

**Supporting Statement
For
Exemption from Make Inoperative Prohibition
Modifier Identification and Consumer Disclosure
49 CFR 595 Subpart C
OMB Control # 2127-0635**

Abstract:¹

This is a request to revise a currently approved collection to add rental companies to the list of entities that are exempted from the make inoperative prohibition to modify vehicles for use by disabled drivers. NHTSA is proposing to permit rental car companies to make inoperative a knee bolster air bag, on a temporary basis, to permit the temporary installation of hand controls to accommodate persons with physical disabilities seeking to rent the vehicle, to require that they provide each customer for whom they modify a vehicle pursuant to this exemption with a list of the exemptions used to modify that vehicle, and to retain a copy of the document provided to the customer for five years. The purpose of this requirement is for the customer to be made aware that their rental vehicle is being modified in such a way that it may no longer comply with the Federal Motor Vehicle Safety Standards. The purpose of the document retention requirement is to facilitate enforcement by NHTSA in the event of potential violations of the terms of the make inoperative exemption in this proposal, and to facilitate the investigation and identification of vehicles in the event a subsequent safety problem arises that could relate to the manner in which the vehicles were modified. This revision would result in 1,333 additional burden hours associated with the collection.

¹ The Abstract must include the following information: (1) whether responding to the collection is mandatory, voluntary, or required to obtain or retain a benefit; (2) a description of the entities who must respond; (3) whether the collection is reporting (indicate if a survey), recordkeeping, and/or disclosure; (4) the frequency of the collection (e.g., bi-annual, annual, monthly, weekly, as needed); (5) a description of the information that would be reported, maintained in records, or disclosed; (6) a description of who would receive the information; (7) the purpose of the collection; and (8) if a revision, a description of the revision and the change in burden.

1. Explain the circumstances that make the collection of information necessary.

Attach a copy of the appropriate statute or regulation mandating or authorizing the collection of information.

The National Highway Traffic Safety Administration (NHTSA), under the U.S. Department of Transportation, was established by the Highway Safety Act of 1970 to carry out safety programs under the National Traffic and Motor Vehicle Safety Act of 1966. The Safety Act has subsequently been recodified under Title 49 of the United States Code in Chapter 301, Motor Vehicle Safety. This statute contains a provision prohibiting certain commercial entities from knowingly making inoperative any part of a device or element of design installed in or on a motor vehicle in compliance with an applicable Federal Motor Vehicle Safety Standard (49 U.S.C. § 30122). However, the statute also gives NHTSA the authority to issue regulations that exempt persons from this prohibition (49 U.S.C. § 30122(c)(1)).

On February 27, 2001, NHTSA published a final rule (66 FR 12638) to facilitate the modification of motor vehicles so that persons with disabilities can drive or ride in them as passengers. In that final rule, the agency issued a limited exemption from a statutory provision that prohibits specified types of commercial entities from either removing safety equipment or features installed on motor vehicles pursuant to the Federal Motor Vehicle Safety Standards or altering the equipment or features so as to adversely affect their performance. The exemption is limited in that it allows repair businesses to modify only certain types of Federally-required safety equipment and features, under

specified circumstances. The regulation is found at 49 CFR Part 595 Subpart C – Vehicle Modifications to Accommodate People with Disabilities.

In this action, NHTSA is proposing to add rental companies to the list of entities that are exempted from the make inoperative prohibition. This action only proposes to exclude rental companies from the make inoperative prohibition for the removal of knee bolster air bags. This action requires rental companies to keep records of vehicles that are modified to accommodate customers with disabilities.

2. Indicate how, by whom, and for what purpose the information is to be used.

Indicate actual use of the information received from the current collection.

This modification would only affect Part 2 of the existing collection, related to the disclosure to the renter of each vehicle that is modified using the exemption. NHTSA is not proposing that rental companies be subject to any registration requirement. The simplest form of disclosure is an annotated invoice or rental agreement. No specific, separate, or special forms are required. A copy of this document must also be retained for five years. This document will be used by the renter, in the case of rental vehicles, to understand the modifications made to his/her vehicle and their effect on vehicle safety. This information may be used by NHTSA in the event of an inquiry about the safety of the modified vehicles or compliance with the requirements that might be adopted.

3. Describe whether the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

This modification affects the disclosure of information by the rental company to the renter at the time the vehicle is rented and the retention of records by rental companies. Electronic collection is not applicable to the disclosure required in the vehicle that the vehicle has been modified. For the retention of the document and the provision of a copy to the renter, no form of the document is specified.

4. Describe efforts to identify duplication. Show specifically why similar information cannot be used.

The information collected under this regulation is unique and is not available through other sources.

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize the burden.

This collection of information involves rental companies, as that term is defined in 49 U.S.C. § 30102, which only includes rental companies maintaining fleets of 35 or more rental vehicles. It is unlikely that any such rental company would be considered a small

business. In any event, the disclosure and record retention requirements are not burdensome.

The disclosure to the vehicle owner is made with each vehicle modified using the exemptions. Disclosure involves annotating the rental agreement. We estimate the average time needed to annotate each invoice is 20 minutes.

