

112TH CONGRESS } 2d Session	HOUSE OF REPRESENTATIVES SENATE	{ REPORT 112-_____
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MAP-21

_____, 2012.—Ordered to be printed

_____, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany H. R. 4348]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 4348), to provide an extension of Federal-aid highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a multiyear law reauthorizing such programs, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) *SHORT TITLE.*—This Act may be cited as the “Moving Ahead for Progress in the 21st Century Act” or the “MAP-21”.

(b) *DIVISIONS.*—This Act is organized into 8 divisions as follows:

- (1) *Division A—Federal-aid Highways and Highway Safety Construction Programs.*
- (2) *Division B—Public Transportation.*
- (3) *Division C—Transportation Safety and Surface Transportation Policy.*
- (4) *Division D—Finance.*
- (5) *Division E—Research and Education.*
- (6) *Division F—Miscellaneous.*
- (7) *Division G—Surface Transportation Extension.*
- (8) *Division H—Budgetary Effects.*

(b) *SAFETY BELT PERFORMANCE GRANTS*.—Section 406 of title 23, United States Code, and the item relating to section 406 in the analysis for chapter 4 of title 23, United States Code, are repealed.

(c) *INNOVATIVE PROJECT GRANTS*.—Section 407 of title 23, United States Code, and the item relating to section 407 in the analysis for chapter 4, are repealed.

(d) *STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS*.—Section 408 of title 23, United States Code, and the item relating to section 408 in the analysis for chapter 4, are repealed.

(e) *ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES*.—Section 410 of title 23, United States Code, and the item relating to section 410 in the analysis for chapter 4, are repealed.

(f) *STATE HIGHWAY SAFETY DATA IMPROVEMENTS*.—Section 411 of title 23, United States Code, and the item relating to section 411 in the analysis for chapter 4, are repealed.

(g) *MOTORCYCLIST SAFETY*.—Section 2010 of SAFETEA-LU (23 U.S.C. 402 note), and the item relating to section 2010 in the table of contents under section 1(b) of such Act, are repealed.

(h) *CHILD SAFETY AND CHILD BOOSTER SEAT INCENTIVE GRANTS*.—Section 2011 of SAFETEA-LU (23 U.S.C. 405 note), and the item relating to section 2011 in the table of contents under section 1(b) of that Act, are repealed.

(i) *DRUG-IMPAIRED DRIVING ENFORCEMENT*.—Section 2013 of SAFETEA-LU (23 U.S.C. 403 note), and the item relating to section 2013 in the table of contents under section 1(b) of that Act, are repealed.

(j) *FIRST RESPONDER VEHICLE SAFETY PROGRAM*.—Section 2014 of SAFETEA-LU (23 U.S.C. 402 note), and the item relating to section 2014 in the table of contents under section 1(b) of that Act, are repealed.

(k) *RURAL STATE EMERGENCY MEDICAL SERVICES OPTIMIZATION PILOT PROGRAM*.—Section 2016 of SAFETEA-LU (119 Stat. 1541), and the item relating to section 2016 in the table of contents under section 1(b) of that Act, are repealed.

(l) *OLDER DRIVER SAFETY; LAW ENFORCEMENT TRAINING*.—Section 2017 of SAFETEA-LU (119 Stat. 1541), and the item relating to section 2017 in the table of contents under section 1(b) of that Act, are repealed.

Subtitle B—Enhanced Safety Authorities

SEC. 31201. DEFINITION OF MOTOR VEHICLE EQUIPMENT.

Section 30102(a)(7)(C) of title 49, United States Code, is amended to read as follows:

“(C) any device or an article or apparel, including a motorcycle helmet and excluding medicine or eyeglasses prescribed by a licensed practitioner, that—

“(i) is not a system, part, or component of a motor vehicle; and

“(ii) is manufactured, sold, delivered, or offered to be sold for use on public streets, roads, and highways with the apparent purpose of safeguarding users of motor vehicles against risk of accident, injury, or death.”.

SEC. 31202. PERMIT REMINDER SYSTEM FOR NON-USE OF SAFETY BELTS.

(a) *IN GENERAL.*—Chapter 301 of title 49, United States Code, is amended—

- (1) in section 30122, by striking subsection (d); and
- (2) by amending section 30124 to read as follows:

“§ 30124. Nonuse of safety belts

“A motor vehicle safety standard prescribed under this chapter may not require a manufacturer to comply with the standard by using a safety belt interlock designed to prevent starting or operating a motor vehicle if an occupant is not using a safety belt.”.

(b) *CONFORMING AMENDMENT.*—The analysis for chapter 301 of title 49, United States Code, is amended by striking the item relating to section 30124 and inserting the following:

“Sec. 30124. Nonuse of safety belts.”.

SEC. 31203. CIVIL PENALTIES.

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

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking “30123(d)” and inserting “30123(a)”;

and

(ii) by striking “\$15,000,000” and inserting “\$35,000,000”; and

(B) in paragraph (3), by striking “\$15,000,000” and inserting “\$35,000,000”; and

(2) by amending subsection (c) to read as follows:

“(c) *RELEVANT FACTORS IN DETERMINING AMOUNT OF PENALTY OR COMPROMISE.*—In determining the amount of a civil penalty or compromise under this section, the Secretary of Transportation shall consider the nature, circumstances, extent, and gravity of the violation. Such determination shall include, as appropriate—

“(1) the nature of the defect or noncompliance;

“(2) knowledge by the person charged of its obligations under this chapter;

“(3) the severity of the risk of injury;

“(4) the occurrence or absence of injury;

“(5) the number of motor vehicles or items of motor vehicle equipment distributed with the defect or noncompliance;

“(6) actions taken by the person charged to identify, investigate, or mitigate the condition;

“(7) the appropriateness of such penalty in relation to the size of the business of the person charged, including the potential for undue adverse economic impacts;

“(8) whether the person has been assessed civil penalties under this section during the most recent 5 years; and

“(9) other appropriate factors.”.

