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*Associate Administrator for Safety
Performance Standards.*

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. 97-042; Notice 1]

RIN 2127-AF55

Auto Theft and Recovery; Preliminary Report on the Effects of the Anti Car Theft Act of 1992 and the Motor Vehicle Theft Law Enforcement Act of 1984

AGENCY: National Highway Traffic
Safety Administration (NHTSA),
Department of Transportation.

ACTION: Request for comments.

SUMMARY: This notice announces the publication by NHTSA of a preliminary report for public comment pursuant to the Anti Car Theft Act of 1992 (codified in Chapter 331 of Title 49 of the United States Code), which directs the Secretary of Transportation to submit a report to Congress five years after the enactment of the statute (49 U.S.C. 3311(b)). The statute requires the Department to report on the effects of federal regulations on auto theft and comprehensive insurance premiums and what changes, if any, to these regulations are appropriate.

As required by the Chapter 331, the agency seeks public review and comment on this report prior to its submission to Congress. The report does not contain recommendations at this time. The Department will develop recommendations after a review of public comments.

DATES: Comments must be received no later than August 11, 1997.

ADDRESSES:

Report: Interested people may obtain a copy of the report free of charge by sending a self-addressed mailing label to Walter Culbreath, Publications Ordering and Distribution Services (NAD-51), National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

Comments: All comments should refer to the docket and notice number of this notice and be submitted to: Docket Section, Room 5109, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590. [Docket hours, 9:30 a.m.-4:00 p.m., Monday through Friday.]

FOR FURTHER INFORMATION CONTACT:

Charles J. Kahane, Chief, Evaluation Division, Plans and Policy, National Highway Traffic Safety Administration, Room 5208, 400 Seventh Street, SW., Washington, DC 20590 (202-366-2560).

SUPPLEMENTARY INFORMATION:

History

As a result of the Department's recommendations in the 1991 report to Congress on the Motor Vehicle Theft Law Enforcement Act of 1984 and other information received by the Congress, the Anti Car Theft Act of 1992 was enacted. This Act built on the 1984 Act in several ways: Federal penalties for auto theft were enhanced. A grant program was authorized to help state and local law enforcement agencies concerned with auto theft. Experts were called on to look into and report on motor vehicle titling, registration, and salvage (the report was published in February 1994). The National Motor Vehicle Title Information System was to be established and the states were required to participate in the system; the Theft Prevention Standard was expanded, rules were established to check if salvage or junk vehicles are stolen; and the Attorney General is to maintain a National Stolen Auto Part Information System. Selling or distributing marked parts that are stolen became a Federal crime. Random customs inspection to detect stolen vehicles being exported were allowed. A pilot study on a nondestructive inspection system was authorized. As in the 1984 Act, the Anti Car Theft Act of 1992 calls for a report to the Congress on the effects of the Act on trends in motor vehicle thefts and recovery. The report is due five years after the legislation was enacted. The Anti Car Theft Act requires that the five year report to Congress address: motor vehicle theft and recovery statistics as well as their collection and reliability; the extent to which motor vehicles are dismantled and exported; the market for stolen parts; the cost and benefit of marking parts; arrest and prosecution of auto theft offenders; the Act's effect on the cost of comprehensive insurance premiums; the adequacy of Federal and state theft laws; and an assessment of parts marking benefits for other than passenger cars. As in the 1984 Act, a preliminary report is to be published and announced in the **Federal Register** for comment. This 1997 report addresses that requirement.

The 1992 Act's amendments on theft prevention include: expanding coverage to selected lines that were below the 1990/1991 median theft rate, and

including high theft multipurpose passenger vehicles and light trucks that are rated at not more than 6,000 pounds gross vehicle weight under the provisions of the theft standard. These changes had to be made two years (1994) after the enactment of the Act. Three years later (1997), based on the Attorney General's findings, the Secretary of Transportation shall designate all remaining such lines of passenger motor vehicles (other than light-duty trucks), unless the Attorney General determines such additional parts marking would not substantially inhibit chop shop operations and vehicle thefts. By the end of 1999, the Attorney General shall determine if the rules have been effective in inhibiting chop shops and vehicle theft and send these findings to the Secretary. These findings are to include an analysis of the effectiveness of factory-installed anti-theft devices as a substitute for parts marking.

