society, if a person is injured or killed in a traffic accident because he/she freely chose to use or not to use a seat belt, that is a personal tragedy, as it is with all other kinds of freely chosen risks in life. That is freedom working. However, if a person is injured or killed in a traffic accident because the government forced that person to use a seat belt, that is tyranny working, and reflects injury and death by government. All seat belt laws must be repealed in order to restore true freedom in the U.S.

The insidious nature of seat belt laws is further shown in the April 2001 decision by the U.S. Supreme Court which foolishly ruled that it is legal for a police officer to arrest, handcuff and jail a woman for not using a seat belt in the Atwater/Lago Vista case, including impounding her vehicle.

We do not allow doctors to send the police over to our homes to check to see if we are following the doctors' health care orders and, if not, to issue a ticket as a punishment, so why do we allow politicians to send the police over to our autos, vans, and trucks to see if we are following the politicians' health care orders, that is, using a seat belt and, if not, to issue a ticket as a punishment?

As it is with all other kinds of individual personal health care recommendations in life, there is nothing wrong with voluntary seat belt use; however, there is a great deal wrong with all state mandatory seat belt harness laws.

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## THE RIGHT OF SELF-DETERMINATION

by William J. Holdorf

Determining a person's individual personal health care standard in the event a person becomes unconscious, such as cardiopulmonary arrest (heart attack), is a right protected by law through the *Patient Self-Determination Act* of 1990. Also, state statutes allow a person to initiate a prearranged *Power of Attorney* and a *Living Will*. "Do not resuscitate" are binding legal orders to medical personnel or anyone else not to administer cardiopulmonary resuscitation.

By law, therefore, medical personnel are under strict guidelines not only to allow a person under their care to die in the event of cardiopulmonary arrest, if properly signed legal documents are prearranged before becoming unconscious but also, and equally important and legally binding by law, a conscious person cannot be forced to accept any individual personal health care suggestion or recommendation without full consent. To do otherwise would invite prosecution.

In spite of such facts, state politicians have taken it upon themselves to arbitrarily determine the individual personal health care standard of motorists by forcing them to use a certain device politicians arbitrarily have chosen, a seat belt harness, for a person's own protection whether motorists believe such protection is actually valid or not in all kinds of traffic accidents, or whether motorists want such protection or not. And anyone who objects is threatened with a fine or imprisonment, if not paid.

And to compound the insidious nature of seat belt laws, the U.S. Supreme Court earlier in 2001, foolishly ruled that it was legal for a Texas police officer to arrest, handcuff and place in jail a woman who was not using a seat belt, as well as impounding her vehicle, all clear direct violations of the Bill of Rights.

It should be fully noted, U.S. Supreme Court decision have often been unconstitutional in the past over 200 years history of the United States. Such unconstitutional decisions are based on political expediency of the time and are often left unchallenged by the U.S. Congress, which could easily reverse such decisions, but, as in the Texas seat belt law ruling, are often left intact because the majority members of Congress also agree with the political motives of the Court. Since Congress over the last decade or so has spent hundreds of millions of tax dollar annually in defense and support of such laws, the Supreme Court ruling was merely adding further support of a political objective without foundation in the Constitution.

However, notwithstanding such a violation of a person's civil rights, there are laws that state that no one, that is, medical personnel and even politicians, can legally force a person to accept individual personal health care suggestions or recommendations against their will regardless of the best intentions, and regardless of the claimed health benefit. Such a fact is attested in the wording of the statutes, themselves. Illinois is a good example.

Dr. John R. Lumpkin, M.D. director, Illinois Dept. of Public Health (1994) distributes written instructions to patients entering a hospital that, in addition to other information, includes the following:

#### Statement of Illinois Law on Advance Directives by Francis D. Meeham Chief Counsel

##### I Introduction

Competent adults have the right to make decisions regarding their health care. The courts of this state have recognized that this right should not be lost when a person becomes unable to make his or her own decisions. Therefore, people have the right to accept or refuse any medical treatment, including life-sustaining treatment. In order to enable them to make these decisions, patients have the right to be adequately informed about their medical condition, treatment alternatives, likely risks and benefits of each alternative and possible consequences.

The law now requires that patients be informed of the advance directives available to help assure that their wishes are carried out even if they are no longer capable of making or communicating their decisions. This document describes the advance directives that are recognized in Illinois. It should be kept in mind that every patient has the right to choose whether or not he or she wants to execute an advance directive.