(b) *CIVIL PENALTY CRITERIA.*—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue a final rule, in accordance with the procedures of section 553 of title 5, United States Code, which provides an interpretation of the penalty factors described in section 30165(c) of title 49, United States Code.

(c) *EFFECTIVE DATE.*—The amendments made by subsection (a) shall take effect on the date that is the earlier of the date on which

final regulations are issued under subsection (b) or 1 year after the date of enactment of this Act.

SEC. 31204. MOTOR VEHICLE SAFETY RESEARCH AND DEVELOPMENT.

(a) *IN GENERAL.*—Chapter 301 of title 49, United States Code, is amended by adding at the end the following:

“SUBCHAPTER V—MOTOR VEHICLE SAFETY RESEARCH AND DEVELOPMENT

“§ 30181. Policy

“The Secretary of Transportation shall conduct research, development, and testing on any area or aspect of motor vehicle safety necessary to carry out this chapter.

“§ 30182. Powers and duties

“(a) *IN GENERAL.*—The Secretary of Transportation shall—

“(1) conduct motor vehicle safety research, development, and testing programs and activities, including activities related to new and emerging technologies that impact or may impact motor vehicle safety;

“(2) collect and analyze all types of motor vehicle and highway safety data and related information to determine the relationship between motor vehicle or motor vehicle equipment performance characteristics and—

“(A) accidents involving motor vehicles; and

“(B) deaths or personal injuries resulting from those accidents.

“(b) *ACTIVITIES.*—In carrying out a program under this section, the Secretary of Transportation may—

“(1) promote, support, and advance the education and training of motor vehicle safety staff of the National Highway Traffic Safety Administration in motor vehicle safety research programs and activities, including using program funds for planning, implementing, conducting, and presenting results of program activities, and for related expenses;

“(2) obtain experimental and other motor vehicles and motor vehicle equipment for research or testing;

“(3)(A) use any test motor vehicles and motor vehicle equipment suitable for continued use, as determined by the Secretary to assist in carrying out this chapter or any other chapter of this title; or

“(B) sell or otherwise dispose of test motor vehicles and motor vehicle equipment and use the resulting proceeds to carry out this chapter;

“(4) award grants to States and local governments, interstate authorities, and nonprofit institutions; and

“(5) enter into cooperative agreements, collaborative research, or contracts with Federal agencies, interstate authorities, State and local governments, other public entities, private organizations and persons, nonprofit institutions, colleges and universities, consumer advocacy groups, corporations, partnerships, sole proprietorships, trade associations, Federal laboratories (including government-owned, government-operated laboratories and government-owned, contractor-operated laboratories), and research organizations.

“(c) USE OF PUBLIC AGENCIES.—In carrying out this subchapter, the Secretary shall avoid duplication by using the services, research, and testing facilities of public agencies, as appropriate.”

“(d) FACILITIES.—The Secretary may plan, design, and construct a new facility or modify an existing facility to conduct research, development, and testing in traffic safety, highway safety, and motor vehicle safety. An expenditure of more than \$1,500,000 for planning, design, or construction may be made only if 60 days prior notice of the planning, design, or construction is provided to the Committees on Science, Space, and Technology and Transportation and Infrastructure of the House of Representatives and the Committees on Commerce, Science, and Transportation and Environment and Public Works of the Senate. The notice shall include—

“(1) a brief description of the facility being planned, designed, or constructed;

“(2) the location of the facility;

“(3) an estimate of the maximum cost of the facility;

“(4) a statement identifying private and public agencies that will use the facility and the contribution each agency will make to the cost of the facility; and

“(5) a justification of the need for the facility.”

“(e) INCREASING COSTS OF APPROVED FACILITIES.—The estimated maximum cost of a facility noticed under subsection (d) may be increased by an amount equal to the percentage increase in construction costs from the date the notice is submitted to Congress. However, the increase in the cost of the facility may not be more than 10 percent of the estimated maximum cost included in the notice. The Secretary shall decide what increase in construction costs has occurred.”

“(f) AVAILABILITY OF INFORMATION, PATENTS, AND DEVELOPMENTS.—When the United States Government makes more than a minimal contribution to a research or development activity under this chapter, the Secretary shall include in the arrangement for the activity a provision to ensure that all information, patents, and developments related to the activity are available to the public. The owner of a background patent may not be deprived of a right under the patent.”

“§ 30183. Prohibition on certain disclosures.

“Any report of the National Highway Traffic Safety Administration, or of any officer, employee, or contractor of the National Highway Traffic Safety Administration, relating to any highway traffic accident or the investigation of such accident conducted pursuant to this chapter or section 403 of title 23, may be made available to the public only in a manner that does not identify individuals.”

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENT OF CHAPTER ANALYSIS.—The chapter analysis for chapter 301 of title 49, United States Code, is amended by adding at the end the following:

“SUBCHAPTER V—MOTOR VEHICLE SAFETY RESEARCH AND DEVELOPMENT

“30181. Policy.