The rulemaking process and manufacturer comments regarding lead time to implement parts marking resulted in expansion of the Theft Prevention Standard to a selected group of low theft line vehicle lines and other passenger vehicles beginning with the 1997 model year.

Summary of Preliminary Report

To compile this report, the Department obtained data from sources specified in the Act and available elsewhere, including the FBI's National Crime Information Center, the Justice Department's National Institute of Justice; the Bureau of Customs; the Highway Loss Data Institute, the National Information Crime Bureau; insurance companies; surveys of and interviews with state, county and city enforcement, motor vehicle administration and court officials; and autobody repair shops. The most recent theft data available for this report from the National Crime Information Center is the 1995.

Motor vehicle theft was a growing problem in the early and mid 1980's. In 1984, Congress enacted the Motor Vehicle Theft Law Enforcement Act (Public Law No. 98-547 (October 25, 1984)) in order to reduce the incidence of motor vehicle thefts and facilitate the tracing and recovery of stolen motor vehicles and parts from stolen vehicles. The Department of Transportation implemented the 1984 Act by issuing the Federal Motor Vehicle Theft Prevention Standard, which requires manufacturers of designated high theft passenger car lines to inscribe or affix the Vehicle Identification Number (VIN) onto the engine, the transmission, and

12 major body parts. As an alternative to parts marking, manufacturers could choose to install antitheft devices as standard equipment on those lines. The objective of parts marking is to allow law enforcement agencies to identify stolen vehicles or parts removed from stolen vehicles—and to deter professional thieves since they will have difficulty in marketing stolen marked parts and are more likely to get caught if they steal cars with marked parts. The high-theft car lines were designated in 1985, and actual parts marking began with model year 1987.

In 1991, the National Highway Traffic Safety Administration (NHTSA) presented a report to the Congress assessing the auto theft problem in the United States and, in particular, attempting to evaluate parts marking. At that time, however, only two years of theft and recovery data were available for cars with marked parts. Evidence of the effectiveness of parts marking could not be obtained through statistical analysis of theft and recovery rates. Nevertheless, the Department found wide support in 1991 for parts marking from the law enforcement community. Investigators believed that parts marking provided them with a valuable tool for detecting, apprehending, and prosecuting thieves. After considering the analyses, surveys and public comments obtained during the preparation of the 1991 report, the Department recommended that the theft prevention standard be continued with minor changes.

In 1991–92, motor vehicle theft was still a large problem. Thefts had increased from 830,000 in 1984 to 1,270,000 by 1990. In search of stronger remedies, and in response to the Department's recommendation and other information, Congress enacted Public Law No. 102–519 (October 25, 1992), the Anti Car Theft Act of 1992.

The 1992 Act requires the Department of Transportation to provide a report to the Congress updating the findings of the 1991 report and evaluating the effects of the 1984 and 1992 Acts. As a first step, the Department is publishing this Preliminary Report for public review and issuing a notice in the **Federal Register** announcing a 45 day opportunity for public comment. Comments received will be summarized and discussed as part of the Final Report that will be transmitted to the Congress.

The goals of this report are:

- To update the detailed statistics on motor vehicle theft and recovery presented in the 1991 report. For this report, theft and recovery data were

available from 1984 through 1995, and insurance data from 1986 through 1992.

- To revisit the evaluation of parts marking, now that extensive data are available on the theft experience of cars with marked parts or antitheft devices. (However, since theft data were available only through 1995, the effectiveness of the 1992 Act as regards expanded coverage in 1997 and later models cannot be analyzed at this time.)

- To evaluate other provisions of the 1992 Anti Car Theft Act and the 1984 Act, focusing on changes that have occurred since the 1991 report.

The basic reasons for stealing cars have not changed since the 1991 report. Cars are stolen for transportation, joyriding, export, for repair parts, and to obtain expensive items such as stereo equipment for a quick profit. Since the last report to Congress, a new type of auto theft crime has emerged—carjacking—but the theft motives are still the same. Fundamentally, though, two types of auto theft may be recognized: (1) Professional thefts for profit, such as thefts to supply chop shops, retagging and retitling, or for illegal export. These thefts often result in a total loss to the original owner, but there is hope they can be deterred by remedies such as parts marking. They are believed to account for at least 23 percent of all thefts, and perhaps substantially more. (2) Nonprofessional thefts for purposes such as joyriding or to obtain temporary transportation. The vehicles are mostly recovered; on the other hand, parts marking would not appear as likely to deter these thefts.

