

113TH CONGRESS  
2D SESSION

# S. 2559

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

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IN THE SENATE OF THE UNITED STATES

JUNE 26, 2014

Mr. ROCKEFELLER introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## 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  
 18 motor vehicles or motor vehicle equip-  
 19 ment.”; and

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

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

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

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

22           (d) PRESUMPTION AND LIMITATION.—The Secretary  
23           shall issue the regulations with a presumption in favor of  
24           maximum public availability of information. In issuing  
25           regulations under subsection (b), the following types of in-

1 formation shall presumptively not be eligible for protection  
2 under section 552(b) of title 5, United States Code:

3 (1) Vehicle safety defect information related to  
4 incidents involving death or injury.

5 (2) Aggregated numbers of property damage  
6 claims.

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

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

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

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

20 (1) improving organization and functionality,  
21 including modern web design features, and allowing  
22 for data to be searched, aggregated, and download-  
23 ed;

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

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

4 **SEC. 103. CORPORATE RESPONSIBILITY FOR NHTSA RE-**  
5 **PORTS.**

6           Section 30166(o) of title 49, United States Code, is  
7 amended—

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

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

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

15 **SEC. 104. REPORTS TO CONGRESS.**

16          (a) STUDY ON EARLY WARNING DATA.—Not later  
17          than 3 years after the date of enactment of this Act, and  
18          biennially thereafter for 6 years, the Office of the Inspec-  
19          tor General of the Department of Transportation shall  
20          complete a study of the utilization of early warning data  
21          by the National Highway Traffic Safety Administration  
22          (referred to in this section as “NHTSA”). Each study  
23          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 for Vehicle Electronics, Vehicle Software, and Emerging  
2 Technologies. The report shall include information about  
3 the accomplishments of the Council, the role the Council  
4 plays in integrating and aggregating expertise across  
5 NHTSA, and the priorities of the Council over the next  
6 5 years.

7       (c) SUBMISSION OF REPORTS.—Each study described  
8 in subsection (a) and the report described in subsection  
9 (b) shall be submitted upon completion to the Committee  
10 on Commerce, Science, and Transportation of the Senate  
11 and the Committee on Energy and Commerce of the  
12 House of Representatives.

13 **SEC. 105. ANTI-REVOLVING DOOR.**

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

17 **“§ 30107. Restriction on covered vehicle safety offi-**  
18 **cials**

19       “(a) IN GENERAL.—During the 2-year period after  
20 the termination of his or her service or employment, a cov-  
21 ered vehicle safety official may not knowingly make, with  
22 the intent to influence, any communication to or appear-  
23 ance before any officer or employee of the National High-  
24 way Traffic Safety Administration on behalf of any manu-  
25 facturer subject to regulation under this chapter in con-

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.

○