

[STAFF WORKING DRAFT]

JUNE 25, 2014

113TH CONGRESS
2D SESSION

S. _____

To provide greater transparency, accountability, and safety authority to the National Highway Traffic Safety Administration, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. ROCKEFELLER introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To provide greater transparency, accountability, and safety authority to the National Highway Traffic Safety Administration, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Motor Vehicle Safety Act of 2014”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definition of Secretary.

TITLE I—TRANSPARENCY AND ACCOUNTABILITY

- Sec. 101. Public availability of early warning data.
- Sec. 102. Improved NHTSA vehicle safety database.
- Sec. 103. Corporate responsibility for NHTSA reports.
- Sec. 104. Reports to Congress.
- Sec. 105. Anti-revolving door.

TITLE II—FUNDING

- Sec. 201. Vehicle safety user fee.
- Sec. 202. Authorization of appropriations.

TITLE III—ENHANCED SAFETY AUTHORITIES

- Sec. 301. Civil penalties.
- Sec. 302. Imminent hazard authority.
- Sec. 303. Used passenger motor vehicle consumer protection.

1 **SEC. 2. DEFINITION OF SECRETARY.**

2 In this Act, the term “Secretary” means the Sec-
3 retary of Transportation, acting through the Adminis-
4 trator of the National Highway Traffic Safety Administra-
5 tion.

6 **TITLE I—TRANSPARENCY AND**
7 **ACCOUNTABILITY**

8 **SEC. 101. PUBLIC AVAILABILITY OF EARLY WARNING DATA.**

9 (a) IN GENERAL.—Section 30166(m) of title 49,
10 United States Code, is amended—

11 (1) by striking clause (ii) in paragraph (3)(A)
12 and inserting the following:

13 “(ii) customer satisfaction campaigns,
14 customer advisories, recalls, consumer
15 complaints, warranty claims, field reports,
16 technical service bulletins, or other activity
17 involving the repair or replacement of

1 motor vehicles or motor vehicle equip-
2 ment.”; and

3 (2) by striking subparagraph (C) of paragraph
4 (4) and inserting the following:

5 “(C) DISCLOSURE.—The information pro-
6 vided to the Secretary pursuant to this sub-
7 section shall be disclosed publicly unless exempt
8 from disclosure under section 552(b) of title
9 5.”.

10 (b) REGULATIONS.—Not later than 2 years after the
11 date of enactment of this Act, the Secretary shall issue
12 regulations establishing categories of information provided
13 to the Secretary pursuant to section 30166(m) of title 49,
14 United States Code that must be made available to the
15 public. The Secretary may establish categories of informa-
16 tion that are exempt from public disclosure under section
17 552(b) of title 5, United States Code.

18 (c) CONSULTATION.—In conducting the rulemaking
19 required under subsection (b), the Secretary shall consult
20 with the Director of the Office of Government Information
21 Services within the National Archives and the Director of
22 the Office of Information Policy of the Department of Jus-
23 tice.

24 (d) PRESUMPTION AND LIMITATION.—The Secretary
25 shall issue the regulations with a presumption in favor of

1 maximum public availability of information. In issuing
2 regulations under subsection (b), the following types of in-
3 formation shall presumptively not be eligible for protection
4 under section 552(b) of title 5, United States Code:

5 (1) Vehicle safety defect information related to
6 incidents involving death or injury.

7 (2) Aggregated numbers of property damage
8 claims.

9 (3) Aggregated numbers of consumer com-
10 plaints related to potential vehicle defects.

11 (e) NULLIFICATION OF PRIOR REGULATIONS.—Be-
12 ginning 2 years after the date of enactment of this Act,
13 the regulations establishing early warning reporting class
14 determinations in Appendix C of part 512 of title 49, Code
15 of Federal Regulations, shall have no force or effect.

16 **SEC. 102. IMPROVED NHTSA VEHICLE SAFETY DATABASE.**

17 Not later than 2 years after the date of enactment
18 of this Act, the Secretary shall improve public accessibility
19 to information on the National Highway Traffic Safety
20 Administration's publicly accessible vehicle safety data-
21 bases by—

22 (1) improving organization and functionality,
23 including modern web design features, and allowing
24 for data to be searched, aggregated, and
25 downloaded;

1 (2) providing greater consistency in presen-
2 tation of vehicle safety issues; and

3 (3) improving searchability about specific vehi-
4 cles and issues through standardization of commonly
5 used search terms.