“30182. Powers and duties.

“30183. Prohibition on certain disclosures.”

(2) DELETION OF REDUNDANT MATERIAL.—Chapter 301 of title 49, United States Code, is amended—

(A) in the chapter analysis, by striking the item relating to section 30168; and
 (B) by striking section 30168.

SEC. 31205. ODOMETER REQUIREMENTS.

(a) **DEFINITION.**—Section 32702(5) of title 49, United States Code, is amended by inserting “or system of components” after “instrument”.

(b) **ELECTRONIC DISCLOSURES OF ODOMETER INFORMATION.**—Section 32705 of title 49, United States Code, is amended by adding at the end the following:

“(g) **ELECTRONIC DISCLOSURES.**—Not later than 18 months after the date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2012, in carrying out this section, the Secretary shall prescribe regulations permitting any written disclosures or notices and related matters to be provided electronically.”.

SEC. 31206. INCREASED PENALTIES AND DAMAGES FOR ODOMETER FRAUD.

Chapter 327 of title 49, United States Code, is amended—

(1) in section 32709(a)(1)—

(A) by striking “\$2,000” and inserting “\$10,000”; and

(B) by striking “\$100,000” and inserting “\$1,000,000”;

and

(2) in section 32710(a), by striking “\$1,500” and inserting “\$10,000”.

SEC. 31207. EXTEND PROHIBITIONS ON IMPORTING NONCOMPLIANT VEHICLES AND EQUIPMENT TO DEFECTIVE VEHICLES AND EQUIPMENT.

Section 30112 of title 49, United States Code, is amended—

(1) in subsection (a), by adding at the end the following:

“(3) Except as provided in this section, section 30114, subsections (i) and (j) of section 30120, and subchapter III, a person may not sell, offer for sale, introduce or deliver for introduction in interstate commerce, or import into the United States any motor vehicle or motor vehicle equipment if the vehicle or equipment contains a defect related to motor vehicle safety about which notice was given under section 30118(c) or an order was issued under section 30118(b). Nothing in this paragraph may be construed to prohibit the importation of a new motor vehicle that receives a required recall remedy before being sold to a consumer in the United States.”; and

(2) in subsection (b)(2)—

(A) in subparagraph (A), by striking “or” at the end;

(B) in subparagraph (B), by adding “or” at the end;

and

(C) by adding at the end the following:

“(C) having no reason to know, despite exercising reasonable care, that a motor vehicle or motor vehicle equipment contains a defect related to motor vehicle safety about which notice was given under section 30118(c) or an order was issued under section 30118(b);”.

SEC. 31208. CONDITIONS ON IMPORTATION OF VEHICLES AND EQUIPMENT.

Chapter 301 of title 49, United States Code, is amended—

(1) in the chapter analysis, by striking the item relating to section 30164 and inserting the following:

"30164. Service of process; conditions on importation of vehicles and equipment.";

and

(2) in section 30164—

(A) in the section heading, by adding "*conditions on importation of vehicles and equipment*" at the end; and

(B) by adding at the end the following:

"(c) IDENTIFYING INFORMATION.—A manufacturer (including an importer) offering a motor vehicle or motor vehicle equipment for import shall provide, upon request, such information that is necessary to identify and track the products as the Secretary, by rule, may specify, including—

"(1) the product by name and the manufacturer's address;

and

"(2) each retailer or distributor to which the manufacturer directly supplied motor vehicles or motor vehicle equipment over which the Secretary has jurisdiction under this chapter.

"(d) REGULATIONS ON THE IMPORT OF A MOTOR VEHICLE.—The Secretary may issue regulations that—

"(1) condition the import of a motor vehicle or motor vehicle equipment on the manufacturer's compliance with—

"(A) the requirements under this section;

"(B) paragraph (1) or (3) of section 30112(a) with respect to such motor vehicle or motor vehicle equipment;

"(C) the provision of reports and records required to be maintained with respect to such motor vehicle or motor vehicle equipment under this chapter;

"(D) a request for inspection of premises, vehicle, or equipment under section 30166;

"(E) an order or voluntary agreement to remedy such vehicle or equipment; or

"(F) any rules implementing the requirements described in this subsection;

"(2) provide an opportunity for the manufacturer to present information before the Secretary's determination as to whether the manufacturer's imports should be restricted; and

"(3) establish a process by which a manufacturer may petition for reinstatement of its ability to import motor vehicles or motor vehicle equipment.

"(e) EXCEPTION.—The requirements of subsections (c) and (d) shall not apply to original manufacturers (or wholly owned subsidiaries) of motor vehicles that, prior to the date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2012—

"(1) have imported motor vehicles into the United States that are certified to comply with all applicable Federal motor vehicle safety standards;

"(2) have submitted to the Secretary appropriate manufacturer identification information under part 566 of title 49, Code of Federal Regulations; and

"(3) if applicable, have identified a current agent for service of process in accordance with part 551 of title 49, Code of Federal Regulations.

“(f) *RULEMAKING.*—In issuing regulations under this section, the Secretary shall seek to reduce duplicative requirements by coordinating with the Department of Homeland Security.”.

SEC. 31209. PORT INSPECTIONS; SAMPLES FOR EXAMINATION OR TESTING.

