

**STATEMENT**

**OF**

***THE ALLIANCE OF AUTOMOBILE MANUFACTURERS***

**BEFORE THE:**

**SUBCOMMITTEE ON COMMERCE, MANUFACTURING AND  
TRADE OF THE COMMITTEE ON ENERGY AND  
COMMERCE OF THE U.S. HOUSE OF REPRESENTATIVES**

**MARCH 22, 2012**

**PRESENTED BY:**

Mitch Bainwol  
President and CEO

Thank you, Chairman Bono Mack, Ranking Member Butterfield and Subcommittee members. I appreciate the opportunity to appear today on behalf of the Alliance of Automobile Manufacturers (Alliance), a trade association of twelve car and light truck manufacturers including BMW Group, Chrysler Group LLC, Ford Motor Company, General Motors, Jaguar Land Rover, Mazda, Mercedes-Benz, Mitsubishi Motors, Porsche, Toyota, Volkswagen Group of America and Volvo. Together, Alliance members account for roughly three quarters of all vehicles sold in the U.S. each year.

The sale of cars is a massive economic driver. Revenues from car sales alone totaled over \$564 billion in 2010, an increase of 17% from the previous year. Throw in the manufacture and sales of parts, along with repairs and service, and you get another \$173 billion in economic activity. So, automobiles drive more than \$735 billion into the economy. Eight million – eight million – people are employed directly and indirectly as a result of the manufacture, sale and repair of automobiles. Those eight million people earn \$500 billion in compensation and pay \$70 billion in taxes. These are American families living literally all over this country. In many communities, they form the backbone of local and even state economies. And as jobs are added, these numbers will climb. Auto policy is central to the economic vitality of virtually every state.

As this Committee considers the road ahead for the National Highway Traffic Safety Administration (NHTSA) it is important to bear in mind the broader context of motor vehicle safety in the U.S. today. Fatalities and serious injuries resulting from motor vehicle crashes in the U.S. are at their lowest level in 60 years and down 25 percent since 2005. This fact is remarkable given that the number of licensed drivers has more than doubled and annual vehicle miles traveled have more than quadrupled since 1960.

Our success reflects the industry's relentless drive to develop innovative and effective vehicle safety technologies combined with the cooperative efforts of government and other stakeholders to design effective laws, education and enforcement programs. Nearly all of the modern safety features on motor vehicles in the U.S. – antilock brakes, stability control, side airbags for head and chest protection, side curtains, pre-crash occupant positioning, collision avoidance including forward collision warning, lane departure warning, and more – were developed and implemented voluntarily by manufacturers, in advance of any regulatory

mandates. And the industry continues moving forward, engaging in high-tech research, and developing and implementing new safety technologies including autonomous braking systems, vehicle safety communications systems for crash avoidance and much more. Our commitment is to continuously improve motor vehicle safety.

**Tackling the Primary Causes of Traffic Deaths and Injuries.** As a nation, we can better utilize the full benefits of vehicle safety technologies when we get vehicle occupants properly restrained and drunk drivers off the road. While safety belt usage is increasing, over half of vehicle occupants killed in crashes are not restrained by safety belts or child safety seats. Alcohol impairment stubbornly remains a factor in roughly one third of traffic deaths each year. These are the areas where continued focus is an absolute must. Although programs designed to address “driver behavior” issues generally fall within the Transportation & Infrastructure Committee’s jurisdiction, it is appropriate to mention a few of them here as you work with your colleagues on these important safety policies.

Under H.R. 7, states would receive additional apportionment funds for having primary seat belt, alcohol ignition interlock, and graduated driver license laws in place. Importantly, H.R. 7 would also require states to meet safety performance metrics with regard to reducing deaths and injuries resulting from unbelted occupants, and impaired drivers or inexperienced drivers. The bill is structured to give states flexibility to tackle their most pressing vehicle safety issues, while requiring accountability for results. The Alliance thinks this is a smart approach which strikes an appropriate balance of the state and federal roles.

The Alliance also supports H.R. 2324, the ROADS SAFE Act, introduced by Representatives Capito and Shuler, which would formally authorize the cooperative research program the industry voluntarily entered into and is jointly funding with NHTSA. The Driver Alcohol Detection System for Safety, commonly referred to as “DADSS,” is a five-plus-year research effort created to develop in-vehicle technology that will quickly and accurately measure a driver’s blood alcohol concentration (BAC) in a non-invasive manner. If the system detects that a driver is above the legal limit, the vehicle’s starting capabilities are disabled. Based on Insurance Institute for Highway Safety projections, targeted implementation of this kind of technology has the potential to prevent thousands of deaths each year. Similar language is included in the Senate bill; H.R. 2324 should be included in the House’s reauthorization bill.

Finally, the Alliance supports giving NHTSA and the states both the tools and the funding to combat distracted driving. We want to work with the Committee, as we have with NHTSA and the states, to ensure that new laws do not prohibit new technologies that make driving safer by allowing drivers to keep their eyes on the road and hands on the wheel. The Alliance and our partners at the American Academy of Orthopedic Surgeons have launched an award-winning multimedia campaign that highlights the important relationship between driver focus and road safety. The high-visibility campaign includes advertising, an interactive and independently branded website, and localized elements.