As in the 1991 report, theft and recovery data come from the FBI's National Crime Information Center. The data do not indicate the motives for individual thefts or separate the "professional" from the "nonprofessional" thefts. Analyses based on aggregate data cannot identify the effectiveness of each subsection of the 1984 and 1992 Acts, but can provide insights on the trend in thefts and recoveries.

The principal finding of this evaluation is that the auto theft problem, which was growing during the mid 1980's, leveled off or even began to decline after 1989–90. In 1995, there were 1,180,000 motor vehicles stolen, a decline of seven percent from the all-time peak of 1,270,000 experienced in both 1990 and 1992. However, the 1995 thefts are still 39 percent more than the 830,000 experienced in 1984. The theft rate per 100,000 registered vehicles increased from 543 in 1984 to 714 in 1990, but had dropped back to 597 by 1995.

Passenger cars account for 71 percent of all motor vehicle thefts, followed by light trucks—pickup trucks, sport utility vehicles and vans—at 24 percent. The remaining thefts are split between heavy trucks and motorcycles. Theft rates for all four vehicle types have declined since 1990.

Recoveries of stolen vehicles have kept pace with thefts over the years—recovery rates have remained stable at close to 80 percent of thefts throughout 1984–95. Passenger cars have slightly higher recovery rates than light trucks. Motorcycles have substantially lower recovery rates than all other vehicle types, and they have gotten worse. It is estimated that the annual economic loss resulting from vehicle thefts—and from the fact that many vehicles are never recovered or only recovered in a damaged condition—is at least \$4 billion and could be as high as \$8 billion.

The average consumer cost of parts marking in 1995 models was \$4.92 per car. At that cost, just a two percent reduction in the theft rate would create consumer benefits well exceeding the cost of parts marking.

Theft and recovery rates for car lines that got parts marking or antitheft devices in 1987 were compared to the rates for the car lines before 1987 and to the rates for car lines that did not get either remedy. However, the fact that, originally, only high-theft car lines got parts marking resulted in biases in the data that made it essentially impossible to attribute a specific percentage reduction in thefts or increase in recoveries to parts marking or antitheft devices. Still, the analyses provided four indications (hedged with caveats) that parts marking and antitheft devices quite possibly had beneficial effects at times, apparently greater than 2 percent:

- There seemed to be a conspicuous shift in theft rates in model years 1986–87, coinciding with the introduction of parts marking. Cars with marked parts had lower theft rates than expected, while those with unmarked parts had higher rates than expected. The effect was as strong as 20 percent when cars were new, but it weakened as they became older and seemed to have vanished by the time they were two years old. The latter is a noteworthy finding, since it is consistent with the view that many professional thieves subsequently learned how to obliterate the markings, and found them less of a deterrent.

- Almost all car lines had lower theft rates in their early 1990's models than in the late 1970's models. However, the long-term reduction was substantially greater in the car lines that got parts

marking or antitheft devices than in the car lines that did not. It is not so clear what happened during the crucial intervening years, the 1980's.

- Recovery rates for 1987 cars with marked parts were consistently higher than for corresponding 1986 models. However, this one-time favorable effect consistently deteriorated after 1987.

- There was a strong reduction after 1987 in the percentage of vehicles that were only recovered in-part—i.e., missing their engine, transmission or a major body part (those which for high theft lines are required to have markings). There was a corresponding increase in percentage of vehicles recovered in-whole (no major parts missing) or intact. This trend was especially strong in the car lines with marked parts.

Factory-installed antitheft devices were installed on far fewer car lines than parts marking. The findings on the effect of antitheft devices are generally parallel to those on parts marking, but less conclusive. Generally speaking, there was no strong evidence that factory-installed antitheft devices have a different effect than parts marking. No data were available for evaluating the effect of aftermarket antitheft devices.

Analysis of the effect of vehicle age on theft rates showed that eight year old vehicles were just as likely to be stolen as current model year vehicles. This suggests that parts marking methods need to be sufficiently permanent to last up to eight years or more.

On the whole, the analysis results seem to suggest that Chapter 331's approach, which views both parts-marking and factory-installed antitheft devices as effective deterrents to automobile theft has had benefits. There is some indication that the effect of parts marking might have been greater than two percent needed for cost-effectiveness, at least at certain times. Also, parts marking and antitheft devices seem to be integral components of a larger program to combat auto theft. That program has, on the whole had an impact, as evidenced by the leveling off and reduction of theft rates after 1990.