Section 30166(c) of title 49, United States Code, is amended—

(1) in paragraph (2), by striking “and” at the end;

(2) in paragraph (3)—

(A) in subparagraph (A), by inserting “(including at United States ports of entry)” after “held for introduction in interstate commerce”; and

(B) in subparagraph (D), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(4) shall enter into a memorandum of understanding with the Secretary of Homeland Security for inspections and sampling of motor vehicle equipment being offered for import to determine compliance with this chapter or a regulation or order issued under this chapter.”.

Subtitle C—Transparency and Accountability

SEC. 31301. PUBLIC AVAILABILITY OF RECALL INFORMATION.

(a) *VEHICLE RECALL INFORMATION.*—Not later than 1 year after the date of enactment of this Act, the Secretary shall require that motor vehicle safety recall information—

(1) be available to the public on the Internet;

(2) be searchable by vehicle make and model and vehicle identification number;

(3) be in a format that preserves consumer privacy; and

(4) includes information about each recall that has not been completed for each vehicle.

(b) *RULEMAKING.*—The Secretary may initiate a rulemaking proceeding to require each manufacturer to provide the information described in subsection (a), with respect to that manufacturer’s motor vehicles, on a publicly accessible Internet website. Any rules promulgated under this subsection—

(1) shall limit the information that must be made available under this section to include only those recalls issued not more than 15 years prior to the date of enactment of this Act;

(2) may require information under paragraph (1) to be provided to a dealer or an owner of a vehicle at no charge; and

(3) shall permit a manufacturer a reasonable period of time after receiving information from a dealer with respect to a vehicle to update the information about the vehicle on the publicly accessible Internet website.

(c) *PROMOTION OF PUBLIC AWARENESS.*—The Secretary, in consultation with the heads of other relevant agencies, shall promote consumer awareness of the information made available to the public pursuant to this section.

SEC. 31302. NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION OUTREACH TO MANUFACTURER, DEALER, AND MECHANIC PERSONNEL.

The Secretary shall publicize the means for contacting the National Highway Traffic Safety Administration in a manner that targets mechanics, passenger motor vehicle dealership personnel, and manufacturer personnel.

SEC. 31303. PUBLIC AVAILABILITY OF COMMUNICATIONS TO DEALERS.

(a) **INTERNET ACCESSIBILITY.**—Section 30166(f) of title 49, United States Code, is amended—

(1) by striking “A manufacturer shall give the Secretary of Transportation” and inserting the following:

“(1) **IN GENERAL.**—A manufacturer shall give the Secretary of Transportation, and the Secretary shall make available on a publicly accessible Internet website,”; and

(2) by adding at the end the following:

“(2) **INDEX.**—Communications required to be submitted to the Secretary under this subsection shall be accompanied by an index to each communication, that—

“(A) identifies the make, model, and model year of the affected vehicles;

“(B) includes a concise summary of the subject matter of the communication; and

“(C) shall be made available by the Secretary to the public on the Internet in a searchable format.”.

SEC. 31304. CORPORATE RESPONSIBILITY FOR NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION REPORTS.

(a) **IN GENERAL.**—Section 30166 of title 49, United States Code, is amended by adding at the end the following:

“(o) **CORPORATE RESPONSIBILITY FOR REPORTS.**—

“(1) **IN GENERAL.**—The Secretary may promulgate rules requiring a senior official responsible for safety in any company submitting information to the Secretary in response to a request for information in a safety defect or compliance investigation under this chapter to certify that—

“(A) the signing official has reviewed the submission; and

“(B) based on the official’s knowledge, the submission does not—

“(i) contain any untrue statement of a material fact; or

“(ii) omit to state a material fact necessary in order to make the statements made not misleading, in light of the circumstances under which such statements were made.

“(2) **NOTICE.**—The certification requirements of this section shall be clearly stated on any request for information under paragraph (1).”.

(b) **CIVIL PENALTY.**—Section 30165(a) of title 49, United States Code, is amended—

(1) in paragraph (3), by striking “A person” and inserting “Except as provided in paragraph (4), a person”; and

(2) by adding at the end the following:

“(4) **FALSE OR MISLEADING REPORTS.**—A person who knowingly and willfully submits materially false or misleading infor-

mation to the Secretary, after certifying the same information as accurate under the certification process established pursuant to section 30166(o), shall be subject to a civil penalty of not more than \$5,000 per day. The maximum penalty under this paragraph for a related series of daily violations is \$1,000,000.”.

SEC. 31305. PASSENGER MOTOR VEHICLE INFORMATION PROGRAM.

(a) **DEFINITION.**—Section 32301 of title 49, United States Code, is amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively;

(2) by inserting before paragraph (2), as redesignated, the following:

“(1) ‘crash avoidance’ means preventing or mitigating a crash;”;

(3) in paragraph (2), as redesignated, by striking the period at the end and inserting “; and”.

(b) **INFORMATION INCLUDED.**—Section 32302(a) of title 49, United States Code, is amended—

(1) in paragraph (2), by inserting “, crash avoidance, and any other areas the Secretary determines will improve the safety of passenger motor vehicles” after “crashworthiness”; and

(2) by striking paragraph (4).

SEC. 31306. PROMOTION OF VEHICLE DEFECT REPORTING.

Section 32302 of title 49, United States Code, is amended by adding at the end the following:

“(d) **MOTOR VEHICLE DEFECT REPORTING INFORMATION.**—

“(1) **RULEMAKING REQUIRED.**—Not later than 1 year after the date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2012, the Secretary shall prescribe regulations that require passenger motor vehicle manufacturers—

“(A) to affix, in the glove compartment or in another readily accessible location on the vehicle, a sticker, decal, or other device that provides, in simple and understandable language, information about how to submit a safety-related motor vehicle defect complaint to the National Highway Traffic Safety Administration;

“(B) to prominently print the information described in subparagraph (A) within the owner’s manual; and

“(C) to not place such information on the label required under section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232).