**Focusing Limited Resources to Achieve Real-World Benefits.** Auto engineers develop and test new safety technologies based on their expected performance in real-world situations. Proposed legislation needs to meet the same criteria. We are experiencing a sustained decline in fatalities because of the efforts begun over a decade ago to zero in on the biggest problems in traffic safety. At a time when we are acutely aware of our resource limitations and the economic constraints our customers are facing, both industry and government must continue to prioritize our efforts in order to maximize real-world safety benefits for Americans.

In March 2011, NHTSA published an updated Vehicle Safety and Fuel Economy Rulemaking and Research Priority Plan for 2011-2013. The Plan reflects extensive analysis of traffic safety data and the agency's judgment on the most effective means to continue to accomplish its Congressionally mandated mission to "save lives, prevent injuries and reduce economic costs due to road traffic crashes." Congress should resist mandating specific or far reaching rulemakings and time schedules for agency action. This is particularly critical for those rulemakings with relatively short deadlines that affect multiple aspects of motor vehicle design.

Our concern over legislatively-mandated rules is unrelated to our commitment to improving vehicle safety. Rather our concern is with the process. Indeed, industry is competing vigorously and moving rapidly to provide ever-increasing levels of safety in its vehicles. That said, safety rulemakings are often complex, involving a myriad of technical details, analysis of data, and consideration of necessary lead time. Mandates for rules to be issued by specified dates can short-circuit the necessary analyses and potentially lead to unintended safety

consequences. The complexity of safety rulemakings requires that careful attention be accorded to the inherent tradeoffs associated with regulations. For example, we have seen tradeoffs among adult high-speed protection in frontal crashes and associated harm to children and others in low-speed crashes. Mandating rules in certain areas, regardless of the public rulemaking record on the subject, prejudices the outcome of the rulemaking process and limits NHTSA's ability to make data-driven safety-related assessments and determinations of rulemaking priorities.

Accordingly, while we are supportive of many of the provisions in the Senate bill, the Alliance believes the following provisions should be revised or removed on the basis that they inappropriately divert resources from more pressing priorities:

**Section 31304.** This section reopens settled law by establishing a “presumption” that confidential business information disclosed to the agency is not exempt from disclosure under the Freedom of Information Act (FOIA). This section may cause competitive harm and is inconsistent with FOIA. The current early warning reporting regulations do exactly what Congress intended: the regulations put vital information in the hands of agency defect investigators. Secretary LaHood and Administrator Strickland stated as much in responses for the record to the Senate Commerce Committee last year.<sup>1</sup> This section unnecessarily throws into question an issue that has already been the subject of two rulemakings and three separate legal challenges. It should not become law.

**Sections 31301, 31302, 31303, and 31307.** The Alliance supports providing consumers with access to information. For example, the Alliance supports Section 31306, which allows NHTSA to include crash avoidance technologies in its New Car Assessment Rating program, which provides valuable information to consumers about vehicle safety features. However, a number of provisions in the Senate bill do not provide consumers new information; instead, they largely duplicate existing resources. A few examples illustrate the point. First, by using the make, model, model year and VIN, automakers and private entities such as CARFAX already provide consumers the means to determine whether a vehicle is subject to recall and whether the recall remedy has been performed (31301). Second, automakers already provide Technical

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<sup>1</sup> “At this time, the agency believes the information reported by manufacturers to NHTSA is useful for identifying potential safety defects in the affected vehicles in the U.S. (Response of Secretary LaHood and Administrator Strickland to question number 4 from Sen. Hutchison for hearing record – Toyota Recalls and Government’s Response –March 2, 2010 pps. 177-178.)

Service Bulletins and other dealer-related communications to NHTSA, which NHTSA in turn makes available on its safecar.gov website (31303). Third, automakers are already required by law to publish in Owner's Manuals information regarding how to report a suspected defect (31307). Finally, NHTSA already maintains a hotline for reporting defects. There is no apparent safety benefit to implementing a separate hotline for manufacturers, dealers or mechanics. That said, if Congress believes NHTSA should give special weight to these particular individuals' reports, they could simply ask callers to specify their profession when calling the existing hotline (31302).

**Section 31403.** The Alliance recommends deleting Section 31403, which gives NHTSA three years to decide whether to propose a rule specifying minimum clearances for passenger vehicle foot pedals with respect to other pedals, the vehicle floor, and any other potential obstruction to pedal movement. NHTSA identified pedal placement as an area in need of further research following the release of the NASA report on unintended acceleration. The agency should be allowed to finish and evaluate its research before a determination is made as to whether rulemaking is warranted, and it should be allowed to do so on its own timeline, rather than subjectively prioritizing an area that potentially offers very little safety benefits over more pressing safety needs.

