

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 3302

To amend title 49, United States Code, to establish new automobile safety standards, make better motor vehicle safety information available to the National Highway Traffic Safety Administration and the public, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 4, 2010

Mr. ROCKEFELLER (for himself, Mr. PRYOR, Mrs. BOXER, Ms. CANTWELL, Mr. LAUTENBERG, Ms. KLOBUCHAR, Mr. BEGICH, and Mr. UDALL of New Mexico) 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 amend title 49, United States Code, to establish new automobile safety standards, make better motor vehicle safety information available to the National Highway Traffic Safety Administration and the public, 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 2010”.

1 (b) TABLE OF CONTENTS.—The table of contents for  
 2 this Act is as follows:

Sec. 1. Short title; table of contents.  
 Sec. 2. Definitions.

#### TITLE I—VEHICLE ELECTRONICS AND SAFETY STANDARDS

Sec. 101. NHTSA electronics, software, and engineering expertise.  
 Sec. 102. Vehicle stopping distance and brake override standard.  
 Sec. 103. Pedal placement standard.  
 Sec. 104. Electronic systems performance standard.  
 Sec. 105. Keyless ignition systems standard.  
 Sec. 106. Transmission configuration standard.  
 Sec. 107. Vehicle event data recorders.

#### TITLE II—ENHANCED SAFETY AUTHORITIES

Sec. 201. Civil penalties.  
 Sec. 202. Imminent hazard authority.

#### TITLE III—TRANSPARENCY AND ACCOUNTABILITY

Sec. 301. Public availability of early warning data.  
 Sec. 302. Improved NHTSA vehicle safety database.  
 Sec. 303. Consumer notice of software updates and other communications with  
 dealers.  
 Sec. 304. Promotion of vehicle defect reporting.  
 Sec. 305. NHTSA hotline for manufacturer, dealer, and mechanic personnel.  
 Sec. 306. Whistleblower protections for motor vehicle manufacturer, part sup-  
 plier, and dealership employees.  
 Sec. 307. Corporate responsibility for NHTSA reports.  
 Sec. 308. Anti-revolving door.  
 Sec. 309. Deadlines for rulemaking.

#### TITLE IV—FUNDING

Sec. 401. Authorization of appropriations.

### 3 **SEC. 2. DEFINITIONS.**

4 In this Act:

5 (1) **PASSENGER VEHICLE.**—The term “pas-  
 6 senger vehicle” means a motor vehicle (as defined in  
 7 section 30102(a)(6) of title 49, United States Code),  
 8 other than a motorcycle or trailer, that is rated at  
 9 less than 10,000 pounds gross vehicular weight.

1           (2) SECRETARY.—The term “Secretary” means  
2           the Secretary of Transportation, acting through the  
3           Administrator of the National Highway Traffic Safe-  
4           ty Administration.

5           **TITLE           I—VEHICLE           ELEC-**  
6           **TRONICS AND SAFETY STAND-**  
7           **ARDS**

8           **SEC. 101. NHTSA ELECTRONICS, SOFTWARE, AND ENGI-**  
9           **NEERING EXPERTISE.**

10          (a) CENTER FOR VEHICLE ELECTRONICS, VEHICLE  
11          SOFTWARE, AND EMERGING TECHNOLOGIES.—The Sec-  
12          retary shall establish, within the National Highway Traffic  
13          Safety Administration, a Center for Vehicle Electronics,  
14          Vehicle Software, and Emerging Technologies to build, in-  
15          tegrate, and aggregate the agency’s expertise in vehicle  
16          electronics and other new and emerging technologies. The  
17          center shall coordinate with all components of the agency  
18          responsible for vehicle safety, including research and de-  
19          velopment, rulemaking, and defects investigation.

20          (b) HONORS RECRUITMENT PROGRAM.—The Sec-  
21          retary shall establish, within the National Highway Traffic  
22          Safety Administration, an honors program for engineering  
23          students, computer science students, and other students  
24          interested in vehicle safety that will enable them to train  
25          with engineers and other safety officials for a career in

1 vehicle safety. The Secretary is authorized to provide a  
2 stipend to students during their participation in the pro-  
3 gram.

4 **SEC. 102. VEHICLE STOPPING DISTANCE AND BRAKE OVER-**  
5 **RIDE STANDARD.**

6 (a) UNINTENDED ACCELERATION.—The Secretary  
7 shall initiate a rulemaking proceeding to prescribe a Fed-  
8 eral motor vehicle safety standard that would prevent un-  
9 intended acceleration in passenger vehicles. The stand-  
10 ard—

11 (1) shall require manufacturers of passenger ve-  
12 hicles to equip the vehicles with a technology or  
13 mechanism that enables a driver to bring a vehicle  
14 safely to a full stop within a specified distance, to  
15 be determined by the Secretary according to the  
16 speed, size, and weight of the vehicle, by normal  
17 braking pressure even if the vehicle is operating si-  
18 multaneously at open throttle;

19 (2) may permit compliance through a smart  
20 pedal system that requires brake pedal input, after  
21 a period of time, to override the input signal from  
22 the accelerator pedal and other functions, in order to  
23 safely control the vehicle;

24 (3) shall require that redundant circuits or  
25 other mechanisms be built into accelerator control

1 systems, including systems controlled by electronic  
2 throttle, to maintain vehicle control in the event of  
3 failure of the primary circuit or mechanism; and

4 (4) may permit vehicles to incorporate a means  
5 by which the driver would be able to temporarily dis-  
6 engage the function required under paragraph (1) to  
7 facilitate operations, such as maneuvering trailers,  
8 that may require the simultaneous operation of  
9 brake and accelerator.