It should be noted, by law, "Competent adults have the **right** to make decisions regarding their health care." Also, "...this **right** should not be lost when a person becomes unable to make his or her own decisions," which clearly means each adult has such a

**right** fully intact before a person becomes unconscious or even before a person is under the care of a doctor or admitted to a hospital.

Health care suggestions or recommendations include not only what medical experts administer to a person, but, also, health care that medical experts recommend a person administer him/herself, such as eating a certain diet; taking certain drugs; exercising, including the use of exercising devices; using other kinds of devices to protect or improve one's health, such as oxygen and water vapor inhalators, as well as instructions to return for further observation/consultation with medical experts.

Clearly, "competent adults have the right," means exactly what it says, that is, they have the right to freely choose individual personal health care standards that are even contrary to the suggestions or recommendations of medical experts and even if such refusal will lead to a deterioration of one's health and an earlier death, and even if such refusal increases medical expenses.

The right to determine, or predetermine before the fact one's own individual personal health care services or standards, whether conscious or unconscious, whether in a hospital or a doctor's office, or at home, or in a motor vehicle, or during recreations, is consistent with court decisions not only with the state of Illinois but in other states, as well as in federal courts.

#### EXAMPLE I

Chicago Sun-Time, 6-18-94

On June 11, 1994, Broward County (Florida) Circuit Judge Arthus Birken ruled 15 year-old Benito Agrelo could return home and stop taking the medicine that was prolonging his life. The teenager had undergone two liver transplants and he said the anti-rejection drugs gave him fierce headaches and made him irritable, which is a common reaction. He said he had thought about the decision to stop taking the drugs for months and as he cut back he felt better. "I am tired of living with pain; I'd rather be at home and live as close as I can to a natural life," he said. Without such drugs, according to medical experts, he would live only a few months.

Earlier the state Health and Rehabilitation Services agency had learned the boy was cutting back on his drugs and obtained a detention order and sent police to his home to take him to a hospital for forced treatment. The judge met with the boy at the hospital and after four hours of testimony from doctors who had treated him and from both attorneys, threw out the agency's detention order.

While the teenager was free from the negative side effects of the anti-rejection and life-saving drugs, and he felt much better, but did eventually die later on in the year.

#### EXAMPLE II

A federal appeals court ruled November 1993 for the first time that the *American With Disabilities Act* (ADA), protecting the rights of the disabled, applies to the obese. In so doing, the U.S. Circuit of Appeals upheld \$100,000 jury award to Bonnie Cook, a 320 pound woman who sued the State of Rhode Island after she was told she could not return to a state job until she lost weight. *The U.S. Equal Employment Opportunity Commission* (EEOC), had earlier declared obesity a protected category and the recent ruling now cleared the way for obese people to bring discrimination claims under the ADA. The Rhode Island Dept. of Mental Health Retardation and Hospitals had appealed the award arguing that obesity was not protected under discrimination laws because it is a condition that Ms. Cook could change. It also argued that her weight put her at risk for certain ailments, such as heart diseases that could lead to workers' compensation claims.

In its brief, the EEOC stated obesity is not what might be considered a "traditional disability, although it is possible for an obese individual to lose weight, obesity is a chronic lifelong condition... It is not necessary that a condition be involuntary or immutable to be covered."

Circuit Court Judge Bruce Selya, who wrote the decision, stated "In a society that all too often confuses *slim* with *beautiful* or *good*, morbid obesity can present formidable barriers to employment."

### EXAMPLE III

Chicago Tribune, 12-12-93

On December 11, 1993, Judge Gary Brownfield, a Cook County (Illinois) Juvenile Court judge, refused to issue an order recommended by Cook County state's attorney's office forcing a pregnant woman to undergo a Caesarean section medical experts said was necessary in order to save the health of the child in her womb. The woman's doctors believed waiting for natural childbirth most likely would kill the unborn child or leave him mentally retarded because a specialist in internal fetal medicine concluded after a routine prenatal examination and a follow-up two weeks later, the unborn child was not getting enough oxygen from the placenta. The mother opposed the surgery said she wanted to have a natural birth because of her personal and religious beliefs. The court battle involved a 36 1/2-week-old unborn child who would be viable outside the womb. The judge said there is a precedent for the courts to compel a parent to provide medical care for a child, but he could not find a case compelling a pregnant woman to undergo a medical procedure to save her unborn child, nor any case forcing a competent individual to have surgery. The woman's attorney argued that "the state cannot force a woman to undergo a medical treatment for the benefit of another, even if there is a blood relationship."