Collection and dissemination of theft and recovery information has improved since 1991, primarily because technical advances in communications and computer equipment made databases more complete and accessible to agencies needing the information. The two systems called for in the Anti Car Theft Act of 1992—the National Motor Vehicle Title Information System and the National Stolen Auto Part Information System—are either not completely in place or are so new that their effects on vehicle theft

(prevention, recovery or apprehension of thieves) cannot be evaluated at this time.

In tandem with the number of motor vehicle thefts, arrests for auto theft peaked in 1989 and have leveled off since then. In 1994, an estimated 200,000 were arrested for auto theft or attempted theft in the United States.

While recent surveys of district attorneys and law enforcement agencies did not provide detailed statistical data on arrests, prosecutions, and convictions for auto theft, they present an even more encouraging picture than corresponding surveys in the earlier report. Since 1991, there have been moderate increases in the number of prosecutions under both Federal Acts. There have also been increases in the level of effort directed to each prosecution. Now that they have better evidence with which to work, both prosecutors and officers are willing to invest more effort at obtaining a conviction. By 1996, prosecutors saw an increase of over 20 percent in the number of prosecuted cases, and 10 percent said that theft rates had declined in their jurisdictions. By 1996, in contrast to almost no effect seen in 1991, almost half of the district attorneys reported an increase in convictions—and most of them attributed it to the Federal Acts. Stiffer sentencing was occurring in 45 percent of the convictions, including a 75 percent increase in jail sentences. This could be even higher, they report, but for prison overcrowding.

Law enforcement agencies report the same attitudes about the deterrent effects of parts marking in 1996 as they did in 1991. They feel that auto thefts for chop shop operations will continue if there is a demand for a part, marked or not. But almost half of the investigators feel that parts marking makes professional thieves more cautious or even deters them completely from stealing cars with marked parts. All investigators thought parts marking had no effect on amateur thieves. Parts marking seems to have the greatest effect on chop shop operators because of the increased cost of "doing business."

Auto theft investigators feel that parts marking is a valuable tool for arresting and prosecuting thieves. In 1991, they saw little or no effect, but by 1996, most of them felt that parts marking did assist in identifying and recovering stolen parts and vehicles. About three fourths of the law enforcement agencies in big cities said parts marking helped in arresting both chop shop operators and professional thieves. Auto theft investigators, as in 1991, still say that more permanent methods for parts

marking are needed. Even though it is unlawful to remove labels from marked parts and the labels are required to leave evidence that they were once on the marked part, thieves have found methods for removing both the label and its "footprint". The investigator then has to be sufficiently knowledgeable to recognize that the part should have a label. Also without the label it is very difficult to trace the part back to the vehicle from which it was stolen.

Investigations and assistance provided by NHTSA to the Justice Department in the prosecution of violations of criminal statutes concerning altering or removing markings and forfeiture of certain motor vehicles and motor vehicle parts, and chop shops has brought to the agency's attention the fact that many law enforcement officers do not know which vehicles must be marked, where the markings are to be located or which parts are to be marked. Also, investigators often are unaware of the replacement parts-marking requirements. The agency investigators feel that an education program for law enforcement officials on the applicable parts-marking requirements is needed.

Data received from the Customs Service since the 1991 report, indicates it has improved its ability to recoup stolen vehicles.

Insurance companies have not reported any effects of parts marking on insurance premiums. Some insurance companies do offer discounts on comprehensive premiums for vehicles equipped with certain types of anti theft devices. Analysis of claim payments also has not shown any specific effects of either parts marking or antitheft devices. Insurance companies report that their used part policies have not changed since 1986. About three fourths of the reporting companies encourage the use of used parts for crash repairs. Most companies rely on the repair shops to obtain parts from reputable sources.

Analyses of the effectiveness of parts marking in "high theft" passenger car lines suggests that parts marking has benefits in reducing theft rates, and at times in increasing recovery rates. These benefits seem to exceed the cost of parts marking. The greatest impact of parts marking appears to have affected chop shops and "professional" auto thieves. While more vehicles stolen for export are being recovered, the number recovered is too small to say that parts marking has helped reduce thefts for export or recovery of these vehicles. Given that parts marking appears to be effective in currently marked passenger car lines, there is no reason to doubt

that it could also have benefits for other passenger vehicles.

