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COMMENTS ON PROPOSED PRIMARY SEAT BELT LAW

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The RI ACLU, along with many other civil rights groups, strongly opposes enactment of a primary seat belt law in the state. We have long opposed adoption of such a law because of its likely impact on exacerbating the problem of racial profiling in Rhode Island, which statistics have shown is a serious and real problem here.

Based on statistics from other states, a significant percentage of cars – more than 1 in 10 – would still be violating the law even with the passage of a primary seat belt law. Approval of a primary seat belt law would thus significantly expand police discretion to pull cars over – even as three years of traffic stop statistics for Rhode Island have demonstrated that black and Latino drivers are much more likely than whites to be pulled over by police for minor traffic violations, and also twice as likely as whites to be searched by police once pulled over. This latter statistic is particularly worth emphasizing. Thus, even if we accepted the argument we have often heard from police officials that they have no idea of a driver's race before the car has been pulled over,¹ and thus assume that cars would be stopped in a race-neutral fashion in enforcing a primary seat belt law, racial minorities will still remain more than twice as likely as whites to then be subjected to an intrusive *search* by police as a result of the stop.² In other words, even if new stops under the law are conducted in a non-discriminatory manner (an assumption which the state's traffic stops data would suggest is unwarranted), the statistics demonstrate that more intrusive police conduct that can flow from the effects of a traffic stop *will still* adversely affect racial minorities.

Unfortunately, despite the reams of traffic stop data available in Rhode Island that prove otherwise, most police officials continue to deny that racial profiling even exists. Under those circumstances, we trust legislators can appreciate why we continue to oppose an amendment to the law that only gives police an additional, and broadly discretionary, reason to stop cars and subject racial minorities to unequal enforcement of the laws. For these reasons, the ACLU continues to strongly oppose enactment of a primary seat belt law.³

¹ It has always remained unclear to us how police who cannot tell the race of the driver are nonetheless able to see that the driver is not wearing a seatbelt.

² It is worth pointing out that the statistics have also consistently demonstrated that, despite the disproportionate searches of racial minorities, it is whites who are more likely to be found with contraband when searched.

³ Although we recognize that passage of a primary law would probably lead to a modest increase in seat belt use, it is important to note the general improvement in seat belt use that has occurred over the years in Rhode Island *without* the presence of such a law. NHTSA statistics for 2007, for example, showed Rhode Island's seat belt use rate at 79.1%. This was up from 63.2% only six years earlier. Considering that seat belt use in 2007 was 87% in primary law states, Rhode Island's 79.1% use rate was far from a poor showing. It is true that the 2008 statistics show a significant decrease – to 72%, the lowest rate since 2002. But one must consider this an anomaly in light of the clear upward trend of seat belt use in the state over the past decade. Indeed, in light of that trend, it would be illogical to point to the state's (long-time) lack of a primary law as the basis for the sudden and incongruent drop in seat belt use in 2008. Instead, other factors must be considered. Looking more broadly at a decade of generally improving statistics, it is clear that educational and other non-punitive efforts to encourage seat belt use by Rhode Island can and do have a constructive effect.