

113TH CONGRESS
2D SESSION

H. R. 4364

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

IN THE HOUSE OF REPRESENTATIVES

APRIL 1, 2014

Mr. WAXMAN (for himself, Mr. PALLONE, Mr. RUSH, Ms. DEGETTE, Ms. SCHAKOWSKY, Ms. MATSUI, Mrs. CHRISTENSEN, Mr. BRALEY of Iowa, and Mr. TONKO) introduced the following bill; which was referred to the Committee on Energy and Commerce

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. Definitions.

TITLE I—TRANSPARENCY AND ACCOUNTABILITY

- Sec. 101. Additional early warning reporting requirements.
- Sec. 102. Public notice of inspection and investigation activities.
- Sec. 103. Improved access to NHTSA vehicle safety information.
- Sec. 104. Corporate responsibility for NHTSA reports.
- Sec. 105. Appeal of defect petition rejection.
- Sec. 106. Deadlines for rulemaking.
- Sec. 107. Reports to Congress.
- Sec. 108. Restriction on Covered Vehicle Safety Officials.

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.

TITLE IV—ADDITIONAL PROVISIONS

- Sec. 401. Preemption of State law.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) **PASSENGER MOTOR VEHICLE.**—The term
 4 “passenger motor vehicle” means a motor vehicle (as
 5 defined in section 30102(a)(6) of title 49, United
 6 States Code) that is rated at less than 10,000
 7 pounds gross vehicular weight. Such term does not
 8 include—

9 (A) a motorcycle;

10 (B) a trailer; or

11 (C) a low speed vehicle (as defined in sec-
 12 tion 571.3 of title 49, Code of Federal Regula-
 13 tions).

14 (2) **SECRETARY.**—The term “Secretary” means
 15 the Secretary of Transportation, acting through the

1 Administrator of the National Highway Traffic Safe-
2 ty Administration.

3 **TITLE I—TRANSPARENCY AND**
4 **ACCOUNTABILITY**

5 **SEC. 101. ADDITIONAL EARLY WARNING REPORTING RE-**
6 **QUIREMENTS.**

7 (a) DATA ON FATALITIES.—Paragraph (3)(C) of sec-
8 tion 30166(m) of title 49, United States Code is amend-
9 ed—

10 (1) by striking “The manufacturer” and insert-
11 ing the following: “(i) IN GENERAL.—The manufac-
12 turer”; and

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

14 “(ii) FATAL INCIDENTS.—If an inci-
15 dent described in clause (i) involves fatali-
16 ties, the Secretary shall require the manu-
17 facturer to report—

18 “(I) all initial claims or notice
19 documents that notified the manufac-
20 turer of the incident;

21 “(II) any police reports or other
22 documents describing or recon-
23 structing the incident; and

1 “(III) any amendments or sup-
2 plements to the documents described
3 in subclause (I), except for—

4 “(aa) medical documents
5 and bills;

6 “(bb) property damage in-
7 voices or estimates; and

8 “(cc) documents related to
9 damages.”.

10 (b) PUBLIC AVAILABILITY.—Paragraph (4) of section
11 30166(m) of title 49, United States Code, is amended by
12 striking subparagraph (C) and inserting the following:

13 “(C) DISCLOSURE.—The information pro-
14 vided to the Secretary pursuant to this sub-
15 section shall be disclosed publicly unless exempt
16 from disclosure under section 552(b) of title
17 5.”.

18 (c) REGULATIONS.—Not later than 2 years after the
19 date of enactment of this Act, the Secretary shall issue
20 regulations regarding public access to information sub-
21 mitted pursuant to section 30166(m) of title 49, United
22 States Code. The Secretary may establish categories of in-
23 formation provided pursuant to such section that must be
24 made available to the public and categories that are ex-

1 empt from public disclosure under section 552(b) of title
2 5, United States Code.

