

Testimony of Dr. David Garcia on behalf of all the roof crush victims in our country.  
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Oversight Hearing on Passenger Vehicle Roof Strength – June 4, 2008

U.S. Senate Commerce Subcommittee on  
Consumer Affairs, Insurance and Automotive Safety

Senator Mark Pryor (Chairman)	(D-Arkansas)
Senator John E. Sununu (Ranking Member)	(R-New Hampshire)
Senator John D. Rockefeller, IV	(D-West Virginia)
Senator John McCain	(R-Arizona)
Senator Bill Nelson	(D-Florida)
Senator Olympia J. Snowe	(R-Maine)
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Senator Gordon H. Smith	(R-Oregon)
Senator Frank R. Lautenberg	(D-New Jersey)
Senator David Vitter	(R-Louisiana)
Senator Thomas Carper	(D-Delaware)
Senator John Thune	(R-South Dakota)
Senator Claire McCaskill	(D-Missouri)
Senator Roger Wicker	(R-Mississippi)
Senator Amy Klobuchar	(D-Minnesota)
Senator Ted Stevens	(R-Arkansas)
Senator Daniel K. Inouye	(D-Hawaii)

Distinguished Members of the Committee:

Today, I graciously receive from you five minutes to defeat a voracious and insatiable giant that, in biblical proportions, continues to devour our nation's sons and daughters; fathers and mothers; husbands and wives; friends and foes alike,<sup>i</sup> while many in apathy simply choose to watch. That giant is none other than ROOF CRUSH, which is occurring on our nation's highways and back roads, and more voraciously and insatiably than the biblical giant, mercilessly continues to run its course. I aim today with a God-given minute to defeat for the last time this "roofless" giant.

TYLER MOODY, Kevin Moody's 18-year-old son, died in 2003 from positional asphyxia,<sup>ii</sup> when, not even knowing what had hit him, the roof of the [Ford Explorer](#) he drove literally crushed the life out of him. The statistics would never tell you that Tyler once saved a life. Today you can save more than 10,000 lives and 24,000 catastrophic injuries a year.

If Tyler's death is not enough, think about Arizona Border Patrol Agent, DAVID WEBB, who, while responding to a routine narcotics call, died from roof crush when the right

rear tire of his [Chevrolet Tahoe](#) blew out, causing his vehicle to overturn. Celia Webb is agent Webb's widow, and her presence here today speaks for her husband.

If David's death is not enough, think about CHRISTOPHER COWAN whose [Chevy Silverado](#) rolled over on a flat, grassy terrain and the roof completely collapsed to the beltline, also crushing the life out of him.

If Christopher's death is not enough, think about KIMBERLY SCHUTE who broke her neck when her [Jeep Grand Cherokee](#)'s roof buckled at its "weak link" and came crushing down on her head. And think about what happened to Agent LUIS PENA, when the roof of his [Ford F-250](#) patrol vehicle crushed and dislocated his vertebrae, injuring his spinal cord, thus rendering him a quadriplegic. Luis Pena has a wife, Jennifer, and two children. He and his family also speak out with their presence here today.

If Kimberly and Luis's inability to walk is not enough, think about LOA GRIESBACH, a teenage ventilator dependent quadriplegic, who will forever struggle for every breath that she needs because of the complete collapse of her [Suburban](#)'s roof.

If Loa's inability to breathe is not enough, and in light of the fact that the automobile industry takes the position that there is no correlation between roof crush and head and spinal cord injuries,<sup>iii</sup> think about the 14 MARINES, who were in the [Ford E-350 Club Wagon](#) that overturned when the vehicle's rear tire delaminated. All of the Marines who died or sustained serious injuries were sitting on the side where the roof crushed.

I am DAVID GARCIA, and I may not be a king or a war hero, but one of the many hundreds of thousands of individuals that roof crush has claimed. I was not driving an SUV, I was driving a [Ford Escort](#). It is only by God's grace that I am able to stand up today, even if metaphorically speaking, for Tyler, David Webb, Christopher, Kimberly, Luis, Loa, the Marines and all the victims, who, for one reason or another cannot afford the privilege to speak for themselves. The automobile industry should not go on doing business as usual, and we should demand that the facts surrounding roof crush should not continue to be a proprietary secret. How many times must a father lose a child, and how many families must be broken apart for it to become obvious that roof crush kills and maims people for life?