The facts in this case clearly show the woman had a constitutional right to freely decide what kind of health risk she wanted to accept for her own body, as well as for the unborn child in her womb, even if it was completely contrary to the advice of medical professionals.

### EXAMPLE IV

The U.S. Supreme Court unanimously ruled in 1991 that the management of Johnson Controls, a Milwaukee, Wisconsin based auto battery company, could not prohibit women of child-bearing age to apply for a high paying job that involved exposure to lead products known to be dangerous to a woman's reproductive organs.

The Court said such a decision must be the free choice of each woman once all job hazards have been fully disclosed; the company has no right to make such a personal health care decision for women employees.

While it is clear the U.S. Supreme Court ruled women working at Johnson Controls have a constitutional right to set their own personal health care standards and can freely choose a job that might compromise their health and which might even result in increasing the company's health care insurance claim expenses, those same women, as soon as they stepped inside their privately owned automobiles to drive to that dangerous-to-their-health job, all of a sudden, according to politicians, they somehow lost their constitutional right to determine their individual personal health care standards and must, by state law, use a health care device, a seat belt harness, against their will, for their own protection as arbitrarily determined by politicians.

Through state mandatory seat belt harness laws, politicians have usurped a person's constitutional right to determine his/her own individual personal health care standards while in a motor vehicle, the same as attempted by the management of Johnson Controls over its employees. The fact is, if the management of Johnson Controls cannot legally force their health care standards upon their employees, then neither can politician force their health care standards upon the motoring public.

### EXAMPLE V

The San Diego Union, 1-21-90

In a precedent setting case, New York's highest court ruled January 18, 1990, a parent's right to reject life-saving medical procedures outweighs the child's need for a mother or father. The court of Appeals also ruled that the state cannot prohibit parents from engaging in dangerous activities because of a risk their children might be left orphans. The ruling upheld the right of a Jehovah's Witness to reject a blood transfusion even though she might die and leave her newborn child motherless. The court said it was the first case it had ever decided in which the parent's constitutional rights were pitted against the welfare of her child.

The ruling came after Brookhaven Memorial Medical Center (Long Island, NY) obtained a state Supreme Court order forcing Denise Nicoleau to have a blood transfusion after hemorrhaging during a Caesarean section. Nicoleau had just delivered a healthy baby boy.

The high court said "Although the state will not permit a parent to abandon a child, the state has never gone so far as to intervene in every personal decision a parent makes which may jeopardize the family unit or the parental relationship."

The woman's attorney said the case may have ramifications outside New York because the court decided the case on the grounds of English common law, not on the narrower grounds of New York state constitution.

#### EXAMPLE VI

(The New Mexican newspaper, Sante Fe, NM: 10-21-90)

The Associated Press

Boston---Abortion rights advocates say a Massachusetts judge's dismissal of drug charges against a woman whose son was born with cocaine in his system will help their fight.

Until last week, a pregnant woman in Massachusetts who abused drugs or alcohol faced the possibility of criminal charges if her abuse harmed her fetus.

But in a 19-page decision, a Superior Court judge outlined constitutional privacy rights for pregnant women. ...(the judge) said the state could not pursue charges against pregnant women that it did not bring against other people.

"No court has ever reached this constitutional issue before," said Lynn Paltrow, and American Civil Liberties Union lawyer in NY.

...Plymouth County Superior Court Judge Suzanne DelVecchio cited alternatives to prosecution of women whose habits hurt their fetuses --- such as education and free medical care.

"By imposing criminal sanctions, a woman may turn away from seeking prenatal care for fear of being discovered," she said.

In throwing out the case ... DelVecchio also said that government should not interfere with the "intimate and fundamental bond" between a woman and the fetus she bears. "

Pellegrini of Brockton has been indicted by a Plymouth County grand jury in September 1989 on charges of distributing cocaine to a minor and cocaine possession. A drug screening by doctors found cocaine in the urine of her son...born July 2, 1989.

#### EXAMPLE VII

(Daily Southtown newspaper, Chicago, IL 2-27-87)

San Diego (UP) - A judge dismissed Thursday the criminal prosecution of a mother accused of contributing to her baby's death by disobeying doctor's orders during pregnancy in a case seen as important for rights of women across the nation.

Municipal Court Judge E. MacAmos ruled that the child support statute used to prosecute Pamela Rae Stewart, 28, could not be applied to her case.

San Diego County prosecutors contended that Stewart deliberately ignored doctor's orders by taking drugs during her pregnancy, refusing to refrain from sexual intercourse and failing to seek prompt medical attention when she began bleeding before the birth of her son...