3 (d) CONSULTATION.—In conducting the rulemaking
4 required under subsection (c), the Secretary shall consult
5 with the Director of the Office of Government Information
6 Services within the National Archives and the Director of
7 the Office of Information Policy of the Department of Jus-
8 tice.

9 (e) PRESUMPTION AND LIMITATION.—The Secretary
10 shall issue the regulations with a presumption in favor of
11 maximum public availability of information. The following
12 types of information shall not be eligible for protection
13 under section 552(b)(4) of title 5, United States Code, and
14 shall not be withheld from public disclosure:

15 (1) Production information regarding passenger
16 motor vehicles, information on incidents involving
17 death or injury, and numbers of property damage
18 claims.

19 (2) Aggregated numbers of consumer com-
20 plaints.

21 (f) NULLIFICATION OF PRIOR REGULATIONS.—Be-
22 ginning 2 years after the date of enactment of this Act,
23 the regulations establishing early warning reporting class
24 determinations in Appendix C of section 512 of title 49,
25 Code of Federal Regulations, shall have no force or effect.

1 **SEC. 102. PUBLIC NOTICE OF INSPECTION AND INVESTIGA-**
2 **TION ACTIVITIES.**

3 The Secretary shall provide public notice of all in-
4 spection and investigation activities conducted by the Sec-
5 retary under section 30166 of title 49, United States
6 Code, and make any such notice, and notice of any en-
7 forcement or other action taken as a result of an inspec-
8 tion or investigation available on the website of the Na-
9 tional Highway Traffic Safety Administration immediately
10 after such notice is issued.

11 **SEC. 103. IMPROVED ACCESS TO NHTSA VEHICLE SAFETY**
12 **INFORMATION.**

13 Not later than 2 years after the date of enactment
14 of this Act, the Secretary shall improve public accessibility
15 to information on the website of the National Highway
16 Traffic Safety Administration regarding vehicle safety, in-
17 cluding Early Warning data, studies, investigations, in-
18 spections, incident reports, and other materials, by—

19 (1) improving organization and functionality
20 and allowing for data to be searched, aggregated,
21 and downloaded;

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

24 (3) improving searchability about specific vehi-
25 cles and issues through standardization of commonly
26 used search terms and the integration of databases

1 to enable all to be simultaneously searched using the
2 same keyword search function.

3 **SEC. 104. CORPORATE RESPONSIBILITY FOR NHTSA RE-**
4 **PORTS.**

5 Paragraph (1) of section 30166(o) of title 49, United
6 States Code, is amended by striking “may” and inserting
7 “shall”.

8 **SEC. 105. APPEAL OF DEFECT PETITION REJECTION.**

9 Section 30162 of title 49, United States Code, is
10 amended by adding at the end the following:

11 “(e) JUDICIAL REVIEW.—A decision of the Secretary
12 to deny a petition filed under subsection (a)(2) of this sec-
13 tion is agency action subject to judicial review under chap-
14 ter 7 of title 5, and such action shall not be considered
15 committed to agency discretion within the meaning of sec-
16 tion 701(a)(2) of such title. A person aggrieved by the
17 denial of a petition may obtain judicial review by filing
18 an action in the court of appeals of the United States for
19 the circuit in which the person resides or has its principal
20 place of business or the United States Court of Appeals
21 for the District of Columbia Circuit not more than 180
22 days after notice of the denial of the petition is published
23 in the Federal Register.”.

1 **SEC. 106. DEADLINES FOR RULEMAKING.**

2 If the Secretary determines that a deadline for a final
3 rule under this Act, or an amendment made by this Act,
4 cannot be met, the Secretary shall—

5 (1) notify the Committee on Energy and Com-
6 merce of the House of Representatives and the Sen-
7 ate Committee on Commerce, Science, and Trans-
8 portation and explain why that deadline cannot be
9 met; and

10 (2) establish a new deadline for that rule.

