## Auto Fines

THE NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION (NHTSA) has fined vehicle and equipment manufacturers more than $400 million in penalties since 1970, an auto safety consultant reported in May.

A report by the Alexandria, Virginia-based Ralph Hoar and Associates found that the federal government has levied $396 million in fines for violations of fuel economy standards. NHTSA has imposed only $5 million in fines for violations of its safety standards.

Among automakers, Ford and GM are the most frequently sanctioned for safety violations. B.F. Goodrich is the most frequently sanctioned tire maker.

Hoar says his report only tells part of the story of sanctions against the automakers. It is "difficult to know how much or how often state and federal judges sanctioned automakers for failure to disclose information the law requires during litigation," he says, estimating that court penalties against the auto companies for improper concealment of information in civil litigation run into the hundreds of millions of dollars.

Recently, a Michigan judge sanctioned Ford in a seat-back failure case because, in the judge's words, Ford "concealed very significant documents and information, and worse, had blatantly lied about the documents and about the information in them."

"Any word other than 'lied' would understate what Ford did — outrageous fraud has been perpetrated by Ford," the judge wrote.

## Clean Air Violated

MORE THAN 39 PERCENT (227 out of 575) of all major U.S. facilities in auto assembly, iron and steel, petroleum refining, pulp manufacturing, and the metal smelting and refining industries violated the Clean Air Act between January 1997 and December 1998, according to an analysis by the Washington, D.C.-based Environmental Working Group.

On average, the facilities violated the Act four out of eight quarters in the two-year period analyzed. All of the infractions fit the U.S. Environmental Protection Agency definition of what constitutes a "significant" violation of the law. Only 2 percent of the reported violations are paperwork violations.

Fifty three of the major polluting facilities were out of compliance with the Act every quarter in the two-year period. Just 20 of these 53 facilities were subject to fines or penalties during that time.

Overall, only about one-third of the violators had been fined. The Environmental Working Group found those fines too small to have a deterrent effect.

The industries with the highest violation rates are petroleum refining and iron and steel, where 41 percent and 31 percent of all facilities respectively are "significant violators" of the Clean Air Act. Twenty-five percent of metal smelting and refining facilities, 20 percent of pulp manufacturing facilities and 10 percent of auto assembly plants are also significant violators as of April 1999.

"Companies will never comply with the Clean Air Act, or any environmental law, without a real threat of punishment," the Environmental Working Group concludes in its report. "There is little factual evidence that anything other than stepped-up enforcement, larger fines and tougher federal government oversight will increase compliance with environmental laws, and reduce the serious levels of air pollution that continue to plague most metropolitan areas in the United States."

## The Toy Conspiracy

TOYS "R" Us and other major toy makers in May entered into a $50 million nationwide antitrust settlement with attorneys general from 43 states.

The settlement came as a result of a lawsuit first filed by the state of New York against Toys "R" Us, Mattel, Little Tikes and Hasbro.

The New York attorney general alleged that Toys "R" Us orchestrated a conspiracy among the three major toy manufacturers to restrict the supply of certain popular toys to warehouse and price clubs in an effort to put the clubs at a competitive disadvantage.

"Although toy makers and sellers like to view themselves as Santa's helpers, in this case these companies were nothing more than modern-day Scrooges," says New York Attorney General Eliot Spitzer.

As part of the settlement, New York will receive $2.2 million in toys which will be distributed over the next three holiday seasons, as well as $850,000 in cash which will be used to provide children with books and other educational materials, according to Spitzer.

The complaints filed by the 43 attorneys general alleged that Toys "R" Us used its market power to obtain agreements with toy manufacturers to limit the sale of certain toys to the price clubs, or to only sell the toys in combination packs to prevent consumers from easily comparing prices with those charged by Toys "R" Us.

Some of the toys allegedly blocked from the warehouse clubs from 1991 to 1998 include: Barbie Dream House, Air Pro Hockey, Thunder Strike, 1,2,3 Firehouse Blocks and Deluxe Magnadoodle.

Pursuant to the terms of the settlements, Toys "R" Us will pay $40.5 million in cash and toys, Mattel, the largest U.S. toy manufacturer, will pay $8.2 million in cash and toys, and Little Tikes will pay $1.3 million in cash and toys. Hasbro previously agreed to pay $5.9 million in cash and toys. As part of the settlements, the defendants admit no wrongdoing.

— *Russell Mokhiber*