A Bibliography on Legal Constraints to the Research, Development, and Deployment of IVHS Systems in the United States

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I. <u>Descriptions of IVHS Technology & Programs</u>

- 1. Ben-Akiva, M. et al. <u>The Case For Smart Highways</u>, Spring 1992 MIT Technology Review.
- 2. Caltrans. <u>Assorted Materials on the California</u>
 <u>PATH</u>, 1992.
- 3. Department of Transportation. <u>Moving America: A</u>
 <u>Statement of National Transportation Policy</u>,
 (February 1990).

- 4. FHWA, Office of Traffic Operations and IVHS.

 <u>Intelligent Vehicle-Highway Systems Projects</u>

 <u>In The United States</u>. (January 1992).
- 5. IVHS America. <u>Strategic Plan For Intelligent Vehicle Highway Systems In The United States</u>. (July 1992).
- 6. Jurgen, R. <u>Intelligent Vehicle Highway Systems</u>, IEEE-Spectrum, April 1991.
- 7. Wright, K. <u>The Shape of Things To Go (IVHS Overview)</u>, May 1990 Scientific American, at 92.
- 8. <u>Intermodal Surface Transportation Efficiency Act</u> of 1991, Pub. L. 102-240 (December 18, 1991).
- 9. Periodicals for last two years: <u>Inside IVHS; The Smart Highway</u>.

II. <u>Previous Research Directly Pertaining to Legal Barriers</u> <u>To IVHS</u>

- 1. Chen, K. & Stafford, F. <u>A Sociotechnological</u>

 <u>Perspective On Public-Private Partnership for IVHS Infrastructures</u>, University of Michigan IVHS Technical Report #92-01 (1992).
- Christopher, R. <u>Legal Issues In Carrying Out The</u>
 <u>Transportation Enhancement Mandate In ISTEA</u>,
 (manuscript 1992).
- 3. Grubba, J. The Effect of IVHS Liability Issues on Intergovernmental Cooperation, (Oakland County Road Commission, July 1990).
- 4. Maggio, M., et al. <u>Institutional Barriers & Opportunities For IVHS Systems In Commercial Vehicle Operations: An Iowa Case Study</u>, (May 1992 Draft Manuscript).
- 5. Ramsdell, E., Volpe Natl. Trans. Systems Center.

 <u>Tort Liability and IVHS Today</u>, (draft
 manuscript May 1992).
- 6. Syverud, K. Smart Car and Smart Highway
 Liability: Lessons from Experience with
 Airbags, Antilock Brakes, Cruise Control, and
 Cellular Telephones. University of Michigan
 IVHS Program Technical Paper (1992).

- 7. Syverud, K. <u>Legal Issues in IVHS: Perceived and Real</u>. Draft Manuscript submitted for the subsequently unpublished proceedings of the 1991 IVHS American Annual Meeting (1991).
- 8. Syverud, K. <u>Liability and Insurance Implications</u>
 of IVHS Technology, SAE Technical Paper
 901507 (1990).
- 9. Chen, K., & French, R. L. <u>Organizational</u>
 Responses to IVHS, SAE Paper #911673 (1991).
- 10. Stafford, F. P., & Underwood. S. E.

 Organizational Responses to IVHS in North
 America: Analysis From Case Studies and
 Historical Precedents In North America. SAE
 Paper #911674 (1991).

III. Liability Issues

A. General Treatises

- 1. American Law Institute. Enterprise

 Responsibility for Personal Injury,
 (1992 2 vol. draft proposals & report).
- Goodman, R. <u>Automotive Design Liability</u>, (Center For Auto. Safety 1991).
- Henderson, J. & Twerski, A. <u>Products</u> <u>Liability</u>, (2nd ed. 1992).
- 4. Keeton, W. editor, <u>Prosser and Keeton on The Law of Torts</u> (5th ed. 1984 & 1988 Supp.) (survey of state sovereign immunity issues).
- 5. Peters, G. & B., eds. <u>Automotive Engineering</u> <u>& Litigation</u> (Garland Law Publ. 1984);
- 6. Garland Law Publishing. <u>Automotive</u>

 <u>Engineering & Litigation Case Law</u>

 <u>Ouarterly</u>. (Cum. 1992).
- 7. Baylor, R. <u>Governmental Immunity In</u>
 <u>Michigan</u>, (Ann Arbor ICLE 1991).
- B. NHTSA, Standards & Preemption
 - Bryant, <u>Airbag Litigation: Past, Present,</u> and <u>Future</u>, 25 Trial 30 (1989).

- 2. <u>Cipollone v. Liggett Group, Inc.</u>, U.S. S. Ct. slip op. June 24, 1992 (Preemption of state failure to warn product liability claims by Federal Cigarette labeling statutes).
- 3. Fair, M. & Guandolo, J. <u>Transportation</u> Regulation, 9th ed. (1983).
- 4. Holley. The Relationship Between Federal
 Standards And Litigation In Control of
 Automobile Design, 57 N.Y.U. L. Rev. 804
 (1982).
- 5. Harter, P.J. <u>Regulatory Use of Standards:</u>

 <u>The Implications for Standards Writers</u>,

 (National Bureau of Standards 1979).
- 6. Heaton, A. & M. The Uses of Regulatory

 Evidence in Tort Actions: Automobiles
 and Occupational Safety and Health. 4
 J. Prod. Liab. 231 (1981).
- 7. Holt, D. Why Eaton Got Out of the Airbag
 Business. Fortune, March 12, 1979, at
 146.
- 8. Natl. Trans. Safety Board, <u>A Safety-Effectiveness Evaluation of the NHTSA Rulemaking Process</u>, NTSB Rep. SFF-79-4 (1979).
- 9. NHTSA, <u>Highway Safety Priority Plan</u>, NHTSA #HS-807 (1990).
- 10. Note, <u>Preemption of Airbag Litigation</u>, 76 Va. L. Rev. 577 (1990).
- 11. Schwartz, The Role of Federal Safety
 Regulations In Products Liability
 Actions, 41 Vand. L. Rev. 1121 (1988).
- 12. Sklaran, C. The Effect of Current NHTSA

 Regulations and Enforcement Policy on

 Products Liability in the Motor Vehicle

 Industry, 21 Tort & Ins. L. J. 404

 (1980).