11 **SEC. 107. REPORTS TO CONGRESS.**

12 (a) **STUDY ON EARLY WARNING DATA.**—Not later
13 than 3, 5, 7, and 9 years after the date of enactment of
14 this Act, the Office of the Inspector General of the Depart-
15 ment of Transportation shall complete a study of the utili-
16 zation of Early Warning data by the National Highway
17 Traffic Safety Administration (NHTSA). Each study shall
18 evaluate the following:

19 (1) The number and type of requests for infor-
20 mation made by NHTSA based on data received in
21 the Early Warning Reporting system.

22 (2) The number of safety defect investigations
23 opened by NHTSA using any information reported
24 to the agency through the Early Warning Reporting
25 system.

1 (3) The nature and vehicle defect category of
2 all such safety defect investigations.

3 (4) The number of investigations described in
4 paragraph (2) that are subsequently closed without
5 further action.

6 (5) The duration of each investigation described
7 in paragraph (2).

8 (6) The percentage of each investigation that
9 result in a finding of a safety defect or recall by the
10 agency.

11 (7) Other information the Office of the Inspec-
12 tor General determines to be appropriate.

13 (b) REPORT ON OPERATIONS OF THE COUNCIL FOR
14 VEHICLE ELECTRONICS, VEHICLE SOFTWARE, AND
15 EMERGING TECHNOLOGIES.—Not later than 6 months
16 after the date of enactment of this Act, the Secretary shall
17 report to Congress regarding the operations of the Council
18 for Vehicle Electronics, Vehicle Software, and Emerging
19 Technologies. Such report shall include information about
20 the accomplishments of the Council, the role the Council
21 plays in integrating and aggregating expertise across
22 NHTSA, and priorities of the Council over the next 5
23 years.

24 (c) SUBMISSION OF REPORTS.—Each study described
25 in subsection (a) and the report described in subsection

1 (b) shall be submitted to the Committee on Energy and
2 Commerce of the House of Representatives and to the
3 Committee on Commerce, Science, and Transportation of
4 the Senate upon completion.

5 **SEC. 108. RESTRICTION ON COVERED VEHICLE SAFETY OF-**
6 **FICIALS.**

7 (a) AMENDMENT.—Subchapter I of chapter 301 of
8 title 49, United States Code, is amended by adding at the
9 end the following:

10 **“§ 30107. Restriction on covered vehicle safety offi-**
11 **cial**

12 “(a) IN GENERAL.—For a period of 1 year after the
13 termination of his or her service or employment, a covered
14 vehicle safety official shall not knowingly make, with the
15 intent to influence, any communication to or appearance
16 before any officer or employee of the National Highway
17 Transportation Safety Administration on behalf of any
18 manufacturer subject to regulation under this chapter in
19 connection with any matter involving vehicle safety on
20 which such person seeks official action by any officer or
21 employee of the National Highway Transportation Safety
22 Administration.

23 “(b) NO EFFECT ON SECTION 207.—This section
24 does not expand, contract, or otherwise affect the applica-

1 tion of any waiver or criminal penalties under section 207
2 of title 18.

3 “(c) EFFECTIVE DATE.—This section shall apply to
4 covered vehicle safety officials who terminate service or
5 employment with the National Highway Transportation
6 Safety Administration after the date of enactment of the
7 Motor Vehicle Safety Act of 2014.

8 “(d) DEFINITION.—In this section, the term ‘covered
9 vehicle safety official’ means any officer or employee of
10 the National Highway Transportation Safety Administra-
11 tion who, within the final 12 months of his or her service
12 or employment with the agency, serves or served in a tech-
13 nical or legal capacity, and whose job responsibilities in-
14 clude or included vehicle safety defect investigation, vehi-
15 cle safety compliance, vehicle safety rulemaking, or vehicle
16 safety research, and any officer or employee of the Na-
17 tional Highway Transportation Safety Administration
18 serving in a supervisory or management capacity over such
19 officers or employees.