6 **SEC. 103. CORPORATE RESPONSIBILITY FOR NHTSA RE-**
7 **PORTS.**

8 Section 30166(o) of title 49, United States Code, is
9 amended—

10 (1) in paragraph (1), by striking “may” and in-
11 serting “shall”; and

12 (2) by adding at the end the following:

13 “(3) DEADLINE.—Not later than 1 year after
14 the date of enactment of the Motor Vehicle Safety
15 Act of 2014, the Secretary shall issue a final rule
16 under paragraph (1).”.

17 **SEC. 104. REPORTS TO CONGRESS.**

18 (a) STUDY ON EARLY WARNING DATA.—Not later
19 than 3 years after the date of enactment of this Act, and
20 biennially thereafter for 6 years, the Office of the Inspec-
21 tor General of the Department of Transportation shall
22 complete a study of the utilization of early warning data
23 by the National Highway Traffic Safety Administration
24 (referred to in this section as “NHTSA”). Each study
25 shall evaluate the following:

1 (1) The number and type of requests for infor-
2 mation made by NHTSA based on data received in
3 the early warning reporting system.

4 (2) The number of safety defect investigations
5 opened by NHTSA using any information reported
6 to NHTSA through the early warning reporting sys-
7 tem.

8 (3) The nature and vehicle defect category of
9 each safety defect investigation described in para-
10 graph (2).

11 (4) The number of safety defect investigations
12 described in paragraph (2) that are subsequently
13 closed without further action.

14 (5) The duration of each safety defect inves-
15 tigation described in paragraph (2).

16 (6) The percentage of the safety defect inves-
17 tigations described in paragraph (2) that result in a
18 finding of a safety defect or recall by NHTSA.

19 (7) Other information the Office of the Inspec-
20 tor General considers appropriate.

21 (b) REPORT ON OPERATIONS OF THE COUNCIL FOR
22 VEHICLE ELECTRONICS, VEHICLE SOFTWARE, AND
23 EMERGING TECHNOLOGIES.—Not later than 6 months
24 after the date of enactment of this Act, the Secretary shall
25 prepare a report regarding the operations of the Council

1 nection with any matter involving motor vehicle safety on
2 which such person seeks official action by any officer or
3 employee of the National Highway Traffic Safety Admin-
4 istration.

5 “(b) MANUFACTURERS.—It is unlawful for any man-
6 ufacturer or other person subject to regulation under this
7 chapter to employ or contract for the services of an indi-
8 vidual to whom subsection (a) applies during the 2-year
9 period commencing on the individual’s termination of em-
10 ployment with the National Highway Traffic Safety Ad-
11 ministration in a capacity in which the individual is pro-
12 hibited from serving during that period.

13 “(c) SPECIAL RULE FOR DETAILEES.—For purposes
14 of this section, a person who is detailed from 1 depart-
15 ment, agency, or other entity to another department,
16 agency, or other entity shall, during the period such per-
17 son is detailed, be deemed to be an officer or employee
18 of both departments, agencies, or such entities.

19 “(d) SAVINGS PROVISION.—Nothing in this section
20 may be construed to expand, contract, or otherwise affect
21 the application of any waiver or criminal penalties under
22 section 207 of title 18.

23 “(e) EXCEPTION FOR TESTIMONY.—Nothing in this
24 section may be construed to prevent an individual from

1 giving testimony under oath, or from making statements
2 required to be made under penalty of perjury.

3 “(f) DEFINED TERM.—In this section, the term ‘cov-
4 ered vehicle safety official’ means any officer or employee
5 of the National Highway Traffic Safety Administration—

6 “(1) who, during the final 12 months of his or
7 her service or employment with the agency, serves or
8 served in a technical or legal capacity, and whose job
9 responsibilities include or included vehicle safety de-
10 fect investigation, vehicle safety compliance, vehicle
11 safety rulemaking, or vehicle safety research; and

12 “(2) who serves in a supervisory or manage-
13 ment capacity over an officer or employee described
14 in paragraph (1).