10 (b) DEADLINE.—The Secretary shall issue a final  
11 rule under subsection (a) within 1 year after the date of  
12 enactment of this Act.

13 (c) LEAD-TIME.—The standard prescribed under  
14 subsection (a) shall provide not more than 2 model years  
15 of regulatory lead-time.

16 **SEC. 103. PEDAL PLACEMENT STANDARD.**

17 (a) IN GENERAL.—The Secretary shall initiate a  
18 rulemaking proceeding to prescribe a Federal motor vehi-  
19 cle safety standard that would prevent potential obstruc-  
20 tion of pedal movement in passenger vehicles by estab-  
21 lishing minimum clearances for passenger vehicle foot ped-  
22 als with respect to other pedals, the vehicle floor (including  
23 aftermarket floor coverings), and any other potential ob-  
24 struction to pedal movement, taking into account various  
25 pedal mounting configurations.

1 (b) DEADLINE.—The Secretary shall issue a final  
2 rule under subsection (a) within 2 years after the date  
3 of enactment of this Act.

4 (c) COMBINED RULEMAKING.—If appropriate, the  
5 Secretary may combine the rulemaking proceeding re-  
6 quired by subsection (a) with the rulemaking proceeding  
7 required by section 102.

8 (d) LEAD-TIME.—The standard prescribed under  
9 subsection (a) shall provide not more than 2 model years  
10 of regulatory lead-time.

11 **SEC. 104. ELECTRONIC SYSTEMS PERFORMANCE STAND-**  
12 **ARD.**

13 (a) IN GENERAL.—The Secretary shall initiate a  
14 rulemaking proceeding to require electronic systems in  
15 passenger vehicles to meet minimum performance stand-  
16 ards. Such a rule may include requirements for electronic  
17 components, the interaction of those electronic compo-  
18 nents, or the effect of surrounding environments on those  
19 electronic systems.

20 (b) DEADLINE.—The Secretary shall issue a final  
21 rule under subsection (a) within 3 years after the date  
22 of enactment of this Act.

23 (c) LEAD-TIME.—The standard prescribed under  
24 subsection (a) shall provide not more than 2 model years  
25 of regulatory lead-time.

1 **SEC. 105. KEYLESS IGNITION SYSTEMS STANDARD.**

2 (a) IN GENERAL.—The Secretary shall initiate a  
3 rulemaking proceeding to prescribe a Federal motor vehi-  
4 cle safety standard for passenger vehicles with keyless or  
5 push-button ignition systems, to establish—

6 (1) the means by which a driver who may be  
7 unfamiliar with the vehicle uses the ignition system  
8 to safely bring a vehicle under control during an  
9 emergency situation; and

10 (2) the appropriate labeling, size, and location  
11 of the controls for such systems.

12 (b) DEADLINE.—The Secretary shall issue a final  
13 rule under subsection (a) within 1 year after the date of  
14 enactment of this Act.

15 (c) LEAD-TIME.—The standard prescribed under  
16 subsection (a) shall provide not more than 2 model years  
17 of regulatory lead-time.

18 **SEC. 106. TRANSMISSION CONFIGURATION STANDARD.**

19 (a) IN GENERAL.—The Secretary shall initiate a  
20 rulemaking proceeding to prescribe a Federal motor vehi-  
21 cle safety standard for passenger vehicles requiring an in-  
22 tuitive configuration and labeling of gear shifting controls  
23 for drivers, including drivers unfamiliar with the vehicle,  
24 and that makes the neutral position conspicuous.

1 (b) DEADLINE.—The Secretary shall issue a final  
2 rule under subsection (a) within 1 year after the date of  
3 enactment of this Act.

4 (c) LEAD-TIME.—The standard prescribed under  
5 subsection (a) shall provide not more than 1 model year  
6 of regulatory lead-time.

7 **SEC. 107. VEHICLE EVENT DATA RECORDERS.**

8 (a) MANDATORY EVENT DATA RECORDERS.—Not  
9 later than 60 days after the date of enactment of this Act,  
10 the Secretary shall require that all passenger vehicles be  
11 equipped with an event data recorder that meets the re-  
12 quirements for such recorders established in part 563 of  
13 title 49, Code of Federal Regulations. The Secretary shall  
14 require compliance with such requirement for all pas-  
15 senger vehicles manufactured in the first model year that  
16 is 2 years after the date of enactment of this Act.

17 (b) REVISED REQUIREMENTS FOR EVENT DATA RE-  
18 CORDERS.—The Secretary shall initiate a rulemaking pro-  
19 ceeding requiring that the event data recorders required  
20 to be installed in passenger vehicles pursuant to subsection  
21 (a)—

22 (1) be temperature, water, crash, and tamper  
23 resistant; and

1           (2) continuously record vehicle operational data  
2 that can be accessed for retrieval and analysis in ac-  
3 cordance with subsections (c) and (d).