The boy was born brain dead November 23, 1985, and died January 1, 1986. A coroner's report lists maternal drug abuse as a contributing factor in the death. Tests showed the boy was born with methamphetamine in his system.

The San Diego County District Attorney's office, using a penal code section normally used to ensure that parents pay child support, charged Stewart ... with failure to provide medical care to her fetus.

In dismissing the charge, Amos ruled the California legislature intended for the law to be used solely to require child support.

The judge said that while the state has a compelling interest to protect the rights of unborn children, the statute in this case "does not impose a duty upon the pregnant woman."

#### EXAMPLE VIII

The court held "Indeed, insofar as the sanctity of individual free choice and self-determination are fundamental constituents of life, the value of life may be lessened rather than increased by the failure to allow a competent human being the right to choice." (Matter of Conroy, 486 A 2d 1200, 1985)

#### EXAMPLE IX

The U.S. Supreme Court ruled: "No right is held more sacred, or is more carefully guarded by the common law than the right of every individual to the possession and control of his own person, free from all restraints or interference of others, unless clear and unquestionable authority of law." (Union Pacific Ry. Co. V. Botsford 141 U.S. 250, 251, 1981)

#### EXAMPLE X

"In a long series of cases this court has held that where fundamental personal liberties are involved they may not be abridged by the state simply on a showing that a regulatory statute has some rational relationship to the effectuation of a proper state purpose." ( US Supreme Court, Griswold v. Connecticut, 321, US 479, 1965)

#### EXAMPLE XI

"Security of one's privacy against arbitrary intrusion by the police - which is at the core of the Fourteenth Amendment - is basic to a free society. It is, therefore, implicit in the concept of ordered liberty and as such enforceable against the States through the due process clause. Accordingly, were a State affirmatively sanction such police incursion into privacy, it would violate the Fourteenth Amendment. (Wold, CO, 338, US 25, 1949)

#### EXAMPLE XII

"Whenever the judicial power is called into play it is responsible directly to the fundamental law and no other authority can intervene to force or authorize power to disregard it." (Yakus v. US 414, 468, 1944)

#### EXAMPLE XIII

Judge Cardozo: "Every human being of adult years and sound mind has a right to determine what shall be done with his own body and a surgeon who performs an operation without his patients' consent commits an assault, for which he is liable in damages." (Schoendorff v. Soc. of NY Hosp., 211 NY 125, 129-30, 105, NE 92, 93: 1914)

#### EXAMPLE XIV



The U.S. Supreme Court stated unequivocally that every human being has a right to self-determination:

"No right is held more sacred, or is more carefully guarded by the common law, than the right of every individual to the possession and control of his own person, free from all restraint or interference of others, unless by clear and unquestionable authority of law."  
(*Union Pacific Ry Co v. Botsford*, 141 U.S., 250, 251 1891)

#### EXAMPLE XVI

Fourteenth Amendment of the Constitution, ratified July 9, 1868, states in Section 1, in part:

"No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

#### EXAMPLE XVII

The thirty-ninth article of the Magna Carta reads: "No free man shall be arrested or imprisoned or disseized (dispossessed) or outlawed or exiled or in any way victimized, neither will we (the king) attack him, or send anyone to attack him, except by the lawful judgment of his peers, or by the law of the land." (Latin translation from the Britannica Encyclopedia)

#### CONCLUSION

If, by law, all adults have a constitutional right to accept or refuse any individual health care suggestion or recommendation, including life-sustaining treatment or devices, whether conscious or unconscious, then that right cannot be conditioned to only certain places or dealing with only certain persons, such as only in a hospital, a doctor's office, or exclusively with only medical experts.

The fact is, the courts have clearly ruled a person has that right not only in medical establishments, but also anywhere such as at work, in a home or in freely chosen even recreation, as well as participation in dangerous sports. Stepping inside a person's privately owned automobile cannot forfeit a constitutional right.

State politicians are, therefore, transferring their own personal health care opinion into law and are unconstitutionally forcing occupants of a motor vehicle to use a device politicians have arbitrarily chosen, a seat belt harness. No medical expert would dare do the same without prosecution, and so it should be with politicians.