15 “(g) EFFECTIVE DATE.—This section shall apply to
16 covered vehicle safety officials who terminate service or
17 employment with the National Highway Traffic Safety
18 Administration after the date of enactment of the Motor
19 Vehicle Safety Act of 2014.”.

20 (b) CIVIL PENALTY.—Section 30165(a) of title 49,
21 United States Code, is amended by adding at the end the
22 following:

23 “(5) IMPROPER INFLUENCE.—

24 “(A) IN GENERAL.—An individual who vio-
25 lates section 30107(a) is liable to the United

1 States Government for a civil penalty, as deter-
2 mined under section 216(b) of title 18, for an
3 offense under section 207 of that title.

4 “(B) MANUFACTURERS.—A manufacturer
5 or other person subject to regulation under this
6 chapter who violates section 30107(b) is liable
7 to the United States Government for a civil
8 penalty equal to the sum of—

9 “(i) an amount equal to not less than
10 \$100,000; and

11 “(ii) an amount equal to 90 percent of
12 the annual compensation or fee paid or
13 payable to the individual with respect to
14 whom the violation occurred.”.

15 (c) CONFORMING AMENDMENT.—The table of con-
16 tents for chapter 301 of title 49, United States Code, is
17 amended by inserting after the item relating to section
18 30106 the following:

“30107. Restriction on covered vehicle safety officials.”.

19 **TITLE II—FUNDING**

20 **SEC. 201. VEHICLE SAFETY USER FEE.**

21 (a) AMENDMENT.—Subchapter I of chapter 301 of
22 title 49, United States Code, as amended by section
23 105(a), is further amended by adding at the end the fol-
24 lowing:

1 **“§ 30108. Vehicle safety user fee**

2 “(a) ESTABLISHMENT OF FUND.—There is estab-
3 lished in the Treasury of the United States a separate ac-
4 count for the deposit of fees under this section to be
5 known as the Vehicle Safety Fund.

6 “(b) ASSESSMENT AND COLLECTION OF VEHICLE
7 SAFETY FEES.—Beginning 1 year after the date of enact-
8 ment of the Motor Vehicle Safety Act of 2014, the Sec-
9 retary shall assess and collect, in accordance with this sec-
10 tion, a vehicle safety user fee from the manufacturer for
11 each motor vehicle that is certified as compliant with ap-
12 plicable motor vehicle safety standards under section
13 30115.

14 “(c) DEPOSIT.—The Secretary shall deposit any fees
15 collected under subsection (b) into the Vehicle Safety
16 Fund established by subsection (a).

17 “(d) USE.—Amounts in the Vehicle Safety Fund
18 shall be available to the Secretary, as provided in sub-
19 section (i), for making expenditures to meet the obliga-
20 tions of the United States to carry out vehicle safety pro-
21 grams of the National Highway Traffic Safety Adminis-
22 tration.

23 “(e) VEHICLE SAFETY USER FEE.—

24 “(1) FIRST, SECOND, AND THIRD YEAR FEES.—

25 The fee assessed under this section for the first 3
26 years shall be as follows:

1 “(A) \$3 for each motor vehicle certified
2 during the first year in which such fees are as-
3 sessed.

4 “(B) \$6 for each motor vehicle certified
5 during the second year in which such fees are
6 assessed.

7 “(C) \$9 for each motor vehicle certified
8 during the third year in which such fees are as-
9 sessed.

10 “(2) SUBSEQUENT YEARS.—The fee assessed
11 under this section for each motor vehicle certified
12 after the third year in which such fees are assessed
13 shall be adjusted by the Secretary by notice pub-
14 lished in the Federal Register to reflect the total
15 percentage change that occurred in the Consumer
16 Price Index for all Urban Consumers for the 12
17 month period ending June 30 preceding the fiscal
18 year for which fees are being established.

19 “(3) PAYMENT.—The Secretary shall require
20 payment of fees under this section on a quarterly
21 basis and not later than one quarter after the date
22 on which the fee was assessed.

23 “(f) RULEMAKING.—Not later than 9 months after
24 the date of enactment of the Motor Vehicle Safety Act of

1 2014, the Secretary shall promulgate rules governing the
2 collection and payment of fees under this section.

