

For store patrons, danger at the door

By Alina Tugend and Stuart Silverstein, FairWarning



Damage done to the Stewart's Shop at 120 Nott Terrace in Schenectady after a car drove into the building Thursday May 17, 2012. (John Carl D'Annibale / Times Union)

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Photo: John Carl D'Annibale



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Just as [Kimmy Dubuque](#) was about to enter a Cumberland Farms convenience store to get a cup of coffee, she was struck and killed by an SUV. Police said the SUV, driven by an 81-year-old man who suffered a stroke, had sped through the parking lot of the Chicopee, Mass., store and smashed into the front, pushing Dubuque, 43, through a wall.

Although storefront crashes such as the one that took Dubuque's life in November 2010 may seem like freak accidents, they are more common than many people think. Just last month, 10 people were hurt, including a 5-year-old girl who suffered serious head injuries, when an SUV slammed into a Little Caesars Pizza shop in Los Angeles.

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Cumberland Farms, one of the nation's biggest privately held businesses, alone had 485 "car strikes" from 2000 through 2009 at its 500-plus East Coast convenience stores, according to records in a pending lawsuit. Likewise, 7-Eleven once disclosed having more than 1,500 incidents over a seven-year period. In recent years, crashes on store property also have occurred repeatedly at other big-name retail chains such as Starbucks and Dunkin' Donuts.

Many safety experts say that for a modest cost — often \$10,000 or less — barriers can be installed that give customers, employees and pedestrians substantial protection from vehicles that otherwise might careen into a store. In fact, barriers known as bollards, posts typically made of steel and often filled with concrete, already are a familiar sight beside vulnerable sections of shopping centers and government buildings. Still, safety specialists and plaintiffs' lawyers say some big chains and other businesses have done too little to reduce the risks.

"We don't need cars driving into fronts of stores and sidewalk cafes," said [Dean Alberson](#), a research engineer at the [Texas A&M Transportation Institute](#) and co-chair of a panel developing industry standards for bollards and other so-called low-speed vehicle barriers. "With a little bit of effort, we can actually really improve safety across the board."

No federal agency keeps figures on such accidents. But a FairWarning review of news reports from early April 2013 through early April 2014 found that at least 16 customers, employees or other bystanders were killed in accidental crashes into store buildings or adjacent property. At least 587 others were hurt, 121 seriously, during

the period. The figures are certainly an undercount, since not all of the accidents make the news.

Few communities have adopted laws requiring safety barriers. The only advocacy group pushing hard for action is the [Storefront Safety Council](#). It was co-founded by [Mark Wright](#), a freelance writer from Rockville, Md., who was struck by a car while pushing open the door at a local 7-Eleven. He ended up with a badly injured knee that required months of recuperation, including stays in two nursing homes. While he was idled, Wright started investigating storefront crashes.

"It was so far off my radar — it wasn't until my own encounter and subsequent research that I became much more attuned to the scope and severity of the problem," Wright said.

The main voice of the Storefront Safety Council is its other co-founder, [Rob Reiter](#), a Pomona, Calif., consultant who says his clients include bollard manufacturers and who has served as a paid expert witness in suits brought by families of crash victims.

Although he tracks news stories about storefront crashes — and provided published accounts to FairWarning — Reiter maintains that the vast majority of the accidents are never publicly disclosed. He projects that there may be as many as 20,000 crashes into commercial and municipal buildings or adjacent property a year in the U.S., a figure some critics say is overblown.

Court documents confirm that big retail chains often are struck. Records from a suit against 7-Eleven show that the chain suffered more than 1,500 accidents in 1990-1996 involving vehicles that jumped over the concrete aprons in front of stores.

Officials of 7-Eleven did not respond to email or phone requests for comment. Neither did Starbucks. A representative of Dunkin' Donuts was reached, but said the company would not reply to questions about storefront crashes.

However, the [U.S. Postal Service](#), another one of the nation's most-struck organizations, said through a spokesman that it has considered, and decided against, routinely installing bollards at its 30,000 branches around the country. The spokesman, [Mark Saunders](#), said concerns including costs and access for people with disabilities "preclude the [USPS](#) from making changes to our existing design standards."

Safety specialists say a partial solution would be eliminating so-called nose-in parking, a common configuration that has cars pulling directly up to stores. But many safety advocates believe bollards and other barriers also are crucial. Led by Texas A&M's Alberson and Reiter of the Storefront Safety Council, work has been under way the last several years to develop industry standards for the devices. Alberson and Reiter say final adoption of voluntary industry standards should come next year, a development they hope will encourage increased use of barriers.

The failure of many businesses to take safety measures has long puzzled [Paul S. Weinberg](#), a lawyer representing Kimmy Dubuque's husband, Albert, in a suit against Framingham, Mass.,-based Cumberland Farms.

Weinberg has reached settlements twice before with Cumberland Farms, which together with its subsidiary Gulf Oil, had sales of \$17 billion last year. In one settlement, the company paid \$1.5 million to a Vietnam War veteran who in 2001

lost most of his left leg in an accident at a store in South Deerfield, Mass.

Cumberland Farms' long history of store crashes also includes the 1993 death of a high school student reportedly waiting by a pay phone outside of a Connecticut store.

Weinberg complains that despite the troubled history, Cumberland Farms has dragged its feet. It didn't launch an extensive effort to install bollards until 2011. Even then, according to depositions in the Dubuque case, about 250 to 300 stores — roughly half of the chain's outlets — were excluded.

A company spokesman, [Derek Beckwith](#), declined to comment for this story, saying, "Cumberland Farms doesn't make public statements about litigation as a matter of policy," nor discusses "the different safety policies and programs that we have in place." In a court filing, the company said the driver in the Dubuque case was "wholly liable for damages ... because he lost control of his motor vehicle and drove it at a very high rate of speed."

Robyn Murray contributed to this story. This story was published by FairWarning (<http://fairwarning.org>), a Los Angeles-based nonprofit news organization focused on public health, safety and environmental issues.