#### ADDENDUM

The U.S. Circuit Court of Appeals issued a decision on May 23, 2000, that Chevron cannot refuse to hire a twenty plus year refinery worker, Mario Echazabal, based on its claimed concern that Mr. Echazabal's exposure to refinery chemicals would worsen his liver condition initially revealed to Chevron during a post-employment offer medical exam. The case, *Echazabal v. Chevron, U.S.A., Inc.* is a case of first impression for the Ninth Circuit Court of Appeals and one of two federal appellate decisions directly addressing whether the American With Disabilities Act allows an employer to reject an applicant/employee on the grounds that the job poses a thread only to the health and safety of the individual employee/applicant. The court held:

"We conclude that the ADA's direct threat means what it says: it permits employers to impose a requirement that their employees not pose a significant risk to the health and safety of other individuals in the work place. It does not permit employers to shut disabled individuals out of jobs on the grounds that, by working in the jobs at issue, they may put their own health or safety at risk."

Comments (WJH)

This is another case where it was clearly stated by a federal court that a person has a right to determine his/her own individual personal health or safety standard, even in opposition to what others might think is best for his/her health or safety. Politicians, therefore, have no authority to impose their health and safety standard upon motorists.

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Ames Ph.D., Bruce N. University of California, Berkeley, CA; While not dealing with seat belt laws, the following articles expose

misinformation about many popular subjects that supposedly threaten our daily lives. It is the same with seat belt laws. Such laws are defended by the federal government by creating fear of life and death situations while driving, including exaggerating the highway fatalities as a national health crisis that only government can cure through forcing people to use a government chosen seat belt, a device that actually also carries its own degree of danger to life and limb in certain kinds of traffic accidents, besides the more important question of its constitutionality.

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Dunn, Jr., James A.

Brookings Institute (Washington, D.C.)

"Driving Forces—The automobile, its enemies, and the politics of mobility" 1998

Evans, Dr., Leonard (While Dr. Evans, who was a Principal Research Scientists at General Motors, vigorously supports seat belt laws, he has in recent years turned his attention to bitter opposition to mandatory installation of air bags. On that issue it is interesting how he discredits the government's statistics in support and defense of air bag installation. He, of course, never uttered a negative word of protest against all the statistical information created by the same government in support and defense of seat belt laws. One wonders why Evans claims the government can be so accurate and scientifically sound in support and defense of seat belt laws and so wrong about the support and defense of air bags?

Detroit Free Press, June 16, 1997

"Air Bag—Even the smartest technology is a dumb, dangerous mandate"

Driving magazine, Nov. 11, 1997

"Air bags have been oversold"

The Washington Times, June 8, 1987

"Offering motorists the air bag option"

Filley, Dwight, Senior Fellow in Market Principles, The Independence Institute (Colorado), Issue Paper No. 1-99; January 20, 1999

"Risk Homeostasis and the futility of protecting people from themselves"

Garbacz, Christopher, Ph.D.

[chris.garbacz@psc.state.ms.us](mailto:chris.garbacz@psc.state.ms.us)

St. Louis Post-Dispatch, Op-Ed; Oct. 30, 1990

"Seat belts don't necessarily save lives"

Population Research and Policy Review

"Do front seat belt laws put rear seat passengers at risk?" 11-92

Applied Economics

"How effective is automobile safety regulations?" 22, 12, Dec. '90

"More evidence of the effectiveness of seat belt laws" 24, 1992

Arkansas Gazette, Op-Ed; 5-13-91

"Seat belt laws pose risks of their own"

Economy Inquiry; 29,2, April 1991

"Impact of the New Zealand seat belt law"

Economics Letters; 19, 1985

"A note on Peltzman's theory of offsetting consumer behavior"

Gosbee, John , columnist (Attorney) [jgosbee@btigate.com](mailto:jgosbee@btigate.com)

Bismark Tribune (North Dakota), February 2, 1998

"When seat belts kill, the state should pay"

<http://www.ndonline.com/TribPage/feb1998/229890516.html>

Halter, Mark,

Wisconsin Medical Journal, Letter to editor

"Do seat belts save lives?" 1995:94 (3) [1.212]

"Buckling up: Whose choice should it be?" 2001:100(2) [1.212.1]

National Motorists Association—NMA NEWS

"Belting America" Sept/Oct 1991 [1.246]

Hentoff, Nat, Columnist

Daily Southtown (Chicago)—(Newspaper Enterprise Association)

"The biggest loser in elections" 11-1-92

Washington Post

"The big apple's rotten policing", 9-4-99

Kazman, Sam; Competitive Enterprise Institute; The CATO Review of Business and Government; Fall 1991

"Death by regulation" (On how federal fuel economy standards are killing people estimated to be between 2,000 to 4,000 additional deaths per year) [1.225]

Knox, Bob (Columnist, Sun-Sentinel newspaper, Ft. Lauderdale, FL)