3 “(g) LIMITATIONS.—

4 “(1) IN GENERAL.—Fees under this section
5 shall not be collected for a fiscal year unless appro-
6 priations for vehicle safety programs of the National
7 Highway Traffic Safety Administration for that fis-
8 cal year (excluding the amount of fees appropriated
9 for that fiscal year) are equal to or greater than the
10 amount of appropriations for vehicle safety pro-
11 grams of the National Highway Traffic Safety Ad-
12 ministration for fiscal year 2014.

13 “(2) AUTHORITY.—If the Secretary does not
14 assess fees under this section during any portion of
15 a fiscal year because of paragraph (1), the Secretary
16 may assess and collect the fees, without any modi-
17 fication in the rate, at a later date in that fiscal year
18 notwithstanding subsection (e)(3).

19 “(h) COLLECTION OF UNPAID FEES.—If the Sec-
20 retary does not receive payment of a fee assessed under
21 this section within 30 days after it is due, the fee shall
22 be treated as a claim of the United States Government
23 subject to subchapter II of chapter 37 of title 31.

24 “(i) AUTHORIZATION OF APPROPRIATIONS.—In addi-
25 tion to funds authorized to be appropriated under section

1 30104, there is authorized to be appropriated from the
2 Vehicle Safety Fund to the Secretary for the National
3 Highway Traffic Safety Administration for each fiscal
4 year in which fees are collected under subsection (b) an
5 amount equal to the total amount collected during the pre-
6 vious fiscal year from fees assessed under this section.
7 Such amounts are authorized to remain available until ex-
8 pended.

9 “(j) CREDITING AND AVAILABILITY OF FEES.—Fees
10 authorized under subsection (b) shall be collected and
11 available for obligation only to the extent and in the
12 amount provided in advance in appropriations Acts.”.

13 (b) CLERICAL AMENDMENT.—The table of contents
14 for chapter 301 of title 49, United States Code, as amend-
15 ed by section 108(e), is further amended by inserting after
16 the item relating to section 30107 the following:

“30108. Vehicle safety user fee.”.

17 **SEC. 202. AUTHORIZATION OF APPROPRIATIONS.**

18 Section 30104 of title 49, United States Code, is
19 amended—

20 (1) by striking “\$98,313,500”; and

21 (2) by striking “in each fiscal year beginning in
22 fiscal year 1999 and ending in fiscal year 2011.”

23 and inserting the following: “and to carry out the
24 Motor Vehicle Safety Act of 2014—

25 “(1) \$200,000,000 for fiscal year 2015;

1 “(2) \$240,000,000 for fiscal year 2016; and

2 “(3) \$280,000,000 for fiscal year 2017.”.

3 **TITLE III—ENHANCED SAFETY**
4 **AUTHORITIES**

5 **SEC. 301. CIVIL PENALTIES.**

6 (a) IN GENERAL.—Section 30165 of title 49, United
7 States Code, is amended—

8 (1) in subsection (a)(1)—

9 (A) in the first sentence by striking
10 “\$5,000” and inserting “\$25,000”; and

11 (B) by striking the third sentence; and

12 (2) in subsection (a)(3)—

13 (A) in the second sentence by striking
14 “\$5,000” and inserting “\$25,000”; and

15 (B) by striking the third sentence.

16 (b) CONSTRUCTION.—Nothing in this section shall be
17 construed as preventing the imposition of penalties under
18 section 30165 of title 49, United States Code, prior to
19 the issuance of a final rule under section 31203(b) of the
20 Moving Ahead for Progress in the 21st Century Act (49
21 U.S.C. 30165 note).