**Section 31404.** In February 2011, NHTSA released the complete results of the study it conducted with NASA and concluded that electronic systems played no role in cases of unintended acceleration.<sup>2</sup> Although the Alliance is not opposed to NHTSA expanding its expertise and continuing research into electronic systems, this Section requires NHTSA to engage in an undefined rulemaking within two years and to decide whether to propose a rule within four years. Recent work by NHTSA, NASA and the National Academy of Science suggests that such a rulemaking is unlikely to have any significant near-term impact on motor vehicle safety. The agency's limited rulemaking resources could be devoted to addressing more pressing issues in that timeframe. NHTSA's newly created Vehicle Crash Avoidance and Electronics Controls Research group will be able to help guide the agency's work in the area of vehicle electronics.

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<sup>2</sup> "NASA found no evidence that a malfunction in electronics caused large unintended accelerations." Michael Kirsch, Principal Engineer at the NASA Engineering and Safety Center (NESC) – NHTSA Press Release of February 8, 2011.

**Section 31406.** The Alliance supports equipping new vehicles with event data recorders (EDRs) as currently specified under Part 563. We note that EDRs do not provide occupant crash protection or crash avoidance benefits in the vehicles in which they are installed, therefore any requirement for vehicle installation should be implemented by amendment to the Part 563 regulation and not by a Federal Motor Vehicle Safety Standard (FMVSS). Manufacturers who opted not to install EDRs under the existing voluntary regulation will need sufficient lead time to develop and implement this technology in their fleets. NHTSA should have the authority to establish the lead time, including any phase-in schedule, after consultation with the manufacturers.

Section 31406 also would require NHTSA to enter into a new rulemaking to expand the information collected and duration of data recordings, which are two of the issues that NHTSA itself has identified as potentially impacting privacy concerns. NHTSA's various public notices, as well as various State legislation that has been introduced regarding EDRs acknowledge that the recording of information by EDRs raises a number of potential privacy issues. However, NHTSA has said its "role in protecting privacy is a limited one ... [NHTSA does] not have statutory authority to address many privacy issues, which are generally matters of State and Federal law that [NHTSA does] not administer." Nevertheless, NHTSA has stated it believes that its existing EDR requirements do not create any privacy problems because its rule *(1) does not require the recording of any data containing any personal or location identifiers and (2) the duration of the recording required is both "extremely short" (5 seconds) and only required in the event of a crash.*

Section 31406 was modified to require NHTSA to conduct a study on the privacy implications of such an expansion and report to Congress; however, it also mandates a second rulemaking moving forward in a very short timeframe, regardless of the outcome of the study. The Alliance believes the second rulemaking should not be undertaken until Congress and the public have a better understanding of the potential privacy issues that may be implicated by recording additional data for longer time periods and whether the agency has adequate statutory authority to ensure privacy is protected. If the reauthorization spans two years, as the Senate bill does, then there will be another opportunity for Congress to weigh in on whether and how the agency should move forward with a second EDR rulemaking.

**Section 31502.** The Alliance recommends deleting section 31502, a provision that would require NHTSA to undertake a rulemaking to improve visibility and access to LATCH child seat anchorages. We are not aware of any widespread problems with existing LATCH anchorages, so this rule would divert safety resources from more important areas and could also have unintended consequences for comfort for adult rear seat passengers. NHTSA is currently evaluating the merits of rulemaking on this matter as outlined in NHTSA's Priority Plan.

**Section 31503.** The Alliance also recommends that section 31503 be deleted. This provision would require NHTSA to mandate the installation of rear seat belt reminder systems. While the industry voluntarily developed and installed these systems for front seat passengers, it would be far more complex and expensive to develop a similar system for rear seat passengers. The installation of rear seat belt reminder systems should remain voluntary and market driven. Rather than a regulatory approach, the Alliance believes the annual "Buying a Safer Car" Brochure should be updated to include rear seat belt reminder systems.

**Section 31504.** Accidental fatalities due to hyper and hypothermia can be mitigated significantly with a coordinated, focused public education program, which is only now getting underway. Section 504's directive to conduct research recognizes that the reasons why children are abandoned in cars in some instances are not well understood. Without such an understanding, it is not possible to evaluate the anticipated effectiveness of potential countermeasures. Additionally, the provision as currently drafted would not allow the bifurcation of hyper- and hypothermia rulemakings based on research findings of safety need, practicability, or effectiveness of countermeasures.

Finally, the Alliance believes that other provisions deserve additional consideration as the bill moves through the legislative process:

**Section 31203.** Motor vehicle manufacturers are already subject to higher civil penalties than other similarly situated manufacturers of consumer products. Compared to the current penalty structure and the penalty structure for all other manufacturers of consumer goods under the Consumer Product Safety Act, the proposed increases are well out of proportion and unfairly punitive. The proposed increases should be scaled back to a more appropriate level.

**Section 31305**. This provision reaffirms existing law codified at 18 USC 1001 and adds an additional civil penalty to existing criminal penalties. Layering additional civil fines on top of potential criminal penalties for making false statements to the government is unlikely to enhance motor vehicle safety. This provision should be removed.

Again, the Alliance appreciates the opportunity to appear before the Subcommittee today, and we look forward to working with you as you consider how best to improve motor vehicle safety for the driving public.

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