20 “(e) SPECIAL RULE FOR DETAILEES.—For purposes
21 of this section, a person who is detailed from one depart-
22 ment, agency, or other entity to another department,
23 agency, or other entity shall, during the period such per-
24 son is detailed, be deemed to be an officer or employee
25 of both departments, agencies, or such entities.

1 “(f) EXCEPTION FOR TESTIMONY.—Nothing in this
2 section shall prevent an individual from giving testimony
3 under oath, or from making statements required to be
4 made under penalty of perjury.”.

5 (b) CIVIL PENALTY.—Section 30165(a) of title 49,
6 United States Code, is further amended by adding at the
7 end the following:

8 “(5) SECTION 30107.—A person who violates
9 section 30107 shall be subject to a civil penalty of
10 not more than \$55,000.”.

11 (c) CONFORMING AMENDMENT.—The table of sec-
12 tions for chapter 301 of title 49, United States Code, is
13 amended by inserting after the item relating to section
14 30106 the following:

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

15 **TITLE II—FUNDING**

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

17 (a) AMENDMENT.—Subchapter I of chapter 301 of
18 title 49, United States Code, as amended by section
19 108(a), is further amended by adding at the end the fol-
20 lowing:

21 **“§ 30108. Vehicle safety user fee**

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

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

9 “(c) DEPOSIT.—The Secretary shall deposit any fees
10 collected pursuant to subsection (b) into the Vehicle Safe-
11 ty Fund established by subsection (a).

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

18 “(e) VEHICLE SAFETY USER FEE.—

19 “(1) FIRST, SECOND, AND THIRD YEAR FEES.—
20 The fee assessed under this section for the first
21 three years shall be as follows:

22 “(A) \$3 for each vehicle certified during
23 the first year in which such fees are assessed.

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

1 “(C) \$9 for each vehicle certified during
2 the third year in which such fees are assessed.

3 “(2) SUBSEQUENT YEARS.—The fee assessed
4 under this section for each vehicle certified after the
5 third year in which such fees are assessed shall be
6 adjusted by the Secretary by notice published in the
7 Federal Register to reflect the total percentage
8 change that occurred in the Consumer Price Index
9 for all Urban Consumers for the 12-month period
10 ending June 30 preceding the fiscal year for which
11 fees are being established.

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

16 “(f) RULEMAKING.—Not later than 9 months after
17 the date of enactment of the Motor Vehicle Safety Act of
18 2014, the Secretary shall promulgate rules governing the
19 collection and payment of fees pursuant to this section.

20 “(g) LIMITATIONS.—

21 “(1) IN GENERAL.—Fees under this section
22 shall not be collected for a fiscal year unless appro-
23 priations for vehicle safety programs of the National
24 Highway Traffic Safety Administration for such fis-
25 cal year (excluding the amount of fees appropriated

1 for such fiscal year) are equal to or greater than the
2 amount of appropriations for vehicle safety pro-
3 grams of the National Highway Traffic Safety Ad-
4 ministration for fiscal year 2014.

5 “(2) AUTHORITY.—If the Secretary does not
6 assess fees under this section during any portion of
7 a fiscal year because of paragraph (1), the Secretary
8 may assess and collect such fees, without any modi-
9 fication in the rate, at a later date in such fiscal
10 year notwithstanding the provisions of subsection
11 (e)(3) relating to the date fees are to be paid.

12 “(h) COLLECTION OF UNPAID FEES.—In any case
13 where the Secretary does not receive payment of a fee as-
14 sessed under this section within 30 days after it is due,
15 such fee shall be treated as a claim of the United States
16 Government subject to subchapter II of chapter 37 of title
17 31.

18 “(i) AUTHORIZATION OF APPROPRIATIONS.—In addi-
19 tion to funds authorized to be appropriated under section
20 30104, there is authorized to be appropriated from the
21 Vehicle Safety Fund to the Secretary for the National
22 Highway Traffic Safety Administration for each fiscal
23 year in which fees are collected under subsection (b) an
24 amount equal to the total amount collected during the pre-
25 vious fiscal year from fees assessed pursuant to this sec-

1 tion. Such amounts are authorized to remain available
2 until expended.