6. Describe the consequences to the Federal program or policy activities if the collection is not collected or collected less frequently, as well as any technical or legal obstacles to reducing burden.

The disclosure is made once per vehicle modified with the exemptions. The disclosure pertains to that unique vehicle. Each disclosure must be maintained by the rental car company for 5 years. If the information is not collected, NHTSA will not be able to identify or locate rental vehicles, should a question arise about safety, and consumers will not have the information they need about the safety of their modified vehicles.

7. Explain any special circumstances that require the information collection to be conducted in a manner:

- a. requiring respondents to report information to the agency more often than quarterly;**
- b. requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- c. requiring respondents to submit more than an original and two copies of any document;**

- d. requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;**
- e. in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;**
- f. requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**
- g. that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**
- h. requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

The procedure specified for this information collection are consistent with the guidelines set forth in 5 CFR 1320.5(d)(2).

8. If applicable, provide a copy of the Federal Register document soliciting comments on the collection of information, a summary of all public comments responding to the notice, and a description of the agency's action in response to the comments. Describe efforts to consult with persons outside the agency to obtain their views.

The Federal Register document soliciting comments on the collection of information was published on Monday, December 28, 2020 (85FR84281), and it is attached.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

No payment or gift will be or was provided to any respondent.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy. If the collection requires a systems of records notice (SORN) or privacy impact assessment (PIA), those should be cited and described here.

No assurances of confidentiality are given by the agency. The only information required to be sent to the agency is the name and address of the company. This information is made public on the agency's website and by telephone or written request.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

There are no private questions involved in this information-collection activity. The required information is exclusively business-oriented, with no personal data submitted or requested.

12. Provide estimates of the hour burden of the collection of information on the respondents and estimates of the annualized labor cost to respondents associated with that hour burden.

This modification would only affect Part 2 of the existing collection, related to the disclosure to the renter of each vehicle that is modified using the exemption. NHTSA is not proposing that rental companies be subject to any registration requirement.

Disclosure involves annotating the regular invoice or rental agreement to describe the exemption used for each listed modification. We estimate the average time needed to annotate each invoice is 20 minutes. We estimate rental companies will make an average number of approximately 4,000 temporary modifications annually.² The estimated burden for preparing the disclosure document is calculated as follows:

Respondents: 10 (rental companies using the exemptions).

Average number of responses: 400 (average number of vehicles modified with exemptions per business (4,000 ÷ 10))

Hours/response: 0.333 hours (time to annotate the invoice to show exemptions used (20 min./60))

Annual total burden: 1,333 hours ((400 × 0.333 = 133.3 hours per respondent) × 10 respondents)

In making this estimate we assumed that there are 4,000 vehicles rented each year that would require removal of knee bolster air bags. We estimate that the time needed to annotate an existing invoice to comply with the disclosure requirement is 20 minutes.

² This information is based upon an estimate provided by Enterprise regarding the number of vehicle modifications it anticipates making.

Since the invoice would be prepared, given to the consumer, and retained by the modifier in the normal course of business, we do not include labor cost burdens for those activities.

The labor costs associated with this additional burden are estimated to be \$25.29 per hour for "Automotive Service Technicians and Mechanics," Occupation code 49-3023.³ This is based on the assumption that the person making the modification to the vehicle will be annotating the invoice, rather than a rental clerk assisting a customer. Therefore, the estimated total labor costs associated with this additional burden are \$33,712 ($\$25.29 \text{ per hour wage} \times 1,333 \text{ hours} = \$33,711.57$).

13. Provide estimates of the total annual cost to the respondents or record keepers resulting from the collection of information. Do not include the cost of any hour burden already reflected in the response provided in question 12.

We do not estimate any additional material costs to the respondents or the record keepers associated with this ICR as we expect that the recordkeeping would be done in the ordinary course of business. We assume it is normal and customary in the course of a rental car business to prepare an invoice, to provide a copy of the invoice to the vehicle renter, and to keep a copy of the invoice for five years after the vehicle is rented.

14. Provide estimates of annualized cost to the Federal Government.

³ See May 2019 National Occupational Employment and Wage Estimates by ownership, Federal, state, and local government including the U.S. Postal Service, available at <https://www.bls.gov/oes/current/999001.htm#49-0000> (accessed December 22, 2020)

There is no cost incurred by the Federal Government as a result of this regulation.

15. Explain the reasons for any program changes or adjustments reported on the burden worksheet.

This is a request to revise a currently approved collection to add rental companies to the list of entities that are exempted from the make inoperative prohibition to modify vehicles for use by disabled drivers. Rental companies would be subject to similar requirements to those applicable to modifiers making permanent modifications related to disclosure of information and record retention. NHTSA has not proposed requiring modifiers to register with NHTSA. This revision would result in the addition of 1,333 burden hours to the collection.

16. For collections of information whose results will be published, outline plans for tabulation, and publication.

NHTSA does not have plans to publish the results.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

NHTSA is not seeking such approval.

18. Explain each exception to the topics of the certification statement identified in “Certification for Paperwork Reduction Act Submissions.” The required certifications can be found at 5 CFR 1320.9.

No exceptions to the certification statement are made.