C. Warnings

Madden, <u>The Duty To Warn in Products</u>
 <u>Liability</u>, 89 W. Va. Rev. 221 (1987).

2. Gannon, <u>An Automobile Manufacturer's Duty To Warn of Common Hazards</u>, 40 Fed. Ins. & Corp. Coun. Q 420 (1990).

D. Seatbelts & Brakes

- Ackerman, <u>The Seat-belt Defense Reconsidered</u>,
 16 New Mexico L. Rev. 221 (1986).
- Cochran, New Seat Belt Defense Issues: The Impact of Airbags and Mandatory Use Statutes. 73 Minnesota L. Rev. 1369 (1989).
- 3. Pollard, J. & Sussman, E.D., <u>An Examination of Sudden Acceleration</u>, A Report for NHTSA by the Transportation Systems Center, Cambridge, DOT-HS-807-367 (1989).
- 4. Society of Automotive Engineers, Motor

 Vehicle Braking Systems and Components:

 Standards, Recommended Practices,

 Information Reports, SAE #HS-24 (1979).
- 5. Vance Bibliographies, <u>The Seat-belt Issue:</u>

 <u>A Bibliography</u>. 0193-970X, November
 1986.

E. Liability & Innovation

- 1. Acs, Z. Audretsch, D., eds. <u>Innovation and Technological Change: An International Comparison</u>, (U. Mich. Press 1991).
- Alexander, A. <u>Comparative Innovation in</u>
 <u>Japan and in the United States</u>. (Rand Corp. 1990).
- 3. Epstein, R. <u>Legal Liability For Medical</u>
 <u>Innovation</u>, 8 Cardozo L. Rev. 1139
 (1987).
- 4. Ervin, R. <u>An American Observation of IVHS In</u>
 <u>Japan</u>. (U. Mich. IVHS Program 1991).

IV. Privacy Issues

1. Casey, Wm. Jr. <u>Entrepreneurship</u>, productivity and <u>FOIA</u> (Lexington Books 1983).

- 2. Flaherty, D. <u>Protecting Privacy in Surveillance</u>
 <u>Societies: FRG, Sweden, France, Canada, and</u>
 <u>the United States</u>, (U.N.C. Press 1989).
- 3. Franklin, J. & Bouchard, J. <u>Guidebook to the Freedom of Information and Privacy Acts</u>. (Boardman 2nd ed. 1986).
- 4. Hernon, P. <u>Federal Information Policies in the 1980s: conflicts and issues</u>. (Ablex Publ. Corp. 1987).
- 5. Laudon, K. <u>The dossier Society: Value Choices In</u>
 <u>The Design of Information Systems</u> (Columbia
 U. Press 1986).
- 6. Marmick, C. <u>Your Right to Government Information</u> (ACLU 1985).
- 7. O'Brien, D. <u>Privacy, Law & Public Policy</u> (Praeger 1979).
- 8. O'Reilly, J. <u>Federal Information Disclosure</u> (Shepard's 2nd ed. 1990).
- 9. Rast, C. <u>Privacy Limits To Disclosure of Computer Tape Containing Accident Data</u>, 62 U. Det. L. Rev. 363 (1985).
- 10. Rubin, M.R. <u>Private Rights, Public Wrongs: The Computer and Personal Privacy</u>, (Ablex Corp. 1988).
- 11. U.S. Senate Jud. Comm. <u>Freedom of Information:</u>
 <u>A Compilation of State Laws</u>, (U.S. G.P.O.
 1978) 95th Cong., 2nd Sess.
- 12. Wacks, R. <u>Personal Information, Privacy, and the Law</u>, (Clarendon Press 1989).

V. Procurement Issues

- American Bar Association, <u>Contracting for</u>
 <u>Commercial Products and Services</u>, (Public Contract Law Section 1989).
- Commerce Clearing House, <u>Government Contracts</u> <u>Reporter</u> (looseleaf 1992).

- 3. Del Duca, L. <u>Annotations to the Model Procurement Code for State and Local Governments</u> (ABA 1987).
- 4. Massengale, E. <u>Fundamentals of Federal Contract Law</u>, (Quorum Books 1991).
- 5. Nagle, J. <u>Federal Procurement Regulations:</u>
 <u>Policy, practice and procedures</u> (ABA 1987).

VI. Ownership Issues

- 1. Caltrans (courtesy of Roy W. Nagy). <u>Draft/Final Franchise Agreements for 4 California Privatized Roads</u>, (together with Guidelines for Conceptual Project Proposals for Toll Revenues; Report on Required Return On Investment and Mechanisms for Return; and Final Report on the Finance Provisions) (1991).
- 2. Gomez-Ibanez, J. & Meyer, J. Private Toll Roads

 In The United States: The Early Experience
 of Virginia and California. (Taubman Ctr.
 for State & Local Govmt., Harvard Univ.
 1991).
- 3. Gomez-Ibanez J., et al. <u>The Prospects For Privatizing Infrastructure: Lessons From U.S. Roads and Solid Wastes</u>. Sept. 1991 J. Trans. Econ. & Pol. 259.