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

7 (b) CLERICAL AMENDMENT.—The table of sections
8 for chapter 301 of title 49, United States Code, as amend-
9 ed by section 108(d), is further amended by inserting after
10 the item relating to section 30107 the following:

“30108. Vehicle safety user fee.”.

11 **SEC. 202. AUTHORIZATION OF APPROPRIATIONS.**

12 Section 30104 of title 49, United States Code, is
13 amended—

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

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

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

19 “(1) \$200,000,000 for fiscal year 2015;

20 “(2) \$240,000,000 for fiscal year 2016; and

21 “(3) \$280,000,000 for fiscal year 2017.”.

1 **TITLE III—ENHANCED SAFETY**
2 **AUTHORITIES**

3 **SEC. 301. CIVIL PENALTIES.**

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

6 (1) in subsection (a)(1)—

7 (A) in the first sentence by striking
8 “\$5,000” and inserting “\$25,000”; and

9 (B) in the third sentence, by striking
10 “\$35,000,000” and inserting “\$200,000,000”;
11 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) in the third sentence, by striking
16 “\$35,000,000” and inserting “\$200,000,000”.

17 (b) CONSTRUCTION.—Nothing in this section shall be
18 construed as preventing the imposition of penalties under
19 section 30165 of title 49, United States Code, prior to
20 the issuance of a final rule pursuant to section 31203(b)
21 of the Moving Ahead for Progress in the 21st Century Act
22 (49 U.S.C. 30165 note).

1 **SEC. 302. IMMINENT HAZARD AUTHORITY.**

2 (a) IN GENERAL.—Section 30118(b) of title 49,
3 United States Code, is amended by adding at the end the
4 following:

5 “(3) IMMINENT HAZARD ORDERS.—If the Sec-
6 retary of Transportation in making a decision under
7 subsection (a) also initially decides that such defect
8 or noncompliance presents a substantial likelihood of
9 death or serious injury to the public, the Secretary
10 shall notify such manufacturer. The opportunity for
11 the manufacturer to present information, views, and
12 arguments in accordance with paragraph (1) shall be
13 provided as soon as practicable but not later than 10
14 calendar days after the initial decision. The Sec-
15 retary shall expedite proceedings for a decision and
16 order under paragraph (1) and shall, as appropriate,
17 issue an imminent hazard order.”.

18 (b) PROCEDURES.—Not later than 2 years after the
19 date of enactment of this Act, the Secretary shall issue
20 procedures for the issuance and enforcement of imminent
21 hazard orders under section 30118(b)(3) of title 49,
22 United States Code (as added by subsection (a)), con-
23 sistent with the provisions of chapter 301 of such title and
24 chapter 5 of title 5, United States Code (commonly known
25 as the Administrative Procedure Act).

1 **TITLE IV—ADDITIONAL**
2 **PROVISIONS**

3 **SEC. 401. PREEMPTION OF STATE LAW.**

4 (a) CONGRESSIONAL AUTHORIZATION REQUIRED.—

5 Notwithstanding any other provision of law, the Secretary
6 shall not publish a rule pursuant to section 30111 of title
7 49, United States Code, that addresses the issue of pre-
8 emption of State law seeking damages for personal injury,
9 death, or property damage unless Congress expressly au-
10 thorizes the Secretary to address such preemption.

11 (b) PREEMPTION LANGUAGE.—Any language ad-
12 dressing the issue of preemption contained within regula-
13 tions issued by the Secretary pursuant to section 30111
14 of title 49, United States Code, during the years 2005
15 through 2008 shall not be considered in determining
16 whether any such rule preempts any action under State
17 law seeking damages for personal injury, death, or prop-
18 erty damage unless Congress expressly authorizes the Sec-
19 retary to address such preemption.

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