4 (c) SPECIFICATIONS.—The rule—

5           (1) shall require such recorders to record, for a  
6 reasonable time before, during, and after a crash or  
7 airbag deployment, information that includes engine  
8 performance, steering, braking, acceleration, vehicle  
9 speed, seat belt use, and airbag deployment level, de-  
10 activation status, deployment time, and deployment  
11 stage, and may require such recorders to record  
12 other data, such as data related to vehicle rollovers,  
13 as the Secretary considers appropriate;

14           (2) shall require such recorders to record data  
15 for at least 60 seconds prior to, and 15 seconds  
16 after, a crash or airbag deployment;

17           (3) may require such recorders to capture cer-  
18 tain events such as rapid deceleration, full-throttle  
19 acceleration lasting more than 15 seconds, and full  
20 braking lasting more than 10 seconds, even if there  
21 is not a crash or airbag deployment;

22           (4) may not require information recorded or  
23 transmitted by such data recorders to include the ve-  
24 hicle's location;

1           (5) shall require that data stored on such re-  
2           corders be accessible, regardless of vehicle manufac-  
3           turer or model, with commercially available equip-  
4           ment; and

5           (6) shall specify data format requirements and  
6           other requirements, and shall require an interoper-  
7           able data access port to facilitate universal accessi-  
8           bility and analysis.

9           (d) LIMITATIONS ON INFORMATION RETRIEVAL.—

10           (1) OWNERSHIP OF DATA.—The rule issued  
11           under subsection (b) shall provide that any data in  
12           a data recorder required under the rule is the prop-  
13           erty of the owner or lessee of the motor vehicle in  
14           which the data recorder is installed.

15           (2) PRIVACY.—The rule issued under sub-  
16           section (b) shall provide that information recorded  
17           or transmitted by such a data recorder may not be  
18           retrieved by a person other than the owner or lessee  
19           of the motor vehicle in which the recorder is in-  
20           stalled unless—

21                   (A) a court authorizes retrieval of the in-  
22                   formation in furtherance of a legal proceeding;

23                   (B) the owner or lessee consents to the re-  
24                   trieval of the information for any purpose, in-

1 including the purpose of diagnosing, servicing, or  
2 repairing the motor vehicle; or

3 (C) the information is retrieved by a Gov-  
4 ernment motor vehicle safety agency for the  
5 purpose of improving motor vehicle safety if the  
6 personally identifiable information of the owner,  
7 lessee, or driver of the vehicle and the vehicle  
8 identification number is not disclosed in connec-  
9 tion with the retrieved information.

10 (e) DISCLOSURE OF EXISTENCE AND PURPOSE OF  
11 EVENT DATA RECORDER.—The rule issued under sub-  
12 section (b) shall provide that any owner’s manual or simi-  
13 lar documentation provided to the first purchaser of a pas-  
14 senger vehicle for purposes other than resale shall disclose  
15 that the vehicle is equipped with such a data recorder and  
16 explain the purpose of the recorder.

17 (f) ACCESS TO EVENT DATA RECORDERS IN DEFECT  
18 INVESTIGATIONS.—Section 30166(e)(3)(C) of title 49,  
19 United States Code, is amended by inserting “, including  
20 any electronic data contained within the vehicle’s diag-  
21 nostic system or event data recorder” after “equipment”.

22 (g) DEADLINE FOR RULEMAKING.—The Secretary  
23 shall issue a final rule under subsection (b) not later than  
24 3 years after the date of enactment of this Act.

1 (h) LEAD-TIME.—The rule issued under subsection  
 2 (b) shall take effect beginning with passenger vehicles  
 3 manufactured in the first model year that is 2 years after  
 4 the date on which a final rule is issued under this section.

5 **TITLE II—ENHANCED SAFETY**  
 6 **AUTHORITIES**

7 **SEC. 201. CIVIL PENALTIES.**

8 Section 30165 of title 49, United States Code, is  
 9 amended—

10 (1) in subsection (a)(1)—

11 (A) in the first sentence by striking  
 12 “\$5,000” and inserting “\$25,000”; and

13 (B) by striking the third sentence; and

14 (2) in subsection (a)(3)—

15 (A) in the second sentence by striking  
 16 “\$5,000” and inserting “\$25,000”; and

17 (B) by striking the third sentence.

18 **SEC. 202. IMMINENT HAZARD AUTHORITY.**

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

22 “(3) IMMINENT HAZARDS.—

23 “(A) ORDERS.—Notwithstanding the pro-  
 24 cedures set forth in paragraphs (1) and (2), if  
 25 the Secretary decides that a motor vehicle or an

1 item of motor vehicle replacement equipment is  
2 not compliant with a motor vehicle safety  
3 standard or contains a defect related to motor  
4 vehicle safety and presents an imminent hazard  
5 to public safety that may result in death or se-  
6 rious bodily harm, the Secretary—

7 “(i) shall notify the manufacturer of  
8 the motor vehicle or replacement equip-  
9 ment of the decision that the vehicle or  
10 equipment poses an imminent safety haz-  
11 ard to the public and the basis for that de-  
12 cision;

13 “(ii) may order the manufacturer and  
14 any person having a legal relationship with  
15 the manufacturer, including dealers and  
16 distributors, to stop any further produc-  
17 tion, sale, offer for sale, lease, offer for  
18 lease, distribution, the introduction or de-  
19 livery for introduction in interstate com-  
20 merce, or importation into the United  
21 States of that motor vehicle or item of re-  
22 placement equipment; and

23 “(iii) may order the manufacturer and  
24 any person having a legal relationship with  
25 the manufacturer, including dealers and

1 distributors, to notify purchasers of the ve-  
2 hicle or item of replacement equipment of  
3 the Secretary’s decision that the vehicle or  
4 the item of replacement equipment poses  
5 an imminent safety hazard and provide the  
6 purchaser of such vehicle or item of re-  
7 placement equipment with information ex-  
8 plaining the safety risk and actions the  
9 purchasers can take to reduce that risk.”.

