



NEW YORK STATE SENATOR

Catharine Young

## Legislation Banning "X-Lite" Guardrail Systems, Removing Them From Roadways Will Keep Motorists Safe, Honor the Life of Hannah Eimers

CATHARINE YOUNG May 16, 2017

| ISSUE: **TRANSPORTATION, HIGHWAYS**



ALBANY – Standing alongside national highway safety advocate Stephen Eimers, Senator Catharine Young (R,C,I- 57th District) today called on the Federal Highway Administration and the New York State Department of Transportation to ban the potentially dangerous guardrail systems and develop a plan to remove them from roadways across New York State.

Senator Young was joined at the press conference by Senate Standing Committee on Transportation Chairman Senator Joseph Robach, a co-sponsor on the legislation, and Assemblymen Sean Ryan and Andy Goodell, who sponsor the bills in their Chamber.

In November 2016, Hannah Eimers, who was born on September 11, 1999 in Fredonia, was killed in a heartbreaking accident in Tennessee when her vehicle left Interstate 75, crossed into the median and struck the guardrail. Tragically, instead of re-directing the car as it left the roadway, the guardrail penetrated the cabin of the car, killing Hannah instantly.

The Tennessee's Department of Transportation callously sent a bill for \$3,000 to replace the guardrail that killed her four months after she died, addressed to her at her parent's home.

Because of the accident, Stephen Eimers, Hannah's father, has become a national spokesperson for highway safety and a staunch advocate for the removal of the "X-Lite" guardrail systems from roadways. Mr. Eimers has traveled the country speaking about safety and developing a list of other fatalities that resulted from flaws in the "X-Lite" system, and similarly designed products. His concerns have been featured in USA Today and CBS This Morning.

After Mr. Eimers raised concerns because "X-Lite" products were on the roads in New York State and on the state's list for approved guardrail systems, Senator Young introduced legislation, Senate Bill 5427A, to address the situation.

"When you hear Stephen Eimers talk about the loss of his child, and how the 'X-Lite' system has impacted other victims, you can't help but feel sympathy and outrage. When I learned about the local connection to Hannah, we immediately took action to help the family bring something positive out of their loved one's tragic passing and to protect New Yorkers. We should be proactive so that a similar tragedy doesn't occur here," said Senator Young.

Advocacy by Mr. Eimers, coupled with letters to New York State Department of Transportation by Senator Young and Assemblyman Ryan and the corresponding legislation's introduction, achieved some progress as the "X-Lite" has been "temporarily" removed from the list of approved products for use in New York State. However, the system could be reinstated at any time because it remains on the Federal Highway Administration's list of approved guardrail systems. Existing installed "X-Lite" guardrail and guardrail end caps also remain on the road.

"We are discovering that there are deathtraps on the sides of our roads. Guardrails are supposed to be designed to protect people from injury when there is an accident. The federal government must act swiftly to get these faulty systems off their approved list and the state should formulate a plan to remove any 'X-Lite' systems so that no one gets hurt. Banning the use of this design and getting the defective products off our roads will help keep everyone safe while honoring Hannah's memory," Senator Young said.

"Hannah's death was unnecessary. She hit an inferior product that failed. This product has been propped up by a culture of indifference and apathy that is pervasive through many of the state DOTs around our nation. Most shocking is the intransigence of the Federal Highway Administration. FHWA continues to violate the GAO recommendations on testing. FHWA still does not require third party testing. The foxes are guarding the henhouse," said Steve Eimers.

Senator Joseph Robach said, "Anything we can do to ensure that New York State's highways are safe for the millions of residents who use them should be of the highest priority. Whether it is keeping dangerous products off our roads, bringing our state's infrastructure into the 21st Century or making sure our state adequately funds transportation, we are working every day to make our roads, highways and bridges safe for all New Yorkers. I am proud to co-sponsor this legislation that will protect motorists and save lives."

Assemblyman Sean Ryan said, “We have an expectation that when it comes to the roadways our state maintains, the infrastructure being installed should help us to travel safely from point A to point B. The X-LITE guardrails are not functioning as intended, and are a danger to drivers across the country. We must take action to ensure the safety of drivers across New York.”

Assemblyman Andrew Goodell said, “Our highway guardrails are intended to save lives, not take lives. This defective design is extremely dangerous, and should be corrected as quickly as possible.”

Senate Bill 5427A would permanently remove “X-Lite” guardrail products from the list of eligible types of materials used for guardrails in New York State, ban “X-Lite” and similarly designed products from being installed in the future, and require that any existing “X-Lite” guardrail products be replaced along all state roadways.

Senate Bill 6096, also introduced by Senator Young and sponsored by Assemblyman Ryan, directs the NYSDOT, in consultation with the appropriate local entities, to conduct a study to identify the locations of any “X-Lite” guardrail or guard rail caps on town, city and county owned roadways, as part of an ongoing FHWA review of crashes involving the “X-Lite” system throughout the country.

Just two weeks prior to Hannah Eimers’ tragic accident, the Tennessee Department of Transportation (TDOT) decided to stop contracting for the “X-Lite” guardrails. Since the time of the crash, TDOT has moved forward with contracting for the removal of a majority of the same guardrails that are currently in place. TDOT Commissioner John Schroer authored a letter to Federal Highway Administration (FHWA) on April 4, 2017, notifying the administration of the state’s inability to receive satisfactory installation information from the manufacturer and that the device is resulting in unacceptable safety levels.

Earlier this year, the Virginia Department of Transportation (VDOT) also began the process of removing and replacing guardrail end terminals with similar designs and materials to the “X-Lite” system involved in Hannah Eimers’ case. The Department took action amid concerns the products might fail in a head on crash. According to media reports, VDOT acted after concerns about design flaws were raised and the state ordered their own testing, which found unsatisfactory results.

Video from today’s press conference is available at <https://www.youtube.com/watch?v=r-n5ED714tk&feature=youtu.be>.

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#### RELATED LEGISLATION

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### **2017-S5427A**

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- Introduced
  
- - In Committee Assembly
  - In Committee Senate
  
- - On Floor Calendar Assembly
  - On Floor Calendar Senate

- ○ Passed Assembly
  - Passed Senate
- Delivered to Governor
- Signed By Governor
- 

Directs the commissioner of transportation to prohibit the use and installation of certain types of guardrails and rail caps on all state and local highways

March 28, 2017

In Senate Committee [Transportation](#)

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Do you support this bill?

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## 2017-S6096

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- Introduced
- ○ In Committee Assembly
  - In Committee Senate
- ○ On Floor Calendar Assembly
  - On Floor Calendar Senate

- ○ Passed Assembly
  - Passed Senate
- Delivered to Governor
- Signed By Governor
- 

Directs the department of transportation to study and report on the removal and use of "X Lite" guardrails and rail caps

May 11, 2017

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Do you support this bill?