Readers Digest

"Family Alert: How safe is your car?" 6-97

Krajick, Kevin, Psychology Today

"Do seat belts kill?" 5-86 [10.285]

Larder, D. R.,

Accident Research Unit

The University of Birmingham

United Kingdom

"Neck injuries to car occupants using seat belts" (1985) [10.42+]

Levine, Elliott, Prof. University of Winnipeg, Canada

Mature Medicine (Toronto, Canada) <http://www3.sympatico.ca/medicine>

"Determinants of driver fatality risk in front impact fixed object collisions"

Highlights of article—1. This study finds no benefit to seat-belted car drivers in head on crashes, but dramatic increases in deaths to the most vulnerable drivers; 2. Earlier studies showing net benefits from wearing seat belts are found to involve critical flaws.; 3. Seat belt legislation may have done more harm than good.

Winnipeg Free Press (Winnipeg, Canada)

"Seat belts kill!" January 21, 1992 (Defense of his earlier research on some of the dangers of seat belt use)

Nelson, Robert H., Professor, School of Public Affairs, University of Maryland; senior fellow of the Competitive Enterprise

Institute.

Forbes magazine, 2-10-97, pp72

"The new prohibitionists" [10.205}

Nettler, Ph.D., Gwynne (Prof. emeritus, University of Alberta, Edmonton, Canada. Now lives in San Diego, CA)

Liberty magazine; May 1994

"Trafficking in Numbers"

Pappalardo, Kathleen M. (Former Regional Director, Highway Federation and former Project Coordinator, New Hampshire Highway Safety Agency) Her testimony before NH state legislature against passage of a seat belt law in 1985 [4.42] published by

the Libertarian Party of San Bernardino County, CA <http://www.lpca.com/pappalar.htm>

Peltzman, Sam (Graduate School of Business, University of Chicago)

Journal of Political Economy

"The effects of automobile safety regulation" (vol. 83, No. 42, 1975)

Robertson, Leon S., Ph.D.

Nanlee Research and Yale University

"Highway Deaths: False PR on the Effects of PR" (South Carolina's 1988 false claim on highway death decline)

Ross, Philip

Forbes Magazine, 9-6-99, pp72-73 [10.307-8]

"Safety may be hazardous to your health" (10.307)

Schonscheck, Jonathan (Le Moyne College, Syracuse, NY)

Law and Philosophy Library (Kluwer Academic Publishers)

"On Criminalization — An essay in the philosophy of the criminal law" Vol. 19 1994 (opposes seat belt laws)

Sullum, Jacob, Senior editor of Reason magazine

Washington Time, June 16, 1999

"Proceed With Caution"

Semmens, John

HEARTLAND INSTITUTE, Chicago IL

"Hawaii's 'Successful' Seat Belt Law" 10-11-91 (analysis disproves success)

"Auto safety regulations: Hazardous to your health?" -28-88)

"Coercion is no cure for collision" 1-26-87

Paper presented at the Transportation Research Forum's 28<sup>th</sup> annual meeting, November 16-18 1987, San Antonio, Texas.

"What if everything we know about highway safety is wrong?" (1.78)

HUMAN EVENTS, 5-30-87 [1.99]

"More rules don't always mean safer roads"

THE FREEMAN, 7-92 [1,124]

"Do seat belt laws work?"

Wildavsky, Ph.D., Aaron (deceased)

Institute of Government Research, College of Liberal Arts, University of Arizona

"No-risk is the highest risk of all" March 13, 1978

Williams, Walter; Syndicated columnist

Washington Post, May 11,1997: "Air bag-bureaucratic arrogance update"

In his column, Mr Williams expressed his bitter indignation towards the U.S. Dept. of Transportation for refusing to give him permission to deactivate the air bag in his car. He cited statistics on persons who were killed by the deployment of such a government mandated so-called safety device. He also pointed out, "Then there were lies. In 1977 the Transportation Dept. claimed that air bags 'protect automobile occupants from collision injuries, without the need to fasten seat belts or take any other action.'" He also mentioned that in 1979, head of the NHTSA, Joan Claybrook, said, "It was possible to design air bags that will meet the performance criteria and will provide a high level of protection for children whether they are seated properly or not." He concluded some might say: "... if you don't have an air bag in your car, or wear a seat belt, you might become a burden on society if you're injured and can't take care of yourself." He responded to that statement: "That's not a problem of liberty; it's a problem of socialism. In a free society, another can't be compelled to take care of me for any reason. Under socialism, you are compelled to take care of me.... As for me, I'll take liberty over nannyism."