10 (b) JUDICIAL REVIEW OF RECALL ORDERS.—Section  
11 30161 of title 49, United States Code, is amended—

12 (1) in subsection (a)—

13 (A) by striking “A person” and inserting

14 “(1) A person”; and

15 (B) by adding at the end the following:

16 “(2) A person adversely affected by an order issued  
17 under section 30118 may apply for review of the order  
18 by filing a petition for review in court of appeals of the  
19 United States for the circuit in which the person resides  
20 or has its principal place of business or the United States  
21 Court of Appeals for the District of Columbia Circuit. The  
22 petition must be filed not later than 59 days after the  
23 order is issued.”; and

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

1 “(f) AVAILABILITY OF REVIEW.—An action of the  
2 Secretary with respect to which review could have been  
3 obtained under subsection (a)(2) shall not be subject to  
4 judicial review in a civil action for enforcement.”.

## 5 **TITLE III—TRANSPARENCY AND** 6 **ACCOUNTABILITY**

### 7 **SEC. 301. PUBLIC AVAILABILITY OF EARLY WARNING DATA.**

8 (a) IN GENERAL.—Section 30166(m) of title 49,  
9 United States Code, is amended by—

10 (1) in paragraph (3)(A) by striking clause (ii)  
11 and inserting the following:

12 “(ii) customer satisfaction campaigns,  
13 customer advisories, recalls, consumer  
14 complaints, warranty claims, field reports,  
15 dealer communications, or other informa-  
16 tion involving the repair or replacement of,  
17 or software upgrades for, motor vehicles or  
18 motor vehicle equipment.”; and

19 (2) in paragraph (4), by striking subparagraph  
20 (C) and inserting the following:

21 “(C) DISCLOSURE.—The information pro-  
22 vided to the Secretary pursuant to this sub-  
23 section shall be disclosed publicly unless exempt  
24 from disclosure under section 552(b) of title  
25 5.”.

1 (b) REGULATIONS.—Not later than 2 years after the  
2 date of enactment of this Act, the Secretary shall issue  
3 regulations establishing categories of information provided  
4 to the Secretary pursuant to this subsection that must be  
5 made available to the public. The Secretary may also es-  
6 tablish categories of information that may be withheld  
7 from public disclosure under paragraphs (4) and (6) of  
8 section 552(b) of title 5, United States Code.

9 (c) CONSULTATION.—In conducting the rulemaking  
10 required under subsection (a), the Secretary shall consult  
11 with the Director of the Office of Government Information  
12 Services within the National Archives and the Director of  
13 the Office of Information Policy of the Department of Jus-  
14 tice.

15 (d) PRESUMPTION AND LIMITATION.—The Secretary  
16 shall issue the regulations with a presumption in favor of  
17 maximum public availability of information. The following  
18 types of information shall not be eligible for protection  
19 under section 552(b) of title 5, United States Code, and  
20 shall not be withheld from public disclosure:

21 (1) Production information regarding passenger  
22 vehicles, information on incidents involving death or  
23 injury, and numbers of property damage claims.

24 (2) Aggregated numbers of consumer com-  
25 plaints.

1 (e) NULLIFICATION OF PRIOR REGULATIONS.—Be-  
2 ginning 2 years after the date of the enactment of this  
3 Act, the regulations establishing early warning reporting  
4 class determinations in Appendix C of section 512 of title  
5 49, Code of Federal Regulations, shall have no force or  
6 effect.

7 **SEC. 302. IMPROVED NHTSA VEHICLE SAFETY DATABASE.**

8 (a) IN GENERAL.—Not later than 2 years after the  
9 date of the enactment of this Act, the Secretary shall im-  
10 prove public accessibility to information on the National  
11 Highway Traffic Safety Administration’s publicly acces-  
12 sible vehicle safety databases by—

13 (1) improving organization and functionality,  
14 including design features such as dropdown menus,  
15 and allowing for data to be searched, aggregated,  
16 and downloaded;

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

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

22 (b) VEHICLE RECALL INFORMATION.—The Secretary  
23 shall require that motor vehicle recall information be made  
24 available to consumers on the Internet, searchable by vehi-  
25 cle identification number in a format that preserves con-

1 sumer privacy. The Secretary may initiate a rulemaking  
2 proceeding to require that such information be available  
3 on manufacturer Web sites or through other reasonable  
4 means.

5 **SEC. 303. CONSUMER NOTICE OF SOFTWARE UPDATES AND**  
6 **OTHER COMMUNICATIONS WITH DEALERS.**

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

9 (1) by inserting “, and make available on a  
10 publicly accessible Internet website,” after “Sec-  
11 retary of Transportation”; and

12 (2) by adding at the end the following: “Com-  
13 munications submitted to the Secretary and required  
14 to be published on a manufacturer’s Internet website  
15 shall include all notices to dealerships of software  
16 upgrades and modifications recommended by a man-  
17 ufacturer for all previously sold vehicles. Notice is  
18 required even if the software upgrade or modifica-  
19 tion is not related to a safety defect or noncompli-  
20 ance with a motor vehicle safety standard. The no-  
21 tice shall include a plain language description of the  
22 purpose of the update and that description shall be  
23 prominently placed at the beginning of the notice.”.