Others will speak or submit the necessary supportive materials that are of concern to us here. However, it is necessary to underscore that 26 State Attorney Generals, maybe from your own states who are extremely versed in the rule of law, rightfully oppose the preemption clause<sup>iv</sup> that would strip away the rights of injured victims, while passing on the \$34 billion a year bill to your constituents. What NHTSA is proposing regarding preemption is unjust, and if you consider their mandate, it is not legal. Yet, this will happen in less than 30 days unless you promptly act.

As if behind our backs, NHTSA continues to promote and legislate, what I believe is an FMVSS 216 mirage. Thus, understanding that it would take an act of Congress for

NHTSA to do the right thing on behalf of the American people, we are proposing a [bill](#) that will mandate that NHTSA and the automobile industry:

1. Conduct two-sided sequential static roof crush tests as currently done, but increase the applied force to at least **3.5** times the maximum unloaded vehicle weight and prohibit any part of the roof or test device from contacting the dummy.
2. Develop repeatable dynamic tests on rollovers and disseminate test results to the public.
3. Establish a roof strength safety rating consumer information program and make the strength to weight ratio (SWR) of all vehicles available to consumers.
4. Initiate a study to determine the advantages and disadvantages of retrofitting vehicles with the 10% lowest SWR. If there is a benefit, require manufacturers of these vehicles to develop retrofit kits and make these kits available to the public.

The reason why we need a new standard is not a secret: NHTSA did not get it right back in 1971.<sup>v</sup> We are at another crossroad in automobile roof safety, and we are about to make the same mistake all over again. It is time that NHTSA and the automobile industry joined the global momentum towards making vehicles that not only provide better gas mileage, but that truly are designed to protect occupants in a rollover, and they should be prevented from legalizing a roof strength standard that has not, does not, and will not work. The technology is not out of this world. The 2006 Volkswagen Jetta, 5.1; the 2007 Scion TC, 4.6; the 2006 Volvo XC 90, 4.6; the 2006 Honda Civic, 4.5; and even the Ford 500, which has an SWR of 3.9 not only exceed the 1.5 FMVSS 216 standard, but also exceeds the proposed 2.5 SWR. To legally encourage a 2.5 SWR, is inconsistent with the momentum and innovation that we are seeing, and would only encourage automobile manufacturers to lax when it comes to vehicle safety. A request was formally made to the Office of Management and Budget<sup>vi</sup> and to NHTSA, in 2005,<sup>vii</sup> to evaluate the cost/benefit at 3.5 SWR, but to this date it has not been done. This cost/benefit analysis is of utmost importance in realizing the actual lives saved and the value placed on each life saved.

Every day people die physically and spiritually in rollover accidents. I have a responsibility before man and God, and even though I know nothing about healing broken bones and spinal cords, I do know a thing or two about healing broken spirits. Despite my condition, by the grace of God I have been given much, and you too have been greatly blessed. Therefore, if you believe in what I believe in, then just as much is required of you as is required of me. It is the sole purpose of why I made the long journey here today.

Thank you.

Dr. David A. Garcia, Endicott, New York

Attachments: TYLER JOSEPH MOODY  
DAVID WEBB  
CHRISTOPHER COWAN  
KIMBERLY SCHUTE  
LUIS PENA, JR.  
LOA GRIESBACH  
14 MARINES – those injured or dead:  
MAJOR TREVOR KLEINEAHLBRANDT  
CAPTAIN DAVID W. LUCAS  
STAFF SERGEANT FRANK E. WEATHERS  
SERGEANT ARMANDO AVILA  
SERGEANT MICHAEL VASQUEZ  
DAVID GARCIA

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- <sup>i</sup> *An American Auto Safety Tragedy – ROOF CRUSH*
- <sup>ii</sup> Kevin, Veronica and Michelle Moody’s letter to Senators, engraved in marble, dated September 6, 2007
- <sup>iii</sup> Paula Lawlor’s letter to Senators dated June 4, 2008
- <sup>iv</sup> Paula Lawlor’s submission to NHTSA Docket 2005-22143 dated November 21, 2005
- <sup>v</sup> *Deadly By Design* by Paula Lawlor and Todd Tracy
- <sup>vi</sup> Record of April 28, 2005 meeting with Office of Management and Budget
- <sup>vii</sup> Paula Lawlor’s submission to NHTSA Docket 2005-22143 dated November 21, 2005