(NOTE: Liberty is the main issue in both government mandated air bag and seat belt use. The federal government is attacking liberty step by step, all under the phoney banner of government doing good. The fact is, if people don't start voting out of office those politicians who attack our liberty, and voting in candidates who still believe in the Bill of Rights, some day politicians will be doing so much "good" for us, we will no longer have any more liberty to give up, which will bring us to a totalitarian form of government. Mandated air bags and seat belt use are just two more steps in that direction.

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OF SPECIAL NOTE:

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Search the Internet for: Medifus.com ----- Medifocus Guides------(Medical information for legal professionals)

"Litigation: Seat belt Injuries Case"

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American Journal of Surgery, 3-67

"Seat belt trauma to the abdomen"; pp346,350 (lap-only belt)

American Journal of Surgery, 12-68,

"The seat belt syndrome" pp 831-3

American Journal of Surgery, 3-72

"Bowel injuries from automobile seat belts" pp 312-16

Australia----

Web site: "Killerbelts"— <http://www.barvennon.com/seatbelt.html>

"The Data" ---- <http://barvenon.comseatbelt/sbevidence.htm>;

NOTE: The person who put the above "data" together claims—

"My web page establishes clear and unequivocal proof that wearing a seat belt in an urban area

more than doubles the likelihood of the driver becoming a fatality."

British Medical Journal, 11-23-68

Seat belt injuries; pp485-6 (Both lap-only and lap/shoulder belts)

CATO Institute <http://www.cato.org>

Besides the article by Dr. John Adams listed under authors, above, the Institute has other article relating to breach of liberty covered in its publication "Regulations."

Choice In Personal Safety (CIPS)— An organization in England that is dedicated to opposition of the seat belt law in the United Kingdom, has additional information available for the asking. Contact: <http://users.aol.com/forgood/seatbelt/> Of special note is a list of accidents involving injuries/deaths attributed to seat belt use.

"Chest and Abdominal Injuries Suffered by Restraint Occupants"

SAE Technical Paper Series #950657 Read at International Congress, Detroit, MI, March 2,1995 The Engineering Society,

400 Commonwealth Dr., Warrendale, PA 15096

‘A Controlled Study of the Effect of Television Messages on Safety Belt Use"

Leon S. Robertson, Ph. D. et al

American Journal of Public Health, November 1974

(...shows that television campaigns do not have any effect on use of safety belts...)

"Cost of Catastrophic Injuries Are Way Up since '88, Insurers Say"

Status Report April 4, 1993, p7; a commentary on a report by the Insurance Research Council.



"Cost of seat belt-related whiplash injuries rising"

Canadian Medical Association Journal, May 18, 1999

Dr. Charles Galasko, professor of orthopedic surgery, University of Manchester, in an address during the recent Whiplash Association Disorders World Congress, Vancouver, noted that the number of patients with whiplash-related complaints more than tripled the year after seat belts were introduced in the UK in 1983. He also said awareness of the significance and impact of whiplash has been influenced by under-recording and misclassification. Also, he said as many as 45% of whiplash patients in the UK are not included in national injury data and suggested that there are probably close to 250,000 new whiplash patients in the UK every year. In the US, he said, the total probably approaches 1 million cases. <http://www.cma.ca/cmaj/vol-160/issue-10/1425b.htm>

The Independence Institute, 14142 Denver West Parkway, Suite 185, Golden, CO 80401

"HB 1131:Seat belt Law Endangers Innocent," by Linda Gorman  
<<http://www.i2i.org/SuptDoc/Backgrounders/2000/seatbelts.htm>>

"Dangerous Changes in Seat Belt Law" by William J. Holdorf

<<http://i2i.org/SuptDocs/OpEdArcv/2000/seatbelt.htm>>

"Mandatory Seat Belt Law Cause Dangerous Driving, and Invade Privacy"

<<http://www.i2i.org/SuptDoes/Personal%20Freedom/MandatorySeatBeltLaws.htm>>

"Risk Homeostasis and the Futility of Protecting People from Themselves"

<<http://i3i.org/SuptDoes/Personal%20Freedom/RiskHomeostasis.htm>>

Information about seat belt system design defects, including buckles, can be found by searching the Internet under "seat belt buckle" or "seat belt injuries." or various lawyers offering their services for "products liability" cases. This includes child safety seats, such as in 1992, the National Highway Traffic Safety Administration ordered the recall of 1 million such devices. Also, back issues of Trial magazine, a magazine for trial lawyers, has details on products liability cases, which includes seat belt systems design defects. One particular web site, [www.medivillage.com](http://www.medivillage.com), states: "For medical malpractice and personal injury attorneys who need authoritative medical literature to support a claim, identify the most experts and build a solid winning case litigation."