1 **SEC. 304. PROMOTION OF VEHICLE DEFECT REPORTING.**

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

4 “(d) MOTOR VEHICLE DEFECT REPORTING INFOR-  
5 MATION.—

6 “(1) RULEMAKING REQUIRED.—Within 1 year  
7 after the date of enactment of the Motor Vehicle  
8 Safety Act of 2010 the Secretary shall prescribe reg-  
9 ulations that require passenger motor vehicle manu-  
10 facturers to affix, in the glove compartment or in  
11 another readily accessible location on the vehicle, a  
12 sticker, decal, or other device that provides, in sim-  
13 ple and understandable language, information about  
14 how to submit a safety-related motor vehicle defect  
15 complaint with the National Highway Traffic Safety  
16 Administration. The Secretary shall require the  
17 same information to be prominently printed on a  
18 separate page within the owner’s manual. The infor-  
19 mation may not be placed on the label required by  
20 section 3 of the Automobile Information Disclosure  
21 Act (15 U.S.C. 1232).

22 “(2) APPLICATION.—The requirements estab-  
23 lished under paragraph (1) shall apply to passenger  
24 motor vehicles manufactured in model years begin-  
25 ning more than 1 year after the date on which a  
26 final rule is published under that paragraph.”.

1 **SEC. 305. NHTSA HOTLINE FOR MANUFACTURER, DEALER,**  
 2 **AND MECHANIC PERSONNEL.**

3 The Secretary shall—

4 (1) establish a means by which mechanics, pas-  
 5 senger vehicle dealership personnel, and passenger  
 6 vehicle manufacturer personnel may contact the Na-  
 7 tional Highway Traffic Safety Administration di-  
 8 rectly and confidentially regarding potential pas-  
 9 senger vehicle safety defects; and

10 (2) publicize the means for contacting the Na-  
 11 tional Highway Traffic Safety Administration in a  
 12 manner that targets mechanics, passenger vehicle  
 13 dealership personnel, and manufacturer personnel.

14 **SEC. 306. WHISTLEBLOWER PROTECTIONS FOR MOTOR VE-**  
 15 **HICLE MANUFACTURER, PART SUPPLIER,**  
 16 **AND DEALERSHIP EMPLOYEES.**

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

20 **“§ 30171. Protection of employees providing motor ve-**  
 21 **hicle safety information**

22 “(a) DISCRIMINATION AGAINST EMPLOYEES OF  
 23 MANUFACTURERS, PART SUPPLIERS, AND DEALER-  
 24 SHIPS.—No motor vehicle manufacturer, part supplier, or  
 25 dealership may discharge an employee or otherwise dis-  
 26 criminate against an employee with respect to compensa-

1 tion, terms, conditions, or privileges of employment be-  
2 cause the employee (or any person acting pursuant to a  
3 request of the employee)—

4           “(1) provided, caused to be provided, or is  
5 about to provide (with any knowledge of the em-  
6 ployer) or cause to be provided to the employer or  
7 the Secretary information relating to any motor ve-  
8 hicle defect or any violation or alleged violation of  
9 any notification or reporting requirement of this  
10 chapter;

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

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

19           “(4) assisted or participated or is about to as-  
20 sist or participate in such a proceeding.

21           “(b) COMPLAINT PROCEDURE.—

22           “(1) FILING AND NOTIFICATION.—A person  
23 who believes that he or she has been discharged or  
24 otherwise discriminated against by any person in  
25 violation of subsection (a) may, not later than 180

1 days after the date on which such violation occurs,  
2 file (or have any person file on his or her behalf) a  
3 complaint with the Secretary of Transportation al-  
4 leging such discharge or discrimination. Upon re-  
5 ceipt of such a complaint, the Secretary shall notify,  
6 in writing, the person named in the complaint of the  
7 filing of the complaint, of the allegations contained  
8 in the complaint, of the substance of evidence sup-  
9 porting the complaint, and of the opportunities that  
10 will be afforded to such person under paragraph (2).

11 “(2) INVESTIGATION; PRELIMINARY ORDER.—

12 “(A) IN GENERAL.—Not later than 60  
13 days after the date of receipt of a complaint  
14 filed under paragraph (1) and after affording  
15 the person named in the complaint an oppor-  
16 tunity to submit to the Secretary a written re-  
17 sponse to the complaint and an opportunity to  
18 meet with a representative of the Secretary to  
19 present statements from witnesses, the Sec-  
20 retary shall conduct an investigation and deter-  
21 mine whether there is reasonable cause to be-  
22 lieve that the complaint has merit and notify, in  
23 writing, the complainant and the person alleged  
24 to have committed a violation of subsection (a)  
25 of the Secretary’s findings. If the Secretary

1 concludes that there is a reasonable cause to  
2 believe that a violation of subsection (a) has oc-  
3 curred, the Secretary shall accompany the Sec-  
4 retary's findings with a preliminary order pro-  
5 viding the relief prescribed by paragraph  
6 (3)(B). Not later than 30 days after the date  
7 of notification of findings under this paragraph,  
8 either the person alleged to have committed the  
9 violation or the complainant may file objections  
10 to the findings or preliminary order, or both,  
11 and request a hearing on the record. The filing  
12 of such objections shall not operate to stay any  
13 reinstatement remedy contained in the prelimi-  
14 nary order. Such hearings shall be conducted  
15 expeditiously. If a hearing is not requested in  
16 such 30-day period, the preliminary order shall  
17 be deemed a final order that is not subject to  
18 judicial review.