“(2) **APPLICATION.**—The requirements under paragraph (1) shall apply to passenger motor vehicles manufactured in any model year beginning more than 1 year after the date on which a final rule is published under paragraph (1).”.

SEC. 31307. WHISTLEBLOWER PROTECTIONS FOR MOTOR VEHICLE MANUFACTURERS, PART SUPPLIERS, AND DEALERSHIP EMPLOYEES.

(a) **IN GENERAL.**—Subchapter IV of chapter 301 of title 49, United States Code, is amended by adding at the end the following:

“§ 30171. Protection of employees providing motor vehicle safety information

“(a) DISCRIMINATION AGAINST EMPLOYEES OF MANUFACTURERS, PART SUPPLIERS, AND DEALERSHIPS.—No motor vehicle manufacturer, part supplier, or dealership may discharge an employee or otherwise discriminate against an employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

“(1) provided, caused to be provided, or is about to provide (with any knowledge of the employer) or cause to be provided to the employer or the Secretary of Transportation information relating to any motor vehicle defect, noncompliance, or any violation or alleged violation of any notification or reporting requirement of this chapter;

“(2) has filed, caused to be filed, or is about to file (with any knowledge of the employer) or cause to be filed a proceeding relating to any violation or alleged violation of any motor vehicle defect, noncompliance, or any violation or alleged violation of any notification or reporting requirement of this chapter;

“(3) testified or is about to testify in such a proceeding;

“(4) assisted or participated or is about to assist or participate in such a proceeding; or

“(5) objected to, or refused to participate in, any activity that the employee reasonably believed to be in violation of any provision of chapter 301 of this title, or any order, rule, regulation, standard, or ban under such provision.

“(b) COMPLAINT PROCEDURE.—

“(1) FILING AND NOTIFICATION.—A person who believes that he or she has been discharged or otherwise discriminated against by any person in violation of subsection (a) may file (or have any person file on his or her behalf), not later than 180 days after the date on which such violation occurs, a complaint with the Secretary of Labor (hereinafter in this section referred to as the ‘Secretary’) alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify, in writing, the person named in the complaint of the filing of the complaint, of the allegations contained in the complaint, of the substance of evidence supporting the complaint, and of the opportunities that will be afforded to such person under paragraph (2).

“(2) INVESTIGATION; PRELIMINARY ORDER.—

“(A) IN GENERAL.—Not later than 60 days after the date of receipt of a complaint filed under paragraph (1) and after affording the person named in the complaint an opportunity to submit to the Secretary a written response to the complaint and an opportunity to meet with a representative of the Secretary to present statements from witnesses, the Secretary shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify, in writing, the complainant and the person alleged to have committed a violation of subsection (a) of the Secretary’s findings. If the Secretary concludes that there is a reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary shall

accompany the Secretary's findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 30 days after the date of notification of findings under this paragraph, either the person alleged to have committed the violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Such hearings shall be conducted expeditiously. If a hearing is not requested in such 30-day period, the preliminary order shall be deemed a final order that is not subject to judicial review.

"(B) REQUIREMENTS.—

"(i) REQUIRED SHOWING BY COMPLAINANT.—The Secretary shall dismiss a complaint filed under this subsection and shall not conduct an investigation otherwise required under subparagraph (A) unless the complainant makes a prima facie showing that any behavior described in paragraphs (1) through (5) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

"(ii) SHOWING BY EMPLOYER.—Notwithstanding a finding by the Secretary that the complainant has made the showing required under clause (i), no investigation otherwise required under subparagraph (A) shall be conducted if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

"(iii) CRITERIA FOR DETERMINATION BY SECRETARY.—The Secretary may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in paragraphs (1) through (5) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

"(iv) PROHIBITION.—Relief may not be ordered under subparagraph (A) if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

"(3) FINAL ORDER.—

"(A) DEADLINE FOR ISSUANCE; SETTLEMENT AGREEMENTS.—Not later than 120 days after the date of conclusion of a hearing under paragraph (2), the Secretary shall issue a final order providing the relief prescribed by this paragraph or denying the complaint. At any time before issuance of a final order, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary, the complainant, and the person alleged to have committed the violation.

"(B) REMEDY.—If, in response to a complaint filed under paragraph (1), the Secretary determines that a violation of subsection (a) has occurred, the Secretary shall order the person who committed such violation—

“(i) to take affirmative action to abate the violation;

“(ii) to reinstate the complainant to his or her former position together with the compensation (including back pay) and restore the terms, conditions, and privileges associated with his or her employment; and

“(iii) to provide compensatory damages to the complainant.

“(C) ATTORNEYS’ FEES.—If such an order is issued under this paragraph, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys’ and expert witness fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, bringing the complaint upon which the order was issued.

“(D) FRIVOLOUS COMPLAINTS.—If the Secretary determines that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary may award to the prevailing employer a reasonable attorney’s fee not exceeding \$1,000.

“(E) DE NOVO REVIEW.—With respect to a complaint under paragraph (1), if the Secretary has not issued a final decision within 210 days after the filing of the complaint and if the delay is not due to the bad faith of the employee, the employee may bring an original action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy, and which action shall, at the request of either party to the action, be tried by the court with a jury. The action shall be governed by the same legal burdens of proof specified in paragraph (2)(B) for review by the Secretary.