"Injuries to seat belt users accelerate in Florida"

Tampa Tribune newspaper (Florida) 7-11-88 [10.58]

Insurance Institute For Highway Safety

"Seven County Crash Investigation" (Virginia), April 1992 (covers seat belt failures)

Institute For Injury Reduction, Post Office 375, Dunkirk, Maryland 20754

"Statement of Benjamin Kelly, President"

"Ending The Lap Belt Injury Epidemic" press briefing, Thursday, February 1, 1990

After several pages giving a history about the subject, there follows a list of well documented 45 traffic accident cases that occurred between June, 1986 and October, 1989.

Libertarian Party of San Bernardino County, CA has a web page with seat belt law opposition information <[www.lpca.com](http://www.lpca.com)>

"Neck Injuries Amongst Motor Vehicle Occupants Involved In a Collision" (April 1993)

Claire Laberge-Nadeau, MD, Msc, CSPQ

Laboratory on Transportation Safety Centre for Research on Transportation Université de Montréal

(Under a grant from AAA Foundation for Traffic Safety)

(One notable conclusion: "Seat belted car occupants tend to suffer a higher proportion of neck injuries than unbelted occupants because while seat belts tend to prevent more severe head injuries, the belts make acceleration/deceleration of car occupant heads worse because of the sudden change of vehicle velocity.")

"Neck Injury To Car Occupants Using Seat Belt"

D. F. Larder, M. K. , Twiss and G. M. Mackay; Accident Research Unit, The University of Birmingham, United Kingdom;

Presented at the 18<sup>th</sup> Annual Proceedings, American Association For Automotive Medicine, October 7-9,, 1985,

Washington, D.C.

"Regulating the Automobile," A book published by The Brookings Institute, 1986; Inside comments---- "The costs of programs to regulate automobile safety, fuel economy, and emissions are greater than their benefit."

Review the hundreds of court ordered settlements against the auto makers since the advent of seat belt laws in 1985 for causing or contributing, directly or indirectly, to injuries and deaths from seat belt use in traffic accidents resulting in hundreds of millions of dollars paid by the auto makers to the injured or family of the deceased. Such costs were, of course, passed on by the auto makers to the cost of new autos sold, thus adding to the high societal cost of state mandatory seat belt harness laws.

"Safety officials accused of hiding facts on children killed in cars"

The Des Moines Register (Iowa), 6-18-92 [10.175]

"Safety may be hazardous to your health" by Philip E. Ross; Forbes, 9-6-99 (10.308)

"The Seat Belt Syndrome"

John W. Garrett and Paul W. Braunstein, M.D.

Journal of Trauma, May 1962; pp220

"Seat Belts and Human Rights: An Appraisal"

Stephen R. Greenberg, Ph. D.

Journal of Forensic Sciences, January 1987, pp158

"Seat belt injury to the female breast"

British Journal of Surgery, 1986, vol. 73, February

"Seatbelts Make Us Safer.....Right?"

Shane Foran, Safety Officer, Galway Cycle Campaign , Galway, Ireland.

This article documents facts showing in the aftermath of seat belt legislation (outside U.S.), while fatalities of front seat occupants declined, fatalities of back seat occupants increased, as well as, an increase in fatalities for cyclists and pedestrians. This points to what is also covered in the article, risk homeostasis or risk compensation.

<http://www.ucolick.org/~de/AltTrans/SeatbeltLaws.html>

"Trauma and Cancer Associated With Seat Belt Shoulder Restraint in Motor Vehicle Accidents"

Medical Trial Technique Quarterly, Summer 1995, no. pp642-649

"The truth about car air bags" (U.S. ignored data showing risks to kids, women}

Investor's Business Daily, 11-13-96 [10.306]

Vitality magazine, 9-91

"Car seat alert: 20% of the children's car seats manufactured in the past 10 years are defective, but only 5.4% have been repaired or replaced." (10.299)

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#### JUDICIAL DECISIONS, RULINGS, COMMENTS

The U.S. Supreme Court stated unequivocally that every human being has a right to self-determination:

"No right is held more sacred, or is more carefully guarded by the common law, than the right of every individual to the possession and control of his own person, free from all **restraint or interference of others**, unless by clear and unquestionable authority of law." (Union Pacific Ry Co v. Botsford, 141 U.S., 250, 251 1891)