In conclusion, it appears that parts marking and other provisions of the 1984 and 1992 Acts have given the law enforcement community tools they can use to deter thefts, trace stolen vehicles and parts, and apprehend and convict thieves. Theft rates leveled off after 1989-90 and have begun to drop. While the program to reduce auto theft has had an impact, there appear to be three areas with potential room for improvement: (1) Insurance companies and motor vehicle departments could take better advantage of the existing parts marking program by routinely requiring inspection of the markings of used parts acquired at body shops and used vehicles brought in for new titles. (2) To the extent that current parts markings can be obliterated, their long-term deterrent effect may be diminished. (3) Since many vehicles still do not have marked parts, the deterrent effect of parts marking at this time may be offset by increased thefts of the vehicles without marked parts.

Comments Sought

In addition to any comments regarding this report and its findings on effectiveness in deterring or reducing motor vehicle theft or enhancing recoveries, comment on the following questions are sought:

- Section 33113(b)(11) of Title 49 requires the report to include recommendations to Congress for legislative or administrative action for—(A) continuing without change the theft prevention standards prescribed under Chapter 331; (B) amending this chapter to cover more or fewer lines of passenger motor vehicles; (C) amending this chapter to cover other classes of motor vehicles. Please provide your comments on all or any one of these items, including the basis for your position.

- Given that the current marking methods cost the consumer less than \$5 per vehicle and that Congress allows up to \$22 per vehicle in 1995 dollars, are there more permanent methods for marking vehicles with the Vehicle Identification Number (VIN) that can be accomplished within the Congressionally mandated limit? Please include documentation on the marking method, how permanent the markings are (how difficult it is to remove the markings and what evidence is likely to remain that there were markings), cost estimates including the cost of any materials, equipment, tooling and labor. Please identify the economic year for the cost estimates. Please include a description of how the markings are

applied including the time to mark all the major vehicle parts. If the information to be supplied is proprietary, application to the agency Chief Counsel's Office can be made.

- Are there other vehicle parts (e.g., air bags, radios) that should be classified as major parts and thus subject to parts marking? Some states allow glazing to be etched with the VIN. Should glazing be included as a major part and be required to be marked? Please provide a rationale with evidence to support any recommendations.

- Under the current standard, a limited number of lines are exempted from parts marking because the vehicles are equipped with factory installed antitheft devices as standard equipment. Because of the limited data available for evaluation, the effectiveness of antitheft devices as a deterrent could not be determined with much statistical confidence. Is there other evidence to support the effectiveness of antitheft devices? Please supply such evidence along with a description of the applicable antitheft device.

- Even though some insurance companies offer discounts for certain types of antitheft devices, it is unclear as to which devices are considered desirable for obtaining a discount. Also, what additional efforts are made by insurance companies to encourage parts marking and/or the installation of antitheft devices? What other measures does the insurance industry take to reduce the occurrence of motor vehicle theft? Please supply any supporting evidence that shows that these measures are helping to reduce motor vehicle theft or apprehending auto thieves.

All comments received before the close of business on the comment closing date will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested people continue to examine the docket for new material.

People desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Authority: 49 U.S.C. 30112, 33113(b).

William H. Walsh,

Associate Administrator for Plans and Policy.

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-33 (Sub-No. 112X)]

Union Pacific Railroad Company— Abandonment Exemption—in Lancaster County, NE

On June 6, 1997, the Union Pacific Railroad Company (UP) filed with the Surface Transportation Board a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon a 1.88-mile segment of its Lincoln Branch, extending from milepost 492.88 near 33rd Street to milepost 494.76 near 10th Street in Lincoln, NE. The line traverses U.S. Postal Service Zip Code 68503 in Lancaster County, NE.

The line does not contain federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it. The interest of railroad employees will be protected by Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued within 90 days (by September 24, 1997).

Any offer of financial assistance under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each offer of financial assistance must be accompanied by the filing fee, which currently is set at \$900. See 49 CFR 1002.2(f)(25).

All interested persons should be aware that following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 and any request for trail use/rail banking under 49 CFR 1152.29 will be due no later than July 16, 1997. Each trail use request must be accompanied by a \$150 filing fee. See 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB-33 (Sub-No. 112X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423—