19 “(B) REQUIREMENTS.—

20 “(i) REQUIRED SHOWING BY COM-  
21 PLAINANT.—The Secretary shall dismiss a  
22 complaint filed under this subsection and  
23 shall not conduct an investigation other-  
24 wise required under subparagraph (A) un-  
25 less the complainant makes a prima facie

1 showing that any behavior described in  
2 paragraphs (1) through (4) of subsection  
3 (a) was a contributing factor in the unfa-  
4 vorable personnel action alleged in the  
5 complaint.

6 “(ii) SHOWING BY EMPLOYER.—Not-  
7 withstanding a finding by the Secretary  
8 that the complainant has made the show-  
9 ing required under clause (i), no investiga-  
10 tion otherwise required under subpara-  
11 graph (A) shall be conducted if the em-  
12 ployer demonstrates, by clear and con-  
13 vincing evidence, that the employer would  
14 have taken the same unfavorable personnel  
15 action in the absence of that behavior.

16 “(iii) CRITERIA FOR DETERMINATION  
17 BY SECRETARY.—The Secretary may de-  
18 termine that a violation of subsection (a)  
19 has occurred only if the complainant dem-  
20 onstrates that any behavior described in  
21 paragraphs (1) through (4) of subsection  
22 (a) was a contributing factor in the unfa-  
23 vorable personnel action alleged in the  
24 complaint.

1                   “(iv) PROHIBITION.—Relief may not  
2                   be ordered under subparagraph (A) if the  
3                   employer demonstrates by clear and con-  
4                   vincing evidence that the employer would  
5                   have taken the same unfavorable personnel  
6                   action in the absence of that behavior.

7                   “(3) FINAL ORDER.—

8                   “(A) DEADLINE FOR ISSUANCE; SETTLE-  
9                   MENT AGREEMENTS.—Not later than 120 days  
10                  after the date of conclusion of a hearing under  
11                  paragraph (2), the Secretary shall issue a final  
12                  order providing the relief prescribed by this  
13                  paragraph or denying the complaint. At any  
14                  time before issuance of a final order, a pro-  
15                  ceeding under this subsection may be termi-  
16                  nated on the basis of a settlement agreement  
17                  entered into by the Secretary, the complainant,  
18                  and the person alleged to have committed the  
19                  violation.

20                  “(B) REMEDY.—If, in response to a com-  
21                  plaint filed under paragraph (1), the Secretary  
22                  determines that a violation of subsection (a)  
23                  has occurred, the Secretary shall order the per-  
24                  son who committed such violation—

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

3                   “(ii) to reinstate the complainant to  
4                   his or her former position together with  
5                   the compensation (including back pay) and  
6                   restore the terms, conditions, and privi-  
7                   leges associated with his or her employ-  
8                   ment; and

9                   “(iii) to provide compensatory dam-  
10                  ages to the complainant.

11                 If such an order is issued under this paragraph,  
12                 the Secretary, at the request of the complain-  
13                 ant, shall assess against the person against  
14                 whom the order is issued a sum equal to the ag-  
15                 gregate amount of all costs and expenses (in-  
16                 cluding attorneys’ and expert witness fees) rea-  
17                 sonably incurred, as determined by the Sec-  
18                 retary, by the complainant for, or in connection  
19                 with, the bringing the complaint upon which the  
20                 order was issued.

21                 “(C) FRIVOLOUS COMPLAINTS.—If the  
22                 Secretary finds that a complaint under para-  
23                 graph (1) is frivolous or has been brought in  
24                 bad faith, the Secretary may award to the pre-

1 vailing employer a reasonable attorney's fee not  
2 exceeding \$1,000.

3 “(4) REVIEW.—

4 “(A) APPEAL TO COURT OF APPEALS.—

5 Any person adversely affected or aggrieved by  
6 an order issued under paragraph (3) may ob-  
7 tain review of the order in the United States  
8 Court of Appeals for the circuit in which the  
9 violation, with respect to which the order was  
10 issued, allegedly occurred or the circuit in which  
11 the complainant resided on the date of such vio-  
12 lation. The petition for review shall be filed not  
13 later than 60 days after the date of the  
14 issuance of the final order of the Secretary. Re-  
15 view shall conform to chapter 7 of title 5. The  
16 commencement of proceedings under this sub-  
17 paragraph shall not, unless ordered by the  
18 court, operate as a stay of the order.

19 “(B) LIMITATION ON COLLATERAL AT-  
20 TACK.—An order of the Secretary with respect  
21 to which review could have been obtained under  
22 subparagraph (A) shall not be subject to judi-  
23 cial review in any criminal or other civil pro-  
24 ceeding.

1           “(5) ENFORCEMENT OF ORDER BY SEC-  
2           RETARY.—Whenever any person has failed to comply  
3           with an order issued under paragraph (3), the Sec-  
4           retary may file a civil action in the United States  
5           district court for the district in which the violation  
6           was found to occur to enforce such order. In actions  
7           brought under this paragraph, the district courts  
8           shall have jurisdiction to grant all appropriate relief  
9           including, but not limited to, injunctive relief and  
10          compensatory damages.