“(4) REVIEW.—

“(A) APPEAL TO COURT OF APPEALS.—Any person adversely affected or aggrieved by an order issued under paragraph (3) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review shall be filed not later than 60 days after the date of the issuance of the final order of the Secretary. Review shall conform to chapter 7 of title 5. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order.

“(B) LIMITATION ON COLLATERAL ATTACK.—An order of the Secretary with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

“(5) ENFORCEMENT OF ORDER BY SECRETARY.—Whenever any person fails to comply with an order issued under paragraph (3), the Secretary may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under

this paragraph, the district courts shall have jurisdiction to grant all appropriate relief, including injunctive relief and compensatory damages.

“(6) ENFORCEMENT OF ORDER BY PARTIES.—

“(A) COMMENCEMENT OF ACTION.—A person on whose behalf an order was issued under paragraph (3) may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

“(B) ATTORNEY FEES.—The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such award is appropriate.

“(c) MANDAMUS.—Any nondiscretionary duty imposed under this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28.

“(d) NONAPPLICABILITY TO DELIBERATE VIOLATIONS.—Subsection (a) shall not apply with respect to an employee of a motor vehicle manufacturer, part supplier, or dealership who, acting without direction from such motor vehicle manufacturer, part supplier, or dealership (or such person’s agent), deliberately causes a violation of any requirement relating to motor vehicle safety under this chapter.”.

(b) GOVERNMENT ACCOUNTABILITY OFFICE REPORT.—Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States shall—

(1) conduct a study of the whistleblower protections established by law with respect to this program, and update its study of other such programs administered by the Secretary of Transportation; and

(2) submit to Congress a report of the results of the study under paragraph (1), including—

(A) an identification of the differences between the provisions applicable to different programs, the number of claims brought pursuant to each provision, and the outcome of each claim; and

(B) any recommendations for program changes that the Comptroller General considers appropriate based on the study under paragraph (1).

(c) CONFORMING AMENDMENT.—The table of sections for chapter 301 of title 49, United States Code, is amended by inserting after the item relating to section 30170 the following:

“30171. Protection of employees providing motor vehicle safety information.”.

SEC. 31308. ANTI-REVOLVING DOOR.

(a) STUDY OF DEPARTMENT OF TRANSPORTATION POLICIES ON OFFICIAL COMMUNICATION WITH FORMER MOTOR VEHICLE SAFETY ISSUE EMPLOYEES.—Not later than 1 year after the date of enactment of this Act, the Inspector General of the Department of Transportation shall—

(1) review the Department of Transportation’s policies and procedures applicable to official communication with former

employees concerning motor vehicle safety compliance matters for which they had responsibility during the last 12 months of their tenure at the Department, including any limitations on the ability of such employees to submit comments, or otherwise communicate directly with the Department, on motor vehicle safety issues; and

(2) submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives that contains the Inspector General's findings, conclusions, and recommendations for strengthening those policies and procedures to minimize the risk of undue influence without compromising the ability of the Department to employ and retain highly qualified individuals for such responsibilities.

(b) **POST-EMPLOYMENT POLICY STUDY.**—

(1) **IN GENERAL.**—The Inspector General of the Department of Transportation shall conduct a study of the Department's policies relating to post-employment restrictions on employees who perform functions related to transportation safety.

(2) **REPORT.**—Not later than 1 year after the date of enactment of this Act, the Inspector General shall submit a report containing the results of the study conducted under paragraph (1) to—

(A) the Committee on Commerce, Science, and Transportation of the Senate;

(B) the Committee on Energy and Commerce of the House of Representatives; and

(C) the Secretary of Transportation.

(3) **USE OF RESULTS.**—The Secretary of Transportation shall review the results of the study conducted under paragraph (1) and take whatever action the Secretary determines to be appropriate.

SEC. 31309. STUDY OF CRASH DATA COLLECTION.

(a) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives regarding the quality of data collected through the National Automotive Sampling System, including the Special Crash Investigations Program.

(b) **REVIEW.**—The Administrator of the National Highway Traffic Safety Administration (referred to in this section as the "Administration") shall conduct a comprehensive review of the data elements collected from each crash to determine if additional data should be collected. The review under this subsection shall include input from interested parties, including suppliers, automakers, safety advocates, the medical community, and research organizations.

(c) **CONTENTS.**—The report issued under this section shall include—

(1) the analysis and conclusions the Administration can reach from the amount of motor vehicle crash data collected in a given year;

(2) the additional analysis and conclusions the Administration could reach if more crash investigations were conducted each year;

(3) the number of investigations per year that would allow for optimal data analysis and crash information;

(4) the results of the comprehensive review conducted pursuant to subsection (b);

(5) the incremental costs of collecting and analyzing additional data, as well as data from additional crashes;

(6) the potential for obtaining private funding for all or a portion of the costs under paragraph (5);

(7) the potential for recovering any additional costs from high volume users of the data, while continuing to make the data available to the general public free of charge;

(8) the advantages or disadvantages of expanding collection of non-crash data instead of crash data;

(9) recommendations for improvements to the Administration's data collection program; and

(10) the resources needed by the Administration to implement such recommendations.

SEC. 31310. UPDATE MEANS OF PROVIDING NOTIFICATION; IMPROVING EFFICACY OF RECALLS.