22 **SEC. 302. IMMINENT HAZARD AUTHORITY.**

23 (a) IN GENERAL.—Section 30118 of title 49, United
24 States Code, is amended—

25 (1) in subsection (b)—

1 (A) in paragraph (1), by striking “(1) The
2 Secretary may” and inserting “(1) IN GEN-
3 ERAL.—Except as provided under paragraph
4 (3), the Secretary may”;

5 (B) in paragraph (2), by inserting “OR-
6 DERS.—” before “If the Secretary”; and

7 (C) by adding after paragraph (2) the fol-
8 lowing:

9 “(3) IMMINENT HAZARDS.—

10 “(A) DECISIONS AND ORDERS.—If the
11 Secretary decides that a defect or noncompli-
12 ance, or combination of both, under subsection
13 (a) presents an imminent hazard, the Sec-
14 retary—

15 “(i) shall notify the manufacturer of a
16 motor vehicle or replacement equipment
17 immediately under subsection (a); and

18 “(ii) shall order the manufacturer of
19 the motor vehicle or replacement equip-
20 ment to immediately—

21 “(I) give notification under sec-
22 tion 30119 of this title to the owners,
23 purchasers, and dealers of the vehicle
24 or equipment of the imminent hazard;
25 and

1 “(II) remedy the defect or non-
2 compliance under section 30120 of
3 this title;

4 “(iii) notwithstanding section 30119
5 or 30120, may order the time for notifica-
6 tion, means of providing notification, ear-
7 liest remedy date, and time the owner or
8 purchaser has to present the motor vehicle
9 or equipment, including a tire, for remedy;
10 and

11 “(iv) may include in an order under
12 this subparagraph any other terms or con-
13 ditions that the Secretary determines nec-
14 essary to abate the imminent hazard.

15 “(B) OPPORTUNITY FOR ADMINISTRATIVE
16 REVIEW.—Subsequent to the issuance of an
17 order under subparagraph (A), opportunity for
18 administrative review shall be provided in ac-
19 cordance with section 554 of title 5, except that
20 such review shall occur not later than 10 days
21 after issuance of such order.

22 “(C) DEFINITION OF IMMINENT HAZ-
23 ARD.—In this paragraph, the term ‘imminent
24 hazard’ means any condition which substan-

1 tially increases the likelihood of serious injury
2 or death if not remedied immediately.”; and
3 (2) in subsection (c), by inserting “or electronic
4 mail” after “certified mail”.

5 **SEC. 303. USED PASSENGER MOTOR VEHICLE CONSUMER**
6 **PROTECTION.**

7 (a) IN GENERAL.—Section 30120 of title 49, United
8 States Code, is amended by adding at the end the fol-
9 lowing:

10 “(k) LIMITATION ON SALE OR LEASE OF USED PAS-
11 SENGER MOTOR VEHICLES.—

12 “(1) A dealer may not sell or lease a used pas-
13 senger motor vehicle until—

14 “(A) the dealer clearly and conspicuously
15 notifies the purchaser or lessee, in writing, of
16 any notifications of a defect or noncompliance
17 under section 30118(b) or section 30118(c) of
18 this title with respect to the used passenger
19 motor vehicle that have not been remedied; and

20 “(B) the purchaser or lessee acknowledges,
21 in writing, the receipt of the notification under
22 subparagraph (A).

23 “(2) Paragraph (1) shall not apply if—

1 “(A) the defect or noncompliance is rem-
2 edied under section 30120 of this title before
3 delivery under the sale or lease; or

4 “(B) notification of the defect or non-
5 compliance is required under section 30118(b),
6 but enforcement of the order is set aside in a
7 civil action to which 30121(d) applies.

8 “(3) This subsection shall not apply to a dealer
9 if the recall information regarding a used passenger
10 motor vehicle was not accessible at the time of sale
11 or lease using the means established by the Sec-
12 retary under section 31301 of the Moving Ahead for
13 Progress in the 21st Century Act (49 U.S.C. 30166
14 note).

15 “(4) In this subsection, notwithstanding section
16 30102(a)(1) of this title—

17 “(A) the term ‘dealer’ means a person that
18 has sold at least 10 motor vehicles to 1 or more
19 consumers during the prior 12 months; and

20 “(B) the term ‘used *passenger motor vehi-*
21 *cle*’ means a motor vehicle that has previously
22 been purchased other than for resale.

23 “(5) By rule, the Secretary may exempt the
24 auctioning of a used passenger motor vehicle from

1 the requirements of this section to the extent that
2 the exemption does not harm public safety.”.

3 (b) **EFFECTIVE DATE.**—This section shall take effect
4 18 months after the date of enactment of this Act.