11          “(6) ENFORCEMENT OF ORDER BY PARTIES.—

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

21                 “(B) ATTORNEY FEES.—The court, in  
22                 issuing any final order under this paragraph,  
23                 may award costs of litigation (including reason-  
24                 able attorney and expert witness fees) to any

1 party whenever the court determines such  
2 award is appropriate.

3 “(c) MANDAMUS.—Any nondiscretionary duty im-  
4 posed by this section shall be enforceable in a mandamus  
5 proceeding brought under section 1361 of title 28.

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

14 (b) CONFORMING AMENDMENT.—The table of sec-  
15 tions for chapter 301 of title 49, United States Code, is  
16 amended by inserting after the item relating to section  
17 30170 the following:

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

18 **SEC. 307. CORPORATE RESPONSIBILITY FOR NHTSA RE-**  
19 **PORTS.**

20 (a) IN GENERAL.—Section 30166 of title 49, United  
21 States Code, is amended by adding at the end the fol-  
22 lowing:

23 “(o) CORPORATE RESPONSIBILITY FOR REPORTS.—  
24 The Secretary shall require for each company submitting  
25 information to the Secretary in response to a preliminary

1 safety investigation, or in response to an official safety in-  
2 vestigation under this chapter, that the principal executive  
3 officer or officers residing in the United States certify  
4 that—

5           “(1) the signing officer has reviewed the sub-  
6 mission; and

7           “(2) based on the officer’s knowledge, the sub-  
8 mission does not contain any untrue statement of a  
9 material fact or omit to state a material fact nec-  
10 essary in order to make the statements made, in  
11 light of the circumstances under which such state-  
12 ments were made, not misleading.”.

13 (b) PENALTIES.—

14           (1) CIVIL PENALTY.—Section 30165(a) of title  
15 49, United States Code, is amended—

16                   (A) by striking “A person” in paragraph  
17 (3) and inserting “Except as provided in para-  
18 graph (4), a person”; and

19                   (B) by adding at the end thereof the fol-  
20 lowing:

21           “(4) FALSE, MISLEADING OR INCOMPLETE RE-  
22 PORTS.—A person who knowingly and willfully sub-  
23 mits materially false, misleading, or incomplete in-  
24 formation to the Secretary, after certifying the same  
25 information as accurate and complete under the cer-

1 tification process established pursuant to section  
2 30166(o), shall be subject to a civil penalty of not  
3 more than \$50,000 per day. The maximum penalty  
4 under this paragraph for a related series of daily  
5 violations is \$250,000,000.”.

6 (2) CRIMINAL PENALTY.—Section 30170 of  
7 title 49, United States Code, is amended—

8 (A) by redesignating paragraphs (1) and  
9 (2) of subsection (a) as paragraphs (2) and (3),  
10 respectively, and by inserting before paragraph  
11 (2) the following:

12 “(1) SUBMITTING MISLEADING INFORMATION  
13 TO THE SECRETARY.—A person who violates section  
14 1001 of title 18 with respect to the reporting re-  
15 quirements of section 30118, 30119, or 30166, with  
16 the specific intent of misleading the Secretary with  
17 respect to motor vehicle or motor vehicle equipment  
18 safety related defects shall, in addition to the pen-  
19 alties imposed under title 18, be subject to imprison-  
20 ment for not more than an additional 12 months.”;

21 (B) by striking the heading for paragraph  
22 (2), as redesignated, of subsection (a) and in-  
23 serting the following:

1           “(2) SUBMITTING MISLEADING INFORMATION  
2           TO THE SECRETARY THAT LEADS TO DEATH OR SE-  
3           RIOUS INJURY.—”; and

4                   (C) by striking subparagraph (A) of para-  
5           graph (3), as redesignated, of subsection (a)  
6           and inserting the following:

7                   “(A) CORRECTION.—A person described in  
8           paragraph (1) or (2) shall not be subject to  
9           criminal penalties under this subsection if—

10                   “(i) the person corrects any improper  
11           reports or failure to report within a rea-  
12           sonable time; and

13                   “(ii) in the case of a person described  
14           in paragraph (2), at the time of the viola-  
15           tion, such person does not know that the  
16           violation would result in an accident caus-  
17           ing death or serious bodily injury.”.

18 **SEC. 308. ANTI-REVOLVING DOOR.**

19           (a) PROFESSIONAL RESPONSIBILITY INTEGRITY PE-  
20           RIOD.—

21                   (1) IN GENERAL.—Subchapter I of chapter 301  
22           of title 49, United States Code, is amended by add-  
23           ing at the end the following:

1 **“§ 30107. Restriction on certain employment activi-**  
2 **ties.**

3 “(a) NHTSA EMPLOYEES.—

4 “(1) IN GENERAL.—A individual to whom this  
5 subsection applies who is employed by the National  
6 Highway Traffic Safety Administration may not  
7 commence employment with, or otherwise advise,  
8 provide assistance to, or represent for compensation,  
9 a manufacturer or other person subject to regulation  
10 under this chapter during the 36-month period com-  
11 mencing upon that individual’s termination of em-  
12 ployment with the National Highway Traffic Safety  
13 Administration if such employment, advice, assist-  
14 ance, or representation involves—

15 “(A) written or oral communication with  
16 the National Highway Traffic Safety Adminis-  
17 tration on any matter relating to compliance  
18 with the requirements of this chapter on behalf  
19 of the manufacturer or person;

20 “(B) representing or advising a manufac-  
21 turer with respect to a motor vehicle safety or  
22 fuel economy issue, including any defect related  
23 to motor vehicle safety, compliance with a  
24 motor vehicle safety standard, or compliance  
25 with an average fuel economy standard pre-  
26 scribed under chapter 329 of this title; or

1           “(C) assisting a manufacturer in respond-  
2           ing to a request for information from the Na-  
3           tional Highway Traffic Safety Administration.