(a) **UPDATE OF MEANS OF PROVIDING NOTIFICATION.**—Section 30119(d) of title 49, United States Code, is amended—

(1) in paragraph (1), by striking “by first class mail” and inserting “in the manner prescribed by the Secretary, by regulation”;

(2) in paragraph (2)—

(A) by striking “(except a tire) shall be sent by first class mail” and inserting “shall be sent in the manner prescribed by the Secretary, by regulation,”; and

(B) by striking the second sentence;

(3) in paragraph (3)—

(A) by striking the first sentence;

(B) by inserting “to the notification required under paragraphs (1) and (2)” after “addition”; and

(C) by inserting “by the manufacturer” after “given”; and

(4) in paragraph (4), by striking “by certified mail or quicker means if available” and inserting “in the manner prescribed by the Secretary, by regulation”.

(b) **IMPROVING EFFICACY OF RECALLS.**—Section 30119(e) of title 49, United States Code, is amended—

(1) in the subsection heading, by striking “SECOND” and inserting “ADDITIONAL”;

(2) by striking “If the Secretary” and inserting the following:

“(1) **SECOND NOTIFICATION.**—If the Secretary”; and

(3) by adding at the end the following:

“(2) **ADDITIONAL NOTIFICATIONS.**—If the Secretary determines, after taking into account the severity of the defect or noncompliance, that the second notification by a manufacturer does not result in an adequate number of motor vehicles or items of replacement equipment being returned for remedy, the Secretary may order the manufacturer—

“(A)(i) to send additional notifications in the manner prescribed by the Secretary, by regulation; or

“(ii) to take additional steps to locate and notify each person registered under State law as the owner or lessee or the most recent purchaser or lessee, as appropriate; and

“(B) to emphasize the magnitude of the safety risk caused by the defect or noncompliance in such notification.”.

SEC. 31311. EXPANDING CHOICES OF REMEDY AVAILABLE TO MANUFACTURERS OF REPLACEMENT EQUIPMENT.

Section 30120 of title 49, United States Code, is amended—

(1) in subsection (a)(1), by amending subparagraph (B) to read as follows:

“(B) if replacement equipment, by repairing the equipment, replacing the equipment with identical or reasonably equivalent equipment, or by refunding the purchase price.”;

(2) in the heading of subsection (i), by adding “OF NEW VEHICLES OR EQUIPMENT” at the end; and

(3) in the heading of subsection (j), by striking “REPLACED” and inserting “REPLACEMENT”.

SEC. 31312. RECALL OBLIGATIONS AND BANKRUPTCY OF MANUFACTURER.

(a) *IN GENERAL.*—Chapter 301 of title 49, United States Code, is amended by inserting the following after section 30120:

“§30120A. Recall obligations and bankruptcy of a manufacturer

“A manufacturer’s filing of a petition in bankruptcy under chapter 11 of title 11, does not negate the manufacturer’s duty to comply with section 30112 or sections 30115 through 30120 of this title. In any bankruptcy proceeding, the manufacturer’s obligations under such sections shall be treated as a claim of the United States Government against such manufacturer, subject to subchapter II of chapter 37 of title 31, United States Code, and given priority pursuant to section 3713(a)(1)(A) of such chapter, notwithstanding section 3713(a)(2), to ensure that consumers are adequately protected from any safety defect or noncompliance determined to exist in the manufacturer’s products. This section shall apply equally to actions of a manufacturer taken before or after the filing of a petition in bankruptcy.”.

(b) *CONFORMING AMENDMENT.*—The chapter analysis of chapter 301 of title 49, United States Code, is amended by inserting after the item relating to section 30120 the following:

“30120A. Recall obligations and bankruptcy of a manufacturer.”.

SEC. 31313. REPEAL OF INSURANCE REPORTS AND INFORMATION PROVISION.

Chapter 331 of title 49, United States Code, is amended—

(1) in the chapter analysis, by striking the item relating to section 33112; and

(2) by striking section 33112.

SEC. 31314. MONRONEY STICKER TO PERMIT ADDITIONAL SAFETY RATING CATEGORIES.

Section 3(g)(2) of the Automobile Information Disclosure Act (15 U.S.C. 1232(g)(2)), is amended by inserting “safety rating categories that may include” after “refers to”.

Subtitle D—Vehicle Electronics and Safety Standards

SEC. 31401. NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION ELECTRONICS, SOFTWARE, AND ENGINEERING EXPERTISE.

(a) COUNCIL FOR VEHICLE ELECTRONICS, VEHICLE SOFTWARE, AND EMERGING TECHNOLOGIES.—

(1) **IN GENERAL.**—The Secretary shall establish, within the National Highway Traffic Safety Administration, a Council for Vehicle Electronics, Vehicle Software, and Emerging Technologies (referred to in this section as the “Council”) to build, integrate, and aggregate the Administration’s expertise in passenger motor vehicle electronics and other new and emerging technologies.

(2) **IMPLEMENTATION OF ROADMAP.**—The Council shall research the inclusion of emerging lightweight plastic and composite technologies in motor vehicles to increase fuel efficiency, lower emissions, meet fuel economy standards, and enhance passenger motor vehicle safety through continued utilization of the Administration’s Plastic and Composite Intensive Vehicle Safety Roadmap (Report No. DOT HS 810 863).

(3) **INTRA-AGENCY COORDINATION.**—The Council shall coordinate with all components of the Administration responsible for vehicle safety, including research and development, rule-making, and defects investigation.

