

Bush administration shields corporations from safety rules, lawsuits

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Federal agencies under the Bush administration are systematically gutting state regulations aimed at safeguarding the public and consumers from corporate wrongdoing, while imposing new rules to protect private industry from civil lawsuits, according to an investigation published in the February 19 edition of the *Los Angeles Times*.

The *Times* details several instances in which rules have been fundamentally altered in favor of corporations, without any approval by Congress. The paper reports, "Some of these efforts are already facing court challenges. However, through arcane regulatory actions and legal opinions, the Bush administration is providing industries with an unprecedented degree of protection at the expense of an individual's right to sue and a state's right to regulate."

New pro-industry rulings are often inserted into legislation designed to regulate on behalf of the consumer, as with heightened vehicle roof safety standards imposed by the National Highway Traffic Safety Administration (NHTSA) last August. Hidden within new rules purportedly designed to require tougher safety standards for vehicle manufacturers was protection for those manufacturers from future roof-crush lawsuits.

As examples of similar measures the *Times* lists the following:

- * The NHTSA's support for the auto industry's bid to quash attempts by California and other states to regulate tailpipe emissions linked to global warming. The agency maintains that such regulations would signal "a backdoor attempt by states to encroach on federal authority to set mileage standards, and should be preempted," according to the paper.

- * The Justice Department's intervention on behalf of industry groups to block a ruling in Southern California that would have imposed tighter pollution controls on buses, garbage trucks and other commercial vehicles.

- * Repeated interventions by the US Office of the Comptroller of the Currency to thwart attempts by California, New York and other states to enforce state

consumer protection laws on the grounds that regulation of banks is the sole prerogative of this federal agency.

- * A legal opinion issued last month by the Food and Drug Administration (FDA) claiming that FDA-approved labels immunize pharmaceutical firms from most lawsuits. The agency had previously intervened in a number of cases seeking the dismissal of such suits against drug and medical-equipment manufacturers.

The *Times* quotes a February 16 letter to President Bush from Democrat Jan Schakowsky, who wrote, "It appears that there may have been an administration-wide directive for agencies ... to limit corporate liability through the rule-making process and without the consent of Congress."

Predictably administration officials claimed there had been no central coordination of the initiatives. "Decisions about ... whether particular rules should preempt state laws are made agency by agency and rule by rule," claimed Scott Milburn, spokesman for the White House Office of Management and Budget.

The paper states that, "Preemption initiatives by regulatory agencies have drawn less public attention than controversial legislative moves supported by the White House. With administration support, Congress has restricted class-action suits and banned certain claims against gun makers and vaccine producers."

Given the lack of any significant opposition to the Bush administration from the Democrats, it is certainly "public attention" rather than the possibility of a congressional defeat, which dictates the methods of the Bush administration. The bypassing of Congress on this and numerous other issues reflects the contempt with which America's ruling plutocracy holds the population.

Bush has pledged repeatedly to end what he calls "junk lawsuits," and the legislative moves that the *Times* cites are part of a concerted effort to protect the interests of the privileged elite which controls the executive boards of the auto industry and other manufacturers.

In many cases the relationship between the executive boardrooms and the Bush administration verges on the

incestuous, as the *Times* highlights in relation to the auto industry. The *Times* states, “Industry executives, lobbyists and lawyers have shuttled through jobs in the highway safety agency and other departments over the years, but in the Bush administration, auto industry ties have grown more conspicuous.

Examples of this corporate-government revolving door include:

- * White House chief of staff, Andrew H. Card Jr., who previously worked as a General Motors Corp. vice president and as chief executive of the auto industry’s main trade group.

- * Acting head of the highway safety agency, Jacqueline Glassman, who was a senior attorney for DaimlerChrysler Corp. before joining the agency as chief counsel in 2002.

- * The Transportation Department’s general counsel Jeffrey A. Rosen, who was formerly a senior partner at Kirkland & Ellis, a law firm that has defended General Motors against a number of product-liability lawsuits and which represents the Alliance of Automobile Manufacturers. “Rosen denied using his position to benefit automakers,” the *Times* notes.

The *Times* also quotes, Michael S. Greve, a resident scholar at the American Enterprise Institute, the right-wing think tank which enjoys the closest ties to the Bush administration. Federal preemption of state regulations is vital to protect the economy from “trial lawyers, ambitious state attorneys general and parochial state legislatures,” writes Greve.

The *Times* notes that this “preemption push contradicts the conservative ideals of a limited federal government and states’ rights—principles espoused by Bush.” Right-wing ideology, however, takes a back seat to profit interests.

The real targets of such preemption are the thousands of ordinary working people who find themselves killed or seriously injured as a result of the reckless negligence of the auto companies and other manufacturers.

The non-profit public interest organization *Public Citizen* says on its web site:

“Although rollover crashes constitute only 3 percent of vehicle crashes, these crashes are responsible for one-third of all crash fatalities—10,000 deaths annually. Yet rollovers are highly survivable crashes, because the forces applied to occupants during the collision are far lower than those experienced in other types of crashes. This survivability suggests that rollovers are dangerous due to poor vehicle design. In addition, safety belts and seat structures are not made to keep occupants in place during a crash, and vehicle roofs are so flimsy that when they absorb the full weight of the car they crush into occupants’ heads and spines, inflicting very serious injuries.”

Times points out that in addition to the 10,000 deaths, rollover accidents, “seriously injure an additional 16,000.”

The *Times* article states, “Roof-crush suits have resulted in costly settlements and verdicts against automakers at a time of widespread financial trouble for the US industry.

“In 2004, Ford paid \$41 million in a case in which a California appeals court compared the company’s use of a fiberglass and metal roof in the 1978 Bronco to ‘involuntary manslaughter.’

“The same year, a San Diego jury awarded damages against Ford of \$367 million, later reduced by the judge to \$150 million. In 2003, GM was hit with a \$19.6-million verdict, described as the largest product liability award in Nebraska history. The San Diego and Nebraska cases are being appealed.”

Yet, the August proposals for rule changes by the NHTSA are the first since 1971 and came only after publication of a report in 2005 which used auto industry data to show that automakers had misled government regulators and the public by claiming there was no relation between roof strengths and injuries in rollover crashes.

The 2005 report, “Roof Crush as a Source of Injury in Rollover Crashes,” written by Martha Bidez, Ph.D., of Bidez Associates, and a professor of biomedical engineering at the University of Alabama at Birmingham, analyzed Ford’s own tests to show that roof crush does occur prior to injurious neck loads during rollovers. Therefore, improving a vehicle’s resistance to roof crush would prevent catastrophic head and spinal cord injuries and deaths.

At the same time, industry documents made public at the beginning of last year show that, while Ford had denied a link between roof strength and rollover crash injuries, its subsidiary, Volvo, recognized that strengthening roofs and installing side head air bags and pre-tensioned belts in rollover crashes will save lives.

The fact that even within legislation brought forward under such circumstances, the NHTSA incorporates a clause to protect the auto industries from compensation claims for the deaths or serious injuries for which it is responsible speaks volumes about the nature of the Bush administration and the parasitic layer it represents.



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