4           “(2) APPLICATION.—

5           “(A) IN GENERAL.—This subsection ap-  
6           plies to any individual—

7                   “(i) to whom section 207(c) or (d) of  
8                   title 18 applies; or

9                   “(ii) whose responsibilities during his  
10                  or her last 12 months of employment at  
11                  the National Highway Traffic Safety Ad-  
12                  ministration included administrative, man-  
13                  agerial, supervisory, legal, or senior tech-  
14                  nical responsibility for any motor vehicle  
15                  safety-related program or activity.

16           “(2) SAFE HARBOR.—This subsection does not  
17           apply to any individual employed by a manufacturer  
18           or other person subject to regulation under this  
19           chapter as of the date of enactment of the Motor Ve-  
20           hicle Safety Act of 2010.

21           “(b) MANUFACTURERS.—It is unlawful for any man-  
22           ufacturer or other person subject to regulation under this  
23           chapter to employ or contract for the services of an indi-  
24           vidual to whom subsection (a) applies during the 36-  
25           month period commencing on the individual’s termination

1 of employment with the National Highway Traffic Safety  
 2 Administration in a capacity in which the individual is  
 3 prohibited from serving during that period.”.

4 (2) CIVIL PENALTY.—Section 30165(a) of title  
 5 49, United States Code, as amended by section 307,  
 6 is further amended by adding at the end the fol-  
 7 lowing:

8 “(5) SECTION 30107.—An individual who vio-  
 9 lates section 30107(a) is liable to the United States  
 10 Government for a civil penalty as determined under  
 11 section 216(b) of title 18 for an offense under sec-  
 12 tion 207 of that title. A manufacturer or other per-  
 13 son subject to regulation under this chapter who vio-  
 14 lates section 30107(b) is liable to the United States  
 15 Government for a civil penalty of the sum of—

16 “(A) an amount equal to not less than  
 17 \$100,000; and

18 “(B) an amount equal to 90 percent of the  
 19 annual compensation or fee paid or payable to  
 20 the individual with respect to whom the viola-  
 21 tion occurred.”.

22 (3) CONFORMING AMENDMENT.—The table of  
 23 contents for chapter 301 of title 49, United States  
 24 Code, is amended by inserting after the item relating  
 25 to section 30106 the following:

“30107. Restriction on certain employment activities”.

1 (b) STUDY OF DEPARTMENT OF TRANSPORTATION  
2 POLICIES ON OFFICIAL COMMUNICATION WITH FORMER  
3 MOTOR VEHICLE SAFETY ISSUE EMPLOYEES.—Within 1  
4 year after the date of enactment of this Act the Depart-  
5 ment of Transportation Inspector General shall—

6 (1) review the Department’s policies and proce-  
7 dures applicable to official communication with  
8 former employees concerning motor vehicle safety  
9 compliance matters for which they had responsibility  
10 during the last 12 months of their tenure at the De-  
11 partment, including any limitations on the ability of  
12 such employees to submit comments, or otherwise  
13 communicate directly with the Department, on  
14 motor vehicle safety issues; and

15 (2) submit a report to the Senate Committee on  
16 Commerce, Science, and Transportation and the  
17 House of Representatives Committee on Energy and  
18 Commerce containing the Inspector General’s find-  
19 ings, conclusions, and recommendations for  
20 strengthening those policies and procedures to mini-  
21 mize the risk of undue influence without compro-  
22 mising the ability of the Department to employ and  
23 retain highly qualified individuals for such respon-  
24 sibilities.

25 (c) POST-EMPLOYMENT POLICY STUDY.—

1           (1) IN GENERAL.—The Department of Trans-  
2           portation Inspector General shall conduct a study of  
3           the Department’s policies relating to post-employ-  
4           ment restrictions on employees who perform func-  
5           tions related to transportation safety.

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

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

12                   (B) the House of Representatives Com-  
13                   mittee on Energy and Commerce; and

14                   (C) the Secretary of Transportation.

15           (3) USE OF RESULTS.—The Secretary of trans-  
16           portation shall review the results of the study and  
17           take whatever action the Secretary determines to be  
18           appropriate.

19 **SEC. 309. DEADLINES FOR RULEMAKING.**

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

23                   (1) notify the Committee on Energy and Com-  
24                   merce of the House of Representatives and the Sen-  
25                   ate Committee on Commerce, Science, and Trans-

1 portation and explain why that deadline cannot be  
2 met; and

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

## 4 **TITLE IV—FUNDING**

### 5 **SEC. 401. AUTHORIZATION OF APPROPRIATIONS.**

6 Section 30104 of title 49, United States Code, is  
7 amended—

8 (1) by striking “\$98,313,500”; and

9 (2) by striking “in each fiscal year beginning”

10 and all that follows and inserting “and to carry out

11 the Motor Vehicle Safety Act of 2010—

12 “(1) \$200,000,000 for fiscal year 2011;

13 “(2) \$240,000,000 for fiscal year 2012; and

14 “(3) \$280,000,000 for fiscal year 2013.”.

○