(b) HONORS RECRUITMENT PROGRAM.—

(1) **ESTABLISHMENT.**—The Secretary shall establish, within the National Highway Traffic Safety Administration, an honors program for engineering students, computer science students, and other students interested in vehicle safety that will enable such students to train with engineers and other safety officials for careers in vehicle safety.

(2) **STIPEND.**—The Secretary is authorized to provide a stipend to any student during the student’s participation in the program established under paragraph (1).

(c) **ASSESSMENT.**—The Council, in consultation with affected stakeholders, shall periodically assess the implications of emerging safety technologies in passenger motor vehicles, including the effect of such technologies on consumers, product availability, and cost.

SEC. 31402. ELECTRONIC SYSTEMS PERFORMANCE.

(a) **IN GENERAL.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall complete an examination of the need for safety standards with regard to electronic systems in passenger motor vehicles. In conducting this examination, the Secretary shall—

(1) consider the electronic components, the interaction of electronic components, the security needs for those electronic systems to prevent unauthorized access, and the effect of surrounding environments on the electronic systems; and

(2) allow for public comment.

(b) **REPORT.**—Upon completion of the examination under subsection (a), the Secretary shall submit a report on the highest priority areas for safety with regard to the electronic systems to the

Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives.

Subtitle E—Child Safety Standards

SEC. 31501. CHILD SAFETY SEATS.

(a) *SIDE IMPACT CRASHES.*—Not later than 2 years after the date of enactment of this Act, the Secretary shall issue a final rule amending Federal Motor Vehicle Safety Standard Number 213 to improve the protection of children seated in child restraint systems during side impact crashes.

(b) *FRONTAL IMPACT TEST PARAMETERS.*—

(1) *COMMENCEMENT.*—Not later than 2 years after the date of enactment of this Act, the Secretary shall commence a rulemaking proceeding to amend the standard seat assembly specifications under Federal Motor Vehicle Safety Standard Number 213 to better simulate a single representative motor vehicle rear seat.

(2) *FINAL RULE.*—Not later than 4 years after the date of enactment of this Act, the Secretary shall issue a final rule pursuant to paragraph (1).

SEC. 31502. CHILD RESTRAINT ANCHORAGE SYSTEMS.

(a) *INITIATION OF RULEMAKING PROCEEDING.*—Not later than 1 year after the date of enactment of this Act, the Secretary shall initiate a rulemaking proceeding to amend Federal Motor Vehicle Safety Standard Number 225 (relating to child restraint anchorage systems) to improve the ease of use for lower anchorages and tethers in all rear seat seating positions if such anchorages and tethers are feasible.

(b) *FINAL RULE.*—

(1) *IN GENERAL.*—Except as provided under paragraph (2) and section 31505, the Secretary shall issue a final rule under subsection (a) not later than 3 years after the date of enactment of this Act.

(2) *REPORT.*—If the Secretary determines that an amendment to the standard referred to in subsection (a) does not meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code, the Secretary shall submit a report describing the reasons for not prescribing such a standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

SEC. 31503. REAR SEAT BELT REMINDERS.

(a) *INITIATION OF RULEMAKING PROCEEDING.*—Not later than 2 years after the date of enactment of this Act, the Secretary shall initiate a rulemaking proceeding to amend Federal Motor Vehicle Safety Standard Number 208 (relating to occupant crash protection) to provide a safety belt use warning system for designated seating positions in the rear seat.

(b) *FINAL RULE.*—

(1) *IN GENERAL.*—Except as provided under paragraph (2) and section 31505, the Secretary shall issue a final rule under subsection (a) not later than 3 years after the date of enactment of this Act.

(2) *REPORT.*—If the Secretary determines that an amendment to the standard referred to in subsection (a) does not meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code, the Secretary shall submit a report describing the reasons for not prescribing such a standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

SEC. 31504. UNATTENDED PASSENGER REMINDERS.

(a) *SAFETY RESEARCH INITIATIVE.*—The Secretary may initiate research into effective ways to minimize the risk of hyperthermia or hypothermia to children or other unattended passengers in rear seating positions.

(b) *RESEARCH AREAS.*—In carrying out subsection (a), the Secretary may conduct research into the potential viability of—

(1) vehicle technology to provide an alert that a child or unattended passenger remains in a rear seating position after the vehicle motor is disengaged; or

(2) public awareness campaigns to educate drivers on the risks of leaving a child or unattended passenger in a vehicle after the vehicle motor is disengaged; or

(3) other ways to mitigate risk.

(c) *COORDINATION WITH OTHER AGENCIES.*—The Secretary may collaborate with other Federal agencies in conducting the research under this section.

SEC. 31505. NEW DEADLINE.

If the Secretary determines that any deadline for issuing a final rule under this Act cannot be met, the Secretary shall—

(1) provide the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives with an explanation for why such deadline cannot be met; and

(2) establish a new deadline for that rule.

Subtitle F—Improved Daytime and Night-time Visibility of Agricultural Equipment

SEC. 31601. RULEMAKING ON VISIBILITY OF AGRICULTURAL EQUIPMENT.

(a) *DEFINITIONS.*—In this section:

(1) *AGRICULTURAL EQUIPMENT.*—The term “agricultural equipment” has the meaning given the term “agricultural field equipment” in ASABE Standard 390.4, entitled “Definitions and Classifications of Agricultural Field Equipment”, which was published in January 2005 by the American Society of Agriculture and Biological Engineers, or any successor standard.